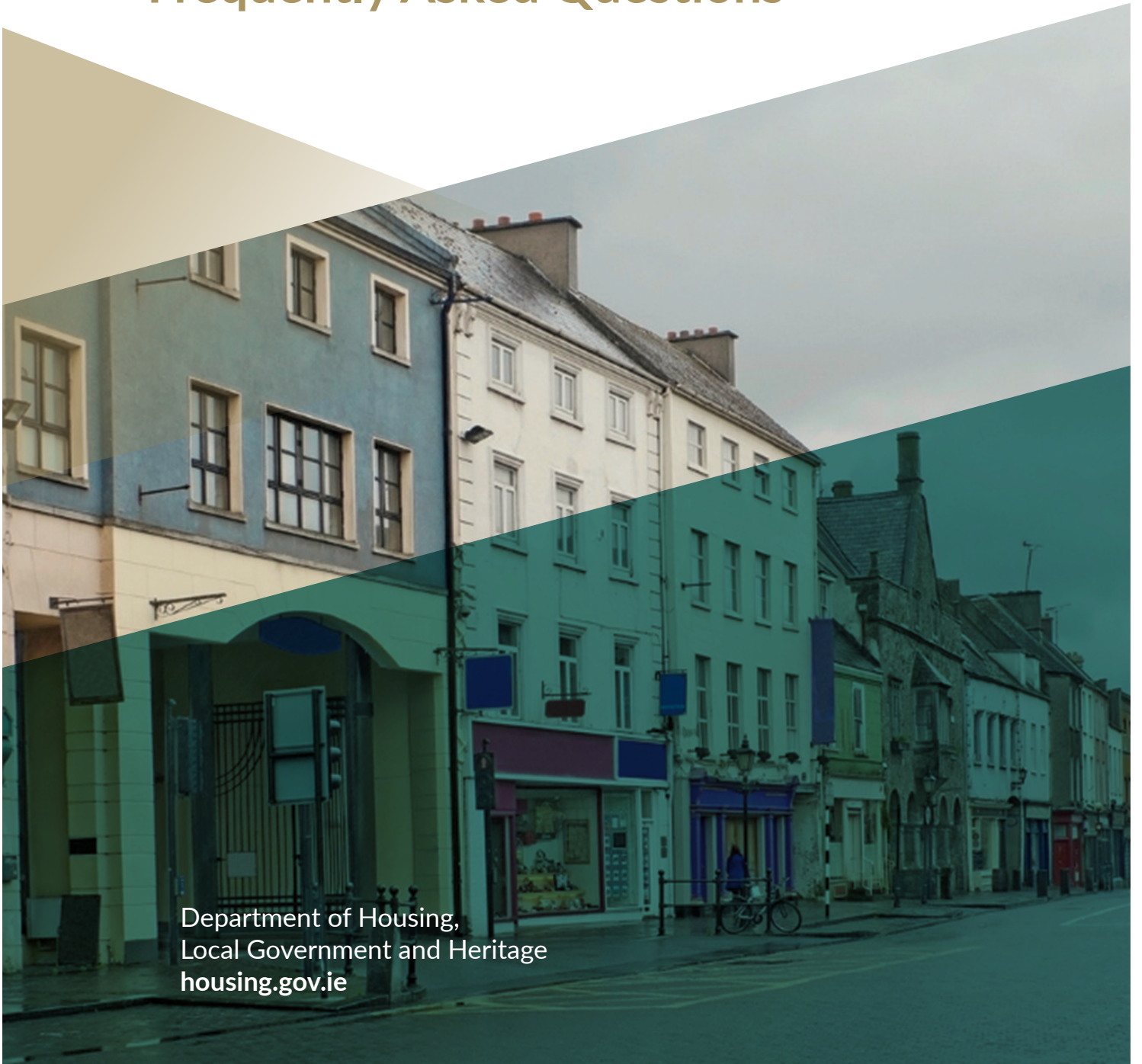




Rialtas na hÉireann
Government of Ireland

Bringing Back Homes

Manual for the reuse of
existing buildings (2nd edition)
Frequently Asked Questions



Department of Housing,
Local Government and Heritage
housing.gov.ie

This document accompanies *Bringing Back Homes – Manual for the reuse of existing buildings* (2nd edition). The document provides answers to frequently asked questions concerning:

The Planning System (FAQs 1–23)	4
Exempted Development Regulations, 2022 (FAQs 24–33)	9
Historic Buildings (FAQs 34–42)	11
The Building Control System (FAQs 43–70)	14
Fire Services Acts (FAQ 71)	24
The European Union (In-Building Physical Infrastructure for High-Speed Electronic Communications) Regulations 2022 (FAQ 72)	25

The Planning System

1. When do I need planning permission?

Generally, you need planning permission for any development of land or property unless the development is specifically exempted from this need. Development includes the carrying out of works (building, demolition, alteration) on land or buildings and the making of material (i.e. significant) changes of use of land or buildings.

2. What is exempted development?

Exempted development is development for which planning permission is not required. Categories of exempted development are set out in planning law. There are usually certain thresholds relating, for example, to size or height. Where these thresholds are exceeded, the exemptions no longer apply. The purpose of exemption is to avoid controls on developments of a minor nature.

3. Are there different types of permission?

Yes. There are two types of planning permission. An application may be made for either of the following:

- Permission, or
- Outline permission

The most common type of application made is for permission, sometimes referred to as full permission. There are some circumstances, however, in which you might wish instead to make an application for outline permission. For example, you may want to see whether the planning authority agrees with your proposal in principle before you go to the trouble of making detailed plans.

If you obtain outline permission, you must obtain full permission before starting work. In most cases, a subsequent application for

permission must be made within 3 years of the date of grant of outline permission. However, outline permission cannot be sought for retention of a structure, of works to a protected structure or a proposed protected structure or of developments which require an environmental impact assessment, an integrated pollution control licence or a waste licence.

4. Where do I get planning permission?

Applications for planning permission should be made to the planning authority for your area, i.e. your local County or City Council.

