



Rialtas na hÉireann
Government of Ireland

Guidance Note for Local Authorities - Temporary Waiver in respect of Development Contributions

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Prepared by the Department of Housing, Local Government and Heritage
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1. Background

Boosting supply is key to addressing the problems at the heart of the housing system. Housing for All has set an average annual delivery target of 33,000 homes per year over the period to 2030. In this connection, some permitted developments are currently not being commenced due to increasing housing construction costs (both labour and material costs arising from global supply issues) as well as other related viability issues.

In order for the annual Housing for All completion targets to be met, the Government recognises that further measures need to be urgently put in place to help address cost and viability with a view to incentivising the activation of a pipeline of new commencements, and assisting in the delivery of supply as quickly as possible.

On 25 April 2023, the Government approved additional measures under the Housing for All Action Plan to incentivise the activation of increased housing supply and help reduce housing construction costs. These included the introduction of temporary time-limited arrangements for the waiving of local authority “section 48” development contributions and the refunding of Uisce Eireann water and waste water connection charges.

These new measures are intended to help boost the delivery of housing supply, address cost and viability issues, with a view to ensuring that the housing delivery targets set in Housing for All can be met.

2. Purpose of the Guidance

This Guidance is being issued to local authorities to assist them in implementing the Temporary Development Contribution Waiver arrangements. It is also envisaged that the Guidance will be of practical assistance to the construction sector, professionals and members of the public in understanding the requirements of the new measure.

3. Temporary Development Contribution Waiver Scheme

The Temporary Development Contribution Waiver Scheme applies for 1 year to all permitted residential development that commences on site between **25 April 2023** and **24 April 2024**, and is completed not later than **31 December 2025**. The waiver will cover the full cost of the development contribution levy due from the developer/project promoter under the development contribution scheme operated by the relevant local authority. Under the waiver scheme, instead of developers/project promoters having to pay the relevant development contributions to the local authority in the normal manner (usually on commencement of construction or in accordance with an agreed phased payment plan with the local authority), the Department of Housing, Local Government and Heritage will, further to the following, pay the relevant charges due to the local authority on behalf of the person liable for the contribution.

4. Development Contribution Schemes covered by the waiver

The waiver applies to all Development Contribution Schemes adopted by local authorities under section 48 of the Planning and Development Act 2000, as amended (the Act), including special schemes in respect of Strategic Development Zones and location specific schemes made under section 48.

The waiver also applies to special development contribution arrangements applied under section 48(2)(c) of the Act, provided that such schemes or arrangements were in existence or already in train on 25 April 2023 (the date that the Government Decision approving the waiver scheme was made).

Supplementary development contribution schemes which are in place under Section 49 of the Act are excluded from the waiver scheme.

5. Eligible properties

The waiver scheme will apply to all permitted residential development including multi-unit developments, self-build houses and one-off rural houses, student

accommodation and sheltered housing. For clarity, the scheme does not apply to domestic extensions, renovations or refurbishments of existing dwellings, changes of use, 'granny flats', nursing homes, hotels, hostels or aparthotels. In the context of mixed use developments, the waiver applies only to the residential element of the development.

The waiver applies only to residential units in a planning permission that are commenced and completed in accordance with the provisions of the scheme. For larger developments, this may mean that only certain phases of development will be eligible for the scheme and that phases of a scheme with a longer delivery timeline will not.

6. Extensions and existing vacant/derelict properties

Residential extensions or the refurbishment of existing vacant/derelict properties are **not** included under the waiver scheme. The measure is intended to help boost the delivery of housing supply, address cost and viability issues faced by the construction sector, and incentivise the activation of new housing commencements.

7. Operation and administration of the new measure

As outlined in Circular letter 08/2023, applicants for the waiver must submit an Application Form with an associated commencement notice.

