

Chapter 5

Alteration, Extension and Revocation of Permission

This Chapter provides the procedures for applications for alterations of planning permissions and extensions to the duration of planning permissions. It further provides for the procedures for the revocation or modification of planning permissions by both a planning authority and the Minister. The Chapter consolidates and streamlines the equivalent provisions of the Act of 2000.

Section 133: Interpretation and application

This section provides for definitions relevant to the Chapter in addition to setting out the application of the Chapter.

Section 134: Consultation before request under *section 135*

This section provides that a person who is eligible to request an alteration or extension of permission under *section 135* may request a consultation with the deciding authority prior to the making of a request for an alteration or extension of a permission. The section further sets out the procedure for such a consultation.

Section 135: Request for alteration or extension of permission

This section provides for the procedure for the making of a request to alter a permission or extend the duration of a permission. It consolidates with modifications various sections governing alterations of the Act of 2000. It provides that the deciding authority shall determine whether a requested alteration is a material alteration or a non-material alteration.

Section 136: Non-material alteration of permission

This section provides that requested alterations or extensions that are deemed non-material alterations under *section 135* shall be granted by the deciding authority, and further provides for notification requirements regarding the granting of non-material alterations.

Section 137: Material alteration of permission

This section sets out the procedure for the deciding authority in determining requested alterations or extensions that are deemed material alterations under *section 135*. The section provides that the deciding authority may grant the alteration or extension, subject to modification or condition, or refuse the alteration or extension. It provides for notification and publication requirements and applies to both land-based development and maritime development. A right of appeal against a decision of a planning authority to the Commission is also provided for, where the deciding authority determining the request is a planning authority. This single procedure for material amendments to all permissions consolidates with modifications various sections of the Act of 2000.

Section 138: Procedural powers of planning authority in relation to material alteration request

This section sets out the procedural powers of the planning authority regarding a material alteration request. The procedural powers provided for relate to the planning authority accepting submissions on an application and the procedure for the requesting of further information from, and the holding of meetings with, an applicant.

Section 139: Procedural powers of Commission in relation to material alteration request

This section sets out the procedural powers of the Commission regarding a material alteration request. The procedural powers provided for relate to the Commission accepting submissions on an application and the procedure for the requesting of further information from, and the holding of meetings with, an applicant.

Section 140: Time limits for deciding material alteration request where deciding authority is planning authority

This section provides the time limits imposed on the planning authority to determine a material alteration request. A headline period of 8 weeks is imposed on the planning authority to decide on such requests, or 12 weeks for requests involving an Environmental Impact Assessment Report, with procedures if the planning authority fails to make a decision on the request within that time-period.

Section 141: Time limits for deciding material alteration request where deciding authority is Commission

This section provides the time limits imposed on the Commission to determine a material alteration request. A headline period of 18 weeks is imposed on the Commission to decide on such requests.

Where the Commission fails to decide the request within the timeframe it must determine the request within a further period of 6 weeks and publish a notice on its website. Where it fails to deal with the request within this additional period of time, it shall pay to the applicant a fixed percentage of the fees paid to the Commission, and publish a further notice including details of the sum paid to the applicant. The percentage of fees to be paid will be set in regulation.

It shall then deal with the application within a further additional period of not more than 6 weeks. In the event that it fails to do so, it shall inform the Minister and the Office of the Planning Regulator, and make the decision within 1 week.

Section 142: Material contravention of development plan or National Marine Planning Framework

This section provides that requests for amendments under *section 136*, or alterations or extensions under *section 137* shall not be granted where such amendments, alterations or extensions materially contravene (a) the relevant development plan in the case of land-based development, or (b) the National Marine Planning Framework in the case of maritime development. The section provides that requests for amendments, alterations or extensions that materially contravene either a development plan or the National Marine Planning Framework, can only be granted by the deciding authority where the request complies with the requirements relating to material contraventions.

Section 143: Revocation or modification of permission by planning authority

This section sets out the procedures whereby a planning authority may revoke or modify a permission for either land-based development or maritime development. It replaces with modifications the powers contained in section 44 of the Act of 2000. It sets out the circumstances in which a planning authority may revoke or modify a permission and provides for a right of appeal against such notices to the Commission.

Section 144: Revocation or modification of permission by Minister

This section sets out the procedures whereby the Minister may revoke or modify a permission for either land-based development or maritime development. It replaces with modification the powers contained in section 44A of the Act of 2000. It sets out the circumstances in which the Minister may revoke or modify a permission and provides an additional ground for same based on public health concerns.

CLIMATE