5. How much will this cost?

A fee is payable with an application for planning permission. Fees for the different classes of

development are available with the application form. You must pay the correct fee when you submit your application. If the correct fee is not paid, the planning application will be returned to you. Voluntary organisations may qualify for an exemption from the fee.

6. How long will it take to get planning permission?

This will be affected by the completeness of the application and by whether there is an appeal or not. Generally, a valid application will be dealt with by a planning authority within a period of 12 weeks from the date when the application was made. However, the period can vary, particularly if the planning authority seeks further information from the applicant (which it should do within the first 8 weeks). From the date when the further information is received, the planning authority has 4 weeks to make a decision on the application. The following table illustrates the timescale involved in most cases

Timescale	Action
Start	Notice published in newspaper and site notice erected.
2 weeks later	Latest date for lodging application.
Between 2 weeks and 5 weeks	Application is validated by the planning authority. Submissions or objections are considered.
Between 5 and 8 weeks	Planning authority issue notice of their decision on the application. (Alternatively, they may request further information.)
4 weeks after issue of notice	If no appeal is made, the planning authority will issue grant of decision, permission, or outline permission – except where they have already indicated a decision to refuse.
NOTE: An appeal may take longer to decide than an application would do. However, An Bord Pleanála has an objective to decide appeals within 18 weeks from receipt of an appeal.	

7. Can I consult the planning authority in advance?

You do not have to consult the planning authority before making a planning application, but it is often advisable to do so where you are unsure of local planning policies, how to apply, etc.

8. Where can I find out about local planning policies?

The development policies and objectives of the planning authority are set out in the local development plan. You can view the plan at any time during office hours at the planning authority offices and local libraries or the Council's website.

9. How do I make a planning application?

Forms and information are available from the planning authority.

10. I have lodged a valid planning application. Now what?

Your application will be acknowledged and placed on the planning register in the planning authority offices, and made available for public inspection. It will also be included on the lists of planning applications displayed in council offices, public libraries and circulated to certain interest groups. The lists may also be available on the planning authority's website.

11. What if my application is incomplete?

An application will be deemed invalid and will be returned, along with any fee paid, if it:

- Lacks any of the required documents;
- Lacks the appropriate fee
- Is inadequate in any other respect (e.g., if it does not meet the statutory requirements for public notice of your application)

12. Can other people comment on my application?

Yes. Any person can see a copy of your application and – on payment of the appropriate fee – make written submissions or observations to the planning authority on any planning aspect of the application. Any submissions and observations received must be considered by the planning authority when determining your application.

13. How is the decision made?

In making the decision, the planning authority takes a number of matters into account, including:

- The proper planning and sustainable development of the area (e.g. appropriate land use [zoning], road safety, development density, size, location, adherence to established planning and development practices)
- The planning authority's own development plan
- Government policy
- The provision of a Special Amenity Area Order
- Any European site (e.g. Special Areas of Conservation, Special Protection Areas)
- Submissions and observations made by members of the public on the application

In making the decision, the planning authority may not take non-planning issues – e.g. boundary or other disputes – into account, because it may be more appropriate to resolve these issues through legal means, etc.

14. How will I know that permission has been granted or refused?

The decision to grant permission, with or without conditions, will be notified to you, and to anyone who commented on the application. What you will receive in this event is a notice of intention to grant permission.

During a period of 4 weeks beginning from the date when this decision was made, you or anyone else who has made a submission or observation on the application and has paid the appropriate fee may appeal it to An Bord Pleanála. Where there is no appeal, the planning authority will formally give you the grant of permission at the end of the appeal period. You must not commence work until you receive this notification. If the decision is appealed, you will receive from An Bord Pleanála either notification stating that permission has been granted – with or without whatever conditions the Board considers appropriate – or notification that it has been refused.

Where the planning authority decides to refuse your application, its reasons will be included in the notification sent to you. The same period for appeal (4 weeks) will apply.

15. Can conditions be attached to my permission?

Planning permission may be subject to certain conditions, which will be listed on the decision.

These may require changes to your proposal (e.g. new arrangements for the disposal of surface water, revised height/colour/material for boundary walls, improved landscaping of the site).

You may also be required to make a contribution to the local authority for services. These contributions differ from place to place and for different types of development. You must comply with all of the conditions attached to the permission and finish work in accordance with them. Even if you have more than one permission for a site, you cannot simply pick and choose the conditions that suit you best.

16. How long does permission last?

The standard duration for planning permission (permission or outline permission) is generally five years from the date when the permission was granted by the planning authority or An Bord Pleanála. In certain circumstances, the planning authority may extend the life of a planning permission.

If a planning permission expires and you apply for a new permission for the same development, the planning authority may refuse permission or attach significantly different conditions. This can happen if planning policies or the requirements for the proper planning and sustainable development of the area have changed in the interim.

17. Can I get copies of documents relating to a planning application?

Yes. Planning authorities are required to provide, on request, copies of any part of a planning application file at a fee not exceeding the reasonable cost of making a copy. This includes plans or other drawings or photographs. Most planning authorities also display documents on their website.

18. Who enforces planning decisions?

This is the responsibility of the planning authority, which has wide enforcement powers to ensure that development is carried out in conformity with planning permission, and to halt and rectify unauthorised development. Any legal action must, however, be initiated within 7 years of the breach of the planning laws taking place. Care should be taken to ensure that each condition of a permission is fully complied with in order to avoid incurring such action, and also to avoid difficulties when the property is being sold at a later date (see FAQ 21 below).

19. How can I stop unauthorised development?

If you think that somebody is developing or using land without, or contrary to, a planning permission, you should – in writing – contact the planning authority, which will issue a warning letter to the person carrying out the development. The planning authority will investigate the matter to determine if an enforcement notice should issue. Any person may apply in either the Circuit or the High Courts for an order restraining unauthorised development or use of land, or requiring compliance with a planning permission. Depending on the circumstances, court orders can be obtained at extremely short notice. The Courts will ensure compliance with any order made.

