

C52 Section construed during specified period (3.07.2017 to 31.12.2019) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 14, S.I. No. 270 of 2017.

Definitions (Chapter 1)

3. In this Chapter— ...

“specified period” means—

- (a) the period from the commencement of this provision until 31 December 2019, and
- (b) any additional period as may be provided for by the Minister by order under *section 4(2)*;

...

Construction of section 41 (power to vary appropriate period) of Act of 2000 during specified period

14. Section 41 of the Act of 2000 has effect during the specified period—

- (a) as if “or under *section 9* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*,” were inserted after “or *37N*,” where it first occurs, and
- (b) as if “, or under *section 9* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” were inserted after “or *37N*” where it last occurs.

Editorial Notes:

E169 Previous affecting provision: section amended (14.07.2015) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2015* (S.I. No. 301 of 2015), reg. 5; section substituted as per F-note above.

E170 Previous affecting provision: section amended (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 12(a), S.I. No. 684 of 2006; substituted as per F-note above.

E171 Previous affecting provision: section amended (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 12(b), S.I. No. 684 of 2006; section substituted as per F-note above.

Power to extend appropriate period.

F348[42.— (1) On application to it in that behalf a planning authority shall, as regards a particular permission, extend the appropriate period by such additional period not exceeding 5 years as the authority considers requisite to enable the development to which the permission relates to be completed provided that each of the following requirements is complied with:

(a) either—

(i) the authority is satisfied that—

- (I) the development to which the permission relates was commenced before the expiration of the appropriate period sought to be extended,
- (II) substantial works were carried out pursuant to the permission during that period, and
- (III) the development will be completed within a reasonable time,

or

(ii) the authority is satisfied—

- (I) that there were considerations of a commercial, economic or technical nature beyond the control of the applicant which substantially militated against either the commencement of development or the carrying out of substantial works pursuant to the planning permission,

- (II) that there have been no significant changes in the development objectives in the development plan or in regional development objectives in the F349[regional spatial and economic strategy] for the area of the planning authority since the date of the permission such that the development would no longer be consistent with the proper planning and sustainable development of the area,
- (III) that the development would not be inconsistent with the proper planning and sustainable development of the area having regard to any guidelines issued by the Minister under *section 28*, notwithstanding that they were so issued after the date of the grant of permission in relation to which an application is made under this section, and
- (IV) where the development has not commenced, that an environmental impact assessment, or an appropriate assessment, or both of those assessments, if required, was or were carried out before the permission was granted.
- (b) the application is in accordance with such regulations under this Act as apply to it,
- (c) any requirements of, or made under those regulations are complied with as regards the application, and
- (d) the application is duly made prior to the end of the appropriate period.
- (2) In extending the appropriate period under *subsection (1)* a planning authority may attach conditions requiring the giving of adequate security for the satisfactory completion of the proposed development, and/or may add to or vary any conditions to which the permission is already subject under *section 34(4)(g)*.
- (3) (a) Where an application is duly made under this section to a planning authority and any requirements of, or made under, regulations under *section 43* are complied with as regards the application, the planning authority shall make its decision on the application as expeditiously as possible.
- (b) Without prejudice to the generality of *paragraph (a)*, it shall be the objective of the planning authority to ensure that it shall give notice of its decision on an application under this section within the period of 8 weeks beginning on—
- (i) in case all of the requirements referred to in *paragraph (a)* are complied with on or before the day of receipt by the planning authority of the application, that day, and
- (ii) in any other case, the day on which all of those requirements stand complied with.
- (4) A decision to extend an appropriate period shall be made once and once only under this section and a planning authority shall not further extend the appropriate period.
- (5) Particulars of any application made to a planning authority under this section and of the decision of the planning authority in respect of the application shall be recorded on the relevant entry in the register.
- (6) Where a decision to extend is made under this section, *section 40* shall, in relation to the permission to which the decision relates, be construed and have effect, subject to, and in accordance with, the terms of the decision.
- (7) Notwithstanding *subsection (1)* or (4), where a decision to extend an appropriate period has been made by a planning authority prior to the coming into operation of this section, the planning authority, where an application is made to it in that behalf prior to the expiration of the period by which the appropriate period was extended,

may further extend the appropriate period provided that each of the following requirements is complied with—

- (i) an application is made in that behalf in accordance with regulations under section 43,
- (ii) any requirements of, or made under, the regulations are complied with as regards the application, and
- (iii) the authority is satisfied that the relevant development has not been completed due to circumstances beyond the control of the person carrying out the development.]

Annotations

Amendments:

- F348** Substituted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 28, S.I. No. 405 of 2010.
- F349** Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 77, S.I. No. 214 of 2014.
- F350** Substituted by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 28(1)(a)(i), not commenced as of date of revision.
- F351** Inserted by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 28(1)(a)(ii), not commenced as of date of revision.
- F352** Substituted by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 28(1)(a)(ii), not commenced as of date of revision.
- F353** Deleted by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 28(1)(a)(ii), not commenced as of date of revision.
- F354** Inserted by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 28(1)(a)(iii), not commenced as of date of revision.
- F355** Inserted by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 28(1)(b), not commenced as of date of revision.

