



STATUTORY INSTRUMENTS.

S.I. No. 496 of 1997.



BUILDING CONTROL REGULATIONS, 1997.

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S.I. No. 496 of 1997

BUILDING CONTROL REGULATIONS, 1997

The Minister for the Environment and Local Government, in exercise of the powers conferred on him by sections 4, 6, 7 and 18 of the Building Control Act, 1990 (No. 3 of 1990), hereby makes the following Regulations:—

PART 1

PRELIMINARY AND GENERAL

1. These Regulations may be cited as the Building Control Regulations, 1997. Citation.
2. These Regulations shall come into operation on the 1st day of July, 1998. Commencement.
3. (1) Part II, subject to the provisions of that Part, applies to works, or a building as regards which a material change of use takes place, where the works commence or the material change of use takes place on or after the date referred to in article 2. Application.
 - (2) Part III, subject to the provisions of that Part, applies to works, or a building as regards which a material change of use takes place, where—
 - (a) the works commence or the material change of use takes place on or after the date referred to in article 2, and
 - (b) Part III of the Building Control Regulations, 1991 and 1994, does not apply in relation to the works or building.
 - (3) Part IV applies in relation to—
 - (i) notices given to, applications made to, decisions made by, and enforcement notices served by, a building control authority,

Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 27th January, 1998.

(ii) determinations made by An Bord Pleanála,
and

(iii) decisions made by a District Court,

as appropriate, on or after the date referred to in article 2.

(4) Part V, subject to the provisions of that Part, applies
to —

(a) applications or notices,

(b) appeals, or

(c) copies of documents referred to in article 23(3),

which are made, given or requested, as the case may be, on
or after the date referred to in article 2.

Revocation.

4. (1) The regulations specified in the First Schedule are
hereby revoked.

(2) Notwithstanding sub-article (1), Part III of the Build-
ing Control Regulations, 1991 and 1994, shall, subject to the
provisions of those regulations, continue to apply in relation
to works, or a building as regards which a material change
of use takes place, where—

(a) an application for a fire safety certificate in respect
of the works or the building under those regu-
lations is made before the date referred to in
article 2, and

(b) the application is granted, and

(c) the works commence or the material change of use
takes place between the date referred to in
article 2 and the 31st day of December, 2002.

Interpretation.

5. (1) In these Regulations, any reference to a Schedule,
Part or article which is not otherwise identified is a reference
to a Schedule, Part or article of these Regulations.

(2) In these Regulations, any reference to a sub-article or
paragraph which is not otherwise identified is a reference to
the sub-article or paragraph of the provision in which the
reference occurs.

(3) In these Regulations, a reference to any enactment shall be construed as a reference to that enactment as amended or adapted by any subsequent enactment.

(4) In these Regulations, save where the context otherwise requires—

“the Act” means the Building Control Act, 1990 (No. 3 of 1990);

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, the use of land for turbarry, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes;

“appeal” means an appeal to the Board under section 7(1)(a) or 7(1)(b) of the Act;

“application” means—

(a) an application under section 4 of the Act for a dispensation from, or a relaxation of, a requirement of Building Regulations, or

(b) an application for a fire safety certificate;

“the Board” means An Bord Pleanála;

“building control authority” means a building control authority as defined in section 2 of the Act;

“Building Control Regulations, 1991 and 1994” means the Building Control Regulations, 1991 (S.I. No. 305 of 1991) as amended by the Building Control (Amendment) Regulations, 1994 (S.I. No. 153 of 1994);

“Building Regulations” means the Building Regulations, 1997;

“commencement notice” means a notice referred to in section 6(2)(k) of the Act;

“day centre” means a building used for the provision of treatment or care to persons where such persons do not stay overnight and includes a day care centre, a pre-school, a creche, and a day nursery;

“dispensation or relaxation” means a dispensation or a relaxation, under section 4 of the Act, from or of, as the case may be, any requirement of regulations made under section 3 of the Act;

“domestic garage” means a building ancillary to a dwelling which is used, or suitable for use, for the storage of a motor vehicle or vehicles and is not used for the purposes of any trade or business;

“drainage system”, in relation to a building, means the system of pipes and drains used for the drainage of the building, including all other fittings, appliances and equipment so used but excluding subsoil water drains;

“an enforcement notice” means a notice served under section 8 of the Act;

“fire safety certificate” means a certificate referred to in section 6(2)(a)(ii) of the Act;

“flat” means separate and self-contained premises constructed or adapted for residential use and forming part of a building from some other part of which it is divided horizontally;

“guest building” means a building (other than a hotel or hostel) providing overnight guest accommodation for reward, and includes a guesthouse;

“industrial building” includes a factory or other premises used for manufacturing, altering, repairing, cleaning, washing, breaking-up, adapting or processing any article, generating power or slaughtering livestock;

“institutional building” includes a hospital, nursing home, home for old people or for children, school or other similar establishment used as living accommodation or for the treatment, care or maintenance of persons suffering from illness or mental or physical disability or handicap, where such persons sleep on the premises;

“material alteration” means an alteration (other than a repair or renewal), where the work, or any part of the work, carried out by itself would be subject to a requirement of Part A or B of the Second Schedule to the Building Regulations;

“material change of use” means—

(a) a change of use, deemed by Section 3(3) of the Act to be a material change of use, takes place, or