20. Are there penalties for breaches of planning law?

Yes. It is an offence to undertake without permission any work that requires a permission. Planning authorities have powers to stop unauthorised development, and this can be a costly experience for the offender. You may be required to rectify any unauthorised works and will have to pay whatever costs are involved. On conviction in the District Court, offenders may incur fines of up to €5,000, with additional fines of up to €1,500 per day for continuing offences, or they may be sentenced to a term of imprisonment of 6 months. On conviction in the Higher Courts, the maximum fine is €12,700,000 (€12,700 per day for continuing offences) and up to 2 years imprisonment – or both.

21. Can I rectify a planning error?

Genuine mistakes can be made about the need for planning permission. If you have undertaken unauthorised development, you may apply for permission to retain it. This approach should not be relied upon in order to avoid seeking planning permission before starting work, however, because you may not be granted permission for retention and may be required to carry out costly modifications. Furthermore, the fee for a retention-permission application is three times the fee for a planning-permission application made before development starts. Permission for retention does not automatically absolve you from prosecution if enforcement action has already been taken against you. If you are buying property, check that the building itself and any extensions or alterations to it have proper planning permission or are exempt from planning permission, since you, as the new owner, may be liable to enforcement action.

22. Do I need any other type of permission?

Possession of a planning permission will not on its own be sufficient to permit you to carry out your proposed development. You may also need other approvals, depending on the type of development. For example, all new buildings, extensions and alterations and certain changes of use of existing buildings must comply with building regulations, which set out basic design and construction requirements. Developments other than a house will probably require a fire safety certificate under the regulations.

23. Where can I get further information?

The Department of Housing, Local Government and Heritage has published a series of information leaflets which may be accessed on the Department's website at: <https://www.gov.ie/en/collection/8ef95-planning-leaflets/>. Alternatively, contact your local authority.

Planning and Development Act (Exempted Development) Regulations, 2022 (S.I. No. 75 of 2022)

24. What is the background to the Regulations?

Action 20.3 in Housing For All commits to reviewing and extending to 2025 the exemption given by the exemption given by the Exempted Development Regulations 2018 (S.I. 30 of 2018) that allow the change of use of vacant commercial units in urban areas – including vacant or under-utilised areas over ground-floor premises – so that they can be used as residential units without having to go through the planning process. This proposal is also incorporated in Action 22 of the Town Centre First Policy.

The Regulations amend Article 10 of the Principal Regulations to allow the change of use of certain vacant commercial premises into residential use without the need to obtain planning permission.

25. What will the exemptions achieve?

The exemption aims to maximise the use of existing resources by facilitating the change of use of certain types of vacant buildings to bring them back into productive use as homes. This will have the dual benefit of facilitating the bringing on stream of urgently needed housing supply in high demand areas while simultaneously breathing new life into inner-core urban areas, many of which have been adversely affected by the economic downturn.

26. What is the relevant time period of the Exempted Development Regulations?

Subject to conditions and limitations, the Regulations will apply for a limited period (8 February 2018 – 31 December 2025). The sunset clause of the Regulations aims to encourage the uptake of the exemption.

27. What standards apply to the residential units being delivered?

The Exemption Regulations set out some minimum standards that must apply to any residential units being provided. These minimum standards cover such matters as minimum floor areas, storage space and the provision of natural light. It is important to note that these 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 Regulations and Building Control Regulations.

28. Why does the planning authority need to be notified before works commence?

The notification provision has a threefold purpose:

- To ensure that planning authorities are informed and aware of change of uses occurring and the delivery of residential units in their functional area
- To monitor the effectiveness of the exemption, as indicated by its uptake
- To facilitate the collation of important information in relation to the number and type of additional housing units being provided in this way

29. What is the purpose and meaning of the notification process?

This is purely a notification process. It is not a consent process. The developer is merely notifying the planning authority that they will commence works under the Regulations on a certain date. As with all exempted development, developers must assure themselves that the works fall under these Regulations. By receiving/accepting notification, the planning authority will not be confirming whether the work can or cannot be carried out.

30. What kind of general restrictions normally apply to exemptions (Article 9 provisions)?

Article 9 of the Regulations places certain restrictions on exempted development under Article 6. These restrictions outline a number of forms of development that would not be considered exempted development, e.g. unauthorised structures; works to archaeological sites or natural heritage areas; and works that would require an Environmental Impact Assessment.

Also under Article 9, development cannot contravene a condition attached to permission under the Act or be inconsistent with any use specified or included in such permission. It is a basic premise of any exempted development that an exemption cannot overrule a condition of planning permission.

31. What benefit will the exemptions have for developers?

It is intended that the exemptions provided will be attractive to developers for a number of reasons. Firstly, they remove the need to obtain planning permission and the associated costs of preparing and submitting a planning application. Secondly, as there is no planning application, then no development contributions will apply to the proposed development. Therefore, there is a reduced administrative burden, with positive impacts on project timeframes and on costs associated with the development.

32. Are these exemptions only for cities and large towns?

The Regulations are not location specific and may therefore be applied in both urban and rural areas. The change of use and associated works must meet the provisions and criteria as set out in the Regulations. The properties in question must, for example have been vacant for two years and be in use for a particular class of use, and the works to be carried out on them must primarily relate to the interior of the building.

33. What if there is uncertainty in relation to the application of the exemption?

Those proposing to undertake works under the Regulations should review the provisions in detail and seek any professional advice that may be required. It is open to any person to request from a planning authority a declaration under section 5 of the Act on the question of whether a development is, or is not, exempted development. The declaration must be issued within four weeks and may be referred to An Bord Pleanála for review.

Historic Buildings

34. What is a protected structure?

A protected structure is a structure, or a specified part of a structure, that is of special architectural, historical, archaeological, artistic, cultural, scientific, technical or social interest and which is included in the record of protected structures of the planning authority. By definition, the protection extends to the interior of the building, to the land lying within its curtilage, to any other structures within that curtilage and their interiors and to all fixtures and features of these structures. Where specified in the record of protected structures, the protection can also include any feature within the attendant grounds of the protected structure.

