



Number 3 of 1990

BUILDING CONTROL ACT 1990

REVISED

Updated to 10 July 2013

This Revised Act is an administrative consolidation of the *Building Control Act 1990*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Further Education and Training Act 2013 (25/2013)*, enacted 10 July 2013, and all statutory instruments up to and including *Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 6) (Retained Fire Fighters) Regulations 2013 (S.I. No. 254 of 2013)*, made 10 July 2013, were considered in the preparation of this Revised Act.

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Building Control Acts 1990 and 2007: This Act is one of a group of Acts included in this collective citation, to be read together as one (*Building Control Act 2007*, s. 1(2)). The Acts in the group are:

- *Building Control Act 1990* (3/1990)
- *Building Control Act 2007* (31/2007)

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 2000, may be found in the Legislation Directory at www.irishstatutebook.ie.

Acts which affect or previously affected this restatement

- *Multi Unit Developments Act 2011* (2/2011)
- *Prisons Act 2007* (10/2007)

- *Building Control Act 2007 (31/2007)*
- *Local Government Act 2001 (37/2001)*
- *Local Government (Dublin) Act 1993 (31/1993)*

All Acts up to and including *Further Education and Training Act 2013 (25/2013)*, enacted 10 July 2013, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this restatement

- *Building Regulations (Part D Amendment) Regulations 2013 (S.I. No. 224 of 2013)*
- *Building Control (Amendment) Regulations 2013 (S.I. No. 80 of 2013)*
- *Building Regulations (Part L Amendment) Regulations 2011 (S.I. No. 259 of 2011)*
- *Building Regulations (Part H Amendment) Regulations 2010 (S.I. No. 561 of 2010)*
- *Building Regulations (Part M Amendment) Regulations 2010 (S.I. No. 513 of 2010)*
- *Building Regulations (Part F Amendment) Regulations 2009 (S.I. No. 556 of 2009)*
- *Building Control (Amendment) Regulations 2009 (S.I. No. 351 of 2009)*
- *Building Regulations (Part G Amendment) Regulations 2008 (S.I. No. 335 of 2008)*
- *Building Regulations (Part L Amendment) Regulations 2008 (S.I. No. 259 of 2008)*
- *Building Regulations (Amendment) Regulations 2007 (S.I. No. 854 of 2007)*
- *Building Regulations Advisory Body Order 2002 (Amendment) Order 2006 (S.I. No. 503 of 2006)*
- *Building Regulations (Amendment) Regulations 2006 (S.I. No. 115 of 2006)*
- *Building Regulations (Amendment) Regulations 2005 (S.I. No. 873 of 2005)*
- *European Communities (Energy Performance of Buildings) Regulations 2005 (S.I. No. 872 of 2005)*
- *Building Regulations Advisory Body Order 2002 (Amendment) Order 2004 (S.I. No. 697 of 2004)*
- *Building Control (Amendment) Regulations 2004 (S.I. No. 85 of 2004)*
- *Building Regulations Advisory Body Order 2002 (Amendment) Order 2003 (S.I. No. 62 of 2003)*
- *Building Regulations (Amendment) (No.2) Regulations 2002 (S.I. No. 581 of 2002)*
- *Building Regulations (Amendment) Regulations 2002 (S.I. No. 284 of 2002)*
- *Building Regulations Advisory Body Order 2002 (S.I. No. 2 of 2002)*
- *Building Regulations (Amendment) (No.3) Regulations 2000 (S.I. No. 441 of 2000)*
- *Building Regulations (Amendment) (No.2) Regulations 2000 (S.I. No. 249 of 2000)*
- *Building Regulations (Amendment) Regulations 2000 (S.I. No. 179 of 2000)*
- *Building Control (Amendment) Regulations 2000 (S.I. No. 10 of 2000)*
- *Building Regulations Advisory Body Order 1998 (Amendment) Order 1999 (S.I. No. 318 of 1999)*
- *Building Regulations Advisory Body Order 1998 (S.I. No. 348 of 1998)*
- *Building Regulations 1997 (S.I. No. 497 of 1997)*
- *Building Control Regulations 1997 (S.I. No. 496 of 1997)*
- *Building Regulations Advisory Body Order 1995 (Amendment) Order 1997 (S.I. No. 200 of 1997)*
- *Building Regulations Advisory Body Order 1995 (Amendment) Order 1996 (S.I. No. 133 of 1996)*
- *Building Regulations Advisory Body Order 1995 (S.I. No. 190 of 1995)*
- *Building Regulations (Amendment) Regulations 1994 (S.I. No. 154 of 1994)*
- *Building Control (Amendment) Regulations 1994 (S.I. No. 153 of 1994)*
- *Building Control (Amendment) Regulations 1993 (S.I. No. 190 of 1993)*
- *Building Control Act 1990 (Fees) (Amendment) Regulations 1992 (S.I. No. 182 of 1992)*
- *Building Regulations Advisory Body Order 1992 (S.I. No. 113 of 1992)*
- *Building Control Act 1990 (Fees) Regulations 1992 (S.I. No. 112 of 1992)*
- *Building Control Act 1990 (Appeals) Regulations 1992 (S.I. No. 111 of 1992)*
- *Building Control Regulations 1991 (S.I. No. 306 of 1991)*
- *Building Regulations 1991 (S.I. No. 305 of 1991)*
- *Building Control Act, 1990 (Commencement) Order 1991 (S.I. No. 304 of 1991)*

All statutory instruments up to and including *Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 6) (Retained Fire Fighters) Regulations 2013 (S.I. No. 254 of 2013)*, made 10 July 2013, were considered in the preparation of this revision.



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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Building control authorities.
3. Building regulations.
4. Dispensation or relaxation of building regulations.
5. Dispensation or relaxation in relation to specified works or material.
6. Building control regulations.
7. Appeals.
- 7A. Fees in respect of an appeal.
- 7B. Provision with respect to amendment of this Act by S.I. No. 872 of 2005.
8. Enforcement notice.
9. Application to District Court in relation to enforcement notice.
10. Service of enforcement notice.
11. Powers of inspection by authorised persons.
12. Order of High Court in relation to buildings and works.
13. Power to prohibit the use of certain materials etc.
14. Building Regulations Advisory Body.
15. Authenticity of documents.
16. Offences.
17. Penalties.
- 17A. Payment of fines to building control authority.
- 17B. Costs of prosecution, etc.
- 17C. Evidential value of electronically stored information.
18. Orders and regulations.
19. Expenses of Minister.
20. Expenses of building control authorities.
21. Limitation on civil proceedings.

Section

22. Transitional.
23. Multi-storey buildings.
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25. Short title and commencement.

FIRST SCHEDULE

MATTERS FOR WHICH BUILDING REGULATIONS MAY PRESCRIBE
STANDARDS.

SECOND SCHEDULE

PART I

REPEALS OF LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT)
ACT, 1963 (AS AMENDED BY THE LOCAL GOVERNMENT (PLANNING
AND DEVELOPMENT) ACT, 1976).

PART II

REPEALS OF LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT)
ACT, 1976.

 ACTS REFERRED TO

Arbitration Act, 1954	1954, No. 26
Companies Acts, 1963 to 1986	
Criminal Procedure Act, 1967	1967, No. 12
Dublin Corporation Act, 1890	1890, c. 246
Factories Act, 1955	1955, No. 10
Fire Services Act, 1981	1981, No. 30
Local Government Act, 1955	1955, No. 9
Local Government (Multi-Storey Buildings) Act, 1988	1988, No. 29
Local Government (Planning and Development) Act, 1963	1963, No. 28
Local Government (Planning and Development) Act, 1976	1976, No. 20
Local Government (Planning and Development) Acts, 1963 to 1983	
Petty Sessions (Ireland) Act, 1851	1851, c. 93
Public Health (Ireland) Act, 1878	1878, c. 52
Public Health Acts (Amendment) Act, 1890	1890, c. 59



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AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF BUILDING CONTROL AUTHORITIES AND THE MAKING OF BUILDING REGULATIONS AND BUILDING CONTROL REGULATIONS AND TO PROVIDE FOR MATTERS RELATING TO THE CONSTRUCTION OF BUILDINGS AND TO PROVIDE FOR OTHER MATTERS CONNECTED THEREWITH. [21st March, 1990]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

- C1** Application of Act restricted (1.05.2007) by *Prisons Act 2007* (10/2007), s. 28(1)(b), S.I. No. 180 of 2007.

Exemptions, etc., relating to development.

28.— (1) A development—

(a) is an exempted development for the purposes of the Planning and Development Acts 2000 to 2006,

(b) is not subject to—

...

(iv) the Building Control Act 1990 and regulations thereunder,

...

- C2** Act included in collectively cited *Building Control Acts 1990 and 2007* (1.03.2008) by *Building Control Act 2007* (21/2007), s. 1(2), S.I. No. 50 of 2008.

Short title, collective citation, construction and commencement.

1.— ...

(2) The Building Control Act 1990 and this Act may be cited together as the Building Control Acts 1990 and 2007 and shall be construed together as one.

...

Acts included or previously included in the collective citation:

- *Building Control Act 2007* (21/2007) (1.03.2008) by *Building Control Act 2007* (21/2007) s. 1(2), S.I. No. 50 of 2008.
- *Building Control Act 1990* (3/1990) (1.03.2008) by *Building Control Act 2007* (21/2007) s. 1(2), S.I. No. 50 of 2008.

Editorial Notes:

- E1** Primary responsibility in relation to the Act was conferred on the Minister for the Environment, Community and Local Government by *Local Government Act 2001* (37/2001), s. 63(2)(a)(i) and sch. 12 part 1 as substituted (31.12.2007) by *Water Services Act 2007*, s. 115, S.I. No. 846 of 2007.

Interpretation.

