



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 09/2023

4 August 2023

**Re: Planning and Development (Exempted Development)(No. 4) Regulations 2023
(S.I. 376/2023)**

I have been asked by Mr. Darragh O'Brien, T.D., Minister for Housing, Local Government and Heritage to advise that he has signed the above set of Regulations which have immediate effect. A copy of the Regulations is attached for information.

Following engagement with the Department of Children, Equality, Disability, Integration and Youth (DCEDDIY) and as a response to the ongoing unprecedented demand for the accommodation of those seeking international protection, regulations were introduced on the 29 November 2022 (S.I. 605 of 2022) to assist the Minister for Children, Equality, Disability, Integration and Youth (MCEDIY) in meeting Ireland's legal obligation to provide accommodation to international protection applicants.

Those Regulations amended Part 1 of Schedule 2, entitled 'Exempted Development - General', to the Planning and Development Regulations 2001, as amended, to insert a new Class 20F exemption. This new Class permitted the change of use of certain specified structures for the purpose of providing the necessary facilities and accommodation for international protection applicants.



Those provisions were a temporary time-limited measure and were due to expire on 31 December 2024, with the use of the specified structures ceasing to apply on that date.

Planning and Development (Exempted Development)(No. 4) Regulations 2023 (S.I. 376/2023)

The new Planning and Development (Exempted Development)(No. 4) Regulations 2023 (S.I. 376/2023) which are the subject of this Circular extend the exemption provided by S.I. 605 of 2022, from 31 December 2024 to 31 December 2028. This is to allow DCEDIY greater flexibility in agreeing leases with potential accommodation providers for international protection applicants. In addition, in order to provide greater flexibility to DECDIY in how they use the accommodation they source, the new regulations extend the scope of the exemption provided by S.I. 605 of 2022 to now also include the provision of accommodation in the listed structures below to persons displaced by the Russian invasion of Ukraine, in addition to the structures which are already exempted for this purpose under S.I. 306 of 2022 – the European Union (Planning and Development)(Displaced Persons from Ukraine Temporary Protection) Regulations 2022.

There is no change to the structures listed from that which was provided by SI 605 of 2022, those structures being:

“school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction.”



Under the regulations, the use for the purposes of accommodating displaced Ukrainian persons shall be discontinued when the temporary protection introduced by the Council Implementing Decision (EU) 2022/382 of 4 March 2022 comes to an end, while the use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028. The temporary protection for Ukrainians will remain in place until such time as the EU decides otherwise.

Notification Requirement

As with the previous regulations in this regard, a planning authority must be notified in writing of the details of the development prior to the commencement of the proposed change of use.

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 the Building Regulations, including fire safety. The aim of the Building Regulations is 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.

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

Terry Sheridan

Principal

Planning Policy and Legislation

Attachment for information:

- Planning and Development (Exempted Development)(No. 4) Regulations 2023