35. How do I find out if my building is a protected structure?

When a building is first proposed for protection, the owner and occupiers are notified by the planning authority. Subsequent owners and occupiers will not have been notified, however, and should consult the relevant planning authority's record of protected structures. Every planning authority has a record of protected structures as part of its development plan. This can be accessed in the offices of the planning authority or on the planning authority's website.

36. How do I know what type of works to a protected structure will need planning permission?

Any works which would materially affect the character of a protected structure must have planning permission. An owner or occupier of a protected structure may request the relevant planning authority to issue a declaration under Section 57 of the Planning and Development Act 2000 regarding the structure. This will indicate the types of works that can and cannot be carried out without affecting the character of the protected structure or any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest. In order to provide a declaration, it will be necessary for an official of the authority to carry out a detailed inspection of the structure. A planning authority is required to issue such a declaration within 12 weeks of receiving a request.

An owner or occupier may request a Section 57 declaration from the planning authority at any time, even where no works are contemplated. Alternatively, anyone can request a planning authority to issue a declaration under section 5 of the Act as to whether particular works are, or are not, exempted development.

A Section 57 declaration cannot exempt works that would not otherwise be exempt from a requirement for planning permission.

37. How do I apply for planning permission to carry out works to a protected structure?

A planning application involving a protected structure is generally made in the same way as any other planning application. However, because of the sensitivity of most protected structures to inappropriate works, more detail will generally be required in a planning application for works to a protected structure. The relevant newspaper and site notice for the planning application must indicate that the application relates to a protected structure. Photographs and other additional information on how the proposed development would affect the character of the structure must be included with the application. Before making a decision on the application, the planning authority must notify a number of bodies, including the Minister for Housing, Local Government and Heritage; the Heritage Council; the Arts Council; Fáilte Ireland; and An Taisce.

It may be advisable to check with your planning authority in advance of applying for permission for development to make sure that your application is complete.

38. Can I build an extension to a protected structure?

Most historic buildings are capable of sustaining change, including extensions and additions. Extensions should not damage the character and special interest of protected structures or of an architectural conservation area. Extensions should not adversely affect principal elevations of the buildings (including other principal elevations as well as the façade). They should be sympathetic to the historic building and should not dominate in terms of materials, scale and form. Their design and materials should be of good quality.

39. Does protection apply to works to the interior of the protected structure?

Yes, if a building is a protected structure, this automatically means that its interior is protected. Planning permission will be required for works that materially affect the character of the building, even if the works are being carried out to comply with other legislative requirements, such as fire safety or building regulations. Generally works to the interior of a building in an architectural conservation area are exempted development, unless the building is also a protected structure.

40. What is an Architectural Conservation Area?

An architectural conservation area is a place, area, group of structures or townscape which is of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest in its own right, or which contributes to the appreciation of protected structures. This could include, for example, a terrace of houses, buildings surrounding a square or any group of buildings which together give a special character to an area.

A planning authority may designate an area as an architectural conservation area in its development plan to ensure that the character of the area is preserved and may also publish a separate written statement on its policies for the area which it may be advisable to check when considering works. An architectural conservation area could also include protected structures.

41. What must I do if my building is in an architectural conservation area?

Planning permission would normally be required before works can be carried out to the exterior of a structure in an architectural conservation area. A planning application involving a structure in an architectural conservation area is generally made in the same way as any other planning application. Additional information on how the proposed

development would affect the character of that area should be submitted with the application. Before making a decision on the application, the planning authority must notify other bodies, including the Minister for Housing, Local Government and Heritage, the Heritage Council, the Arts Council, Fáilte Ireland and An Taisce.

To make sure that your application is complete, it may be advisable to check with your planning authority before applying for permission to develop.

42. Where can I get advice and further information?

For projects involving works to a historic building, it is important to have expert advice from the outset. This should ideally be provided by a registered building professional such as an architect, structural engineer or building surveyor.

- The Royal Institute of the Architects of Ireland has an accreditation system for architects trained in building conservation. See <https://www.riai.ie/work-with-an-architect/conservation-skills>
- The Society of Chartered Surveyors Ireland accredits building surveyors in building conservation. See <https://scsi.ie/building-conservation-accreditation/>
- Engineers Ireland has a conservation accreditation scheme for structural engineers. See <https://www.engineersireland.ie/Professionals/Communities-Groups/Engineering-Divisions/Structures-and-construction/Conservation-Accreditation-Register-for-Engineers>
- The Construction Industry Federation has a Register of Heritage Contractors. See www.heritageregistration.ie

- The architectural conservation officer in the local authority can provide general advice and may have information on appropriately qualified and experienced conservation professionals in the area.

The National Built Heritage Service of the Department of Housing, Local Government and Heritage has published guidelines on planning issues relating to architectural heritage in *Architectural Heritage Protection Guidelines for Planning Authorities* (2011).

This publication sets out the statutory guidelines to which a planning authority must have regard when considering development objectives. These guidelines are available to download from the Department's website: <https://www.gov.ie/en/publication/0937a-architectural-heritage-protection-guidelines-for-planning-authorities/>

The Department also publishes the Advice Series, a series of booklets that provide owners and custodians of historic buildings with guidance on how best to repair, maintain and adapt their properties. These are available through any bookshop, or they can be downloaded at: <https://www.buildingsofireland.ie/resources/>

Any work carried out to improve the energy efficiency of historic, or traditional buildings requires a different approach in terms of materials and insulation regardless of any statutory protection that may apply. Further detailed guidance is set out in *Improving Energy Efficiency in Traditional Buildings: guidance for specifiers and installers* (2023) published by the Department. This can be downloaded from: <https://www.gov.ie/en/publication/18cb9-improving-energy-efficiency-in-traditional-buildings-guidance-for-specifiers-and-installers-2023/>

Further information on an individual building may be available on the website of the National Inventory of Architectural Heritage: www.buildingsofireland.ie.

Building Control System

43. What are the Building Regulations?

Building Regulations are a set of legal requirements for the design and construction of new buildings, extensions and for material alterations to and certain changes of use of existing buildings. Building Regulations primarily provide for, in relation to buildings, the health, safety and welfare of people; for conservation of fuel and energy; and for access for people with disabilities.