On receipt of an application form and associated commencement notice, local authorities will assess the development as to its suitability for inclusion in the scheme and assign the application a unique identifier number. Where a development is deemed to fall within the scope of the scheme - and in the case of new single unit developments, it has been verified that development works have commenced on the site - the local authority should issue the applicants a waiver approval letter and undertaking form (see Appendices 4 and 5 in Circular letter PL 08/2023).

A key element of the scheme is that dwellings availing of the waiver scheme must be completed not later than the closing date of 31 December 2025. Further to this objective, local authorities should ensure that the waiver applies only to units that are expected to be completed by this end date. Information provided on the commencement notice will include an estimated date of completion for the development (or phase of development). Having regard to the estimated date of completion provided by the applicant, if the local authority is satisfied that the development will likely be completed by the conclusion of the waiver scheme period, the waiver application can be approved.

This Waiver Undertaking form includes details of the application of clawback/refund arrangements in relation to development contributions paid to local authorities by the Department on behalf of the person liable for the contribution where the conditions of the scheme have not been met.

These forms should be retained by local authorities for the purposes of audit of the scheme as may be necessary. They are not to be transmitted to the Department.

Local authorities should confirm in the waiver approval letter to the applicant that their waiver application has been successful and the level of waiver that has been applied. As early as possible in the following month, local authorities should submit a monthly claim form to the Department in respect of the cumulative development contribution waivers approved in the previous month following which the Department will endeavour to process the monthly claim forms as promptly as possible.

8. Commencement requirements

Commencement notices which are submitted for site clearance or site enabling works *only* will not be sufficient for purposes of qualifying for the waiver. Only the submission of a subsequent formal commencement notice will be generally deemed acceptable for the purposes of being approved for the waiver.

In recognition of the fact that developers are required to submit "commencement notices" or "7 day notices" to the local authority in accordance with the Building

Control Regulations prior to the commencement of works, the waiver arrangements also apply to developments in respect of which –

- (i) “commencement notices” were submitted to the local authority within the 28 day period prior to 25 April 2023 i.e. on or after 28 March 2023; or
- (ii) “7 day notices” were submitted to the local authority on or after 4 April 2023.

Where works do not start within 28 days or 7 days of the lodgement of the relevant notices to a local authority, applicants must submit a new commencement notice prior to the commencement of any works taking place.

With regard to situations where a developer submitted a commencement notice prior to 28 March 2023 (in the case of 28 day notices) or 4 April 2023 (in the case of 7 day notices) and claims that the works on site did not commence until after those dates, the technical position is that they should have submitted a new commencement notice as required under the Building Control Regulations. Where evidence of the submission of such a new commencement notice cannot be provided, such cases should generally be deemed not eligible for the waiver.

The only exception to this is a situation where a developer previously submitted a commencement notice prior to the above-mentioned dates and the works on the site have not yet been commenced. In such situation, they should submit a new commencement notice but not start works on the site prior to verification by suitable local authority technical personnel that the works have not been commenced. Where this is so verified, the developer can be deemed eligible for the waiver.

With regard to single unit developments/ one-off houses which have been opted out of the statutory compliance requirements (i.e. self-certification of compliance) by the developer and who claims that the works did not start until after the commencement of the scheme (i.e. on or after 25 April 2023), the local authority should request relevant supporting documentation to substantiate the commencement date claim i.e. evidence of payment for pouring of foundations etc. Where such documentation is not provided, the developer should be deemed not eligible for the scheme.

9. Definition of Complete

In view of the fact that developers have until the end of 2025 to complete their schemes, it is important that local authorities apply an appropriate standard of complete in relation to developments to which the waiver has been approved. In this regard, for the majority of developments, the submission of a valid 'Certificate of Compliance on Completion' will provide a formal indication of development completion.

