



STATUTORY INSTRUMENTS.

S.I. No. 655 of 2023



PLANNING AND DEVELOPMENT (AMENDMENT) (NO. 3)
REGULATIONS 2023

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PLANNING AND DEVELOPMENT (AMENDMENT) (NO. 3)
REGULATIONS 2023

I, DARRAGH O'BRIEN, Minister for Housing, Local Government and Heritage, in exercise of the powers conferred on me by sections 32H(10), 32I(6), 33, 34(4A)(b), 37CC(4), 37CD(7), 37G(7A)(b), 37I(1)(c), 182B(5E)(b), 182B(8), 182D(5E)(b), 182D(8), 182G(7), 262, 287A(4), 287B(7) and 293(4A)(b) of the Planning and Development Act, 2000 (No. 30 of 2000), as amended, (as adapted by the Housing, Planning and Local Government (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. No. 408 of 2020)), hereby make the following regulations:

Citation

1. (1) These Regulations may be cited as the Planning and Development (Amendment) (No. 3) Regulations 2023.

(2) These Regulations shall be included in the collective citation the Planning and Development Regulations 2001 to 2023.

Interpretation

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

Insertion of Part 3A into the Principal Regulations

3. The following Part is inserted after Part 3 of the Principal Regulations:

“ PART 3A

REQUIREMENTS FOR MEETINGS, PLANNING APPLICATIONS AND
MARITIME PLANNING APPLICATIONS CONCERNING AN OPINION
ON UNCONFIRMED DETAILS

Interpretation for this Part

- 15I. For the purposes of this Part, unless the context otherwise requires —
- “flexibility meeting request” means a request under section 32H(1), 37CC(1), 182F(1) or 287A(1) of the Act,
- “maritime planning application” means an application for permission under section 291 of the Act,
- “planning application” means an application for permission under section 34 of the Act, an application for permission for any development specified in the Seventh Schedule of the Act or an application for approval under section 182A or 182C of the Act and

unless the context otherwise requires includes a maritime planning application,

“opinion on unconfirmed details” means an opinion issued under section 32I, 37CD, 182G or 287B of the Act.

Requirements for planning applications accompanied by an opinion on unconfirmed details

15J. (1) A request to the planning authority or the Board by a prospective applicant for a meeting for the purpose of obtaining an opinion on unconfirmed details shall be in the form set out at Form No. 20 of Schedule 3, or a form substantially to the like effect.

(2) Where the planning authority or the Board consents, the request to enter into a meeting referred to in sub-article (1) may be made in electronic form.

(3) An opinion on unconfirmed details issued by the planning authority or the Board to a prospective applicant shall be in the form set out at Form No. 21 of Schedule 3, or a form substantially to the like effect.

(4) A planning application may be accompanied by an opinion on unconfirmed details and any such planning application shall be accompanied by a copy of the form set out at Form No. 22 of Schedule 3, or a form substantially to the like effect.

(5) Where a planning application is accompanied by an opinion on unconfirmed details, any requirement of these regulations to provide plans or particulars, or both, may be complied with by providing the following in respect of the details, or groups of details, of the development to which the opinion on unconfirmed details relates:

- (a) plans or particulars, or both, of each option proposed in respect of each unconfirmed detail or group of details, or
- (b) such information in respect of the parameters within which each detail will fall as is necessary to enable the planning authority or the Board to make a decision on the planning application.

(6) Where a planning application is accompanied by an opinion on unconfirmed details:

- (a) any notice that an applicant is required to give to the public in respect of the planning application shall include an indication that certain details of the proposed development are unconfirmed in the planning application and that an opinion on unconfirmed details accompanies the planning application, and
- (b) any weekly list of planning applications or decisions prepared under these regulations shall include an indication of that fact.