Modifications (not altering text):

- C53** Prospective affecting provision: section amended by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 28(1), not commenced as of date of revision. S. 28(1) was itself substituted (19.07.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 57(1), commenced as per subs. (2). However, s. 28(1) appears to remain uncommenced as of date of revision. S. 57 is set out below, above the earlier version of s. 28(1).

Amendment of section 28 of Act of 2016

57. (1) Section 28 of the Act of 2016 is amended by substituting the following for subsection (1) (which provides for an amendment of section 42 of the Principal Act):

“(1) Section 42 of the Act of 2000 is amended—

(a) in subsection (1) by substituting the following for paragraph (a):

‘(a) (i) the authority is satisfied that—

(I) the development to which the permission relates was commenced before the expiration of the appropriate period sought to be extended,

(II) an environmental impact assessment or an appropriate assessment, or both of those assessments, was or were not required before the permission was granted,

(III) substantial works were carried out pursuant to the permission during that period, and

(IV) the development will be completed within a reasonable time,'

and

(b) by substituting the following for subsection (4):

'(4) A decision to extend the appropriate period of a permission shall be made not more than twice under this section and a planning authority shall not further extend the appropriate period. Where a second decision to extend an appropriate period is made under this section, the combined duration of the 2 extensions of the appropriate period shall not exceed 5 years.'"

(2) This section comes into operation upon the passing of this Act.

Below is version of s. 42 as amended by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 28(1), not commenced as of date of revision, and prior to above amendment (19.07.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 57(1), commenced as per subs. (2).

42.— (1) F350[Subject to *subsection (8)*, on application to it in that behalf] a planning authority shall, as regards a particular permission, extend the appropriate period by such additional period not exceeding 5 years as the authority considers requisite to enable the development to which the permission relates to be completed provided that each of the following requirements is complied with:

(a) either— ...

or

(ii) the authority is satisfied— ...

(II) that there have been no significant changes in the development objectives in the development plan or in regional development objectives in the F349[regional spatial and economic strategy] for the area of the planning authority since the date of the permission such that the development would no longer be consistent with the proper planning and sustainable development of the area, F351[and]

(III) that the development would not be inconsistent with the proper planning and sustainable development of the area having regard to any guidelines issued by the Minister under *section 28*, notwithstanding that they were so issued after the date of the grant of permission in relation to which an application is made under this F352[section,]

(IV) F353[...]

F354[(aa) an environmental impact assessment or an appropriate assessment, or both of those assessments, were not required before the permission was granted,]

...

F355[(8) *Subparagraph (ii) of subsection (1)(a)* does not apply in the case of a permission granted under section 9 of the *Planning and Development (Housing) and Residential Tenancies Act 2016*.]

C54 Section construed (23.12.2016 (date of enactment) for period to 31.12.2021) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 28(2)(a), S.I. No. 341 of 2017, as substituted (19.07.2017) by *Planning and Development (Amendment) Act 2017* (20/2017), s. 1, commenced on enactment; and further construed (23.12.2016 (date of enactment) for period to 31.12.2021) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 28(2)(b), (c), S.I. No. 341 of 2017.

Amendment, etc., of section 42 (power to extend appropriate period) of Act of 2000

28. ...

(2) During the period from the passing of this Act until 31 December 2021, *section 42* of the Act of 2000 has effect—

[(a) as if the following subsection were inserted after subsection (1):

‘(1A) (a) Notwithstanding anything to the contrary in subsection (1) or (4), a planning authority shall—

(i) as regards a particular permission in respect of a development that relates to 20 or more houses and in respect of which an environmental impact assessment or an appropriate assessment, or both of those assessments, were not required before the permission was granted, and

(ii) upon application being duly made to the authority setting out the reasons why the development cannot be reasonably completed within the appropriate period, further extend the appropriate period by such additional period not exceeding 5 years, or until 31 December 2021, whichever first occurs, but the authority shall only so extend that period where the authority—

(I) considers it requisite to enable the development to which the permission relates to be completed,

(II) is satisfied that the application is in accordance with such regulations under the Planning and Development Acts 2000 to 2016 as apply to the application,

(III) is satisfied that any requirements of, or made under those regulations are complied with as regards the application,

(IV) is satisfied that the development to which the permission relates was—

(A) commenced, and

(B) substantial works were carried out,

before the expiration of the appropriate period or any extension of that period, and

(V) is satisfied that in the case of a permission—

(A) where the expiry of the appropriate period as extended occurred or occurs during the period from 19 July 2016 to the day preceding the day that section 28(2) of the Planning and Development (Housing) and Residential Tenancies Act 2016 comes into operation, the application is duly made within 6 months of the said commencement date, or

(B) where the appropriate period as extended expires on or after the date of commencement of section 28(2) of the Planning and Development (Housing) and Residential Tenancies Act 2016, the application is duly made within the period prescribed for the purposes of section 43(2).’

(b) as if in subsection (2) there were substituted “subsection (1) or (1A)” for “subsection (1)”, and

(c) as if in subsection (4) there were substituted “Except where subsection (1A) applies, a decision” for “A decision”.

F356[Power to extend appropriate period on application of NAMA.

42A.—F357[...]

Annotations

Amendments:

F356 Inserted (21.12.2009) by *National Asset Management Agency Act 2009* (34/2009), s. 238 and sch. 3 part 8 item 2, S.I. No. 545 of 2009.