

SUBMISSION ON PUBLIC CONSULTATION FOR REVIEW OF EXEMPTED DEVELOPMENT

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Introduction

The Society of Chartered Surveyors Ireland (SCSI) welcomes the opportunity to respond to the Department of Housing, Local Government and Heritage's consultation on proposed amendments to exempted development provisions under the Planning and Development Regulations. This is a timely opportunity to update Schedule 2 of the Planning and Development Regulations 2001 (as amended) and expand appropriate exemptions to reflect the increasing demands placed on planning authorities assessing planning applications.

Under the current 2001 Regulations, exempted development is defined within tightly drawn parameters, with clear size, location, and use restrictions. The proposed exemptions retain certain key criteria, such as the 40 square metre limit for attached extensions and the 25 square metre cap for non-habitable detached structures but introduce new categories of exemption. These include detached habitable units up to 40 square metres, attic conversions with associated roof alterations, and subdivisions of existing dwellings. SCSI broadly supports the underlying objectives: easing planning permission demands placed on planning authorities. It is important, however, that any easing of planning rules is limited to low-impact domestic and commercial projects to retain an appropriate level of control over how and where larger and more visually intrusive buildings are constructed.

SCSI also recognises that there can be many historic non-compliances with planning and building regulations and that this has created persistent challenges, especially in conveyancing, where the absence of official planning grants can add significant conveyance delays and often can lead to property transactions failing. Often, solicitors are required to review planning files dating back to the 1960s to confirm the legality of alterations or extensions before a property transaction proceeds. That process routinely adds several weeks and in some cases months to closing times, frustrating buyers & sellers and the professional team involved in the transaction. The SCSI Residential Market Monitor 2024 and 2025 have consistently identified issues such as non-compliance with planning regulations or issues with building regulations, to name but a few. **SCSI recommends that the planning and development regulations should also be amended, permitting non-conforming buildings without planning permission within an appropriate time period, e.g. the last 20 or 25 years. This would be a pragmatic measure to address conveyancing inefficiencies caused by historic non-compliance.** Formally regularising minor, long-standing, low-risk non-compliant (with planning permission) works, particularly in residential settings, can accelerate conveyancing, improve property market fluidity, and reduce future liability. Crucially, the introduction of this new class of planning compliance must be carefully structured and designed to regularise historic compliance gaps but not to incentivise future non-compliance. A carefully designed policy should not permit non-compliant buildings subject to a third-party appeal process where a decision of the planning authority or An Coimisiún Pleanála was to refuse an application.

SCSI also emphasises the importance of ensuring that any revisions to exempted development rights operate within the framework of existing statutory protections. In particular, Section 57 of the Planning and Development Act provides an essential mechanism for clarifying what works can or cannot be carried out on Protected Structures. The continued availability and enforcement of these provisions is critical to safeguarding Ireland's architectural heritage, while balancing the need for adaptation to contemporary housing, sustainability, and infrastructure requirements.

This submission therefore addresses two interconnected strands of reform: well-structured planning exemptions and the introduction of a new class of planning conformity to address some of the lengthy conveyance delays. By aligning these two elements, prospective clarity in exemptions and retrospective resolution of legacy issues, the State can both unlock the potential for new supply in the

market and avoid recreating the existing compliance backlog in future generations. As the professional body for chartered surveyors, including estate agents, valuers, planning and development and construction professionals in Ireland, SCSi emphasises that any expansion or revision of exempted development rights is consistent with public safety, sustainable planning, consumer protection, and the long-term quality of the built environment. This submission therefore addresses domestic, agricultural, and infrastructural exemptions while highlighting on domestic exemptions in detail.

1. Domestic Exemptions

Context

Domestic exempted development is currently governed by the Planning and Development Regulations 2001 (as amended), Schedule 2, Part 1, with the principal provisions for householders contained in Classes 1, 2, 3 and 5. These rules have traditionally permitted modest extensions and alterations, subject to strict size limits, siting requirements, and conditions to protect neighbour amenity and the character of streetscapes. Under Class 1, householders may construct rear or side extensions directly attached to their dwelling up to a total of 40 square metres, without the need for planning grants. For extensions above ground floor level, the limit is 12 square metres in the case of a semi-detached or terraced house, or 20 square metres for a detached house. In all cases, at least 25 square metres of private open space must be retained to the rear, and upper-storey extensions must maintain a minimum two-metre distance from any property boundary. Flat roofs may not be used as balconies, patios, or verandas without planning permission.