(7) Where a planning authority attaches a condition under section 34(4A)(b) of the Act, or the Board attaches a condition under section 37G(7A)(b), 182B(5E)(b) or 182D(5E)(b) of the Act, the applicant shall, not later than 2 weeks prior to the commencement of the part of the development to which the condition relates, notify the planning authority in whose functional

area or areas the development is situated in writing of the actual detail of the development.

(8) Where the Board attaches a condition under section 293(4A)(b) of the Act, the applicant shall, not later than 2 weeks prior to the commencement of the part of the development to which the condition relates, notify the Board in writing of the actual detail of the development.

(9) Where details, or groups of details, of a proposed development are not confirmed in a maritime planning application, such application shall be accompanied by an opinion on unconfirmed details and a copy of the form set out at Form No. 22 of Schedule 3, or a form substantially to the like effect.

Weekly Lists of flexibility meeting requests and opinion on unconfirmed details

15K. (1) A planning authority or the Board shall, not later than the fifth working day following a particular week, make available, and display for inspection on its website, in accordance with sub-article (2), a list of any flexibility meeting request received during that week.

(2) A list referred to in sub-article (1) shall indicate in respect of each meeting request received during the week to which the list relates—

- (a) the reference number,
- (b) the name of the prospective applicant,
- (c) the location, townland or postal address of the land or structure to which the application relates (as may be appropriate),
- (d) the nature and extent of the proposed development, and
- (e) the date of receipt of the request.

(3) A planning authority or the Board shall, not later than the fifth working day following a particular week, make available, and display for inspection on its website, in accordance with sub-article (4), a list of any opinion on unconfirmed details issued during that week.

(4) A list referred to in sub-article (3) shall indicate in respect of each opinion issued during the week to which the list relates—

- (a) the reference number,
- (b) the name of the prospective applicant,
- (c) the location, townland or postal address of the land or structure to which the application relates (as may be appropriate),
- (d) the nature and extent of the proposed development, and
- (e) the date of issue of the opinion.”.

Requirements for particulars to accompany an application under article 22

4. Article 23 of the Principal Regulations is amended by the insertion of the following sub-article after sub-article (5) –

“(6) Notwithstanding this article, article 22(2)(d) and article 22(4), the principal dimensions of any subterranean ancillary structure not intended for occupation or use by persons are not required to be indicated in the plans or particulars, or both, for a development.”.

Procedures on receipt of planning application

5. Article 26 of the Principal Regulations is amended in sub-article (1) and sub-article (3) by substituting “article 15J, 24, or 25” for “article 24 or 25”.

Application Procedure

6. Article 214 of the Principal Regulations is amended by inserting the following sub-article after sub-article (2):

“(3) Subject to article 210(2), the principal dimensions of any subterranean ancillary structure not intended for occupation or use by persons are not required to be indicated in the plans or particulars, or both, for a development.”.

Amendment of Form 1 in Schedule 3 to the Principal Regulations

7. Form No. 1 in Schedule 3 to the Principal Regulations is amended in the item headed “Directions for completing this notice” –

- (a) in paragraph 6(e), by substituting “fact,” for “fact, or”, and
- (b) in paragraph 6(f), by substituting “fact,” for “fact”, and
- (c) by inserting the following subparagraph after subparagraph (f) of paragraph 6:

“(g) where the application is accompanied by an opinion on unconfirmed details an indication of that fact.”.

Amendment of Form 2 in Schedule 3 to the Principal Regulations

8. Form No. 2 in Schedule 3 to the Principal Regulations is amended in the item headed “Directions for completing this form” by inserting the following paragraph after paragraph 4:

“(4A) Where the application is accompanied by an opinion on unconfirmed details, the application shall include an indication of that fact.”.

Amendment of Schedule 3 to the Principal Regulations

9. Schedule 3 to the Principal Regulations is amended by the insertion of the forms specified in the Schedule to these Regulations.

