

PART XI

Development by Local and State Authorities, etc.

Restrictions on
development by
certain local
authorities.

178.—(1) The council of a county shall not effect any development in its functional area, exclusive of any borough or urban district, which contravenes materially the development plan.

(2) The corporation of a county or other borough shall not effect any development in the borough which contravenes materially the development plan.

(3) The council of an urban district shall not effect any development in the district which contravenes materially the development plan.

Local authority own
development.

179.—(1) (a) The Minister may prescribe a development or a class of development for the purposes of this section where he or she is of the opinion that by reason of the likely size, nature or effect on the surroundings of such development or class of development there should, in relation to any such development or development belonging to such class of development, be compliance with the provisions of this section and regulations under this section.

(b) Where a local authority that is a planning authority proposes to carry out development, or development belonging to a class of development prescribed under *paragraph (a)* (hereafter in this section referred to as “proposed development”) it shall in relation to the proposed development comply with this section and any regulations under this section.

(c) The Minister may prescribe specified cases or classes of development by local authorities for the purposes of this section where he or she is of the opinion that it is necessary by reason of its size, nature or effect on its surroundings.

(d) This section shall also apply to proposed development which is carried out within the functional area of a local authority which is a planning authority, on behalf of, or in partnership with the local authority, pursuant to a contract with the local authority.

(2) The Minister shall make regulations providing for any or all of the following matters:

(a) the publication by a local authority of any specified notice with respect to proposed development;

(b) requiring local authorities to—

(i) (I) notify prescribed authorities of such proposed development or classes of proposed development as may be prescribed, or

(II) consult with them in respect thereof,

and

- (ii) give to them such documents, particulars, plans or other information in respect thereof as may be prescribed;
- (c) the making available for inspection, by members of the public, of any specified documents, particulars, plans or other information with respect to proposed development;
- (d) the making of submissions or observations to a local authority with respect to proposed development.
- (3) (a) The manager of a local authority shall, after the expiration of the period during which submissions or observations with respect to the proposed development may be made, in accordance with regulations under *subsection (2)*, prepare a written report in relation to the proposed development and submit the report to the members of the authority.
- (b) A report prepared in accordance with *paragraph (a)* shall—
- (i) describe the nature and extent of the proposed development and the principal features thereof, and shall include an appropriate plan of the development and appropriate map of the relevant area,
 - (ii) evaluate whether or not the proposed development would be consistent with the proper planning and sustainable development of the area to which the development relates, having regard to the provisions of the development plan and giving the reasons and the considerations for the evaluation,
 - (iii) list the persons or bodies who made submissions or observations with respect to the proposed development in accordance with the regulations under *subsection (2)*,
 - (iv) summarise the issues, with respect to the proper planning and sustainable development of the area in which the proposed development would be situated, raised in any such submissions or observations, and give the response of the manager thereto, and
 - (v) recommend whether or not the proposed development should be proceeded with as proposed, or as varied or modified as recommended in the report, or should not be proceeded with, as the case may be.
- (4) (a) The members of a local authority shall, as soon as may be, consider the proposed development and the report of the manager under *subsection (3)*.
- (b) Following the consideration of the manager's report under *paragraph (a)*, the proposed development may be carried out as recommended in the manager's report, unless the local authority, by resolution, decides to vary or modify the development, otherwise than as recommended in the manager's report, or decides not to proceed with the development.
- (c) A resolution under *paragraph (b)* must be passed not later than 6 weeks after receipt of the manager's report.

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(5) Sections 2, 3 and 4 of the City and County Management (Amendment) Act, 1955, shall not apply to development under this section.

(6) This section shall not apply to proposed development which—

- (a) consists of works of maintenance or repair, other than works which would materially affect the character of a protected structure or proposed protected structure,
- (b) is necessary for dealing urgently with any situation which the manager considers is an emergency situation calling for immediate action,
- (c) consists of works which a local authority is required by or under statute or by order of a court to undertake, or
- (d) is development in respect of which an environmental impact statement is required under *section 175* or under any other enactment.

Taking in charge of estates.

180.—(1) Where a development for which permission is granted under *section 34* or under Part IV of the Act of 1963 includes the construction of 2 or more houses and the provision of new roads, open spaces, car parks, sewers, watermains or drains, and the development has been completed to the satisfaction of the planning authority in accordance with the permission and any conditions to which the permission is subject, the authority shall, where requested by the person carrying out the development, or, subject to *subsection (3)*, by the majority of the qualified electors who are owners or occupiers of the houses involved, as soon as may be, initiate the procedures under section 11 of the Roads Act, 1993.

