

Vacancy, Dereliction and Regeneration Bill 2022

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ACTS REFERRED TO

The Derelict Sites Act 1990

The Finance (Local Property Tax) Act 2012

The Building Control Act 1990

The Planning and Development Act 2000

Affordable Housing Act 2021

Vacancy, Dereliction and Regeneration Bill 2022

A Bill to provide for identification, management, restoration and bringing back to use of derelict buildings, to apply a tax to derelict buildings and vacant homes to stimulate regeneration and occupancy, and provide financial support to local authorities to implement certain objectives in the Affordable Housing Act 2021, to simplify and expedite applications to refurbish or change the use of upper floors or ‘over the shop’ for residential use by establishing in each Local authority a special planning and building control approval system to be called a Town Centres First application process.

be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title, commencement, construction and collective citation

1. (1) This Act may be cited as Vacancy, Dereliction and Regeneration Act 2022
- (2) This Act shall come into operation on such day or days as the Minister for Housing, Local Government and Heritage may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Definitions

2. In this Act –

“authorised person” is as defined in Section 13 of this Act, and means a person who is –

- (I) independent of the building owner or their agent, and
- (II) is not an employee of the local authority or another public body, must be placed on a list of authorised persons, the specifications for which shall be determined by guidelines issued to the planning authorities by the Minister;

“Building Control Regulations” mean the Building Control Regulations 1990 to 2021;

“Building Regulations” mean the Building Regulations 1997 to 2021;

“declaration” means—

- (a) a declaration by a planning authority under section 4 of the Building Control Act 1990 for a dispensation from, or a relaxation of, a requirement of Building Regulations,
- (b) a declaration by a planning authority under section 5 of the Building Control Act 1990 for a dispensation from, or a relaxation of, a requirement of Building Regulations in relation to specified works or material,
- (c) a fire safety certificate or revised fire safety certificate or regularisation certificate,
- (d) a disability access certificate or revised disability access certificate, or

(e) a commencement notice, certifications of compliance and certification of completion as specified by the Building Control Regulations 1990 to 2017 issued by a planning authority;

“Department” means the Department of Housing, Local Government and Heritage

‘designated centre’ is as defined in the Health Act 2007, and means an institution -

(a) at which residential services are provided by the Executive, a service provider or a person that is not a service provider but who receives assistance under section 39 of the Health Act 2004 or under section 10 of the Child Care Act 1991

(i) in accordance with the Child Care Act 1991

(ii) to persons with disabilities, in relation to their disabilities, or

(iii) to other dependent persons, in relation to their dependencies,

or

(b) that is a nursing home as defined in section 2 of the Health (Nursing Homes) Act 1990, but does not include any of the following:

(i) a centre registered by the Mental Health Commission;

(ii) an institution managed by or on behalf of a Minister of the Government;

(iii) that part of an institution in which the majority of persons being cared for and maintained are being treated for acute illness or provided with palliative care;

(iv) an institution primarily used for the provision of educational, cultural, recreational, leisure, social or physical activities;

(v) a special care unit;

(vi) a children detention school as defined in section 3 of the Children Act 2000

‘development plan’ means a development plan under Section 9 (1) of the Planning and Development Act 2000, and means –

the plan that Local Authorities are required to publish every six years as per Section 10 (1) of the Planning and Development Act 2000,

‘dwelling’ is as defined in the Affordable Housing Act 2021 and means -

any building or part of a building occupied or intended for occupation as a normal place of residence and includes any out-office, yard, garden or other land and any easements, rights and privileges appurtenant thereto or usually enjoyed therewith and includes a house, flat, apartment or maisonette;

“Minister” means the Minister for Housing, Local Government and Heritage;

“(m), (n) or (o) development” is development exempted from certain building control and planning applications, as specified in Part 4, Section 14 of this Act;

“older structure” means any structure completed before 1 June 1992;

“planning application” means—

(a) an application to a planning authority under Section 34 of the Planning and Development Act 2000,

(b) a referral to a planning authority or An Bord Pleanála for a declaration under section 5 of

the Planning and Development Act 2000, or
(c) a request to a planning authority or An Bord Pleanála for a declaration under section 57 of the Planning and Development Act 2000;

‘Site’ means any area of land on a map identified by a Local Authority;

“section 5 declaration” means a declaration by a planning authority or An Bord Pleanála under section 5 of the Planning and Development Act 2000;

“Town Centres First application” means an application for development as specified in Part 4, Section 14 (m) (n) and (o) of this Act.

