

Planning Bill

[AS INTRODUCED]

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B I L L

TO

Amend the law relating to planning; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Statement of community involvement

1. In Article 3A of the 1991 Order (statement of community involvement) after paragraph (2) add—

5 “(3) The Department must prepare and publish a statement of community involvement within the period of one year from the day on which this paragraph comes into operation.”.

General functions of the Department and the planning appeals commission

2.—(1) In Article 10A of the 1991 Order (sustainable development)—

(a) for paragraph (1) substitute—

10 “(1) Where the Department or the planning appeals commission exercises any function under Part 2 or this Part, the Department or, as the case may be, the commission must exercise that function with the objective of—

- 15 (a) furthering sustainable development;
(b) promoting or improving well-being; and
(c) promoting economic development.

(1A) For the purposes of paragraph (1) the Department or, as the case may be, the commission must (in particular) have regard to the desirability of achieving good design.”;

20 (b) for paragraph (2) substitute—

“(2) For the purposes of paragraph (1), the Department or, as the case may be, the commission must take account of—

- (a) policies and guidance issued by—

- (i) the Department;
 - (ii) the Department for Regional Development;
 - (iii) the Office of the First Minister and deputy First Minister;
 - (b) any other matter which appears to the Department or, as the case may be, to the commission to be relevant.”. 5
- (2) In section 1 of the 2011 Act (general functions of Department with respect to development of land)—
- (a) for subsection (2)(b) substitute—
 - “(b) exercise its functions under subsection (1) with the objective of—
 - (i) furthering sustainable development; 10
 - (ii) promoting or improving well-being; and
 - (iii) promoting economic development.”;
 - (b) after subsection (2) insert—
 - “(2A) For the purposes of subsection (2)(b) the Department must (in particular) have regard to the desirability of achieving good design.”. 15
- (3) In section 5 of the 2011 Act (sustainable development)—
- (a) in subsection (1), for “objective of furthering sustainable development.” substitute “objective of—
 - (a) furthering sustainable development;
 - (b) promoting or improving well-being; and 20
 - (c) promoting economic development.”;
 - (b) in subsection (2), after “must” insert “(in particular) have regard to the desirability of achieving good design and”.

Meaning of development

3. In paragraph (2) of Article 11 of the 1991 Order (meaning of “development”), after sub-paragraph (f) add— 25
- “(g) a structural alteration of any description of building specified in a direction given by the Department for the purpose of this Article, where the alteration consists of demolishing part of the building.”.

Publicity, etc., in relation to applications 30

- 4.—(1) For Article 21 of the 1991 Order (publication of notices of applications) substitute—

“Notice, etc., of applications for planning permission

21.—(1) A development order may make provision requiring notice to be given of any application for planning permission and provide for publicising such applications and for the form, content and service of such notices. 35

(2) A development order may require an applicant for planning permission to provide evidence that any requirements of the order have been satisfied. 40

(3) An application for planning permission must not be entertained by the Department unless any requirements imposed by virtue of this Article have been satisfied.”.

5 (2) In Article 25 of the 1991 Order (determination of planning applications), for paragraph (2) substitute—

“(2) A development order may provide that the Department must not determine an application for planning permission before the end of such period as may be prescribed by the development order.

10 (2A) In determining any application for planning permission the Department must take into account any representations relating to that application which are received by it within such period as may be specified by a development order.”.

(3) In Schedule 1 to the 1991 Order (listed building consent)—

(a) in paragraph 1, for sub-paragraphs (2) and (3) substitute—

15 “(2) Provision may be made by regulations with respect to—

(a) requirements as to publicity in relation to applications for listed building consent;

(b) the time within which such applications are to be dealt with by the Department;

20 (c) requirements as to consultation in relation to such applications;

(d) prohibiting the determination of such applications during such period as is prescribed;

25 (e) requirements on the Department to take account of responses from persons consulted and to notify the persons responding of the decision of the Department on the application.

