



To: Directors of Planning Services, City and County Councils
CC: Chief Executives, City and County Councils
Senior Planners, City and County Councils
Directors of Regional Assemblies
An Bord Pleanála
Office of the Planning Regulator

Circular Letter: NRPPS 01/2019

29 July 2019

Local Government Rates and Other Matters Act 2019 (Commencement) Order 2019
Commencing Technical Amendments to the Planning and Development Act 2000 (as amended)

A Chara,

I am directed by Mr Eoghan Murphy TD, Minister for Housing, Planning and Local Government to refer to the *Local Government Rates and Other Matters Act 2019 (Commencement) Order 2019 (No. 355 of 2019)* and to bring to your attention sections 23 and 24 of the this Act, which effect technical amendments to the Planning and Development Act 2000 (as amended). I wish to advise that the Minister has signed the Local Government Rates and Other Matters Act 2019 (Commencement) Order 2019, which brings these provisions into effect from 15 July 2019.

In summary, Section 23 amends Section 31A and related sections 31AR and 31AQ of the Planning and Development Act 2000 (as amended), to address transitional matters in relation to the Office of the Planning Regulator (OPR) and the Regional Spatial and Economic Strategies (RSEs). It puts in place transitional arrangements to ensure that the Minister may issue a Direction to Regional Assemblies, if required, where the RSE process had commenced prior to the establishment of the OPR. This may be necessary to ensure that the RSEs are consistent with the National Planning Framework or other relevant Government plans, policies or strategies.

The transitional amendment will apply in respect of the three current RSEs, each of which had commenced prior to the OPR establishment on 3 April 2019 and has the effect of reverting to the position that pertained prior to the establishment of the OPR, with two principal changes:-





The first of these changes is in accordance with the spirit of the 2018 Planning and Development Act and in recognition of the establishment of the OPR during the current RSES processes. It makes provision for the Regulator to be requested by the Minister to enter a RSES process in an advisory capacity, where the process had commenced prior to, and was underway, on the date of establishment of the OPR.

The second change, to facilitate this (advisory) engagement is that the timeframe for the Minister to form an opinion and to issue a draft Direction, if required, is extended from 4 to 6 weeks. This is consistent with the statutory provision for Ministerial direction on the basis of a recommendation from the OPR, that will apply to future Regional Spatial and Economic Strategy processes, beyond the current transitional arrangement.

Section 24 amends Section 11(1)(b) of the Planning and Development Act 2000 (as amended). This is a minor technical amendment relating to special provisions for Cork City and County Councils to extend the period for review of their county development plans, to take account of the Southern Regional Spatial and Economic Strategy.

These newly commenced provisions are set out in more detail in the attached Appendix. Any queries in relation to this Circular letter should be addressed to the Department's National and Regional Planning Policy Section using the contact details indicated below.

Yours sincerely,

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Appendix

Technical amendments to the Planning and Development Act 2000 (as amended), commencing transitional provisions with effect from 15th July 2019, by virtue of the Local Government Rates and Other Matters Act 2019 (Commencement) Order 2019.

Commencement of Section 23 of the Local Government Rates and Other Matters Act 2019

Amendment to Section 31A and consequential amendments to Sections 31AQ and 31AR of the Planning and Development Act 2000 (as amended) – Regional Spatial and Economic Strategies (RSESs)

- The amendment to Section 31A and related or inter-linked amendments to Sections 31AQ and AR are time critical and arise in the context of the establishment of the new Office of Planning Regulator (OPR) on 3 April 2019.
- Section 31A of the Planning and Development Act 2000 (as amended) provides for Ministerial Directions regarding Regional Spatial and Economic Strategies (RSES). As enacted, section 31A provides only that the Minister can issue a Direction to a Regional Assembly on foot of a recommendation made to him or her by the Office of the Planning Regulator (OPR), on the basis of the Regulator having already been involved in the RSES process from the outset and having made submissions on the draft RSES document, and any subsequent material alterations.
- However, the requirement relating to the involvement of the Planning Regulator from the outset cannot be satisfied for the current Strategies, as the process for all three had formally commenced prior to the establishment of the OPR. In all three cases, a draft Regional Strategy was published prior to the establishment of the OPR and submissions have already been made by the Minister.
- This amendment provides for transitional arrangements to ensure that the Minister has a robust legal basis to issue a Direction to a Regional Assembly, if necessary, that is not dependent on a recommendation by the Planning Regulator.
- The amendment will allow the Minister to issue a Ministerial Direction to the Regional Assemblies “to take such specified measures as he or she may require in relation to that plan”,



which may be required to ensure that the RSES is consistent with, and does not deviate from, the National Planning Framework or other Government Strategies, and to bring it in line with national policies.

- This amendment has the effect of reverting back to the position that pertained prior to the establishment of the OPR. However, in the spirit of the Act, and in recognition that the OPR has since been established, the proposed transitional arrangements include provision for the Regulator to be requested by the Minister to enter a RSES process in an advisory role, where the process had commenced prior to, and was underway, on the date of establishment of the OPR.
- To facilitate this (advisory) engagement in the context of the current RSES process, the 4 week timeframe for the Minister to issue a draft Direction, which was the norm prior to the establishment of the OPR, is being extended to 6 weeks.
- The new one-off provision will apply only in respect of the three RSESs that are currently underway and which had commenced prior to the OPR establishment. Section 31A (and related sections (Sections 31AQ and 31AR), will remain valid in the case of Regional Strategies made in the future.
- In addressing the substantive issue outlined above, a small error was noticed in subsection (19) of Section 31A, wherein regional assemblies are referenced as regional authorities. This drafting oversight has been corrected to ensure that the legislation reflects the accurate title of the assemblies.

Commencement of Section 24 of the Local Government Rates and Other Matters Act 2019

Minor Amendment to Section 11(1)(b) of the Planning and Development Act 2000 (as amended) – Incorporation of RSES into a development plan

- This amended provision relates specifically to the incorporation of the National Planning Framework (NPF) and Southern Regional Spatial and Economic Strategy (RSES) into Cork City and County development plans.



- Section 11(1)(a) requires a planning authority to give notice of its intention to review its existing development plan not later than 4 years after it is made and to prepare a new development plan for its area. Section 11(1)(aa) and (ab) allow for alternate notification period for Cork City and County Councils whereby they may extend the notification period to review their existing development plans from 4 years to a maximum of 5 years (by way of Ministerial Order). This is to facilitate the significant workload and range of complex issues arising from the revisions to local government arrangements in Cork.
- However, the special provisions for Cork City and County Councils were not included at Section 11(1)(b), for the purposes of enabling the incorporation of the National Planning Framework and the relevant Southern Regional Spatial and Economic Strategy (RSES) into their development plans. For legal certainty, this technical amendment inserts the special provisions for Cork at paragraphs (aa) and (ab) at Section 11(1)(b)(i), (ii) and (iii). This ensures consistency in Section 11(1)(a) and 11(1)(b) provisions.