

(11) This section shall not apply to any application to the Minister for the Marine and Natural Resources for a lease under section 2 of the Foreshore Act, 1933, or for a licence under section 3 of that Act made before the coming into operation of this section. Pt.XV S.227

228.—(1) Where a local authority proposes to enter onto the foreshore for the purposes of carrying out site investigations, it shall not later than 4 weeks before the carrying out of such investigations— Entering on foreshore for certain purposes.

(a) publish in at least one newspaper circulating in the area of the proposed site investigations, and

(b) serve on the Minister for the Marine and Natural Resources and to the prescribed bodies,

a notice of its intention to so do, and where any such site investigations would involve excavations, borings or other tests that would be capable of causing disturbance to the marine environment, it shall inform that Minister and those bodies of the details of the proposed investigations.

(2) The Minister for the Marine and Natural Resources may make recommendations to the local authority concerned in relation to investigations referred to in *subsection (1)* and the local authority shall have regard to any such recommendations when carrying out such investigations.

(3) Where there has been compliance with this section, *section 252* shall not apply in relation to entry onto the foreshore for the purposes specified in *subsection (1)*.

(4) Compliance with this section shall, in relation to entry onto the foreshore for the said purposes, constitute compliance with any other enactment requiring the giving of notice of entry on land by a local authority.

PART XVI

Events and Funfairs

229.—In this Part—

Interpretation.

“event” means—

(a) a public performance which takes place wholly or mainly in the open air or in a structure with no roof or a partial, temporary or retractable roof, a tent or similar temporary structure and which is comprised of music, dancing, displays of public entertainment or any activity of a like kind, and

(b) any other event as prescribed by the Minister under *section 241*;

“funfair” has the meaning assigned to it by *section 239*;

“licence” means a licence granted by a local authority under *section 231*;

“local authority” means—

Pt.XVI S.229

- (a) in the case of a county, the council of the county, and
- (b) in the case of a county borough, the corporation of the borough.

Obligation to obtain a licence for holding of an event.

230.—(1) Subject to *subsection (4)*, a licence shall be required in respect of the holding of an event or class of event prescribed for the purpose of this section.

(2) When prescribing events or classes of events under *subsection (1)*, the Minister shall have regard to the size, location, nature or other attributes of the event or class of event.

(3) Any person who—

- (a) organises, promotes, holds or is otherwise materially involved in the organisation of an event to which this section applies, or
- (b) is in control of land on which an event to which this section applies is held,

other than under and in accordance with a licence, shall be guilty of an offence.

(4) A licence shall not be required for the holding of an event prescribed in accordance with *subsection (1)* by a local authority.

Grant of licence.

231.—(1) The Minister may by regulations provide for matters of procedure and administration in relation to applications for and the grant of licences for events.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may make provision for—

- (a) requiring the publication of a notice of intention to make an application for a licence,
- (b) requiring the notification of prescribed persons or bodies,
- (c) the form and content of an application for a licence,
- (d) the plans, documents and information to be submitted with an application for a licence,
- (e) the persons and bodies which must be consulted in relation to a licence,
- (f) enabling persons to make submissions or observations within a prescribed time,
- (g) requiring the applicant to submit any further information with respect to their application, and
- (h) the time within which a decision on an application for a licence must be made.

(3) (a) Where an application for a licence is made in accordance with regulations under this section, the local authority may decide to grant the licence, grant the licence subject

to such conditions as it considers appropriate or refuse the licence. Pt.XVI S.231

- (b) In considering an application for a licence under this section, the local authority shall have regard to—
- (i) any information relating to the application furnished to it by the applicant in accordance with *subsection (2)(d)* or *(g)*,
 - (ii) any consultations under *subsection (2)(e)*,
 - (iii) any submissions or observations made to it in accordance with *subsection (2)(f)*,
 - (iv) whether events have previously been held on the land concerned,
 - (v) the matters referred to in *subsection (4)*, and
 - (vi) any guidelines or codes of practice issued by the Minister or by any other Minister of the Government.