1.—(1) In this Act—

“authorised person” has the meaning assigned to it by *section 11*;

“building” includes part of a building and any class or classes of structure which are prescribed by the Minister to be a building for the purposes of this Act;

“building control authority” means a local authority to which *section 2* applies;

“building control regulations” means regulations made by the Minister pursuant to *section 6*;

“building regulations” means regulations made by the Minister pursuant to *section 3*;

“Building Regulations Advisory Body” means the body established pursuant to *section 14*;

“construction” includes the execution of works in connection with buildings and any act or operation necessary for or related to the construction, extension, alteration, repair or renewal of a building and “constructed” shall be construed accordingly;

“design” includes the preparation of plans, particulars, drawings, specifications, calculations and other expressions of purpose according to which the construction, extension, alteration, repair or renewal concerned is to be executed and “designed” shall be construed accordingly;

“enforcement notice” has the meaning assigned to it by *section 8*;

“fire authority” means a fire authority within the meaning of the Fire Services Act, 1981;

“functional area” has, in relation to a building control authority, the meaning assigned to it by *section 2(3)*;

“functions” includes powers and duties;

“the Minister” means the Minister for the Environment;

“operative day” has the meaning assigned to it by *section 22*;

“prescribed” means prescribed by regulations made by the Minister;

“works” includes any act or operation in connection with the construction, extension, alteration, repair or renewal of a building.

(2) A reference in this Act to a section is to a section of this Act unless it is indicated that reference to some other enactment is intended.

(3) A reference in this Act to a subsection F1[**paragraph or subparagraph**] is to the subsection F1[**paragraph or subparagraph**] of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended.

(4) A reference in this Act to any enactment shall be construed as a reference to that enactment as amended or adapted by any subsequent enactment.

Annotations**Amendments:**

- F1** Substituted (1.03.2008) by *Building Control Act 2007* (21/2007), s. 3, S.I. No. 50 of 2008.

Building control
authorities.

2.—(1) Each of the following local authorities shall be a building control authority for the purposes of this Act—

(a) the council of a county,

(b) the corporation of a county borough,

(c) F2[...]

(d) subject to *subsection (2)*, the Corporation of any other borough and the council of any urban district which is, at the commencement of this Act, a fire authority.

(2) (a) Where the Minister, by order under section 9 (2) of the Fire Services Act, 1981, provides that section 9(1) (d) of that Act shall cease to apply to a particular corporation or council, that body shall cease to be a building control authority within the meaning of this Act on the day specified in that behalf in the order.

(b) Where the Minister, by order under section 9 (2) of the Fire Services Act, 1981, provides that section 9 (1) (d) of that Act shall cease to apply to a particular corporation or council, section 17 of that Act shall apply to a building control authority referred to in paragraph (a) of this subsection as if it were a fire authority subject to such modifications and ancillary provisions as the Minister considers necessary and provides in the order.

(3) The functional area of a building control authority shall be—

(a) in the case of a council of a county, the administrative county, excluding any borough or urban district, the corporation or council of which is for the time being a building control authority pursuant to the provisions of *subsection (1) (d)*,

(b) in the case of any other local authority, its administrative area.

(4) Building control authorities may make arrangements for the joint performance of any of their functions.

(5) Where it appears to the Minister that an agreement under section 59 of the Local Government Act, 1955, ought to be made between two or more building control authorities for the purpose of any of their functions, he may, after affording an opportunity to the authorities concerned to make representations to him, require those authorities to enter into such an agreement, and the Minister may direct that any such agreement shall contain such terms as he may specify and the authorities concerned shall comply with any directions given under this subsection by the Minister.

Annotations**Amendments:**

- F2** Repealed (1.01.1994) by *Local Government (Dublin) Act 1993* (31/1993), s. 4 and sch. 1 part 1, S.I. No. 400 of 1993.

Modifications (not altering text):

- C3** Provision for reference in subs. (5) to *Local Government Act 1955* (9/1955), s. 59 to be construed as a reference to *Local Government Act 2001* (37/2001), s. 85 made by *Local Government Act 2001* (37/2001), s. 88(2), S.I. No. 588 of 2001, art. 7.

Savers (Part 10).

88.— ...

(2) Without prejudice to section 20 of the Interpretation Act, 1937, references in section 10 of the Fire Services Act, 1981, section 14 of the Roads Act, 1993, section 2 of the Building Control Act, 1990, and section 5 of the Local Government Act, 1998, to section 59 of the Local Government Act, 1955, shall be read as references to section 85 of this Act.

Building regulations.

3.—(1) The Minister may, for any of the purposes specified in *subsection (2)*, make regulations (in this Act referred to as “building regulations”) in relation to all or any of the following—

- (a) the design and construction of buildings;
- (b) material alterations or extensions of buildings;
- (c) the provision of services, fittings and equipment in, or in connection with, buildings;
- (d) buildings as regards which any material change takes place in the purposes for which the buildings are used.

F3[(2) Building regulations may be made for all or any of the following purposes—

- (a) making provision for securing the health, safety and welfare of—
 - (i) persons in or about buildings, and
 - (ii) persons who may be affected by buildings or by matters connected with buildings;
- (b) making provision for the special needs of people with disabilities in relation to buildings;
- (c) making provision for the conservation of fuel and energy in relation to buildings
- (d) making provision for securing in relation to buildings the efficient use of resources;
- (e) making provision for the encouragement of good building **F4[practice; and**
- (ea) making provision for building practices that would assist in preventing or detecting crime; and]
- (f) making provision for the transposition of the requirements of Directive 2002/91/EC of the European Parliament and Council of 16 December 2002 on the energy performance of buildings; and
- (g) making provision for such other matters as appear to the Minister to be necessary and expedient and are specified in the regulations.]

(3) In addition to the provisions of any regulations made for the purposes of *subsection (1)(d)*, there shall be deemed to be a material change in the purposes for which a building is used if, on or after the operative day—

- (a) a building, being a building which was not originally constructed for occupation as a dwelling, or which, though so constructed, has been appropriated to other purposes, becomes used as a dwelling,

- (b) a building, being a building which was originally constructed for occupation as a dwelling by one family only, becomes occupied by two or more families, or
- (c) where building regulations contain special provisions in relation to buildings used for any particular purpose, a building to which the regulations apply and which was not being used for that purpose, becomes so used.

(4) Building regulations which relate to—

- (a) buildings as regards which any material change takes place in the purposes for which the buildings are used, or
- (b) material alterations or extensions of buildings, or
- (c) the provision of services, fittings or equipment, in or in connection with, buildings,

may apply to a building, the construction of which was commenced before the operative day, in so far as such building is affected by any material change in the purposes for which such building is used or any material alteration, extension, provision of services, fittings or equipment, as the case may be, which occurs on or after the operative day and in all other cases building regulations shall, subject to *section 22 (2)* apply only to buildings the construction of which is commenced on or after the operative day.

(5) Subject to *subsection (11)* and to—

- (a) any dispensation or relaxation granted under *section 4* or *5*, or
- (b) any appeal under *section 7* which has been allowed,

every building to which building regulations apply shall be designed and constructed in accordance with the provisions of such regulations.

(6) Building regulations may—

- (a) prescribe standards (expressed in terms of performance, types of material, methods of construction or otherwise) in relation to all or any of the matters specified in the *First Schedule* to this Act or in relation to any other matter which, in the opinion of the Minister, is relevant to the purposes for which building regulations may be made,
- (b) require specified action to be taken in connection with buildings,
- (c) provide for the regulation of specified actions in and about buildings,
- (d) specify the manner in which construction operations are to be carried out.

(7) Building regulations may be made to any extent by reference to a document published by or on behalf of the Minister.

(8) Building regulations may specify different standards for, or make different provisions in relation to, different classes or descriptions of buildings.

(9) Before prescribing standards for any matter specified in *paragraph 17 (a)* of the *First Schedule* to this Act, the Minister shall consult with the Minister for Energy.

(10) Building regulations may contain such supplementary and incidental provisions as appear to the Minister to be necessary or expedient.

(11) Building regulations may exempt, in whole or in part, from all or any of the provisions of such regulations such classes or descriptions of buildings, services, fittings or equipment as may be specified in the regulations, including classes or

descriptions of buildings, services, fittings or equipment in any area specified in the regulations.

(12) Building regulations, or any provision contained therein, may be made so as to apply generally, or as regards any area specified in the regulations, and the regulations may contain different provisions for different areas.

(13) Subject to the provisions of this Act, building regulations shall apply to buildings belonging to or in the occupation of the State other than buildings which are used as prisons or places of detention.

Annotations

Amendments:

- F3** Substituted (21.12.2005) by *European Communities (Energy Performance of Buildings) Regulations 2005* (S.I. No. 872 of 2005), reg. 3.
- F4** Inserted (1.03.2008) by *Building Control Act 2007* (21/2007), s. 4, S.I. No. 50 of 2008.

Editorial Notes:

- E2** Prospective affecting provisions: power pursuant to section exercised (1.03.2014) by *Building Control (Amendment) Regulations 2013* (S.I. No. 80 of 2013), commenced as per reg. 2.
- E3** Power pursuant to section exercised (1.07.2013) by *Building Control (Amendment) Regulations 2013* (S.I. No. 224 of 2013), commenced as per reg. 2.
- E4** Power pursuant to section exercised (1.07.2013) by *Building Regulations (Part A Amendment) Regulations 2012* (S.I. No. 138 of 2012).
- E5** Power pursuant to section exercised (1.01.2012) by *Building Regulations (Part M Amendment) Regulations 2010* (S.I. No. 513 of 2010).
- E6** Power pursuant to section exercised (1.12.2011) by *Building Regulations (Part L Amendment) Regulations 2011* (S.I. No. 259 of 2011).
- E7** Power pursuant to section exercised (1.06.2011) by *Building Regulations (Part H Amendment) Regulations 2010* (S.I. No. 561 of 2010).
- E8** Power pursuant to section exercised (1.10.2010) by *Building Regulations (Part F Amendment) Regulations 2009* (S.I. No. 556 of 2009).
- E9** Power pursuant to section exercised (1.11.2008) by *Building Regulations (Part G Amendment) Regulations 2008* (S.I. No. 335 of 2008).
- E10** Power pursuant to section exercised (10.07.2008) by *Building Regulations (Part L Amendment) Regulations 2008* (S.I. No. 259 of 2008).
- E11** Power pursuant to section exercised (1.06.2006) by *Building Regulations (Amendment) Regulations 2006* (S.I. No. 115 of 2006).
- E12** Power pursuant to section exercised (1.01.2003) by *Building Regulations (Amendment) (No.2) Regulations 2002* (S.I. No. 581 of 2002).
- E13** Power pursuant to section exercised (1.01.2001) by *Building Regulations (Amendment) (No.3) Regulations 2000* (S.I. No. 441 of 2000).
- E14** Power pursuant to section exercised (1.01.2001) by *Building Regulations (Amendment) (No.2) Regulations 2000* (S.I. No. 249 of 2000).
- E15** Power pursuant to section exercised (1.01.2001) by *Building Regulations (Amendment) Regulations 2000* (S.I. No. 179 of 2000).

