

**Large-scale Residential Developments (LRD)**

# Planning and Development (Amendment) (Large-scale Residential Development) Act 2021 (No. 40 of 2021)

The Programme for Government – Our Shared Future committed to not further extending the Strategic Housing Development (SHD) arrangements beyond their expiry date of 25 February 2022. Action 12.3 of Housing for All also commits to the introduction of a new planning process for Large-scale Residential Developments to replace the SHD process.

**Legislation (effective date 17th December 2021):**

• PLANNING AND DEVELOPMENT (AMENDMENT) (LARGE -SCALE RESIDENTIAL DEVELOPMENT) ACT 2021.

• PLANNING AND DEVELOPMENT (LARGE-SCALE RESIDENTIAL DEVELOPMENT) REGULATIONS 2021 S.I. 716 of 2021

• PLANNING AND DEVELOPMENT (LARGE-SCALE RESIDENTIAL DEVELOPMENT FEES) REGULATIONS 2021 S.I. 720 of 2021

The main purpose of the Planning and Development (Amendment) (Large-scale Residential Development) Act 2021 is to restore the two-stage planning process, with decision making for Large-scale Residential Development (LRD) type applications returning to the local planning authority in the first instance, with the subsequent right of appeal to An Bord Pleanála (the Board), thereby delivering on the above commitments in the Programme for Government and in Housing for All.

The Act also provides two non- LRD specific provisions as follows:

* Section 6 amends section 50A of the Planning and Development Act 2000 to provide that any party to a judicial review challenge may apply to have a High Court Judgement referred directly to the Supreme Court, by-passing the Court of Appeal.
* Section 7 provides that the housing strategy prepared by a local authority shall take into account the need to ensure that home ownership as a tenure type is provided for and estimated in its housing strategy.

‘Large-scale residential development’, which is defined to mean a development that includes—

1. the development of 100 or more houses,
2. the development of student accommodation that includes 200 or more bed spaces,
3. both the development of 100 or more houses and of student accommodation, or
4. both the development of student accommodation that includes 200 or more bed spaces and of houses,

where the LRD floor space of—

* 1. in the case of paragraph (a), the buildings comprising the houses,
	2. in the case of paragraph (b), the student accommodation,
	3. in the case of paragraphs (c) and (d) the buildings comprising the houses and the student accommodation,

is not less than 70 per cent, or such other percentage as may be prescribed, of the LRD floor space of the buildings comprising the development, and

‘LRD floor space’, which is defined to mean, in relation to a building or part of a building, the area ascertained by the internal measurement of the floor space on each floor of a building or part of a building (including internal walls and partitions), disregarding any floor space provided for—

1. the parking of vehicles by persons—
	1. occupying or using the building or the part of the building,
	2. for a purpose incidental to the primary purpose of the building or part of the building, and
2. ancillary residential services, including gyms and child-care facilities.

The Department of Housing, Local Government and Heritage has summarised LRD arrangements as follows:

