

# Comhairle Contae Chill Mhantáin Uicklow County Council

Pleanáil, Forbairt Eacnamaíochta agus Tuaithe Planning, Economic and Rural Development

Aras An Chontae / County Buildings
Cill Mhantain / Wicklow
Guthan / Tel (0404) 20148
Faics / Fax (0404) 69462
Rphost / Email plandev@wicklowcoco «
Suíomh / Website www wicklow ie

Robert Smith & Mairead Finnegan, 48 Season Park, Newtownmountkennedy, Co. Wicklow, A63 F998

17<sup>1H</sup> June 2025

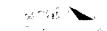
RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended) – EX62/2025 –

I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000.

Where a Declaration is used under this Section any person issued with a Declaration under subsection (2) (a) may, on payment to An Bord Pleanala of such fee as may be prescribed, refer a declaration for review by the Board within four weeks of the date of the issuing of the declaration by the Local Authority.

Is mise, le meas,

ADMINISTRATIVE OFFICER
PLANNING, ECONOMIC & RURAL DEVELOPMENT







# Comhairle Contae Chill Mhantáin Ulicklow County Council

## Pleanáil, Forbairt Eacnamaíochta agus Tuaithe Planning, Economic and Rural Development

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DECLARATION IN ACCORDANCE WITH ARTICLE 5 (2) (A) OF THE PLANNING & DEVELOPMENT ACT 2000 AS AMENDED

Applicant: Robert Smith & Mairead Finnegan

Location: 48 Season Park, Newtownmountkennedy, Co. Wicklow, A63 F998

## CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/616

#### A question has arisen as to whether

- "1) replacement of rear ground floor dining room window with french doors
- 2) conversion of attached garage (located at side) into habitable room for the enjoyment of the dwelling
- 3) replacement of garage door with a window to match existing house façade" at 48 Season Park, Newtownmountkennedy, Co. Wicklow, A63 F998 is or is not exempted development.

#### Having regard to:

- i. The details submitted on 23/05/2025;
- ii. Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended);
- iii. Artıcles 6 & 9 of the Planning and Development Regulations 2001 (as amended);
- iv. Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 (as amended).

#### Main Reasons with respect to Section 5 Declaration:

- 1. The provision of French doors in place of an existing window, conversion of an existing garage including a new window in place of a garage door are works and therefore development having regard to Section 3 of the Planning and Development Act 2000 (as amended).
- 2. The provision of French doors in place of an existing window to the rear elevation of an existing two storey semi-detached dwelling would come within the scope of Section 4 (1) (h) of the Planning and Development Act 2000 (as amended)
- 3. The conversion of an existing 11sqm garage including a new window in place of a garage door for use as part of the house would come within the description and limitations as set out under Schedule 2, Part 1, Class 1, of the Planning and Development Regulations 2001 (as amended) and is therefore exempted development.

#### The Planning Authority considers that

- "1) replacement of rear ground floor dining room window with french doors
- 2) conversion of attached garage (located at side) into habitable room for the enjoyment of the dwelling
- 3) replacement of garage door with a window to match existing house façade" 48 Season Park, Newtownmountkennedy, Co. Wicklow, A63 F998 is development and is exempted development

Signed: PP Yalux Eykna ADMINISTRATIVE OFFICER

PLANNING, ECONOMIC & RURAL DEVELOPMENT

Dated 17 June 2025



Baichoir gach comhthre igras, a sheoladh chuig an Stiurthoir seirbhisi, Pleanail, Forbairt Eachaniaíochta agus Tuaithe All correspondence should be addressed to the Director of Services, Planning, Economic and Rural Development

# WICKLOW COUNTY COUNCIL PLANNING & DEVELOPMENT ACTS 2000 (As Amended) SECTION 5 CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/616

Reference Number:

EX 62/2025

Name of Applicant:

Robert Smith & Mairead Finnegan

Nature of Application:

Section 5 Referral as to whether or not

- "1) replacement of rear ground floor dining room window with french doors
- 2) conversion of attached garage (located at side) into habitable room for the enjoyment of the dwelling
- 3) replacement of garage door with a window to match existing house façade."

is or is not development and is or is not exempted development.