(4) Without prejudice to the generality of *subsection (3)(a)*, conditions subject to which a licence is granted may relate to all or any of the following—

- (a) compliance with any guidelines or codes of practice issued by the Minister or any other Minister of the Government, or with any provisions of those guidelines or codes of practice;
- (b) securing the safety of persons at the place in connection with the event;
- (c) the provision of adequate facilities for the health and welfare of persons at the place in connection with the event, including the provision of sanitary facilities;
- (d) the protection of the environment in which the event is to be held, including the control of litter;
- (e) the maintenance of public order;
- (f) the avoidance or minimisation of disruption to the neighbourhood in which the event is to take place;
- (g) ensuring the provision of adequate means of transport to and from the place in which the event is to be held;
- (h) the number of events which are permitted at a venue within a specified period not exceeding one year;
- (i) the payment of a financial contribution to the authority of a specified amount or an amount calculated on a specified basis towards the estimated cost to the local authority of measures taken by the authority in connection with the event;
- (j) the payment of a financial contribution to a person or body consulted in accordance with *subsection (2)(e)* of a specified amount or an amount calculated on a specified basis towards the estimated cost to that person or body of

Pt.XVI S.231

measures taken by the person or body in connection with the event;

(k) maintaining public liability insurance;

(l) the display of notices for persons attending the event as to their obligations and conduct at the event.

(5) Conditions under *subsection (4)(i) or (j)* requiring the payment of a financial contribution may only relate to an event which is held wholly or mainly for profit.

(6) A person shall not be entitled solely by reason of a licence under this section to hold an event.

Codes of practice in relation to events.

232.—(1) The Minister or any Minister of the Government may draw up and issue codes of practice for the purpose of providing practical guidance with respect to the requirements of any of the relevant provisions of or under this Part.

(2) The Minister or any Minister of the Government, as appropriate, shall, before issuing a code of practice, consult any other Minister of the Government or other person or body that appears to that Minister to be appropriate.

(3) The Minister or any Minister of the Government, as appropriate, may amend or revoke any code of practice, following consultation with any other Minister of the Government or any other person or body that appears to the Minister to be appropriate.

Service of notice in relation to events.

233.—(1) Where a local authority has reason to believe that an event in respect of which a licence under *section 230* is required is occurring or is likely to occur—

(a) without such a licence, or

(b) in contravention of the terms of such a licence,

the authority may serve a notice under this section.

(2) A notice may require, as appropriate—

(a) the immediate cessation of any event or the discontinuation or alteration of any preparations which are being made in relation to an event,

(b) the removal of any temporary buildings, structures, plant, machinery or the like from land which the authority believes is intended to be used as the location of an event, and

(c) the restoration of the land to its prior condition.

(3) Any person who fails to comply with the requirements of the notice served under *subsection (1)* shall be guilty of an offence.

General obligations with regard to safety at events.

234.—(1) A person to whom a licence is granted under *section 231* shall take such care as is reasonable in all the circumstances, having regard to the care which a person attending the event may reasonably be expected to take for his or her own safety and, if the person

is at the event in the company of another person, the extent of the supervision and control the latter person may be expected to exercise over the former person's activities, to ensure that persons on the land in connection with the event do not suffer injury or damage by reason of any danger arising out of the licensed event or associated activities. Pt.XVI S.234

(2) It shall be the duty of every person, being on land in connection with an event to which this section applies, to conduct himself or herself in such a way as to ensure that as far as reasonably practicable any person on the land is not exposed to danger as a consequence of any act or omission of his or hers.

235.—(1) An authorised person (subject to the production by him or her, if so requested, of his or her authority in writing) or a member of the Garda Síochána shall be entitled at all reasonable times to enter and inspect any land or any structure for any purpose connected with this Part. Powers of inspection in connection with events.

(2) Without prejudice to the generality of *subsection (1)*, an authorised person or a member of the Garda Síochána shall, in the performance of his or her functions under *subsection (1)*, be entitled to—

(a) require the person in control of the land or structure concerned to—

(i) inform him or her of any matter which the authorised person or the member of the Garda Síochána considers to be relevant, or

(ii) provide such plans, documentation or other information as are necessary to establish that the requirements of this Part and any regulations made under this Part or any licence or any conditions to which the licence is subject are being complied with,

(b) take with him or her on to land such persons and equipment as he or she considers necessary and to carry out such tests or to do such other things which he or she considers necessary for the purposes referred to in *subsection (1)*.

