

**Motion on Draft Planning and Development (Amendment) Regulations 2018
before the Joint Oireachtas Committee on Housing, Planning and Local
Government on 23 January 2018**

**Opening Statement by Mr Damien English, T. D., Minister of State at the
Department of Housing, Planning and Local Government**

Cathaoirleach, thank you for affording me the opportunity to present to you and the Committee today these three sets of proposed Planning and Development (Amendment) Regulations 2018.

Exempted Development

Each of the proposed Regulations are aimed at amending provisions in the principal Planning and Development Regulations 2001-2017 concerning development that is exempt from the requirement to obtain planning permission, with each of the proposed Regulations dealing with a specific type of development.

Under the Planning Acts, each House of the Oireachtas is required to approve draft Planning Regulations relating to exempted development by way of positive resolution before they can be made by me, as Minister. The consideration of the draft Regulations by the Committee here today is part of that approval process.

Irish Water

The first set of draft Regulations – the Planning and Development (Amendment) Regulations 2018 – relate to the provision of a number of exemptions for development works undertaken by Irish Water in the provision of water services. This involves the insertion of a dedicated new class of exempted development - Class 58 - in Part 1 of Schedule 2 to the Principal Regulations. These proposed exemptions will permit Irish Water to undertake works relating to its normal day to day operational activities without the need to obtain planning permission from the relevant local planning authority.

Previously and prior to the establishment of Irish Water, the provision of water services and related works was undertaken by local authorities who had broad planning exemptions under which they could operate. As Irish Water has now taken over the water services functions of local authorities and cannot avail of the exemptions available to local authorities, it is appropriate that Irish Water should have similar exemptions to those previously given to local authorities.

These proposed exemptions are also broadly similar to those given to other statutory utility providers such as those involved in the provision of electricity, gas and telecommunications services. I am also proposing amendments to the existing telecommunications services related planning exemptions and I will address these separately in a few moments.

The exemptions proposed will essentially enable Irish Water to undertake development such as the general maintenance, repair and installation of pipes, cables, water mains, typically along public roads, as well as the provision of underground water pumping stations and holding tanks, without the need to obtain planning permission, thereby helping to ensure continuity of water supply for households and businesses and that such water supply is not disrupted to any major extent.

The majority of the proposed exemptions relate to works which would be carried out within the confines of existing water services sites, including the upgrading and maintenance of water structures, the installation of equipment in the event of critical infrastructure failure, and works required to comply with statutory licences issued by the EPA. The proposed exemptions also include other minor works within such water services sites, such as the provision of fencing and telecommunications apparatus or structures for testing water.

I would particularly like to point out that these draft Regulations do not propose to provide blanket exemptions for development works by Irish Water. Any works proposed by Irish Water which are not specifically exempted by these exempted development regulations will still require planning permission in the normal course.

Change of Use

Moving on, the second set of draft Regulations – the Planning and Development (Amendment) (No. 2) Regulations 2018 – propose to provide an exemption for the change of use, and any related works, of certain vacant commercial premises to residential use without the need to obtain planning permission. The draft Regulations propose to amend Article 10 of the Principal Regulations which deals with changes of use.

The draft Regulations propose that the exemption will apply for a temporary limited period from when they come into operation until 31 December 2021, concurrent with the lifetime of Rebuilding Ireland and will apply to commercial buildings which have been lying vacant for at least 2 years. The proposed exemption relates primarily to works to the interior of such buildings but it is proposed that some limited alternations to the exterior of buildings will also be permitted subject to their being in keeping with the building and neighbouring buildings.

It is proposed that a number of restrictions will apply to these exempted development works, including that a maximum of 9 residential units can be provided in any one building, and that certain minimum standards relating to floor areas, storage space and the provision of natural light are met for each unit.

It is important to note that these proposed exemptions relate to planning permission only. Development works to vacant commercial buildings which are being converted to residential use also generally need to comply with the requirements of the Building Control Regulations in respect of fire safety, structural stability, ventilation etc.

In this regard, the relevant Building Control Regulations require a competent qualified professional to be assigned by the owner or developer to firstly be involved in the design of the proposed development works, secondly to oversee the construction phase, and finally to certify that the finished building works are compliant with the requirements of the Building Control Regulations, thereby ensuring that the relevant works meet the necessary safety and standards requirements. In effect, these draft Exempted Development Regulations will not in

any way change the relevant building control requirements which will continue to apply.

I should also mention in passing that the Building Control standards generally relate to new build construction. Recognising the possible need for some dispensations from the Building Control requirements in respect of development works on existing buildings, specifically to better facilitate the conversion of existing vacant commercial buildings for residential use, a Working Group – chaired by my Department - was established in late 2017 to develop new Building Control guidance with a view to providing clarity on what regulatory requirements should be applied in this area and to provide advice on how best to facilitate the re-use or development of under-utilised older buildings for residential purposes.

The Working Group – which includes expertise in building regulations, fire safety, planning, design, and heritage from within and external to the Department - has identified a number of common existing building typologies on which to base its guidance. It is intended that output of the Working Group deliberations in the form of revised guidance will be finalised in the coming months and will supplement the exempted development planning regulations we are discussing here today.

The background to these draft Regulations is the commitment in Action 5.9 of Rebuilding Ireland to bring forward proposals to allow the change of use of vacant commercial units in urban areas, including vacant or underutilised areas over ground floor premises, into residential use without having to go through the planning process, and thereby help in the rejuvenation of inner urban areas which have been particularly adversely affected by the recent economic downturn. This proposal is also incorporated in Action 6 of the Action Plan for Rural Development. I know this proposal is of particular interest to Committee members and having regard to the circumstances outlined, I would hope that they will support its approval which as I have indicated has a sunset clause of end 2021.

Telecommunications/Broadband

The third set of draft Regulations – the Planning and Development (Amendment) (No. 3) Regulations 2018 - propose to amend specific elements of the existing

exempted development provisions in Class 31 of the Principal Regulations relating to certain works undertaken by statutory undertakers authorised to provide a telecommunications service.

These draft Regulations are primarily aimed at accommodating the use of updated technological developments in the sector. As such they are more technical in nature with amendments that include minor changes to the permitted height of poles or other support structures carrying overhead lines, the number and size of dishes and antennae that can be permitted on such structures, facilitating a greater number of antenna to be permitted on larger structures, and the inclusion of a specific new exemption for the deployment of small cell antenna, including on smaller structures in urban areas.

It is intended that these amendments will assist in the accelerated roll-out of the National Broadband Plan and support the provision of enhanced mobile phone services, particularly in remote areas, as envisaged in the Action Plan for Rural Development.

Conclusion

To conclude Chair, I commend these three sets of draft Regulations to the Committee. They are each very important in their own right and I believe have the potential to have a real and positive impact on people's lives. They will support Irish Water in the efficient delivery of the water service; they will facilitate the re-use of the many vacant buildings in our cities and towns for housing purposes and in turn revitalise our urban centres, and they will assist in the accelerated roll-out of broadband and mobile services generally.

I look forward to what I know will be an engaging discussion with the Committee this morning and I will endeavour to answer any questions that Committee members may have.

Finally Chair, if these draft Regulations are approved by positive resolution of both Houses of the Oireachtas, they will come into force as soon as they are signed by

me, as Minister. In this regard, it would be my intention to sign the regulations into law at the earliest possible date.

Thank you for your attention.