



Circular Letter: BC 06/2018

18 December 2018

Building Control (Amendment) Regulations 2018 (S.I. No. 526 of 2018)

To: The Chief Executive of each Local Authority
 Director of Services for Building Control
 Chief Fire Officers
 Building Control Officers

1. GENERAL

I wish to advise you that the Minister of State for Housing, Planning and Local Government, Mr. Damien English T.D. signed the *Building Control (Amendment) Regulations 2018* (S.I. No. 526 of 2018) which come into effect on 17 December 2018.

A copy of the regulations is enclosed for your attention.

2. BACKGROUND

Pillar 5 of *Rebuilding Ireland: Action Plan for Housing and Homelessness* commits to ensuring that the existing housing stock is used to the maximum degree possible. Action 5.21 committed to supporting and facilitating the reuse of older vacant buildings for residential use. In this regard, a Working Group on the Reuse of Existing Buildings was established and chaired by the Department of Housing, Planning and Local Government, in order to explore the regulatory procedures that apply to such development and to recommend ways of streamlining the process.





The Working Group comprised of representatives from the Department of Housing, Planning and Local Government; the Department of Culture, Heritage and the Gaeltacht; Local Authorities; the Fire Services; Building Control Authorities; Planning and design professionals. The Working Group met on 11 occasions from October 2017 to November 2018.

The Working Group produced two documents, as follows, which are available on the Department's website at: <https://www.housing.gov.ie/housing/home-ownership/vacant-homes/vacant-homes>

- 1) Bringing Back Homes - Manual for the reuse of existing buildings, and
- 2) Report of the Working Group on the Reuse of Existing Buildings.

The *Bringing Back Homes* manual is aimed at property owners, members of the public, local authorities and those stakeholders in the construction industry who are interested in developing vacant buildings. The manual provides clear and detailed guidance on how current policy and regulatory requirements apply to this form of development.

It outlines the process and issues to be considered when developing existing buildings for residential purposes and applies these procedures to four common existing building types, which typically reflect the buildings (or parts of buildings) that are lying vacant in towns and cities all over Ireland today. It provides further guidance on the more complex redevelopments where multiple apartments are being created. A number of examples of completed projects are also showcased in the manual.

The *Report of the Working Group on the Reuse of Existing Buildings* outlines the key deliverables of the Working Group since its formation in October 2017 and proposes a series of recommendations for consideration in the future.



Recommendation 5 of the report recommended that ‘*a review of the Building Control Regulations 1997-2015 be undertaken to give further clarification with respect to the building control approvals required for material changes of use to dwellings*’.

On foot of this recommendation, a review was carried out by the Department, which has resulted in the Minister amending the Building Control Regulations in respect of the application for Disability Application Certificates (DACs)¹.

3. AMENDMENTS

The *Building Control (Amendment) Regulations 2018* separates the requirement for a Disability Access Certificate from the requirements for a Fire Safety Certificate, and explicitly specifies the buildings or works, which require/ do not require a Disability Access Certificate with respect to the requirements of Part M (Access and Use) of the Second Schedule to the Building Regulations. The amendment primarily clarifies the application of Disability Access Certificates to existing buildings when brought back into use.

Article 20D (1)

The *Building Control (Amendment) Regulations 2018* set out the classes of buildings or works, which will require a DAC, as follows:

- (a) The construction of a new building,
- (b) The material alteration (excluding minor works) of:
 - (i) a day centre,
 - (ii) a hotel, hostel or guest building, or
 - (iii) an institutional building, or
 - (iv) a place of assembly, or
 - (v) a shopping centre,

¹ The *Bringing Back Homes* manual has incorporated the amendment in the final publication.



- (c) The material alteration of a shop, office or industrial building where -
 - (i) the building is being subdivided into a number of units for separate occupancy,
or
 - (ii) additional floor area is being provided within the building,
- (d) The extension of a building by more than 25 square meters,
- (e) The material change of use where the building, becomes used as:
 - (i) a day centre,
 - (ii) a hotel, hostel or guest building,
 - (iii) an institutional building,
 - (iv) a place of assembly,
 - (v) a shop (which is not ancillary to the primary use of the building), or
 - (vi) a shopping centre.

In relation to Article 20D (1)(b), it should be noted that a DAC is no longer required for Material Alterations to a building containing a flat. However, this does not exempt the works from the requirements of Part M (Access and Use) of the Second Schedule to the Building Regulations (where there is a Part M requirement). Part M continues to apply in the case of Material Alterations to a flat, or to a building containing a flat where Part M is applicable (but only to those works), as per Article 11 of the Building Regulations 1997 – 2017 (as amended).

Article 20D (1)(e) clarifies that a DAC is not required for the Material Change of Use to a building, where:

- a) a flat, becomes so used,
- b) an office, becomes so used, or
- c) an industrial building, becomes so used.

This is in keeping with the requirements of Article 13 of the Building Regulations 1997 – 2017 (as amended).



Article 20D (2)

The *Building Control (Amendment) Regulations 2018* set out the classes of buildings or works, which do not require a DAC, as follows:

- a) An agricultural building,
- b) A dwelling (other than a flat),
- c) A garage ancillary to a dwelling,
- d) Certain other buildings ancillary to a dwelling,
- e) A building used solely to enable inspection, repair or maintenance of fixed plant, building services, or machinery.