44. How many parts of the Building Regulations are there?

As set out above, the Building Regulations 1997–2024 comprise 12 parts, each of which is accompanied by a Technical Guidance Document (commonly referred to as a 'TGD') which addresses a specific area of construction works, vis-à-vis:

- Part A – Structure
- Part B - Fire Safety (Two TGDs are in place for Part B – one for dwelling houses and another for other buildings)
- Part C - Site Preparation and Resistance to Moisture
- Part D - Materials and Workmanship
- Part E – Sound
- Part F – Ventilation
- Part G – Hygiene
- Part H - Drainage and Waste Water Disposal
- Part J - Heat Producing Appliances
- Part K - Stairways, Ladders, Ramps and Guards
- Part L - Conservation of Fuel and Energy (Two TGDs are in place for Part L – one for dwellings and another for buildings other than dwellings)
- Part M - Access and Use

45. What is a Technical Guidance Document?

The Technical Guidance Documents (Parts A – M respectively) provide technical guidance on how to comply with the Building Regulations in practical terms. Where works are carried out in accordance with the relevant technical guidance, such works are considered to be, prima facie, in compliance with the relevant regulation(s).

Technical Guidance Documents are free to view on or to download from the website of the Department of Housing, Local Government and Heritage at: <http://www.housing.gov.ie/housing/building-standards/tgd-part-d-materialsandworkmanship/Technical-guidance-documents>

46. Who has responsibility for compliance with the Building Regulations?

The primary responsibility for compliance with the requirements of the Building Regulations rests with the designers, builders and owners of buildings. Interpretation of the legislation is, ultimately, a matter for the Courts. Implementation of the Building Control system is a matter for the local Building Control Authority.

47. What are the Building Control Regulations?

Building Control Regulations apply generally to new buildings and to existing buildings which undergo an extension, a material alteration or a material change of use. The Building Control Regulations require owners, builders, and registered construction professionals to demonstrate through building control processes that the works or building concerned have been designed and constructed in compliance with Building Regulations.

48. What is a Commencement Notice?

A Commencement Notice is a notification to a Building Control Authority that a person intends to carry out works or to make a material change of use to a building to which the Building Regulations apply. The notice must be given to the authority not more than 28 days and not less than 14 days before the commencement of works or the change of use. Once validated by the building control authority, works must commence on site between day 14 and day 28. To lodge a Commencement Notice, log in to <https://www.nbco.localgov.ie/>.

49. Which renovation works trigger the major renovation requirement?

Table 6 of TGD L Conservation of Fuel and Energy Dwellings describes the areas affected by works that should be included when calculating the percentage of the surface of the dwelling undergoing renovation. The surface area of the dwelling thermal envelope means the entire surface area of a dwelling through which it can lose heat to the external environment or the ground, including all heat loss areas of walls, windows, floors and roof. Appendix F of TGD L provides examples on how to calculate the percentage of renovation surface area for typical dwellings. <https://www.gov.ie/en/publication/d82ea-technical-guidance-document-l-conservation-of-fuel-and-energy-dwellings/>

For buildings other than dwellings Paragraph 2.3.2 of TGD L 2022 for Buildings other than Dwellings provides works to the surface area of the building which should be included when calculating the proportion of surface area undergoing renovation. (<https://www.gov.ie/en/publication/80125-technical-guidance-document-l-conservation-of-fuel-and-energy-buildings-other-than-dwellings/>)

50. What happens if I do not start work within the statutory notice period of the Commencement Notice?

If the works do not start within 28 days of the date of lodgement of the Commencement Notice, you must submit a new Commencement Notice prior to the commencement of any works taking place.

51. What happens if I don't submit my Commencement Notice?

Failure to submit a Commencement Notice is an offence and may have serious consequences which cannot be regularised at a later date. For works subject to S.I. No. 9 of 2014, you will be unable to submit a Certificate of Compliance on Completion, and your building will not be recorded on the public register. This may affect your ability to lease or sell the building if you cannot prove that the statutory requirements relevant to the property have been met. It is an offence to occupy a building without a Certificate of Compliance on Completion.

52. Do all developments require a Commencement Notice?

Commencement Notices are required for the following:

- The erection of a building
- A material alteration or extension of a building
- A material change of use of a building
- Works in connection with the material alteration (excluding minor works) of a shop, office or industrial building

A Commencement Notice is not required:

- For works or a change of use which are exempted development under the planning code (1963 -1993), and for which a Fire Safety Certificate is not required
- Where a 7 Day Notice has been submitted

For further information, refer to the flowchart on following page to establish if a Commencement Notice is Required.

53. What is the fee for a Commencement Notice?

The fee for a Commencement Notice is €30. Where the Commencement Notice relates to multiple buildings, the fee is €30 in respect of each building.

Flowchart to establish if a Commencement Notice is required

DOES THE PROJECT INVOLVE: S.I. No. 496 of 1997 Art 7 (1)

(a) an erection of a building,

(b) the material alteration of a building, or the extension of a building

(c) the material change of use of a building to which the Building Regulations apply.

Material Alteration means an alteration, (other than a repair or renewal) where the work or any part of the work, carried out by itself would be the subject to a requirement of Part A or B of the Second Schedule.

Material Change of Use: is a change of use, deemed by Section 3(3) of the Act to be a material change of use, takes place, or a building which was not being used as a i) a day care centre, becomes so used, or ii) a hotel, hostel or guest building, becomes so used, or iii) an industrial building becomes so used, or iv) an Institutional building (care facility building) becomes so used, or v) an office (which is not ancillary to the primary use of the building) becomes so used, or vi) place of assembly becomes so used, or vii) a shop (which is not ancillary to the primary use of the building), becomes so used, or viii) a shopping centre, becomes so used.

Building: includes part of a building and any class or classes of structure which are prescribed by the Minister to be a building for the purposes of the Building Control Act.

Exemptions from Building Regulations: works in connection with a building referred to in the 3rd schedule to the Building Regulations, provided that after the works are carried out, such building is or continues to be a building referred to in that schedule, or a building referred to in the 3rd schedule to the Building Regulations. See 3rd schedule for detail - abbreviated version in table below.

