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*Number 17 of 1999*

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**LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT)  
ACT, 1999**

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Acts Referred to

Acquisition of Land (Assessment of Compensation) Act, 1919	1919, c. 57
Derelict Sites Act, 1990	1990, No. 14
Housing of the Working Classes Act, 1890	1890, c. 70
Lands Clauses Consolidation Act, 1845	1845, c. 18
Local Government (Planning and Development) Act, 1963	1963, No. 28
Local Government (Planning and Development) Act, 1976	1976, No. 20
Local Government (Planning and Development) Act, 1990	1990, No. 11
Local Government (Planning and Development) Acts, 1963 to 1998	
Local Government (Sanitary Services) Act, 1964	1964, No. 29
Registration of Title Act, 1964	1964, No. 16



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*Number 17 of 1999*  
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**LOCAL GOVERNMENT (PLANNING AND  
DEVELOPMENT) ACT, 1999**  
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AN ACT TO AMEND AND EXTEND THE LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACTS, 1963 TO 1998, TO MAKE BETTER PROVISION FOR THE PROTECTION OF THE ARCHITECTURAL HERITAGE IN THE INTERESTS OF THE COMMON GOOD AND TO PROVIDE FOR RELATED MATTERS. [30th June, 1999]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**1.—(1)** In this Act, unless the context otherwise requires— Interpretation.

“the Act of 1976” means the Local Government (Planning and Development) Act, 1976;

“architectural conservation area” means a place, area, group of structures or townscape, taking account of building lines and heights, which—

- (a) is of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, or
- (b) contributes to the appreciation of protected structures;

“attendant grounds”, in relation to a structure, includes land lying outside the curtilage of the structure;

“endangered” means exposed to harm, decay or damage, whether immediately or over a period of time, through neglect or through direct or indirect means;

“occupier”, in relation to a protected structure or a proposed protected structure, means—

- (a) any person in or entitled to immediate use or enjoyment of the structure,
- (b) any person entitled to occupy the structure, and
- (c) any other person having, for the time being, control of the structure;

“the Principal Act” means the Local Government (Planning and Development) Act, 1963;

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“proposed protected structure” means a structure in respect of which a notice is issued under *section 6* of this Act or under Part III of the Principal Act proposing to add the structure, or a specified part of it, to a record of protected structures, and, where that notice so indicates, includes any specified feature which is within the attendant grounds of the structure and which would not otherwise be included in this definition;

“protected structure” means—

- (a) a structure, or
- (b) a specified part of a structure,

which is included in a record of protected structures, and, where that record so indicates, includes any specified feature which is within the attendant grounds of the structure and which would not otherwise be included in this definition;

“protection”, in relation to a structure or part of a structure, includes conservation, preservation and improvement compatible with maintaining the character and interest of the structure or part;

“record of protected structures” means the record included under *section 2* in a development plan;

“registering authority” means a registering authority within the meaning of the Registration of Title Act, 1964;

“structure” has the same meaning as in the Principal Act but includes—

- (a) the interior of the structure,
- (b) the land lying within the curtilage of the structure,
- (c) any other structures lying within that curtilage and their interiors, and
- (d) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in *paragraph (a)* or *(c)*;

“vesting order” means an order made under *section 25*.

(2) For the purposes of this Act, the definition of “works” in *section 2* of the Principal Act includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles, or other material to or from the surfaces of the interior or exterior of a structure.

(3) In this Act—

- (a) a reference to a section is to a section of this Act unless it is indicated that a reference to some other enactment is intended,
- (b) a reference to a subsection or paragraph is to a subsection or paragraph of the provision in which the reference occurs unless it is indicated that a reference to some other provision is intended,

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(c) a reference to an enactment is to that enactment as amended S.1  
at any time by any enactment, including this Act.

2.—(1) For the purpose of protecting structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, every development plan shall include a record of protected structures and shall include in that record every structure which is in the opinion of the planning authority of such interest within its functional area. Record of protected structures.

(2) After consulting with the Minister for Arts, Heritage, Gaeltacht and the Islands, the Minister shall prescribe the form of a record of protected structures.

(3) Subject to any additions or deletions made to the record either under this Act or in the course of a review of the development plan under Part III of the Principal Act, a record of protected structures shall continue to be part of that plan or any variation or replacement of the plan.

(4) Subject to this Act, Part III of the Principal Act shall apply to a record of protected structures.

3.—(1) The Minister for Arts, Heritage, Gaeltacht and the Islands shall, after consulting with the Minister, issue guidelines to planning authorities concerning development objectives— Guidelines for planning authorities.

(a) for protecting structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, and

(b) for preserving the character of architectural conservation areas,

and any such guidelines shall include the criteria to be applied when selecting proposed protected structures for inclusion in the record of protected structures.

(2) The Minister for Arts, Heritage, Gaeltacht and the Islands may, after consulting with the authorities of any religious denominations which he or she considers necessary, issue guidelines to planning authorities concerning—

(a) the issue of declarations under *section 8* in respect of protected structures which are regularly used as places of public worship, and

(b) the consideration by planning authorities of applications for development affecting the interior of such protected structures.

(3) In considering development objectives, a planning authority shall have regard to any guidelines issued under this section.