- E16** Power pursuant to section exercised (1.07.1998) by *Building Regulations 1997* (S.I. No. 497 of 1997).
- E17** Previous affecting provision: power pursuant to section exercised (1.07.2008) by *Building Regulations (Amendment) Regulations 2007* (S.I. No. 854 of 2007); revoked (10.07.2008) by *Building Regulations (Part L Amendment) Regulations 2008* (S.I. No. 259 of 2008), reg. 6.
- E18** Previous affecting provision: power pursuant to section exercised (1.06.2006) by *Building Regulations (Amendment) Regulations 2005* (S.I. No. 873 of 2005); revoked (10.07.2008) by *Building Regulations (Part L Amendment) Regulations 2008* (S.I. No. 259 of 2008), reg. 6.
- E19** Previous affecting provision: power pursuant to section exercised (1.01.2003) by *Building Regulations (Amendment) Regulations 2002* (S.I. No. 284 of 2002); revoked (10.07.2008) by *Building Regulations (Part L Amendment) Regulations 2008* (S.I. No. 259 of 2008), reg. 6.
- E20** Previous affecting provision: power pursuant to section exercised (1.08.1994) by *Building Regulations (Amendment) Regulations 1994* (S.I. No. 154 of 1994); revoked (1.07.1998) by *Building Regulations 1997* (S.I. No. 497 of 1997), reg. 4 and sch. 1.
- E21** Previous affecting provision: power pursuant to section exercised (1.06.1992) by *Building Regulations 1991* (S.I. No. 306 of 1991); revoked (1.07.1998) by *Building Regulations 1997* (S.I. No. 497 of 1997), reg. 4 and sch. 1.

Dispensation or relaxation of building regulations.

4.—(1) Subject to the provisions of this section, a building control authority may, if it considers it reasonable having regard to all the circumstances of the case, grant a dispensation from, or a relaxation of, any requirement of building regulations in respect of buildings or works which are situated within the functional area of the building control authority and—

(a) which are designed, constructed or carried out by or on behalf of the building control authority, or

(b) in relation to which an application for such dispensation or relaxation has been submitted pursuant to *subsection (2)*.

(2) An application for a dispensation from, or a relaxation of, any requirement of building regulations shall be made in the prescribed form, and any such application shall be accompanied by the prescribed fee (if any).

(3) Building regulations may provide that in respect of any specified requirement of the regulations, *subsection (1)* shall not apply.

(4) Where, within a period of two months beginning on the date of an application, or within such extended period as may at any time be agreed in writing between the applicant and the building control authority, the building control authority does not notify the applicant of the decision on the application, a decision by the building control authority to grant the dispensation or relaxation, as the case may be, shall be regarded as having been made on the last day of the period or such extended period, as the case may be.

(5) A building control authority may make a dispensation from, or a relaxation of, any requirement of building regulations granted pursuant to *subsection (1)* subject to such conditions (if any) as it sees fit.

Annotations

Editorial Notes:

- E22** Power pursuant to section exercised (1.07.1998) by *Building Regulations 1997* (S.I. No. 497 of 1997).

- E23** Power pursuant to section exercised (1.07.1998) by *Building Control Regulations 1997* (S.I. No. 496 of 1997).
- E24** Previous affecting provision: power pursuant to section exercised (8.07.1992) by *Building Control Act 1990 (Fees) (Amendment) Regulations 1992* (S.I. No. 182 of 1992); revoked (1.07.1998) by *Building Control Regulations 1997* (S.I. No. 496 of 1997), reg. 4(1) and sch. 1, subject to transitional provisions in reg. 4(2).
- E25** Previous affecting provision: power pursuant to section exercised (1.06.1992) by *Building Control Act 1990 (Fees) Regulations 1992* (S.I. No. 112 of 1992); revoked (1.07.1998) by *Building Control Regulations 1997* (S.I. No. 496 of 1997), reg. 4(1) and sch. 1, subject to transitional provisions in reg. 4(2).
- E26** Previous affecting provision: power pursuant to section exercised (1.06.1992) by *Building Regulations 1991* (S.I. No. 306 of 1991); revoked (1.07.1998) by *Building Regulations 1997* (S.I. No. 497 of 1997), reg. 4 and sch. 1.

Dispensation or relaxation in relation to specified works or material.

5.—(1) Where the Minister considers that compliance with any requirement of building regulations would be unreasonable in relation to any specified class of building operation, works or material, the Minister may, as regards such compliance, by order dispense with or relax that requirement subject to such conditions as he sees fit and specifies in the order.

(2) The Minister may by order amend or revoke an order made under this section including an order made under this subsection.

Building control regulations.

6.—(1) The Minister may make regulations (in this Act referred to as “building control regulations”) providing for matters of procedure, administration and control for the purposes of securing the implementation of, and compliance with, the requirements of building regulations and building control regulations may make such incidental, consequential or supplementary provisions as may appear to the Minister to be necessary or expedient.

(2) Without prejudice to the generality of *subsection (1)*, building control regulations may make provision for all or any of the following matters—

(a) requiring—

- (i) the submission to building control authorities of certificates (in this Act referred to as “certificates of compliance”) being certificates relating to compliance with the building regulations (subject to any relevant dispensation or relaxation already granted under *section 4* or *5* or to any appeal under *section 7* which has been allowed) prior to the commencement of, during, and after the completion of, the construction of any buildings, classes of buildings, works or classes of works, to which such building regulations apply,
- (ii) in respect of a building, or buildings, of a prescribed class or classes, the submission to a building control authority of an application for a certificate (in this Act referred to as a “fire safety certificate”) that a building, if constructed in accordance with the plans, documents and information submitted, would, in the opinion of the building control authority, comply (subject to any relevant dispensation or relaxation already granted under *section 4* or *5* or to any appeal under *section 7* which has been allowed) with such provisions of building regulations as may be prescribed, F5[...]
- (iii) in respect of the design or construction of any buildings or classes of buildings or of the carrying out of any works or classes of works to which building regulations apply, the submission to a building control authority of an application for a certificate (in this Act referred to as a “certificate of approval”) of the building control authority that in the opinion of the

building control authority the design or construction of the buildings or works comply (subject to any relevant dispensation or relaxation already granted under *section 4* or *5* or to any appeal under *section 7* which has been allowed) with F6[the requirements of building regulations,]

- F7[(iv) the submission (before grant of the relevant fire safety certificate) of a notice in writing to a building control authority (in this Act referred to as a '7 day notice') by a person who intends to commence work on the construction of a building or an extension of or a material alteration to a building, giving not less than 7 days notice of that person's intention to carry out those works, and requiring that such notice shall be accompanied by a valid application for a fire safety certificate,
- (v) the submission to a building control authority by a person who submits a 7 day notice of a statutory declaration (in this Act referred to as a '7 day notice statutory declaration') made by that person stating that the application for the relevant fire safety certificate has been completed in all respects and complies with the relevant provisions of the building control regulations, that any works that have been commenced before the grant of such certificate will comply with the building regulations and that the person will, within such period as may be specified by the building control authority, carry out any modification of such works that is required by or under the fire safety certificate, including any condition attached to it, when it is granted by the building control authority concerned,
- (vi) where an application for a fire safety certificate in respect of the construction of a building or an extension of or a material alteration to a building has been submitted before planning permission has been granted in respect of such construction, extension or alteration, the submission, if required by the subsequent grant of such planning permission, of a further application to a building control authority for a fire safety certificate (in this Act referred to as a 'revised fire safety certificate') for the purpose of ensuring that the revised design arising from the grant of planning permission (including any condition attached to it) complies with the provisions of building regulations relating to fire safety,
- (vii) where work has been commenced or completed in respect of the construction of a building or an extension of or a material alteration to a building, and no application has been made for a fire safety certificate that is required under building control regulations for such construction, extension of or material alteration to a building, the submission to a building control authority of an application for a certificate (a 'regularisation certificate') which shall be accompanied by drawings of the relevant works (as they have been constructed) and a statutory declaration from the applicant stating that such works comply with the provisions of the building regulations relating to fire safety, and enabling the authority to specify in a regularisation certificate that the regularisation certificate shall not have effect unless, within 4 months after its being granted, any conditions attached to it by the authority (including conditions as to the carrying out of additional works) are complied with,
- (viii) a building control authority to inspect (before it decides whether to grant such a certificate) a building in respect of which an application has been submitted for a regularisation certificate and enabling the authority to grant, if it considers it appropriate, in its discretion, to do so, a regularisation certificate specifying that in its opinion the works, as constructed in accordance with plans, documents and information submitted with the application for the certificate, comply with the provisions of building regulations relating to fire safety, subject to compliance (within the period of 4 months there mentioned) with any conditions attached to the certificate of the kind mentioned in subparagraph (vii),

- (ix) the submission to a building control authority of an application for a certificate of compliance with respect to requirements under the building regulations for provision of access to a building for persons with disabilities (a 'disability access certificate') and enabling the building control authority to grant such certificate if in its opinion the design of the building or the extension of or material alteration to the building in respect of which the submission is made would comply (subject to any relevant dispensation or relaxation already granted under section 4 or 5 or to any appeal under section 7 which has been allowed) with the relevant requirements of the building regulations,
 - (x) the submission to a building control authority of an application for a fire safety certificate (in this Act also referred to as a 'revised fire safety certificate') or a disability access certificate (in this Act referred to as a 'revised disability access certificate') if significant revision is made to the design or works of a building or an extension of or a material alteration to a building in respect of which a fire safety certificate or a disability access certificate has been granted by a building control authority, and
 - (xi) that a new building, or an existing building in respect of which an extension or a material alteration has been made, shall not be opened, operated or occupied or permitted to be opened, operated or occupied—
 - (I) unless a fire safety certificate or disability access certificate (or, as the case may require, a revised certificate of either kind) or a regularisation certificate required by regulations under this Act has been granted by the building control authority in relation to the building, or
 - (II) if such an appeal is made to it, pending the determination by An Bord Pleanála of an appeal under section 7 relating to a refusal to grant any of the certificates or revised certificates referred to in clause (I) or the attachment of conditions to any of them;]
- (b) prescribing—
- F6[(i) the form and content of—
 - (I) certificates of compliance,
 - (II) applications for fire safety certificates, revised fire safety certificates, regularisation certificates, disability access certificates and revised disability access certificates,
 - (III) each of the certificates referred to in clause (II),
 - (IV) 7 day notices and 7 day notice statutory declarations,
 - (V) applications for certificates of approval and certificates of approval,]
 - (ii) the plans, documents and information to be submitted with certificates of compliance, applications for fire safety certificates, F7[7 day notices, 7 day notice statutory declarations, revised fire safety certificates, regularisation certificates, disability access certificates, building energy rating certificates, revised disability access certificates] applications for certificates of approval and notices to which *subsection (2) (k)* relates, and
 - (iii) the time within which such certificates, applications and notices are to be submitted;
- (c) the designation of the persons or the classes of persons by whom certificates of compliance may be given, and the classes of buildings or works in respect of which such certificates may be given;