“Town Centres First application panel” means the building control and planning application panel that will administer the Town Centres First applications process, as established under section 15 of this Act;

“upper floor” means all floors above the floor level at which the entrance is to the structure.

PART 2

AMENDMENT OF THE DERELICT SITES ACT 1990

Amendment of Section 3 of the Derelict Sites Act 1990 – Definition of a derelict site

3. Section 3 of the Derelict Sites Act 1990 is amended –

(a) by the substitution of the following for Section 3 – Definition of a derelict site

(1) In this section “derelict site” means any site in an urban area which has a building, structure or dwelling on it, or part of a building, structure or dwelling on it, and which can be described as (a), (b), (c) or (d);

(a) the condition of the site is such that it detracts, or is likely to detract, to a material degree from the amenity, character or appearance of land in the neighbourhood of the site in question because of –

(i) the existence on the site in question of structures which are in a neglected, ruinous, derelict or dangerous condition, or

(ii) the neglected, unsightly or objectionable condition of the site or any structures on the site in question, or

(iii) the presence, deposit or collection on the land in question of any litter, rubbish, debris or waste, except where the presence, deposit or collection of such litter, rubbish, debris or waste results from the exercise of a right conferred by the Waste Management Act 1996 or any other statute or by common law.

(b) doors, windows or entryways on the site are permanently blocked or boarded up such that the site is not in a habitable state.

(c) the site has not been adequately maintained or has been damaged, such that it is incapable of development for beneficial use without some remedial works.

(d) the site has been disconnected from electricity or water services for a period of two years or more.

(2) If a site is defined as derelict as per Section 3 (1), the site may be exempted from the derelict sites register as defined in Section 8 if the Local Authority is satisfied that its use contributes to the social, community and cultural development of the Local Authority area.

Amendment of Section 8 of the Derelict Sites Act 1990 – Register of derelict sites

4. Section 8 of the Derelict Sites Act 1990 is amended –

(a) in Section 8 (1) by the replacement of “in their opinion, is a derelict site” with “is a derelict site as defined in Section 3” in paragraph (a)

(b) in Section 8 (1) by insertion of the following two new paragraphs (g) and (h) after paragraph (1)(f).

“(g) particulars of the amount of monies due under the derelict sites tax as per Section 23.

(h) a summary of the planning history of the site and a description of the current zoning of the land if applicable.”

(c) in section 8 (2) by deleting all text after ‘make such entry’ and including the following subsection after subsection (2)

“(2A) If the identity of such a person is not available on public records and cannot be ascertained by the local authority through reasonable measures then the local authority shall place a copy of said notice at all entrances to the site for a period of 8 weeks and place a notice in local or national media and on social media seeking to contact the owner.”

(d) in section 8 (4) by deleting paragraphs (a) and (b)

(e) in section 8 by including the following new subsection after subsection 8 (9)

“(8) (10) The register, and the process by which the sites are entered onto the register, shall be made publicly available online on the local authority’s website.”

Amendment of Section 11 of the Derelict Sites Act 1990 – Power of Local Authority to require measures to be taken in relation to derelict sites

5. Section 11 of the Derelict Sites Act 1990 is amended –

(a) in Section 11 (1) by the insertion of the following subsection after subsection 11(1)

“(1A) if the identity of such a person is not available on public records and cannot be ascertained by the local authority through reasonable measures then the local authority shall place a copy of said notice at all entrances to the site for a period of 8 weeks and place a notice in local or national media and on social media seeking to contact the owner.”

(b) in Section 11 (2)(c) to replace ‘one month’ with ‘six months’

Amendment of Section 14 of the Derelict Sites Act 1990 – Power to acquire a derelict site

6. Section 14 of the Derelict Sites Act 1990 is amended –

(a) by the substitution of the following for section 14 – Power to acquire a derelict site

“(1) Where a site is admitted to the register the Local Authority may commence steps to acquire by agreement or compulsorily any derelict sites situated within their functional area.

(2) Where a site has been on the register for a period of two years the Local Authority shall commence steps to acquire by agreement or compulsorily any derelict sites situated within their functional area.

(3) Where the owner of a property has been admitted to a designated centre, the provisions of this section are subject to further regulations by the Minister under section 4 of the Derelict Sites Act 1990.”

Amendment of Section 21 of the Derelict Sites Act 1990 – Prescribed Area

7. Section 21 of the Derelict Sites Act 1990 is amended –

(a) by the substitution of the following for Section 21 – Prescribed area

“(1) For the purposes of this Act a prescribed area is any area that is described as a village, town or city in the County or City development plan and has a town boundary.”