Class 2 provides for certain works of improvement or alteration, including external insulation, changes to windows and doors, and the installation of solar panels or heat pumps. These are subject to restrictions on location, most notably a prohibition on placing such equipment forward of the front wall of the dwelling, and to limits on area, output, and noise. Class 3 permits detached ancillary structures within the curtilage of a house, such as sheds, garages, and greenhouses—up to a combined total of 25 square metres, provided they are not sited forward of the house, match the external finishes if to the side, and are not used for human habitation. Class 5 allows for boundary treatments, with walls, fences, or gates limited to 1.2 metres in height at the front of the house and two metres elsewhere. Governments' current proposals represent a marked departure from this baseline, with proposals to include attic conversions, detached habitable units up to 40 square metres, subdivision of existing dwellings, and a broader range of works to be automatically permitted at the front of properties. These changes would alter both the scale and visibility of exempted domestic works, introducing categories of development previously subject to full planning assessment.

There remains widespread public confusion between planning permission and building regulations, with many homeowners mistakenly believing that being exempt from planning permission also removes the need to comply with building control, fire safety, or other statutory requirements. This misunderstanding further leads to non-compliance, title complications, and future valuation issues. Even where works are minor, any structural alterations to a dwelling still require professional design input to ensure safety and regulatory compliance. Against this backdrop, the **SCSi emphasises that any expansion of domestic exempted development rights must be underpinned by robust professional oversight.** The involvement of registered building surveyors and other qualified professionals is essential to ensure overall safety, quality, and compliance with planning rules and building regulations. We therefore recommend that the introduction of new or expanded domestic exemptions be deferred until the Construction Industry Register Ireland (CIRI), the statutory register of those that provide building works, is fully operational, with a requirement that only registered builders be permitted to carry out such exempted works. This is vital to protect consumers and to prevent exploitation by unqualified or unregulated operators, especially if there is a notable increase in exempted

development, particularly those related to existing buildings where attic conversion and subdivisions of property are instigated.

Feedback from building surveyors highlights that often, there can be confusion among the public in relation to the difference between planning and building regulations. It is important to clarify that an exemption from planning permission does not remove the obligation to comply with building regulations, building control processes, or other statutory requirements. Public awareness on this point is essential to prevent non-compliance, latent defects, and adverse impacts on future property valuations. Structural alterations, even where exempt from planning, should be undertaken only under the supervision of registered professionals.

As noted ahead, certain categories of exempted development, such as subdivisions or detached habitable units, necessitate separate fire safety certification under building regulations. For such categories, **SCSI proposes the introduction of a formal “Registration of Intent” process with the local authority**, or the creation of a class of exemptions subject to the submission of a “Notice of Commencement” as applicable under Building Regulations. This would ensure that the relevant authority retains oversight and maintains an up-to-date record of exempted works.

Finally, consumer protection and the wider public interest must remain central to all domestic exemption reforms. **SCSI therefore recommends the development and publication of comprehensive homeowner “Guidance Documents” for each exemption type**, ensuring that property owners can make informed decisions and safeguard both the safety of occupants and the long-term value of their assets.

1.1 Residential - domestic extensions/ minor works

SCSI welcomes the exemptions in relation to residential developments as they address the urgent need for housing in Ireland by maximising accommodation within the existing envelope of the dwellings. While the existing exemption for rear extensions to dwellings should remain, and the 40 square metres maximum area is adequate, several cases require a nuanced approach rather than applying blanket exemptions.

Exemptions	Recommendations
Attic Conversions	<p>While attic conversions can help with increasing additional accommodation and density, they carry fire safety, structural, and energy efficiency risks if done without professional oversight. Therefore, SCSI advocates:</p> <ul style="list-style-type: none">- The need for attic conversions to be done by registered builders to avoid defects.- The general practice of installing solar batteries in attics needs to be scrutinised to assess fire safety risks. The risks associated with battery storage need to be emphasised to homeowners.- SCSI recommends the creation of a guidance handbook for homeowners to avoid poor workmanship and regulatory breaches.