(3) Sub-paragraphs (1) and (2)(b) shall apply to applications to the Department for any approval of the Department required by a condition imposed on a grant of listed building consent as they apply to applications for listed building consent.”;

30 (b) omit paragraphs 2 and 4.

Pre-application community consultation

5.—(1) After Article 22 of the 1991 Order insert—

“Pre-application community consultation

35 22A.—(1) Before submitting an application for planning permission for a development of a class prescribed for the purposes of this Article, the prospective applicant must comply with the following provisions of this Article.

40 (2) The prospective applicant must give notice (to be known as a “proposal of application notice”) to the Department that an application for planning permission for the development is to be submitted.

(3) A period of at least 12 weeks must elapse between giving the notice and submitting any such application.

- (4) A proposal of application notice must be in such form, and have such content, as may be prescribed but must in any event contain—
- (a) a description in general terms of the development to be carried out;
 - (b) if the site at which the development is to be carried out has a postal address, that address; 5
 - (c) a plan showing the outline of the site at which the development is to be carried out and sufficient to identify that site; and
 - (d) details as to how the prospective applicant may be contacted and corresponded with. 10
- (5) Regulations may—
- (a) require that the proposal of application notice be given to persons specified in the regulations;
 - (b) prescribe— 15
 - (i) the persons who are to be consulted as respects a proposed application; and
 - (ii) the form that consultation is to take.
- (6) The Department may, provided that it does so within the period of 21 days after receiving the proposal of application notice, notify the prospective applicant that it requires (either or both)— 20
- (a) that the proposal of application notice be given to persons additional to those specified under paragraph (5) (specifying in the notification who those persons are);
 - (b) that consultation additional to any required by virtue of paragraph (5)(b) be undertaken as regards the proposed development 25 (specifying in the notification what form that consultation is to take).
- (7) In considering whether to give notification under paragraph (6) the Department is to have regard to the nature, extent and location of the proposed development and to the likely effects, at and in the vicinity of that location, of its being carried out. 30

Pre-application community consultation report

22B.—(1) A person who, before submitting an application for planning permission for a development, is required to comply with Article 22A and who proceeds to submit that application is to prepare a report (a “pre-application community consultation report”) as to what has been done to effect such compliance. 35

(2) A pre-application community consultation report is to be in such form as may be prescribed.”.

(2) After Article 25AA of the 1991 Order insert— 40

“Duty to decline to determine application where Article 22A not complied with

25AB.—(1) The Department must decline to determine an application for the development of any land if, in the opinion of the Department—

(a) compliance with Article 22A was required as respects the development; and

5 (b) there has not been such compliance.

(2) Before deciding whether, under paragraph (1), an application must be declined, the Department may request the applicant to provide such additional information as it may specify within such time as may be prescribed.

10 (3) Where, under paragraph (1), the Department declines to determine an application, the Department must advise the applicant of the reason for its being of the opinion mentioned in that paragraph.”.

(3) In Article 124 of the 1991 Order (planning register), in paragraph (1) after sub-paragraph (b) insert—

15 “(bb) notices under Article 22A(2);

(bc) pre-application community consultation reports under Article 22B;”.

Determination of planning applications

20 **6.**—(1) In Article 25 of the 1991 Order (determination of planning applications), after paragraph (1) insert—

25 “(1A) Without prejudice to the generality of paragraph (1), the reference in that paragraph to material considerations includes a reference to considerations relating to any economic advantages or disadvantages likely to result from the granting of or, as the case may be, the refusal of planning permission.”.

(2) In section 45 of the 2011 Act (determination of planning applications), after subsection (1) insert—

30 “(1A) Without prejudice to the generality of subsection (1), the reference in that subsection to material considerations includes a reference to considerations relating to any economic advantages or disadvantages likely to result from the granting of or, as the case may be, the refusal of planning permission.”.

Power to decline to determine subsequent application

35 **7.**—(1) In Article 25A of the 1991 Order (power to decline to determine subsequent application for planning permission)—

(a) in paragraph (4)(b) after “refusal” add “or, if there has been such an appeal, it has been withdrawn”;

(b) after paragraph (4) insert—

40 “(4A) The Department may also decline to determine a relevant application if—

(a) the condition in paragraph (4B) is satisfied; and

(b) the Department thinks there has been no significant change in the relevant considerations since the relevant event.

