



PLANNING AND DEVELOPMENT (AMENDMENT) BILL 2015

Mar a tionscnaíodh

As initiated

ARRANGEMENT OF SECTIONS

Section

1. Interpretation
2. Amendment to section 6 of the Act of 2000
3. The Planning Regulator
4. Functions of Planning Regulator
5. Powers of Planning Regulator
6. Conduct of Investigations
7. Report of Findings
8. Short title, collective citations and commencement

ACTS REFERRED TO

Planning and Development Act 2000

Statute of Limitations 1957, 1991 and 2000



PLANNING AND DEVELOPMENT (AMENDMENT) BILL 2015

BILL

entitled

AN ACT TO AMEND THE ACT OF 2000 TO PROVIDE FOR THE ESTABLISHMENT OF AN INDEPENDENT PLANNING REGULATOR, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH.

BE ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation

1. “the act of 2000” means the Planning and Development Act 2000.
“Minister” means the Minister for the Environment and Local Government.

Amendment of Section 6 of the Act 2000

2. The Act of 2000, is hereby amended by the deletion of the existing section 6 and the insertion of the following section:

“6 – An independent Planning Regulator shall be appointed to investigate all planning matters, investigations and appeals related to the functioning of the Act”.

Where, in the case of an action for which a period of limitation is fixed by this Act, the action is based on the negligence of the defendant or his agent, and such defendant or agent is a financial institution, accountant or auditor and such negligence contributed to the financial crisis of 2008 the period of limitation shall be extended to eight years from the time of the accrual of the cause of action.

- (2) Nothing in subsection (1) of this section shall enable an action to be brought to recover, or enforce any charge against, or set aside any transaction affecting, any property which has been purchased for valuable consideration by a person who was not a party to the negligence and did not at the time of the purchase know or have reason to believe that any such negligence had been occurred.

The Planning Regulator

3. (1) There is established an office to be known as the office of the Planning Regulator and the holder of the office shall be known as the Planning Regulator and is referred to in this Act as the Planning Regulator.

(2) The Planning Regulator shall be independent in the performance of his or her functions.
(3) The appointment of a person to be the Planning Regulator shall be made by the Public Appointments Service, following an open application process, and a resolution passed by Dáil Eireann and by Seanad Eireann recommending the appointment of the person

Functions of the Planning Regulator

4. (1) The Planning Regulator will carry out independent appraisal of all relevant statutory plans, including local area plans, development plans, regional planning guidelines and these independent appraisals shall be laid before the Oireachtas committee on the Environment.

(2) The Planning Regulator may give directions to Planning authorities on the content of the plans and where appropriate provide advice that all or part of a plan should be amended or rejected and this advice will be published.

(3) The Planning Regulator shall investigate any systemic problems in the planning system and the performance of the functions of the Planning authorities on his or her own initiative, on foot of a complaint or on the direction of the Minister. Any report thus carried out should be provided to the Minister and the Oireachtas Environment Committee.

(4) The Planning Regulator shall provide training to members of both regional and local authorities in planning and development to enable them to discharge their functions in this area more effectively

Powers of the Planning Regulator

5. (1) For the purpose of his or her functions under this Act the Planning Regulator may require any person who, in the opinion of the Planning Regulator, is in possession of information, or has a record or thing in his or her power or control, that is relevant to the purposes aforesaid to furnish to the Planning Regulator any such information, record or thing and, where appropriate, may require the person to attend before him or her for that purpose, and the person shall comply with the requirement.

(2) No enactment or rule of law prohibiting or restricting the disclosure or communication of information shall preclude a person from furnishing to the Planning Regulator any such information or record, as aforesaid.

(3) Subject to the provisions of this Act, a person to whom a requirement is addressed under this section shall be entitled to the same immunities and privileges as if he or she were a witness before the High Court.

