



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

**Circular Letter: PL 03/2019**

3<sup>rd</sup> April 2019

**Establishment of the Office of the Planning Regulator  
Planning and Development (Amendment) Act 2018 (Commencement) Order 2019**

Further to Circular PL04-2018, notifying planning authorities of the enactment of the *Planning and Development (Amendment) Act 2018*, I am directed by Mr Eoghan Murphy TD, Minister for Housing, Planning and Local Government to advise that he has signed the *Planning and Development (Amendment) Act 2018 (Commencement) Order 2019* which brings certain provisions of the 2018 Act, specifically those providing for the establishment of the Office of the Planning Regulator (The 'OPR'), into effect from 3<sup>rd</sup> April.

**Functions of the Office of the Planning Regulator (OPR)**

The appointment of an independent Planning Regulator was one of the key recommendations of the *Final Report of the Tribunal of Inquiry Into Certain Planning Matters and Payments* (The 'Mahon Tribunal').

The OPR will enhance oversight of the planning system promoting quality outcomes from, and consistency within, the planning process. The OPR is independent of Government and has three main functions.

1. Independent assessment of all local authority and regional assembly statutory plans and strategies, including development plans, local area plans and regional spatial and economic strategies. The OPR will provide statutory observations during the drafting of statutory plans to ensure consistency with relevant national and regional policies.
2. Reviews and examinations relating to the organisation and systems and procedures used by any planning authority, including An Bord Pleanála, in the overall performance of its planning functions and not relating to an individual case. Such reviews may be instigated at the discretion of the OPR, at the request of the Minister or on foot of complaints made by any person to the Office or to the Minister.

3. Driving national research, training, education and public information programmes in relation to planning. The OPR will establish best practice in planning matters and highlight the role and benefit of proper planning.

### **Plan Evaluation**

Subsequent to the above-mentioned Commencement Order, the OPR is now responsible for the policy assessment and oversight role heretofore discharged by the Minister, with regard to statutory development plans and strategies.

Accordingly, notices of statutory plans and/or strategies and the relevant written statements, maps and reports prepared under planning legislation shall be submitted to the OPR for review, including those relating to:

- o regional spatial and economic strategies of the regional assemblies;
- o local authority development plans and local plans; and,
- o variations or modifications to the plans and strategies mentioned above.

The OPR will independently evaluate and assess these statutory plans and strategies (including variations) to ensure compliance with national, and regional, planning policies and objectives and will, in the first instance, provide the relevant planning authority or regional assembly with observations and recommendations with regard to how a draft plan should address legislative and policy matters including consistency with:

- o the National Planning Framework;
- o regional spatial and economic strategies;
- o planning guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), including any 'specific planning policy requirements';
- o policy directives issued by the Minister under Section 29 of the above Act; and,
- o any other relevant legislative and policy matters.

Upon receipt of such observations and recommendations, planning authorities or regional assemblies should endeavour to address these and amend their plans and strategies accordingly, as has been the case in relation to Departmental observations in the past. In addition, the relevant authority or assembly must document how such observations have been addressed in the relevant reports of the chief executive or director prepared as part of the plan making process taking account of the proper planning and sustainable development of the area.

Where, in the making of a plan or strategy, the recommendations of the OPR have not been implemented, the relevant authority must give notice to the OPR. In turn, the OPR may issue a notice to the Minister recommending the issuing of a direction (under section 31 of the Planning and Development Act 2000, as amended) requiring the planning authority to rectify the matter, including a draft of such direction.

In the case of plans or strategies under review upon commencement of the OPR, the Minister will continue to be engaged in inputting to those plans or strategies until such time as any new period of statutory consultation may be initiated in respect of that plan.

If a plan or strategy that is under review reaches a stage where a new statutory notification is required to be given to the Minister, then the relevant authority must also notify the OPR at that point.

For example, where the statutory notification for the publication of a draft plan was issued at a point in time pre-dating the establishment of the OPR, then input to that plan is a matter for the Minister. However, where notification of material amendments to that draft plan for a further round of public consultation arises, then such material amendments are a matter for the OPR and should be submitted to that Office.

Upon receiving such notification, the OPR will assume the Minister's evaluation and assessment function in respect of that plan or strategy.

