



**APPLICATION FOR EXEMPTION CERTIFICATES FROM THE
PROVISIONS OF SECTION 96
OF THE PLANNING & DEVELOPMENT ACTS 2000 - 2015**

EXPLANATORY MEMORANDUM

EXEMPTION CERTIFICATES in respect of certain small residential developments which are excluded from the social and affordable housing provisions of Part V of the Planning & Development Acts 2000 – 2015.

Section 97(3) of the Planning & Development Acts 2000 - 2015 states that stand alone developments involving the building of up to 9 houses or development of housing on land of 0.1 hectares or less will be exempt from the requirement to transfer lands to the local authority for social or affordable housing. To avail of this exemption, a person who wishes to obtain permission for the building of up to 9 houses or for housing development on lands of 0.1 hectares or less where either falls within the scope of Part V and the provisions of the Councils Housing Strategy, will have to obtain an exemption certificate in advance of applying for planning permission to the planning authority. When applying for this certificate, the person will have to submit a **STATUTORY DECLARATION** stating certain facts, such as the history of the ownership of the land, and whether they have interests in land in the immediate vicinity to allow the authority to take a view as to whether this is a genuine application.

The purpose of this procedure is to ensure that persons do not seek to avoid the application of the provisions of Part V of the Planning & Development Acts 2000 - 2015 for example, by making multiple applications for small scale residential development.

NOTE: Applicant includes a person on whose behalf a person applies for a certificate, for example, a person acting on behalf of a landowner in a professional capacity, information on the landowner must be included.

CONTENTS OF STATUTORY DECLARATION

An application for a certificate shall be accompanied by a statutory declaration made by the applicant –

- (a) giving, in respect of the period of 5 years preceding the application, such particulars of the legal and beneficial ownership of the land, on which it is proposed to carry out the development to which the application relates, as are within the applicant's knowledge or procurement,
- (b) identifying any persons with whom the applicant is acting in concert,
- (c) giving particulars of –
 - (i) any interest that the applicant has, or had at any time during the said period in any land in the **immediate vicinity*** of the land on which it is proposed to carry out such development, and
 - (ii) any interest that any person with whom the applicant is acting in concert has, or had at any time during the said period, in any land in the said immediate vicinity, of which the applicant has knowledge
- (d) Whether the applicant, or any person with whom the applicant is acting in concert, has been granted, within the period of 5 years prior to the date of making of the application, a certificate under Section 97 of the Act which at the time of the application remains in force
- (e) Whether the applicant, or any person with whom the applicant is acting in concert, has carried out, or has been granted permission to carry out, a development consisting of the provision of 9 or fewer houses or of housing on land of 0.1 hectares or less, within the period of 5 years prior to the date of making of the application for a certificate, on land in respect of which the certificate is being sought or land in its immediate vicinity (save that any such development carried out, or permission granted, before 1st November, 2001 may be disregarded).
- (f) A statement that the applicant is not aware of any facts or circumstances that would constitute grounds under **Subsection (12)**** for the refusal by the Planning Authority to grant a certificate.
- (g) Such other information as may be prescribed.
- h) The Statutory Declaration must be signed and dated by the applicant.
- i) The name and address of the Peace Commissioner/Commissioner for Oaths/practising Solicitor must be **clearly shown** on the statutory declaration.
- j) The declaration must be **stamped** by the Peace Commissioner/Commissioner for Oaths/practising Solicitor

- * **The Planning & Development Act** states that land which is more than 400 metres from a particular piece of other land shall not be considered to be in the vicinity of that other land.
- * * **Subsection (12)** provides that an application for a certificate must be refused where the applicant, or a person with whom they are acting in concert:
 - (a) has been granted a certificate in respect of a development in the preceding 5 years which remains in force at the time of the application, or
 - (b) has carried out or has been granted permission to carry out a development of the types referred to in subsection (3) –
 - (i) after 1 November, 2001 (i.e. 1 year from the date of commencement of the section), and
 - (ii) 5 years before the date of applying for the certificate,
 on the land for which the person is now seeking a certificate, or land within its immediate vicinity, unless
 - (I) the aggregate of the development for which a certificate is being sought and the development to which paragraph (a) or (b) relates would not exceed 9 houses, or
 - (II) where the proposed development would exceed 9 houses, the land on which it is proposed to be carried out is less than 0.1 hectares.

NOTES:

- A A planning authority may require an applicant for a certificate to provide it with such further information or documentation as is reasonably necessary to enable it to perform its functions under this section.
- B Where an applicant refuses to comply with a requirement, or fails, within a period of 8 weeks from the date of the making of the requirement, to so comply, the planning authority concerned shall refuse to grant the applicant a certificate.
- C A planning authority may, for the purpose of performing its functions under this section, make such further inquiries as it considers appropriate.
- D It shall be the duty of the applicant for a certificate, at all times, to provide the planning authority concerned with such information as it may reasonably require to enable it to perform its functions under this section.
- E A person is not entitled to a grant of permission purely on the basis of being granted an exemption certificate.
- F Applicants attention is drawn to the penalties and fines in respect of Statutory Declarations which are false or misleading and forged Exemption Certificates in Section 97 Subsections (17) to (21) inclusive.