* The definition of Large-scale Residential Development (LRD) is largely similar to Strategic Housing Development (SHD), i.e. developments of 100 housing units or more, or student accommodation developments comprising 200 bed spaces or more, or a combination of same. The two main changes under the new LRD arrangements will allow for
	+ Up to 30% of the gross floor space of the proposed development to be for other uses, instead of the 15% cap under the SHD arrangements.
	+ Mixed developments combining housing and student accommodation to be classified as an LRD where the threshold is met for either element.
* The new LRD arrangements comprise three stages– pre-application consultation stage, planning application stage and appeal stage.
* In order to proceed to make an LRD planning application, an LRD opinion, issued within the last 6 months, is generally required further to the pre-application consultation stage.
* The pre-application consultation stage involves two steps in the majority of cases; firstly, the applicant will be required to seek standard pre-application consultation as currently mandated for developments of this scale under section 247 of the Planning Act.
* At that first stage of the process, the planning authority may, within 4 weeks of the receipt of the pre-application consultation request, either arrange the section 247 consultations or, for LRD proposals which propose to amend previously permitted LRDs or SHDs, the planning authority may make a determination under the new section 247(7) that, as the proposed development is substantially the same as the previously permitted development, further pre-application consultations are not required in respect of the development.
* In cases where the initial section 247 pre-application consultation meetings have been held, the second step in the pre-application consultation process involves an “LRD meeting” (Fee to accompany request) with the relevant planning authority for the purpose of receiving an “LRD opinion” as to whether the proposals constitute a reasonable basis for submitting an LRD planning application.
* Specified documentation is required to be submitted by the developer/ prospective applicant relating to the proposed development with their LRD meeting request, including a site location map, a draft layout of the proposed scheme, details of the proposed house types and design, the housing density, building heights, vehicular access, open space provision, integration with surrounding land uses etc.
* Streamlined timelines are provided as part of this new process with planning authorities required to complete the LRD meeting and LRD opinion process within 8 weeks of the request for such meeting from the developer i.e. 4 weeks to hold the LRD meeting with the developer followed by 4 weeks for the planning authority to issue an LRD opinion on whether the proposals constitute a reasonable basis for submitting a planning application on the LRD proposals.
* The LRD opinion, or determination under section 247(7), will be valid for 6 months and allows the developer to progress to application stage i.e. a planning application must be submitted within 6 months of receipt of the LRD opinion. Otherwise, the developer must re-commence the pre-application consultation process again.
* It is intended that the detailed LRD pre-application consultation arrangements will minimize the need for “further information” requests at the subsequent planning application stage.
* Once an LRD planning application is submitted to the planning authority, members of the public, prescribed bodies and elected local authority members will be able to make submissions on a proposed development to the planning authority in the same manner as currently applies in respect of standard section 34 planning applications submitted to the planning authority.
* The Regulations provide that the developer must make the application documentation available for public viewing on a dedicated website set up for this purpose, this for the purpose of enhancing transparency and public participation in the LRD process.
* Planning authorities will generally be required to determine LRD planning applications within 8 weeks of receipt, except where “further information” is required.
* Requests for further information by local authorities on LRD planning applications may only be sought once and only in relation to in relation to matters of technical or environmental detail, or both, that were unforeseen at the time of the LRD opinion and the time of lodging the LRD application, or new matters raised during the LRD planning application public participation process.
* If an LRD decision is appealed to the Board, the Board will be required to determine the appeal within 16 weeks of receipt, again with similar limited scope for “further information” requests.
* A penalty, payable to the developer, will apply to both the planning authority (3.5 times the application fee paid or €10,000, whichever is the lesser) and the Board (€10,000) for late decisions on LRD planning applications or LRD appeals.
* The Act also includes a number of transitional arrangements in relation to the expiry of the SHD arrangements and their replacement by the new LRD arrangements. Under the Act:
	+ SHD prospective applicants/ developers already in receipt of an SHD opinion under the SHD arrangements on the commencement of the Act (17 December 2021) will have 16 weeks to submit an SHD application to the Board from the 17 December 2021.
	+ SHD prospective applicants/ developers who have formally commenced consultations with the Board and are awaiting an SHD opinion on the

commencement of the Act (17 December 2021) will have 16 weeks to submit an SHD application to the Board from the date of receipt of the SHD opinion.

# Planning and Development (Large-scale Residential Development Fees) Regulations 2021 (SI 720 of 2021)

These Regulations introduce a separate fee structure for LRDs in the Planning and Development Regulations 2001, as amended, for the payment of LRD related fees to planning authorities.

They amend Section 2 of Schedule 9 of the Planning and Development Regulations 2001, as amended (the Principal Regulations) by inserting new fees payable to the Planning Authority with regard to LRD:

* Pre-Application Consultations,
* and Planning applications, outlining
	+ Fee to be applied per residential unit
	+ Fee to be applied per square metre of non-residential use
	+ Submission of environment reports

They regulations amend Section 3 of Schedule 9 of the Principal 2001 Regulations to insert a maximum fee payable for LRD applications and to increase the maximum amount payable for an application listed in Article 161 of the Principal Regulations.