### **Consistency between Statutory Plans**

A key objective of the OPR is to ensure policy consistency between the national, regional and local levels of the statutory planning policy hierarchy, which includes the National Planning Framework, Regional Spatial and Economic Strategies, city/county development plans and local area plans.

Currently, the three Regional Spatial and Economic Strategies are being progressed by the Regional Assemblies with the individual city/county development plans to be subsequently reviewed to ensure consistency with the RSES policies and objectives when finally adopted.

Until the RSES's are in place later this year, planning authorities are generally advised not to commence statutory variation procedures for development plans or amendment procedures for local area plans, or indeed new local area plans, in order to avoid any policy inconsistencies and further reviews as the RSES's are adopted later this year.

However, in certain circumstances and for minor procedural reasons, limited variations or amendments may be necessary in the meantime and planning authorities should consult the OPR in these cases.

### **Examinations and Reviews of Systems and Procedures**

The OPR has power to investigate systematic issues in the planning process and conduct examinations of the broad operations and functioning of planning authorities, whether on its own initiative, at the request of the Minister, or on foot of complaints received.

The functions of the OPR in this regard are to examine the overall effectiveness of planning authorities in the delivery of overall planning functions, in their plan making, development management and enforcement functions.

However, it is important to note that the functions of the OPR do not extend to interacting with the normal decision making functions of planning authorities and An Bord Pleanála in determining individual planning applications and appeals or cases within the scope of the Ombudsman's Office, and the Courts.

In conducting examinations and reviews of overall planning authority functions, the OPR may make recommendations to such authorities and to the Minister where a planning authority:

- may not be carrying out its functions in accordance with the Act;
- is not complying with guidelines or directions issued by the Minister;
- may be applying inappropriate standards of administrative practice;
- may be applying systemic discrimination in decision making; or
- may be operating in a manner where there is a risk of corruption or there are serious diseconomies or inefficiencies in the conduct of its functions.

Under section 31AX of the Planning and Development Act 2000, as amended, it is now an offence for any person to obstruct, impede or to refuse to comply with a request of the OPR and in doing so a person is liable on summary conviction to a Class C fine or imprisonment for a term not exceeding six months or to both.

In addition, while a mechanism of last resort, a review of a local authority's systems and procedures by the OPR may include a recommendation to the Minister for the use of Section 255(4) of the Planning and Development Act 2000, which is the removal of certain or all planning functions until the matter is rectified. These are significant new powers which strengthen oversight of the planning process.

The OPR will be engaging further with the Department, the local government sector and wider stakeholders, including the National Oversight and Audit Commission (NOAC) in developing performance metrics for planning authorities and in relation to methodologies to support best practice in conducting examinations and reviews.

### **Education and Training**

Finally, the OPR will undertake research and conduct programmes of research, education and training in relation to planning – this will include educational programmes for elected members and officials of planning authorities – to underpin the principles of proper planning and sustainable development.

The support and analysis provided via the OPR will assist all planning authorities in accessing the appropriate skills, resources and systems to perform effectively.

The establishment of the OPR's capability in this area is a significant development recognising the benefits of a nationally co-ordinated programme of planning research, analysis, education and training since the demise of An Foras Forbartha in the 1990's.

While research is undertaken as a matter of course in developing planning policy, the OPR will establish ongoing multi-annual research programmes in consultation with, and addressing the needs of, planning authorities and the Department.

This element of the OPR's role was also a key recommendation of the Mahon Tribunal which outlined that ongoing research into best practice and systematic monitoring of existing provisions would provide an important check against potential corruption within the system.

## The Planning Regulator

The Chief Executive, or Planning Regulator, at the OPR is Mr Niall Cussen who was appointed as Ireland's first Planning Regulator subsequent to a Government Decision in December 2018 following an open and competitive recruitment process conducted by the Public Appointments Service.

Mr Cussen's appointment as Planning Regulator and the above-mentioned Commencement Order formally establishes the new Office. The OPR is currently based at Block C, 77 Sir John Rogerson's Quay, Dublin 2, D02 VK60 and can be contacted at:

Phone: 01 553 0270 (from 9:30am – 1:00pm and 2:00pm – 4:00pm)

Email: [info@opr.ie](mailto:info@opr.ie)

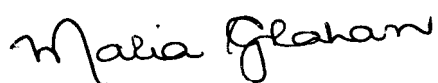
Website: [www.opr.ie](http://www.opr.ie) (from 9<sup>th</sup> April)

The OPR intends to put in place a range of regional stakeholder engagement events to provide information on its intended approach to its functions taking on board the requirements of the Act as well as views of planning authorities and wider interested parties and Mr Cussen will be in contact with your authority shortly in relation to the organisation of and attendance at same.