(4) In this section “development objective” means an objective which, under section 19 of the Principal Act, a planning authority proposes to include in its development plan.

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Recommendations to planning authorities concerning specific structures.

**4.—**(1) The Minister for Arts, Heritage, Gaeltacht and the Islands may, in writing, make recommendations to a planning authority concerning the inclusion in its record of protected structures of any or all of the following:

- (a) particular structures;
- (b) specific parts of particular structures;
- (c) specific features within the attendant grounds of particular structures.

(2) A planning authority shall have regard to any recommendations made to it under this section.

(3) A planning authority which, after considering a recommendation made to it under this section, decides not to comply with the recommendation shall inform the Minister for Arts, Heritage, Gaeltacht and the Islands in writing of the reason for its decision.

Additions to and deletions from record of protected structures.

**5.—**(1) A planning authority may add to or delete from its record of protected structures a structure, a specified part of a structure or a specified feature of the attendant grounds of a structure, where—

- (a) the authority considers that—
  - (i) in the case of an addition, the addition is necessary or desirable in order to protect a structure, or part of a structure, of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, whether or not a recommendation has been made under *section 4*, or
  - (ii) in the case of a deletion, the protection of the structure or part is no longer warranted,

and

- (b) the addition or deletion is made in accordance with a review of a development plan under Part III of the Principal Act or in accordance with *section 6* or *38* of this Act.

(2) The making of an addition to, or a deletion from, a record of protected structures shall be a reserved function.

Procedure for making additions or deletions.

**6.—**(1) A planning authority which proposes, at any time other than in the course of reviewing its development plan under Part III of the Principal Act, to make an addition to or a deletion from its record of protected structures shall—

- (a) serve on each person who is the owner or occupier of the proposed protected structure or the protected structure, as the case may be, a notice of the proposed addition or deletion, including the particulars,
- (b) send particulars of the proposed addition or deletion to the Minister for Arts, Heritage, Gaeltacht and the Islands and to any other prescribed bodies, and
- (c) cause notice of the proposed addition or deletion to be published in the *Iris Oifigiúil* and in at least one newspaper circulating in the area.

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(2) A notice under *subsection (1)(a) or (c)* shall state the S.6 following:

- (a) that particulars of the proposed addition or deletion may be inspected at a specified place during a specified period of not less than one month;
- (b) that, within 14 days from the end of the period for inspection, any person may make written objections or representations with respect to the proposed addition or deletion to the planning authority;
- (c) that any person making an objection or representation under *paragraph (b)* may include in the objection or representation a request to be afforded an opportunity to state his or her case before a person or persons appointed by the planning authority;
- (d) whether or not the proposed addition or deletion was recommended by the Minister for Arts, Heritage, Gaeltacht and the Islands;
- (e) that, if the proposed addition or deletion was recommended by the Minister for Arts, Heritage, Gaeltacht and the Islands, the planning authority shall forward to that Minister for his or her observations a copy of any objection or representation made under *paragraph (b)*.

(3) Before making the proposed addition or deletion, the planning authority shall—

- (a) consider any written objections or representations received under *subsection (2)(b)*,
- (b) comply with any request made under *subsection (2)(c)*, and
- (c) have regard to any observations received from the Minister for Arts, Heritage, Gaeltacht and the Islands concerning those objections or representations within one month after the receipt by that Minister of a copy of the objections or representations.

(4) Within 3 months after the end of the period allowed under *subsection (2) (a)* for inspection, the planning authority shall decide whether or not the proposed addition or deletion should be made.

(5) Within 14 days after making an addition to or a deletion from the record of protected structures, a planning authority shall serve on the owner and on the occupier of the structure concerned a notice of the addition or deletion, including the particulars.

7.—Where a structure, a specified part of a structure or a specified feature within the attendant grounds of a structure is included in the record of protected structures, its inclusion may be registered under the Registration of Title Act, 1964, in the appropriate register maintained under that Act as a burden affecting registered land (within the meaning of that Act).

Registration under  
the Registration of  
Title Act, 1964.

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Works affecting the character of protected structures or proposed protected structures.

**8.**—(1) Notwithstanding section 4(1)(g) of the Principal Act, the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development for the purposes of the Principal Act only if those works would not materially affect the character of—

- (a) the structure, or
- (b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

(2) An owner or occupier of a protected structure may make a written request to the planning authority within whose functional area that structure is situated to issue a declaration as to the type of works which it considers would or would not materially affect the character of the structure or of any element referred to in *subsection (1)(b)* of that structure.

(3) Within 3 months after receiving a request under *subsection (2)* or within such other period as may be prescribed, a planning authority shall issue a declaration under this section to the person who made the request.

(4) Before issuing a declaration under this section, a planning authority shall have regard to—

- (a) any guidelines issued under *section 3*, and
- (b) any recommendations made to the authority under *section 4*.

(5) If the declaration relates to a protected structure which is regularly used as a place of public worship, the planning authority—

- (a) in addition to having regard to the guidelines and recommendations referred to in *subsection (4)*, shall respect liturgical requirements, and
- (b) for the purpose of ascertaining those requirements shall—
  - (i) comply with any guidelines concerning consultation which may be issued by the Minister for Arts, Heritage, Gaeltacht and the Islands, or
  - (ii) if no such guidelines are issued, consult with such person or body as the planning authority considers appropriate.