Schedule

Form No. 20

Article 15J

Flexibility meeting request form

BEFORE FILLING OUT THIS FORM PLEASE NOTE THE FOLLOWING

Failure to complete this form or attach the necessary documentation, or the submission of incorrect information or omission of required information, will lead to the planning authority or An Bord Pleanála refusing to deal with your request. Therefore, ensure that each section of this request form is fully completed and signed, entering n/a (not applicable) where appropriate, and that all necessary documentation is attached to the request form.

HOLDING OF MEETING WITH THE PLANNING AUTHORITY OR AN BORD PLEANÁLA

Under section 32J of the Planning and Development Act 2000, as amended, neither the taking place of a meeting under section 32H nor the provision of an opinion or notification under section 32I shall prejudice the performance by the planning authority of its functions under this Act or any regulations under this Act or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

Under section 37C of the Planning and Development Act 2000, as amended, the holding of consultations under section 37B shall not prejudice the performance by An Bord Pleanála of any other of its functions under this Act or regulations under this Act and cannot be relied upon in the formal planning process or in legal proceedings.

Under section 182E of the Planning and Development Act 2000, as amended, neither the holding of consultations under subsection (1), nor the provision of an opinion under subsection (3), shall prejudice the performance by An Bord Pleanála of any other of its functions under this Act or regulations under this Act, or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

Under section 288(2) of the Planning and Development Act 2000, as amended, the performance by An Bord Pleanála of functions under section 287 shall not prejudice the performance by it of any of its other functions in relation to the prospective applicant, proposed application or proposed development concerned, or be relied on by any person in relation to; an application or request under this Chapter, the consideration by An Bord Pleanála of such application or request, or the making of a decision under this Chapter in respect of such application or request, or in proceedings before a court relating to, or in connection with, such application, request, consideration or decision.

DATA PROTECTION

It is the responsibility of persons or entities wishing to use any personal data on this form for direct marketing purposes to be satisfied that they may do so legitimately under the requirements of the Data Protection Acts 1988 to 2018. The Office of the Data Protection Commissioner states that the sending of marketing material to individuals without consent may result in action by the Data Protection Commissioner against the sender including prosecution.

Form No. 20	Planning Authority Logo
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Flexibility Meeting Request to [Insert Planning Authority or An Bord Pleanála Name] regarding

Flexibility with regard to Proposed Application for Permission or Approval

1) Prospective Applicant's Name:	
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2) Request for meeting	
<input type="checkbox"/>	Section 32H(1) Request- section 34 application
<input type="checkbox"/>	Section 37CC(1) Request- section 37E application (SID)
<input type="checkbox"/>	Section 182F(1) Request- section 182B Strategic Electricity Application
<input type="checkbox"/>	Section 182F(1) Request- section 182D Strategic Gas Application
<input type="checkbox"/>	Section 287A(1) Request- section 291 Maritime Area Application

3) Contact details of person authorised to operate on behalf of the Prospective Applicant (Applicant or Agent): (Not for Public release)	
Name:	
Correspondence Address:	
Telephone:	
Email:	

4) Proposed Development	
Address of the proposed development:	
Description of the proposed development:	

5) Declaration:	
I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct and accurate and fully compliant with the Planning and Development Act 2000, as amended, and the Regulations made thereunder.	
6) Signature of person authorised to operate on behalf of the Prospective Applicant:	
Date:	

7) Formal Request:
In accordance with section [32H, 37CC, 182F or 287A] [delete as appropriate] of the Planning and Development Act 2000, as amended*,* and article 15J of the Planning and Development Regulations 2001, as amended, [insert prospective applicant name] formally requests to enter into a meeting with [insert Planning Authority or An Bord Pleanála name] regarding [insert description of development] at [insert proposed development address].

