



**A**n Exempted Development is a development for which planning permission is not required.

The categories of exempted developments are defined in:

- a) Section 4 (1) of the 1963 Act and,
- b) In Planning Regulations made by the Minister for the Environment pursuant to section 4 (II) (VIII) of the 1963 Act. The current regulations made pursuant to this Section are:
  1. The Local Government (Planning & Development) Regulations 1977 S.I. No. 65 of 1977 - Third Schedule and Article II thereof.
  2. Local Government (Planning & Development) (Amendment) Regulations 1981 S.I. No. 154 of 1981.
  3. Local Government (Planning & Development) (Postal & Telecommunications) (Exempted Development) Regulations 1983 S.I. No. 403 of 1983.
  4. Local Government (Planning & Development) (Exempted Development & Amendment) Regulations 1984 S.I. No. 4348 of 1984.

A development occurring after 1/10/64 which is not an exempted development and for which planning permission has not been obtained is an unauthorised structure or use and it should be noted that although a development may be an exempted development and not require planning permission it may involve work that requires building bye-law approval pursuant to the provisions of the Public Health (Ireland) Act, 1878. It should also be noted that Article II (VIII) of the 1977 Regulations provides that any extensions, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use is not exempted.

The Conveyancing Committee has received a number of queries in relation to whether or not floor area exemption limits are cumulative. The following examples, it is hoped, will clarify the position.

1. In the case where a dwellinghouse has been extended and the extension is up to the exemption limit of 23 square metres and the extension has been erected without planning permission, then any subsequent extension will require planning permission.
2. Reference is made in the Regulations to the original floor area not being increased by more than 23 square metres. What is meant by the “original Floor Area” can cause confusion. The better argument appears to be that the “original floor area” is the original floor area of the house excluding any additions for which planning permission was or was not required.

Accordingly, if an extension which used up the 23 square metre allowance is erected

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- on foot of a planning permission, than the Exempted Development Regulations cannot be used to extend the extension beyond that size and any such further extension will require planning permission.
3. If a garage is converted into a habitable area, then the floor area of the garage is deducted from the floor area available for development under the Exempted Development Regulations.

## LOCAL GOVERNMENT (MULTI-STOREY BUILDINGS) ACT, 1988

**U**nder Section 2 (2) of the Act, the Local Authority is bound to serve notice on the owner of a multi-storey building which has been constructed before the commencement of the Act requiring the owner to furnish the Local Authority with a certificate in respect of the building in one of the forms appended to the Local Government (Multi-Storey Buildings) (Amendment) Regulations, 1990.

Under Section 4 (1) of the Act there is an obligation to furnish a certificate to the Local Authority in respect of a multi-storey building which has not been completed before the commencement of the Act and such certificate must be furnished before the building or any part of the building is occupied.

For some time after the passing of the Act (because the Local Authority had not had time to serve notices on owners) it was felt sufficient to merely obtain a certificate from a 'competent person' which could then be sent to the Local Authority once the Local Authority had served a notice pursuant to the Act.

However, it has come to the Committee's attention that a number of such certificates have not been accepted by the Local Authority and have not therefore been recorded on the Register which the Local Authority is bound to maintain under the Local Government (Multi-Storey Buildings) Regulations, 1988.

Solicitors acting for purchasers or tenants are therefore advised that in all cases they should not just receive a copy of the certificate furnished or to be furnished to the Local Authority but also some evidence from the Local Authority that it has accepted and recorded the certificate on the Register established under the Act.

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