- (d) the granting by a building control authority of fire safety certificates and certificates of approval with or without conditions, or the refusal of such certificates;
- (e) requiring a building control authority, whenever it refuses a fire safety certificate or a certificate of approval, to notify the applicant in writing of the reasons for such refusal;
- (f) the registration of certificates of compliance, and of such information as may be prescribed in relation to applications for fire safety certificates, fire safety certificates, applications for certificates of approval and certificates of approval and the making available of such information to such persons as may be prescribed;
- (g) prescribing the records to be kept, and the information to be provided to the Minister, by a building control authority;
- (h) the charging of fees for—
 - (i) the registration of certificates of compliance,
 - (ii) the submission of applications for fire safety certificates F7[, 7 day notices, 7 day notice statutory declarations, revised fire safety certificates, regularisation certificates, disability access certificates, revised disability access certificates] or certificates of approval,
 - (iii) the provision of copies of certificates or other documents or extracts therefrom,
 - (iv) the carrying out of inspections and tests and the testing of samples taken pursuant to *section 11*, and
 - (v) any other matter that the Minister considers appropriate;

F7[(*ha*) the exemption, in specified circumstances, from fees referred to in paragraph (*h*);]

- (i) the combining in one document of any two or more of the following, namely, any application, notice, certificate or other document provided for in this Act, or in any regulations made thereunder, and any application, notice or other document provided for in the Local Government (Planning and Development) Acts, 1963 to 1983, or in any regulations made under those Acts;
- (j) the exclusion from all, or any of, the provisions regarding the submission of certificates of compliance or applications for fire safety certificates or applications for certificates of approval, of such persons, bodies or buildings, or classes thereof as may be specified in the regulations;
- (k) requiring the giving of notice to building control authorities of the erection of such buildings, or classes of buildings, or the carrying out of such works, or classes of works, as may be specified in the F6[regulations;]

F7[(2A) References in subsection (2)(a)(iv) to (xi) to a material alteration of a building include references to a material change of use of a building and, for the purposes of those provisions as they apply in relation to such a material change of use, references in those provisions to—

- (a) work,
- (b) relevant works, or
- (c) the design of works,

shall, in so far as they are applicable to such a material change of use, be construed as references to—

- (i) the doing of the acts that constitute the material change of use or, as appropriate, those acts when they are done, or
- (ii) in the case of references to the design of works, the various aspects of the material change of use or, as appropriate, any particular aspect of that change of use,

and references to construction of works and cognate references shall be construed accordingly.]

(3) Building control regulations may make different provisions in relation to different buildings, or classes of buildings, in relation to buildings or classes of buildings situated in different areas, or in relation to different provisions of building regulations.

(4) Where a certificate of compliance, or a notice to which *subsection (2) (k)* relates, is submitted to a building control authority, the building control authority shall not be under a duty to any person to—

- (a) ensure that the building or works to which the certificate or notice relates will, either during the course of the work or when completed, comply with the requirements of building regulations or be free from any defect,
- (b) ensure that the certificate complies with the requirements of this Act or of regulations or orders made under this Act, or
- (c) verify that the facts stated in the certificate are true and accurate.

(5) Where, within a period of two months beginning on the date of an application for a fire safety certificate F7[, 7 day notice, revised fire safety certificate, regularisation certificate, disability access certificate, revised disability access certificate] or a certificate of approval, or within such extended period as may at any time be agreed in writing between the applicant and the building control authority, the building control authority does not notify the applicant of the decision on the application, a decision by the building control authority to grant the fire safety certificate F7[, 7 day notice, revised fire safety certificate, regularisation certificate, disability access certificate, revised disability access certificate] or the certificate of approval, as the case may be, shall be regarded as having been made on the last day of the period or such extended period, as the case may be.

(6) Where an application for a dispensation from or relaxation of any requirement of building regulations is made pursuant to *section 4*, or where an appeal under *section 7* has been made against a decision on such application, the building control authority may defer the making of a decision in relation to the granting or, as the case may be, the refusal of a fire safety certificate F7[, 7 day notice, revised fire safety certificate, regularisation certificate, disability access certificate, revised disability access certificate] or certificate of approval, in respect of the building concerned for a period not exceeding two months after the decision on the application or, as the case may be, the appeal, has been made, and *subsection (5)* shall be construed accordingly.

Annotations

Amendments:

- F5** Deleted (30.09.2009) by *Building Control Act 2007 (21/2007)*, s. 5(a), S.I. No. 352 of 2009.
- F6** Substituted (30.09.2009) by *Building Control Act 2007 (21/2007)*, s. 5(b), (d) and (h), S.I. No. 352 of 2009.
- F7** Inserted (30.09.2009) by *Building Control Act 2007 (21/2007)*, s. 5(c), (e), (f), (g), (i), (j) and (k), S.I. No. 352 of 2009.

Editorial Notes:

- E27** Prospective affecting provisions: power pursuant to section exercised (1.03.2014) by *Building Control (Amendment) Regulations 2013* (S.I. No. 80 of 2013), commenced as per reg. 2.
- E28** Power pursuant to section exercised (1.10.2009 and 1.01.2010) by *Building Control (Amendment) Regulations 2009* (S.I. No. 351 of 2009).
- E29** Power pursuant to section exercised (1.04.2004) by *Building Control (Amendment) Regulations 2004* (S.I. No. 85 of 2004).
- E30** Power pursuant to section exercised (1.04.2000) by *Building Control (Amendment) Regulations 2000* (S.I. No. 10 of 2000).
- E31** Power pursuant to section exercised (1.07.1998) by *Building Control Regulations 1997* (S.I. No. 496 of 1997).
- E32** Power pursuant to section exercised (5.07.1993) by *Building Control (Amendment) Regulations 1993* (S.I. No. 190 of 1993).
- E33** Previous affecting provision: power pursuant to section exercised (1.08.1994) by *Building Control (Amendment) Regulations 1994* (S.I. No. 153 of 1994); revoked (1.07.1998) by *Building Control Regulations 1997* (S.I. No. 496 of 1997), reg. 4(1) and sch. 1, subject to transitional provisions in reg. 4(2).
- E34** Previous affecting provision: power pursuant to section exercised (8.07.1992) by *Building Control Act 1990 (Fees) (Amendment) Regulations 1992* (S.I. No. 182 of 1992); revoked (1.07.1998) by *Building Control Regulations 1997* (S.I. No. 496 of 1997), reg. 4(1) and sch. 1, subject to transitional provisions in reg. 4(2).
- E35** Previous affecting provision: power pursuant to section exercised (1.06.1992) by *Building Control Act 1990 (Fees) Regulations 1992* (S.I. No. 112 of 1992); revoked (1.07.1998) by *Building Control Regulations 1997* (S.I. No. 496 of 1997), reg. 4(1) and sch. 1, subject to transitional provisions in reg. 4(2).
- E36** Previous affecting provision: power pursuant to section exercised (1.06.1992) by *Building Control Regulations 1991* (S.I. No. 305 of 1991); revoked (1.07.1998) by *Building Control Regulations 1997* (S.I. No. 496 of 1997), reg. 4(1) and sch. 1, subject to transitional provision in reg. 4(2).

Appeals.

7.—(1) An applicant who is dissatisfied with the decision of a building control authority on an application pursuant to—

- (a) *section 4*, for a dispensation from, or relaxation of, any requirement of building regulations, or
- (b) *section 6 (2) (a) (ii)*, for a fire safety certificate, or
- (c) *section 6 (2) (a) (iii)*, for a certificate of F8[approval, or]
- F9[(d) *section 6(2)(a)(vii)*, for a regularisation certificate, or
- (e) *section 6(2)(a)(ix)*, for a disability access certificate,]

may appeal to An Bord Pleanála.

(2) An Bord Pleanála, after consideration of an appeal under this section, shall either (as it thinks proper) refuse the appeal or allow the appeal subject, where it thinks fit, to the attachment, amendment or deletion of conditions.

(3) The Minister may, by regulations, specify—

- (a) the manner in which an appeal is to be made pursuant to this section,
- (b) the time within which such appeals may be made,

(c) F10[...]

(d) the procedure to be adopted on such appeals,

(e) such incidental, supplementary, consequential and transitional provisions (including modification or application of any provision of this Act or of the Local Government (Planning and Development) Acts, 1963 to 1983) as appear to the Minister to be necessary for the purposes of this section.

Annotations

Amendments:

- F8** Substituted (30.09.2009) by *Building Control Act 2007* (21/2007), s. 6(a)(i), S.I. No. 352 of 2009.
- F9** Inserted (30.09.2009) by *Building Control Act 2007* (21/2007), s. 6(a)(ii), S.I. No. 352 of 2009.
- F10** Deleted (30.09.2009) by *Building Control Act 2007* (21/2007), s. 6(b), S.I. No. 352 of 2009.

Editorial Notes:

- E37** Power pursuant to section exercised (1.10.2009 and 1.01.2010) by *Building Control (Amendment) Regulations 2009* (S.I. No. 351 of 2009).
- E38** Power pursuant to section exercised (1.07.1998) by *Building Control Regulations 1997* (S.I. No. 496 of 1997).
- E39** Previous affecting provision: power pursuant to section exercised (8.07.1992) by *Building Control Act 1990 (Fees) (Amendment) Regulations 1992* (S.I. No. 182 of 1992); revoked (1.07.1998) by *Building Control Regulations 1997* (S.I. No. 496 of 1997), reg. 4(1) and sch. 1, subject to transitional provisions in reg. 4(2).
- E40** Previous affecting provision: power pursuant to section exercised (1.06.1992) by *Building Control Act 1990 (Fees) Regulations 1992* (S.I. No. 112 of 1992), subsequently revoked (1.07.1998) by *Building Control Regulations 1997* (S.I. No. 496 of 1997), reg. 4(1) and sch. 1, subject to transitional provisions in reg. 4(2).
- E41** Previous affecting provision: power pursuant to section exercised (1.06.1992) by *Building Control Act 1990 (Appeals) Regulations 1992* (S.I. No. 111 of 1992); revoked (1.07.1998) by *Building Control Regulations 1997* (S.I. No. 496 of 1997), reg. 4(1) and sch. 1, subject to transitional provisions in reg. 4(2).