(6) When considering an application for permission or approval for the development of land under Part IV of the Principal Act which—

- (a) relates to the interior of a protected structure, and
- (b) is regularly used as a place of public worship,

the planning authority, and the Board on appeal, shall, in addition to any other requirements of the Local Government (Planning and Development) Acts, 1963 to 1998, respect liturgical requirements.



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(7) A planning authority may at any time review a declaration issued under this section but the review shall not affect any works carried out in reliance on the declaration prior to the review. S.8

(8) A planning authority shall cause—

(a) the details of any declaration issued by that authority under this section to be entered on the register kept by the authority under section 8 of the Principal Act, and

(b) a copy of the declaration to be made available for inspection by members of the public during office hours at the office of the authority following the issue of the declaration.

(9) A declaration under this section shall not prejudice the application of section 5 of the Principal Act to any question that arises as to what in a particular case is or is not exempted development.

(10) (a) For the avoidance of doubt, it is hereby declared that, in considering any application for permission or approval in relation to a protected structure, a planning authority, or the Board on appeal, shall have regard to the protected status of that structure.

(b) A planning authority, or the Board on appeal, shall not grant permission for the demolition of a protected structure save in exceptional circumstances.

9.—(1) Each owner and each occupier shall, to the extent consistent with the rights and obligations arising out of their respective interests in a protected structure or a proposed protected structure, ensure that the structure, or any element of it which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, is not endangered.

Duty of owners and occupiers to protect structures from endangerment.

(2) The duty imposed by *subsection (1)* in relation to a proposed protected structure arises at the time the owner or occupier is notified under *section 6* of this Act or under Part III of the Principal Act of the proposal to add the structure to the record of protected structures.

(3) Neither of the following shall be considered to be a breach of the duty imposed on each owner and each occupier under this section:

(a) development in respect of which permission under section 26 of the Principal Act has been granted;

(b) development consisting only of works of a type which, in a declaration issued under *section 8(3)* of this Act to that owner or occupier, a planning authority has declared would not materially affect the character of the protected structure or any element referred to in *subsection (1)* of this section of that structure.

(4) Any person who, without lawful authority, causes damage to a protected structure or a proposed protected structure shall be guilty of an offence.

(5) Without prejudice to any other defence that may be available, it shall be a good defence in any proceedings for an offence under *subsection (4)* to prove that the damage to the structure resulted from works which were—

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- (a) urgently required in order to secure the preservation of the structure or any part of it,
  - (b) undertaken in good faith solely for the purpose of temporarily safeguarding the structure, and
  - (c) unlikely to permanently alter the structure or any element of it referred to in *subsection (1)*.

Power to require works to be carried out in relation to endangerment of protected structures.

**10.—(1)** Where, in the opinion of the planning authority, it is necessary to do so in order to prevent a protected structure situated within its functional area from becoming or continuing to be endangered, the authority shall serve on each person who is the owner or occupier of the protected structure a notice—

- (a) specifying the works which the planning authority considers necessary in order to prevent the protected structure from becoming or continuing to be endangered, and
- (b) requiring the person on whom the notice is being served to carry out those works within a specified period of not less than 2 months from the date the notice comes into effect under *section 13*.

(2) After serving notice under *subsection (1)* on a person, a planning authority may—

- (a) at its discretion, assist the person in carrying out the works required under the notice, and
- (b) provide such assistance in any form it considers appropriate, including advice, financial aid, materials, equipment and the services of the authority's staff.

(3) Any person on whom a notice under *subsection (1)* has been served may, within one month from the date of service of the notice, make written representations to the planning authority concerning—

- (a) the terms of the notice,
- (b) the provision of assistance under *subsection (2)*, and
- (c) any other material considerations.

(4) After considering any representations made under *subsection (3)*, the planning authority may confirm, amend or revoke the notice and shall notify the person who made the representations of its decision.

(5) Particulars of a notice served under this section shall be entered in the register kept by the planning authority under *section 8* of the Principal Act.

Power to require restoration of character of protected structures and other places.

**11.—(1)** In this section “works”, in relation to a structure or any element of a structure, includes the removal, alteration or replacement of any specified part of the structure or element and the removal or alteration of any advertisement structure.

(2) A planning authority may serve a notice that complies with *subsection (3)* on each person who is the owner or occupier of a structure situated within its functional area, if—

- (a) the structure is a protected structure and, in the opinion of the planning authority, the character of the structure or of any of its elements ought to be restored, or

(b) the structure forms part of a place, an area, a group of structures or a townscape which is of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest and, in the opinion of the planning authority, it is desirable to restore the character of that place, area, group of structures or townscape, as the case may be. S.11

(3) A notice under *subsection (2)* shall—

(a) specify the works required to be carried out for the purposes of restoring the structure or element referred to in the notice,

(b) state that the person on whom the notice is served may, within a specified period of not less than 2 months from the date of the service of the notice, make written representations to the planning authority concerning the notice,

(c) invite that person to enter into discussions with the planning authority, within a specified period of not less than 2 months from the date of the service of the notice, concerning the notice and in particular concerning—

(i) the provision by the planning authority of advice, materials, equipment, the services of the authority's staff or other assistance in carrying out the works specified in the notice, and

(ii) the period within which the works are to be carried out,

(d) specify the period within which, unless otherwise agreed in the discussions under *paragraph (c)*, the works shall be carried out, being a period of not less than 2 months from the end of the period allowed for entering into discussions, and

(e) state that, to the extent that the works relate to an authorised structure or a structure which has been constructed, erected or made five years or more prior to the service of the notice, the planning authority shall pay any expenses that are reasonably incurred by that person in carrying out the works in accordance with the notice.

