

## SCHEDULE 4

Regulations 8(1), 14(1), 15(1) and 16(1)

## PART 1

MODIFICATIONS OF SECTIONS 40, 43, 44, 58, 59, 60, 68 AND  
70 OF THE PLANNING ACT (NORTHERN IRELAND) 2011

Column 1	Column 2
<i>Provision of the 2011 Act</i>	<i>Modifications</i>
Section 40(1) (form and content of applications)	None.
Section 40(2)	None.
Section 40 (3) to (5)	Omit.
Section 43 (notice requiring planning application to be made)	In the title, for “planning application” substitute “application for consent”.
Section 43(1)	For the words “development has been carried out —(a)” substitute “any advertisement has been displayed”.  Omit “in accordance with this Part; or”.  Omit paragraph (b).  Omit the words “or approval”.
Section 43(2)	For the words “5 years” to the end substitute “10 years from the date on which the advertisement to which it relates was first displayed”.
Section 43(3)	For the words “matters alleged to constitute development” substitute “advertisement”.
Section 43(4)	For the words “owner” to the end substitute “person displaying the advertisement”.
Section 43(5)	For the word “any” substitute “the”.
Section 43(6) & (7)	Omit.
Section 43(8)	For the words “subsections (5) to (7)” substitute “subsection (5)”.
Section 43 (9) to (11)	None.
Section 43(12)	Omit the words “or approval”.
Section 44(1) (appeal against notice under section 43)	None.
Section 44(2)	For paragraphs (a) to (c) substitute— “(a) that the display of the advertisement referred to in the notice does not require consent; (b) that no advertisement has been displayed as alleged in the notice;

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<i>Provision of the 2011 Act</i>	<i>Modifications</i>
	(c) that the period of 10 years referred to in section 43(2) had elapsed at the date when the notice was issued.”
Section 44(3) to (7)	None.
Section 58(1) (appeals)	Omit the words “to develop land; or” in paragraph (a).  Omit paragraphs (b) and (c).  For the words “permission, consent, agreement or approval” substitute “consent”.
Section 58(2)	Omit.
Section 58(3)	None.
Section 58(4)	Omit the words “, subject to subsections (5) to (7),”.
Section 58 (5) & (6)	None.
Section 58(7)	Omit.
Section 59(1) (matters which may be raised in an appeal under section 58)	Omit the words “or, as the case may be, the Department”
Section 59(2)	“None”
Section 60 (appeal against failure to take planning decision)	After the words “section 58(1)” insert the words “as applied and modified by the Planning (Control of Advertisements) Regulations (Northern Ireland) 2015”.  Omit the words “either—”, “(a)”, and “; or” in paragraph (a).  Omit paragraph (b).  Omit paragraph (c).  In head (i) for the words “permission, consent, agreement or approval” substitute “consent”.
Section 68 (revocation or modification of planning permission by council)	In the title for “planning permission” substitute “express consent”.
Section 68	Substitute the following—  “(1) If it appears to a council that it is expedient to revoke or modify any consent for the display of an advertisement, the council may, subject to subsections (3) and (4), by order revoke or modify the consent to such extent as it considers expedient.

Column 1	Column 2
<i>Provision of the 2011 Act</i>	<i>Modifications</i>
	<p>(2) Without prejudice to the generality of subsection (1), a council may have regard to any material change in circumstances that has occurred since the consent was granted.</p> <p>(3) The power conferred by this section to revoke or modify consent for the display of an advertisement may be exercised—</p> <ul style="list-style-type: none"><li>(a) where the consent relates to a display which involves the carrying out of building or other operations, at any time before those operations have been completed;</li><li>(b) in any other case, at any time before the display of the advertisement has begun;</li></ul> <p>except that the revocation or modification of consent for a display which involves the carrying out of building or other operations shall not affect so much of those operations as has been previously carried out.</p> <ul style="list-style-type: none"><li>(a) (4) Where the council makes an order under this section it must serve a notice on—<ul style="list-style-type: none"><li>(i) the person who applied for the consent;</li><li>(ii) the owner and occupier of the land affected; and</li><li>(iii) any other person who, in its opinion, would be affected by the order;</li></ul></li><li>(b) the order shall take effect on the day after that on which the council complies with the requirements of paragraph (a).”</li></ul>
Section 70(1) (procedure for section 68 orders: opposed cases)	For the words “Except as provided in section 71, an” substitute “An”.
Section 70(2)	For subsection (2) substitute the following subsection— <p>“(2) Where a council submits such an order to the Department for confirmation, it must serve notice on—</p> <ul style="list-style-type: none"><li>(a) the person who applied for the consent;</li><li>(b) the owner and occupier of the land affected; and</li></ul>

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<i>Provision of the 2011 Act</i>	<i>Modifications</i>
Section 70(3) to (5)	None.
Section 70(6)	<p>For subsection (6) substitute the following subsection—</p> <p>(c) any other person who, in its opinion, would be affected by the order.”</p> <p>(a) “(6) The Department may confirm an order submitted to it under this section either without modification or subject to such modifications as the Department considers expedient;</p> <p>(b) without prejudice to the generality of paragraph (a), in considering whether to confirm an order submitted to it under this section, the Department—</p> <p>(i) may have regard to any material change in circumstances that has occurred since the consent was granted;</p> <p>(ii) where a hearing is held under subsection (3), the Department shall consider the report of the commission.”</p>