**Appendix 3- Main provisions of the Planning and Development (Large-scale Residential Development) Regulations 2021 (SI 716 of 2021)**

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| **Article No.** | **Title** | **Main Provisions** |
| 1 | Citation |  |
| 2 | Commencement | 17 December 2021 |
| 3 | Interpretation |  |
| 4 | Pre-Application consultations for LRD | Inserts a new Article 16A into the Principal Regulations to prescribe the form for request for pre-application consultation (s. 247 and s.32B consultations), including the detailed documentation/ information to be submittedwith the form |
| 5 | Notice in Newspaper | Amends Article 18 of the Principal Regulations to provide that a newspaper notice must indicate if the application relates to an LRD and include the web address referred to in article20A |
| 6 | Additional requirements for an LRD application | Inserts a new Article 20A which provides that the applicant must put details of an LRD planning application etc., up on a dedicatedwebsite for viewing by the public. |
| 7 | Content of planning applications generally | Amends Article 22 of the Principal Regulations to provide that an LRD application must in addition to Form No. 2 include Form No. 19also. |
| 8 | Procedures on receipt of a planning application | Amends Article 26 of the principal Regulations to provide that the planning authority shall make all planning applications available forinspection at its offices. |
| 9 | Weekly list of planning applications. | Amends Article 27 of the Principal Regulations to provide that the weekly lists should indicateif an application relates to an LRD |
| 10 | Weekly list of LRD pre- application consultations and LRD meetings | Inserts a new Article 27A in the Principal Regulations to provide for the inclusion in planning authority weekly lists of the receipt of LRD meeting requests and the issuing of LRDopinions. |
| 11 | Further Information | Amends Article 33 of the Principal Regulations to outline the arrangements and procedures in relation to the seeking of further information by planning authorities in respect of LRDplanning applications |

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| 12 | Board’s weekly list | Amends Article 72 of the Principal Regulations to provide that the Boards weekly lists should indicate if an appeal relates to an LRD |
| 13 | LRD Appeal- Further Information | Inserts a new Article 73A to the Principal Regulations to outline the arrangements and procedures in relation to the seeking of further information by the Board in respect of LRDappeals. |
| 14 | Oral Hearing of the Board | 24 weeks is prescribed for a decision on an LRDappeal from the date of receipt of an appeal if an Oral Hearing is held. |
| 15 | Additional Forms | Inserts new LRD related forms into thePrincipal Regulations |
| **Schedule to the Regulations** |
| Schedule | Form No. 18: Form of request to a Planning Authority to enter into consultations in relation to a proposed large scale residential developmentForm No. 19: Form to be included with an application for permission for a Large-scaleResidential Development | Application for section 247 pre-application consultation or LRD meetingSupplementary information to be included with Form no. 2 when applying for LRD |

**PLANNING AND DEVELOPMENT (LARGE-SCALE RESIDENTIAL DEVELOPMENT FEES) REGULATIONS 2021**

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| Column 1Class of Development | Column 2 Amount of Fee | Column 3Amount of Fee for Retention Permission |
| 14. The provision of a large- scale residential development: |  |  |
| (a) Pre-Application Consultation | €1,500 |  |
| (b) Basic fee structure: Each Housing Unit**Note:** In respect of an application comprising student accommodation, or shared accommodation the above structure range and fee per unit should be applied on the pro rata basis of the fee for 1 housing unit = the fee for 2 bed spaces of student accommodation or shared accommodation. | €130 per housing unit | €390 per housing unit |
| (c) Fee Structure for other uses on the land, the zoning of which facilitates such use: per square metre of gross floor space to a maximum of 30% of floor space of the entire development. | €7.20 per square metre to a maximum of€32,400 | €15 per square metre to a maximum of€65,000 |
| (d) Submission of an EIS/NIS Fee Structure: |  |  |
| Submission of EIS | €10,000 | €10,000 |
| Submission of NIS | €10,000 | €10,000 |

The maximum fee payable to a planning authority by an applicant in respect of an application for permission for a large-scale residential development shall be €80,000.