



Circular Letter BC03-2020

07 April 2020

Re: COVID-19 CRISIS
BUILDING CONTROL MEASURES

Dear Chief Executive,

1. GENERAL

The building control system plays an important role in facilitating construction activity and enforcing compliance with building standards to protect health, safety and welfare of persons using buildings. Despite the absolutely exceptional and unprecedented nature of the Covid-19 crisis and the challenges it presents to maintaining public service functions, the Department is deeply appreciative of the efforts of the staff of building control authorities and the National Building Control Office to keep the building control service open for business.

Over the past few weeks the Department has been liaising with the County and City Management Association, National Building Control Office, Chief Fire Officers Association, Department of Health, Health Service Executive and our Planning colleagues in relation to preparing, supporting and responding to the impact of the Covid-19 pandemic. As a result, a number of measures have been taken in relation to building control, in the form of legislative changes, copies of which are attached;

- Emergency Measures in the Public Interest (Covid- 19) Act 2020; (See paragraph 2 below)
- Building Control Regulations 2020 (S.I. No. 113 of 2020) (See paragraph 4 below), and
- Building Control Act 1990 (Section 5) Order 2020 (S.I. No. 112 of 2020), (See paragraph 5 below).

This circular provides the background to and detail of these measures.

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2. Emergency Measures in the Public Interest (Covid-19) Act 2020

Having considered the potential impacts of the announcements by An Taoiseach on 27 March 2020, on the effective operation of planning and building control systems, the Minister for Housing, Planning and Local Government commenced Section 9 of the *Emergency Measures in the Public Interest (Covid-19) Act 2020 (Act of 2020)* by order *Emergency Measures in the Public Interest (Covid-19) Act 2020 (Part 3) (Commencement) Order 2020*. The end date was set out in a second order, by Government, *Planning and Development Act 2000 (Subsection (3) of Section 251A) Order 2020*. For the purpose of this circular these two orders will be referred to as the Orders.

These Orders allow that the period from **Sunday 29th March 2020 to Monday 20th April 2020 inclusive**, a total period of three weeks and two days (23 days), may be disregarded when calculating any appropriate period, specified period, or other timelines in certain sections of the Building Control Act 1990 (and certain planning Acts), namely

- Section 4(4) Dispensation or relaxation of building regulations¹,
- Section 6 Building control regulations², and
- 17(6) Penalties³.

To illustrate how this works in the case of a fire safety certificate (FSC) application, the **time periods** specified in the Building Control Act of 2 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), may be **extended** for the duration of the time

¹ 4. Application for a Dispensation or Relaxation

(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.

² 6. Building Control Regulations

³ 17. Penalties (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.



period specified by the Orders, by disregarding 23 days from Sunday 29th March 2020 to Monday 20th April 2020 inclusive.

The exact calculation of the date of extended time period will depend on the date a FSC application is submitted.

For example, under Section 6(5) of the Building Control Act, 1990 – 2014, an application for a Fire Safety Certificate, which was lodged on 18 March 2020, would ordinarily require a decision on or before 17 May 2020, however, the Orders referred to above disregard the period between 29 March 2020, and 20 April 2020. Therefore, the application would now require a decision on or before 9 June 2020

While the above example demonstrates the extension to a Fire Safety Certificate, this same approach applies to the following:

- an application for a Dispensation or relaxation of building regulations, (as set out in Section 4 of the Building Control Act),
- a 7 day notice,
- revised fire safety certificate,
- regularisation certificate (including the 4month period for conditions to be complied with),
- disability access certificate, and
- revised disability access certificate.

In respect of offences, under the Building Control Act (Section 17(6)) summary proceedings may be instituted within twelve months after the date of the discovery of the offence but not later than 5 years after the date of completion of any building or works in respect of which the offence is alleged to have been committed. These periods may be extended by the time periods specified by the recent Orders, by disregarding 23 days from Sunday 29th March 2020 to Monday 20th April 2020 inclusive.