(b) a building which was not being used as—

(i) a day centre, becomes so used, or

(ii) a hotel, hostel or guest building, becomes so used, or

(iii) an industrial building, becomes so used, or

(iv) an institutional building, becomes so used, or

(v) an office (which is not ancillary to the primary use of the building), becomes so used, or

(vi) a place of assembly, becomes so used, or

(vii) a shop (which is not ancillary to the primary use of the building), becomes so used, or

(viii) a shopping centre, becomes so used;

“minor works” means works consisting of the installation, alteration or removal of a fixture or fitting, or works of a decorative nature;

“office” includes premises used for the purpose of administrative or clerical work (including writing, book keeping, sorting papers, filing, typing, duplicating, machine calculating, drawing and the editorial preparation of matter for publication, handling money (including banking and building society work) or telephone system operation);

“party” means a party to an appeal, namely—

(a) the appellant,

- (b) the building control authority against whose decision an appeal is made,

and "parties" shall be construed accordingly;

"place of assembly" includes—

- (a) a theatre, public library, hall or other building of public resort used for social or recreational purposes,
- (b) a non-residential school or other educational establishment,
- (c) a place of public worship,
- (d) a public house, restaurant or similar premises used for the sale to members of the public of food or drink for consumption on the premises,

but no building shall be treated as a place of assembly solely because it is a building to which members of the public are occasionally admitted;

"register" means a register pursuant to article 21 of these Regulations;

"repair or renewal" means works of maintenance or restoration of a routine nature relating to—

- (a) the keeping of a building in good condition or working order, or
- (b) the return of the fabric of a building to its original condition;

"shop" includes a building used for retail or wholesale trade or business including retail sales by auction, self-selection and over-the-counter wholesale trading, the business of lending books or periodicals for gain and the business of a barber or hairdresser) and premises to which the public is invited to deliver or to collect goods in connection with their hire, repair or other treatment, or where they themselves may carry out such repairs or other treatments;

"shopping centre" includes a building which comprises a number of individually occupied premises to which common access is provided principally for the benefit of shoppers;

“State authority” means any authority being—

- (a) a Minister of the Government, or
- (b) the Commissioners of Public Works in Ireland;

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

(5) In these Regulations, a reference to the carrying out of works on behalf of a State authority shall, where the authority is a Minister of the Government, be construed as including a reference to the carrying out of works by the Commissioners of Public Works in Ireland on his behalf.

(6) Where a requirement of or under these Regulations requires submissions or observations to be made, or plans, documents, particulars or other information to be submitted to the Board within a specified period and the last day of that period is a Saturday, a Sunday, a public holiday (within the meaning of the Holidays (Employees) Act, 1973) or any other day on which the offices of the Board are closed, the submissions or observations, or plans, documents, particulars or other information (as the case may be) shall be regarded as having been received before the expiration of that period if received by the Board on the next following day on which the offices of the Board are open.

6. For the purposes of these Regulations, works or a building as regards which a material change of use takes place in respect of the following, are exempted from the Regulations—

- (a) works by a building control authority in its functional area,
- (b) works in connection with—
 - (i) a Garda station or other building used for the purposes of or in connection with the operations of An Garda Síochána,
 - (ii) a courthouse,
 - (iii) a barrack or other building used for the purposes of or in connection with the operations of the Defence forces,

- (iv) an office or other building used for the purposes of or in connection with the business of Uachtaran na Éireann, Dail Éireann, Seanad Éireann, the Department of the Taoiseach, the Office of the Tánaiste, the Department of Defence, the Department of Foreign Affairs, the Department of Justice, Equality and Law Reform, the Office of the Attorney General, the Chief State Solicitor's Office and the Office of the Director of Public Prosecutions,

provided that after the works the building is or continues to be a building referred to in subparagraphs (i) to (iv).

- (c) works, or a building as regards which a material change of use takes place, where the works are carried out or the material change of use is made, for reasons of national security—

- (i) within, or bounding, the curtilage of any building (other than a building referred to in paragraph (b)), premises or other installation occupied by, or under the control of, a State authority,

- (ii) by or on behalf of a State authority, within, or bounding, the curtilage of the residence of a holder, or former holder, of a public office or any other public servant or former public servant.

- (d) a building referred to in paragraphs (a) or (b).

PART II

COMMENCEMENT NOTICES

Application of
Part II.

7. (1) Subject to sub-article (2) and articles 3 and 6, this Part applies to—

- (a) the erection of a building,

- (b) the material alteration or extension of a building,
and

(c) a material change of use of a building,
to which the Building Regulations apply.

(2) (a) Subject to paragraph (b), this Part shall not apply to works or a building as regards which a material change of use takes place, where—

(i) the works are or the material change of use is exempted development for the purposes of the Local Government (Planning and Development) Acts, 1963 to 1993), and

(ii) Part III, or Part III of the Building Control Regulations, 1991 and 1994, do not apply to the works or building.

(b) This Part applies to works in connection with the material alteration (excluding a material alteration consisting solely of minor works) of a shop, office or industrial building to which Part III, or Part III of the Building Control Regulations, 1991 and 1994, do not apply.

8. A person who intends to carry out any works, or to make a material change of use as regards a building to which this Part applies, shall give, to the building control authority in whose functional area the works or building are, is or will be situated, notice in writing of such intention (in these Regulations referred to as a "commencement notice") not less than fourteen days and not more than twenty-eight days before the commencement of the works or the making of the material change of use. Obligation to give notice.