Some residential developments that are eligible for the development contribution waiver may avail of Article 9(5) of the Building Control Regulations 1997 to 2015 which enables an owner of a single dwelling, on single-unit development site, to 'opt out' of the statutory certification requirements - including in relation to relevant certification to confirm completion - under the Building Control Regulations. In these circumstances, the local authority should satisfy itself that the dwelling concerned has been completed, to a level that the submission of a valid 'Certificate of Compliance on Completion' would be possible if the development had not opted out. Such confirmation of completion should be verified by suitable technical staff of the local authority undertaking a visual drive-by inspection of the dwelling to check if the dwelling is occupied. Where the dwelling is not already occupied or it is not possible to verify same by way of a visual inspection, it should be physically inspected to confirm that it has been completed.

10. Staged payments of development contributions

While staged payments of development contributions are common in practice, for the purposes of the operation of the waiver scheme, subject to satisfying the provisions of the scheme, full payment of the development contribution due will be made by the Department where appropriate.

11. Other conditions attached to a grant of planning permission as per Section 34(4)

The scheme has no impact on any conditions which have been attached to a grant of planning permission, including those that fall within the waiver scheme. Standard

planning conditions regarding the payment of development contributions should continue to be applied to permissions in the normal manner, as required. All other conditions attached to a planning permission will still need to be fulfilled by a developer.

12. Offsets of development contributions due in lieu of the provision of infrastructure

As indicated, the waiver applies to all Section 48 development contribution schemes for all eligible residential development which is commenced and completed according to the timelines of the scheme described above, including in circumstances where a local authority may have considered 'offsetting' a development contribution in lieu of the provision of infrastructure. However, where a condition has been attached to the grant of planning permission that such supporting infrastructure must be provided, then this obligation remains on the developer.

13. Commercial units at ground floor to create active street frontage

The waiver arrangements relate only to residential accommodation. The appropriate development contribution in respect of any non-residential part of a development (i.e. ground floor retail units etc) shall remain to be charged to the developer.

14. Developments which have multiple blocks/ phases

As noted above, the waiver will be applied on the basis of the completion of dwellings. Where it is considered that only part of a residential development can be commenced and completed during the timelines of the scheme, it is only that part of the development that should be deemed eligible for the waiver.

15. Monitoring & claw back arrangements

In order to ensure that the measure operates as intended, it is important that appropriate arrangements are put in place to ensure compliance with the terms of

the scheme, including that developers availing of the scheme sign the relevant undertaking confirming that they agree to comply with the said conditions of the scheme. This undertaking includes details of the application of clawback/refund arrangements in relation to development contributions paid to local authorities by the Department on behalf of the person liable for the contribution where the conditions of the scheme have not been met.

Clawback of development contributions will follow standard procedures in accordance with statutory powers, and may involve either recovering as a simple contract debt in a court of competent jurisdiction the contribution (including interest and legal costs) due to it, or by instigating enforcement action under the Planning and Development Act, 2000 as amended in respect of unpaid development contributions and all associated costs and fees.

16. Development Contributions and Part V agreements

Developments that form part of a Part V agreement are subject to development contributions, which then form part of the agreed development costs for the units concerned. Local authorities may have different approaches for dealing with the payment of development contributions in these circumstances, either offsetting the development contribution for units where the Part V agreement is finalised at the commencement of development, or else levying the full amount and refunding later as part of the Part V purchase agreement.

The operation and timing of the waiver may differ in these circumstances. Where the full development contribution would be levied pending the finalisation of an agreement then this amount may be claimed by the local authority in full from the Department, with a refund to be made on finalisation of the Part V agreement.

17. Letters of Compliance

A common practice is for local authorities to issue a letter of compliance dealing just with the payment of development contributions for units which have commenced and been paid, but may not be at completion stage. Upon granting of the waiver

and subsequent payment by the Department, a letter of compliance with the development contribution condition of the planning permission can be issued. Given that the terms of the waiver scheme allow for the potential clawback of development contributions from the developer if the developer does not complete the development within the timelines set out, this provision should be noted in any compliance letter.

18. Further Information

The Department is available to support local authorities as necessary in the delivery of this new scheme. Any queries in relation to the scheme should be addressed to planning@housing.gov.ie.

housing.gov.ie

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