



STATUTORY INSTRUMENTS.

S.I. No. 75 of 2022

PLANNING AND DEVELOPMENT ACT (EXEMPTED DEVELOPMENT)
REGULATIONS 2022

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WHEREAS I, DARRAGH O'BRIEN, Minister for Housing, Local Government and Heritage, am of the opinion that development to which the following regulations apply would not offend against principles of proper planning and sustainable development by reason of the nature and limited effect of development belonging to that class on its surroundings; and

WHEREAS a draft of the following regulations has been laid before each House of the Oireachtas and a resolution approving that draft has been passed by each such House;

NOW I, DARRAGH O'BRIEN, Minister for Housing, Local Government and Heritage, in exercise of the powers conferred on me by sections 4(2) and 262 of the Planning and Development Act 2000 (No. 30 of 2000) (as adapted by the Housing, Planning and Local Government (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. No. 408 of 2020)), hereby make the following regulations:

Citation

1. (1) These Regulations may be cited as the Planning and Development Act (Exempted Development) Regulations 2022.
- (2) These regulations and the Planning and Development Regulations 2001 to 2021 shall be construed as one and may be collectively cited as the Planning and Development Regulations 2001 to 2021.

Interpretation

2. In these Regulations, “Principal Regulations” means the Planning and Development Regulations 2001 (S.I. No. 600 of 2001).

Amendment of Article 10 of Principal Regulations

3. The Principal Regulations are amended in article 10 (as amended by article 2 of the Planning and Development (Amendment) (No. 2) Regulations 2018 (S.I. No. 30 of 2018)) by substituting for sub-article (6) the following:

“(6) (a) In this sub-article—

‘habitable room’ means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

‘relevant period’ means the period from 8 February 2018 until 31 December 2025.

- (b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2.
 - (c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—
 - (i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,
 - (ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12, and
 - (iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,
- then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).
- (d) (i) The development is commenced and completed during the relevant period.
 - (ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall -
 - (I) primarily affect the interior of the structure,
 - (II) retain 50 per cent or more of the existing external fabric of the building, and
 - (III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.
 - (iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.
 - (iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

- (v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.
 - (vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the “Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities” issued under section 28 of the Act or any subsequent updated or replacement guidelines.
 - (vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.
 - (viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.
 - (ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.
 - (x) No development shall relate to any structure in any of the following areas:
 - (I) an area to which a special amenity area order relates;
 - (II) an area of special planning control;
 - (III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.
 - (xi) No development shall relate to matters in respect of which any of the restrictions set out in sub-paragraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.
 - (xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.
- (e) (i) Where a person proposes to undertake development to which paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify in writing the planning authority in

- whose functional area that the change of use will occur not less than 14 days prior to the commencement of the works related to the proposed change of use and any related works;
- (ii) Details of each notification under subparagraph (i), which shall include information on—
 - (I) the location of the structure,
 - (II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, and
 - (III) the Eircode for the relevant property,
 shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority’s website.
 - (iii) During the years 2019, 2020, 2021, 2022, 2023, 2024, 2025 and 2026 each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph (ii).”.

Amendment of Part 4 of Schedule 2 of Principal Regulations

4. The Principal Regulations are amended in Part 4 of Schedule 2 by the insertion after CLASS 11 of the following CLASS:

“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.”.



L.S.

GIVEN under my Official Seal,
21 February, 2022.

DARRAGH O’BRIEN,
Minister for Housing, Local Government and Heritage.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations amend the Planning and Development Regulations 2001, as amended (the Principal Regulations).

These Regulations extend, until 31 December 2025, the exempted development provisions of article 10(6) of the Planning and Development Regulations 2001, as amended, exempting development consisting of the change of use, and any related works, from an existing specified use class to residential use, in certain circumstances and subject to conditions and limitations, from the requirement to obtain planning permission. The Regulations further add a new use class (Class 12 - public houses), to the specified use classes that can qualify to avail of the planning exemption, subject to certain conditions and limitations.

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