8) Information to be included where relevant, with a meeting request under section 32H, 37CC, 182F or 287A of the Planning and Development Act 2000, as amended and article 15J the Planning and Development Regulations 2001, as amended.			
Information	Enclosed with Request		
(a) A site location map sufficient to identify the land on which the proposed development would	Yes:[]	No:[]	

be situated.			
(b) A brief description of the nature and purpose of the proposed development and of its possible effects on the environment.	Yes:[]	No:[]	
(c) A draft layout plan of the proposed development.	Yes:[]	No:[]	
(d) A description of the details, or groups of details, of the proposed development that, owing to the circumstances set out in paragraph (e) below, are unlikely to be confirmed at the time of the proposed application.	Yes:[]	No:[]	
(e) A description of the circumstances relating to the proposed development, that indicate that it is appropriate that the proposed application be made and decided, before the prospective applicant has confirmed the details referred to in paragraph (d) above.	Yes:[]	No:[]	
(f) An undertaking to provide with the proposed application, either - i. two or more options, in respect of each detail or group of details, referred to in paragraph (d) above, containing information on the basis of which the proposed application may be made and decided, or ii. parameters within which each detail referred to in paragraph (d) above will fall and on the basis of which the proposed application may be made and decided, or iii. a combination of (i) and (ii).	Yes:[]	No:[]	
(g) Such other information, drawings or representations as the prospective applicant may wish to provide or make available.	Yes:[]	No:[]	N/A:[]
(h) The appropriate fee.	Yes:[]	No:[]	

9) Official Use only:	
Planning Reference:	
Planning Authority/ An Bord Pleanála Stamp:	

Form No. 21

Article 15J

Opinion on unconfirmed details

THIS IS AN IMPORTANT DOCUMENT

KEEP THIS DOCUMENT SAFELY. YOU WILL BE REQUIRED TO SUBMIT THIS OPINION TO THE PLANNING AUTHORITY OR AN BORD PLEANÁLA IF YOU WISH TO MAKE AN APPLICATION ON THE BASIS OF OPTIONS, PARAMETERS OR BOTH.

Form No. 21	Planning Authority Logo
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Opinion on unconfirmed details

1) Planning Authority or An Bord Pleanála Name:	
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2) Request for meeting	
Request under section 32H, 37CC, 182F or 287A of the Act:	
Request reference Number:	
Name of the requestor/prospective applicant:	
Location, townland or postal address of the land or structure to which the application relates (as may be appropriate):	
Nature and extent of the proposed development:	
Date of receipt of the request:	

Opinion Reference Number:	
Date of Opinion:	

3) Was the following Information included where relevant with the Flexibility Meeting Request under section 32H, 37CC, 182F or 287A of the Planning and Development Act 2000, as amended and the Planning and Development Regulations 2001, as amended.

Information	Enclosed with Request		
(a) A site location map sufficient to identify the land on which the proposed development would be situated.	Yes:[]	No:[]	
(b) A brief description of the nature and purpose of the proposed development and of its possible effects on the environment.	Yes:[]	No:[]	
(c) A draft layout plan of the proposed development.	Yes:[]	No:[]	
(d) A description of the details, or groups of details, of the proposed development that, owing to the circumstances set out in paragraph (e) below, are unlikely to be confirmed at the time of the proposed application.	Yes:[]	No:[]	
(e) A description of the circumstances relating to the proposed development that indicate that it is appropriate that the proposed application be made and decided, before the prospective applicant has confirmed the details referred to in paragraph (d) above.	Yes:[]	No:[]	
(f) An undertaking to provide with the proposed application, either - i. two or more options, in respect of each detail or group of details referred to in paragraph (d) above, containing information on the basis of which the proposed application may be made and decided, ii. parameters within which each detail referred to in paragraph (d) above will fall and on the basis of which the proposed application may be made and decided, or	Yes:[]	No:[]	

iii. a combination of (i) and (ii).			
(g) Such other information, drawings or representations as the prospective applicant may wish to provide or make available.	Yes:[]	No:[]	N/A: []
(h) The appropriate fee.	Yes:[]	No:[]	

4) Opinion of the Planning Authority or An Bord Pleanála under section 32I, 37CD, 182G or 287B of the Planning and Development Act 2000, as amended, and the Planning and Development Regulations 2001, as amended.	
Information	Details/ Circumstances
a) The details, or groups of details, of the proposed development that may be confirmed after the proposed application has been made and decided.	
b) The circumstances relating to the proposed development that indicate that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed the details referred to in paragraph (a) above.	

