



To: Directors of Planning in each local authority

CC: Chief Executives
Senior Planners
An Bord Pleanála
Office of the Planning Regulator
Directors of Regional Assemblies

Circular Letter PL 02/2022

24 February 2022

Re: Planning and Development Act (Exempted Development) Regulations 2022 (S.I. 75 of 2022)

I am directed by Mr. Darragh O'Brien, T.D., Minister for Housing, Local Government and Heritage to advise that he has recently made new regulations entitled the Planning and Development Act (Exempted Development) Regulations 2022, a copy of which is attached for information.

The Planning and Development (Amendment) (No.2) Regulations 2018 - S.I. No. 30 of 2018 - which came into operation on 8 February 2018, provided for an exemption from the requirement to obtain planning permission in respect of the change of use of certain vacant commercial premises, including vacant areas above ground floor premises, to residential use. The regulations are primarily aimed at facilitating the productive re-use of qualifying vacant commercial buildings as homes, while also facilitating urban renewal and the bringing on stream of increased housing supply. The 2018 regulations were introduced under the previous Government's Action Plan on Housing and Homelessness – Rebuilding Ireland. The current Government's new Housing Plan for Ireland - Housing for All committed to reviewing and extending the 2018 regulations to the end of 2025.

Planning and Development Act (Exempted Development) Regulations 2022 (S.I. 75 of 2022)

As indicated, the Planning and Development Act (Exempted Development) Regulations 2022 (S.I. 75 of 2022) extends to 31 December 2025 the exemption given by SI 30 of 2018 and satisfies the commitment given by action 20.3 of Housing for All.

In order to avail of the exemptions being provided for, the structure, or part of the structure, which is the subject of the change of use must have been vacant for at least 2 years immediately prior to the commencement of the relevant works, with such works being required to be completed by 31 December 2025.



In addition to the classes of use that qualified under the 2018 change of use exempted development provisions – i.e. Classes 1, 2, 3 and 6 – as outlined in Part 4 of Schedule 2 of the Principal Regulations, the new regulations extend the provisions to a new Class 12 - Use as a Public House, meaning a premises which has been licensed for the sale and consumption of intoxicating liquor on the premises under the Licensing Acts 1833 to 2018.

The conditions and limitations that applied to the 2018 exempted development provisions, as outlined in previous Circular Letter PL 01/2018, will continue to apply under these regulations which include:

- Related works shall primarily affect the interior of the building, with limited external works being permitted which are in keeping with the building and neighbouring buildings, including the provision of on-street access to upper floors, and alterations to existing ground floor shop fronts in respect of window and architectural details.
- Works to the ground floor of any structure shall not conflict with an objective in a development plan for the structure to remain in retail use, with the exception, as mentioned above, of works solely for the provision of on-street access to upper floors.
- No more than 9 individual residential units can be provided in a building.
- Minimum standards shall apply to residential units being developed such as minimum requirements in relation to overall floor areas, storage space requirements and the need for adequate natural light in living rooms and bedrooms (see the *“Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities”*).
- Works to a protected structure shall not be permitted unless a section 57 declaration has been issued by a planning authority to indicate the works will not affect the character or elements of the structure which has been identified for protection.
- Works for the provision of on-site wastewater treatment and disposal systems i.e. septic tanks, shall not be permitted under the exemption.
- Works shall not be permitted in a number of limited areas, such as areas of special planning control, areas to which special amenity area orders relate and within certain proximity distances of establishments to which the major accident regulations apply.
- Care should be taken to ensure compliance with relevant legislative requirements in relation to the assessment of potential impacts on bats, their roosts and nesting birds arising from any proposed works in relevant buildings.

A number of other general restrictions as set out in Article 9 of the Principal Regulations are identified as applying to this exemption. In addition, development must not contravene a condition attached to a permission issued under the Act, including any condition specifying the permitted use of the building concerned.