F11[Fees in respect of an appeal.

7A.— (1) Subject to the approval of the Minister, An Bord Pleanála (hereafter in this section referred to as ‘the Board’) may determine that fees shall be payable in relation to appeals under section 7 and, subject to subsection (2), such a fee so determined shall be paid to the Board by the person making the appeal under section 7 at such time as the Board specifies.

(2) The power of the Board in relation to fees referred to in subsection (1) includes a power of the Board—

- (a) to determine that different such fees shall be payable in respect of different classes of appeal under section 7,
- (b) to exempt a person from the requirement to pay any such fee in such circumstances as it determines, and
- (c) to remit or refund in whole or in part any such fee that has been paid in such circumstances as it determines,

and the exercise of the power under paragraph (b) or (c) (as distinct from the determination of the circumstances in which the power shall be exercisable) shall not require the approval of the Minister.

(3) The Board shall review the fees determined under subsection (1) from time to time, but at least every three years, having regard to any change in the consumer price index since the determination of the fees for the time being in force, and may amend the fees to reflect the results of that review, without the necessity of the Minister's approval under subsection (1).

(4) For the purposes of this section, 'change in the consumer price index' means the difference between the All Items Consumer Price Index Number last published by the Central Statistics Office before the date of the determination under this section and the said number last published before the date of the review under subsection (3), expressed as a percentage of the last-mentioned number.

(5) Where the Board determines or amends fees in accordance with this section, it shall give notice of the fees in at least one newspaper circulating in the State, not less than 8 weeks before the fees come into effect.]

Annotations

Amendments:

F11 Inserted (1.03.2008) by *Building Control Act 2007* (21/2007), s. 7, S.I. No. 50 of 2008.

F12[Provision with respect to amendment of this Act by S.I. No. 872 of 2005.

7B.— The Minister shall be deemed always to have had the power to make the regulations under section 3 of the European Communities Act 1972 entitled the 'European Communities (Energy Performance of Buildings) Regulations 2005' (S.I. No. 872 of 2005) and, accordingly—

- (a) the amendment of section 3(2) purported to have been made by those Regulations shall be deemed to have been validly made and to have been in operation as and from the date those Regulations were purported to have been made, and
- (b) the Building Regulation (Amendment) Regulations 2005 (S.I. No. 873 of 2005) made in the purported exercise of the powers conferred by sections 3 and 18 shall be deemed to have been validly made and to have been in operation as and from the time that those Regulations provided that those Regulations were to come into operation.]

Annotations

Amendments:

F12 Inserted (1.03.2008) by *Building Control Act 2007* (21/2007), s. 7, S.I. No. 50 of 2008.

Enforcement notice.

8.—(1) Where—

- (a) the construction of any building or the carrying out of any works to which building regulations apply is commenced or has been completed or any material change takes place in the purposes for which any building is used, and
- (b) the building or works are not designed or have not been, or are not being, constructed or carried out in conformity with building regulations, and

- (c) the failure to comply with building regulations is not such a failure in relation to which the building control authority would be prepared to grant a dispensation or relaxation pursuant to this Act,

the building control authority may serve a notice (in this Act referred to as an enforcement notice) under this section.

(2) An enforcement notice shall not be served, in respect of the building or works concerned, after the expiration of the period of five years commencing on the date of—

- (a) the completion of the building or the works, or
(b) the material change in the purposes for which the building is used.

(3) An enforcement notice may be served on—

- (a) the owner of the building or works concerned, or
(b) any other person who carried out, or is carrying out, the works to which the notice applies.

(4) An enforcement notice, in particular and without prejudice to the other provisions of this section, may—

- (a) require such steps as may be specified in the notice to be taken within such period as may be so specified for the purposes of ensuring compliance, subject to any dispensation or relaxation already granted under *section 4* or *5* or to any appeal under *section 7* which has been allowed, with building regulations and any such notice may require—

- (i) the removal, alteration or making safe of any structure, service, fitting or equipment, or
(ii) the discontinuance of any works or the doing of any other thing as may be specified in the notice in relation to the building or works to which the notice relates;

- (b) prohibit the use of a building, or a specified part of a building, for any purpose specified in the notice until specified precautions are taken to the satisfaction of the building control authority by the removing, altering or making safe of any structure, service, fitting or equipment or the discontinuance of any works or by the doing of any other thing in relation to such building or such specified part of a building F13[that may be required by the notice;]

F14[(c) require a person on whom the notice is served to pay to the building control authority the costs and expenses reasonably incurred by the authority in relation to the investigation and detection of the matters, the subject of the notice, the service of the notice and the preparation and giving of any warnings before the service of the notice, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers,

and, as regards the costs and expenses referred to in paragraph (c), in default of their payment, the authority may, subject to *section 9* and without prejudice to subsection (8), recover the costs and expenses as a simple contract debt in any court of competent jurisdiction.]

(5) Subject to *subsection (6)*, an enforcement notice shall take effect at the expiration of such period (being a period of not less than fourteen days beginning on the date of the service of such notice) as may be specified therein.

(6) A person on whom an enforcement notice has been served pursuant to this section shall—

- (a) if he does not apply to the District Court pursuant to *section 9*, comply with the terms of the notice within the period specified therein,
- (b) if he applies to the District Court pursuant to *section 9*, and the notice is confirmed by the District Court either unconditionally or subject to modifications, alterations or additions, comply with the terms of the notice, or the notice as modified, altered or added to by the District Court, as the case may be, within the period specified in the notice, the period beginning on the date of the determination of the application to the District Court,
- (c) if he applies to the District Court pursuant to *section 9*, and withdraws such application, comply with the terms of the notice within the period specified in the notice, the period beginning on the date of the withdrawal of the application.

(7) Where a person fails to comply with the requirements of *subsection (6)*, the building control authority may enter into any building or works to which the enforcement notice relates, and may enter any land necessary for that purpose, and therein take any action or do anything required by the notice.

(8) Where a building control authority pursuant to *subsection (7)* enters into any building or works to which the enforcement notice relates and takes any action or does anything in relation thereto, the building control authority may, on satisfying the Court that the person on whom the enforcement notice was served is either the owner of the building or a person who carried out the works to which the enforcement notice relates, and that such person failed to comply with the requirements of *subsection (6)*, recover as a simple contract debt in a court of competent jurisdiction the costs of taking the action or doing such thing from the person on whom the notice was served.

Annotations

Amendments:

F13 Substituted (1.03.2008) by *Building Control Act 2007 (21/2007)*, s. 8(a), S.I. No. 50 of 2008.

F14 Inserted (1.03.2008) by *Building Control Act 2007 (21/2007)*, s. 8(b), S.I. No. 50 of 2008.

Application to District Court in relation to enforcement notice.

9.—(1) A person on whom an enforcement notice is served may, within fourteen days of the service of the notice, apply to the District Court to annul, modify or alter the notice on all or any of the following grounds—

- (a) that the alleged failure to comply with the requirements of building regulations is not such as would warrant the service of an enforcement notice;
- (b) that compliance with the terms of the enforcement notice would occasion unreasonable expense;
- (c) that the time allowed by the building control authority for compliance with the notice is unreasonably short;
- (d) that the appellant is not the person on whom the notice should have been served;
- (e) that the design or the building complies with the requirements of the building regulations.

(2) Notice of an application pursuant to *subsection (1)* shall be served on the building control authority concerned and that authority shall be entitled to appear, be heard and adduce evidence at the hearing of the application.

(3) On the hearing of an application pursuant to this section, the court may, as it thinks proper—

- (a) confirm the enforcement notice, or
- (b) confirm the enforcement notice subject to such modifications, alterations or additions as the court thinks reasonable, or
- (c) annul the enforcement notice.

F15[(3A) If the court makes a determination to which subsection (3)(a) or (b) applies, it shall, unless it is satisfied that there are special and substantial reasons for not doing so, order the applicant to pay to the building control authority concerned the costs and expenses, as measured by the court, incurred by the authority—

- (a) in appearing and adducing evidence at the hearing, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers, and
- (b) in so far as they have not been recouped pursuant to the provision (if any) of the enforcement notice referred to in section 8(4)(c), in relation to the investigation and detection of the matters to which the application relates, including costs incurred in respect of remuneration and expenses as aforesaid.]

(4) The jurisdiction conferred on the District Court under this section shall be exercised by the Justice of that Court having jurisdiction in the area where the building or works concerned are situated.

Annotations

Amendments:

F15 Inserted (1.03.2008) by *Building Control Act 2007* (21/2007), s. 9, S.I. No. 50 of 2008.

Service of enforcement notice.

10.—(1) Where an enforcement notice is authorised under this Act to be served on or given to a person, it shall be addressed to him and may be served on or given to him in some one of the following ways—

- (a) where it is addressed to him by name, by delivering it to him;
- (b) by leaving it at the address at which he ordinarily resides or, in a case where an address for service has been furnished, at that address;
- (c) by sending it by post in a prepaid registered letter addressed to him at the address at which he ordinarily resides or, in a case where an address for service has been furnished, at that address;
- (d) where the address at which he ordinarily resides cannot be ascertained by reasonable inquiry and the enforcement notice is authorised to be given in respect of any particular building or works, by delivering it to some person over sixteen years of age residing or employed in such building or on such works or by affixing it in a conspicuous position on or near such building or works.

(2) Where an enforcement notice is authorised by this Act to be served on or given to the owner of a building or works or a person who carried out or is carrying out the works to which building regulations apply and the name of such person cannot be ascertained by reasonable inquiry, the notice may be addressed to “the owner”, “the occupier” or “the builder” (as the circumstances may require) without naming him.

