



STATUTORY INSTRUMENTS.

S.I. No. 101 of 2023



PLANNING AND DEVELOPMENT (SECTION 179A) REGULATIONS
2023

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WHEREAS I, DARRAGH O'BRIEN, Minister for Housing, Local Government and Heritage, am of the opinion that development to which the following regulations apply would not offend against principles of proper planning and sustainable development by reason of the nature and limited effect of development belonging to that class on its surroundings;

NOW I, DARRAGH O'BRIEN, Minister for Housing, Local Government and Heritage, in exercise of the powers conferred on me by subsection (3) of section 179A and section 262 of the Planning and Development Act 2000 (No. 30 of 2000) (as adapted by the Housing, Planning and Local Government (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. No. 408/2020)), hereby make the following regulations:

Citation

1. (1) These Regulations may be cited as the Planning and Development (Section 179A) Regulations 2023.

(2) The collective citation "Planning and Development Regulations 2001 to 2023" includes these Regulations.

Interpretation

2. In these Regulations "Principal Regulations" means the Planning and Development Regulations, 2001 (S.I. No. 600 of 2001).

Reporting to the Minister on the use of Section 179A of the Act

3. The following article shall be inserted after Article 39 in the Principal Regulations:

"Provision of certain information to Minister regarding housing developments under Section 179A

39A (1) Planning authorities shall provide to the Minister information on a quarterly basis on the number of proposed housing developments, the number of commenced housing developments and the number of completed housing developments under section 179A(5)(a) to (f) of the Act, which information shall include the number of houses under each category.

(2) Planning Authorities shall upon request from the Minister, provide information on the number of sites available within their functional area for the provision of houses under Section 179A(5)(a) to (f) of the Act, the location of the sites available and the number of houses that can be accommodated at each site."

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 10th March, 2023.*

Public notification on the use of Section 179A of the Act

4. The following article shall be inserted after Article 81 in the Principal Regulations:

“Notice of Development under Section 179A of the Act

81A (1) When proposing a housing development under Section 179A of the Act, a local authority shall following the informing of the elected members in accordance with section 179A(2) of the Act and at least eight weeks prior to the commencement of the housing development, in accordance with this article –

- (a) give notice of the housing development in an approved newspaper, and
- (b) erect or fix the site notice(s) on the land(s) on which the housing development would be situated.

(2) A site notice referred to in sub-article (1) shall state that the local authority proposes to carry out the housing development and –

- (a) indicate the location, townland or postal address of the housing development (as may be appropriate),
- (b) indicate the nature and extent of the housing development under Section 179A(5)(a) to (f) of the Act,
- (c) where the housing development consists of or comprises the carrying out of works –
 - (i) which would materially affect the character of a protected structure or a proposed protected structure, or
 - (ii) to the exterior of a structure which is located within an architectural conservation area, and the housing development would materially affect the character of the area concerned,

indicate this fact,

- (d) plans and particulars of the housing development will be available for inspection or purchase at a fee not exceeding the reasonable cost of making a copy during office hours at the offices of the local authority and available for inspection on the website of the local authority thereafter,
- (e) indicate its determinations under articles 81A(5) and 81A(6),
- (f) that a person may question the validity of any decision of the planning authority by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with sections 50 and 50A of the Act.

(3) A site notice erected or fixed in accordance with sub-article (1)(b) shall be –

- (a) inscribed or printed in indelible ink and affixed on rigid, durable material and be secured against damage from weather and other causes, and
- (b) subject to sub-article (4), securely erected or fixed in a conspicuous position on or near the main entrance to the land(s) concerned from a public road, or where there is more than one entrance from public roads, on or near all such entrances, or on any other part of the land(s) or structure adjoining a public road, so as to be easily visible and legible by persons using the public road, and shall not be obscured or concealed at any time.

(4) Where the land concerned does not adjoin a public road, a site notice shall be erected or fixed in a conspicuous position on the land so as to be easily visible and legible by persons outside the land, and shall not be obscured or concealed at any time.

- (5) (a) Where a local authority proposes to undertake a housing development under Section 179A of the Act of a class standing specified in Part 2 of Schedule 5 and does not equal or exceed, as the case may be, the relevant quantity, area or other limit standing specified in that Part, it shall carry out in respect of the housing development a screening for environmental impact assessment.
- (b) Prior to or when carrying out a screening under paragraph (a) the local authority may at its discretion request information from any person the authority considers necessary.
- (c) Before making a determination on the screening for environmental impact assessment of a proposed housing development under section 179A of the Act, the local authority shall –
 - (i) consider the criteria for determining whether a housing development would or would not be likely to have significant effects on the environment, as set out in Schedule 7,
 - (ii) take into account a description of the nature and extent of the proposed housing development, its characteristics, its likely significant effects on the environment (including the information specified in Schedule 7A) including, where relevant, information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account.
- (d) A local authority shall include, or refer to, in its screening determination for environmental impact assessment made under this article the main reasons and considerations, with reference to the relevant criteria listed in Schedule 7, on which such determination is based.