(4B) The condition is that—

(a) in the period of 2 years ending with the date on which the application mentioned in paragraph (4A) is received the planning appeals commission has refused a similar application; 5

(b) the similar application was an application deemed to have been made by Article 71(5).”;

(c) in paragraph (7)(a) for “paragraphs (2) and (4)” substitute “paragraphs (2), (4) and (4B)”. 10

(2) In paragraph 4A of Schedule 1 to the 1991 Order (power to decline to determine subsequent application for listed building consent), in sub-paragraph (4)(b) after “refusal” insert “or, if there has been such an appeal, it has been withdrawn”.

Power to decline to determine overlapping applications 15

8.—(1) In Article 25AA of the 1991 Order (power to decline to determine overlapping applications)—

(a) for paragraph (1) substitute—

“(1) The Department may decline to determine an application for planning permission for the development of any land which is— 20

(a) made on the same day as a similar application; or

(b) made at a time when any of the conditions in paragraphs (2) to (4) applies in relation to a similar application.”;

(b) after paragraph (4) insert—

“(4A) The Department may also decline to determine an application for planning permission for the development of any land which is made at a time when the condition in paragraph (4B) applies in relation to a similar application. 25

(4B) The condition is that—

(a) a similar application is under consideration by the planning appeals commission; 30

(b) the similar application is an application deemed to have been made by Article 71(5); and

(c) the planning appeals commission has not issued its decision.”;

(c) after paragraph (6) add— 35

“(7) If the Department exercises its power under paragraph (1)(a) to decline to determine an application made on the same day as a similar application, it may not also exercise that power to decline to determine the similar application.”.

(2) In Schedule 1 to the 1991 Order, in paragraph 4B (power to decline to determine overlapping application for listed building consent)— 40

(a) for sub-paragraph (1) substitute—

“(1) The Department may decline to determine an application for a relevant consent which is—

(a) made on the same day as a similar application; or

(b) made at a time when any of the conditions in sub-paragraphs (2) to (4) applies in relation to a similar application.”;

(b) after sub-paragraph (4) insert—

“(4A) If the Department exercises its power under sub-paragraph (1)(a) to decline to determine an application made on the same day as a similar application, it may not also exercise that power to decline to determine the similar application.”.

Aftercare conditions for ecological purposes on grant of mineral planning permission

9. In Article 27A of the 1991 Order (power to impose aftercare conditions on grant of mineral planning permission), in paragraph (1), at the end of sub-paragraph (iii) add “; or

(iv) use for ecological purposes.”.

Public inquiries: major planning applications

10. In Article 31 of the 1991 Order (special procedure for major planning applications)—

(a) in paragraph (2) for the words from “to be held” to the end of that paragraph, substitute “to be held by—

(a) the planning appeals commission; or

(b) a person appointed by the Department for the purpose.”;

(b) in paragraph (3) for “commission” substitute “commission or a person appointed by the Department for the purpose”;

(c) in paragraph (4) for “commission” substitute “commission or the person appointed by the Department for the purpose of the inquiry or hearing, as the case may be”.

Appeals: time limits

11.—(1) In Article 32 of the 1991 Order (appeals) for paragraph (3) substitute—

“(3) Any notice under this Article must be served on the planning appeals commission within 4 months from the date of notification of the decision to which it relates or such other period as may be specified by development order.”.

(2) In Article 57 of the 1991 Order (appeals in relation to hazardous substances consents) for paragraph (3) substitute—

“(3) Any notice under this Article must be served on the planning appeals commission within 4 months from the date of the notification of the decision to which it relates or such other period as may be prescribed.”.

