

**COMHAIRLE BHAILE CHAISLEAN A'BHARRAIGH**

**CASTLEBAR TOWN COUNCIL**

Application form for Certificate of Exemption from the provision of Section 96 of the Planning and Development Act, 2000

1. Applicants name: .....
2. Applicants address: .....
3. Tel No: ..... Fax No: ..... Email: .....
4. Agents address: .....
5. Tel No: ..... Fax No: ..... Email: .....
6. Address for correspondence: .....  
.....
7. Number of dwelling units proposed: .....
8. Site area (hectares): .....
9. Location of proposed development: .....
10. Description of proposed development: .....  
.....

NOTE: This application must be accompanied by a copy of a location map with the site clearly outlined and a statutory declaration giving the information required under Section 97(5) of the Planning and Development Act, 2000 and article 49 of the Planning and Development Regulations.

Signed: ..... Date: .....

### Exemption certificates for small scale housing developments

Provision has also been made for the exemption of single houses and small housing developments. Developments –

- of 4 or fewer dwelling units or –
- of any number of units on land of 0.1 hectares or less

may be exempt from the social/affordable housing requirements of Part V on application to the planning authority.

In order to benefit from this exemption, a person must apply to the planning authority for a certificate stating that he or she is exempt from this requirement in respect of the proposed development. The requirements for an application form are set out in article 48 of the Planning and Development Regulations, 2001. An application for an exemption certificate must be accompanied by a statutory declaration in which the applicant must provide a statutory declaration of certain information, for example, details in relation to ownership of land. (A statutory declaration is a written declaration of facts, which must be sworn before a commissioner of oaths, a notary public or a peace commissioner). The information that must be included in the statutory declaration is set out in Section 97(5) of the Act and article 49.1 of the Planning Regulations. Applicants should consider seeking legal advice on how to prepare the statutory declaration.

In order to ensure that the issue of a Part V type condition should be attached to a permission will be resolved before a decision is made on an application, it is necessary to apply for the exemption certificate before an application for permission is submitted (outline or full) to the authority.

Because these are new requirements under the planning code, it may be that certain applicants, particularly those for single houses, will not be aware that either an exemption certificate must be sought or that proposals on compliance with Part V of the Act should be submitted. The Planning and Development Regulations, 2001 require evidence of an application for an exemption certificate to be submitted with an application for permission for small-scale housing developments.

## **PLANNING & DEVELOPMENT, ACT 2000**

Development to which *Section 96* shall not apply

**97.-** In this Section -

“applicant” includes a person on whose behalf a person applies for a certificate;

“the court” other than in *subsections (19) and (21)*, means the Circuit Court for the circuit in which all or part of the development, to which the application under *subsection (3)* relates, is situated.

(2) For the purposes of this section—

(a) 2 or more persons shall be deemed to be acting in concert if, pursuant to an agreement, arrangement or understanding, one of them makes an application under *subsection (3)* or causes such an application to be made, and

(b) land in the immediate vicinity of other land shall be deemed in any particular case not to include land that is more than 400 metres from the land second-mentioned in this subsection.

(3) A person may, before applying for permission in respect of a development—

(a) consisting of the provision of 4 or fewer houses, or

(b) for housing on land of 0.1 hectares or less,

apply to the planning authority concerned for a certificate stating that [section 96](#) shall not apply to a grant of permission in respect of the development concerned (in this section referred to as a “certificate”), and accordingly, where the planning authority grants a certificate, [section 96](#) shall not apply to a grant of permission in respect of the development concerned.

(4) Subject to—

(a) *subsections (6) and (12)*, and

(b) compliance by the applicant for a certificate with *subsection (8)*,

a planning authority to which an application has been made under and in accordance with this section may grant a certificate to the applicant.

(5) 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) stating 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,

(e) giving such other information as may be prescribed.

(6) (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 under *paragraph (a)*, 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.

(7) A planning authority may, for the purpose of performing its functions under this section, make such further inquiries as it considers appropriate.

(8) 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.

(9) The Minister may make regulations in relation to the making of an application under this section.

(10) Where a planning authority fails within the period of 4 weeks from—

(a) the making of an application to it under this section, or

(b) (in the case of a requirement under *subsection (6)*) the date of receipt by it of any information or documentation to which the requirement relates,

to grant, or refuse to grant a certificate, the planning authority shall on the expiry of that period be deemed to have granted a certificate to the applicant concerned.

(11) Particulars of a certificate granted under this section shall be entered on the register.

(12) A planning authority shall not grant a certificate in relation to a development if the applicant for such certificate, or any person with whom the applicant is acting in concert—

(a) has been granted, not earlier than 5 years before the date of the application, a certificate in respect of a development, and the certificate at the time of the application remains in force, or

(b) has carried out, or has been granted permission to carry out, a development referred to in *subsection (3)*, not earlier than—

(i) 5 years before the date of the application, and

(ii) one year after the coming into operation of this section,

in respect of the land on which it is proposed to carry out the first-mentioned development, or land in its immediate vicinity, unless—

(I) the aggregate of any development to which *paragraph (a)* or *(b)* relates and the first-mentioned development would not, if carried out, exceed 4 houses, or

(II) (in circumstances where the said aggregate would exceed 4 houses) the aggregate of the land on which any development to which *paragraph (a)* or *(b)* relates, and the land on which it is proposed to carry out the first-mentioned development, does not exceed 0.1 hectares.

(13) Where a planning authority refuses to grant a certificate, it shall by notice in writing inform the applicant of the reasons for its so refusing.

(14) (a) Where a planning authority to which an application has been made under *subsection (3)* refuses to grant a certificate to the applicant, he or she may, not later than 3 weeks from the date on which the applicant receives notification of the refusal by the planning authority to grant the certificate, or such later date as may be permitted by the court, appeal to the court for an order directing the planning authority to grant to the applicant a certificate in respect of the development.

(b) The court may at the hearing of an appeal under *paragraph (a)*—

(i) dismiss the appeal and affirm the refusal of the planning authority to grant the certificate, or

(ii) allow the appeal and direct the planning authority to grant the applicant a certificate in respect of the development concerned.

(15) A planning authority shall comply with a direction of the court under this section

# **PLANNING & DEVELOPMENT, REGULATIONS 2001**

## PART 5

### HOUSING SUPPLY

Application for  
certificate under  
section 97 of Act

48. (1) An application for a certificate under section 97 of the Act shall—
- (a) state the name and address, and telephone number and e-mail address if any, of the applicant and of the person, if any, acting on behalf of the applicant,
  - (b) where the applicant is a company registered under the Companies Acts, 1963 to 1999, state the names of the company directors and the address and registration number of the company,
  - (c) state the location, townland or postal address (as may be appropriate) of the land in respect of which it is intended to apply for permission,
  - (d) indicate the number of houses for which it is intended to apply for permission, and
  - (e) indicate the area of the land in respect of which it is intended to apply for permission
- (2) An application under sub-article (1) shall be accompanied by a location map of sufficient size and containing details of features in the vicinity such as to permit the identification of the land to which the application relates, to a scale of not less than 1:1000 in built up areas and 1:1250 in all other areas (which shall be identified thereon) and marked or coloured so as to identify clearly the land to which the application relates and the boundaries thereof.

Prescribed  
information to be  
included in  
statutory  
declaration under  
section 97(5) of  
Act

49. In addition to the requirements of section 97(5) of the Act, an applicant for a certificate under that section shall state in the statutory declaration made by the applicant to accompany the application—
- (a) 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, and
  - (b) 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 4 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 1 November 2001 may be disregarded).