Amendment of Section 23 of the Derelict Sites Act 1990 – Levy on urban land

8. Section 23 of the Derelict Sites Act 1990 Act is amended –

(a) by the substitution of Section 23 – Levy on urban land

“ ‘Tax on derelict sites’

(1) All sites entered onto the derelict sites register shall be liable to the derelict sites tax.

(2) The amount of the derelict sites tax shall be paid by the owner of the site to Revenue for each financial year that the property remains on the register.

(3) The tax will be due in respect of all properties on the Derelict Sites Register on the 1st of January of each year, for the year preceding or part thereof.

(4) The amount of the tax shall be such amount as is equal to at least 7% of the market value of the site concerned.

(5) Where an amount of derelict sites tax is unpaid for a period beginning two months after the date on which it is demanded, the person liable to pay the amount shall pay simple interest, determined by Revenue at an appropriate level for each month or part of a month that the tax remains unpaid.

(6) A liable person who proposes to sell a derelict site shall, before the completion of the sale of the derelict site agree to terms to pay to the Revenue Commissions the derelict sites tax and accrued interest, if any, which is due and payable in respect of that derelict site.

(7) All monies collected by Revenue under the Derelict Sites Tax shall be re-paid to the Local Authority in which functional area the site is located and used to fund the objectives of the Affordable Housing Act 2021.

(8) Where the owner of a property has been admitted to a designated centre, the provisions of this section are subject to further regulations by the Minister under section 4 of the Derelict Sites Act 1990.”

PART 3

AMENDMENT OF THE FINANCE (LOCAL PROPERTY TAX) ACT 2012

Amendment of Section 3 of the Finance (Local Property Tax) Act 2012 – Meaning of a relevant residential property

9. Section 3 of the Finance (Local Property Tax) Act 2012 is amended –

(a) in Section 3 by the insertion of the following section after Section 3:

“(3A) A relevant residential property for the purposes of a Vacant Homes Tax will be a residential property that has been unoccupied for at least 180 days of the previous calendar year, by either the owner or tenants of the property.

The following exemptions to the tax apply, where documentary evidence can be provided to prove the relevant residential property was unoccupied for the following reasons:

- (i) The property is a principal private residence
- (ii) Death of owner
- (iii) The property is used as a holiday home
- (iv) The property has been undergoing redevelopment or a major renovation
- (v) The owner is in care

- (vi) Occupancy in another jurisdiction was required for employment reasons
- (vii) A transfer of the property is in process
- (viii) The property is under a court order, court proceedings or subject to a governmental authority order prohibiting occupancy
- (ix) There is limited use of or prospects for the property due to the size, shape, location or other inherent limitation”

Amendment of Section 17 of the Finance (Local Property Tax) Act 2012 – Amount of local property tax

10. Section 17 of the Finance (Local Property Tax) Act 2012 is amended –

(a) in Section 17 by the insertion of the following subsection after subsection (4)

“(5) The amount of the tax to be charged on a Vacant Home as defined in Section 3A will be set at 3% of the valuation of the property as set out in Section 14.”

Insertion of new Section ‘Application of Part 14 (Offences and Penalties) to Vacant Property Tax’ into the Finance (Local Property Tax) Act 2012

11. The Finance (Local Property Tax) Act 2012 is amended by the insertion of a new Section ‘Application of Part 14 (Offences and Penalties) to Vacant Property Tax’ after Section 150 –

“(150A) In respect of non deduction of the Vacant Property Tax where relevant, failure to remit Vacant Property Tax where relevant or to submit a return to the Revenue Commissioners where relevant, the offences and penalties as set out in Sections 145-150 of the Finance (Local Property Tax) Act 2012 will apply.”

Insertion of new Section ‘Monies Raised by Vacant Property Tax’ in The Finance (Local Property Tax) Act 2012

12. The Finance (Local Property Tax) Act 2012 is amended by the insertion of a new subsection ‘Monies raised by the Vacant Property Tax’ after Section 159 –

“(160) All monies collected by Revenue under the Vacant Homes Tax are to be re-paid to the Local Authority in which functional area the site is located and used to fund the objectives of the Affordable Housing Act 2021.”