(4) In deciding whether to serve a notice under this section, a planning authority shall have regard to any guidelines issued under *section 3* and any recommendations made under *section 4*.

(5) If the invitation under *subsection (3)(c)* to enter into discussions is accepted, the planning authority shall facilitate the holding of those discussions.

(6) After considering any representations made under *subsection (3)(b)* and any discussions held under *subsection (5)*, the planning authority may confirm, amend or revoke the notice and shall notify the person who made the representations of its decision.

(7) Particulars of a notice served under this section shall be entered in the register kept by the planning authority under *section 8* of the Principal Act.

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Appeals against notices concerning endangerment or restoration of structures.

**12.**—(1) Within 14 days after being notified under *section 10(4)* or *11(6)* of the confirmation or amendment of a notice, any person who made representations in relation to the notice may appeal against the notice to the District Court on any one or more of the following grounds:

- (a) that the person is not the owner or occupier of the structure in respect of which the notice has been served;
- (b) that, in the case of a notice under *section 10(1)*, compliance with the requirements of the notice would involve unreasonable expense and that the person had stated in representations made to the planning authority under *section 10(3)* that he or she did not have the means to pay;
- (c) that the person has already taken all reasonable steps to—
  - (i) in the case of a notice under *section 10(1)*, prevent the structure from becoming or continuing to be endangered,
  - (ii) in the case of a notice under *section 11(2)* in relation to a protected structure, restore the character of the structure or the element, or
  - (iii) in the case of a notice under *section 11(2)* in relation to a structure that forms part of a place, area, group of structures or townscape referred to in *paragraph (c)* of that section, assist in restoring the character of that place, area, group of structures or townscape, as the case may be;
- (d) that the time for complying with the notice is unreasonably short.

(2) Notice of an appeal under *subsection (1)* shall be given to the planning authority and it shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal.

(3) On the hearing of the appeal, the District Court may, as it thinks proper—

- (a) confirm the notice unconditionally,
- (b) confirm the notice subject to such modifications or additions as the Court thinks reasonable, or
- (c) annul the notice.

(4) Where the notice is confirmed under *subsection (3)(b)* subject to modifications or additions, the notice shall have effect subject to those modifications or additions.

Effective date of notices concerning endangerment or restoration of structures.

**13.**—A notice under *section 10(1)* or *11(2)* shall not have effect until the expiry of one month from the date of service of the notice, subject to the following exceptions:

- (a) if any representations have been made under *section 10* or *11* in relation to the notice and no appeal is taken within the period allowed under *section 12(1)*, the notice has effect on the expiry of the appeal period;

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(b) if an appeal is taken under *section 12(1)* and the notice is confirmed, the notice has effect on the date on which the decision of the District Court is pronounced or the date on which that order is expressed to take effect, whichever is later; S.13

(c) if an application is made to the District Court under *section 16(1)* and an order is made under *section 16(2)(a)*, the notice has effect on the date on which the decision of the Court is pronounced or the date on which that order is expressed to take effect, whichever is later.

**14.**—A person who fails to comply with a notice served on him or her under *section 10(1)* shall be guilty of an offence. Offence relating to endangerment of structures.

**15.**—Any person who is the owner of the land or structure in respect of which a notice under *section 10(1)* or *11(2)* has been served, and his or her servants or agents, may enter that land or structure and carry out the works required under the notice. Owners' powers in relation to notices concerning endangerment or restoration of structures.

**16.**—(1) A person served with a notice under *section 10(1)* or *11(2)* may apply to the District Court for an order under *subsection (2)* of this section if— Application to District Court for necessary consent.

(a) that person is unable, without the consent of another person, to carry out the works required under the notice, and

(b) the other person withholds consent to the carrying out of those works.

(2) If, on hearing an application under *subsection (1)*, the District Court determines that the other person's consent has been unreasonably withheld—

(a) the Court may, at its discretion, deem that consent to have been given, and

(b) in that case, the person making the application shall be entitled to carry out the works required under the notice.

**17.**—The jurisdiction conferred on the District Court— Jurisdiction of District Court.

(a) by *section 12* in relation to an appeal against a notice, or

(b) by *section 16* in relation to an application for an order deeming consent to have been given,

shall be exercised by a judge of that Court having jurisdiction in the district in which the structure that is the subject of the appeal or application is situated.

**18.**—(1) A person who has been served with a notice under *section 10(1)* and who has carried out the works required under the notice may apply to a court of competent jurisdiction for an order directing that all, or such part as may be specified in the order, of the cost of those works be borne by some other person who has an interest in the structure concerned. Application to court for contribution to cost of carrying out works on endangered structures.

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S.18 (2) On the hearing of an application under *subsection (1)*, the court shall make such order as it considers just having regard to all the circumstances of the case.

Carrying out of certain works to be exempted development.