The Appendix below provides an overview of the OPR related legislative provisions. The planning staff of your authority should familiarise themselves with these provisions and, in particular, should note the requirement that copies of all future development plan, local area plan and regional spatial and economic strategy documents prepared as part of statutory review or variation processes, whether they commenced prior to or after the establishment of the OPR, must now be submitted to the Office at the above address as well as to the Minister at the relevant point in time during such reviews and variations.

Any queries in relation to this Circular letter should be addressed to the Department's Planning Governance and Oversight Section ([Aoibheann.nevin@housing.gov.ie](mailto:Aoibheann.nevin@housing.gov.ie)).

Yours sincerely,



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Assistant Secretary

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## Appendix

### Part 2 – Office of the Planning Regulator

#### **Section 4 Office of the Planning Regulator**

##### **Section 31K Definitions (Part IIB)**

This section provides for the definitions of certain terms used in new Part IIB.

##### **Section 31L Establishment of Office of the Planning Regulator**

Provides for the appointment, by Order of the Minister, of the establishment day of the Office of the Planning Regulator (OPR).

##### **Section 31M Office of the Planning Regulator**

This section provides for the establishment of a body to be known as Oifig an Rialaitheoir Pleanáil or, in the English language, the Office of the Planning Regulator, to carry out functions set out in the Act. It also provides that the OPR has all the powers necessary to perform its functions.

##### **Section 31N Planning Regulator**

Provides for the Chief Executive of the Office, to be known as the Planning Regulator, who shall be a corporation sole with perpetual succession and an official seal and with power to sue and be sued, to acquire, hold and dispose of land or an interest in land, and to acquire, hold and dispose of any other property. It also provides for the performance of functions and the administration and business of the Office.

##### **Section 31O Seal of Planning Regulator**

Provides for authentication of the seal of the Planning Regulator and that judicial notice may be taken of documents sealed by it. It also provides contracts and instruments entered into by the Office must be done by authorised persons.

##### **Section 31P Functions of Office**

Provides for the functions to be performed by the OPR. The statutory evaluation, assessment and observation function of the Minister on development plans, variations of development plans, local area plans and regional spatial and economic strategies will be undertaken by the OPR although the Minister will remain a statutory consultee.

In cases where a plan or strategy as made is not consistent with observations and recommendations of the OPR thus not constituting a plan or strategy for proper planning and sustainable development of the area in the OPR's opinion, it provides that the OPR will inform the Minister. It also provides for functions –

- to conduct research, including research at the request of the Minister and to arrange education and training programmes in planning;
- to review the performance of the functions by the Board and planning authorities;
- to oversee the delivery of effective planning services to the public by planning authorities;
- to report annually on the performance of its own functions;
- to prepare a strategy statement;
- to make any observations, as appropriate, in relation to planning legislation, guidelines or guidance, and directive or directions issued by the Minister; and,
- additional functions as may be specified in Ministerial Order.

In performing its functions, the OPR shall take account of the objective of contributing to proper planning and sustainable development and the optimal functioning of planning under the Planning and Development Act, as amended.

**Section 31Q                      Education, training and research functions**

Provides that the OPR shall conduct education and training programmes for members of planning authorities and regional assemblies and members of staff of these authorities in respect of roles and matters relating to proper planning and sustainable development. The OPR will also conduct research, and may enter into arrangements with qualified persons to provide services.

**Section 31R                      Performance of functions by Office**

Provides for the independence of the OPR in the carrying out of functions, and for the authorisation of staff to perform such functions.

**Section 31S                      Office to have regard to certain policies and objectives and to requirements**

Provides for the OPR to have regard to other public policy issues in the performance of its functions, such as government policies, objectives, the public interest, the National Planning Framework and relevant acts / directives of the European Union.

**Section 31T                      Corporate strategy of Office**

Provides for the OPR preparing a strategy statement within 6 months of establishment and thereafter every 6 years to include the objectives and priorities for each principal activity, the manner to assess performance at each activity, human resource activity, organisational structure (including corporate support) and other relevant matters.