(3) In Article 83E of the 1991 Order (appeals against refusal or failure to give decision on application) in paragraph (1) for “planning appeals commission.” substitute—

“planning appeals commission—

- (i) in the case described in sub-paragraph (a), within the period of 4 months from the date on which the application is refused or is refused in part or such other period as may be prescribed; 5
- (ii) in the case described in sub-paragraph (b), within the period of 4 months from the end of the period referred to in that sub-paragraph or such other period as may be prescribed.”. 10

(4) In paragraph 7 of Schedule 1 to the 1991 Order (appeals in relation to listed building consent, etc.) for sub-paragraph (2) substitute—

“(2) Any notice under this paragraph must be served on the planning appeals commission within 4 months from the date of notification of the decision to which it relates or such other period as may be prescribed.”. 15

Matters which may be raised in an appeal

12. After Article 32 of the 1991 Order (appeals) insert—

“Matters which may be raised in an appeal under Article 32

32A.—(1) In an appeal under Article 32, a party to the proceedings is not to raise any matter which was not before the Department at the time the decision appealed against was made unless that party can demonstrate to the satisfaction of the planning appeals commission— 20

- (a) that the matter could not have been raised before that time; or
- (b) that its not being raised before that time was a consequence of exceptional circumstances. 25

(2) Nothing in paragraph (1) affects any requirement or entitlement to have regard to—

- (a) the provision of the development plan; or
- (b) any other material consideration.”. 30

Power to make non-material changes to planning permission 30

13. After Article 37 of the 1991 Order insert—

“Power to make non-material changes to planning permission

37A.—(1) The Department may make a change to any planning permission granted if it is satisfied that the change is not material.

(2) In deciding whether a change is material, the Department must have regard to the effect of the change, together with any previous changes made under this Article, on the planning permission as originally granted. 35

(3) The power conferred by paragraph (1) includes power—

- (a) to impose new conditions;
- (b) to remove or alter existing conditions. 40

(4) The power conferred by paragraph (1) may be exercised only on an application made by or on behalf of a person with an estate in the land to which the planning permission relates.

5 (5) An application under paragraph (4) must be made in the form and manner specified by a development order.

(6) Paragraph (7) applies in relation to an application under paragraph (4) made by or on behalf of a person with an estate in some, but not all, of the land to which the planning permission relates.

10 (7) The application may be made only in respect of so much of the planning permission as affects the land in which the person has an estate.

(8) The Department must comply with such requirements as may be specified by development order as to consultation and publicity in relation to the exercise of the power conferred by paragraph (1).”.

15 **Aftercare conditions imposed on revocation or modification of mineral planning permission**

14. After Article 38 of the 1991 Order insert—

“Aftercare conditions imposed on revocation or modification of mineral planning permission

20 38A.—(1) An order under Article 38 may in relation to planning permission for development consisting of the winning and working of minerals or involving the depositing of refuse or waste materials, include such aftercare condition as the Department thinks fit if—

- (a) it also includes a restoration condition; or
- 25 (b) a restoration condition has previously been imposed in relation to the land by virtue of any provision of this Order.

(2) Paragraphs (3) to (12) of Article 27A shall apply in relation to an aftercare condition so imposed as they apply in relation to such a condition imposed under Article 27A.”.

Planning agreements: payments to departments

30 **15.** In Article 40 of the 1991 Order (planning agreements), in paragraph (1) at the end of sub-paragraph (c) omit “or” and, after sub-paragraph (d), add—

“or

- (e) requiring a sum or sums to be paid to a Northern Ireland department on a specified date or dates or periodically.”.

35 **Increase in penalties**

16.—(1) In Article 49 of the 1991 Order (acts causing or likely to result in damage to listed buildings)—

- (a) in paragraph (1), for the words from “and liable” to the end of that paragraph substitute—