9. A commencement notice shall be— Form of notice.

(a) in the form set out in the Second Schedule, and

(b) be accompanied by such fee (if any) as may from time to time be prescribed for that purpose in Part V.

10. (1) On receipt of a commencement notice, a building control authority shall— Procedure on receipt of notice.

(a) stamp the notice with the date of receipt, and

(b) consider whether the notice complies with the requirements of article 9.

(2) Where a building control authority consider that a commencement notice complies with the requirements of article 9, they shall send to the person giving the notice an acknowledgement stating the date of receipt of the notice.

(3) Where a building control authority consider that a commencement notice does not comply with article 9, they may within seven days of receipt of the notice, as they consider appropriate having regard to the extent of the failure to comply with the said article, by notice in writing—

(a) inform the person giving the commencement notice that it is invalid and cannot be accepted by the authority, or

(b) require the person giving the notice to submit such revised notice, or such additional fee, as may be necessary to comply with the said article.

(4) Where a building control authority serve a notice in accordance with sub-article 3(a), they shall return to the person giving the notice, the notice and the fee which accompanied the notice.

PART III

FIRE SAFETY CERTIFICATES

Application of
Part III.

11. (1) Subject to sub-article (2) and articles 3 and 6, this Part applies to—

(a) works in connection with the design and construction of a new building,

(b) works in connection with the material alteration of—

(i) a day centre,

(ii) a building containing a flat,

(iii) a hotel, hostel or guest building, or

- (iv) an institutional building, or
 - (v) a place of assembly, or
 - (vi) a shopping centre,
- but excluding works to such buildings, consisting solely of minor works,
- (c) works in connection with the material alteration of a shop, office or industrial building where —
 - (i) additional floor area is being provided within the existing building, or
 - (ii) the building is being subdivided into a number of units for separate occupancy,
 - (d) works in connection with the extension of a building by more than 25 square metres,
 - (e) a building as regards which a material change of use takes place,

to which the requirements of Part B of the Second Schedule to the Building Regulations apply.

(2) For the purposes of this Part, the following buildings are exempted—

- (a) a single storey building which —
 - (i) is used exclusively for the storage of materials or products, for the accommodation of plant or machinery or in connection with the housing, care or management of livestock,
 - (ii) is used solely for the purpose of agriculture, and
 - (iii) is a building in which the only persons habitually employed are engaged solely in the care, supervision, regulation, maintenance, storage or removal of the materials, products, plant, machinery or livestock in the building,

and which is either attached to another such building or detached from any other building,

- (b) a building used as a dwelling other than a flat,
- (c) a single storey building used as a domestic garage,
- (d) a single storey building (other than one described in (c)) ancillary to a dwelling (such as a summer house, poultry-house, aviary, conservatory, coal shed, garden tool shed or bicycle shed) which is used exclusively for recreational or storage purposes or the keeping of plants, birds or animals for domestic purposes and is not used for the purposes of any trade or business or for human habitation,

or to works in connection with such a building provided that, after the works are carried out, the building is or continues to be a building referred to in paragraphs (a) to (d).

(3) This Part shall not apply in relation to works carried out in compliance with a notice served under Section 20 of the Fire Services Act 1981 (No. 30 of 1981).

Obligation to obtain a certificate.

12. (1) A fire safety certificate shall be required in respect of all works or buildings to which this Part applies.

(2) Where a fire safety certificate is required in respect of works or a building, a person shall not carry out such works or make a material change of use as regards such a building—

- (a) in the absence of a fire safety certificate in respect of the works or building, or
- (b) in contravention of any conditions subject to which the certificate is granted.

Form of application.

13. (1) An application for a fire safety certificate shall be in the form set out in the Third Schedule.

(2) An application for a fire safety certificate shall be accompanied by—

- (a) such plans (including a site or layout plan and drawings of floor plans, elevations and sections) (in

duplicate), calculations, specifications and such other particulars as are necessary to —

- (i) identify and describe the works or building to which the application relates, and
 - (ii) enable the building control authority to assess, whether the said works or building would, if constructed in accordance with the said plans, calculations, specifications and other particulars, comply with requirements of Part B of the Second Schedule to the Building Regulations,
- (b) particulars of the nature and extent of the proposed use and, where appropriate, of the existing use, of the building concerned, and
- (c) such fee (if any) as may from time to time be prescribed for that purpose in Part V.

14. (1) On receipt of an application for a fire safety certificate, a building control authority shall—

Procedure on receipt of application.

- (a) stamp the documents with the date of receipt, and
- (b) consider whether the application complies with the requirements of article 13.

(2) Where a building control authority consider that an application for a Fire Safety Certificate complies with the requirements of article 13, they shall send to the applicant an acknowledgement stating the date of receipt of the application.

(3) Where a building control authority consider that an application for a fire safety certificate does not comply with article 13, they may, as they consider appropriate having regard to the extent of the failure to comply with the said article, by notice in writing—

- (a) inform the applicant that the application is invalid and cannot be considered by the authority, or
 - (b) require the applicant to furnish such further plans, calculations, specifications or particulars, or such
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additional fee, as may be necessary to comply with the said article.

(4) Where a building control authority serve a notice in accordance with sub-article 3(a), they shall return to the applicant all the documents and the fee which accompanied the application.

Consideration of application.