Regulations 8(2), 14(2), 15(2) and 16(2)

## PART 2

### SECTIONS 40, 43, 44, 58, 59, 60, 68 AND 70 OF THE PLANNING ACT (NORTHERN IRELAND) 2011 AS MODIFIED

#### **Form and content of applications**

- 40.—(1) Any application for consent to display an advertisement—
- (a) must be made in such form and in such manner as may be specified by the Planning (Control of Advertisements) Regulations (Northern Ireland) 2015;
  - (b) must include such particulars, and be verified by such evidence, as may be required by the Regulations or by any directions given by a council or the Department under the Regulations.
- (2) A direction under subsection (1)(b) must not be inconsistent with the Regulations.

#### **Notice requiring application for consent to be made**

43.—(1) Where it appears to a council that any advertisement has been displayed without the grant of consent for the display of an advertisement required in that behalf the council may issue

a notice under this section requiring the making of an application for such consent to the council within 28 days from the service of the notice.

(2) A notice under this section may be issued only within the period of 10 years from the date on which the advertisement to which it relates was first displayed.

(3) A notice under this section must specify the advertisement to which the notice relates.

(4) A copy of a notice under this section must be served on the person displaying the advertisement.

(5) Where a copy of a notice under this section has been served on the person referred to in subsection (4), then if the application referred to in the notice is not made to the council within the period allowed for compliance with the notice, that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) If, after a person has been convicted under subsection (5), the application referred to in the notice under this section is not made to the council, that person shall be guilty of a further offence and liable on summary conviction to a fine not exceeding one tenth of level 3 on the standard scale for each day following his first conviction on which the offence continues.

(9) The council may, at any time before the end of the period allowed for compliance with a notice under this section, withdraw the notice.

(10) If it does so the council must as soon as is reasonably possible give notice of the withdrawal to every person who was served with a copy of the notice.

(11) Any reference in this section and section 44 to the period allowed for compliance with a notice under this section is a reference to the period mentioned in subsection (1) or such extended period as may be allowed by the council for compliance with the notice.

(12) For the purposes of this section an application to the council for any consent shall not be taken to be made unless it is accompanied by the fee prescribed under section 223 in relation to that application.

### **Appeal against notice under section 43**

44.—(1) A person on whom a copy of a notice has been served under section 43 may, at any time before the end of the period allowed for compliance with that notice, appeal to the planning appeals commission against the notice.

(2) An appeal may be brought on any of the following grounds—

- (a) that the display of the advertisement referred to in the notice does not require consent;
- (b) that no advertisement has been displayed as alleged in the notice;
- (c) that the period of 10 years referred to in section 43(2) had elapsed at the date when the notice was issued.

(3) An appeal under this section shall be made by notice in writing to the planning appeals commission and such notice shall indicate the grounds of the appeal and state the facts on which it is based.

(4) Before determining an appeal under this section, the planning appeals commission must, if either the appellant or the council so desires, afford to each of them an opportunity of appearing before and being heard by the commission.

(5) Where an appeal is brought under this section the notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(6) On an appeal under this section the planning appeals commission—

- (a) must quash the notice, vary the terms of the notice or uphold the notice;

- (b) may correct any informality, defect or error in the notice, or vary its terms, if it is satisfied that the correction or variation can be made without injustice to the appellant or to the council.

(7) The validity of a notice under section 43 shall not, except by way of an appeal under this section, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.

## **Appeals**

58.—(1) Where an application is made to a council for consent for the display of an advertisement then if that consent is refused or is granted subject to conditions, the applicant may by notice in writing appeal to the planning appeals commission.

(3) Any notice under this section 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 the Planning (Control of Advertisements) Regulations (Northern Ireland) 2015.

(4) Where an appeal is brought under this section from a decision of a council, the planning appeals commission may allow or dismiss the appeal or may reverse or vary any part of the decision whether the appeal relates to that part thereof or not and may deal with the application as if it had been made to it in the first instance.

(5) Before determining an appeal under this section, the planning appeals commission must, if either the applicant or the council so desires, afford to each of them an opportunity of appearing before and being heard by the commission.

(6) If at any time before or during the determination of an appeal under this section it appears to the planning appeals commission that the appellant is responsible for undue delay in the progress of the appeal, it may—

- (a) give the appellant notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are specified in the notice for the expedition of the appeal; and
- (b) if the appellant fails to take those steps within that period, dismiss the appeal accordingly.

## **Matters which may be raised in an appeal under section 58**

59.—(1) In an appeal under section 58, a party to the proceedings is not to raise any matter which was not before the council at the time the decision appealed against was made unless that party can demonstrate to the satisfaction of the planning appeals commission—

- (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.

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

- (a) the provisions of the local development plan, or
- (b) any other material consideration.

