



To: An Bord Pleanála
Directors of Planning Services, City and County Councils

CC: Chief Executives, City and County Councils
Senior Planners, City and County Councils
Directors of Regional Assemblies
Office of the Planning Regulator

Circular Letter: EUIPR 05/2020

24 December 2020

**Planning and Development during the Covid-19 Emergency:
Section 4 (public meetings during preparation of draft development plans)
and Section 5 (emergency period orders during the Covid-19 Emergency)
of the Planning and Development, and Residential Tenancies, Act 2020**

I am writing to inform you of the enactment of the Planning and Development, and Residential Tenancies, Act 2020 (No. 27 of 2020) (the 2020 Act) on 19 December 2020, particularly having regard to sections 4 and 5 of this Act.

Circular letter EUIPR 04/2020, which also issued on 24 December 2020, separately addresses sections 6, 7 and 8 of the 2020 Act concerning amendments to substitute consent provisions in Part XA of the Planning and Development Act 2000, as amended, (the 2000 Act) and Part 19 of the Planning and Development Regulations 2001, as amended.

A copy of the 2020 Act will be available on the electronic Irish Statute Book at <http://www.irishstatutebook.ie> in due course. Sections 4 and 5, as well as sections 6, 7 and 8, of the 2020 Act commenced upon enactment of the Act on 19 December 2020.

Section 4 of the 2020 Act: Public meetings during the preparation of draft development plans

Section 4 of the 2020 Act amends section 11 of the 2000 Act, concerning the preparation of draft development plans, by substituting subsection (3)(b) for the following:

“(b) Without prejudice to the generality of paragraph (a), a planning authority—



(i) shall consult with members of the public in such manner (which shall include the holding of a public meeting or an online public meeting) as it considers appropriate, and invite submissions in writing from members of the public, in relation to a proposed development plan, and

(ii) may invite oral submissions from members of the public in relation to a proposed development plan.”

This amendment to section 11(3)(b) of the 2000 Act replaces the requirement to hold public meetings, in relation to the initial ‘issues’ stage of a proposed development plan, with a more flexible requirement for planning authorities to consult with members of the public in such manner as it considers appropriate, and to invite written submissions from members of the public.

The proposed amendment will allow planning authorities to take such steps it deems necessary (such as public/ newspaper notices and online communication) to ensure the public is consulted in compliance with the principles of the Aarhus Convention, which includes public participation in environmental decision making.

This measure will immediately allow planning authorities to adapt public consultation procedures in light of present restrictions on the holding of public gatherings during the Covid-19 pandemic, which restrictions might otherwise delay the progression of development plans during the pandemic.

The amendment is also in line with the modernisation agenda for the planning system, to increase online activity and ensure continued flexibility in communicating details of draft development plans to the public and is therefore a permanent amendment.

For the avoidance of doubt, there will always be some format of public meeting under section 11(3)(b) in relation to the initial issues stage of a proposed development plan, either by way of a public meeting attended by the public in person, or else an online public meeting. It is also important to note that subsequent public engagement phases for the adoption of development plans will remain in place.

The amendment by section 4 of the 2020 Act to section 11(3)(b) of the 2000 Act is also referenced in Circular Letter NRUP 02/2020 (Planning Update), issued on 23 December 2020, where it was emphasised that, in normal circumstances, *both* on-line and in-person meetings may be held and are encouraged as part of a planning authority’s public consultation strategy for its development plan



process and that this will be addressed, inter alia, in the forthcoming development plan guidelines.

Section 5 of the 2020 Act: Emergency periods:

Planning system is open for business

At the outset, it should be noted that, with regard to the Government's temporary restrictions on travel and access by the public to a range of businesses and services under the Health Act 1947 (Section 31A – Temporary Restrictions) (Covid-19) (No. 9) Regulations 2020 (S.I. No. 560 of 2020), as amended, an exemption from the restriction on travel (*'a reasonable excuse for travelling'*) from county of residence is provided in regulation 3(2)(u) of S.I. No. 560 of 2020 to attend the offices of a planning authority or An Bord Pleanála to engage in a statutory planning process (including making or inspecting a planning application or appeal, making an observation or submission or participating in a Development Plan process) or inspect a site notice (within the meaning of the Planning and Development Act 2000, as amended).