**19.**—The carrying out of any works specified in a notice under *section 10(1)* or *11(2)* shall be exempted development.

Planning authority's power to carry out works.

**20.**—Where a person on whom a planning authority has served a notice under *section 10(1)* or *11(2)* fails to comply with the notice, the planning authority may take such steps as it considers reasonable and necessary to give effect to the terms of the notice including—

- (a) entry on land by authorised persons in accordance with section 83 of the Principal Act as applied by *section 31(3)* of this Act, and
- (b) the carrying out, or arranging the carrying out, of the works specified in the notice.

Recovery by planning authority of expenses for carrying out works on endangered structures.

**21.**—A planning authority which serves a notice under *section 10(1)* in respect of a protected structure may—

- (a) recover (whether as a simple contract debt in a court of competent jurisdiction or otherwise) from the owner any expenses reasonably incurred by the authority under *section 20*, including any assistance provided under *section 10(2)*, and
- (b) secure those expenses by—
  - (i) charging the protected structure under the Registration of Title Act, 1964, or
  - (ii) an instrument vesting the ownership of the protected structure in the authority subject to a right of redemption by the owner.

Power to acquire protected structure.

**22.**—(1) A planning authority may acquire by agreement or compulsorily any protected structure situated within its functional area if—

- (a) it appears to the planning authority that it is necessary or desirable to do so for the protection of the structure, and
- (b) in the case of a compulsory acquisition, the structure is not lawfully occupied as a dwelling house by any person other than a person employed as a caretaker.

(2) In this section and *sections 23 to 28*, a reference to a protected structure shall be construed to include a reference to any land which—

- (a) forms part of the attendant ground of that structure, and
- (b) is, in the planning authority's opinion, necessary to secure the protection of that structure,

whether or not the land lies within the curtilage of the structure or is specified as a feature in the record of protected structures.

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**23.—(1)** A planning authority intending to acquire any protected structure compulsorily under this Act shall—

Notice of intention to acquire protected structure compulsorily.

- (a) publish in one or more newspapers circulating in its functional area a notice—
  - (i) stating its intention to acquire the protected structure compulsorily under this Act,
  - (ii) describing the structure to which the notice relates,
  - (iii) naming the place where a map showing the location of the protected structure is deposited and the times during which it may be inspected, and
  - (iv) specifying the time within which (not being less than one month) and the manner in which objections to the acquisition of the structure may be made to the planning authority,

and

- (b) serve on every owner, lessee and occupier (except tenants for one month or a period less than one month) of the structure a notice which complies with *paragraph (a)*.

(2) In this section, “owner”, in relation to a protected structure, means—

- (a) a person, other than a mortgagee not in possession, who is for the time being entitled to dispose (whether in possession or reversion) of the fee simple of the protected structure, and
- (b) a person who, under a lease or agreement the unexpired term of which exceeds 5 years, holds or is entitled to the rents or profits of the protected structure.

**24.—(1)** Any person on whom a notice of the proposed compulsory acquisition of a protected structure has been served under *section 23(1)(b)* may, within the time and in the manner specified in the notice, submit to the planning authority concerned an objection to the proposed compulsory acquisition referred to in the notice.

Objection to compulsory acquisition of protected structure.

(2) A person who has submitted an objection under *subsection (1)* may withdraw the objection by notice in writing sent to the planning authority concerned.

(3) Where an objection submitted to a planning authority under *subsection (1)* is not withdrawn, the planning authority shall not acquire the protected structure compulsorily without the Minister’s consent.

(4) An application for the Minister’s consent to the compulsory acquisition of a protected structure shall be made within one month after the expiry of the time allowed under *subsection (1)* for submitting an objection to that acquisition and shall be accompanied by the following:

- (a) the relevant map;
- (b) a copy of the objection made under *subsection (1)* to the planning authority;

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- (c) the planning authority's comments (if any) on the objection;
- (d) such other documents and particulars as may be prescribed.

(5) On receipt of the planning authority's comments (if any) on the objection, the Minister shall, by notice served on the person who made the objection, send a copy of the comments to that person who may, within 21 days from the date of the service of the notice, make observations to the Minister in relation to the comments.

(6) On application under *subsection (4)*, the Minister may, as he or she thinks fit, grant or refuse to grant consent to the compulsory acquisition of all or part of a protected structure referred to in a notice published under *section 23*.

Vesting order.

**25.—**(1) After complying with *section 24*, a planning authority may, by vesting order, acquire a protected structure if—

- (a) no objection is submitted to the planning authority under *section 24*,
- (b) any objection submitted under *section 24* is subsequently withdrawn, or
- (c) the Minister consents to the compulsory acquisition of the structure by the planning authority.

(2) Where a planning authority becomes aware before making a vesting order in respect of a protected structure that the structure is subject (whether alone or in conjunction with other land) to—

- (a) any annuity or other payment to the Minister for Agriculture and Food or to the Commissioners of Public Works in Ireland, or
- (b) any charge payable to the Revenue Commissioners on the death of any person,

the planning authority shall forthwith inform the Minister for Agriculture and Food, the Commissioners of Public Works in Ireland or the Revenue Commissioners, as the case may be, of its intention to make the vesting order.