Location of Subject Site:

48 Season Park, Newtownmountkennedy, Co. Wicklow, A63

F998

Report from Neal Murphy (EP) & Suzanne White (SEP)

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether

- "1) replacement of rear ground floor dining room window with french doors
- 2) conversion of attached garage (located at side) into habitable room for the enjoyment of the dwelling
- 3) replacement of garage door with a window to match existing house façade" 48 Season Park, Newtownmountkennedy, Co. Wicklow, A63 F998 is or is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

#### Having regard to:

- i. The details submitted on 23/05/2025;
- ii. Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended);
- iii. Articles 6 & 9 of the Planning and Development Regulations 2001 (as amended);
- iv. Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 (as amended).

#### Main Reason with respect to Section 5 Declaration:

- 1. The provision of French doors in place of an existing window, conversion of an existing garage including a new window in place of a garage door are works and therefore development having regard to Section 3 of the Planning and Development Act 2000 (as amended).
- 2. The provision of French doors in place of an existing window to the rear elevation of an existing two storey semi-detached dwelling would come within the scope of Section 4 (1) (h) of the Planning and Development Act 2000 (as amended)

3. The conversion of an existing 11sqm garage including a new window in place of a garage door for use as part of the house would come within the description and limitations as set out under Schedule 2, Part 1, Class 1, of the Planning and Development Regulations 2001 (as amended) and is therefore exempted development.

#### Recommendation

The Planning Authority considers that

- "1) replacement of rear ground floor dining room window with french doors
- 2) conversion of attached garage (located at side) into habitable room for the enjoyment of the dwelling
- 3) replacement of garage door with a window to match existing house façade" 48 Season Park, Newtownmountkennedy, Co. Wicklow, A63 F998 is development and is exempted development as recommended in the report by the SEP.

Signed dealure Byline

Dated 17 day of June 2025

#### ORDER:

#### I HEREBY DECLARE:

That "1) replacement of rear ground floor dining room window with french doors

- 2) conversion of attached garage (located at side) into habitable room for the enjoyment of the dwelling
- 3) replacement of garage door with a window to match existing house façade" 48 Season Park, Newtownmountkennedy, Co. Wicklow, A63 F998 is development and is exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:

Senior Engineer

Planning, Economic & Rural Development

Dated / 7 day of June 2025



# WICKLOW COUNTY COUNCIL PLANNING DEPARTMENT

#### Section 5 - Application for declaration of Exemption Certificate

TO:

Fergal Keogh S.E / Suzanne White S.E.P. / Edel Bermingham S.E.P.

FROM:

**Neal Murphy E.P** 

REF:

EX62/2025

**DECISION DUE:** 

19/06/2025

NAME:

**ROBERT SMITH & MAIREAD FINNEGAN** 

**DEVELOPMENT:** 

PROPOSED (1) REPLACEMENT OF REAR GROUND FLOOR DINING ROOM WINDOW WITH FRENCH DOORS (2) CONVERSION OF ATTACHED GARAGE (LOCATED AT SIDE) INTO HABITABLE ROOM FOR THE ENJOYMENT OF THE DWELLING (3) REPLACEMENT OF GARAGE DOOR WITH A WINDOW TO

MATCH EXISTING HOUSE FACADE

LOCATION:

48 SEASON PARK, NEWTOWNMOUNTKENNEDY, CO. WICKLOW, A63 F998



#### **Site Location and Description**

The subject site is located in Season Park, a residential estate in Newtowmountkennedy consisting of units of similar architectural design with a predominantly uniform building line. The site contains a semi-detached, two storey dwelling with a gable pitched roof and an attached garage. It appears that few dwellings have an attached garage but it is noted that a number that do in the wider estate have converted their attached garage to residential space.