**Section 31U                      Monitoring of performance of Office**

Provides for the review of the organisation and the systems and procedures used by the OPR in relation to the performance of its functions including as the Minister may direct.

**Section 31V                      Consultation between Minister and Planning Regulator**

Provides for consultations between the Minister and the OPR on matters relating to the functions of the OPR.

**Section 31W**                      **Appointment and term of office of Planning Regulator**

Provides for the appointment and term of office of the Planning Regulator. The Planning Regulator is appointed by the Minister, after selection by the Public Appointments Service and subject to the approval of the Government, to hold office in a full-time capacity for a term of five years and may be re-appointed by the Minister for a second term or subsequent term of office, and that the Regulator shall not serve more than two terms of office. It provides that the term of office shall cease on the Planning Regulator attaining the age of 65 years unless the Planning Regulator is either—

- a new entrant (within the meaning of the Public Service Superannuation (Miscellaneous Provisions) Act 2004) appointed on or after 1 April 2004, or
- a Scheme member (within the meaning of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012;

in either of these scenarios the requirement under this subsection to vacate office on grounds of age shall not apply.

**Section 31X**                      **Transitional provisions relating to Office**

Provides for transitional provisions before establishment day, where the Minister may request a competition to select a candidate for nomination by the Minister for Government approval to be appointed as Planning Regulator.

**Section 31Y**                      **Resignation and removal of Regulator**

Provides for the resignation or removal from office of a Planning Regulator; the Regulator may resign by giving notice in writing to the Minister of his or her intention to resign or may be removed from office by the Government in certain circumstances.

**Section 31AA**                    **Staff of Office**

Provides for the appointment of staff to the OPR and the payment of remuneration and allowances for such staff.

**Section 31AB**                    **Membership of either House of Oireachtas, European Parliament or local authority**

Provides for the ceasing of the position held by a Planning Regulator or a member of staff of the Office where either are nominated, elected or co-opted as a member of the Oireachtas, a planning authority or the European parliament.

**Section 31AC**                    **Members of staff of Office to be civil servants**

Provides for the making of a superannuation scheme in respect of the Planning Regulator and staff of the OPR.

**Section 31AD**                    **Prohibition on disclosure of information relating to functions of Office**

Provides for the prohibition on the disclosure of information relating to functions of the OPR.



**Section 31AE**                      **Liability of Planning Regulator or member of staff for acts and omissions**

Provides that neither the Planning Regulator or a former Regulator nor a present or former member of staff of the OPR is liable for damages for performing their functions unless shown to have been done in bad faith.

**Section 31AF**                      **Grants to Office**

Provides that the Minister may, in relation to the annual programme of expenditure by the OPR, make grants of amounts (as he or she may fix) to the OPR out of moneys provided by the Oireachtas.

**Section 31AG**                      **Accounts and audits of Office**

Provides for the accounts and audit of the accounts of the OPR.

**Section 31AH**                      **Annual report of Office**

Provides for the preparation of an annual report on the performance of the functions and principal activities of the OPR during the preceding year and such other matters as the Minister may specify and copies of the report will be laid before each House of the Oireachtas and copied to the relevant Oireachtas Committee. It also provides that the Planning Regulator may be called before the relevant Oireachtas Committee in relation to its annual report.

**Section 31AI**                      **Provision of services and resources by Minister to Office**

Provides that the Minister may provide services (including services of staff) to the OPR and the OPR may avail of such services. It also provides that the Minister may make available to the Planning Regulator, on a request being made by the Regulator, premises, equipment, services and other resources as is necessary to provide in particular the corporate services function on behalf of the OPR as the OPR may determine from time to time in consultation with the Minister and the Minister for Public Expenditure and Reform.

It also provides that the Minister may provide for the provision of services as set out above, subject to the agreement with the relevant Chief Executive(s) of any public body under the Minister's aegis, including local authorities.

**Section 31AJ**                      **Service providers**

Provides that the OPR may engage consultants or advisers to assist in the performance of its functions, and pay their fees. The OPR will have to outline in its annual report the names of any persons engaged in this regard.

**Section 31AK**                      **Fees payable to Office**

Provides for the OPR to charge fees in respect of the reasonable costs arising in respect of the provision or undertaking of any training and research programmes (and other services, subject to the approval of the Minister).

**Section 31AL**                      **Code of conduct**

Provides for the adoption of a code of conduct by the OPR, subject to the approval of the Minister, with which the Planning Regulator and any OPR staff must comply.

