



To: Directors of Planning Services in each local authority

CC: Chief Executives
Senior Planners
An Bord Pleanála
Office of the Planning Regulator
Directors of Regional Assemblies

Circular Letter: PL 07/2022

7 October 2022

Solar Planning Exemptions

I am directed by Mr. Darragh O'Brien, T.D., Minister for Housing, Local Government and Heritage to advise that he has signed two new sets of regulations entitled the *Planning and Development Act (Exempted Development) (No.3) Regulations 2022* and the *Planning and Development (Solar Safeguarding Zone) Regulations 2022* which have immediate effect. Copies of the Regulations are attached for information.

The two sets of Regulations are linked and combine to amend and extend the existing exemptions for solar installations for a range of classes of development. An overview of the key provisions of each set of Regulations is set out below.

Planning and Development Act (Exempted Development) (No.3) Regulations 2022 (S.I. No. 493 of 2022)

The *Planning and Development Act (Exempted Development) (No.3) Regulations 2022* (S.I. No. 493 of 2022) set out the main amendments to the existing solar planning exemptions contained in the *Planning and Development Regulations 2001* (the Principal Regulations).

These regulations set out the updated conditions and limitations which apply to the various pre-existing classes of development (e.g. houses, industrial, light industrial, business premises and agricultural). Substantial increases to the existing planning exemption



thresholds for solar panels are provided as well as the introduction of two new classes of exempted development.

Planning and Development (Solar Safeguarding Zone) Regulations 2022 (S.I. No. 492 of 2022)

The *Planning and Development (Solar Safeguarding Zone) Regulations 2022* (S.I. No. 492 of 2022) support the Planning and Development Act (Exempted Development) (No.3) Regulations 2022 and set out 43 Solar Safeguarding Zones (SSZs) within which a rooftop limit on solar panels continues to apply. The SSZs are applicable to all classes of development other than houses.

- The SSZs are outlined on maps and by reference to townlands (in county councils) and local electoral divisions (in city councils).
- The SSZs are also available for viewing in greater detail on myplan.ie.

Main changes/ provisions

Among the main changes provided for are as follows:

- The 12sqm/ 50% roof limit which applied to houses has been removed nationwide. There is no rooftop limit on houses, regardless of whether the house is located within or outside of a Solar Safeguarding Zone (SSZ). Houses are now able to erect unlimited rooftop solar panels subject to certain conditions such as minimum distances from the edge of the roof and the general restrictions on exempted development set out in the Planning and Development Act 2000 (the Planning Act) and the Principal Regulations including in respect of protected structures and Architectural Conservation Areas.
- The 50sqm/ 50% roof limit which applied to other specified classes of development has been removed for solar developments that are located outside of an SSZ. Such developments, located outside of an SSZ, are able to erect unlimited rooftop solar panels subject to certain conditions such as minimum distances from the edge of the roof and the general restrictions on exempted development set out in the Planning Act and the Principal Regulations including in respect of protected structures and Architectural Conservation Areas.
 - For solar developments that are located within an SSZ, a 300sqm rooftop limit applies to each rooftop within the curtilage of a site/ holding.
 - Applicants in SSZs may seek planning permission for rooftop proposals larger than 300sqm.



- Safeguards in respect of hazardous glint and glare have been provided for requiring any offending panels to be removed or covered until the issue has been resolved to the satisfaction of the planning authority.
- The regulations add two new classes of exempted development to the Principal Regulations which are subject to the same SSZ conditions as all other existing non-house classes of development, namely:
 1. apartments, and
 2. educational / community / sports / healthcare / religious / library buildings, and gas / electricity / telecommunications / water supplies and wastewater services sites.

Solar Exempted Development and Glint and Glare

The consideration of glint and glare was undertaken in conjunction with the relevant statutory stakeholders (namely the Irish aviation Authority (IAA), Department of Defence and the HSE) in order to provide appropriate safeguards in close proximity to aviation sites. Having regard to the potential glint and glare impact on aviation receptors, the designation of SSZs around airports (5km zone), aerodromes/ military barracks (3km zone), emergency helipads (3km zone) was required.