#### Question:

The applicants have applied to see whether or not the following is or is not development and is or is not exempted development:

- 1) replacement of rear ground floor dining room window with french doors
- 2) conversion of attached garage (located at side) into habitable room for the enjoyment of the dwelling
- 3) replacement of garage door with a window to match existing house facade

#### **Planning History**

None.

#### **Legislative Context**

#### Planning and Development Act 2000 (as amended)

**Section 2(1)** of the Act states the following in respect of the following:

"structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(a) where the context so admits, includes the land on, in or under which the structure is situate, and

"works" includes Any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..."

#### Section 3(1) of the Act states the following in respect of 'development':

"In this Act, 'development' means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land."

**Section 4** sets out the types of works that while considered 'development', can be considered 'exempted development' for the purposes of the Act.

#### Section 4 (1) (h) is relevant for the purposes of this declaration:

"development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures."

**Section 4(2)** makes provision for ministerial regulations to set out further exemptions. The 2001 Planning Regulations as amended derive from this section and designate further works as being exempted development for the purposes of the act.

### Planning and Development Regulations 2001(as amended)

#### Article 6 (1):

Subject to Article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

#### Article 9 (1):

Development to which article 6 relates shall not be exempted development for the purposes of the Act—

- (a) If the carrying out of such development would –
- (i) Contravene a condition attached to a permission under Act or be inconsistent with any use specified in a permission under the Act,

(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width, (iii) Endanger public safety by reason of traffic hazard or obstruction of road users,

Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 (as amended) states that the following constitutes exempted development:

The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

#### The conditions and limitations include:

- 1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.
- 2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.
- 4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.
- (c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.
- 5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.
- 6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.
- 7. The roof of any extension shall not be used as a balcony or roof garden.

#### Other Conditions and Limitations include:

- No such structure shall be constructed, erected or placed forward of the front wall of a house.
- 2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.
- 3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.

- 4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.
- 5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.
- 6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.

#### **Details Submitted in support of Application:**

The applicants are applying for a Section 5 Declaration in relation to the following;

- 1) Replacement of rear ground floor dining room window with french doors
- 2) Conversion of attached garage (located at side) into habitable room for the enjoyment of the dwelling
- 3) Replacement of garage door with a window to match existing house facade

The applicant submitted the following information:

- Aerial image (Google Earth)
- Tailte Eireann Registration Map
- Proposed Floor plans, Section and Elevations

#### **Assessment:**

#### 1) Replacement of rear ground floor dining room window with french doors

The first assessment must be whether or not the proposal outlined above constitutes development within the remit of Section 3 of the Planning and Development Act 2001. In this regard, Section 3 of the Planning and Development Act provides that:

<u>"development"</u> means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

It should be noted that Section 2 of the Act defines works as:

<u>"works"</u> includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

The Planning Authority is satisfied that the proposal would involve <u>works</u> to the existing structure and therefore the proposal does constitute development.

The second stage of the assessment is to determine whether or not the proposed works would be exempted development under the Planning and Development Act 2000 (as amended) or it's associated Regulations.

Section 4 (1) (h) of the Planning and Development Act 2000 (as amended) states:

"development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures."

The proposed provision of French doors in place of a window on the ground floor of the rear elevation of an existing dwelling is considered come within the provisions of Section 4(1)(h) of the Planning and Development Act 2000(as amended) as although they would affect the external appearance, the impact would not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures. Therefore it is considered **exempt development** as per Section 4 (1) (h) of the Planning and Development Act 2000 (as amended).

- 2) Conversion of attached garage (located at side) into habitable room for the enjoyment of the dwelling and;
- 3) Replacement of garage door with a window to match existing house facade

Again, the first assessment must be whether or not the proposal outlined above constitutes development within the remit of Section 3 of the Planning and Development Act 2001. In this regard, Section 3 of the Planning and Development Act provides that:

<u>"development"</u> means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

It should be noted that Section 2 of the Act defines works as:

<u>"works"</u> includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

The Planning Authority is satisfied that the proposal would involve <u>works</u> to the existing structure and therefore the proposal does constitute development.