See Third Schedule to regulation for full description, conditions and limitations of classes	Class 3: A single storey extension to an existing dwelling which is ancillary to the dwelling and consists of a conservatory, porch, car port or covered area.	Class 6: A building erected in connection with any mine or quarry other than a house or a building used as offices, labs or showrooms.	Class 9: Used to be ESB buildings but entire class deleted since Sept 2006 (S.I. No. 115 of 2006)	Class 12: A temporary building which is used only in connection, alteration, extension or repair of any work.
Class 1: A single storey building used as a garage (detached, <25m ² , height <3 or 4m for pitched roof)	Class 4: A single storey agricultural glasshouse (not being a building in Class 2)	Class 7: A building the construction of which is subject to the Explosives Act 1875.	Class 10: A temporary dwelling as in the Local Government (sanitary services) Act, 1948 (No.3 of 1948)	Class 13: A building of a temporary nature erected on a site for ≤ 28 consecutive days or 60 days in a 12 month period.
Class 2: A single storey building ancillary to a dwelling (such as a summer house, poultry house, conservatory, shed)	Class 5: A single storey building which is used exclusively for storage of materials, accommodation of plant or in connection with livestock.	Class 8: A building subject to the National Monuments Acts 1930-1994	Class 11: A temporary building used only in connection with the sale or letting of buildings or building plots in course of development.	Class 14: A lighthouse or similar structure which is an aid to navigation on water.

NO

No
Commencement
Notice

YES

DO ANY OF THE FOLLOWING EXEMPTIONS APPLY? S.I. No. 496 of 1997 Art 6

(a) (Deleted by S.I. No. 365 of 2015)

(b) works in connection with

- i. a Garda station or other building used for the purposes of or in connection with the operations of An Garda Síochána
- ii. a courthouse,
- iii. a barrack or other building used for the purposes of or in connection with the operations of the Defence forces.
- iv. an office or other building used for the purposes of or in connection with the business of Uachtarán na h-Éireann, Dáil Éireann, Seanad Éireann, the Department of the Taoiseach, the Office of the Tánaiste, the Department of Defence, the Department of Foreign Affairs, the Department of Justice, Equality and Law Reform, the Office of the Attorney General, the Chief State Solicitor's Office and the Office of the Director of Public Prosecutions, (provided that after the works the building is or continues to be a building referred to in sub-paragraphs (i) to (iv))

(c) works, or a building as regards which a material change of use takes place, where the works are carried out or the material change of use is made, for reasons of national security -

- i. within, or bounding, the curtilage of any building (other than a building referred to in paragraph (b)), premises or other installation occupied by, or under the control of, a State Authority,
- ii. by or on behalf of a State authority, within, or bounding, the curtilage of the residence of a holder, or former holder, of a public office or any other public servant or former public servant.

(d) a building referred to in paragraph (b)

YES

No Commencement Notice

NO

Continued overleaf

NO

IS A FIRE SAFETY CERTIFICATE REQUIRED? i.e. is it? S.I. No. 496 of 1997 Art 7 & 11

(a) a new building

(b) a material alteration of

- i. a day centre,
- ii. a building containing a flat,
- iii. a hotel, hostel or guest building, or
- iv. a care facility building, or
- v. a place of assembly, or
- vi. a shopping centre but excluding works to such buildings, consisting solely of minor works

(c) material alteration of a shop, office or industrial building where -

- vii. additional floor area is being provided within the existing building, or
- viii. the building is being subdivided into a number of units of separate occupancy

(d) extension of a building by more than 25m²

(e) a material change of use

Exemptions from a Fire Safety Certificate

(a) a single storey building which -

- i. is used exclusively for storage of materials or products, for the accommodation of plant or machinery or in conjunction with the housing care or management of livestock,
- ii. is used solely for the purpose of agricultural, and
- iii. is a building in which the only persons habitually employed are engaged solely in the care, supervision, regulation, maintenance, storage or removal of the materials, products, plants or machinery or livestock in the building