15. Where an application is made to a building control authority for a fire safety certificate, the authority, in considering such application, shall—

(a) be restricted to considering only the extent to which the design of the building or works complies with the requirements of Part B of the Second Schedule to the Building Regulations, and

(b) have due regard to any dispensation or relaxation in respect of, or which is relevant to, the works or building to which the application relates.

Revised plans.

16. Where a building control authority, having considered an application for a fire safety certificate, are disposed to granting such certificate subject to any modification of the plans, calculations, specifications or particulars to which the application relates, they may require the applicant to submit to them revised plans, specifications or other particulars providing for such modification and may decide to grant a fire safety certificate in respect of such revised plans, specifications or particulars so submitted.

Decision on application.

17. (1) A building control authority shall, having considered an application for a fire safety certificate, grant the certificate, with or without conditions, or refuse to grant the certificate, as the case may be.

(2) A fire safety certificate granted under this Part shall only be construed as certifying that the building or works, if constructed in accordance with the plans, documents and information submitted, would comply with the requirements of Part B of the Second Schedule to the Building Regulations.

Grant of certificate.

18. Where a building control authority decide to grant a fire safety certificate with or without conditions, the form set out in the Fourth Schedule or a form substantially to the like effect, shall be the form of every such certificate and where

the fire safety certificate is granted subject to conditions, they shall inform the applicant in writing of the reasons therefor.

19. Where a building control authority decide to refuse to grant a fire safety certificate, they shall notify the applicant in writing of their decision and the reasons therefor. Refusal of certificate.

20. Where a building control authority grant a fire safety certificate with conditions, or refuse to grant a fire safety certificate, they shall notify the applicant that he may appeal to the Board against the decision of the building control authority within the period prescribed in Part VI. Right of appeal.

PART IV

THE REGISTER

21. (1) A building control authority shall keep a register and shall enter in the register particulars of— Register.

- (a) any valid application for a dispensation or relaxation, including the name and address of the applicant, the date of receipt of the application, and brief details of the works or building forming the subject of the application,
 - (b) any valid commencement notice given to them under Part II, including the name and address of the owner of the building, the date of receipt of the notice, the person or persons carrying out the works, and brief particulars of the works or building forming the subject of the notice,
 - (c) any valid application for a fire safety certificate made to them under Part III, including the name and address of the applicant, the date of receipt of the application, and brief particulars of the works or building forming the subject of the application,
 - (d) their decision in respect of any application referred to in (c) and the date of the decision,
 - (e) any determination or direction by the Board in respect of an appeal relating to a decision
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referred to in (c) and the date of the determination or direction,

(f) any enforcement notices served by them, including the name and address of the person on whom the notice was served, the date of the notice and brief particulars of the contents of the notice, and

(g) the date and effect of any decision by the District Court in respect of a notice referred to in (f), including the date and effect of the decision.

(2) The register shall be kept at the offices of the building control authority and shall be available for inspection during office hours.

PART V

FEEES

Exemptions.

22. (1) Subject to sub-article (2), a fee shall not be payable to a building control authority under these Regulations where the authority is of the opinion that the works or the building which are or is the subject of the commencement notice, application for a fire safety certificate or application for a dispensation or relaxation, as the case may be, are being carried out, or, in the case of a material change of use, is being made, by or on behalf of a voluntary organisation or a body standing approved of for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act, 1992 (No. 18 of 1992).

(2) Subsection (1) applies where a building control authority is of the opinion that—

(a) in the case of a voluntary organisation, the building concerned is—

(i) intended to be used for social, recreational, educational or religious purposes by inhabitants of a locality generally or by people of a particular group or religious denomination and is not to be used mainly for profit or gain,

(ii) intended to be used as a hostel, work-shop or other accommodation for disabled, poor or homeless persons and is not to be used mainly for profit or gain, or

(iii) is ancillary to (i) or (ii),

(b) in the case of a body standing approved of for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act, 1992 (No. 18 of 1992), the building control authority is of the opinion that the building concerned is—

(i) designed or intended to be used for the accommodation of poor or homeless persons or persons who would otherwise be likely to require housing accommodation provided by a housing authority, and is not to be used mainly for profit or gain, or

(ii) is ancillary to (i).

23. (1) Subject to articles 3, 6 and 22, a fee shall be paid to a building control authority by a person— Requirement to pay fee.

(a) giving a commencement notice,

(b) making an application for a fire safety certificate,

(c) making an application for a dispensation or a relaxation.

(2) A fee shall be paid to the Board by a person making an appeal against a decision of a building control authority in relation to an application for—

(a) a fire safety certificate, or

(b) a dispensation or a relaxation.

(3) A fee shall be paid to a building control authority for a copy of—

(a) an entry in the register,

(b) a fire safety certificate,

- (c) a document which indicates that a dispensation or a relaxation has been granted.

Standard fee.

24. (1) The amount of fee payable in respect of—

- (a) the giving of a commencement notice,
- (b) an application for a fire safety certificate,
- (c) an application for a dispensation or a relaxation,

shall, subject to Part B of the Fifth Schedule, be the amount indicated in column 2 of Part A of that Schedule opposite the mention of the relevant application or notice in column 1 of Part A of that Schedule.

(2) The amount of fee payable in respect of an appeal shall be the amount indicated in column 2 of Part A of the Fifth Schedule opposite the mention of such appeal in column 1 of Part A of that Schedule.