The second stage of the assessment is to determine whether or not the proposed works would be exempted development under the Planning and Development Act 2000 (as amended) or it's associated Regulations. Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 (as amended) states that the following constitutes exempted development:

The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

It is noted in this regard that the proposal shall see to the conversion of the existing garage of approximately 11sqm attached to the side of the house for use as part of the house (in keeping with the description of Schedule 2, Pt.1 Class 1). It is considered that the replacement of the garage door with a window that matches that of the existing dwelling is consistent with the proposed works. Therefore, it is considered that the proposed garage conversion and replacement of the garage door with a window is **exempt development** as per Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001.

#### Recommendation:

With respect to the query under Section 5 of the Planning and Development Act 2000 (as amended), as to whether the;

- 1) Replacement of rear ground floor dining room window with french doors
- 2) Conversion of attached garage (located at side) into habitable room for the enjoyment of the dwelling
- 3) Replacement of garage door with a window to match existing house facade

at No. 48 Season Park, Newtownmountkennedy, Co. Wicklow, A63 F998 is or is not development and is or is not exempted development:

#### The Planning Authority considers that:

- 1) Replacement of rear ground floor dining room window with french doors dwelling is development and is exempted development.
- 2) Conversion of attached garage (located at side) into habitable room for the enjoyment of the dwelling is development and is exempted development.
- 3) Replacement of garage door with a window to match existing house facade is development and is exempted development.

#### Main Considerations with respect to Section 5 Declaration:

- The details submitted on 23/05/2025;
- Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended); ii.
- Articles 6 & 9 of the Planning and Development Regulations 2001 (as amended); iii.
- Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 (as iv. amended).

#### Main Reasons with respect to Section 5 Declaration:

- The provision of French doors in place of an existing window, conversion of an existing garage including a new window in place of a garage door are works and therefore development having regard to Section 3 of the Planning and Development Act 2000 (as amended).
- The provision of French doors in place of an existing window to the rear elevation of an existing two storey semi-detached dwelling would come within the description and Message limitations as set out under Section 4 (1) (h) of the Planning and Development Act 2000 (as amended) and is therefore exempted development.

The conversion of an existing 11sqm garage including a new window in place of a garage door for use as part of the house would come within the description and limitations as set out under Schedule 2, Part 1, Class 1, of the Planning and Development Regulations 2001 (as amended) and is therefore exempted development.

**Neal Murphy** 

**Executive Planner** 11/06/2025

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# Comhairle Contae Chill Mhantáin Wicklow County Council

Pleanáil, Forbairt Eacnamaíochta agus Tuaithe Planning, Economic and Rural Development

Áras An Chontae / County Buildings Cill Mhantáin / Wicklow Guthán / Tel. (0404) 20148 Faics / Fax. (0404) 69462 Rphost / Email. plandev@wicklowcoco ie Suíomh / Website: www.wicklow.ie

## **MEMORANDUM**

## WICKLOW COUNTY COUNCIL

TO: Neal Murphy
Executive Planner

FROM:

**Nicola Fleming** 

Staff Officer

RE:- Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). EX62/2025

I enclose herewith application for Section 5 Declaration received completed on 23/05/2025.

The due date on this declaration is 19<sup>th</sup> June 2025.

Staff Officer

Planning, Economic & Rural Development







# Comhairle Contae Chill Mhantáin Ulicklow County Council

Pleanáil, Forbairt Eacnamaíochta agus Tuaithe Planning, Economic and Rural Development

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Robert Smith & Mairead Finnegan 48 Season Park Newtownmountkennedy Co. Wicklow A63 F998

27<sup>th</sup> May 2025

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX62/2025

A Chara

I wish to acknowledge receipt on 23/05/2025 full details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 19/06/2025.