In this regard, there is no requirement to consider issuing an 'emergency period' order under Section 5 of the 2020 Act at present. However, the Department continues to monitor the situation, particularly with respect to any future amendments to the above Health Act Regulations.

Emergency period orders

Section 5 of the 2020 Act is a temporary measure to allow the Government, at the request of the Minister for Housing, Local Government and Planning, to make 'emergency period' orders, during the period of the Covid-19 pandemic, which orders would extend certain statutory periods applying under the Planning and Development Acts and Building Control Acts.

The objective of this contingency measure is to ensure that the integrity of the planning regime, especially its public participation elements, and certain decision making and enforcement systems of the building control regime, are not compromised in the event that further waves of Covid-19 infections may necessitate a further period of more restrictive travel constraints, or indeed may critically impact on the operation of individual planning or building control authorities.

This measure broadly mirrors the expended section 251A of the 2000 Act, as inserted by section 9 of the Emergency Measures in the Public Interest (Covid-19) Act 2020 (No 2 of 2020), which was in turn modelled on similar provisions in section 251 of the 2000 Act that covers the Christmas period. However, section



5 of the 2020 Act includes new flexibilities not contained in section 251A of the 2000 Act, namely:

1. More than one 'emergency period' order may be made within the confined operative period for this section, which is presently due to end on 9 June 2021 by virtue of it being linked to the operation of Part 3 of the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020;
2. Emergency orders can now be applied not only to the whole country, but to specific administrative areas as required; and
3. The Government (at the request of the Minister) may choose which statutory periods, in which specific legislative provision, they require to extend rather than applying the extension to all periods under the Planning Acts and the specified provisions of the Building Control Acts

Of note, the recently expended section 251A of the 2000 Act introduced a 'disregard' provision for statutory periods, which corresponded to an initial period of Covid-19 travel restrictions in 2020, in which case the Government Order made under Section 251A, as extended, was in operation for 8 weeks, from the end of March until 23 May 2020 and applied to the whole country with respect to all relevant statutory periods in the Planning Acts as well as to specified provisions in the Building Control Act (Circular letter PL 05/2020, issued on 9 May 2020, refers).

While it is hoped that an 'emergency period' order or orders under Section 5(2) of the 2020 Act will not be required to be made, in the event that any such orders are required, notice of the making of such order or orders by the Government would be published in the Iris Oifigiúil and notified to planning authorities and An Bord Pleanála. Copies of any such orders would also be made available on the electronic Irish Statute Book <http://www.irishstatutebook.ie/> and on the Department of Housing, Local Government and Heritage's website (<https://www.gov.ie/housing/>).

Interpretation

Please be advised that the above summary of new legislative provisions in the 2020 Act has been prepared by the Department for ease of reference only and does not purport to be a legal interpretation of the legislation, which is a matter for planning authorities or the Board, as the case may be, in the first instance, and ultimately a matter for the Courts.



Online resources

The 2020 Act will be available to view or download on the electronic Irish Statute Book (<http://www.irishstatutebook.ie>) in due course. The Law Reform Commission also maintains an administrative consolidation of certain Acts, including the Planning and Development Act 2000, as amended, which are available online (<https://revisedacts.lawreform.ie/revacts/intro>), and which will also incorporate amendments made by the Planning and Development, and Residential Tenancies, Act 2020, in due course.

Any queries in relation to this Circular letter should be emailed to euplanningregulation@housing.gov.ie.

A handwritten signature in black ink that reads "Eamonn Kelly". The signature is written in a cursive style with a large, sweeping 'E' and 'K'.

Eamonn Kelly
Principal Officer
EU & International Planning Regulation