(3) The amount of fee payable for a copy of a document specified in article 23(3) shall be the amount indicated in column 2 of Part A of the Fifth Schedule opposite the mention of such a copy in column 1 of Part A of that Schedule.

Fee for alternative proposals.

25. (1) For the purposes of this article and the Fifth Schedule,—

- (a) “relevant floor area” means the floor area of the works or the building to which the application relates which is affected by the works or the material change of use, as the case may be;

“floor area” means the sum of the areas on each floor bounded by the inner finished surfaces of the enclosing walls, or, on any side where there is no enclosing wall, by the outermost edge of the floor on that side, and, in calculating the floor area of a building, there shall be included in such area the space occupied by any walls, shafts, ducts or structure within the area being measured.

- (b) in determining the fee payable in respect of a commencement notice, a house in a terrace and a

semi-detached house are each to be treated as being a separate building.

(2) Where the floor area or the relevant floor area referred to in sub-article (1) is not an exact multiple of that unit, the fraction of a unit remaining after the division of the total area by the unit measurement shall be treated, for the purposes of calculating the fee payable in respect of the application, as a complete unit.

(3) Where an application for a fire safety certificate includes alternative proposals for works or a building of materially different designs, the fee payable in respect of the application shall be calculated as if each alternative proposal were a separate application for a fire safety certificate.

26. (1) Subject to sub-articles (3) and (4), where a commencement notice is given to a building control authority and a subsequent commencement notice is submitted by or on behalf of the same person, the authority shall, subject to the provisions of Part B of the Fifth Schedule, refund three quarters of the fee paid to it in respect of the subsequent commencement notice.

Refund of fee in case of certain repeat applications.

(2) Subject to sub-articles (3) and (4), where—

(a) a decision has been made by a building control authority on an application for a fire safety certificate, or

(b) an appeal against a decision of a building control authority on an application for a fire safety certificate has been determined by the Board,

and a subsequent such application is made by or on behalf of the same applicant, the building control authority shall, subject to the provisions of Part B of the Fifth Schedule, refund three quarters of the fee paid to it in respect of the subsequent application.

(3) Sub-articles (1) or (2) shall apply if the building control authority is of the opinion that—

(a) the works forming the subject of the first commencement notice or application for a fire safety certificate and the subsequent such notice or

application, as the case may be, are substantially—

(i) of the same design and construction, and

(ii) on land consisting of the same site or part of the site, and

(b) a fee under these Regulations or Building Control Act (Fees) Regulations, 1992 (as amended), in respect of the first commencement notice or application for a fire safety certificate, as the case may be, has been paid, and

(c) the period between the giving or making, as the case may be, of the first commencement notice or application for a fire safety certificate, and the subsequent such notice or application, as the case may be, does not exceed twelve months, and

(d) in the case of sub-article (1), no previous refund under these Regulations has at any time been made to the person giving the commencement notice, in respect of a commencement notice which related substantially to the same land and to works or a building of the same character or description as those to which the subsequent notice relates, and

(e) in the case of sub-article (2), no previous refund under these Regulations or the Building Control Act (Fees) Regulations, 1992 (as amended), has at any time been made to the same applicant in respect of an application for a fire safety certificate which related substantially to the same land and to works or a building of the same character or description as those to which the subsequent application relates.

(4) A refund under this article shall be made on a claim in that behalf made in writing to the building control authority and received by it within (but not after) the period of two months beginning on the day of giving or making of the subsequent commencement notice or application for a fire safety certificate (as the case may be).

PART VI

APPEALS

27. (1) An appeal shall—

Provisions as to
making of appeal.

- (a) be made in writing,
- (b) state the name and address of the appellant,
- (c) state the subject matter of the appeal,
- (d) state in full the grounds of appeal and the reasons, considerations and arguments on which they are based, and
- (e) be accompanied by such fee (if any) as may be payable in respect of such appeal in accordance Part V.

(2) An appeal which does not comply with the requirements of sub-article (1) shall be invalid.

(3) Without prejudice to article 31, an appellant shall not be entitled to elaborate upon, or make further submissions in relation to, the grounds of appeal stated in the appeal or to submit further grounds of appeal and any such elaboration, submissions or further grounds of appeal that is or are received by the Board shall not be considered by it.

(4) (a) An appeal shall be accompanied by such documents, particulars or other information relating to the appeal as the appellant considers necessary or appropriate.

(b) Without prejudice to article 32, the Board shall not consider any documents, particulars or other information submitted by an appellant other than the documents, particulars or other information which accompanied the appeal.

(5) An appeal shall be made by—

- (a) sending the appeal by registered prepaid post to the Board, or

(b) leaving the appeal with an employee of the Board at the offices of the Board during office hours.

Time for appeal etc.

28. (1) An appeal may be made within a period of one month beginning on the day of the decision of the building control authority on an application.

(2) An appeal received by the Board after the expiration of the period mentioned in sub-article (1) shall be invalid.

(3) Where the last day of the period specified in sub-article (1) is a Saturday, a Sunday, a public holiday (within the meaning of the Holidays (Employees) Act, 1973) or any other day on which the offices of the Board are closed, an appeal shall, notwithstanding sub-article (2), be valid as having been made in time if received by the Board on the next following day on which the offices of the Board are open.

Observations on appeal.