(3) For the purposes of this section, a company registered under the Companies Acts, 1963 to 1986, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

(4) Where an enforcement notice is served on or given to a person pursuant to *subsection (1) (d)*, a copy of the notice shall, within two weeks thereafter, be published in at least one newspaper circulating in the area in which the person is last known to have resided.

(5) A person who, at any time during the period of three months after a notice is affixed pursuant to *subsection (1) (d)*, removes, damages or defaces the notice without lawful authority shall be guilty of an offence.

Powers of inspection by authorised persons.

11.—(1) In this section “authorised person” means a person authorised for the purposes of this Act by a building control authority or by the Minister, or by An Bord Pleanála, as the case may be.

(2) Subject to *subsection (7)*, any authorised person shall be entitled to enter at all reasonable times into any land (subject to his producing, if so required, his authority in writing as such person) and thereon inspect for the purposes of this Act any building, and any plans or documents relating to such building.

(3) Any authorised person may—

(a) inspect any building—

(i) following its completion, or

(ii) during its construction, alteration or extension, or

(iii) during the installation therein of any fittings, services or equipment to which building regulations apply, or

(iv) in respect of which any material change takes place in the purposes for which such building is used;

(b) require to be informed by the owner or occupier of such a building, or by any person responsible for the construction of such a building, or by any of the aforementioned persons, to the extent that such persons have knowledge of the matters in question, as to the purpose for which the building, or any part thereof, has been, is being, or will be, used, the number of persons who are, or will be, employed or accommodated therein or who resort or will resort thereto, the substance of which any such building or any part of such building is constructed, and the method of construction employed and as to any other matter which the authorised person considers to be relevant;

(c) require the owner or occupier of the building, or any person responsible for the construction of the building, to provide such plans, documents and information as are necessary to establish whether the requirements of building regulations are being complied with in relation to the building;

(d) be permitted to take such samples of the materials used in the carrying out of any construction work or take such other action in relation to such construction work as may be necessary to establish whether the requirements of building regulations are being complied with in relation to the building.

(4) An authorised person shall be entitled to be assisted by such persons, and to bring with him such equipment, as he considers necessary to enable him to exercise his powers under this section.

(5) Any person who—

- (a) refuses to allow an authorised person to enter any land or building or to take any person or equipment with him in the exercise of his powers under this section, or
- (b) obstructs or impedes an authorised person in the exercise of any of the powers conferred on him by this section, or
- (c) wilfully or recklessly gives, either to an authorised person or to a building control authority, information which is false or misleading in a material respect, or
- (d) fails to comply with any requirement of this section,

shall be guilty of an offence.

(6) Where an authorised person is prevented from exercising his power of entry into any land or building in the exercise of his powers under this section, the building control authority concerned may apply to the District Court for a warrant authorising such entry.

(7) Nothing in this section shall empower an authorised person to enter into, or to inspect any plans or documents relating to, any land or building which is—

- (a) a prison or place of detention, or
- (b) in the occupation of the Garda Síochána or the Defence Forces.

Order of High Court in relation to buildings and works.

12.—(1) Where the construction of any building or works to which building regulations apply is, or has been, commenced or completed or any material change takes place in the purposes for which a building is used and the building control authority concerned considers that, arising from such construction or change of use—

- (a) there is a risk to the health or safety of persons who may be in or about the building or works, or of persons affected by such building or works, and
- (b) such risk is so serious that either specified measures should be taken immediately to reduce or eliminate the risk or that the use of the building or works concerned should be restricted or prohibited until specified measures have been taken to reduce or eliminate the risk,

F16[the building control authority concerned may apply to the High Court or the Circuit Court for an order] requiring the removal, alteration or making safe of any structure, service, fitting or equipment, or the discontinuance of any works or restricting or prohibiting the use of the building until the removal, alteration, or making safe of any structures, services, fittings or equipment or the discontinuance of any works, as the case may be, has been effected.

F17[(1A) Where the construction of any building or works to which building regulations apply is or has been commenced or completed and in respect of which—

- (a) a fire safety certificate, a disability access certificate or a regularisation certificate is required to be granted and such construction—
 - (i) is or has been commenced without the fire safety certificate, disability access certificate or regularisation certificate having been granted, or
 - (ii) is or has been completed without the fire safety certificate, disability access certificate or regularisation certificate having been granted,
- or
- (b) an enforcement notice has not been complied with,

the building control authority concerned may apply to the High Court or the Circuit Court for an order requiring the removal, alteration or making safe of any structure, service, fitting or equipment, or the discontinuance of any works or restricting or prohibiting the use of the building until the fire safety certificate, disability access certificate or regularisation certificate has been granted and complied with or the enforcement notice has been complied with.]

(2) The application for an order under this section shall be by motion, F16[and where such an application is made, the High Court or the Circuit Court, as the case may be, may] make such interim or interlocutory order as it considers appropriate.

F17[(2A) If the High Court or the Circuit Court makes an order under this section providing for any of the matters referred to in subsection (1) or (1A), it shall, unless it is satisfied that there are special and substantial reasons for not doing so, order the person against whom the order is made to pay to the building authority concerned the costs and expenses, as measured by the court, incurred by the authority—

- (a) in relation to the application under this section, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers, and
- (b) in so far as they have not been recouped by any other means provided under this Act, in relation to the investigation and detection of the matters to which the application relates and the preparation and giving of any warnings before the making of the application, including costs incurred in respect of remuneration and expenses as aforesaid.]

(3) F18[**Any order made by the High Court or the Circuit Court under this section**] shall have effect notwithstanding the terms of any permission given under any other enactment for the use of the building or works or any part of either of them to which the relevant application under this section relates.

F17[(4) (a) An application under this section to the Circuit Court shall be made to the judge of the Circuit Court for the circuit in which the land which is the subject of the application is situated.

- (b) The Circuit Court shall have jurisdiction to hear and determine an application under this section where the market value of the land which is the subject of the application does not exceed €3,000,000.
- (c) The Circuit Court may, for the purposes of paragraph (b), in relation to land that has not been given a market value or is the subject with other land of a market value, determine that its market value would exceed, or would not exceed, €3,000,000.
- (d) Where the market value of any land which is the subject of an application under this section exceeds €3,000,000, the Circuit Court shall, if an application is made to it in that behalf by any person having an interest in the proceedings, transfer the proceedings to the High Court, but any order made or act done in the course of such proceedings before the transfer shall be valid unless discharged or varied by the High Court by order.
- (e) In this subsection ‘market value’ means, in relation to land, the price that would have been obtained in respect of the unencumbered fee simple were the land to have been sold on the open market, in the year immediately preceding the bringing of the proceedings concerned, in such manner and subject to such conditions as might reasonably be calculated to have resulted in the vendor obtaining the best price for the land.]

Annotations**Amendments:**

- F16** Substituted (1.03.2008) by *Building Control Act 2007 (21/2007)*, s. 10(a) and (c), S.I. No. 50 of 2008.
- F17** Inserted (1.03.2008) by *Building Control Act 2007 (21/2007)*, s. 10(b), (d) and (f), S.I. No. 50 of 2008.
- F18** Substituted (1.03.2008) by *Building Control Act 2007 (21/2007)*, s. 10(e), S.I. No. 50 of 2008.

Power to prohibit the use of certain materials etc.

13.—(1) The Minister may by order prohibit the use of such materials or classes of materials, or such form of construction or such type of equipment, fittings or services in relation to such class or classes of buildings or to such class or classes of works as may be specified in the order, if he is satisfied that such use would be a danger to public health or safety or that such use would contravene any provision of building regulations.

(2) The Minister may by order amend or revoke an order under this section including an order made under this subsection.

Building Regulations Advisory Body.

14.—(1) The Minister may by order appoint a body which shall be known, and is in this Act referred to, as the Building Regulations Advisory Body.

(2) The Building Regulations Advisory Body—

(a) shall advise the Minister on matters relating to building regulations, and

(b) may provide such advisory services for or on behalf of the Minister,

as the Minister may, from time to time, specify.

(3) The Building Regulations Advisory Body shall consist of so many persons appointed by the Minister for such period as he thinks fit, and any person so appointed shall hold office for such period as the Minister may specify.

(4) The Minister may from time to time nominate one member of the Building Regulations Advisory Body to act as its Chairman.

(5) The Minister may at any time remove any member (including the Chairman) of the Building Regulations Advisory Body from office.

(6) The Minister may by order amend or revoke an order made under this section including an order made under this subsection.

Annotations**Editorial Notes:**

- E42** Previous affecting provision: power pursuant to section exercised (28.09.2006) for period to 31.12.2006 by *Building Regulations Advisory Body Order 2002 (Amendment) Order 2006* (S.I. No. 503 of 2006).
- E43** Previous affecting provision: power pursuant to section exercised (2.11.2004) for period to 31.12.2006 by *Building Regulations Advisory Body Order 2002 (Amendment) Order 2004* (S.I. No. 697 of 2004).
- E44** Previous affecting provision: power pursuant to section exercised (19.02.2003) for period to 31.12.2006 by *Building Regulations Advisory Body Order 2002 (Amendment) Order 2003* (S.I. No. 62 of 2003).

- E45** Previous affecting provision: power pursuant to section exercised (9.01.2002) for period from 9.01.2002 to 31.12.2006 by *Building Regulations Advisory Body Order 2002* (S.I. No. 2 of 2002).
- E46** Previous affecting provision: power pursuant to section exercised (13.10.1999) for period to 30.09.2001 by *Building Regulations Advisory Body Order 1998 (Amendment) Order 1999* (S.I. No. 318 of 1999).
- E47** Previous affecting provision: power pursuant to section exercised (16.09.1998) for period 1.10.1998 to 30.09.2001 by *Building Regulations Advisory Body Order 1998* (S.I. No. 348 of 1998).
- E48** Previous affecting provision: power pursuant to section exercised (12.05.1997) for period to 31.05.1998 by *Building Regulations Advisory Body Order 1995 (Amendment) Order 1997* (S.I. No. 200 of 1997).
- E49** Previous affecting provision: power pursuant to section exercised (17.05.1996) for period to 31.05.1998 by *Building Regulations Advisory Body Order 1995 (Amendment) Order 1996* (S.I. No. 133 of 1996).
- E50** Previous affecting provision: power pursuant to section exercised (18.07.1995) for period to 31.05.1998 by *Building Regulations Advisory Body Order 1995* (S.I. No. 190 of 1995).
- E51** Previous affecting provision: power pursuant to section exercised (13.05.1992) for period to 31.05.1995 by *Building Regulations Advisory Body Order 1992* (S.I. No. 113 of 1992).

