



Isle of Man

Ellan Vannin

**TOWN AND COUNTRY PLANNING
(AMENDMENT) BILL 2016**

TOWN AND COUNTRY PLANNING (AMENDMENT) BILL 2016

Explanatory Memorandum

1. This Bill is promoted by Mr Ronan on behalf of the Council of Ministers. The Bill's principal purpose is to set out more clearly the relationship between the Planning Committee and the Department of Environment, Food and Agriculture.
2. *Clauses 1 and 2* deal with the short title and the commencement and subsequent revocation of the resulting Act once its provisions have taken effect and it has been promulgated.
3. *Clauses 3 to 9* deal with the amendment of the *Town and Country Planning Act 1999* ("the 1999 Act").
4. *Clause 3* introduces the amendments.
5. *Clause 4* amends section 10 of the 1999 Act to prescribe the general procedure for the determination of planning applications.
6. *Clause 5* amends section 15 of the 1999 Act to provide for the distribution of decision-making responsibilities about applications relating to works affecting registered buildings.
7. *Clause 6* amends section 22 of the 1999 Act to provide for the distribution of decision-making responsibilities about the control of advertisements.
8. *Clause 7* inserts a new Part 4A into the 1999 Act. This part provides for authorised decision-makers to take some planning decisions and for others to be dealt with by the Planning Committee, which is placed on a statutory footing. It also contains transitional provision about the move from the existing Planning Committee to the new one, and the treatment of applications to, and consents granted by, the existing committee.
9. *Clauses 8 and 9* make consequential amendments to sections 44 and 45 respectively of the 1999 Act.
10. The Bill is expected to be both cost- and revenue-neutral.
11. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.



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TOWN AND COUNTRY PLANNING (AMENDMENT) BILL 2016

1 A BILL to amend the Town and Country Planning Act 1999; and for connected
2 purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

3 1 Short title

4 The short title of this Act is the Town and Country Planning (Amendment) Act
5 2016.

6 2 Commencement and expiry

7 (1) This Act (apart from this section and section 1) comes into operation on
8 such day or days as the Department, by order, appoints.

9 (2) An order under subsection (1) may include such consequential,
10 incidental and transitional provision as appears to the Department to be
11 appropriate.

12 (3) This Act expires on —

13 (a) the day after its promulgation; or, if later

14 (b) the day after that on which the last of its provisions comes into
15 operation.

16 (4) But subsection (3) does not affect the continuing effect of the
17 amendments and transitional provisions made by sections 3 to 9.

18 3 Amendment of the Town and Country Planning Act 1999

19 The *Town and Country Planning Act 1999* is amended in accordance with sections
20 4 to 9.

21 4 Determination of planning applications — section 10 amended

22 (1) Section 10 (determination of planning applications) is amended as
23 follows.



1 (2) After subsection (1) insert —

2 “(1A) One of the following must, in accordance with a development
3 order or a development procedure order, decide an application
4 for planning approval or an application under subsection (3) —

5 (a) the planning committee, to the extent to which the function
6 to decide the application is delegated to that committee
7 under section 39C; or

8 (b) an authorised decision maker.”

9 (3) After subsection (5)(a) insert —

10 “(aa) the applications for planning approval or applications
11 under subsection (3) (or the prescribed classes of
12 applications) that are to be determined by the planning
13 committee and those that are to be determined by an
14 authorised decision maker;”

15 5 Control of works affecting registered building— section 15 amended

16 (1) Section 15 (control of works affecting registered building) is amended as
17 follows.

18 (2) After subsection (3) insert —

19 “(3A) Applications to the Department for registered building consent
20 and applications under paragraph 3 of Schedule 3 must be
21 determined by —

22 (a) the planning committee, to the extent to which the function
23 to decide the application is delegated to that committee
24 under section 39C; or

25 (b) an authorised decision maker.”

26 (3) At the end of the section add —

27 “(6) In subsection (5), reference to providing for the determination of
28 such applications includes (but is not limited to) making
29 provision for the applications (or the prescribed classes of
30 applications) that are to be determined by the planning committee
31 and those that are to be determined by an authorised decision
32 maker.”

33 6 Control of advertisements — section 22 amended

34 (1) Section 22 (regulations controlling display of advertisements) is
35 amended as follows.

36 (2) After subsection (1) insert —

- 1 “(1A) Regulations under subsection (1) must provide for applications to
 2 the Department for consent for the display of advertisements, or
 3 of advertisements of any prescribed class to be determined by —
 4 (a) the planning committee, to the extent to which the function
 5 to decide the application is delegated to that committee
 6 under section 39C; or
 7 (b) an authorised decision maker.”
 8 (3) After subsection (2)(c) insert —
 9 “(ca) which of such applications (or prescribed classes of such
 10 applications) are to be determined by the planning
 11 committee and which are to be determined by an
 12 authorised decision maker;”.