The Orders also allow the period from Sunday 29th March 2020 to Monday 20th April 2020 inclusive (23days) to be disregarded when calculating any appropriate period, specified period or other time limits referred to in regulations made under Section 6 of the Building Control Act i.e. the Building Control Regulations.

This includes the time limits and periods, set out in the Building Control Regulations, in relation to;

- commencement notices & 7 day notices
- Certificate of Compliance on Completion, and
- Appeals to An Bord Pleanála.

While the Orders facilitate the extension of time limits and periods, it does not affect the operation of the building control system as set out in the Building Control Regulations or the Building Control Act. In the interest of clarity, building control authorities can still grant or validate an application/ notice/ certificate etc., at any time within the time limits and periods.

It is very important that the building control system remains open for business at all times and continues to function; this includes ensuring that

- all applications, notices, submissions etc., can continue to be made and received by the building control authority,
- commencement notices and submissions for Certificates of Compliance on Completion are handled and processed appropriately as a priority, and
- every effort should be made to operate as efficiently as possible within the relevant periods and timelines.

This is particularly important so that essential construction work, that can be undertaken appropriately, continues and that the building control systems are ready and support social and economic activity when the construction industry, in general, reactivates.

At an operational level, commencement notices and Certificates of Compliance on Completion are facilitated by the Building Control Management System (BCMS) which can be accessed remotely over the local authority network. The National Building Control Office



(support@nbco.gov.ie) is on hand to provide support to individual building control authorities for continued operation of the system and assistance with validation of commencement notices or Certificates of Compliance on Completion should this be necessary.

It should be noted, the legislation provides that the Government may extend the disregarded period (before it expires), once the statutory requirements for extension are met and may further extend it as many times as is considered necessary, until 9th November 2020. Any such decision to extend the period of the order would be communicated to building control authorities.



3. COVID-19 RELATED BUILDING WORK

Under Priority Action 7 - Expanding the Critical Physical Capacity, of Ireland's National Action Plan in response to Covid-19 (Coronavirus), the necessary facilities are being put in place to cater for the demands that will be placed on the health services in the coming months. This may involve constructing buildings, refurbishing existing buildings, changing the use of some buildings, and installing infrastructure very quickly as other countries have done. It may also involve finishing construction and bringing new buildings into use early.

The works are being completed for public safety and in particular for those who need critical care. The primary focus is on the delivery of special facilities to allow optimum care to be provided in an efficient and safe manner for those who need it most and of a range of other ancillary facilities to support the response to Covid-19.

These facilities need to be delivered in the quickest and most efficient way possible while ensuring the health, safety and welfare of people in and around buildings. These facilities and buildings are planned for locations across the country.

In these exceptional and unprecedented times of crisis as a result of the Covid-19 pandemic, the Minister for Housing Planning and Local Government has made the following regulations and order;

- Building Control Regulations 2020, S.I. No. 113 of 2020; and
- Building Control Act 1990 (Section 5) Order 2020, S.I. No. 112 of 2020.

They are intended to support the timely delivery of certain classes of buildings related to Covid-19 by reducing the administrative processes and requirements that could create potential time delays, while maintaining appropriate and reasonable building standards to secure the health, safety and welfare of people in and around buildings.



4. BUILDING CONTROL REGULATIONS 2020 (S.I. No. 113 of 2020)

The Building Control Regulations 2020 temporarily dis-apply certain provisions of the Building Control Regulations 1997 (No. 496 of 1997) in relation to works that are being carried out in response to Covid-19 and replace them with a streamlined notification process.

