



Developments in Building Control Legislation

Irish Building Control Institute (IBCI)
Building Control Conference 2009
CAVAN

25th and 26th March 2009

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Comhshaol, Oidhreachta agus Rialtas Áitiúil
Environment, Heritage and Local Government



Departmental Reorganisation

- Dedicated Building Standards Section now within DEHLG
- EIA/SEA responsibilities moved to Planning Section to facilitate this
- Administrative personnel now 100% focussed on Building Standards
- Increase in Adviser resources from 1 to 3 Advisers, reporting to Senior Adviser



BUILDING CONTROL ACT 2007

- Building Control Act signed by President on 21 April 2007
- Commencement Order for Part 2 of Act, except for Sections 5 & 6, on **1 March 2008**
- Registration of titles of "Architect", "Quantity Surveyor" and "Building Surveyor" commenced on **1 May 2008**
- Further Regulations to commence Disability Access Certificate and the revised Fire Safety Certificates regime will be made by mid-2008



Increased Fines – Commenced 1 March 2008

- The maximum penalties for breaches of the national Building Regulations substantially increased:
 - on summary conviction: from £800 to € 1,500
 - for continuing offence: from £150 to €500 per day
 - on conviction on indictment: from £10,000 to €50,000
- Above monies allocated to Building Control Authorities and should enable better enforcement of the building code





Stronger Enforcement Powers Commenced – 1 March 2008

- Summary Prosecutions: The Act gives local Building Control Authority option of 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 simplifies and speeds up the prosecution process for the authorities
- The Authorities will also get the **benefit of fines** resulting from summary prosecutions
- Building Control Authorities empowered to **recoup reasonable costs/expenses** arising from enforcement action





Stronger Enforcement Powers Commenced – 1 March 2008

- **Application to High Court/Circuit Court:** Local Building Control Authorities now have wider powers to seek an Order from the High Court/Circuit Court to stop work on buildings e.g. where there is non-compliance with an Enforcement Notice or the design lacks a DAC or an FSC. This is a more effective financial deterrent than a fine on conviction.



Disability Access Certificate (DAC) (Part 2, Section 5)

- The Act 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



Regularisation Certificate (Part 2, Section 5)

- The Act provides for the introduction of a “**Regularisation Certificate**”: to be applied for where works have been carried out without a prior FSC/7 Day Notice. This must be accompanied by “as constructed” drawings and a **statutory declaration** that the works are in compliance with the fire safety requirements of Part B of the Building Regulations
- Certificate will not have effect unless any conditions attached/ additional works required by the BCA have been carried out within 4 months



7 Day Notice (Part 2, Section 5)

- The Act provides for the introduction of a “**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 **statutory 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 will facilitate developers who wish to start work on urgent projects, without waiting for the FSC application to be processed





Revised Fire Safety Certificates (Section 5)

The Act provides for “Revised Fire Safety Certificates”:

- (i) where required by a Planning Permission which is granted subsequent to the application for an FSC; and
- (ii) where significant revision is made to the design or works subsequent to the grant of an FSC.





Prohibition on use of Buildings

The Act provides for the **Prohibition:**

- of the opening, operation, or occupation of buildings which require an FSC, DAC, or Regularisation Certificate, until such time as the Certificates are granted
- This prohibition will have major financial implications for developers and should be a strong deterrent from flouting FSC and DAC and Regularisation requirements





Commencement of Sections 5 and 6

- Further Building Control (Amendment) Regulations will shortly be made by the Minister to commence the above Certification process
- Discussions have been held with representatives from the Chief Fire Officers on the draft Regulations
- Final discussions with CCMA yet to take place



Registration of Building Professionals Commenced 1 May 2008

- The provisions at Parts 3-7 of the Act which provide for registration of the titles of **“Architect” “Quantity Surveyor”** or **“Building Surveyor”** are in place
- 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 both Quantity and Building Surveyors

- RIAI conducted a Technical Assessment Pilot Project in 2008 to determine timescales and improve system
- Establishment of Boards/Committees is being finalised
- Persons who apply on or after 1 May 2008 can continue to use the titles, pending statutory registration





National Enforcement of Building Regulations

- Minimum target inspection level agreed with City and County Managers of 12%-15% of buildings with valid Commencement Notices
- Statistical returns for latest period 1 Jan- 30 June 2008 show ongoing high level of activity in building control
- 33 out of 37 Building Control Authorities met agreed target inspection level
- Request all authorities to meet minimum target level in 2009



Circular BC 04/2009 – Part L/ BER Enforcement

- **Context - Minister's commitment to energy efficiency/ carbon reduction and ambitious ongoing Part L upgrade programme and BER requirements**
- **Lists key SIs (Part L and BER), TGDs and related guidance documents, for both dwellings and buildings other than dwellings**
- **Ongoing support required to sensitise builders/developers to Part L/DEAP calculations and property owners and agents to BER requirements**
- **Circular requires BCA to ask for DEAP calculations for all Commencement Notices received; Conference programme includes session on using DEAP to verify Part L compliance; Circular also advocates DEAP training for BCA personnel**
- **Recommends proactivity in checking BER compliance in new and rental market – BCA activity essential during initial roll-out; if high level of compliance is secured from start it may not require ongoing intensive activity**
- **Is there scope for short-term allocation of resources to drive BER by writing to all agents and requesting BER certificates and Advisory Reports for properties for sale or letting in your BCA?**



European Communities (Energy Performance of Buildings) Regulations 2006 - 2008

Key Requirements:

