

East Midlands Building Consultancy

Charges Exemptions for Works for Disabled People

Applications for Building Regulations are normally subject to a fee being paid on submission. In accordance with Regulation 9 of the Building (Local Authority Charges) Regulations 2010 and in certain circumstances, where work is solely for the benefit of people with disabilities, charges may not be payable.

A "person with disabilities" means a person who is within any of the descriptions of persons to whom Section 29(1) for the National Assistance Act 1948, as extended by virtue of Section 8(2) of the Mental Health Act 1959, applied but disregarding the amendments made by paragraph 11 of Schedule 13 to the Children Act 1989.

The words in section 8(2) of the Mental Health Act 1959 which extend the meaning of disabled person in section 29(1) of the National Assistance Act 1948, are prospectively repealed by the National Health Service and Community Care Act 1990, section 66(2), Schedule 10, as from a day to be appointed.

A certificate or letter is required from a health professional to this effect (for example from a doctor or occupational therapist) in support of an application for exemption from charges.

Please contact Building Control for further information about the liability to pay charges on particular projects for people with disabilities.

The charges regulations make it clear that the exemption only applies to building work in relation to existing dwellings where the disabled person is or will be a permanent resident or to existing buildings to which members of the public are admitted (e.g. public buildings, shops, banks etc). The exemption does not apply to the construction of a new building.

The exemption only applies where the whole of the work in question is either to provide means of access to enter or exit the building or to move to or from any part of it (e.g. through the installation of a lift or widening openings), or for the purpose of providing accommodation or facilities designed to secure the greater health, safety, welfare or convenience of a disabled person.

Where a larger building project comprises some work that falls within the exemption the LA may wish to consider treating that part of the work as exempt rather than requiring two separate applications.

In relation to existing dwellings, the type of building work that is considered to be "accommodation or facilities designed to secure the greater health, safety, welfare or convenience of a disabled person" is set out in regulation 4(2). This also includes work to provide or extend a room which will be used for sleeping accommodation for a full time (i.e. 24 hours) carer. The fact that the work is "building work solely required for disabled persons" needs to be demonstrated. It must be clear that the work is being carried out for the purpose of facilitating a person's disability, regardless of whether others may also benefit from the work.

For example, where an occupant is unable to use an upstairs bathroom (or can use it only with assistance), the provision of a downstairs bathroom would be considered as exempt even though other occupants of the dwelling will benefit from the facility. However, the fact that an occupant of the dwelling is deaf would be insufficient to justify the need for a downstairs bathroom on the grounds of disability.

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If you are unsure whether or not the work you propose requires approval please contact East Midlands Building Consultancy for advice. If you carry out work which requires approval without first submitting an application, you will not benefit from having the work independently inspected and you risk enforcement action. The lack of a completion certificate from the Council may affect the future sale of your home.

Please note that these guidance notes are for advice only and may not cover all situations. It is your responsibility to ensure that they are appropriate for use in your particular circumstance.

For further information contact East Midlands Building Consultancy.