For each detail or group of details, referred to in paragraph 4(a) above, the proposed application shall, in addition to any other requirement imposed by or under the Planning and Development Act 2000, as amended, be accompanied by the information referred to in the undertaking submitted with the flexibility meeting request under section 32H(2)(f), 37CC(2)(f), 182F(2)(f) or 287A(2)(f) of the Planning and Development Act 2000, as amended.

Planning Authority/ An Bord Pleanála Official Name:
Date:
Planning Authority/ An Bord Pleanála Stamp:

Form No. 22*Article 15J***Form to be included with an application for permission or approval accompanied by an opinion on unconfirmed details****BEFORE FILLING OUT THIS FORM PLEASE NOTE THE FOLLOWING**

Failure to complete this form or attach the necessary documentation, or the submission of incorrect information or omission of required information, will lead to the invalidation of your application. Therefore, please ensure that each section of this form is fully completed and signed, entering n/a (not applicable) where appropriate, and that all necessary documentation is attached to the application form.

DATA PROTECTION

It is the responsibility of persons or entities wishing to use any personal data on a planning application form for direct marketing purposes to be satisfied that they may do so legitimately under the requirements of the Data Protection Acts 1988 to 2018. The Office of the Data Protection Commissioner states that the sending of marketing material to individuals without consent may result in action by the Data Protection Commissioner against the sender including prosecution.

Form No.22	Planning Authority Logo
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Supplementary information to accompany an application for permission or approval accompanied by an opinion on unconfirmed details

1) Prospective Applicant Name:	
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2) Contact details of person authorised to operate on behalf of the Prospective Applicant (Applicant or Agent): (Not for Public release)	
Name:	
Correspondence Address:	

Telephone:	
Email:	

3) Proposed Development	
Address of the proposed development:	
Description of the proposed development:	

4) Declaration:	
I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct and accurate and fully compliant with the Planning and Development Act 2000, as amended, and the Regulations made thereunder.	
5) Signature of person authorised to operate on behalf of the Prospective Applicant:	
Date:	

5) Information on Flexibility Meeting Request and Opinion on Unconfirmed Details	
Meeting requested under section 32H, 37CC, 182F or 287A of the Act:	
Meeting Reference Number:	
Date of Meeting Request:	
Date of Meeting:	
Opinion Reference Number:	

Date of Opinion:	
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6) Document to be submitted			
Document	Enclosed with Request		
A copy of the opinion issued under section 32I, 37CD, 182G or 287B of the Planning and Development Act 2000	Yes:[]	No:[]	

7) Statement of unconfirmed details		
a) Outline all of the details, or groups of details, of the proposed development that are unconfirmed in the application:		
b) For each detail or group of details, referenced in paragraph (a) above, confirm whether the application for permission or approval in respect of the unconfirmed details is being made on the basis of options, parameters, or both, and provide a description of the details of the options, parameters or both.		
Detail/Group of details	Options or Parameters	Details of options or parameters

8) Official Use only:	
Planning Reference:	

Planning Authority/ An Bord Pleanála Stamp:



GIVEN under my Official Seal,
16 December, 2023.

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

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations, set out procedural and administrative matters relating to the planning arrangements in respect of flexibility with regard to planning applications as provided for under the Planning and Development, Maritime and Valuation (Amendment) Act 2022. They also prescribe in a Schedule the form of—

- A request to a planning authority or An Bord Pleanála for a meeting regarding flexibility with regard to a proposed application
- Opinion of the planning authority or An Bord Pleanála in relation to unconfirmed details in respect of a proposed application
- Statement of unconfirmed details to accompany an application

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
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