- (e) (i) Where the local authority screening determination for environmental impact assessment made under this article is that the proposed housing development would not be likely to have significant effects on the environment, the proposed housing development complies with the requirements of section 179A(1) of the Act,
 - (ii) Where the local authority screening determination for environmental impact assessment made under this article is that the proposed housing development may have significant effects on the environment, the local authority shall determine that an Environmental Impact Assessment is required and that the housing development does not comply with the requirements of section 179A(1) of the Act.
- (6) (a) Where a local authority proposes to undertake a housing development under Section 179A of the Act, it shall carry out in respect of the housing development a screening for appropriate assessment, to determine, using the best scientific knowledge, if the housing development, individually or in combination with other plans or projects, would be likely to have a significant effect on a European site or sites in view of the site's conservation objectives.
- (b) If on the basis of a screening under sub-article (6)(a) it can be excluded, on the basis of objective information, that the proposed housing development, individually or in combination with other plans or projects, would be likely to have a significant effect on a European site or sites, the local authority shall determine that an appropriate assessment of the housing development is not required and that the housing development complies with the requirements of section 179A(1) of the Act.
- (c) If on the basis of a screening under sub-article (6)(a) it cannot be excluded, on the basis of objective information, that the proposed housing development, individually or in combination with other plans or projects, would be likely to have a significant effect on a European site or sites, the local authority shall determine that an appropriate assessment of the housing development is required and that the housing development does not comply with the requirements of section 179A(1) of the Act.

(7) A site notice shall be erected or fixed on the land(s) or structure concerned not later than the day of publication of notice of the development in a newspaper in accordance with sub-article (1)(a), shall be maintained in position for a period of at least 8 weeks after publication of the said notice and shall be renewed or replaced if it is removed or becomes defaced or illegible within that period.”

Notification to Certain Bodies

5. The following article shall be inserted after Article 82 in the Principal Regulations:

“Notice of development to certain bodies under Section 179A of the Act:

82A (1) A local authority shall send notice of the housing development under Section 179A of the Act to any relevant body or bodies specified in sub-article 82(3).

(2) A notice in accordance with sub-article (1) shall –

- (a) indicate the location, townland or postal address of the housing development,
- (b) indicate the nature and extent of the housing development,

and be accompanied by a copy of the plans and particulars of the housing development specified in article 83A.”

Information on Developments under Section 179A of the Act to be made available for inspection

6. The following article shall be inserted after Article 83 in the Principal Regulations:

“Availability for inspection of documents, particulars and plans under Section 179A of the Act

83A(1) A local authority shall make available for inspection in accordance with article 81A(2)(d) –

- (a) a document describing the nature and extent of the development and the principal features thereof, including –
 - (i) Indicate the nature and extent of the development under section 179A(5)(a) to (f) of the Act,
 - (ii) where development would relate to a protected structure or a proposed protected structure, an indication of that fact.
- (b) a location map, drawn to a scale of not less than 1:1000 in built up areas and 1:2500 in all other areas (which shall be identified thereon) and marked or coloured so as to identify clearly the land on which it is proposed to carry out the development.
- (c) a site layout plan, drawn to a scale of not less than 1:500, showing the boundary of the site on which it is proposed to carry out the proposed development and the buildings or other structures, and roads or other features, in the vicinity of the site.
- (d) such other plans and drawings, drawn to a scale of not less than 1:100, as are necessary to describe the proposed housing development.
- (e) the determinations of the local authority under articles 81A(5) and 81A(6) and any associated documents.

(2) The local authority shall enter all the documents, plans and particulars into the Register.”

Transitional Arrangements

7. The following article shall be inserted after Article 85 in the Principal Regulations:

“Transitional arrangements under Section 179A of the Act

85A Where, prior to the commencement of section 179A of the Act, a local authority published a notice of a proposed development in accordance with article 81(1) and section 179(2) of the Act, the process as prescribed in section 179 of the Act and any regulations made thereunder shall continue to apply to the proposed development.”



GIVEN under my Official Seal,
8 March, 2023.

DARRAGH O'BRIEN,
Minister for Housing, Local Government and Heritage.

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