

*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

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## EXPLANATORY NOTES

### OVERVIEW

9. The Act consists of 255 sections, 15 Parts and 7 Schedules. The Parts are:
- Part 1: Functions of Department of the Environment with respect to development of land.
  - Part 2: Local Development Plans.
  - Part 3: Planning Control.
  - Part 4: Additional Planning Control.
  - Part 5: Enforcement.
  - Part 6: Compensation.
  - Part 7: Purchase of estates in certain land affected by planning decisions.
  - Part 8: Further provisions as to historic buildings.
  - Part 9: The Planning Appeals Commission.
  - Part 10: Assessment of Council's performance or decision making.
  - Part 11: Application of Act to Crown Land.
  - Part 12: Correction of Errors.
  - Part 13: Financial Provisions.
  - Part 14: Miscellaneous and General Provisions.
  - Part 15: Supplementary
- Schedules:
1. Simplified planning zones
  2. Review of old mineral planning permission
  3. Periodic review of mineral planning permissions
  4. Amendments to the Land Development Values (Compensation) Act (Northern Ireland) 1965

5. The Historic Buildings Council
6. Minor and consequential amendments
7. Repeals
10. **Part 1:** Functions of Department of the Environment with respect to development of land. This Part maintains the general background authority for the Department to formulate and co-ordinate policy for securing the orderly and consistent development of land and the planning of that development. The Department must ensure that any such policies are in conformity with the Regional Development Strategy and must exercise its functions with the objective of furthering sustainable development and promoting or improving well-being. It also re-enacts the duty on the Department to prepare a Statement of Community Involvement.
11. **Part 2:** Local Development Plans. This Part provides for the preparation of local development plans by councils for their district; these will replace current Department of the Environment development plans. These local development plans will comprise two documents, a Plan Strategy and a Local Policies Plan which must be prepared in accordance with the relevant timetable and must take account of the Regional Development Strategy. Public participation in formulating local development plans and progress through to adoption will be facilitated through the Statement of Community Involvement and timetable agreed between a council and the Department. This Part also makes general provision for the preparation, withdrawal, adoption and approval of local development plans (including joint plans) and their independent examination. The Department has powers of intervention and may by regulations make provision in connection with the exercise by any person of functions under this Part.
12. **Part 3:** Planning Control. This Part re-enacts key provisions from the Planning (Northern Ireland) Order 1991 which define development and set the framework for the processing and determination of applications for planning permission. A new development management approach is introduced which includes assigning different categories of development to a new hierarchy which in turn will determine the method by which applications will be processed. The majority of applications will be dealt with by district councils with the Department determining applications which are of regional significance either through direct submission or call in arrangements.
13. Developers proposing regionally significant or major developments will be required to engage in pre-application community consultation. In addition, councils will be required to draw up schemes which delegate decision-making on local developments to officer level. Arrangements are put in place to deal with appeals from council decisions and provisions re-enacted which deal with the duration of planning permission. New oversight powers will mean some of the actions taken by councils will require confirmation by the Department before they can take effect. New provisions are introduced which set out

arrangements for dealing with planning applications on land belonging to councils and development by councils. A new power has been taken to restrict the matters that can be raised at appeal. Parties to an appeal may not raise any matters that were not in front of a council when it made its original decision. The only exceptions are when the matter could not have been raised at that time or the fact that it was raised was due to unforeseen circumstances.

14. **Part 4: Additional Planning Control.** This Part is subdivided into chapters on listed buildings and conservation areas, hazardous substances, trees, review of mineral planning permissions and advertisement controls. The bulk of these functions re-enact provisions of the Planning (Northern Ireland) Order 1991 and transfer these powers to district councils, although some, for example, the listing of buildings of special architectural or historic interest, are retained by the Department. Arrangements are also put in place to allow applications to be called in by the Department for its determination. New oversight powers will mean some of the actions taken by councils will require confirmation by the Department before they can take effect. New provisions are introduced which set out arrangements for dealing with consent applications on land belonging to councils and development by councils.
15. **Part 5: Enforcement.** This Part deals with enforcement powers which may be invoked where development has been carried out without the requisite grant of planning permission or consent under Part 3 or 4 of the Act or a condition attached to a planning permission or consent has been breached. Enforcement powers within the Planning (Northern Ireland) Order 1991 are re-enacted and transferred to councils which will be responsible for enforcement for all breaches of planning control. The Department, however, will retain certain powers e.g. to issue an enforcement notice or stop notice where, after consultation with a council, it appears expedient to do so. All enforcement functions transferred to councils will be restricted to their council district. The Department's powers will cover all council areas of Northern Ireland. This Part also introduces new powers for councils to issue Fixed Penalty Notices for the offence of failure to comply with an enforcement notice or breach of condition notice. In addition several levels of fines are increased.
16. **Part 6: Compensation.** This Part carries forward the compensation provisions contained in the Land Development Values (Compensation) Act (NI) 1965, The Planning (Northern Ireland) Order 1972 and the Planning Reform (Northern Ireland) Order 2006.
17. The responsibility for certain compensation functions which previously fell to the Department is now transferred to councils. These functions are:
18. Compensation where planning permission is revoked or modified. Compensation may also be payable when listed building or hazardous substances consent is revoked or modified. Furthermore, there may be a compensation liability when there has been a change to the person in control of part of some land where a hazardous substances consent applies and an application for continuation of the consent has been modified or revoked.

