

*These notes refer to the Planning Act (Northern Ireland)  
2011 (c.25) which received Royal Assent on 4 May 2011*

# Planning Act (Northern Ireland) 2011

---

## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2: Local Development Plans.**

##### ***Section 3: Survey of district***

This section requires a council to keep under review matters which are likely to affect the development of its district or the planning of that development. A council may also keep matters in any neighbouring district under review, to the extent that those matters might affect the area of a council, and in doing so they must consult a council for the neighbouring district concerned.

##### ***Section 4: Statement of Community Involvement***

This section defines a council's statement of community involvement as a statement of its policy for involving interested parties in matters relating to the development in its district. It requires a council and the Department to attempt to agree the terms of the statement and provides a power of direction for the Department where agreement is not possible. This statement will apply to the preparation and revision of a local development plan and to the exercise of a council's functions in relation to planning control.

##### ***Section 5: Sustainable development***

This section imposes a statutory duty on any person or body who exercises any function in relation to local development plans to do so with the objective of furthering sustainable development. In doing so they are required to take account of policies and guidance issued by the Office of the First Minister and deputy First Minister, the Department of the Environment and the Department for Regional Development.

##### ***Section 6: Local development plan***

This section sets out the definition of a local development plan and clarifies the position in relation to potential conflicts between local development plan policies; the conflict must always be resolved in favour of the policy contained in the last development plan document to be adopted or approved. It also confirms in law the status of a development plan in the determination of

planning decisions. Where regard is to be had to the local development plan, the determination must be in accordance with the plan unless material considerations indicate otherwise.

### ***Section 7: Preparation of Timetable***

This section places a requirement on a council to prepare and keep under review a timetable for the preparation and adoption of its local development plan. A council must attempt agree the timetable with the Department, however if the timetable cannot be agreed then the Department may direct that the timetable is in the terms specified in the direction.

### ***Sections 8 and 9: Plan Strategy and Local Policies Plan***

Sections 8 and 9 impose a statutory duty on a council to prepare a plan strategy and a local policies plan. These documents taken together constitute a local development plan. The local development plan must set out a council's objectives and policies in relation to the development and use of land in its district and any other matters prescribed by regulations. A council must take account of the matters listed in these sections, including the Regional Development Strategy and must carry out a sustainability appraisal for the proposals in each document. The Department may prescribe the form and content of both the plan strategy and the local policies plan.

### ***Section 10: Independent examination***

This section requires a council to submit its plan strategy and local policies plan to the Department for independent examination and makes provision for the Department to cause an independent examination to be carried out by the Planning Appeals Commission or a person appointed by the Department. The Department must not appoint an examiner other than the Planning Appeals Commission unless it has had regard to a council's timetable and considers it expedient to do so. The purpose of the examination will be to determine whether the plan strategy or local policies plan is sound and whether it satisfies the requirements relating to its preparation. Any person who makes representations seeking a change to the plan strategy or local policies plan has a right, if they so request, to appear in person at the examination.

After completion of the independent examination, the person appointed to carry out the examination must make recommendations on the plan strategy or local policies plan and give reasons for those recommendations.

### ***Section 11: Withdrawal of development plan documents***

This section enables a council to withdraw its plan strategy or local policies plan at anytime before it submits it to the Department for independent examination. However, if either of these documents has been submitted for independent examination, it can only be withdrawn by direction of the Department.

### ***Section 12: Adoption***

This section requires the Department to consider the recommendations of the independent examination and provides a power of direction for the Department to undertake one of three options at this stage. It can direct a council to adopt the development plan document as originally prepared, adopt the document with such modifications as may be specified in the direction or direct a council to withdraw the development plan document. A council must comply with the direction within such time as may be prescribed and adopt the plan strategy or local policies plan by resolution of the council.

### ***Section 13: Review of local development plan***

This section requires a council to carry out a review of its development plan at such times as the Department may prescribe and to report to the Department on the findings of the review.

### ***Section 14: Revision of plan strategy or local policies plan***

This section empowers a council to revise a plan strategy or local policies plan at any time (after adoption). If a review under section 13 indicates that it should do so, or it is directed to do so by the Department, then it must carry out a revision. Revisions to a plan strategy or local policies plan must comply with the same requirements as those which apply to the preparation of a plan strategy or local policies plan.

### ***Section 15: Intervention by Department***

This section allows the Department, if it thinks that a plan strategy or local policies plan is unsatisfactory, to direct a council to modify the plan strategy or local policies plan at any time before it is adopted. The council must comply with the direction.

### ***Section 16: Department's default powers***

This section contains default powers for the Department to prepare or revise a council's plan strategy or local policies plan if it thinks a council is failing properly to carry out these functions itself. A council must reimburse the Department for any expenditure it incurs in exercising these powers.

### ***Section 17: Joint plans***

This section enables two or more councils to jointly prepare (i) a joint plan strategy or (ii) a joint plan strategy and a joint local policies plan. It also sets out the arrangements which are to apply in such a case. If any council withdraws from an agreement to prepare (i) a joint plan strategy or (ii) a joint plan strategy and a joint local policies plan, it will be possible for the remaining council(s) to continue with the preparation of the plan strategy or local policies plan if it satisfies the conditions required for it to be treated as a "corresponding document".

### ***Section 18: Power of Department to direct councils to prepare joint plans***

This section enables the Department to direct two or more councils to prepare (i) a joint plan strategy or (ii) a joint plan strategy and a joint local policies plan. In the instance of the Department issuing such a direction no council may withdraw from the joint working and the preparation of (i) a joint plan strategy or (ii) a joint plan strategy and a joint local policies plan must follow the preparation requirements under this Part to its natural conclusion.

### ***Section 19: Exclusion of certain representations***

This section allows a council, Planning Appeals Commission or person appointed by the Department to disregard representations in relation to a plan strategy or local policies plan if the representations are made in respect of anything that is done or proposed under certain orders or schemes made under the New Towns Act (Northern Ireland) 1965, the Housing (Northern Ireland) Order 1981, Part 7 of the Planning (Northern Ireland) Order 1991, the Roads (Northern Ireland) Order 1993, or a simplified planning zone scheme or an enterprise zone scheme under this Act. These Orders and this Act set out specific procedures for considering the representations and objections concerned.

### ***Section 20: Guidance***

This section requires that any body in carrying out any function under this part must have regard to any relevant guidance issue by the Department, the Department for Regional Development, or the Office of First Minister and deputy First Minister.

### ***Section 21: Annual monitoring report***

This section requires councils to report annually to the Department on whether the policies in the plan strategy or local policies plan are being achieved. The section also provides powers for the Department to make regulations prescribing what information an annual report must contain, the period it must cover, when it must be made and the form it must take.

### ***Section 22: Regulations***

This section gives the Department the power to make regulations in connection with the exercise by any person of local development plan functions.