



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 06/2021

30 April 2021

Re:

- 1. Planning and Development Act 2000 (Exempted Development) (No. 3) Regulations 2021 (S.I. 208 of 2021)**
- 2. Planning and Development (Street Furniture Fees) Regulations 2021 (S.I. 209 of 2021)**
- 3. Planning and Development (Amendment) (No. 2) Regulations 2021 (S.I. 210 of 2021)**
- 4. Consideration of section 254 licences to better facilitate outdoor dining**

I am directed by Mr. Darragh O'Brien, T.D., Minister for Housing, Local Government and Heritage to advise that he has signed the above three sets of Regulations which have immediate effect. Copies of the Regulations are attached for information.

Having regard to the impacts of the Covid-19 pandemic, the three sets of Regulations are part of a package of measures – including the Outdoor Dining Enhancement Grant Scheme recently announced by the Minister for Tourism, Arts and Culture – which are aimed at supporting economic recovery and business activity in urban areas, particularly in the hospitality, restaurant and tourism sectors, during the current year as Covid restrictions are eased.

1. [Planning and Development Act 2000 \(Exempted Development\) \(No. 3\) Regulations 2021 \(S.I. 208 of 2021\)](#)

These Regulations provide the same exemptions as were previously provided by the Planning and Development Act 2000 (Exempted Development) (No. 2) Regulations 2020 – S.I. No. 92 of 2020 – which have since expired. The Regulations provide that a temporary change in use from a premises selling food for consumption on the premises to one providing food for consumption off the premises will be considered an exempt development for the period up to 31 December 2021. This will have the effect of allowing restaurants which do not have a specific planning permission to operate as takeaways to operate for such purpose



without having to apply for change of use planning permission for the remainder of the current year. The use of the premises must revert to the original permitted use on the expiry of the specified period.

2. Planning and Development (Street Furniture Fees) Regulations 2021 (S.I. 209 of 2021)

These new Regulations amend the fees chargeable for street furniture licences under section 254 of the Planning and Development Act 2000, as amended, and Schedule 12, Part 1 of the associated Planning and Development Regulations 2001, as amended, in order to assist in reducing the cost burden for hotels, restaurants, public houses and other establishments where food is sold for consumption during the pandemic. In this regard, the street furniture licence fee for tables and chairs to facilitate the consumption of food outside such premises is reduced from €125 per table to €0 per table. This reduced fee arrangement will apply for the remainder of the current year.

3. Planning and Development (Amendment) (No. 2) Regulations 2021 (S.I. 210 of 2021)

These Regulations provide for structures ancillary to table and chairs for outdoor dining to also be licensed under section 254 of the Planning and Development Act 2000. The Regulation insert a new paragraph into Article 201 of the of the Planning and Development Regulations 2001, which prescribes further appliances, apparatus or structures which require a licence under section 254 of the Act.

It provides that; awnings, canopies, coverings, parasols, shades, windbreakers, heaters or other similar structure for the purpose of facilitating outdoor dining is development which requires a licence in situations where tables and chairs are also licensed under section 254 of the Planning and Development Act 2000. There will be no fee associated with applying for a licence for these structures which are ancillary to a licence for tables and chairs under section 254 of the Act. When considering a licence for such structure, the existing provisions of section 254 of the Planning and Development Act 2000 should be noted which include:

- Section 254(3) provides that a person applying for a licence must provide the planning authority such plans and other information concerning the position, design and capacity of the appliance, apparatus or structure as the authority may require.
- Under section 254(4) a licence may be granted by the planning authority for such period and upon such conditions as may be specified, including conditions in relation to location.
- Section 254(5) provides that, in considering an application for a licence under this section a planning authority, or the Board on appeal, shall have regard to—
 - the proper planning and sustainable development of the area,
 - any relevant provisions of the development plan, or a local area plan,



- the number and location of existing appliances, apparatuses or structures on, under, over or along the public road, and
 - the convenience and safety of road users including pedestrians.
- Under section 254(7), development that is carried out in accordance with section 254 of the Act is deemed exempted development for the purposes of the Act.
- Section 254(11) provides that, where a planning authority is not the road authority for the purposes of national or regional roads in its area, it shall not grant a licence under this section in respect of any appliance, apparatus or structure on, under, over or along a national or regional road or erect, construct or place any appliance, apparatus or structure on, under, over or along a national or regional road except after consultation with the authority which is the road authority for those purposes.

4. Consideration of Licence Applications to better facilitate outdoor dining

In addition to the assistance provided by way of the above three sets of Regulations, all licence requests for tables and chairs and awnings etc. to better facilitate outdoor dining for the remainder of the current year should be afforded high priority and be determined as speedily as possible to assist the hospitality, restaurant and tourism sectors as much as is possible with a view to facilitating their recovery as the current Covid-19 related restrictions are eased.

Furthermore, planning authorities should, on request, in order to facilitate the submission of good quality licence applications, assist and offer advice to prospective applicants on local policies in this regard and the issues to be taken into consideration in the submission of such applications.

In this regard, planning authorities are requested to give consideration at a local level to, among other things:

- relevant apparatus standards, the impacts on pedestrians, the impacts on residential amenity including those arising from noise impacts and hours of operation, the implications for traffic management and the potential impact on Architectural Conservation Areas (ACAs);
- the principles of Universal Design when assessing a licence application to ensure that the wider area is accessible, useable and convenient to all those who wish to use or pass through it, while also ensuring that any alternative street layout arrangements proposed in order to facilitate further outdoor dining, such as the relocation of designated accessible parking bays on temporarily pedestrianised streets, are appropriate and fit for purpose;
- the potential impact of such structures where they are proposed to be attached to a protected structure - requests received by a planning authority under section 57 of the Act seeking a declaration as to the type of works which it considers would or would not materially affect the character of the structure should be expedited;



- what structures are “necessary/ essential” to facilitate outdoor dining in the particular circumstances and avoiding the granting of licences for unnecessary structures;
- the need for such structures/awnings to be in general keeping with the streetscape. Planning authorities should exercise appropriate judgement and discretion in relation to advertisements and it is recommended that a condition should be attached to a licence for any awning etc. to the effect that such structures shall not be used for advertising purposes other than the name of the premises;
- attaching a condition that freestanding structures should be removed when not in use. Such freestanding furniture should be stored within the building when not in use (i.e. outside of trading times) in order to facilitate street cleansing and servicing/deliveries to premises;
- potential litter issues arising from the facilitation of takeaways and outdoor dining and the taking of certain measures, including attaching conditions in this regard to licence applications and increasing the frequency of street cleaning services particularly in temporarily pedestrianised areas;
- giving favourable consideration, as appropriate, to premises on pedestrianised streets and squares, streets with wider footpaths etc. subject to compliance with local policies and standards while also facilitating outdoor dining in other locations as appropriate.

Where a licence is being granted in respect of a public road that is being closed on a temporary basis for summer 2021, the local authority should make the applicant aware of the temporary nature of the road closure and the possibility that the licence may not be granted in subsequent years.

Where any issues arise as a result of the structures placed on a public road, this should be taken into consideration when an application to renew the licence is submitted.

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

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