29. (1) On receipt of an appeal the Board shall send a copy thereof to the building control authority against whose decision the appeal is made.

(2) A building control authority to whom a copy of an appeal has been sent under sub-article (1) may, within a period of one month beginning on the day on which a copy of the appeal is sent to it by the Board, make in writing to the Board such submissions or observations on the appeal as the authority thinks fit.

(3) Without prejudice to article 31, a building control authority shall not be entitled to elaborate upon any submissions or observations made in accordance with sub-article (2), or make further submissions or observations in relation to, the appeal and any such elaboration or submission that is or are received by the Board shall not be considered by it.

Documents, information, etc. in relation to appeal.

30. (1) Where an appeal is made to the Board the building control authority concerned shall, within a period of fourteen days beginning on the day on which a copy of the appeal is sent to it by the Board, submit to the Board—

(a) a copy of the application concerned and any plans, documents, particulars, evidence or further information received or obtained by it from the applicant,

- (b) a copy of any report prepared by or for the building control authority in relation to the applicant,
- (c) a copy of the decision of the building control authority on the application and a copy of the notification of the decision given to the applicant, and
- (d) in the case of an appeal under section 7(1)(b) of the Act, a copy of the grant of any dispensation or relaxation of a requirement of Part B of the Second Schedule to the Building Regulations given under section 4 of the Act in respect of the building or works to which the appeal relates.

31. Where the Board is of opinion that, in the particular circumstances of an appeal, it is appropriate in the interests of justice to request any party who has made submissions or observations in relation to any matter which has arisen in relation to the appeal, the Board may, in its discretion, notwithstanding article 27(3) or 29(3), serve on any such party a notice under this article—

Power of Board to request submissions or observations.

- (a) requesting that party, within a period specified in the notice (not being less than fourteen or more than twenty eight days beginning on the date of service of the notice) to submit to the Board submissions or observations in relation to the matter in question, and
- (b) stating that, if submissions or observations are not received before the expiration of the period specified in the notice, the Board will, after the expiration of that period and without further notice to the party, pursuant to article 33 determine the appeal.

32. Where the Board is of opinion that any plan, document, particulars or other information is or are necessary for the purpose of enabling it to determine an appeal, the Board may serve on any party a notice under this section—

Power of Board to require submission of documents etc.

- (a) requiring that party, within a period specified in the notice (being a period of not less than fourteen days beginning on the date of service of the notice) to submit to the Board such plan, document, particulars or other information (which

plan, document, particulars or other information shall be specified in the notice), and

(b) stating that in default of compliance with the requirements of the notice, the Board will, after the expiration of the period so specified and without further notice to the party, pursuant to article 33 dismiss or otherwise determine the appeal.

Power of the Board where notice served under article 31 or 32.

33. Where a notice has been served under article 31 or 32, the Board, at any time after the expiration of the period specified in the notice, may, having considered any submissions or observations or plan, document, particulars or other information (as the case may be) submitted by the party on whom the notice has been served, without further notice to that party determine or, in the case of a notice served under article 32, dismiss the appeal.

Convening of meetings.

34. Where it appears to the Board expedient or convenient for the purposes of assisting the determination of an appeal the Board may, in its absolute discretion, convene a meeting of the parties.

Time for determination of appeal.

35. (1) It shall be the objective of the Board to ensure that every appeal is determined within four months beginning on the date of receipt by the Board of the appeal.

(2) Where it appears to the Board that it would not be possible or appropriate, because of the particular circumstances of an appeal, to determine the appeal within the period referred to in sub-article (1) the Board shall, by notice in writing served on the parties, inform those parties of the reasons why it would not be possible or appropriate, as the case may be, to determine the appeal within that period and shall specify the date before which the Board intends to determine the appeal.

(3) Where a notice has been served under sub-article (2), the Board shall take all such steps as are open to it to determine the appeal before the date specified in the notice.

Powers of the Board to declare appeal withdrawn.

36. (1) Where the Board is of opinion that an appeal has been abandoned, the Board may serve on the appellant a notice stating that fact and requiring that person, within a period specified in the notice (being a period of not less than fourteen or more than twenty eight days beginning on the

date of service of the notice) to make to the Board a submission in writing as to why the appeal should not be regarded as having been withdrawn.

(2) Where a notice has been served under sub-article (1) the Board may, at any time after the expiration of the period specified in the notice and after considering the submission (if any) made to the Board pursuant to the notice, declare that the appeal shall be regarded as having been withdrawn.

37. The Board shall in the following circumstances have an absolute discretion to dismiss an appeal—

Board may
dismiss appeal if
vexatious etc.

(a) where, having considered the grounds of appeal, the Board is of opinion that the appeal is vexatious, frivolous or without substance or foundation, or

(b) where, having regard to—

(i) the nature of the appeal (including any question which in the Board's opinion is raised by the appeal), and

(ii) any previous decision of a building control authority or the Board which in its opinion is relevant,

the Board is satisfied that in the particular circumstances the appeal should not be further considered by it.

38. (1) The Board may arrange for the carrying out of inspections in relation to appeals by persons authorised for that purpose by the Board either generally or for a particular appeal.

Inspections and
reports.

(2) Where in relation to an appeal an inspection is carried out on behalf of the Board, by a person authorised for that purpose by the Board, the person so authorised shall make to the Board a written report on the inspection and shall include in his report a recommendation relating to the matter with which the inspection was concerned, and the Board shall, before determining the appeal in relation to which the inspection was carried out, consider the report, including any recommendation contained therein.