(2) (a) Notwithstanding *subsection (1)*, where the development has not been completed to the satisfaction of the planning authority and enforcement proceedings have not been commenced by the planning authority within seven years beginning on the expiration, as respects the permission authorising the development, of the appropriate period, within the meaning of *section 40* or the period as extended under *section 42*, as the case may be, the authority shall, where requested by the majority of qualified electors who own or occupy the houses in question, comply with section 11 of the Roads Act, 1993, except that *subsection (1)(b)(ii)* of that section shall be disregarded.

(b) In complying with *paragraph (a)*, the authority may apply any security given under *section 34(4)(g)* for the satisfactory completion of the development in question.

(3) (a) The planning authority may hold a plebiscite to ascertain the wishes of the qualified electors.

(b) The Minister may make or apply any regulations prescribing the procedure to be followed by the planning authority in ascertaining the wishes of the qualified electors.

(4) 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 open spaces, car parks, sewers, watermains, or drains within the attendant grounds of the development.

(5) Where a planning authority acts in compliance with this section, references in section 11 of the Roads Act, 1993, to a road authority shall be deemed to include references to a planning authority. Pt.XI S.180

(6) In this section, “qualified electors” means every person who, in relation to the area of the dwelling houses in question, is registered as a local government elector in the register of local government electors for the time being in force.

181.—(1) (a) The Minister may, by regulations, provide that, except for this section, the provisions of this Act shall not apply to any specified class or classes of development by or on behalf of a State authority where the development is, in the opinion of the Minister, in connection with or for the purposes of public safety or order, the administration of justice or national security or defence and, for so long as the regulations are in force, the provisions of this Act shall not apply to the specified class or classes of development. Development by State authorities.

(b) The Minister may, by regulations, provide for any or all of the following matters in relation to any class or classes of development to which regulations under *paragraph (a)* apply:

- (i) the publication by a State authority of any specified notice with respect to development that it proposes to carry out or to have carried out on its behalf;
- (ii) the giving by a State authority, to the planning authority for the area in which proposed development is to be carried out, or any other specified person, of any specified notice, documents, particulars, plans or other information with respect to the proposed development;
- (iii) the making available for inspection by members of the public of any specified documents, particulars, plans or other information with respect to the proposed development;
- (iv) the preparation of an environmental impact statement with respect to the proposed development, the contents of such a statement and the making available for inspection or purchase by members of the public of such a statement;
- (v) the making of submissions or observations to a State authority with respect to the proposed development;
- (vi) the reference to a specified person of any dispute or disagreement, with respect to the proposed development, between a State authority and the planning authority for the area in which the proposed development is to be carried out;
- (vii) requiring a State authority, in deciding whether the proposed development is to be carried out,

to have regard to any specified matters or considerations.

(2) (a) Where development is proposed to be carried out by or on behalf of a Minister of the Government or the Commissioners, the Minister of the Government concerned or, in the case of development proposed to be carried out by or on behalf of the Commissioners, the Minister for Finance, may, if he or she is satisfied that the carrying out of the development is required by reason of an accident or emergency, by order provide that this Act or, as may be appropriate, any requirement or requirements of regulations under *subsection (1)(b)* specified in the order, shall not apply to the development, and for so long as such an order is in force this Act or the said requirement or requirements, as the case may be, shall not apply to the development.

(b) A Minister of the Government may by order revoke an order made by him or her under *paragraph (a)*.

(c) A Minister of the Government shall cause an order made by him or her under this subsection to be published in *Iris Oifigiúil* and notice of the making of the order to be published in a newspaper circulating in the area of the development concerned.

Cables, wires and pipelines.

182.—(1) A local authority may, with the consent of the owner and occupier of any land not forming part of a public road, place, construct or lay, as may be appropriate, cables, wires or pipelines (including water pipes, sewers or drains) and any ancillary apparatus on, under or over the land, and may, from time to time, inspect, repair, alter, renew or remove any such cables, wires or pipelines.

(2) A local authority may, with the consent of the owner and of the occupier of any structure, attach to the structure any bracket or other fixture required for the carrying or support of any cable, wire or pipeline placed, erected or constructed under this section.

(3) A local authority may erect and maintain notices indicating the position of cables, wires or pipelines placed, erected or constructed under this section and may, with the consent of the owner and of the occupier of any structure, affix such a notice to the structure.

(4) *Subsections (1) to (3)* shall have effect subject to the proviso that—

(a) a consent for the purposes of any of them shall not be unreasonably withheld,

(b) if the local authority considers that such a consent has been unreasonably withheld, it may appeal to the Board, and

(c) if the Board determines that such a consent was unreasonably withheld, it shall be treated as having been given.

(5) The local authority may permit the use of any cables, wires or pipelines placed, erected or constructed under this section and of any apparatus incidental to the cables, wires or pipelines subject to such conditions and charges as it considers appropriate.