The following provisions are temporarily dis-applied in the Building Control Regulations 2020;

- Commencement Notices and certificates of compliance before construction,
- Fire Safety Certificates,
- 7 Day Notices, Revised Fire Safety Certificates,
- Disability Access Certificates, Revised Disability Access Certificates, and
- Certificates of Compliance on Completion

The regulations apply exclusively to works or material change of use to the classes of building listed below, being carried out on or behalf of a State authority, in response to Covid-19;

- Acute and other health and social care accommodation.
- Self-isolation short stay accommodation.
- Covid-19 and other step down accommodation.
- Medical testing centre or laboratory.
- Emergency management coordination facilities.
- Mortuary facilities.
- Other accommodation or buildings ancillary to the classes of building referred to above, including storage facilities.

The regulations require, the State authority or those working on its behalf to;

- serve a notice on the relevant Building Control Authority for works related to the Covid-19 Crisis, in the form of a 'Works (Covid-19 Crisis) Notice', and an accompanying declaration. The declaration requires that adequate oversight, supervision, inspection and certification will be carried out by competent persons to ensure compliance with the Building Regulations; and
- apply for a Regularisation Certificate for the works, within 12 months from the end date of the Regulations, if the works, or a Material Change of Use are still in place.



Both the Works (Covid-19 Crisis) Notice and accompanying declaration will be emailed to the relevant building control authority at the BCMS email address e.g. bcms@fingalcoco.ie etc., and also support@nbco.gov.ie.

These Regulations are effective from 13th March 2020 to the end date as specified in the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 (No.1 of 2020), currently 9th November 2020, or as may be extended.

Separately, Fire Safety Risk Assessments (under the Fire Services Act 1981 & 2003) will be carried out on all relevant properties, and measures will also be put in place for the management of fire safety and staffing levels to facilitate evacuation, evacuation procedures and other related requirements.

The Building Control Regulations 2020 do not affect the obligation to comply with the relevant performance requirements of the Building Regulations.



5. BUILDING CONTROL ACT 1990 (SECTION 5) ORDER 2020 S.I. No. 112 of 2020

The Building Control Act 1990 (Section 5) Order 2020 provides, for a limited period, a temporary dispensation, for State authorities, from the requirements of Part L 'Conservation of Fuel and Energy' of the Second Schedule to the Building Regulations.

In alignment with the Building Control Regulations 2020, the Order applies exclusively to works or material change of use to the classes of building listed below, being carried out on or behalf of a State authority, in response to Covid-19;

- Acute and other health and social care accommodation.
- Self-isolation short stay accommodation.
- Covid-19 and other step down accommodation.
- Medical testing centre or laboratory.
- Emergency management coordination facilities.
- Mortuary facilities.
- Other accommodation or buildings ancillary to the classes of building referred to above, including storage facilities.

The Order is effective, for the same period as the Building Control Regulations 2020, from 13th March 2020 to the end date as specified in the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 (No.1 of 2020), currently 9th November 2020, or as may be extended.

Part L 'Conservation of Fuel and Energy' of the Second Schedule to the Building Regulations provides that *energy performance of the building is such as to limit the amount of energy required for the operation of the building and the amount of carbon dioxide (CO₂) emission associated with this energy use insofar as it is reasonably practicable.*

The Order also provides for the buildings to be brought into compliance with the Part L 'Conservation of Fuel and Energy' within 2 years from the end date of the order, if the works, or a material change of use are still in place.

This Order in no way affects the requirements to comply with the other Parts of the regulations ensuring the protection of the health, safety and welfare of people in and around buildings for



example standards around fire safety and structures will not be compromised. This is a proportionate response to the urgent threat to the public's health that Covid-19 presents.

6. ENQUIRIES

Further enquires about this circular should be addressed to Victoria Mc Cabe at buildingstandards@housing.gov.ie

Yours sincerely,

A handwritten signature in black ink, reading 'Sarah Neary', positioned above a horizontal line.

Sarah Neary

Principal Adviser

Built Environment Advisory Unit

To: Each Chief Executive
c.c. National Building Control Office,
Director of Services for Building Control in each Local Authority,
Each Building Control Officer
Each Chief Fire Officer