Matters to be considered when determining an appeal.

39. When an appeal is made to the Board under section 7(1)(b) of the Act, the Board in considering such appeal shall—

- (a) be restricted to considering the extent to which the design of the building complies with the requirements of Part B of the Second Schedule to the Building Regulations, and
- (b) have due regard to any dispensation from, or relaxation of, a requirement of Building Regulations granted under section 4 or 5 of the Act in respect of, or which is relevant to, such building.

Determination of appeal.

40. (1) Save as is provided in sub-article (2), where an appeal is brought to the Board it shall determine the appeal as if the application to the building control authority to which the appeal relates had been made to the Board in the first instance and the decision of the Board shall operate to annul the decision of the building control authority from the date of such decision.

(2) Where—

- (a) an appeal relates only to a condition or conditions attached to a decision of a building control authority, and
- (b) the Board is satisfied, having regard to the nature of the condition or conditions, that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted,

the Board may, in its absolute discretion, give to the relevant building control authority such directions as it considers appropriate relating to the attachment, amendment or removal by that authority either of the condition or conditions to which the appeal relates or of other conditions.

Notification by Board of decision on appeal.

41. (1) The Board shall notify each party to an appeal of its decision on the appeal.

(2) Every notification given by the Board of a decision on an appeal shall specify—

- (a) where appropriate, the reference number relating to the relevant application in the register of the building control authority,
- (b) the nature of the decision,
- (c) the building or works to which the decision relates, and
- (d) the date of the decision.

42. Where a building control authority is notified by the Board of its decision to allow an appeal under section 7(1)(b) of the Act, the authority shall, as soon as may be, issue a fire safety certificate to the appellant in accordance with the decision of the Board.

Issue of fire safety certificate.

FIRST SCHEDULE

Article 4

REGULATIONS REVOKED

Number	Title
S.I. No. 305 of 1991	Building Control Regulations, 1991
S.I. No. 153 of 1994	Building Control (Amendment) Regulations, 1994
S.I. No. 111 of 1992	Building Control Act, 1990 (Appeals) Regulations, 1992
S.I. No. 112 of 1992	Building Control Act, 1990 (Fees) Regulations, 1992
S.I. No. 182 of 1992	Building Control Act, 1990, (Fees) (Amendment) Regulations, 1992.

SECOND SCHEDULE

FORM OF A COMMENCEMENT NOTICE

COMMENCEMENT NOTICE	
(Notice to a Building Control Authority pursuant to Part II of the Building Control Regulations, 1997)	
<p>NOTICE TO THE BUILDING CONTROL AUTHORITY:</p> <p>Name of Authority: _____</p> <p>Address: _____</p> <p>_____</p>	<p style="text-align: center;">OFFICE USE ONLY</p> <p>Date received: _____</p> <p>Register Ref: _____</p> <p>Entered on: _____</p> <p>Entered by: _____</p> <p>Fee Received: _____</p>
<p>I, the undersigned, hereby give notice/give notice on behalf* of the person(s) named below, to the above Building Control Authority (in accordance with Part II of the Building Control Regulations) that I/the persons named* below intend to carry out the project as described below.</p> <p>(*Cross out whichever is inappropriate)</p> <p>Signature: _____ Date: _____</p> <p>Name of person(s): _____</p> <p>Address: _____</p> <p>Tel. No.: _____ Fax No. _____</p> <p>Commencement Date (of works/material change of use): _____</p> <p>Fee Payable (Amount): _____</p>	
<p>PROJECT PARTICULARS</p> <p>Description of proposed works/material change of use:</p> <p>_____</p> <p>_____</p>	
<p>Building location/use/intended use:</p> <p>_____</p> <p>_____</p>	

Building Owner: Name: _____ Address: _____ Tel. No.: _____ Fax No. _____
Designer Name: _____ Address: _____ Tel. No.: _____ Fax No. _____
Builder Name: _____ Address: _____ Tel. No.: _____ Fax No. _____
Drainage System Foundations: Person(s) from whom notifications of the pouring of any foundations and/or the covering up of any drainage systems may be obtained. Name: _____ Address: _____ Tel. No.: _____ Fax No. _____
Information: Person(s) from whom such plans, documents and any other information, as are necessary to show that the building or works will, if built in accordance with the design, comply with the requirements of the Building Regulations, may be obtained. Names: _____ Address: _____ Tel. No.: _____ Fax No. _____ Planning Permission No.: _____ Fire Safety Cert. No. _____ (if applicable)