**New Chapter III on Evaluation and Assessment carried out by OPR includes new Sections 31AM to 31AR.**

**Section 31AM Evaluation and assessment by Office of matters relating to development plans**

Provides for the OPR to evaluate and assess, at least at a strategic level, development plans and variations to development plans at all statutory stages of the plan making process to ensure the plans as made address the legislative and policy requirements as set out in the Act.

The OPR will submit observations and recommendations at all stages of the development planning process to the relevant planning authority and submit copies to the Minister. The Chief Executive's report prepared for the elected members in respect of the relevant stages of the development planning process will summarise the issues, outline recommendations and will be web-published. A regional assembly will send a copy of any observations or submissions it makes to a planning authority at all statutory stages of the plan making process to the OPR. A planning authority shall notify the OPR (within 5 working days) where, in the opinion of the Chief Executive, the planning authority made the plan in such a manner as to be inconsistent with any observations or recommendations made by the OPR, and state the reasons for the decision of the planning authority. Where the OPR is of the opinion that the plan as made does not set out an overall strategy for proper planning and sustainable development, the OPR shall (within four weeks of the making of the plan or variation) issue a notice to the Minister with recommendations that the Minister uses his/her powers of ministerial direction to ensure the plan or variation sets out an overall strategy for proper planning and sustainable development and including providing a draft direction. A copy of the notice issued to the Minister will be made available on the website of the OPR.

**Section 31AN Consequential provisions to section 31AM**

Provides for consequential provisions whereby the Minister either agrees or disagrees with the notice from the OPR and where the Minister disagrees with the notice from the OPR, the Minister shall state his or her reasons and lay such reasons before the Houses of the Oireachtas and make the stated reasons available on the Department's website. In addition a copy of the Minister's stated reasons will be copied to the OPR and the relevant planning authority and made available on the website of the OPR and of the relevant planning authority. Where the Minister agrees with the notice of the OPR, the Minister will proceed to issue the draft direction under section 31 of the Planning and Development Act 2000, as amended, taking account of the draft direction submitted by the OPR. The Act sets out the detailed procedures that ensue.

**Section 31AO Evaluation and assessment by Office of matters relating to local area plans**

Provides that the OPR will evaluate and assess, at least at a strategic level, local area plans and variations to local area plans at all statutory stages of the plan making process to ensure that the plans as made address the legislative and policy requirements as set out in the Act. The OPR will submit observations and recommendations at all stages of the local area planning process to the relevant planning authority and submit copies to the Minister.

The Chief Executive's report prepared for the elected members in respect of the relevant stages of the local area planning process summarise the issues, outline recommendations and will be web-published. A planning authority shall notify the OPR where, in the opinion of the Chief Executive, the planning authority made the plan in such a manner as to be inconsistent with any observations or recommendations made by the OPR, and state the reasons for the decision of the planning authority. Where the OPR is of the opinion that the plan as made is inconsistent with the relevant development plan and does not set out an overall strategy for proper planning and sustainable development, the OPR shall (within six weeks of the making of the plan or amendment) issue a notice to the Minister with recommendations that the Minister uses his/her powers of ministerial direction to ensure the plan or amendment sets out an overall strategy for proper planning and sustainable development and include a draft direction. A copy of the notice issued to the Minister will be made available on the website of the OPR.

### **Section 31AP                      Consequential provisions to section 31AO**

Provides for consequential amendments whereby the Minister either agrees or disagrees with the notice from the OPR and where the Minister disagrees with the notice from the OPR, the Minister shall state his or her reasons and lay such reasons before the Houses of the Oireachtas and make them available on the Department's website. In addition a copy of the Minister's stated reasons will be copied to the OPR and the relevant planning authority and made available on the website of the OPR and the relevant planning authority. Where the Minister agrees with the notice of the OPR, the Minister will proceed to issue the draft direction under section 31 of the Planning and Development Act 2000, as amended, taking account of the draft direction submitted by the OPR. The Act sets out detailed procedures that ensue.