There are 43 SSZs:

- 10 SSZs with 5km zones (airports)
- 33 SSZs with 3km zones (aerodromes/ military barracks/ hospital helipads).

Safeguards

The Regulations also contain additional safeguards in respect of glint and glare by way of:

- an amendment to article 9 of the Principal Regulations which sets out a general restriction that works are not exempted development if they would endanger public safety by reason of hazardous glint and glare for the operation of airports, aerodromes or aircraft, and
- the addition of a condition in each class of development which provides that “[d]evelopment which causes hazardous glint and/or glare shall not be exempted development and any solar photo-voltaic or solar thermal collector panels which are causing hazardous glint and/or glare shall either be removed or be covered until



such time as a mitigation plan to address the hazardous glint and/or glare is agreed and implemented to the satisfaction of the Planning Authority”.

Notification Requirements

The Regulations also provide by way of condition that solar exempted developments within an SSZ for all classes other than houses must be notified to the planning authority within 4 weeks of the development commencing.

- The notification requirement is not a consenting requirement and does not require any formal planning document to be completed. The requirement may be satisfied by a letter or email to the planning authority outlining the location and scale of development. A response from the planning authority is not required.
- These notifications will be used to obtain an understanding regarding the scale and specific location of solar developments being installed within SSZs and this information may be requested by the Department periodically.

Planning Enforcement

Planning authorities are reminded of their statutory obligations under Part VIII of the Planning Act 2000 and the importance of a proactive approach to planning enforcement generally in this regard. Previous Departmental Circular Letter PL 6/2013 entitled Planning and Development (Planning Enforcement) Policy Directive 2013 refers.

Enforcement procedures should be considered for promptly addressing any concerns expressed about hazardous glint and/or glare which are not adequately mitigated to the satisfaction of the planning authority as required by the person who carried out the development.

Self-generation

The main focus of the review of the pre-existing solar planning exemptions was on facilitating increased self-generation of electricity. However, there are no restrictions on the energy generated from solar installations on a house. Therefore, any excess energy generated by a household may be sold back to the grid.

The exemptions for all classes of development other than houses only apply where the installation relates *primarily* to the provision of electricity or heating for use within the curtilage of the building or site. “Primarily” is defined to mean greater than 50%. The



intention behind this limitation is to ensure that the buildings remain in use and do not change to a commercial energy generating use with the building falling vacant or derelict.

General Restrictions on Planning Exemptions

Planning authorities are reminded that exempted development provisions are subject to restrictions set out in section 4 of the Act. In addition, article 6 and Schedule 2 of the Principal Regulations, which set out certain classes of development which are exempt from planning permission requirements, have specific conditions or limitations which restrict the exemption. These are also subject to any general restrictions on exemptions as set out in article 9 of the Principal Regulations.

Solar Exempted Development, Protected Structures and ACAs

The matter of solar exempted development and the potential impact on protected structures and Architectural Conservation Areas (ACAs) was a primary consideration of the Department in the development of these regulations.

Planning authorities are reminded of the existing provisions contained in sections 57 and 82 of the Act and article 9 of the Principal Regulations which provide that development shall not be exempted development if it would materially affect the character of a protected structure or a building in an Architectural Conservation Area.

In this connection, each class of development now also includes a condition in respect of free-standing panels that provides that “the placing or erection of any free-standing solar photo-voltaic or solar thermal collector installation within an Architectural Conservation Area shall only be exempted development if those works would not materially affect the character of the area”.

In addition to declarations under section 5 and section 57 of the Act, it will be open to any person to seek planning permission for proposed development affecting a protected structure or ACA.

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



Terry Sheridan
Principal
Planning Policy and Legislation

Enclosures:

- Planning and Development Act (Exempted Development) (No.3) Regulations 2022 (S.I. No.493 of 2022)
- Planning and Development (Solar Safeguarding Zone) Regulations 2022 (S.I. No.492 of 2022)