Authenticity of documents.

15.—(1) A document purporting to be a copy of an entry in a register or to be a copy of a document lodged with a building control authority and which is certified by an officer of the building control authority concerned to be a correct copy of the entry or the document, as the case may be, shall be *prima facie* evidence of the entry or the document of which it purports to be a copy and it shall not be necessary to prove the signature of such officer or that he was in fact such officer.

(2) Evidence of an entry in a register may be given by the production of a copy of such entry, certified in accordance with the provisions of *subsection (1)*, and it shall not be necessary to produce the register itself.

Offences.

16.—Any person who contravenes (by act or omission) any requirement of this Act or of any order, regulation or notice under this Act shall be guilty of an offence.

Penalties.

17.—(1) A person guilty of an offence under this Act (other than an offence to which *subsection (2)* applies) shall be liable on summary conviction to a fine not exceeding F19[€5,000] or, at the discretion of the court, to imprisonment for a term not exceeding six months or to both the fine and the imprisonment and, if the offence is continued on after conviction, such person shall be guilty of a further offence and shall be liable on summary conviction to a fine not exceeding F19[€500] in respect of each day on which the offence is continued.

(2) A person guilty of an offence by reason of a contravention of *section 3 (5)* or *8 (6)* or of an offence in contravention of building control regulations which is declared by such regulations to be an offence to which this subsection applies, shall be liable—

(a) on summary conviction to a fine not exceeding F19[€5,000], or, at the discretion of the court, to imprisonment for a term not exceeding six months, or to both the fine and the imprisonment and, if the offence is carried on after conviction, such person shall be guilty of a further offence and shall be liable on summary conviction to a fine not exceeding F19[€500] per day in respect of each day on which the offence is continued, or

(b) on conviction on indictment, to a fine not exceeding F19[€50,000] or, at the discretion of the court, to imprisonment for a term not exceeding two years or to both the fine and the imprisonment.

(3) Section 13 of the Criminal Procedure Act, 1967, shall apply in relation to an offence to which *subsection (2)* relates as if, in lieu of the penalties provided for in subsection (3) of the said section, there were specified therein the penalties provided for in *subsection (2)(a)*, and the reference in subsection (2) (a) of the said section 13 to the penalties provided for in the said subsection (3) shall be construed and have effect accordingly.

(4) Where an offence under this Act which is committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person (or any person acting on his behalf) being a director, manager or secretary of such body, that person or the person so acting, as the case may be, shall also be guilty of the offence.

(5) Summary proceedings for an offence F19[**under this Act**] may be brought and prosecuted by the building control authority for the functional area in which the offence is alleged to have been committed.

(6) Notwithstanding the provisions of section 10 (4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be instituted within twelve months after the date of the discovery of the offence but not later than five years after the date of the completion of any building or works in respect of which the offence is alleged to have been committed.

(7) Any person who is convicted of an offence under this Act may, at the discretion of the court, be disqualified from signing and submitting certificates of compliance with building regulations for a period—

(a) not exceeding two years from the date of conviction, if the offence is an offence to which *subsection (1) or (2) (a)* applies, or

(b) not exceeding ten years from the date of conviction, if the offence is an offence to which *subsection (2) (b)* applies,

and, accordingly, a building control authority shall not accept certificates for registration which are signed by a person while so disqualified.

Annotations

Amendments:

F19 Substituted (1.03.2008) by *Building Control Act 2007* (21/2007), s. 11, S.I. No. 50 of 2008.

Editorial Notes:

Prospective affecting provisions: power pursuant to section exercised (1.03.2014) by *Building Control (Amendment) Regulations 2013* (S.I. No. 80 of 2013), commenced as per reg. 2.

F20[Payment of fines to building control authority.

17A.— Where a court imposes a fine or affirms or varies a fine imposed by another court for an offence under this Act in proceedings brought by a building control authority, it shall, on application of the building control authority (made before the time of such imposition, affirmation or variation), provide by order for the payment of the amount of the fine to the building control authority and such payment may be enforced by the authority as if it were due to it on foot of a decree or order made by the court in civil proceedings.]

Annotations**Amendments:**

F20 Inserted (1.03.2008) by *Building Control Act 2007* (21/2007), s. 12, S.I. No. 50 of 2008.

F21 [Costs of prosecution, etc.]

17B.— On convicting a person of an offence under this Act in proceedings brought by a building control authority, the court shall, unless it is satisfied that there are special and substantial grounds for not doing so, order the person to pay to the authority the costs and expenses, as measured by the court, incurred by the authority in relation to the investigation, detection and prosecution of the offence, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers.]

Annotations**Amendments:**

F21 Inserted (1.03.2008) by *Building Control Act 2007* (21/2007), s. 12, S.I. No. 50 of 2008.

F22 [Evidential value of electronically stored information.]

17C.— In any proceedings under this Act, a certificate issued by a building control authority purporting to be a printout of data stored by the authority in electronic format or data stored in photographic, digitised or other modern format, being, in either case, data relating to the performance by the authority of any function under this Act or to any plans, documents or information submitted to it under this Act or regulations thereunder, shall have evidential value.]

Annotations**Amendments:**

F22 Inserted (1.03.2008) by *Building Control Act 2007* (21/2007), s. 12, S.I. No. 50 of 2008.

Orders and regulations.

18.—(1) The Minister may make regulations for the purposes of this Act.

(2) Every order made under *section 13* and every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next twenty-one days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Annotations**Editorial Notes:**

E52 Prospective affecting provisions: power pursuant to section exercised (1.03.2014) by *Building Control (Amendment) Regulations 2013* (S.I. No. 80 of 2013), commenced as per reg. 2.

E53 Power pursuant to section exercised (1.07.2013) by *Building Regulations (Part D Amendment) Regulations 2013* (S.I. No. 224 of 2013), commenced as per reg. 2.

- E54** Power pursuant to section exercised (1.07.2013) by *Building Regulations (Part A Amendment) Regulations 2012* (S.I. No. 138 of 2012).
- E55** Power pursuant to section exercised (1.01.2012) by *Building Regulations (Part M Amendment) Regulations 2010* (S.I. No. 513 of 2010).
- E56** Power pursuant to section exercised (1.12.2011) by *Building Regulations (Part L Amendment) Regulations 2011* (S.I. No. 259 of 2011).
- E57** Power pursuant to section exercised (1.06.2011) by *Building Regulations (Part H Amendment) Regulations 2010* (S.I. No. 561 of 2010).
- E58** Power pursuant to section exercised (1.10.2010) by *Building Regulations (Part F Amendment) Regulations 2009* (S.I. No. 556 of 2009).
- E59** Power pursuant to section exercised (1.10.2009 and 1.01.2010) by *Building Control (Amendment) Regulations 2009* (S.I. No. 351 of 2009).
- E60** Power pursuant to section exercised (1.11.2008) by *Building Regulations (Part G Amendment) Regulations 2008* (S.I. No. 335 of 2008).
- E61** Power pursuant to section exercised (10.07.2008) by *Building Regulations (Part L Amendment) Regulations 2008* (S.I. No. 259 of 2008).
- E62** Power pursuant to section exercised (1.06.2006) by *Building Regulations (Amendment) Regulations 2006* (S.I. No. 115 of 2006).
- E63** Power pursuant to section exercised (1.04.2004) by *Building Control (Amendment) Regulations 2004* (S.I. No. 85 of 2004).
- E64** Power pursuant to section exercised (1.01.2003) by *Building Regulations (Amendment) (No.2) Regulations 2002* (S.I. No. 581 of 2002).
- E65** Power pursuant to section exercised (1.01.2001) by *Building Regulations (Amendment) (No.3) Regulations 2000* (S.I. No. 441 of 2000).
- E66** Power pursuant to section exercised (1.01.2001) by *Building Regulations (Amendment) (No.2) Regulations 2000* (S.I. No. 249 of 2000).
- E67** Power pursuant to section exercised (1.01.2001) by *Building Regulations (Amendment) Regulations 2000* (S.I. No. 179 of 2000).
- E68** Power pursuant to section exercised (1.04.2000) by *Building Control (Amendment) Regulations 2000* (S.I. No. 10 of 2000).
- E69** Power pursuant to section exercised (1.07.1998) by *Building Regulations 1997* (S.I. No. 497 of 1997).
- E70** Power pursuant to section exercised (1.07.1998) by *Building Control Regulations 1997* (S.I. No. 496 of 1997).
- E71** Power pursuant to section exercised (5.07.1993) by *Building Control (Amendment) Regulations 1993* (S.I. No. 190 of 1993).
- E72** Previous affecting provision: power pursuant to section exercised (1.07.2008) by *Building Regulations (Amendment) Regulations 2007* (S.I. No. 854 of 2007); revoked (10.07.2008) by *Building Regulations (Part L Amendment) Regulations 2008* (S.I. No. 259 of 2008), reg. 6.
- E73** Previous affecting provision: power pursuant to section exercised (1.07.2006) by *Building Regulations (Amendment) Regulations 2005* (S.I. No. 873 of 2005); revoked (10.07.2008) by *Building Regulations (Part L Amendment) Regulations 2008* (S.I. No. 259 of 2008), reg. 6.
- E74** Previous affecting provision: power pursuant to section exercised (1.01.2003) by *Building Regulations (Amendment) Regulations 2002* (S.I. No. 284 of 2002); revoked (10.07.2008) by *Building Regulations (Part L Amendment) Regulations 2008* (S.I. No. 259 of 2008), reg. 6.