(3) Within 14 days after making a vesting order, a planning authority shall—

- (a) publish in one or more newspapers circulating within its functional area a notice—
  - (i) stating that the order has been made,
  - (ii) describing the protected structure to which it relates, and
  - (iii) naming a place where a copy of the order and the attached map may be seen at all reasonable times,

and

- (b) serve on every person appearing to the authority to have an interest in the protected structure to which the order relates a notice stating that the order has been made and the effect of the order.



**26.—**(1) A vesting order by which a planning authority acquires a protected structure under this Act shall be in the prescribed form and shall have attached to it a map showing the location of the protected structure. Form and effect of vesting order.

(2) A vesting order shall be expressed and shall operate to vest the protected structure to which it relates in the planning authority in fee simple free from encumbrances and all estates, rights, titles and interests of whatsoever kind on a specified date (in this Act referred to as the vesting date) not earlier than 21 days after the making of the order.

(3) Notwithstanding *subsection (2)*, where a planning authority has acquired by a vesting order a protected structure which is subject, either alone or in conjunction with other land, to an annual sum payable to the Minister for Agriculture and Food or the Commissioners of Public Works in Ireland, the planning authority shall become and be liable, as from the vesting date, for the payment to that Minister or those Commissioners, as the case may be, of—

(a) that annual sum, or

(b) such portion of it as shall be apportioned by the Minister or Commissioners, as the case may be,

as if the protected structure had been transferred to the authority by the owner on that date.

(4) For the purposes of *subsection (3)*, an “annual sum” means a purchase annuity, a payment in lieu of rent, or any other annual sum which is not merely a rent under a contract of tenancy.

**27.—**(1) On making a vesting order in relation to a protected structure, a planning authority shall send the order to the registering authority which on receipt of the order shall immediately cause the planning authority to be registered as owner of the land in accordance with the order. Registration of acquired title and amendment of vesting order.

(2) On the application of any person, a planning authority may amend a vesting order made by the authority if—

(a) the authority is satisfied that the vesting order contains an error or mistake, whether occasioned by it or otherwise, and

(b) the error or mistake may be rectified without injustice to any person.

(3) Where a copy of an order under *subsection (2)* amending a vesting order is lodged with the registering authority, that authority shall rectify its register in such manner as may be necessary to make the register conformable with the amending order.

**28.—**(1) Any person who, immediately before a vesting order is made, has any estate or interest in, or any right in respect of, the protected structure acquired by the order may apply to the planning authority within 12 months after the making of the order for compensation in respect of the estate, interest or right. Compensation.

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(2) On application under *subsection (1)*, the planning authority shall, subject to *subsection (4)*, pay to the applicant by way of compensation an amount equal to the value (if any) of the estate, interest or right.

(3) The compensation to be paid by the planning authority under this section in respect of any estate, interest or right in respect of the protected structure shall, in default of agreement, be determined by arbitration under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919.

(4) Where, after a planning authority makes a vesting order in relation to a protected structure, any sum (including a sum for costs) remains due to the authority by any person under an order of a court for payment of an amount due (whether under this Act or any other Act, or whether remaining due after deducting expenses reasonably incurred by the authority under this Act in relation to the structure), the amount of any compensation payable to that person under this section shall be reduced by the amount of that sum.

(5) Sections 69 to 79 of the Lands Clauses Consolidation Act, 1845, as amended or adapted by or under the Second Schedule to the Housing of the Working Classes Act, 1890, or any other Act, shall apply in relation to compensation to be paid by a planning authority under this section as if such compensation were a price or compensation under that Act as so amended.

(6) Where money is paid into court by the planning authority under section 69 of the Lands Clauses Consolidation Act, 1845, as applied by this section, no costs shall be payable by that authority to any person in respect of any proceedings for the investment, payment of income, or payment of capital of such money.

Use of protected structure acquired by planning authority.

**29.**—A planning authority may—

- (a) use a protected structure acquired by it under this Act or any other enactment for any purpose connected with its functions, or
- (b) sell, let, transfer or exchange all or any part of that protected structure.

Obligations of sanitary authorities in respect of protected structures.

**30.**—(1) Before issuing a notice under section 3(1) of the Local Government (Sanitary Services) Act, 1964, in respect of a protected structure or a proposed protected structure, a sanitary authority shall consider—

- (a) the protected status of the structure, and
- (b) whether, instead of a notice under section 3(1) of that Act, a notice should be issued under *section 10(1)* of this Act or section 11 of the Derelict Sites Act, 1990.

(2) As soon as practicable after serving or proposing to serve a notice in accordance with section 3(1) of the Local Government (Sanitary Services) Act, 1964, in respect of a protected structure or a proposed protected structure, a sanitary authority shall inform the Minister for Arts, Heritage, Gaeltacht and the Islands of the particulars of the notice if he or she recommended that the structure be protected.

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(3) A sanitary authority which carries out works on a protected structure, or a proposed protected structure, under section 3(2) of the Local Government (Sanitary Services) Act, 1964, shall as far as possible preserve that structure (or elements of that structure which may be of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest) in as much as the preservation of that structure is not likely to cause a danger to any person or property. S.30

(4) When carrying out works in accordance with section 3(2) of the Local Government (Sanitary Services) Act, 1964, on a protected structure or a proposed protected structure, a sanitary authority shall, as soon as practicable, inform the Minister for Arts, Heritage, Gaeltacht and the Islands of the works if he or she recommended that the structure be protected.