### **Section 31AQ                      Evaluation and assessment by Office of matters relating to regional spatial and economic strategies**

Provides that the OPR will evaluate and assess at a strategic level, regional spatial and economic strategies at all stages of the strategy making process to ensure that the strategies as made address the legislative and policy requirements as set out in the Act. The OPR will submit observations and recommendations at all stages of the regional spatial and economic strategy process to the relevant regional assembly and submit copies to the Minister. The Report of the Regional Assembly Director, prepared for the members in respect of the relevant stages of the regional strategy process, will:

- summarise the issues raised in the submissions / recommendations made by the OPR;
- outline the recommendations of the Director in relation to the manner in which those issues and recommendations should be addressed, taking account of the National Planning Framework and the long-term strategic planning framework for the development of the region or regions, as the case may be, in respect of which it is made, in accordance with the principles of proper planning and sustainable development; and,
- be made available on the website of the regional assembly. A regional assembly shall notify the OPR where, in the opinion of its Director, the regional assembly made the strategy in such a manner as to be inconsistent with any observations or recommendations made by the OPR, and state the reasons for the decision of the regional assembly.

Where the OPR is of the opinion that the strategy as made does not set out a strategy that is in compliance with the Planning Act, and is inconsistent with the National Planning Framework and the long-term strategic planning framework for the development of the region or regions, as the case may be, in respect of which they are made, in accordance with the principles of proper planning and sustainable development, the OPR shall (within four weeks of the making of the strategy) issue a notice to the Minister with recommendations and that the Minister uses his/her powers of ministerial direction to ensure the strategy sets out a long-term strategic planning framework for the development of the region in accordance with the principles of proper planning and sustainable development and include providing a draft direction. A copy of the notice issued to the Minister will be made available on the website of the OPR.

#### **Section 31AR                      Consequential provisions to section 31AQ**

Provides for consequential provisions whereby the Minister either agrees or disagrees with the notice from the OPR and where the Minister disagrees with the notice from the OPR, the Minister shall state his or her reasons and lay such reasons before the Houses of the Oireachtas and make the reasons available on the Department's website. In addition, a copy of the Minister's stated reasons will be copied to the OPR and the relevant regional assembly and made available on the website of the OPR and the relevant regional assembly. Where the Minister agrees with the notice of the OPR, the Minister will proceed to issue the draft direction under section 31A of the Planning and Development Act 2000, as amended. The Act sets out detailed procedures that ensue.

### **New Chapter IV Review of Planning Functions includes new Sections 31AS to 31AX.**

#### **Section 31AS                      Review at instigation of Office**

Provides that the OPR may conduct a review of a planning authority or An Bord Pleanála in respect of their systems and procedures used in the performance of their functions under the Planning and Development Act. An authorised person may be appointed for the purposes of a review. The planning authority under review, the Board or the Minister may make a submission or observation on a draft review report received from the OPR and the OPR has to review any submission of observations made before finalising a review report which has to be published on the OPR website. A recommendation relating to a planning authority in the review report may include a recommendation that the Minister consider exercising his or her function under the following:

- to issue section 28 guidelines;
- to issue a section 29 policy directive;
- to give a directive under subsection 255(2); and,
- to appoint a Commissioner under subsection 255(4) to carry out and have full responsibility for all or any one or more of the functions of the planning authority concerned.

### **Section 31AT**                      **Review by Office at instigation of Minister**

Provides for the Minister to request the OPR to undertake a review of the organisation and the systems and procedures used by a planning authority in relation to the performance of functions where the Minister has formed the opinion that a planning authority:

- may not be carrying out its functions in accordance with the requirements under the Act;
- is not in compliance with guidelines issued under section 28, a directive issued under section 29, or a direction issued under section 31;
- may be applying inappropriate standards of administrative practice or otherwise contrary to fair or sound administration in the conduct of its functions;
- may be applying systemic discrimination in the conduct of its functions;
- may be operating in a manner whereby there is impropriety or risks of corruption in the conduct of its functions; or,
- may be operating in a manner whereby there are serious diseconomies or inefficiencies in the conduct of its functions.