Mise, le meas

Nicola Fleming Staff Officer

Planning, Economic & Rural Development





Wicklow ntv Council County Buildings Wicklow 0404-20100

23/05/2025 12 53 53

Receipt No. L1/0/345797

ROBERT SMITH 48 SEASONS PARK NEWTOWNMOUNTKENNEY CO WICKLOW

**EXEMPTION CERTIFICATES** GOODS 80.00

VAT Exempl/Non-vatable

Total

Tendered Cash

Change

issued By Ruth Graham From Customer Service Hub Vat reg No 0015233H

80.00

80 00 FUR

80.00

0.00

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Wicklow County Council County Buildings Wicklow Co Wicklow Telephone 0404 20148 Fax 0404 69462

Offi	ce i	Use	O	nlv

Date Received	
Fee Received	

# APPLICATION FORM FOR A DECLARATION IN ACCORDANCE WITH SECTION 5 OF THE PLANNING & DEVELOPMENT ACTS 2000(AS AMENDED) AS TO WHAT IS OR IS NOT DEVELOPMENT OR IS OR IS NOT EXEMPTED DEVELOPMENT

1. Ap	plicant Details
(a)	Name of applicant: ROBERT SMITH & MAIRÉAD FINNEGAN
	Address of applicant: 48 SEASON PARK,
	NEWTOWN MOUNTKENNEDY, CO.W. KLOW, A63 F948
Note	Phone number and email to be filled in on separate page.
2. Ag	ents Details (Where Applicable)
(b)	Name of Agent (where applicable)
	Address of Agent :
<u>Note</u>	Phone number and email to be filled in on separate page.

WICKLOW COUNTY COUNCIL

2 3 MAY 2025

PLANNING DEPT.

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## 3. Declaration Details

Are	you the owner and/or occupier of these lands at the location under i. above ?
Ye	s) No.
	No' to ii above, please supply the Name and Address of the Owner, and or supier
ari exe pay aut for	ction 5 of the Planning and Development Act provides that: If any question ses as to what, in any particular case, is or is not development and is or is not empted development, within the meaning of this act, any person may, an yment of the prescribed fee, request in writing from the relevant planning thority a declaration on that question. You should therefore set out the query which you seek the Section 5 Declaration I am Seek, on to determine whether from works in my is dence Constitute exempted development. Replacement of sear grand floor dainy from window with french door thousand the constitute any part of the dwelling.
$\overline{Ad}$	ditional details may be submitted by way of separate submission.  Replacement or garage down with a window to much existing house for
	dication of the Sections of the Planning and Development Act or Planning gulations you consider relevant to the Declaration
Re	

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vi.	Does the Declaration relate to a Protected Structure or is it within the curtilage of a Protected Structure ( or proposed protected structure)?
vii.	List of Plans, Drawings submitted with this Declaration Application  (1) Site location from Land Resistry  (2) Site location from Goode Earth  (3) Elevations of grogised works
viii.	Fee of € 80 Attached ?
Signed	: Risort Smith Marineger Dated: 22/05/2025
Additi	onal Notes :
	uide the minimum information requirements for the most common types of als under Section 5 are listed below :
A.	Extension to dwelling - Class 1 Part 1 of Schedule 2
	际 Site Location Map
呩	Floor area of structure in question - whether proposed or existing.
呩	Floor area of all relevant structures e.g. previous extensions.
呩	Floor plans and elevations of relevant structures.
呩	Site Layout Plan showing distance to boundaries, rear garden area, adjoining dwellings/structures etc.

The provisions of Article 8 of the Planning and Development Regulations 2001 (as amended) now applies to land reclamation, other than works to wetlands which are still

B.

Land Reclamation -







Clárúchán, Luacháil, Suirbhéireacht Registration, Valuation, Surveying

Official Tailte Éireann Registration Map

This map should be read in conjunction with the folio.

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(see Section 85 of the Registration of Title Act, 1964). As Inserted b Section 62 of the Registration of Deed and Title Act 2006.



Creation Date: Thursday, May 22, 2025 10:34:05 PM