**31.**—(1) Section 7 of the Principal Act shall apply in respect of the issue of notices under this Act as if they were notices under that Act. Service of notices, obligation to give information and powers of entry.

(2) Section 9 of the Principal Act shall apply in respect of any purpose arising in relation to a planning authority's functions under this Act as if it were arising in relation to the planning authority's functions under that Act.

(3) Section 83 of the Principal Act shall apply for any purpose connected with this Act as if entry for the purposes of this Act were entry for the purposes of Part IV of that Act.

(4) References in section 83 of the Principal Act to "authorised person" shall be construed to include a person who is appointed to be an authorised person for the purpose of that section as applied by *subsection (3)* of this section.

**32.**—Section 4(1A) of the Principal Act is hereby repealed. Repeal of section 4 (1A) of Principal Act.

**33.**—Section 19(2) of the Principal Act is hereby amended— Amendment of section 19 of Principal Act.

(a) in paragraph (a) by the substitution in subparagraph (vi) of "purpose," for "purpose, and;" and by the insertion of the following subparagraphs:

“(vii) for protecting structures within the meaning of the *Local Government (Planning and Development) Act, 1999*, or parts of such structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest,

(viii) for preserving the character of architectural conservation areas;”,

and

(b) in paragraph (b) by the substitution in subparagraph (v) of "purpose," for "purpose." and by the insertion of the following subparagraphs:

“(vi) for protecting structures (within the meaning of the *Local Government (Planning and Development)*

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*Act, 1999*), or parts of such structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest,

(vii) for preserving the character of architectural conservation areas.”.

Amendment of sections 21 and 21A of Principal Act.

**34.**—The Principal Act is hereby amended as follows:

(a) in section 21(1) by the substitution of the following for paragraph (c) (inserted by section 43(1)(g) of the Act of 1976):

“(c) where the draft includes any provision relating to any addition to or deletion from the record of protected structures, they shall—

(i) serve notice of the preparation of the draft on the owner and on the occupier of the proposed protected structure or the protected structure, as the case may be, and

(ii) incorporate in the notice particulars of the provision, including whether the addition or deletion was recommended by the Minister for Arts, Heritage, Gaeltacht and the Islands;”;

(b) in section 21(2) by the insertion of the following paragraphs:

“(bb) that if any objections or representations are made within the said period to the planning authority with respect to a proposed addition to or deletion from the record of protected structures and if the addition or deletion was recommended by the Minister for Arts, Heritage, Gaeltacht and the Islands, the planning authority shall forward a copy of them to that Minister for that Minister’s observations, and

(bbb) that when objections or representations are considered under paragraph (b) of this subsection, any observations received from the Minister for Arts, Heritage, Gaeltacht and the Islands within one month after the receipt by that Minister of the objections or representations will also be taken into consideration, (and any such observations shall be taken into consideration accordingly), and”;

(c) in section 21A(3) (inserted by section 37 of the Act of 1976) by the substitution in paragraph (b) of “accordingly, and” for “accordingly.” and by the addition of the following paragraphs:

“(c) if any written representations are made within the said period with respect to a proposed addition to or deletion from the record of protected structures and if the addition or deletion was recommended by the Minister for Arts, Heritage, Gaeltacht and the Islands, the planning authority shall forward a

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copy of the representations to that Minister for S.34  
that Minister's observations, and

(d) that when representations are considered under paragraph (b) of this subsection, any observations received from the Minister for Arts, Heritage, Gaeltacht and the Islands within one month after the receipt by that Minister of the representations will also be taken into consideration (and any such observations shall be taken into consideration accordingly).”;

(d) in section 21A(4) (inserted by section 37 of the Act of 1976) by the substitution of the following for paragraph (a):

“(4) (a) Where the proposed amendment includes any provision to add to or delete from the record of protected structures, the planning authority shall, in addition to complying with the requirements of subsection (2) of this section, serve a copy of the notice incorporating particulars of the provision on the owner and on the occupier of the proposed protected structure or the protected structure, as the case may be.”.

**35.**—Section 26(2) of the Principal Act is hereby amended by the insertion of the following paragraph:

Amendment of section 26 (2) of Principal Act.

“(cc) conditions for requiring in any case in which the development authorised by the permission would remove or alter any protected structure or any element of a protected structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest—

(i) the preservation by record of that structure or element before the development authorised by the permission takes place, and

(ii) where appropriate, the architectural salvaging of any such element.”.

**36.**—Paragraphs 5 and 5A of Part IV of the Third Schedule to the Principal Act are hereby repealed.

Amendment of Third Schedule to Principal Act.

**37.**—The Local Government (Planning and Development) Act, 1990, is hereby amended—

Amendment of Local Government (Planning and Development) Act, 1990.

(a) in the Second Schedule by the substitution of the following paragraph for paragraph 3:

“3. Any development which would materially affect a protected structure or proposed protected structure within the meaning of the *Local Government (Planning and Development) Act, 1999.*”.

and

(b) in the Fourth Schedule by the substitution of the following paragraphs 15 and 16:

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“15. Any conditions relating to the protection of a protected structure or proposed protected structure within the meaning of the *Local Government (Planning and Development) Act, 1999*.”.