### **Section 31AU**                      **Complaint to Office in respect of planning authority**

Provides that the OPR may examine complaints made by any person to the Office or where requested by the Minister in respect of a planning authority where such complaint relates to the organisation of the authority and of the systems and procedures used by it in relation to the performance of its functions under the Act. It also provides that where the OPR has formed the opinion, having carried out a preliminary examination of such a complaint, that an examination into the complaint would be warranted and the planning authority concerned:

- may not be carrying out its functions in accordance with the Act;
- is not in compliance with guidelines, a directive or a direction;
- may be applying inappropriate standards of administrative practice or otherwise contrary to fair or sound administration;
- may be applying systemic discrimination; or,
- may be operating in a manner whereby there is impropriety or the risk of corruption or there are serious diseconomies or inefficiencies in the conduct of its functions then the OPR shall prepare a report on the preliminary examination, including any recommendations, and the OPR shall as it considers appropriate in the circumstances submit the report, to the planning authority or the Minister or to both, or to one or more of the following:
  - the Ombudsman;
  - the Standards in Public Office Commission;
  - the Garda Síochána; and/ or,
  - such other State authority as may be prescribed.

A recommendation by the OPR in a preliminary examination report relating to a planning authority may include a recommendation that the Minister consider exercising his or her functions on:

- issuing guidelines, a policy directive or directive under the Planning Act; or,
- appointing a Commissioner under Section 255(4) of the Act to carry out and have full responsibility for all or any one or more of the functions of the planning authority under the Planning Act.

Having carried out a preliminary examination, the OPR may also cease to examine the complaint. The OPR may also decide not to carry out an examination of a complaint. Reasons are set out in the Act.

**Section 31AV Information and records to be made available to Office**

Provides for information, records or documents to be made available to the OPR as part of a review or examination and for a duty on a planning authority or An Bord Pleanála and their staff to comply with requests for information and records and cooperate with the OPR.

**Section 31AW Access to information (Part IIB)**

Provides that the OPR may appoint an authorised person to carry out a review or examination and the planning authority or the Board shall supply such information relating to the performance of its functions as he or she may from time to time request. It provides powers to an authorised person to enter and inspect any land or premises or structure (other than a dwelling) which is owned, used, controlled or managed by a planning authority or the Board and to be afforded every facility and co-operation by the planning authority (its Chief Executive and staff) or the Board including the giving of information which he or she may reasonably require and shall have access to all documents, records or information which he or she may reasonably require.

**Section 31AX Offences (Part IIB)**

Provides that any person who obstructs or impedes or refuses to comply with a request of the OPR or an authorised person acting in the exercise of the functions conferred commits an offence and is liable on summary conviction to a Class C fine or, at the discretion of the Court, to imprisonment for a term not exceeding six months or to both. Summary proceedings for an offence under this Section may be brought by the OPR.

**Part 3 – Miscellaneous and Consequential Amendments to Planning and Development Acts 2000 to 2016**

**Section 5 Office of the Planning Regulator and amendments to Part II of Principal Act**

Provides for miscellaneous and consequential amendments to Part II of the Principal Act as provided for in Schedule 1 relating to the OPR.

**Section 21(c) Amendment of section 31 of Principal Act (ministerial directions regarding development plans)**

Section 21 amends section 31 of the Principal Act to strengthen provisions allowing the Minister to issue directions to a planning authority with regard to the making, or variation, of a statutory plan. The now commenced subsection (c) provides for the OPR's role in the process where the Minister may direct an authority.

**Section 23(5)(c)      Amendment of section 34 of Principal Act (permission for development)**

Section 23 amends section 34 of the Principal Act. Subsection (5), which was already commenced other than for paragraph (c), provides that certain procedures be followed by a planning authority when proposing to grant a planning permission that materially contravenes a development plan or a local area plan; paragraph (c) provides that any such resolution of a planning authority be notified to the relevant regional assembly and the OPR.

**Section 45                      Amendment of section 255 of Principal Act (performance of functions by planning authority)**

Section 45 amends section 255 of the Principal Act (performance of functions by planning authority). Section 255 gives the Minister the power to appoint a commissioner to carry out all or any of the functions of a planning authority, where the Minister considers the relevant authority is not carrying out its functions in accordance with the requirements of the Planning and Development Act. This amendment to section 255 provides that the information available to the Minister in deciding whether or not to appoint a commissioner will include any information or recommendation received from the OPR and the Minister then has the discretion to act or not to act on that information or recommendation.

**Schedule 1**

**Miscellaneous and Consequential Amendments to Part II of Planning and Development Act 2000**

Schedule 1 provides for miscellaneous and consequential amendments to the Principal Act, this includes providing that authorities formally notify the OPR, as they would the Minister, of each stage of the statutory plan-making procedure, including notice of the intention to make a plan, provision of the draft plan, provision of the Chief Executive's Report, etc.