THIRD SCHEDULE

FORM OF APPLICATION FOR A FIRE SAFETY CERTIFICATE

BUILDING CONTROL ACT, 1990	
APPLICATION FOR A FIRE SAFETY CERTIFICATE	
<p>To _____ (Insert name of building control authority)</p> <p>Application is hereby made under Part III of the Building Control Regulations, 1997, for a fire safety certificate in respect of the works or building to which the accompanying plans, calculations and specifications apply.</p>	<p style="text-align: center;">OFFICIAL USE</p> <p>Received on: _____</p> <p>Ref. No: _____</p> <p>Entered in register on: _____</p>
<p>1. Address (or other necessary identification) of proposed works or building to which the application relates.</p> <p>_____</p>	
<p>2. Nature of proposed works or building</p> <p>(a) classification (please tick as appropriate)—</p> <ul style="list-style-type: none"> • Construction of new building <input type="checkbox"/> • Material alterations <input type="checkbox"/> • Material change of use <input type="checkbox"/> • Extension to a building <input type="checkbox"/> <p>(b) Brief description</p> <p>_____</p>	
<p>3. Use of proposed works or building</p> <p>(a) Existing (where a change is proposed) _____</p> <p>(b) New _____</p>	
<p>4. In the case of</p> <p>(a) works involving the construction of a building, or a building the material use of which is being changed—</p> <p>Site area _____ (sq. metres)</p> <p>Number of basement storeys _____</p> <p>Number of storeys above ground level _____</p> <p>Height of top floor above ground level _____ (metres)</p> <p>Floor area of building _____ (sq. metres)</p> <p>Total area of ground floor _____ (sq. metres)</p>	

(b) works involving an extension or the material alteration of a building—	
Floor area of extension	_____ (sq. metres)
Floor area of material alteration	_____ (sq. metres)
5. Amount of Fee (accompanying this application) £ _____	
6. Name and address of person/s or firm/s responsible for preparation of accompanying plans, calculations and specifications.	

APPLICANT: FULL NAME	_____
ADDRESS	_____
SIGNATURE	_____
TELEPHONE NO.	_____ DATE _____

FOURTH SCHEDULE

FORM OF FIRE SAFETY CERTIFICATE

<p>BUILDING CONTROL ACT, 1990</p> <p>FIRE SAFETY CERTIFICATE</p> <p>Reference No. in Register _____</p> <p>Name of Building Control Authority _____</p>	
To	_____
Address	_____ _____
<p>Application for a fire safety certificate (Ref No.) for _____¹</p> <p>at _____²</p> <p>_____³ hereby certify that the works or building to which the application relates, will, if constructed in accordance with the plans, calculations, specifications and particulars submitted, comply with the requirements of Part B of the Second Schedule to the Building Regulations, 1997. In considering the application, no assessment has been made as to whether the works or building will comply with the other requirements of the Second Schedule to the Building Regulations, 1997. This certificate is granted subject to the following conditions—</p> <p>_____</p> <p>_____</p> <p>_____</p>	
<p>Dated this _____ day of _____ 19 _____</p> <p>Signed _____</p> <p style="text-align: center;">County Secretary/Town Clerk⁴</p>	
<p>Directions for completing this form</p> <p>¹ Indicate nature of works or building to which application applies.</p> <p>² Indicate address of works or building.</p> <p>³ Insert name of building control authority.</p> <p>⁴ Delete words which do not apply.</p>	

FIFTH SCHEDULE

Article 24

FEES
PART A

Column 1	Column 2 Amount of Fee
Application for a relaxation or dispensation	Dwellings — £100 Other buildings — £200
Commencement Notice	£25, or, where— (a) the proposed works or the material change of use (as the case may be) relate to more than one building, and (b) neither Part III, nor Part III of the Building Control Acts, 1991 and 1994, apply to such works or buildings, £25 in respect of each building.
Application for a fire safety certificate in respect of	
(a) works in connection with the construction or extension of a building	£100, or £2.30 for each square metre of floor area being provided, whichever is the greater
(b) works in connection with—	
(i) the material alteration of the interior of a building.	£100, or £2.30 for each square metre of relevant floor area, whichever is the greater
(ii) the material alteration of the external surfaces of a building.	£100
(iii) a combination of (i) and (ii) above	£100, or £2.30 for each square metre of relevant floor area, whichever is the greater
(c) a building in which a material change of use takes place	£100, or £2.30 for each square metre of relevant floor area, whichever is the greater
(d) works on a building, where the building concerned will be used as an agricultural building.	£52, or £0.65 for each square metre in excess of 300 square metres of— (i) gross floor area being provided, or (ii) relevant floor area, as the case may be, whichever is the greater.
Appeal	£200
Copy of a document specified in article 23(3)(a), (b) or (c)	£10

PART B

Maximum and minimum fees

1. The maximum fee payable to a building control authority shall be—

- (a) £3,000 in respect of the submission of a commencement notice, and
- (b) £10,000 in respect of an application for a fire safety certificate.

2. Where a building control authority makes a refund in respect of the submission of a commencement notice or an application for a fire safety certificate, the refund shall not be such as to reduce the balance of the fee to less than—

- (a) £25 in the case of a commencement notice, or
- (b) £100 in the case of an application for a fire safety certificate.



GIVEN under the Official Seal of the Minister for the Environment and Local Government this 12th day of December, 1997.

NOEL DEMPSEY,
Minister for the Environment and
Local Government.

EXPLANATORY NOTE.

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The Building Control Regulations prescribe the giving of notice of commencement of building works; the need to obtain a fire safety certificate in respect of certain proposed works; the payment of fees to the local building control authority; the maintenance of a register of building control records for individual buildings; and the procedure for

appeals to an Bord Pleanála against certain decisions of building control authorities.

The Regulations consolidate and amend certain provisions of the Building Control Regulations, 1991, Building Control (Amendment) Regulations, 1994, the Building Control Act, 1990 (Fees) Regulations, 1992 (as amended) and the Building Control Act, 1990 (Appeals) Regulations, 1992.

The Regulations will come into operation on the *1st day of July, 1998*.