Transitional provisions.

**38.**—(1) Where immediately before the commencement of this section a planning authority’s development plan includes any provision to preserve or to protect, or to consider the preservation or protection of, a specific structure, or a part of a specific structure, because of its artistic, architectural or historic interest, that structure (including the items referred to in *paragraphs (a) to (d)* of the definition of “structure” in *section 1* of this Act) or that part, as the case may be, shall, on the commencement of this section, be deemed to be included in the record of protected structures and shall be a protected structure within the meaning of this Act.

(2) As soon as practicable after the commencement of this section, and in any case not later than 4 months after the date of its commencement, the planning authority concerned shall serve on each person who is the owner or occupier of a structure, or part of a structure, which is deemed under *subsection (1)* to be included in the record of protected structures a notice—

- (a) stating that the structure or part is a protected structure and that the provisions of this Act apply,
- (b) supplying general information on the provisions of this Act which relate to protected structures and on any guidelines which have been issued under *section 3*, and
- (c) specifying the time within which (not being less than one month) written objections may be made to the planning authority concerning the inclusion of the structure or part in the record of protected structures.

(3) After considering any objections received by the planning authority under *subsection (2)* in relation to the protected structure and after having had regard to the guidelines, if any, issued under *section 3* and the recommendations, if any, made under *section 4*, the planning authority shall—

- (a) if, in its opinion, the structure or part is not of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, decide that it is no longer deemed to be included in the record of protected structures and that it ceases to be a protected structure, and
- (b) if, in its opinion, the structure or part is of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, decide that it continues to be deemed to be included in the record of protected structures and continues to be a protected structure.

(4) Within 14 days of making a decision under *subsection (3)* in relation to a structure, the planning authority shall serve notice of its decision, including the reasons, on each owner and each occupier of the structure.

(5) The making of a decision under *subsection (3)* shall be a reserved function.

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(6) Where before the commencement of this section a notice was served under section 21(1)(c) or 21A(4)(a) of the Principal Act, section 21 or 21A, as the case may be, of that Act shall continue to apply notwithstanding its amendment by this Act, save that, if the development plan, when made, includes provision to include a specific structure, or part of a specific structure, because of its artistic, architectural or historic interest— S.38

- (a) that structure (including the items referred to in paragraphs (a) to (d) of the definition of “structure” in section 1 of this Act) or that part, as the case may be, shall be deemed to be included in the record of protected structures and shall be a protected structure within the meaning of this Act,
- (b) as soon as practicable after the development plan is made, the planning authority shall notify in accordance with subsection (2) of this section each person who is the owner or occupier of the protected structure, and
- (c) subsections (3) to (5) of this section shall apply.

(7) Where it appears to a planning authority that, because of the number of requests made under section 8(1), it would not be possible or appropriate for it to issue a declaration under that section within the period referred to in section 8(3) in respect of a structure which has become a protected structure by virtue of this section, the planning authority shall—

- (a) serve on a person who makes a request under section 8(1) in relation to that structure a notice informing that person of the reason why it would not be possible or appropriate to issue the declaration within that period,
- (b) specify in the notice the date before which the planning authority intends that the declaration shall be issued, and
- (c) take all such steps as are open to it to ensure that the declaration is issued before the date specified in the notice.

**39.**—With the consent of the Minister for Finance, the Minister may, out of monies provided by the Oireachtas, make grants to planning authorities in respect of any or all of their functions under this Act, including grants for the purpose of defraying all or part of the expenditure incurred by them in—

Grants to planning authorities.

- (a) assisting persons on whom notice is served under section 10(1) or 11(2) in carrying out works in accordance with the notice, and
- (b) assisting any other person in carrying out works to protected structures in accordance with such conditions as may be specified by a planning authority for the receipt of such assistance.

**40.**—(1) A person who is guilty of an offence under section 9(4) or 14 shall be liable—

Penalties and prosecution of offences.

- (a) on summary conviction, to a fine not exceeding £1,500 (together with, in the case of a continuing offence, a fine not exceeding £150 for every day on which the offence is continued) or to imprisonment for a term not exceeding

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12 months or, at the discretion of the court, to both such fine and such imprisonment, or

(b) on conviction on indictment, to a fine not exceeding £1,000,000 (together with, in the case of a continuing offence, a fine not exceeding £10,000 for every day on which the offence is continued) or to imprisonment for a term not exceeding 5 years or, at the discretion of the court, to both such fine and such imprisonment.

(2) Where an offence under *section 9(4)* or *14* is committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of an offence and be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(3) An offence under *section 9(4)* or *14* may be prosecuted summarily by the planning authority in whose functional area the offence is committed.

Regulations.

**41.**—Subject to *section 2(2)*, the Minister may make regulations providing for any matter which is to be prescribed under this Act.

Short title,  
construction,  
citation and  
commencement.

**42.**—(1) This Act may be cited as the Local Government (Planning and Development) Act, 1999.

(2) The Local Government (Planning and Development) Acts, 1963 to 1998, and this Act may be cited together as the Local Government (Planning and Development) Acts, 1963 to 1999, and shall be construed together as one.

(3) This Act shall come into operation on the first day of January, 2000.