19. Compensation where an order is made discontinuing the use of land, or conditions imposed upon the continuation of its use, or when the removal or alteration is required of any buildings or works on the land.
20. Compensation in respect of tree preservation orders whereby loss or damage may be caused by the refusal of consent (or the grant of consent subject to conditions) to fell, lop or top a tree protected by a preservation order.
21. Compensation is also payable when there is loss or damage directly attributable to the prohibition contained in a stop notice or a temporary stop notice.
22. Compensation for loss or damage caused by the service of a listed building preservation notice.
23. The Department will continue to discharge some planning functions under the new Planning Act. In such cases any orders made by the Department will be regarded as if they had been made by the relevant council. This means any compensation liability arising from the Department's decisions will fall to the relevant council. Provision is provided elsewhere (in section 227) to allow a government department to contribute to the compensation costs of a council if those costs were incurred by a council decision or order made in the interest of services provided by that government department. A new provision deals with compensation where a statutory consultee has failed to respond within a required period and a planning decision is subsequently revoked or modified.
24. [Part 7](#): Purchase of estates in certain land affected by planning decisions. This Part deals with purchase notices. These provisions re-enact provisions of the Planning (Northern Ireland) Order 1991 and enable a land owner, who claims land is left without any reasonable beneficial use by virtue of a planning decision, to issue a purchase notice to seek to have a council acquire it from the owner.
25. [Part 8](#): Further provisions as to historic buildings. This Part re-enacts provisions of the Planning (Northern Ireland) Order 1991 which deal with the continuance of the Historic Buildings Council and for the making of grants by the Department towards the maintenance and repair of listed buildings and the acquisition of listed buildings.
26. [Part 9](#): The Planning Appeals Commission. This Part re-enacts existing provisions within the Planning (Northern Ireland) Order 1991 which provide for the continuance and procedures of the Planning Appeals Commission which is an independent appellate body which deals with a wide range of land use planning issues and related matters. A new provision enables the Planning Appeals Commission to make an order requiring the costs of a party at an appeal to be paid.
27. [Part 10](#): Assessment of Council's performance or decision making. This Part introduces new provisions for the Department (or other appointed person(s)) to undertake audits or assessments in respect of the planning functions that will

transfer to councils. It also includes powers about the reporting of the audits or assessments.

28. **Part 11:** Application of Act to Crown Land. Part 11 re-enacts provisions within the Planning (Northern Ireland) Order 1991 which apply planning legislation to the Crown subject to certain exceptions (notably enforcement powers). New powers are introduced to deal with urgent Crown development applications.
29. **Part 12:** Correction of Errors. Part 12 re-enacts provisions from the Planning Reform (Northern Ireland) Order 2006 to correct errors in decision documents including omissions. The provisions have been amended to enable a council to correct minor errors without the consent of the applicant / landowner.
30. **Part 13:** Financial Provisions. This Part deals with financial provisions and re-enacts powers for the payment of fees and charges as well as introducing new specific powers to charge multiple fees for retrospective planning applications. Powers for the Department to pay grants for research and bursaries to bodies providing assistance in relation to certain development proposals are also re-enacted from the Planning (Northern Ireland) Order 1991. New powers are introduced to allow statutory undertakers or other councils to contribute to a council's costs when carrying out specified functions under the Act. Further new powers are introduced to allow government departments to contribute to the compensation costs of a council if those costs were incurred in the interests of services provided by that department.
31. **Part 14** deals with a number of miscellaneous and general provisions including the introduction of powers to review the Planning Act and also new powers for persons or bodies which are required to be consulted in the determination of applications for planning permission, approval and consents to respond to consultation requests within a specified timeframe. This Part also covers the re-enactment of powers relating to the application of the Act in special cases, for example, minerals development.
32. Further miscellaneous powers are re-enacted from the Planning (Northern Ireland) Order 1991, amended where necessary to reflect the proposed two-tier planning system. These include, inquiry powers - including powers in relation to the determination of applications which raise national security or security of premises issues, powers for rights of entry, powers relating to the service of notices and documents (electronically), powers relating to information as to estates in land including Crown land, planning register powers, powers to appoint advisory bodies or committees, powers relating to the time limit for certain summary offences under this Act, powers relating to registration of matters in the Statutory Charges Register and powers to make regulations and orders.
33. **Part 15** is Supplementary and covers the interpretation, further provision, minor and consequential amendments, repeals, commencement provisions and the short title.