40 “and liable—

- (i) on summary conviction to a fine not exceeding the statutory maximum; or
 - (ii) on conviction on indictment, to a fine.”;
 - (b) in paragraph (3), for “level 3” substitute “level 5”.
- (2) In Article 61 of the 1991 Order (offences in relation to hazardous substances control), in paragraph (4)(a) for “£30,000” substitute “£100,000”. 5
- (3) In Article 67D of the 1991 Order (penalties for non-compliance with planning contravention notice), in paragraph (4) for “level 3” substitute “level 5”.
- (4) In Article 67G of the 1991 Order (temporary stop notices: offences), in paragraph (6)(a) for “£30,000” substitute “£100,000”. 10
- (5) In Article 72 of the 1991 Order (offence where enforcement notice not complied with), in paragraph (8)(a) for “£30,000” substitute “£100,000”.
- (6) In Article 73 of the 1991 Order (stop notices), in paragraph (7C)(a) for “£30,000” substitute “£100,000”.
- (7) In Article 76 of the 1991 Order (enforcement notice to have effect against subsequent development) in paragraph (5) for “level 5 on the standard scale” substitute “£7,500”. 15
- (8) The amendments set out in this section do not have effect in relation to any offence committed before the coming into operation of this section.
- Conservation areas** 20
- 17.** In Article 50 of the 1991 Order (conservation areas), for paragraph (5) substitute—
- “(5) Where any area is for the time being designated as a conservation area, special regard must be had in the exercise, with respect to any buildings or other land in that area, of any powers under this Order, to the desirability of— 25
- (a) preserving the character or appearance of that area in cases where an opportunity for enhancing its character or appearance does not arise;
 - (b) enhancing the character or appearance of that area in cases where an opportunity to do so does arise.”. 30
- Control of demolition in conservation areas**
- 18.** In Article 51 of the 1991 Order (control of demolition in conservation areas), after paragraph (6) add—
- “(7) For the purposes of this Article, any reference to demolition, in relation to a building to which this Article applies, includes a reference to any structural alteration of that building where the alteration consists of demolishing part of the building.”. 35
- Tree preservation orders: dying trees**
- 19.—**(1) In Article 65 of the 1991 Order (tree preservation orders), in paragraph (3), omit the words “dying or”. 40

(2) In Article 65B of the 1991 Order (replacement of trees), in paragraph (1)(b), omit the words “dying or”.

(3) In section 125 of the 2011 Act (replacement of trees), in subsection (1)(b), omit the words “dying or”.

5 **Fixed penalties**

20.—(1) After Article 76B of the 1991 Order insert—

“Fixed penalty notice where enforcement notice not complied with

76C.—(1) Where on any occasion an authorised officer has reason to believe that a person has committed an offence under Article 72, the officer may give that person a notice offering the person the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty to the Department.

(2) Where a person is given a notice under this Article in respect of an offence—

(a) no proceedings may be instituted for that offence before the expiration of the period of 28 days following the date of the notice; and

(b) the person shall not be convicted of that offence if the person pays the fixed penalty before the expiration of that period.

(3) A notice under this Article must specify—

(a) the step specified, under paragraph (3) of Article 68A, in the enforcement notice which has not been taken; or

(b) the activity so specified which has not ceased.

(4) A notice under this Article must also state—

(a) the period during which, by virtue of paragraph (2), proceedings will not be taken for the offence;

(b) the amount of the fixed penalty; and

(c) the person to whom and the address at which the fixed penalty may be paid.

(5) The Department must not serve more than one notice under this Article in relation to a particular step or activity.

(6) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in paragraph (4)(c) at the address so mentioned.

(7) Where a letter is sent in accordance with paragraph (6) payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(8) The form of a notice under this Article shall be such as the Department may prescribe.

(9) The fixed penalty payable to the Department under this Article is such amount as may be prescribed.

(10) But if payment is made within the first 14 days of the period mentioned in paragraph (2) the amount payable is reduced by 25%.

(11) In any proceedings a certificate which—

(a) purports to be signed by an authorised officer, and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate, 5

is evidence of the facts stated.

(12) Article 2A(2) (service using electronic communications) shall not apply to service of a notice under this Article.