PART 4

AMENDMENT OF OTHER ACTS

Amendment of section 4 of the Building Control Act of 1990 – Dispensation or relaxation of building regulations

13. Section 4 of the Building Control Act of 1990 is amended -

(a) in Section 4 by the insertion of the following subsections after subsection (5):

“(6) (a) (i) the planning authority shall arrange for a pre-application consultation whereby all applicants that request their application to be considered as an ‘m, n or o development’, and seek to have their application processed through the Town Centres First applications process, may make an initial submission to the planning authority pre-application consultation, which will decide within 2 weeks of hearing this submission, whether or not all development applications can be processed through the Town Centres First applications process for exempted developments;

(ii) any submission to the pre-application consultation shall be made in person by the owner or agent with drawings, specifications and other details as appropriate in duplicate showing how the proposed material alterations and material change of use shall comply with the requirements of the Building Regulations;

(iii) in order to be considered under this section, an applicant must submit all documentation to the building control authority which will decide whether the development is an ‘m, n or o exempted development’;

(iv) where a Town Centres First application is successful in its pre-application consultation, a written submission can be made to the Town Centres First applications process within 6 months of the preapplication consultation,

(6) (b) (i) where a building owner or their agent elects to follow the process in this section, the change of use or partial change of use to residential use of any existing building of four or fewer storeys in height and the material alterations ancillary to such change of use are hereby exempted from the requirements at Parts III, IIIA, IIIB, IIIC and IV of the Building Control Regulations (as amended);

(ii) where a building owner or their agent elects to, and is approved to, follow the process in this section, the Town Centres First office will issue a ‘works permit’ that replaces a fire safety certificate and a disability certificate and verifies compliance with other parts of the Building Regulations;

(iii) the ‘works permit’ will include conditions where appropriate and requirements for one or more site visits by an authorised person from the Town Centres First application panel;

(iv) the ‘works permit’ will be uploaded in electronic format to the Building Control management system by the building owner or their agent in conjunction with a short form commencement notice in an expedited approval no less than 2 days before commencing works;

(v) the ‘works permit’ is to be displayed publicly in clear sight outside the building for the duration of the works;

(vi) before signing the ‘works permit’ the authorised person shall—

(I) take reasonable care in forming their opinion that the construction of the dwelling, common area and route to place of safety conform to the approved plans and with the checklist under this section, and

(II) confirm the checklist and that the building is appropriate for habitation;

(vii) the authorised person is a person who is —

(I) independent of the building owner or their agent, and

(II) is not an employee of the local authority or another public body, must be placed on a list of authorised persons, the specifications for which shall be determined by guidelines issued to the planning authorities by the Minister;

(viii) where the authorised person does not confirm the checklist the building owner or their agent may apply for a repeat inspection after the necessary works have been completed;

(ix) if a repeat inspection is failed the entire application will be deemed unsuccessful and the building owner or their agent will be deemed ineligible to follow the Town Centres First applications process in respect of the same development and will have to submit future applications in respect of the same development via the normal planning and building control process,

(6) (c) (i) where a building owner elects to follow the Town Centres First application process the requirements of the technical documentation of the Building Regulations shall be amended in specific parts by this Act;

(ii) the Department shall draft and publish revised technical guidance documents to accompany each part of the Building Regulations indicating how the amended requirements detailed in the Technical Guidance Document on retrofitting existing buildings can be achieved in practice;

(iii) adherence to the approach outlined in the associated technical guidance documents is regarded as evidence of compliance with the requirements of the relevant part of the Building Regulations;

(iv) primary responsibility for compliance with the requirements of the Building Regulations rests with the designers, builders and owners of buildings;

(v) the authority shall take reasonable steps and care in forming its opinion that the design of the dwelling, the related common area and the route to a place or places of safety comply with the requirements of the Second Schedule to the Building Regulations including the amendments to the Building Regulations made by this Act but the authority shall not be liable to any person in respect of any noncompliance which is subsequently found or alleged;

(vi) the statutory duties of building owners, designers and builders in respect of compliance with the requirements of the Building Regulations remain unchanged as per the Building Control Act 1990 (as amended) and the Building Control Regulations,

(6) (d) (i) where a building owner or their agent elects and qualifies to have applications processed through the Town Centres First applications process the same requirements of the Building Regulations shall apply except where outlined in this Act;

(ii) for a building owner or their agent that apply through the Town Centres First applications process, the Town Centres First application panel shall review the applicant's proposals for compliance with the requirements of the Second Schedule to the Building Regulations (S.I. No. 9 of 2014), taking on board all requests for an exemption that may be granted under section 4 or 5 of the Building Control Act 1990 and specifications as determined by the Minister;

(iii) the Town Centres First applications process for building applications shall provide for an expedited building control application and approvals process;