In relation to Article 20D (2)(a) to (d), it should be noted that the exemption for a DAC equates to the same building types which are currently exempted from the requirements for a Fire Safety Certificate, as specified in Article 11(2). However, the exemption for a DAC is irrespective of storey height.

In addition, Article 20D (2)(e), clarifies that a DAC is not required for a building used solely to enable inspection, repair or maintenance of fixed plant, building services, or machinery, such as access to roof top air handling units or electric substations.

Article 20D(3) to (11)

Sub-articles 20D(2) to (10) are re-numbered to 20D (3) to (11) to account for the introduction of the new sub-article 20D(2).

Sub-article 20D(4)(d) is modified to clarify the requirements where the Building Control Authority declares an application invalid and re-numbered to 20D(5)(d).

Sub-article 20E(3)(d) is modified to clarify the requirements where an application is declared invalid by the Building Control Authority.



Sub-article 20E(4) of the Principle Regulations is amended to account for the re-numbering of Article 20D.

4. IMPLEMENTATION

The *Building Control (Amendment) Regulations 2018 (S.I. No. 526 of 2018)* come into effect on 17 December 2018.

To avoid any doubt, this amendment makes no change to the requirement for a Fire Safety Certificate, which remains as per *Part III Fire Safety Certificates*. Accordingly, the provisions of *S.I. No. 9 of 2014*, which requires statutory certification, remain unchanged.

For your information and use, please refer to Appendix 1 for answers to Frequently Asked Questions (FAQs), which may arise relating to the proposed changes.

Further enquires about this circular should be addressed to Mr. Colm Cahalan, Higher Executive Officer (Tel: 01 888 2386) or to Ms. Claire Manifold, Executive Officer (Tel: 01 888 2893), or alternatively by e-mail to buildingstandards@housing.gov.ie

Yours sincerely,

A handwritten signature in cursive script that reads "Sarah Neary". The signature is written in black ink on a light-colored background. A horizontal line is drawn across the signature.

Ms. Sarah Neary

Principal Adviser

Housing Advisers / Building Standards Section



Appendix 1

Building Control (Amendment) Regulations 2018 (S.I. No. 526 of 2018) Frequently Asked Questions.

1. What is a Disability Access Certificate (DAC)?

A Disability Access Certificate is a certificate granted by a Building Control Authority, which certifies that certain works if constructed in accordance with the granted Certificate, will comply with the requirements of Part M of the Building Regulations.

2. What do the *Building Control (Amendment) Regulations 2018* do?

The *Building Control (Amendment) Regulations 2018* clarify the requirements for DAC's as they relate to certain works. They are aligned to the requirements of Part M of the Second Schedule to the Building Regulations, and will primarily clarify the requirement for a DAC for existing buildings, when brought back into use.

3. What are the principle changes to the Building Control Regulations?

Primarily, the changes relate to Article 20D, which has been replaced in its entirety.

Article 20D (1) has been amended to set out the classes of buildings or works which require a DAC.

Article 20D (2) has been introduced to set out which buildings or works which do not require a DAC.

Articles 20D (3) to 20D (11) have been re-numbered to account for the new Articles 1 and 2.

There have also been minor amendments to **Article 20E**, and to the **Third**, and the **Fourth Schedule**, owing to the re-numbering of Article 20D.

4. When do the *Building Control (Amendment) Regulations 2018* come into effect?

The *Building Control (Amendment) Regulations 2018*, which relate to DAC's, come into effect on 17 December 2018.

5. Has there been any change to Part M of the Building Regulations?

No! The Requirement of Part M (Access and Use) of the Second Schedule to the Building Regulations or the associated Technical Guidance Document M 2010 have not changed.

6. When is a Disability Access Certificate required?

A Disability Access Certificate is required for the following classes of buildings:

- a. The construction of a new building,
- b. The material alteration (excluding minor works) of:
 - i. a day centre,
 - ii. a hotel, hostel or guest building, or
 - iii. an institutional building, or
 - iv. a place of assembly, or
 - v. a shopping centre,
- c. The material alteration of a shop, office or industrial building where
 - i. additional floor area is being provided, or



- ii. the building is being subdivided into a number of units for separate occupancy,
- d. The extension of a building by more than 25 square meters,
- e. The material change of use where the building becomes used as:
 - i. a day centre,
 - ii. a hotel, hostel or guest building,
 - iii. an institutional building,
 - iv. a place of assembly,
 - v. a shop (which is not ancillary to the primary use of the building), or
 - vi. a shopping centre.

7. When is a Disability Access Certificate not required?

A Disability Access Certificate is not required for:

- a. An agricultural building,
- b. A dwelling (other than a flat),
- c. A garage ancillary to a dwelling,
- d. Certain other buildings ancillary to a dwelling,
- e. A building used solely to enable inspection, repair or maintenance of fixed plant, building services, or machinery.

It is also not required for the Material Alteration to a flat, the extension to a flat or a material change of use as defined by Section 3(3) of the Act. A DAC is also not required where there is no requirement of Part M of the Second Schedule to the Building Regulations.