(13) In this Article, “authorised officer” means an officer of the Department who is authorised in writing by the Department for the purpose of giving notices under this Article. 10

Fixed penalty notice where breach of condition notice not complied with

76D.—(1) Where on any occasion an authorised officer has reason to believe that a person has committed an offence under paragraph (9) of Article 76A, the officer may give that person a notice offering the person the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty to the Department. 15

(2) Where a person is given a notice under this Article in respect of an offence— 20

(a) no proceedings may be instituted for that offence before the expiration of the period of 28 days following the date of the notice; and

(b) the person shall not be convicted of that offence if the person pays the fixed penalty before the expiration of that period. 25

(3) A notice under this Article must—

(a) specify the step specified under paragraph (5) of Article 76A in the breach of condition notice which has not been taken; or

(b) the activity so specified which has not ceased. 30

(4) A notice under this Article must also state—

(a) the period during which, by virtue of paragraph (2), proceedings will not be taken for the offence;

(b) the amount of the fixed penalty; and

(c) the person to whom and the address at which the fixed penalty may be paid. 35

(5) The Department must not serve more than one notice under this Article in relation to a particular step or activity.

(6) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in paragraph (4)(c) at the address so mentioned. 40

(7) Where a letter is sent in accordance with paragraph (6) payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

5 (8) The form of a notice under this Article shall be such as the Department may prescribe.

(9) The fixed penalty payable to the Department under this Article shall be such amount as may be prescribed.

(10) But if payment is made within the first 14 days of the period mentioned in paragraph (2) the amount payable is reduced by 25%.

10 (11) In any proceedings a certificate which—

(a) purports to be signed on behalf of an authorised officer, and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

15 (12) Article 2A(2) (service using electronic communications) shall not apply to service of a notice under this Article.

(13) In this Article “authorised officer” means an officer of the Department who is authorised in writing by the Department for the purposes of giving notices under this Article.”.

20 (2) In Article 129 of the 1991 Order (regulations and orders)—

(a) in paragraph (2) at the beginning insert “Except as provided by paragraph (3),”;

(b) after paragraph (2) add—

25 “(3) Regulations under Articles 76C(9) and 76D(9) shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(4) Regulations and orders made by the Department under this Order may contain such incidental, supplementary, transitional and saving provisions as appear to the Department to be necessary or expedient.”.

30 **Power of planning appeals commission to award costs**

21. After Article 111 of the 1991 Order insert—

“Power of planning appeals commission to award costs

35 111A.—(1) The appeals commission may make an order as to the costs of the parties to an appeal under any of the provisions of this Order mentioned in paragraph (2) and as to the parties by whom the costs are to be paid.

(2) The provisions are—

(a) Articles 32, 33, 57, 69, 78, 82A, 83E and, in Schedule 1, paragraphs 7 and 8;

40 (b) in Schedule 1, paragraphs 7 and 8 (as applied by Article 51(6));

(c) in Schedule 1A, paragraph 6(11) and (12) and paragraph 11(1);

(d) in Schedule 1B, paragraph 9.

(3) An order made under this Article shall have effect as if it had been made by the High Court.

(4) Without prejudice to the generality of paragraph (3), the Master (Taxing Office) shall have the same powers and duties in relation to an order made under this Article as the Master has in relation to an order made by the High Court. 5

(5) Proceedings before the appeals commission shall, for the purposes of the Litigants in Person (Costs and Expenses) Act 1975, be regarded as proceedings to which section 1(1) of that Act applies. 10

Orders as to costs: supplementary

111B.—(1) This Article applies where—

(a) for the purpose of any proceedings under this Order—

(i) the appeals commission is required, before a decision is reached, to give any person an opportunity, or ask any person whether that person wishes, to appear before and be heard by it; and 15

(ii) arrangements are made for a hearing to be held;

(b) the hearing does not take place; and

(c) if it had taken place, the appeals commission would have had power to make an order under Article 111A requiring any party to pay any costs of any other party. 20

(2) Where this Article applies the power to make such an order may be exercised, in relation to costs incurred for the purposes of the hearing, as if the hearing had taken place.”. 25