- **Alternative Energy Systems** to be considered when designing any large building – with a total useful floor area > 1000 sq.m - from 1 Jan 2007; compliance to be demonstrated by reference to SEI guidance or a feasibility study specific to the building.
- **Building Energy Rating (BER) Certificates and Advisory Reports** required prior to building being occupied for first time, or being offered for sale or letting on a phased basis as follows:
 - For new dwellings, on or after 1 Jan 07 (except dwellings at planning stage before 31 Dec 2006 & substantially complete before 30 Jun 08);
 - For new buildings other than dwellings, on or after 1 July 08 (except dwellings at planning stage before 30 Jun 08 & substantially complete before 30 Jun 10);
 - For buildings of any class in existence at 1 Jan 09
- **Display Energy Certificates** for large public buildings on or after 1 Jan 09 – Custom House has a D1



BER Enforcement

- Owner/agent legally obliged to get BER prior to offering building for sale or rent
- Conveyancing requirement for sales will encourage compliance
- High consumer awareness will encourage demand in all markets
- BCA is responsible only for verifying / enforcing that valid BER Certificates have been obtained; SEI will deal with issues of quality of BER assessment, fraud, etc.
- Owner/agent must produce BER Certificate and Advisory Report on demand to BCA within 28 days, or give reasonable excuse
- Need for random written requests to an appropriate proportion of properties spread across all sales agents
- Fine, on successful prosecution, of €5,000 – legal enforcement seen as last resort



Building Regulations Advisory Body (BRAB)

- BRAB is a statutory body appointed under the Building Control Act 1990
- BRAB function is to advise the Minister on proposed amendments to the Building Regulations and any other matters as he may request
- New BRAB appointed in 2007 for a 5 year period. Current membership is 22
- Chairperson post is currently vacant due to resignation of Prof J. Owen Lewis, Professor of Architectural Science, UCD. New Chairperson will shortly be appointed by Minister
- BRAB has now concluded its deliberations on its Working Group on Enforcement for submission to Minister





Recent /Pending Amendments to Building Regulations

- **Part G/TGD-G (Hygiene)**: Amended to provide for dual-flush toilets in new buildings and refurbishment in existing buildings since **1 November 2008**

Specification for Manhole Covers and Frames

- Circular Letter BC 9/2008 issued on 24 December 2008 to clarify correct specification
- Footpaths should be considered an area subject to occasional traffic- thus requiring a Class B grading
- Class B 125 in accordance with IS EN 124 or
- Class B in accordance with IS 261 or BS 5834
- See Table 3.5 of DEHLG Publication "Recommendations for Site Development Works"
- Authorities, when inspecting works, should ensure that products comply with relevant standard



Recent /Pending Amendments to Building Regulations

- **Part H/TGD-H (Drainage and Waste Water Disposal)**: Review underway to address issue of small wastewater treatment systems and call up EPA Code of Practice to be published shortly. S.R.6 will be withdrawn by NSAI
- **Part M/TGD -M (Access for People with Disabilities)**: RIA completed; final public consultation will shortly commence with a view to publication of definitive Part M/TGD-M soon afterwards; proposed to change title to "Access and Use"
- **Part B / TGD-B (Fire Safety)**: Review of Part B to commence shortly. Fire Advisers have invited CFOs to submit comments on dealing with BS9999:2008 from 6 April; on issues for review of Part B; and on proposals for guidance for schools by 27 March
- **Part E (Sound)**: Revision has commenced following completion of the HomeBond Technical Investigation and Report; submissions to Noise Issues Consultation Paper also being reviewed; aim is proposal for public consultation towards end of year



Recent /Pending Amendments to Building Regulations

- **Part L/TGD-L (Conservation of Fuel & Energy):**
 - TGD-L 2008 Dwellings (December 2008) to reflect consolidation of Regulations under SI 259 of 2008
 - TGD-L 2008 Buildings other than Dwellings (March 2009) reflects SI 259 of 2008 (NEAP methodology)
 - Acceptable Construction Details (October 2008)
 - Domestic Heating & Hot Water Guide (October 2008)
 - 2010 target for Buildings other than Dwellings – RFT in April, 2009 to identify targets for consideration by BRAB and approval by Minister prior to public consultation by end 2009/early 2010.
 - 2010 targets for dwellings – preliminary work on 60% improvement on 2005 standards underway
 - Carbon Neutral Standards for New Dwellings by 2013
- **Part F/TGD-F (Ventilation):** To be finalised, following public consultation and BRAB views, for signature in April 2009
- **Part J/TGD-J (Heat Producing Appliances):** Consequential amendments following Part L 2007/2008 & ongoing developments – draft due in 3rd quarter 2009





Draft Construction Products Regulation (CPR)

The objective of the Regulation is to provide for ;

- Clarification of the existing framework under the Construction Products Directive (CPD)
- Reinforcement of credibility in system
- A harmonisation of the legal framework
- Simplification of procedures
- EU Working Group on Technical Harmonisation currently discussing text and EU Parliamentary Sub – Committee (Internal Market) amendments(106)
- Aim to have Regulation adopted at Plenary Meeting before end April



Recast Energy Performance of Buildings (EPBD) Directive

- Member States to
 - Draw up plans to improve energy performance levels in building stock
 - Monitor and promote market uptake of low or zero carbon buildings
 - Set minimum performance requirements for the replacement of building services
 - Ensure mandatory quotation of BER ratings in adverts
 - Upgrade their requirements for inspection of Air Conditioning units and Boilers
- DEHLG have circulated summary of changes to industry and interested parties for views
- EU Council propose to refer Directive to EU Parliament in April 2009 for consideration; anticipated transposition by Member States no later than 31 December 2009






Concluding Remarks

- Government emphasis on BRs and Climate Change has given BCAs an enhanced focus and status within LA system
- Challenge now is how BCAs respond to this
- Training on emerging systems, products and technologies essential
- Strategic alliances with key State agencies – FÁS, SEI, NSAI-Agreement, EI
- Strengthening the enforcement regime





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Environment, Heritage and Local Government