(3) Any person who—

(a) refuses to allow an authorised person or a member of the Garda Síochána to enter any land in exercise of his or her powers under this section,

(b) obstructs or impedes an authorised person or a member of the Garda Síochána in exercise of his or her powers under this section, or

(c) wilfully or recklessly gives, either to an authorised person or a member of the Garda Síochána, information which is false or misleading in a material respect,

shall be guilty of an offence.

(4) In this section, “authorised person” means a person authorised for the purposes of this Act by a local authority.

Pt.XVI

Limitation of civil proceedings.

236.—(1) No action or other proceeding shall lie or be maintainable against the Minister or a local authority or any other officer or employee of a local authority or any person engaged by a local authority or a member of the Garda Síochána for the recovery of damages in respect of any injury to persons, damage to property or other loss alleged to have been caused or contributed to by a failure to exercise any function conferred or imposed on the local authority by or under this Part.

(2) A person shall not be entitled to bring any civil proceedings pursuant to this Part by reason only of the contravention of any provision of this Part, or of any regulations made thereunder.

Consequential provisions for offences.

237.—(1) The local authority by whom a licence under *section 231* was granted may revoke it if the person to whom the licence is granted is convicted of an offence under this Part.

(2) Proceedings for an offence under this Part may be brought by the local authority in whose area the offence is committed.

Holding of event by local authority.

238.—(1) An event that is prescribed in accordance with *section 230(1)* and is proposed to be carried out by a local authority (in this section referred to as a “proposed event”) shall be carried out in accordance with this section and any regulations made under *subsection (2)*.

(2) The Minister may make regulations providing for—

- (a) the publication by the local authority of any specified notice with respect to the proposed event,
- (b) the notification or consultation by the local authority of any specified person or persons,
- (c) the making available for inspection, by members of the public, of any specified documents, particulars, plans or other information with respect to the proposed event, and
- (d) the making of submissions or observations to the local authority within a prescribed time with respect to the proposed event.

(3) (a) The manager of a local authority shall, after the expiration of the period prescribed under *subsection (2)(d)* for the making of submissions or observations, prepare a written report in relation to the proposed event and submit the report to the members of the local authority.

(b) A report prepared in accordance with *paragraph (a)* shall—

- (i) specify the proposed event,
- (ii) specify the matters referred to in *section 231(4)* to which the holding of the proposed event will be subject,
- (iii) list the persons or bodies who made submissions or observations with respect to the proposed event in accordance with the regulations made under *subsection (2)*,

- (iv) summarise the issues raised in any such submissions or observations and state the response of the manager to them, and
- (v) recommend whether or not the proposed event should be held.
- (c) The members of the local authority shall, as soon as may be, consider the proposed event and the report of the manager under *paragraph (a)*.
- (d) Following the consideration of the manager's report under *paragraph (c)*, the proposed event may be carried out as recommended in the manager's report, unless the local authority, by resolution, decides to vary or modify the event, otherwise than as recommended in the manager's report, or decides not to proceed with the event.
- (e) A resolution under *paragraph (d)* must be passed not later than 6 weeks after receipt of the manager's report.

239.—(1) In this section—

Control of funfairs.

“fairground equipment” includes any fairground ride or any similar equipment which is designed to be in motion for entertainment purposes with members of the public on or inside it, any equipment which is designed to be used by members of the public for entertainment purposes either as a slide or for bouncing upon, and any swings, dodgems and other equipment which is designed to be in motion wholly or partly under the control of, or to be put in motion by, a member of the public or any equipment which may be prescribed, in the interests of public safety, for the purposes of this section;

“funfair” means an entertainment where fairground equipment is used.

(2) The organiser of a funfair and the owner of fairground equipment used at a funfair shall take such care as is reasonable in the circumstances, having regard to the care which a person attending the funfair may reasonably be expected to take for his or her own safety, and, if the person is at the event in the company of another person, the extent of the supervision and control the latter person may be expected to exercise over the former person's activities to ensure that persons on the land in connection with the funfair do not suffer injury or damage by reason of any danger arising out of the funfair or associated activities.