Notification Requirement

As has applied since the introduction of the 2018 regulations, a planning authority must be notified in writing of the details of the development at least 2 weeks prior to the



commencement of the proposed change of use, and related works, and the notification must include information on the location and details of residential units being developed. The new regulations further require that the notification must include the Eircode for the relevant property. A planning authority remains required to:

- maintain a record of any notifications received,
- make the record publicly available online and at their office, and
- submit annual returns to the Minister detailing the notifications received.

Planning Enforcement

Planning authorities are reminded of their statutory obligations under Part VIII of the Planning Act 2000 and the importance of a proactive approach to planning enforcement generally in this regard. Previous Departmental Circular Letter PL 6/2013 entitled Planning and Development (Planning Enforcement) Policy Directive 2013 refers.

In the context of this new change of use exemption, planning authorities are advised to put appropriate monitoring and inspection arrangements into place to ensure that exempted development notified to them under Article 10(6) fully complies with the specific requirements and standards that apply under the exemption. In putting in place such inspection arrangements, mechanisms should be put in place to ensure a co-ordinated approach between such planning inspections and wider building regulations and fire safety or other inspections (e.g. conservation) required in relation to the relevant wider consents.

Compliance with Building Regulations

In this context, as with the planning system generally, neither the granting of planning permission or the provision of an exemption from the requirement to obtain planning permission, removes the requirement to comply with any other code, particularly in relation to building regulations. The aim of the Building Regulations are to provide for the safety and welfare of people in and about buildings. It is important to note in the context of these exempted development provisions that compliance with the Building Regulations 1997 to 2021 must still be achieved and Building Control procedures will still apply.

Under the Building Control Acts 1990 to 2020, primary responsibility for compliance with the requirements of the Building Regulations, rests with the owners, designers and builders of buildings. In particular, the Building Control (Amendment) Regulations 2014 (where they apply) require greater accountability in relation to compliance with Building Regulations in the form of statutory certification of design and construction by registered construction professionals and builders, lodgement of compliance documentation, mandatory inspections during construction and validation and registration of certificates.

The manual "*Bringing Back Homes – Manual for the reuse of existing buildings*" produced by the Department of Housing, Local Government and Heritage provides useful practical advice on the



technical building control aspects relating to the conversion of vacant properties to residential use and is available on the Department's website at the following link: <https://www.gov.ie/en/publication/68a5b-bringing-back-homes-manual-for-the-reuse-of-existing-buildings/>

Government measures to promote regeneration and address vacancy

The exempted development arrangements outlined in this Circular letter are part of a comprehensive package of measures being progressed by the Government to promote urban regeneration and address dereliction and vacancy with a complementary objective of increasing housing supply. In this regard, it is worth noting that up to the end of 2021, the provision of approximately 1,400 housing units was generated nationally under the 2018 regulations. While this represented a good start, it is considered that there is significant potential to increase the number of housing units generated under the measure in the period to 2025. Other measures being pursued in this area include:

- the recently published Town Centre First policy, jointly developed by the Department of Housing, Local Government and Heritage and the Department of Rural and Community Development, to support a more strategic and co-ordinated approach to the regeneration of Ireland's town centres.
- The new Croi Conaithe (Towns) Fund aimed at providing serviced sites to enable refurbishment of vacant properties and attract new building in the centre of small towns and villages in line with the National Planning Framework. A pathfinder programme in this area aims to make available as many as 2,000 sites for homes by 2025.
- A Compulsory Purchase Order programme, to be implemented by local authorities, to purchase vacant properties for resale on the open market for use for residential purposes.
- The allocation of more than €1.8bn under the Urban Regeneration and Development Fund (URDF) and Rural Regeneration and Development Fund (RRDF) programmes towards projects to regenerate metropolitan areas and towns across the country.
- The engagement of full-time Vacant Homes Officers by local authorities to co-ordinate actions to address vacancy – including promoting greater awareness of these regulations - and act as a “one-stop-shop” in this area.

Any queries in relation to this Circular letter should be emailed to planning@housing.gov.ie.



Terry Sheridan

Terry Sheridan
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Enclosures:

Planning and Development Act (Exempted Development) Regulations 2022 (S.I. 75 of 2022)