(b) a building used as a dwelling other than a flat,

(c) a single storey building used as a domestic garage,

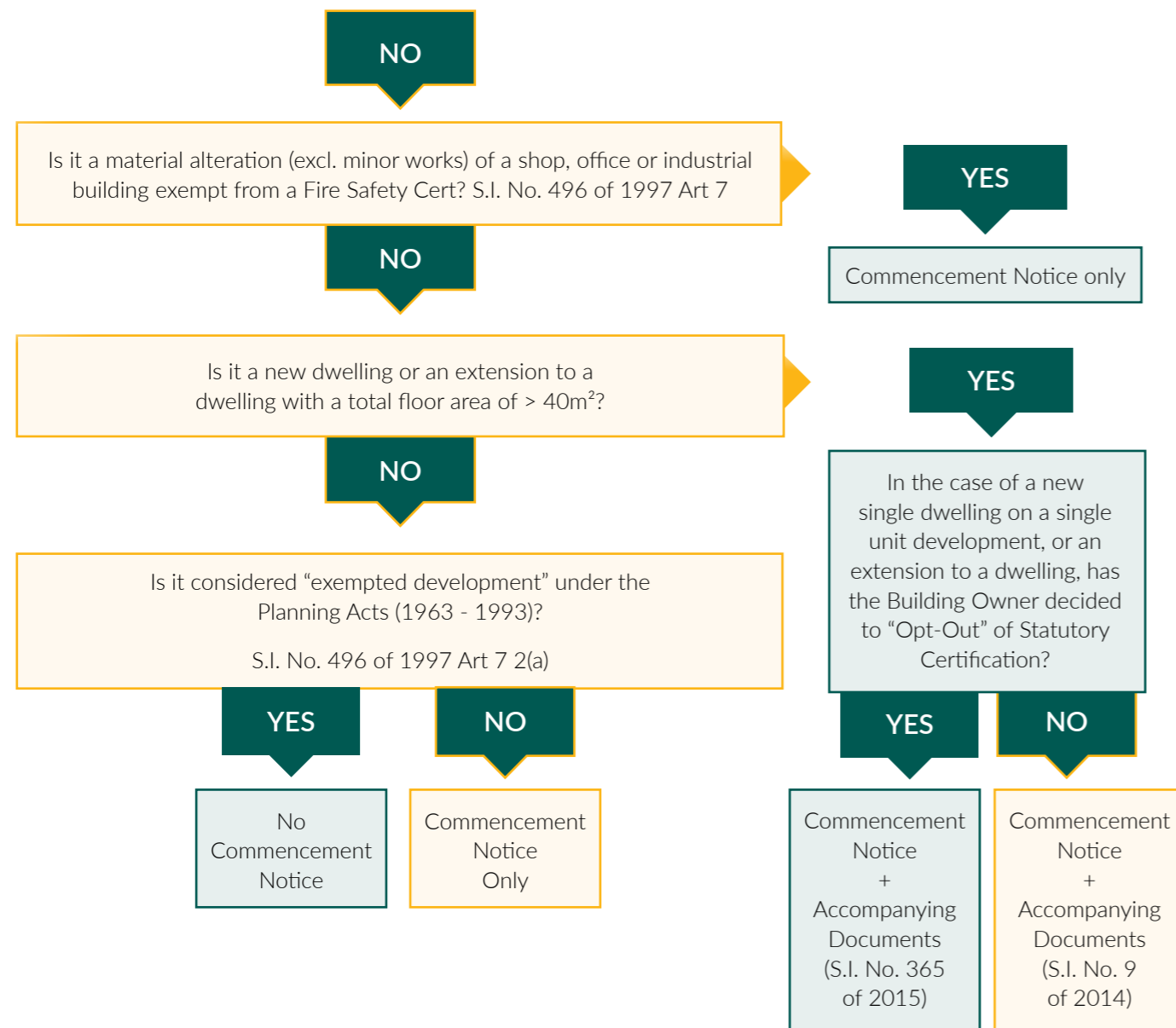
(d) a single story building (other than one described in (c) ancillary to a dwelling (such as a summer house, poultry-house, aviary, conservatory, coal shed, garden tool shed or bicycle shed) which is used exclusively for recreational or storage purposes or the keeping of plants, birds or animals for domestic purposes and is not for the purpose of any trade or business or for human habitation.

YES

Commencement (or 7 Day Notice) + Accompanying Documents (S.I. No. 9 of 2014)

NO

Continued overleaf



54. Can I submit my Commencement Notice online?

Yes. To lodge a Commencement Notice, log in to the Building Control Management System (BCMS) at <https://www.nbco.localgov.ie/>.

Plans, specifications, particulars, and the preliminary inspection plan can be uploaded to the BCMS. In addition, the online assessment of the proposed approach to compliance with the Building Regulations is also completed through the BCMS. The BCMS allows building owners to nominate an Assigned Certifier, and a Builder for the development works. The BCMS facilitates the Owner, Design Certifier, Assigned Certifier, and the Builder to fill out the required Notices and Certificates online. To fill in or sign their respective parts, each party must be registered with the BCMS.

55. What is a 7 Day Notice?

A 7 day notice is similar to a Commencement Notice and may be used for works, which require a Fire Safety Certificate, when the works need to start before the Fire Safety Certificate is granted. It must be accompanied by a valid Fire Safety Certificate application and a Statutory Declaration. The fee for a 7 Day Notice is €250 or €5.80 per square metre of applicable floor area (whichever is the greater). To lodge a 7 Day Notice, log in to <https://www.nbco.localgov.ie/>.

56. Who is responsible for compliance with the Building Control Regulations?

The owner of the building, the designer who designs the works and the builder who carries out the works are responsible, under law, for compliance with Building Regulations and Building Control Regulations.

57. What is a Fire Safety Certificate?

A Fire Safety Certificate is a certificate granted by a Building Control Authority, which certifies that the building or works, if constructed in accordance with the plans, documents and information submitted to the Authority, would comply with the requirements of Part B of the Second Schedule to the Building Regulations 1997 as amended.

With the exception of houses and certain agricultural buildings, a Fire Safety Certificate is required for all new buildings (including apartments and flats), as well as material changes of use and certain alterations and extensions to buildings. A Fire Safety Certificate must be obtained before work starts, unless an application has been made for a 7 Day Notice.

58. Where do I get a Fire Safety Certificate?

Before you begin any work or make a material change of use, you should apply to the local Building Control Authority for a Fire Safety Certificate. To make an application for a FSC, log into the Building Control Management System (BCMS) at <https://www.nbco.localgov.ie/>.

The application form for a Fire Safety Certificate should be submitted together with:

- Plans, calculations and specifications for the works or building
- Details of the nature and extent of the proposed use and, where appropriate, of the existing use of the building
- The appropriate fee, based on floor area being €2.90 per square metre of gross floor space (The minimum fee is €125, while the maximum fee is €12,500.)

Any application not including the above can be rejected by the Authority as invalid.

59. How long should it take to get a Fire Safety Certificate?

Normally, it should take two months, but this period may be extended by written agreement between the applicant and the Building Control Authority, e.g. when the Authority seeks further information on your application. A Fire Safety Certificate may be granted with or without conditions, or refused.

60. Can I Appeal if I am refused a Fire Safety Certificate?

Yes. A person whose application for a Fire Safety Certificate has been refused can appeal against the refusal to An Bord Pleanála within one month of the decision. (Details of the appeal fee are available from your local authority or from An Bord Pleanála).

61. What is a Disability Access Certificate?

A Disability Access Certificate is a certificate granted by a Building Control Authority, which certifies that certain works if constructed in accordance with the granted Certificate, will comply with the requirements of Part M of the Building Regulations.

62. When is a Disability Access Certificate required?

A Disability Access Certificate is required for the following classes of buildings:

- The construction of a new building, including a building containing a flat,
- The material alteration (excluding minor works) of:
 - (i) a day centre,
 - (ii) a hotel, hostel or guest building, or
 - (iii) a care facility building, or
 - (iv) a place of assembly, or
 - (v) a shopping centre,
- The material alteration of a shop, office or industrial building where additional floor

area is being provided, or the building is being subdivided into a number of units for separate occupancy,

- The extension of a building by more than 25 square meters,
- The material change of use where the following uses become so used:
 - (i) a day centre,
 - (ii) a hotel, hostel or guest building,
 - (iii) a care facility building,
 - (iv) a place of assembly,
 - (v) a shop (which is not ancillary to the primary use of the building), or
 - (vi) a shopping centre.