Grants

22. In Article 120 of the 1991 Order (grants to bodies providing assistance in relation to development proposals)—

(a) in paragraph (1), for sub-paragraph (a) substitute—

“(a) furthering an understanding of planning policy proposals and of the planning and other technical aspects of other proposals made by any body or person for the development, redevelopment or improvement of land;” 30

(b) in paragraph (2), omit the words “, with the approval of the Department of Finance and Personnel,”. 35

Duty to respond to consultation

23. After Article 126 of the 1991 Order insert—

“Duty to respond to consultation

126A.—(1) This Article applies to a prescribed requirement to consult any person or body (“the consultee”) which exercises functions for the purposes of any statutory provision. 40

- (2) A prescribed requirement to consult is a requirement—
- (a) with which the Department must comply before granting any permission or consent under or by virtue of this Order; and
 - (b) which is prescribed for the purposes of this paragraph.
- 5 (3) The consultee must give a substantive response to any consultation mentioned in paragraph (2) before the end of—
- (a) the period prescribed for the purposes of this paragraph; or
 - (b) such other period as is agreed in writing between the consultee and the Department.
- 10 (4) The Department may also prescribe—
- (a) the procedure to be followed for the purposes of this Article;
 - (b) the information to be provided to the consultee for the purposes of the consultation;
 - (c) the requirements of a substantive response.
- 15 (5) Anything prescribed for the purposes of paragraphs (1) to (4) shall be prescribed by development order.
- (6) A development order may—
- (a) require consultees to give the Department a report as to their compliance with paragraph (3);
 - 20 (b) specify the form and content of the report;
 - (c) specify the times at which the report is to be made.”.

Fees and charges

24. In Article 127 of the 1991 Order (fees and charges)—

- (a) after paragraph (1) insert—
- 25 “(1A) Without prejudice to the generality of paragraph (1), regulations made under that paragraph may provide for the payment of a charge or fee in respect of a function mentioned in paragraph (1B)(a) to be a multiple of the charge or fee payable in respect of a function mentioned in paragraph (1B)(b).
- 30 (1B) The functions are—
- (a) functions relating to the determination of an application for planning permission for development begun before the application was made;
 - (b) functions relating to the determination of an application for
- 35 planning permission other than an application referred to in subparagraph (a).
- (1C) Without prejudice to the generality of paragraph (1), regulations made under that paragraph may provide for the payment of a charge or fee in respect of a function mentioned in paragraph (1D)(a) to be a multiple of
- 40 the charge or fee payable in respect of a function mentioned in paragraph (1D)(b).
- (1D) The functions are—

- (a) functions relating to the determination of an application for an approval under a development order for development begun before the application was made;
- (b) functions relating to the determination of an application for an approval under a development order other than an application referred to in sub-paragraph (a). 5

(1E) Article 36(1) shall apply in determining for the purposes of this Article when development shall be taken to be begun.”;

(b) after paragraph (2) insert—

“(2A) Without prejudice to the generality of paragraph (2), regulations made under that paragraph may provide for the payment of a charge or fee in respect of an application mentioned in sub-paragraph (a) of that paragraph to be a multiple of the charge or fee to be paid under regulations made under paragraph (1) in relation to the determination by the Department of an application for planning permission for development not begun before the application was made.”. 10 15

Duration

25.—(1) The Department may by order repeal any of sections 1, 2(1), 3 to 5, 6(1), 7 to 18, 19(1) and (2) and 20 to 24.

(2) An order under subsection (1)— 20

- (a) may include incidental, consequential or transitional provisions or savings;
- (b) shall not be made unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.

Interpretation 25

26. In this Act—

“the Department” means the Department of the Environment;

“the 1991 Order” means the Planning (Northern Ireland) Order 1991;

“the 2011 Act” means the Planning Act (Northern Ireland) 2011.

Commencement 30

27.—(1) This Act, apart from this section and sections 1, 15, 16, 22, 26 and 28, comes into operation on such day or days as the Department may by order appoint.

(2) An order under subsection (1) may contain such incidental, consequential or transitional provisions or savings as the Department thinks appropriate. 35

Short title

28. This Act may be cited as the Planning Act (Northern Ireland) 2013.