(3) It shall be the duty of every person being on land in connection with a funfair to which this section applies to conduct himself or herself in such a way as to ensure that as far as is reasonably practicable any person on the land is not exposed to danger as a consequence of any act or omission of his or hers.

(4) (a) An organiser of a funfair or an owner of fairground equipment shall not make available for use by the public any fairground equipment unless such equipment has a valid certificate of safety in accordance with regulations made under *subsection (5)*.

Pt.XVI S.239

(b) An organiser of a funfair or owner of fairground equipment who makes available for use by the public any fairground equipment otherwise than in accordance with *paragraph (a)*, shall be guilty of an offence.

(5) The Minister shall by regulations provide for such matters of procedure, administration and control as appear to the Minister to be necessary or expedient in relation to applications for and the grant of certificates of safety for fairground equipment.

(6) Without prejudice to the generality of *subsection (5)*, regulations under that subsection may provide for—

- (a) the class or classes of persons who are entitled to grant certificates of safety,
- (b) the matters to be taken into account in determining applications for safety certificates,
- (c) the payment of a prescribed fee for an application for a certificate of safety,
- (d) the period of validity of a certificate of safety, and
- (e) any class of fairground equipment to be exempt from the provisions of this section.

(7) (a) A person who intends to hold or organise a funfair, other than at a place where the operation of funfair equipment has been authorised by a permission under *Part III* of this Act or Part IV of the Act of 1963 or is not otherwise an unauthorised use, shall give 2 weeks notice (or such other period of notice as may be prescribed) in writing to the local authority in whose functional area the funfair is to be held.

(b) The notice referred to in *paragraph (a)* shall be accompanied by a valid certificate of safety for the fairground equipment to be used at the funfair and shall give details of the names of the organiser of the funfair, the owner or owners of the fairground equipment to be used at the funfair and the location and dates on which the funfair is to be held.

(8) (a) Where a local authority has reason to believe that a funfair is taking place, or is likely to take place, which is not in compliance with *subsection (4)* or *(7)*, the authority may serve a notice on any person it believes to be holding, organising or otherwise materially involved in the organisation of the funfair.

(b) A notice under *paragraph (a)* may require, as appropriate—

- (i) the immediate cessation of any activity or any preparations which are being made in relation to the funfair within a specified time,
- (ii) the immediate cessation of the use of any fairground equipment without a valid certificate of safety,

(iii) the removal, within a specified time, of any fair-ground equipment, temporary buildings or structures, plant, machinery or similar equipment which the authority believes is intended to be used in relation to the funfair, and

Pt.XVI S.239

(iv) the restoration of the land to its prior condition within a specified time.

(c) A person who is served with a notice under *paragraph (a)* and who fails to comply with the requirements of the notice shall be guilty of an offence.

(d) Where a person fails to comply with a notice served on the person under this section, the local authority concerned may, through its employees or agents—

(i) give effect to the terms of the notice, and

(ii) where necessary for that purpose, enter on the land concerned,

and may recover the expenditure reasonably incurred by it in so doing from the person as a simple contract debt in any court of competent jurisdiction.

(e) A person who obstructs or impedes the local authority in the performance of its functions under *paragraph (d)* shall be guilty of an offence.

240.—(1) Subject to *subsection (2)*, the holding of an event to which this Part applies and works directly or solely relating to the holding of such an event shall not be construed as “development” within the meaning of this Act.

Exclusion of events and funfairs from planning control.

(2) (a) Notwithstanding *section 230* or *239*, the provisions of this Part shall not affect the validity of any planning permission granted under Part IV of the Act of 1963 for the holding of an event or events or for a funfair.

(b) Where a planning permission referred to in *paragraph (a)* has been granted for the holding of an event or events in respect of land, a licence under this Part shall be required for the holding of any additional event on the land concerned.

241.—The Minister may make regulations providing that any activity or class of activity to which the public have access and which takes place wholly or mainly in the open air or in a structure with no roof or a partial, temporary or retractable roof, a tent or other similar temporary structure to be an event for the purposes of this Part.

Regulations for event.

PART XVII

Financial Provisions

242.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Expenses of administration of Minister.