



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 07/2021

18 August 2021

**Re: Planning and Development Act 2000 (Section 254 – Overground
Telecommunication Cables) Regulations 2021 – S.I. 422 of 2021**

I have been asked by Mr. Peter Burke, T.D., Minister of State for Planning and Local Government to advise that he has signed the above set of Regulations which have immediate effect. Copies of the Regulations are attached for information.

Further to the commitment in the Programme for Government and as part of the renewed efforts being made to facilitate the roll-out of broadband in rural areas, the Department of Housing, Local Government and Heritage (DHLGH), in consultation with the Department of Environment, Climate and Communications (DECC) and the Local Government Management Agency (LGMA), committed to amending the Planning and Development Regulations 2001, as amended (the 2001 Regulations), in order to set a prescribed fee for section 254 licences in respect of the laying of “overground cable which is part of an electronic communications network”.

The purpose of this new flat fee (instead of the previous €25 per 100 metres fee) is to provide necessary certainty to the communications sector on the cost of rolling out overground telecommunications cables at both national and local levels with a view to facilitating the speedier completion of the roll-out of the National Broadband Plan in rural areas, with associated local and community benefits.

The Regulations consist of the Planning and Development Act 2000 (Section 254 – Overground Telecommunication Cables) Regulations 2021. Licences under section 254 of the Planning and Development Act 2000, as amended (the Act) are required for the laying of overground electronic communications infrastructure and any associated physical infrastructure along public roads, in accordance with Section 254(1) of the Act. The new regulations specifically address the section 254 licence application fee payable



to local authorities for "overground cable which is part of an electronic communications network".

In this connection, the Regulations remove 'an overground cable which is part of an electronic communications network' and the associated fee of €25 per 100 metres from Part 1 of Schedule 12 of the 2001 Regulations. A new once-off reduced flat fee is instead inserted into Part 2 of Schedule 12 of the Regulations and is set at €125 per section 254 licence application, irrespective of the length and number of runs of cables identified in a licence application. The fee is applicable to all new overground cables, which are part of an electronic communications network on both new and existing poles and applies to all network operators and individuals who apply for a section 254 licence, as well as to all types of "overground cable which is part of an electronic communications network" such as copper, co-axial and fibre-optic cables.

The new reduced fee is particularly aimed at supporting the rollout of high speed broadband which is a priority commitment in the Programme for Government and is particularly relevant at the current time having regard to the need to meet increased home usage for both work and leisure arising from the impacts of the Covid 19 pandemic, as well as to facilitate the provision of high speed broadband to rural areas into the future.

Consideration of licence applications

When considering a licence for overground cables for the carrying of telecommunications signals, the existing provisions of section 254 of the Act continue to apply, summarised as follows:

- 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 a 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.

Protected structures:

Where a licence application includes an overground cable which is part of an electronic communications network and is proposed to be located on a protected structure, planning authorities are reminded to ensure that the placement of the cable will not materially affect the character of —

(a) the structure, or

(b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

If the placement of the cable were to affect the character of the structure or any element of the structure, the exemption from planning permission is removed in accordance with section 57(1) of the Act. In this scenario, the licence applicant would require planning permission.

Prior to making a licence application, the applicant can submit a request to the planning authority under section 57(2) 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. Planning authorities should expedite any such requests.

Planning Authorities must also consider the potential impact of laying overground cables in Architectural Conservation Areas (ACAs).

Accessibility:

Planning authorities are requested to give consideration at a local level 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.

Therefore, the placement of 'an overground cable which is part of an electronic communications network' should not cause a hazard for road users including pedestrians. This must be taken into account to ensure that public roads remain



accessible for all road users including those that may have physical impairments such as reduced mobility.

Prioritisation of Licence Applications

In further recognition of the Government's priority commitment to ensure swift rollout of broadband throughout the country, planning authorities are requested to prioritise section 254 licence applications for overground cables, and to process these as speedily as possible.

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

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