13 **7 The Planning Committee and authorised decision-makers — Part 4A**
 14 **inserted**

- 15 (1) After Part 4 (enforcement of control) insert —

16 **“PART 4A – AUTHORISED DECISION MAKERS AND**
 17 **THE PLANNING COMMITTEE**

18 *Meaning of “authorised decision maker”*

19 **39B Meaning of “authorised decision maker”**

- 20 (1) In this Act, “**authorised decision maker**” means an officer of the
 21 Department authorised under subsection (2).
 22 (2) The Chief Executive of the Department may, in writing, authorise
 23 an officer of the Department to act in the name of the Department
 24 to do any of the following under this Act in the circumstances
 25 specified in the authorisation —
 26 (a) to determine an application for planning approval;
 27 (b) give a consent;
 28 (c) make a determination; or
 29 (d) perform a function or exercise a power conferred on the
 30 Department.

31 *Planning Committee*

32 **39C Determination by planning committee**

- 33 (1) This section applies to the following functions conferred on the
 34 Department —

1 (a) dealing with applications for planning approval under the
2 following provisions of Part 2 (Development Control) or
3 the provisions of a development order or a development
4 procedure order as it relates to that provision of Part 2 —

5 (i) section 8(2);

6 (ii) section 8(2A);

7 (iii) section 8(4);

8 (iv) section 8(5);

9 (v) section 8(6A);

10 (vi) section 10(1);

11 (vii) section 10(2);

12 (viii) section 10(3);

13 (ix) section 10(6)(d);

14 (x) section 10(6)(e);

15 (b) dealing with applications for registered building consent
16 under regulations made for the purposes of section 15
17 (control of works affecting registered building);

18 (c) giving consent under section 19(3) (demolition in
19 conservation areas) for the demolition of buildings to
20 which that section applies;

21 (d) dealing with applications for consent as mentioned in
22 section 22(2)(b) (controlling display of advertisements)
23 under regulations made for the purposes of section 22;

24 (e) giving consent to the use of advertisements under
25 regulations made for the purposes of section 35(1);

26 (f) dealing with applications to change conditions under
27 paragraph 3 of Schedule 3 (variation or discharge of
28 conditions of registered building consent).

29 (2) The Department may, by order, delegate any or all of the
30 functions to which this section applies to the planning committee.

31 (3) The delegation under subsection (2) may set out conditions
32 subject to which, and circumstances in which, the delegated
33 functions may be performed, but subject to any provision of a
34 development procedure order.

35 (4) In relation to a matter to which this section applies, if the context
36 requires it, a reference to the Department in this Act, or a public
37 document made under this Act, is to be construed as being, or
38 including, a reference to the planning committee.

39 For the sake of clarity, this subsection does not apply to section 41
40 (register of applications) or 43 (rights of entry).

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- (5) In dealing with matters delegated to it under subsection (2), the planning committee must have regard to any matter to which the Department is required to have regard under the Act, including (but not limited to) —
- (a) section 10(4) (Department must have regard to material matters);
- (b) section 16(3) (Department must have regard to preservation of special features of buildings);
- (c) section 18(4) (preservation or enhancement of conservation area); and
- (d) section 22(1) (Department may regulate advertisements in the interests of amenity or public safety).
- (6) Subsection (5) does not limit the operation of subsection (4).
- (7) The planning committee may not sub-delegate powers or functions delegated to it under this section, subject to subsection (8).
- (8) Subsection (7) does not prevent —
- (a) the planning committee —
- (i) authorising an authorised decision-maker to sign a notice communicating a decision of the planning committee on a matter delegated to it under section 39C(2); or
- (ii) approving an application for planning approval, subject to the Department entering into an agreement under section 13, within such period as the planning committee may specify, with a person interested in the land;
- (b) an authorised decision maker signing a notice referred to in paragraph (a)(i); or
- (c) the Department from determining an application for registered building consent which is directly linked to the subject-matter of the proposed section 13 agreement.

33 39D Planning committee

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- (1) Subject to this section, the Council of Ministers must, by order (“the constitution order”), constitute a committee (the “**planning committee**”) to which functions may be delegated under section 39C.
- (2) The constitution order must specify the powers and functions of the planning committee in relation to those delegated functions.
- (3) The constitution order may in particular provide for—

- 1 (a) the constitution of the committee;
 2 (b) the terms of office of members of the committee;
 3 (c) termination of membership of the committee; and
 4 (d) committee proceedings and procedure.