(4) A person who fails or refuses to comply with a requirement under this section or who hinders or obstructs the Planning Regulator in the performance of his or her functions under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €2,000 or to imprisonment for a term not exceeding 6 months or both. (5) Where an offence under subsection (4) has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of any director, manager, secretary or other similar officer of such body or of any person who was purporting to act in any such capacity, that officer or person, as well as such body, shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(6) Proceedings for an offence under this section may be brought and prosecuted by the Planning Regulator.

(7) The Planning Regulator may, if he or she thinks fit, pay to any person who, for the purposes aforesaid, attends before the Planning Regulator or furnishes information or a record or other thing to him or her—

(a) sums in respect of travelling and subsistence expenses properly incurred by the person, and

(b) allowances by way of compensation for loss of his or her time, of such amount as may be determined by the Minister.

(8) A statement or admission made by a person for the purposes aforesaid shall not be admissible as evidence against that person in any criminal proceedings.

(9) Nothing in this section shall confer any right to production of, or access to, any record or thing subject to legal privilege.

Conduct of Investigations

6. (1) An investigation by the Planning Regulator under this Act shall be conducted otherwise than in public.

(2) Where the Planning Regulator proposes to carry out an investigation under this Act he or she shall—

(a) notify—

(i) the planning authority concerned,

(ii) in a case where a complaint has been made to the Planning Regulator, the person who made the complaint, and

(iii) the Minister, in writing of that fact, and

(b) afford—

(i) the planning authority concerned, and

(ii) any other person who appears or, in a case where a complaint has been made to the Planning Regulator, is alleged to have been responsible for the matter complained of, an opportunity to comment on the matter and, if a complaint in relation to the matter has been made to the Planning Regulator, on any allegations contained in the complaint.

(3) The Planning Regulator may—

(a) refuse to investigate a complaint under this Act, or

(b) discontinue an investigation under this Act into such a complaint, if he or she becomes of opinion that—

(i) the complaint is trivial or vexatious,

(ii) the person making the complaint has not taken reasonable steps to seek redress in respect of the subject matter of the complaint or, if he or she has, has not been refused redress,

(iii) the complaint relates solely to a matter within the power of the Regulator to investigate pursuant to section 4(2)(a) of the Ombudsman Act 1980, or

(4) Subject to the provisions of this Act, the procedure for conducting an investigation shall be such as the Planning Regulator considers appropriate in all the circumstances of the case.

(5) The Planning Regulator may determine whether any person may be represented, by counsel, solicitor or otherwise, in an investigation by him or her under this Act.

Report of Findings

7—(1) In any case where a complaint is made to the Planning Regulator and the Planning Regulator decides not to carry out an investigation under this Act or decides to discontinue such an investigation, he or she shall send to the person who made the complaint and to the planning authority concerned a statement in writing of his or her reasons for the decision and shall send to such other person as he or she considers appropriate such statement in writing in relation to the matter as he or she considers appropriate.

(2) In any case where the Planning Regulator conducts an investigation under this Act, he or she shall prepare and submit a report to—

(a) the planning authority concerned,

(b) the Minister,

(c) The Oireachtas Environment Committee and

(d) in a case where a complaint is made to the Planning Regulator, the complainant, a report in writing of the findings of the investigation and may include in the report any recommendations he or she considers appropriate having regard to the investigation.

(3) Without prejudice to subsection (2), the Planning Regulator may issue an interim report if he or she considers it appropriate so to do.

(4) The Planning Regulator may request a planning authority to submit to him or her within a specified time any comments it may have regarding any findings or recommendations contained in a report under this section.

(5) If, within a reasonable time after a report containing recommendations is submitted to a planning authority under subsection

(2), any recommendations contained in the report have not, in the opinion of the Planning Regulator, been implemented by that body, the Planning Regulator may, after considering any responses made to him or her by the planning authority in respect of those recommendations, make a report thereon to each House of the Oireachtas.

(6) The Planning Regulator shall attach to every report under subsection (5) a copy of every response (if any) made by or on behalf of a planning authority to the said recommendations.

Short Title, Citation and Commencement

(1) This Act may be cited as the Planning and Development (Amendment) Act, 2015.

(2) This Act comes into operation on such day or days as the Minister may appoint by order or orders.