A Disability Access Certificate is not required for:

- (i) An agricultural building,
- (ii) A domestic dwelling other than a flat,
- (iii) A garage ancillary to a domestic dwelling,
- (iv) Certain other buildings ancillary to a domestic dwelling,
- (v) A building used solely to enable inspection, repair or maintenance of fixed plant, building services, or machinery.

It is also not required for the Material Alteration to a flat, the extension to a flat or a material change of use as defined by Section 3(3) of the Act (See Page 77).

63. Is a Disability Access Certificate required prior to submitting a commencement notice?

No. However, it is strongly advised that you obtain a Disability Access Certificate prior to work commencing on site. This will avoid any expensive remedial works which may delay the occupation and/ or opening of the building.

64. How long will it take to get a Disability Access Certificate?

It can take up to eight weeks for a decision to be made on a Disability Access Certificate. It may take longer if this is agreed with the applicant and the Building Control Authority.

65. When should I apply for my Disability Access Certificate?

It is best practice to apply for your Disability Access Certificate at the same time when you apply for your Fire Safety Certificate prior to commencement of works.

66. What are the requirements for Statutory Certification?

The Building Control (Amendment) Regulations 2014 (S.I. No.9 of 2014), came into effect on 1st March, 2014, and they require greater accountability in relation to compliance with Building Regulations in the form of statutory certification of design and construction.

The additional requirements include:

- The nomination of a competent 'Assigned Certifier' to inspect and certify the works
- A design certificate
- The assignment of a competent builder to carry out the works
- The submission of certificates of compliance on completion

67. What additional documents must I submit with my Commencement Notice?

A Commencement Notice submitted for works subject to S.I 9 of 2014 must include an online assessment of the proposed approach to compliance with the Building Regulations and be accompanied by the following:

- A Certificate of Compliance (Design),
- Notice of the assignment of the person to inspect and certify the works (the Assigned Certifier)

- An undertaking by the assigned certifier
- Notice of the assignment of a builder
- Undertaking by builder
- General arrangement drawings for building- control purposes – plans, sections and elevations
- A schedule of design documents currently prepared or to be prepared at a later date
- The preliminary inspection plan
- Any other documents deemed appropriate by the Assigned Certifier.

68. Who can act as the Design Certifier and/ or as the Assigned Certifier?

The following may be appointed and sign as the Assigned Certifier, provided they are competent in relation to the particular works involved:

- a. Architects that are on the register maintained by the RIAI under Part 3 of the Building Control Act 2007
- b. Building Surveyors that are on the register maintained by the SCSJ under Part 5 of the Building Control Act 2007
- c. Chartered Engineers on the register maintained by Engineers Ireland under Section 7 of the Institution of Civil Engineers of Ireland (Charter Amendment) Act 1969

Similarly, the Design Certifier must be one of the above registered professionals and must be competent to carry out their design and to co- ordinate the design activities of others for the works concerned.

69. What is a Certificate of Compliance on Completion?

For work coming within the scope of S.I. No.9 of 2014, a Certificate of Compliance on Completion must be lodged with the Building Control Authority and placed on the public register before the building may be opened, occupied or used. The Certificate must be signed by the Assigned Certifier and the Builder. It certifies that the building or works have been carried out in accordance with the plans submitted and in compliance with the Building Regulations.

70. What happens if I change my builder or Assigned Certifier during the construction works?

The owner of the building must notify the Building Control Authority within 14 days of such changes and must submit new Notices of Assignment and undertakings. Failure to do so is an offence.

Fire Services Acts

71. I have an existing building containing flats which has been vacant for a period and I now wish to bring them back into reuse. What fire safety legislative provisions apply in this case?

A building containing flats is subject to the requirements of the [Fire Services Acts, 1981 and 2003](#). The person having control over premises has duties in respect of fire safety, as provided for in section 18(2). The building should comply with Fire Safety in Flats (1994), which can be accessed at:

<https://www.gov.ie/en/publication/3003c-guide-to-fire-safety-in-flats-bedsitters-and-apartments-1994/>

While the above guide may be used to assess the existing building, any works to address deficiencies constitute a material alteration and therefore must comply with the Building Regulations. Other new proposed works must also comply with the Building Regulations.

NOTE: Fire Safety in Flats (1994) provides persons having control over premises with guidance regarding the management of fire safety on an on-going basis.

In addition, all landlords have a legal duty to ensure that their rented properties comply with minimum standards as set out in the Housing (Standards for Rented Houses) Regulations 2017, including Fire Safety requirements (see Appendix 3 of the manual).

The European Union (In-Building Physical Infrastructure for High-Speed Electronic Communications) Regulations 2022

72. What is 'in-building physical infrastructure' and what works trigger the requirement to install this infrastructure?

'In-building physical infrastructure' means physical infrastructure or installations at the end-user's location, including elements under joint ownership, intended to host either or both wired and wireless access networks where such access networks are capable of delivering electronic communications services and connecting the building access point with the network termination point.

Under the European Union (In-Building Physical Infrastructure for High-Speed Electronic Communications) Regulations 2023 (S.I. No. 520 of 2023) the requirement to install this infrastructure is triggered when a notice is submitted for a building on which major renovation works are to be carried out.

'Major renovation works' means building or civil engineering works at the end user's location encompassing structural modifications of the entire in-building physical infrastructure or a significant part thereof, and requiring a building permit.

Guidance on In-Building Physical Infrastructure is provided in the European Union (In-Building Physical Infrastructure for High-Speed Electronic Communications) Regulations 2023 Technical Guidance (<https://www.gov.ie/pdf/?file=https://assets.gov.ie/275961/9b4eacae-9d2c-4d68-9839-8eaf0454964d.pdf>).