Dormers and Rooflights	<ul style="list-style-type: none"> - SCSI notes that considerations of whether side dormers and front rooflights are compatible with privacy and streetscape objectives are important. Further, only rear dormer windows should be exempted, with alterations to front elevations should be decided upon via a planning application. - All front dormers (irrespective of rural/urban) must go through the regular planning permission process.
External Wrap insulation to Protected Structures/ACA's	<ul style="list-style-type: none"> - SCSI recommends that a Section 57 Declaration or Planning Permission be sought for such works that impact on the character of such buildings.
Heat Pumps	<p>The SCSI supports this exemption and suggests the following conditions:</p> <ul style="list-style-type: none"> - Provide minimum performance/noise standards. While most new generation heat pumps have low noise levels, consideration needs to be given to state minimum upgrades to heat pumps so that the installations are compliant with noise levels and to avoid future disputes. - Additional safety measures need to be considered when putting heat pumps in balconies, such as the risk of raised platforms for children's safety and exposure to fan blades.
<p>Minor external alterations to dwellings:</p> <p>Bike/bin storage, water butts, solar panels on sheds</p>	<p>The SCSI supports these exemptions in view of improving sustainability objectives and supporting active travel; however few cautions need to be emphasised:</p> <ul style="list-style-type: none"> - To support urban design and streetscape safeguards, the creation of design/size standards is crucial. - Necessitate glare control for front/ground-mounted solar panels. - Retaining 1.2 m front boundary height limit unless justified by local context. - Require setback distances from footpaths for bin/bike stores to ensure pedestrian safety.

1.2 Detached habitable accommodation and subdivision of dwellings

Exemptions	Recommendations
Rear Detached Habitable Units (40 square metres)	<p>The SCSI supports these exemptions with the following proposed safeguards in place:</p> <ul style="list-style-type: none"> - To ensure professional oversight and compliance, SCSI recommends 'commencement notices' for these exemptions.

	<p>This will create a new category of exemptions that may not require planning permission but will require a commencement notice.</p> <ul style="list-style-type: none"> - These notices may serve as contact connections and will assist in checks to ensure exempted detached units are not misused as unregulated rental properties. - Limit to a single unit per site to avoid cumulative overdevelopment and maintain 25 sq m private garden rule. - Enforce minimum boundary setbacks for privacy; require compliance checks for wastewater capacity.
Subdivision of a dwelling	<p>The SCSi advises strong caution for this category as it may create adverse consequences. SCSi also advises that “commencement notices” be required for this exemption. For instance:</p> <ul style="list-style-type: none"> - The most common type of subdivision, horizontal subdivisions, may turn the house into a flat/two flats. Despite exemptions, these works require a fire safety certificate because of safety risks. Therefore, there is a need for homeowners to be reminded of the ‘Duty of Care’. - Further, SCSi recommends the setting of a limit to this category: one subdivision per property. This will prevent overcrowding and avoid pressure on existing infrastructure servicing the housing unit(s). - Require wastewater capacity verification, as considerations also need to be made for wastewater management systems and adequate capacity for systems to prevent any building oversight. This is especially applicable to dense urban spaces, to avoid overloading existing domestic wastewater treatment systems and environmental issues. - Introduce safeguards against unregulated ‘shadow economy’ conversions by unqualified builders.

2. Rural and Agricultural Exemptions

Context

The current planning and development act provides a series of planning permission exemptions for agricultural structures, including farm buildings to house farm equipment (Class 9) and those for housing animals (Class 6). The exemptions for livestock housing are currently set at below 200 square metres, with this increasing to 300 square metres in aggregate. The current planning exemptions in relation to the storage of animal effluent falls must have adequate capacity for the building/structure. The current planning exemptions for housing livestock are under 200 square metres, increasing to 300 square metres on aggregate. The exemptions (above) from planning permission are permitted in

circumstances where the distance from a public road is at least 10 metres and 100 metres from any house (other than the owners).

2.1. Expand Planning Exemptions for Agricultural Buildings (200 sqm → 300 sqm)

SCSI supports the proposal to increase the exemption threshold for farm buildings (Class 6) to 300 square meters with an aggregated threshold of no more than 450 square meters, as it would reflect the operational realities of modern Irish farms. Data from our SCSI/Teagasc Agricultural Land Review and Outlook Report 2025 indicates clear trends driving this need.

The report notes a consistent increase in average farm size alongside more land leasing activity, meaning larger holdings require more substantial infrastructure to sustain efficient operations. Dairy farmers, who account for 77% of land purchases, are expected to drive demand further in 2025, and larger farm buildings are critical for feed storage and machinery.

Rising land values, averaging €13,178 per acre for good quality land, are prompting farmers to invest more heavily in both land and infrastructure, making planning flexibility increasingly important. The report also highlights the role of generational renewal and farm partnerships in the sector, with larger, better-equipped buildings enabling multi-generational and collaborative farming models.

This exemption would result in a farm building increasing by approximately three linear meters each way [based on a square building example], which is an inconsequential increase to the overall uplift in floor area.