- 5 (4) The Council of Ministers may appoint a person (who may, but
 6 need not, be an existing member of the planning committee) to be
 7 the chair of the committee.
 8 (5) If the Council of Ministers does not appoint a person under
 9 subsection (4), at the first meeting following the appointment of
 10 new members to the committee, the committee must elect one of
 11 its number to be the chair of the committee.
 12 (6) A person elected under subsection (5) holds office at the pleasure
 13 of the planning committee.
 14 (7) The Council of Ministers must appoint the members of the
 15 planning committee.

16 **39E Powers to delegate not affected**

17 Section 39C does not prevent —

- 18 (a) the delegation of functions under section 21 of the
 19 *Interpretation Act 1976* to a person other than the planning
 20 committee; or
 21 (b) the authorisation of the exercise of functions under section
 22 3 of the *Government Departments Act 1987* by a person other
 23 than the planning committee.

24 *Transitional provisions for this Part*

25 **39F Definitions for sections 39G to 39I**

26 In sections 39G to 39I —

27 “**existing planning committee**” means the body of persons known as the
 28 ‘Planning Committee’ to which the functions of the Department in
 29 determining applications for planning approval under the *Town
 30 and Country Planning Act 1999* and any orders or regulations made
 31 under that Act were delegated immediately before the enactment
 32 of the *Town and Country Planning (Amendment) Act 2016*; and

33 “**new planning committee**” means the planning committee established
 34 under section 39D.

1 | **39G Existing planning committee taken to be new planning**
2 | **committee**

- 3 | (1) On and after the commencement of this Part, the existing
4 | planning committee is taken to be the new planning committee.
- 5 | (2) A person who immediately before the commencement of this Part
6 | was appointed to the existing planning committee is to be treated
7 | as having been appointed to the new planning committee on the
8 | same terms and conditions as applied immediately before that
9 | commencement.
- 10 | (3) This section does not prevent the terms and conditions being
11 | varied after that commencement.
- 12 | (4) A reference in any enactment or document in force or created
13 | before the commencement of this Part to the existing planning
14 | committee is to be taken to be a reference to the new planning
15 | committee.

16 | **39H Transitional provision about existing applications**

- 17 | (1) This section applies if —
18 | (a) an application under the *Town and Country Planning Act*
19 | *1999* was made before the commencement of this Part; and
20 | (b) the application is to be determined by the existing
21 | planning committee.
- 22 | (2) The application may, on or after commencement of this Part, be
23 | determined by the new planning committee in the same way as it
24 | would have been determined by the existing planning committee.

25 | **39I Transitional provision about existing consents and**
26 | **determinations**

27 | On and after the commencement of this Part, planning approval, consent
28 | or other determination under the *Town and Country Planning Act 1999*
29 | given by the existing planning committee continues to have effect as if it
30 | had been given by the new planning committee.”.

- 31 | (2) On the coming into operation of section 80 of the *Interpretation Act 2015*
32 | for paragraph (a) of section 39E (inserted by subsection (1) above)
33 | substitute —
34 | “(a) the appointment of a deputy, in accordance with section 80
35 | of the *Interpretation Act 2015*, to perform any planning
36 | functions of the Minister instead of the planning
37 | committee;”.

1 **8 Tynwald control of secondary legislation — section 44 amended**

2 In section 44(1) (Tynwald control of orders and regulations) —

3 (a) for the words preceding “regulations” substitute “Orders and”;
4 and

5 (b) at the end add—

6 | “This is subject to subsections (2) and (3).”.

7 **9 Interpretation — section 45 amended**

8 (1) Section 45 (interpretation) is amended as follows.

9 (2) At the appropriate points in the alphabetical list insert —

10 | ““**authorised decision maker**” has the meaning given by section 39B;”.

11 | ““**planning authority**” has the meaning given by subsection (3);”

12 | ““**planning committee**” means the committee established under section
13 | 39D;”.

14 (3) At the end of section 45 add —

15 | “(3) A reference in a public document to a “**planning authority**” is a
16 | reference to any person responsible for determining an
17 | application for planning approval, giving a consent or otherwise
18 | making a determination in relation to a matter under this Act or
19 | an enactment that relates to town and country planning.

20 | Here “person” includes a body whether corporate or not (and in
21 | particular includes the planning committee constituted by section
22 | 39D).”.

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IN THE KEYS

**TOWN AND COUNTRY PLANNING (AMENDMENT)
BILL 2016**

A BILL to amend the Town and
Country Planning Act 1999;
and for connected purposes.

Approved by the Council of Ministers
for introduction in the House of Keys.

MR RONAN

JANUARY 2016