

Irish Building Control Institute (IBCI)
Building Control Conference 2007
Bunratty
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Building Control Bill 2005



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BUILDING CONTROL BILL 2005

Progress of Bill to date

- Publication: 22 December 2005, together with detailed Explanatory Memorandum.
- Second Stage in Dáil: 14th / 16th February and 3rd March 2006
- Committee Stage in Dáil: 11th October 2006
- Report and Final Stage in Dail: 1st March 2007
- Second Stage in Seanad: 8th March 2007
- Committee & Remaining Stages in Seanad: 21st March 2007
- Referral of Ministerial Amendments to Dail: Date to be Set

Key Objectives

- To strengthen the powers of local Building Control Authorities to enforce minimum building standards set by the national Building Regulations and based on recommendations made by the Building Regulations Advisory Body (BRAB).
- To more effectively ensure access to new or reconstructed buildings for people with disabilities.
- To provide for the registration of titles of certain building professionals and to limit the lawful use of the title of “Architect”, “Quantity Surveyor”, and “Building Surveyor” to suitably qualified people, whose names are entered on national, statutory, registers. The intention here is to stop unqualified people passing themselves off to householders and others as qualified building professionals.

In addition to addressing the above Key Objectives of the Bill, I propose to briefly refer also to the scope of Regulations made by the Minister on 22 December, 2006, in regard to the transposition into Irish law of the EU Directive 2002/91/EC on the Energy Performance of Buildings.

Key Provisions (Summary)

- Full details in **Explanatory Memorandum** published with Bill.

Part 2: Stronger Enforcement Powers for Local Building Control

Authorities

Access to Buildings

- The Bill marks a further move in implementing the Government's commitment to enhance the rights of people with disabilities. The Bill provides for the introduction of a **Disability Access Certificate (DAC) system**, as recommended in the Report of the Commission on the Status of People with Disabilities.
- Under the DAC system, local Building Control Authorities will have to certify that the designs of new Non-Domestic Buildings and new Apartment Blocks comply with Part M (Access for People with Disabilities) of the Building Regulations, ***before*** work commences on the relevant projects.
- A decision has yet to be made on who should issue the DAC at local authority level.
- Part M (Access for People with Disabilities) and the related 2000 edition of Technical Guidance Document M the subject of review.
- Public "Prior" Consultation Notice: published in national newspapers in December 2005.
- Last Date for Submissions: 31 March 2006
- Consideration by Sub-Group of BRAB: Ongoing
- Draft Proposals to BRAB by Department: Mid 2007
- Publication of Draft Proposals: Autumn 2007

Proposed revisions in Fire Safety Certificate (FSC) procedures

- Section 4 of the **Building Control Bill 2005** proposes a number of provisions to strengthen the current FSC system, and takes account of practical experience in operating the FSC system since 1992.
- These proposals were **recommended by the Building Regulations Advisory Body (BRAB)** and involve a number of new provisions as follows:
 - **“Revised FSC”**: application for revised FSC, to replace existing application, must be made where a design of a building is revised, to comply with conditions attached to a planning permission.
 - **“Regularisation Certificate”**: to be applied for where works have been carried out without a prior FSC/7 Day Notice. This must be accompanied by construction drawings and a certificate that the works are in compliance with the fire safety requirements of Part B of the Building Regulations. This provides a clear legal basis for the granting of retrospective FSC, as is current practice.
 - **“7 Day Notice”**: may be submitted to a Building Control Authority where commencement of work is imminent. This must be accompanied by a *valid FSC application*, together with a *Declaration* in respect of the completeness and validity of the FSC; and an undertaking to carry out any necessary modifications to works as may be required by the FSC, when granted. This is modelled on UK building control legislation and caters for developers who are anxious to start work on urgent projects, without waiting up to 2 months for FSC application to be processed.
 - **Prohibition**: of the opening, operation, or occupation of buildings, which require an FSC, until such time as the FSC is granted. This prohibition will have major financial implications and should deter developers from flouting FSC requirements.
 - **Application to High Court/Circuit Court** : Local Building Control Authorities will have wider powers to seek an Order from

the High Court/Circuit Court e.g. where non-compliance with an Enforcement Notice or design lacks a DAC or an FSC. This is a more effective financial deterrent than fine on conviction.