(iv) in all Town Centres First applications process for building applications the applicant shall make a submission in person with drawings, specifications and other details as appropriate in duplicate showing how the proposed material alterations and material change of use shall comply with the requirements of the Building Regulations;

(v) where the planning authority is satisfied that designs shown on the submitted plans and particulars comply with the requirements of the Building Regulations, it shall stamp and retain one set of drawings and return a set of those plans to the applicant;

(vi) the building owner or agent shall pay the planning authority an assessment fee, to be determined by the planning authority with guidance from the Minister, for every dwelling to be provided;

(vii) where the Town Centres First application panel approves all applications through the Town Centres First applications process for building applications, the planning authority may issue a commencement notice to allow construction works to begin within two working days subject to satisfactory completion of all inspections by the authorised person."

Amendment of Section 4 (1) of the Planning and Development Act 2000 – Exempted development

14. Section 4 of the Planning and Development Act 2000 is amended –

(a) in Section 4 (1) by the insertion of the following paragraphs after paragraph (1):

“(m) development consisting of the change of use or partial change of use of any existing building where the height of the top storey is no more than 10 metres above ground level from any use other than residential to residential use and the works ancillary to such change of use, subject to conditions and limitations to be determined by the Minister, including a section 5 declaration under the Planning and development Act 2000 from the planning authority via the Town Centres First application process;

(n) development consisting of the carrying out of works for the maintenance, improvement or other alteration and provision of escape windows and doors of any structure for the purposes of residential use of any older structure, subject to conditions and limitations to be determined by the Minister and including a section 5 declaration under the Planning and Development Act 200 from the planning authority via the Town Centres First application process;

(o) development consisting of the sub-division of any existing dwelling to provide two or more new dwellings, subject to conditions and limitations to be determined by the Minister and including a section 5 declaration under the Planning and Development Act 2000 from the planning authority via the Town Centres First applications process.”

Amendment of Section 5 of the Planning and Development Act of 2000 – Declaration and referral on development and exempted development

15. Section 5 of Planning and Development Act of 2000 is amended –

(a) in Section 5 by the insertion of the following after subsection (8)

“(9) (a) (i) a planning authority shall establish an application approval process for any development specified in section 14 (m) (n) and (o) (as inserted by this Act), which will be known as the ‘Town Centres First applications process’ and will assign a body of staff to administer the application process to be known as a ‘Town Centres First application panel’;

(ii) any applications for an ‘(m), (n) or (o) development’ will be applied for and approved through the Town Centres First applications process, unless the applicant opts to have their development processed under Section 34 of the Planning and Development Act 2000, in which case these developments will not be exempt for the purposes of the Planning and Development Act 2000 or Building Control Act 1990;

(iii) planning and development regulations may be amended by the Minister to allow for planning authorities to verify a development application meets the criteria of an ‘(m), (n) or (o) development’ as is provided under this section in a defined timeframe;

(iv) the Minister can decide to exempt particular planning authorities from the requirements of this section, if advice is given by a local authority that there is no demand for an expedited building control application process within their functional area;

(9) (b) the Town Centres First application panel shall include relevant professionals and authorised persons, as specified by section 11 of the Building Control Act 1990, that will process all applications and be able to ensure compliance with the requirements of the Second Schedule to the Building Regulations, including having the technical capacities to make decisions on exemptions under section 4 and section 5 of the Building Control Act 1990 in addition to the exemptions under section 5 of the Planning and Development Act 2000 and the technical expertise to inspect on site, all modifications to the technical standards of the Building Regulations as specified in this Act.

(9) (c) the Town Centres First application panel shall ensure that the relevant development under the Town Centres First applications process:

(i) is within the functional area of the planning authority;

(ii) has a declaration that the development complies with the specified conditions and limitations under section 4 of the Buildings Control Act 1990 and section 14 of this Act;

(iii) has regard to the applicable County or City Development Plan or Local Area Plan if applicable;

(iv) if it is or is part of a building designated as a protected structure, or a proposed protected structure, a written request shall be made to the relevant planning authority to issue a declaration as to the type of works which it considers would or would not materially affect the character of the structure or any element of the structure under section 57 of the Planning and Development Act 2000;

(v) is not a new extension to a building;

(vi) is not part of the total area of any one building to be a maximum of 500 square metres and the number of new dwellings in any one building to be a maximum of six dwellings.

(b) in Section 5 by the insertion of a new Section after Section (9)

“(9A) A national Town Centres First partnership office will be established to oversee the Town Centres First application process and to provide advice and guidance to local authorities on reuse, refurbishment and retrofitting of existing buildings.”