- E75** Previous affecting provision: power pursuant to section exercised (1.08.1994) by *Building Regulations (Amendment) Regulations 1994* (S.I. No. 154 of 1994); revoked (1.07.1998) by *Building Regulations 1997* (S.I. No. 497 of 1997), reg. 4(1) and sch. 1, subject to transitional provisions in reg. 4(2).
- E76** Previous affecting Provision: Power pursuant to section exercised (1.08.1994) by *Building Control (Amendment) Regulations 1994* (S.I. No. 153 of 1994); revoked (1.07.1998) by *Building Control Regulations 1997* (S.I. No. 496 of 1997), reg. 4(1) and sch. 1, subject to transitional provisions in reg. 4(2).
- E77** Previous affecting provision: power pursuant to section exercised (8.07.1992) by *Building Control Act 1990 (Fees) (Amendment) Regulations 1992* (S.I. No. 182 of 1992); revoked (1.07.1998) by *Building Control Regulations 1997* (S.I. No. 496 of 1997), reg. 4(1) and sch. 1, subject to transitional provisions in reg. 4(2).
- E78** Previous affecting provision: power pursuant to section exercised (1.06.1992) by *Building Regulations 1991* (S.I. No. 306 of 1991); revoked (1.07.1998) by *Building Regulations 1997* (S.I. No. 497 of 1997), reg. 4(1) and sch. 1, subject to transitional provisions in reg. 4(2).
- E79** Previous affecting provision: power pursuant to section exercised (1.06.1992) by *Building Control Regulations 1991* (S.I. No. 305 of 1991); revoked (1.07.1998) by *Building Control Regulations 1997* (S.I. No. 496 of 1997), reg. 4(1) and sch. 1, subject to transitional provision in reg. 4(2).
- E80** Previous affecting provision: power pursuant to section exercised (1.06.1992) by *Building Control Act 1990 (Fees) Regulations 1992* (S.I. No. 112 of 1992); revoked (1.07.1998) by *Building Control Regulations 1997* (S.I. No. 496 of 1997), reg. 4(1) and sch. 1, subject to transitional provisions in reg. 4(2).
- E81** Previous affecting provision: power pursuant to section exercised (1.06.1992) by *Building Control Act 1990 (Appeals) Regulations 1992* (S.I. No. 111 of 1992); revoked (1.07.1998) by *Building Control Regulations 1997* (S.I. No. 496 of 1997), reg. 4(1) and sch. 1, subject to transitional provisions in reg. 4(2).

Expenses of
Minister.

19.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Expenses of
building control
authorities.

20.—(1) F23[...]

(2) The expenses, as a building control authority, of any F23[...] county in which there is a borough or urban district, the corporation or council of which is for the time being a building control authority, shall be charged on the county concerned exclusive of any such borough or urban district.

Annotations

Amendments:

- F23** Repealed (1.01.1994) by *Local Government (Dublin) Act 1993* (31/1993), s. 4 and sch.1, part 1, S.I. No. 400 of 1993.

Limitation on civil
proceedings.

21.—A person shall not be entitled to bring any civil proceedings pursuant to this Act by reason only of the contravention of any provision of this Act, or of any order or regulation made thereunder.

Transitional.

22.—(1) No further bye-laws shall be made under section 41 of the Public Health (Ireland) Act, 1878 (other than under paragraph (1) of that section), section 23 of the Public Health Acts (Amendment) Act, 1890 (other than under the last paragraph of

subsection (1) of that section), and section 33 of the Dublin Corporation Act, 1890, relating to any matter which is the subject matter of this Act.

(2) Any bye-law to which *subsection (1)* relates and which is in force on the operative day shall continue to apply in relation to—

(a) any plans which, in accordance with such bye-laws, were deposited before the operative day,

(b) any works carried out in accordance with plans which were so deposited whether such works were carried out in accordance with those plans, with or without a departure or deviation from those plans,

(c) any works carried out and completed before the operative day.

(3) Save as is provided for in *subsection (2)*, any bye-law to which *subsection (1)* relates shall, as regards a particular area, cease to have effect on the operative day to the extent that it relates to the subject matter of this Act.

(4) In this Act “the operative day” means, in relation to any area, the day on which building regulations first come into operation in that area.

(5) For any reference to bye-laws under section 41 of the Public Health (Ireland) Act, 1878 with respect to any matters set out in that section (other than paragraph (1) thereof), or to bye-laws under subsection (1) of section 23 of the Public Health Acts (Amendment) Act, 1890 (other than the last paragraph thereof), or to bye-laws under subsection (4) of the said section 23, which occurs in any Act or in any instrument having effect under any Act, there shall be substituted, save where the context otherwise requires, a reference to building regulations.

(6) *Subsection (5)* shall not be construed as excluding from any enactment any reference to bye-laws made under section 41 of the Public Health (Ireland) Act, 1878, which were in force before the commencement of this Act or which are continued in force under this section.

(7) Where any works to which bye-laws applied (being bye-laws to which *subsection (1)* relates) were carried out prior to the 13th day of December, 1989, and any requirement of the bye-laws concerned, or any statutory requirement relating to such bye-laws, was not complied with, proceedings or any other act shall not be taken on the basis of such non-compliance, and approval to the carrying out of the works shall be deemed to have been granted, unless the building control authority serve on the owner of the works or other person concerned, within six months of the operative day, a notice stating that the works constitute a danger to public health or safety.

(8) The provisions of *subsections (4) to (8) of section 8, section 9 and section 10* shall apply to a notice served under *subsection (7)*.

(9) Bye-laws made by a sanitary authority pursuant to section 46 (4) of the Factories Act, 1955, shall cease to apply in so far as they contain any provision inconsistent with the requirements of building regulations.

Annotations

Editorial Notes:

- E82** Continuation of bye-laws insofar as they apply for certain purposes under subs. (2) confirmed (10.07.2006) by *Local Government Act 2001 (37/2001)*, s. 209(6), S.I. No. 361 of 2006.

Multi-storey buildings.

23.—(1) Section 4 of the Local Government (Multi-Storey Buildings) Act, 1988, shall cease to apply to multi-storey buildings the construction of which is commenced on or after the operative day.

(2) Notwithstanding *subsection (1)*, section 4 of the Local Government (Multi-Storey Buildings) Act, 1988, shall continue to have effect in relation to any multi-storey building to which *section 22(2)* applies.

(3) For the purposes of this section, “multi-storey building” has the meaning assigned to it by section 1 of the Local Government (Multi-Storey Buildings) Act, 1988.

Repeals.

24.—(1) Every provision of the Local Government (Planning and Development) Act, 1963 (as amended by the Local Government (Planning and Development) Act, 1976) specified in *column (1)* of *Part I* of the *Second Schedule* to this Act is hereby repealed to the extent specified in *column (2)* of that Part of that Schedule.

(2) Every provision of the Local Government (Planning and Development) Act, 1976 specified in *column (1)* of *Part II* of the *Second Schedule* to this Act is hereby repealed to the extent specified in *column (2)* of that Part of that Schedule.

Annotations

Editorial Notes:

E83 Power pursuant to section exercised (4.12.1991 and 1.06.1992) by *Building Control Act 1990 (Commencement) Order 1991* (S.I. No. 304 of 1991).

2. (1) Sections 1, 2, 3, 4, 6, 7, 14, 15, 18, 19, 20, 21 and 25 of the Building Control Act, 1990, shall come into operation on the 4th day of December, 1991.

(2) The Building Control Act, 1990, other than the provisions referred to in sub-article (1) of this article, shall come into operation on the 1st day of June, 1992.

Short title and commencement.

25.—(1) This Act may be cited as the Building Control Act, 1990.

(2) This Act shall come into operation on such day or days as may be appointed by order or orders of the Minister, either generally or by reference to a particular purpose or provision, and different days may be so appointed for different purposes and different provisions.

Section 3.

FIRST SCHEDULE

MATTERS FOR WHICH BUILDING REGULATIONS MAY PRESCRIBE STANDARDS

1. Preparation of sites.
2. Suitability, durability, classification, use and testing of materials and components (including surface finishes) used in buildings.
3. Structural strength and stability of buildings including—
 - (a) precautions against overloading, impact and explosion,
 - (b) measures to safeguard adjacent buildings and services,
 - (c) underpinning.
4. Resistance to moisture and decay.
5. Fire precautions including—
 - (a) resistance of the structure to the outbreak and spread of fire,
 - (b) means of escape in the event of fire and measures to ensure that such means can be effectively and safely used at all times,
 - (c) services, fittings and equipment designed to facilitate fire-fighting, to mitigate the effects of fire, for the early detection of fire and to provide warning in the event of fire.
6. Prevention of danger and obstruction to persons in and about buildings.
7. Measures affecting the emission of smoke, gases, fumes, grit or dust or other noxious or offensive substances.
8. Measures to prevent infestation.
9. Measures affecting the transmission of heat.
10. Measures affecting the transmission of sound.
11. Storage, treatment and removal of waste.
12. Accommodation for specific purposes or in connection with buildings, and the dimensions of rooms, components and other spaces within buildings.
13. Ventilation and daylighting (including the provision of open space therefor).
14. Means of access to and egress from buildings and parts of buildings.
15. Water services and fittings and fixed equipment associated therewith.
16. Drainage (including waste disposal units).
17. Services, installations and ancillary equipment, including—
 - (a) installations (including appliances, storage tanks, heat ex-changers, ducts and fans) utilising solid fuel, oil, gas, electricity or any other fuel or power for the purpose of, or in connection with, providing heat or ventilation or producing hot water,
 - (b) electrical wiring installations,
 - (c) lifts, escalators, hoists, conveyors and moving footways,

(d) plant providing air under pressure.

18. Heating, artificial lighting, mechanical ventilation, air conditioning and the provision of power outlets.

SECOND SCHEDULE

PART I

Repeals of Local Government (Planning and Development) Act, 1963 (as amended by the Local Government (Planning and Development) Act, 1976).

Section 24.

Provision	Extent of Repeal
(1)	(2)
1 (2) (b)	The whole paragraph.
2 (1)	The definition of "building regulations".
18	The whole section.
82 (1)	The words "in relation to appeals to the Minister under section 88 of this Act or".
82 (2) (a)	The whole paragraph.
82 (2) (b)	The words "any such oral hearing or".
82 (3) (a)	The words "other than an appeal to the Minister under section 88 of this Act, ".
82 (3) (b)	The words "an appeal to the Minister under section 88 of this Act or".
82 (3A) (c)	The whole paragraph.
82 (9)	The words "except where the context otherwise requires," and the words "an appeal to the Minister under section 88 of this Act or".
86	The whole section.
87	The whole section.
88	The whole section.
91	The whole section.
92 (5)	The whole subsection.
Fifth Schedule	The whole schedule.

PART II

Repeals of Local Government (Planning and Development) Act, 1976.

Provision	Extent of Repeal
(1)	(2)
14 (9)	The words ", other than section 18 thereof,".
42 (d)	The whole paragraph.
42 (e)	The whole paragraph.
42 (f)	The whole paragraph.

Provision	Extent of Repeal
(1)	(2)
44	The whole section.