2.2. Increase Effluent Storage Thresholds in Support of Nitrates Directive Compliance

The proposal to provide an exemption from planning permission for a maximum 1500 cubic meter (in aggregate) effluent storage facility would assist farmers in meeting the various slurry regulations, particularly the restrictions on the time of year when effluent can be spread on land and during inclement weather. Data from the SCSI/Teagasc Agricultural Land Review and Outlook Report 2025 indicates several drivers behind the need for greater capacity. Changes to the Nitrates Directive are increasing regulatory pressure, particularly in dairy regions, where reduced stocking rates necessitate additional land and greater slurry storage to remain compliant. The report also notes that long-term leasing is now preferred (74% net balance indicating high levels of activity in long-term land leasing), and rented land is often used to meet compliance needs, which in turn demands larger storage facilities capable of managing nutrient loads across dispersed holdings. Regional data shows that dairy-intensive areas in the South-West, Mid-West, and South-East are experiencing higher land values and more intensive farming systems, correlating directly with greater slurry generation. Expanding storage capacity supports improved nutrient management, reduces the risk of runoff, and enhances compliance with environmental regulations.

SCSI is of the view that the proposal to increase the threshold to 1500 cubic meters of effluent storage (in aggregate) would be a significant departure from the current regulations. In the public interest either it would be prudent to reduce this proposal or discontinue with the proposal, thereby requiring those seeking to construct such large units to apply to the local authority for planning consent.

Alternatively, SCSl suggests that if the proposal proceeds for planning exemption, strict codes of design and siting are prepared and followed to ensure appropriate setbacks from structures, public roads and important amenities, rivers, lakes, etc.

3. Institutional Sites: Health and Education

Health and education-related exemptions are primarily contained in Schedule 2, Part 1 (domestic-type institutional provisions) and Part 2 (non-domestic uses) of the 2001 Regulations, most notably Classes 9, 31, and 32. These provisions aim to allow certain small-scale developments in schools, healthcare facilities, and other public service institutions without the delays of a formal planning process. **SCSl supports the proposed exemptions that would increase allowable floor areas for permanent extensions, extend the permissible duration for temporary classrooms or healthcare units,** and introduce broader exemptions for on-site energy generation, active travel infrastructure (bike parking, EV chargers), biodiversity improvements, and accessibility upgrades. These new exemptions will reduce administrative bottlenecks for essential services and are welcomed by the SCSl.

4. Infrastructure and Emergency Uses

Infrastructure-related exemptions appear throughout Schedule 2, Part 1 and Part 3 of the 2001 Regulations, covering utilities, transport, and temporary emergency uses. Many of these works, such as the erection of telecommunication poles up to certain heights, and the installation of public service apparatus such as street lighting, traffic signals, and minor substations, are covered under general utility exemptions that require adherence to safety standards and avoid work in sensitive locations without further consent. The current proposal would increase thresholds for EV charging infrastructure, extend temporary use periods for emergency response facilities, facilitate large-scale port and airport works and allow broader utility network upgrades.

While such flexibility is important for climate action, resilience, and infrastructure modernisation, certain sub-categories, such as EV charging hubs, need additional considerations. While these installations are welcome for advancing climate goals, they require careful planning to address insurance requirements, electrical fire safety and operational risks. The siting of EV charging stations is also critical: in multi-storey car parks and basements, they should be located near the entrance or at-grade for easier emergency service access in case of fire. Given these factors, **SCSl recommends that this exemption should be conditional on adherence to a national technical standard for EV charging provision, covering design, location, safety systems, and emergency access.** This would ensure that the benefits of rapid deployment are achieved without compromising public safety or resilience.

Conclusion

SCSl supports the principle of expanding exempted development provisions to ease administrative pressures and focus planning resources on larger, more complex applications, while also facilitating housing supply, rural enterprise, and climate action. However, the benefits of these reforms will only be realised if they are implemented alongside robust safeguards that maintain quality, safety, and compliance. It is also vital that these reforms work in tandem with the statutory protections already in place, including the requirements under Section 57 of the Planning and Development Act for works to Protected Structures. By reinforcing the dual objectives of protecting heritage and enabling sustainable development, the revised exemptions can deliver long-term societal and community benefits.

In parallel, this submission reiterates the urgent need for a targeted, time-bound planning amnesty to address historic non-compliance with planning permission, which continues to delay property transactions and undermine market efficiency. Without resolving legacy planning issues, the expansion of exemptions risks increasing the pool of undocumented works, creating further conveyancing bottlenecks in the future.

The proposed changes represent a significant evolution in the scope and flexibility of exempted development. With the safeguards outlined in this submission, these reforms can balance the twin objectives of enabling necessary development and protecting the public interest.