Building Control Authority as Prosecution Authority

- The Bill introduces the **option for local Building Control Authority to bring summary prosecutions** for all building code offences in the District Court - rather than by way of prosecution, on indictment by the DPP, in the Circuit Court.
- This will **simplify the prosecution process** for the authorities.
- The authorities will also get the **benefit of fines** resulting from summary prosecutions brought by them.
- The **maximum monetary penalties** for breaches of the national Building Regulations will be substantially increased as follows:
 - (1) on summary conviction: from £800 to **€1,500**
 - (2) for continuing offence: from £150 per day to **€500 per day**
 - (3) on conviction on indictment: from £10,000 to **€50,000**
- **Evidential Value of electronically stored building control records:** Section 9 of Bill gives a statutory basis for such records and should assist Building Control Authorities in their work.

Parts 3-7: Registration of Building Professions

- The Bill provides for the **registration of the titles** of certain building professionals; and the **statutory protection of such titles** from misuse.
- Bill will require that people calling themselves
“Architect” or
“Quantity Surveyor” or
“Building Surveyor”

are properly qualified, and are registered on relevant national registers, which will also have the status of statutory registers.

- The registers will be administered by designated “registration bodies”.
- **Royal Institute of Architects of Ireland (RIAI)**, in the case of Architects.
- **Society of Chartered Surveyors (SCS)**, in the case of Quantity Surveyors and Building Surveyors.
- Registration eligibility criteria: are defined in the Bill and not by the registration bodies themselves; after lengthy debate, emphasis now on “practical experience assessment procedures” for those who have been performing duties commensurate with those of an architect for a period of ten or more years in the State.
- Processes and procedures: designed to ensure that **all applicants/applications are treated fairly, and in a transparent way**.
- Admission Decisions (to the register): made by independent Admission Boards, Technical Assessment Boards, Appeals Boards - not by registration body
- Ultimately, a right of appeal against refusal of registration to the High Court.

- Board/Committee Members: although the registration bodies will have the right to appoint members of the various Boards/Committees, the majority of ordinary members will be non-building professionals and the quorums for meetings of these structures will also ensure that the same majority will apply.

Board Chairperson: each Board will be independently chaired by a retired judge or a lawyer, who will be appointed by the Minister.

Transposition into Irish law of the EU Directive 2002/91/EC on the Energy Performance of Buildings

- Kevin O'Rourke of SEI will address Conference tomorrow on developments in regard to implementation of the EPD and on DEAP – the Domestic Energy-Rating Assessment Procedure used both for BER and Building Regulations Compliance
- EU Directive transposition measures originally included in Building Control Bill, 2005
- Separate Ministerial Regulations made on 22 December, 2006, to comply with EU end – 2006 deadline
- Regulations provide for Implementation of Building Energy Rating (**BER**) System, which is being introduced as follows:
- **BER of new dwellings commencing on or after 1 January 2007.** A transitional BER exemption will apply to a new dwelling for which planning permission is applied for on or before 31 December 2006, provided the new dwelling involved is substantially completed by 30 June 2008
- **BER of new Non-Domestic Buildings commencing on or after 1 July 2008.** A transitional BER exemption will apply to a new non-domestic building for which planning permission is applied for on or before 30 June 2008, provided the new non-domestic building involved is substantially completed by 30 June 2010.
- **BER of existing buildings, when offered for sale or letting, on or after 1 January 2009.**
- **Transitional BER exemptions were required to:**
- avoid delaying commencement of work on new buildings (including new dwellings), at an advanced stage of design and planning;
- enable the roll out of a substantial number of trained and registered BER Assessors, in the first half of 2007; and
- allow Sustainable Energy Ireland to complete the setting up a system for the smooth and efficient administration and oversight of

the BER certification system- involving the recruitment of staff, the installation of ICT systems and so on.

- **Expected Benefits of BER :** Building Energy Rating should encourage builders and developers to build more energy efficient new dwellings in order to merit an “A” or “B” rating, which would improve the marketability of new dwellings offered for sale or letting. The end result should be to cut heating fuel bills for house buyers.
- **Alternative/Renewable Energy Systems:** The new Regulations also require that anyone commissioning the construction of a large new building (total useful floor area over 1,000m²) must consider the economic, environmental and technical feasibility of installing alternative/renewable energy systems at the design stage including: decentralised energy supply systems, based on renewable energy; combined heat and power (CHP) systems; district or block heating or cooling, if available; and heat pumps.