## **Appeal against failure to take planning decision**

60.—(1) Where any such application as is mentioned in section 58(1) as applied and modified by the Planning (Control of Advertisements) Regulations (Northern Ireland) 2015 is made to a council, then unless within such period as may be specified by the Regulations, or within such extended period as may be agreed upon in writing between the applicant and the council, the council gives notice to the applicant of its decision on the application, section 58 shall apply in relation to the application—

- (i) as if the consent to which it relates had been refused by the council; and
- (ii) as if notification of the council's decision had been received by the applicant at the end of the period so specified, or at the end of the said extended period, as the case may be.

### **Revocation or modification of express consent by council**

68.—(1) If it appears to a council that it is expedient to revoke or modify any consent for the display of an advertisement, the council may, subject to subsections (3) and (4), by order revoke or modify the consent to such extent as it considers expedient.

(2) Without prejudice to the generality of subsection (1), a council may have regard to any material change in circumstances that has occurred since the consent was granted.

(3) The power conferred by this section to revoke or modify consent for the display of an advertisement may be exercised—

- (a) where the consent relates to a display which involves the carrying out of building or other operations, at any time before those operations have been completed;
- (b) in any other case, at any time before the display of the advertisement has begun;

except that the revocation or modification of consent for a display which involves the carrying out of building or other operations shall not affect so much of those operations as has been previously carried out

- (a) (4) (a) Where the council makes an order under this section it must serve a notice on —
  - (i) the person who applied for the consent;
  - (ii) the owner and occupier of the land affected; and
  - (iii) any other person who, in its opinion, would be affected by the order;
- (b) the order shall take effect on the day after that on which the council complies with the requirements of paragraph (a).

### **Procedure for section 68 orders: opposed cases**

70.—(1) An order under section 68 shall not take effect unless it is confirmed by the Department.

(2) Where a council submits such an order to the Department for confirmation, it must serve notice on—

- (a) the person who applied for the consent;
- (b) the owner and occupier of the land affected; and
- (c) any other person who, in its opinion, would be affected by the order.

(3) The notice must specify the period within which any person on whom it is served may require the Department to give that person an opportunity of appearing before, and being heard by, the planning appeals commission.

(4) If within that period such a person so requires, before the Department confirms the order it must give such an opportunity both to that person and to the council.

(5) The period referred to in subsection (3) must not be less than 28 days from the service of the notice.

- (a) (6) (a) The Department may confirm an order submitted to it under this section either without modification or subject to such modifications as the Department considers expedient;
- (b) without prejudice to the generality of paragraph (a), in considering whether to confirm an order submitted to it under this section, the Department —

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- (i) may have regard to any material change in circumstances that has occurred since the consent was granted;
- (ii) where a hearing is held under subsection (3), the Department shall consider the report of the commission.

Regulation 17(1)

### PART 3

#### MODIFICATIONS TO SECTION 26 OF THE LAND DEVELOPMENT VALUES (COMPENSATION) ACT (NORTHERN IRELAND) 1965

Column 1	Column 2
<i>Provision of the 1965 Act</i>	<i>Modifications</i>
Section 26 (compensation where planning permission is revoked or modified)	In the title for “planning permission” substitute “consent”
Section 26(1)	For the words “planning permission” and “permission” substitute “consent for the display of an advertisement”.  Omit the words “or 72”  After “of the Planning Act” insert the words “as modified by the Planning (Control of Advertisements) Regulations (Northern Ireland) 2015”.  Omit the words “unless compensation” to the end.
Section 26(2)	None.
Section 26(3)	For the word “permission” where it twice occurs substitute “consent”.  After the word “work” in paragraph (a) insert the words “including the preparation of plans or similar material”.  In paragraph (b) omit the words “(not being loss or damage consisting of depreciation of the value of a compensatable estate in any land)”.
Section 26(4) to (6)	Omit.
Section 26(7)	None.



Column 1	Column 2
<i>Provision of the 1965 Act</i>	<i>Modifications</i>
Section 26(8)	In section 26(8) omit the words from “or,” to the end.

Regulation 17(2)

## PART 4

### SECTION 26 OF THE 1965 ACT AS MODIFIED

#### **Compensation where consent is revoked or modified**

26.—(1) Where any consent for the display of an advertisement is revoked or modified by an order under section 68 of the Planning Act as modified by the Planning (Control of Advertisements) Regulations (Northern Ireland) 2015 then, if on a claim duly made to the council in accordance with this section, it is shown that a person interested in the land to which the consent for the display of an advertisement related—

- (a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification; or
- (b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification;

the council shall pay to him compensation in respect of that expenditure, loss or damage.

(2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work, or upon other similar matters preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out that work.

(3) Subject to subsection (2), compensation shall not be paid under this section in respect of—

- (a) any work including the preparation of plans or similar material carried out before the grant of the consent which is revoked or modified; or
- (b) any loss or damage arising out of anything done or omitted to be done before the grant of that consent.

(7) The Department may make regulations under this section as to the manner in which any claims for compensation under this section must be made.

(8) Claims under this section shall be made to and paid by the council which made the order in question.