

The Building Control Amendment Regulations 2014 came into force on the 1<sup>st</sup> March 2014. The Regulations are being introduced following recent high profile cases dealing with building control issues in Ireland.

Some of the key features of the Amendments are the introduction of a new role within the Construction Industry, the Assigned Certifier and the introduction of a number of new certificates and undertakings. The amendments have also introduced a “Code of Practice Inspecting and Certifying Buildings and Works” and an online Building Control Management System (BCMS) at: <https://www.localgov.ie/en/BCMS>



## What legislation are the amendments related to?

- S.I. No. 9 of 2014 Building Control (Amendment) Regulations 2014
- S.I. No. 105 of 2014 Building Control (Amendment) (No. 2) Regulations 2014

## When do the Amendments come into force?

- The changes apply from the 1st March 2014.

## Why have the Amendments been introduced?

- To strengthen the current arrangements
- To achieve greater accountability in relation to compliance with Building Regulations
- Promote health and safety and welfare in and about buildings
- Ensure a quality of housing stock
- Ensure sustainable environmental protection
- Promote good practice/reform/enforcement
- Consumer confidence/economic recovery
- Promote efficiencies time/cost for construction permits

## What do the Building Control Amendment Regulations 2014 apply to?

- New Dwellings – houses and apartments
- Extensions with a floor area greater than 40 square metres
- Buildings and works that require a fire safety certificate (Part III)

## Are there any dispensations?

**Yes, for the following types of projects:**

- Primary level, second level or third level educational;
- Hospitals and primary care centres

**Where the following actions and dates are achieved:**

- Planning permission is granted before 1 March 2014
- Contract documents are signed before 1 November 2014
- A valid commencement notice has been lodged with the building control authority no later than 1 March 2015

**For such projects an alternate means of compliance can be achieved.**

## Who has duties in this new Code of Practice?

- Building Owner
- Builder
- Designer
- Design Certifier
- Assigned Certifier
- Building Control Authority

## What is an assigned certifier?

This is a brand new role and requires particular attention. The Assigned Certifier must be a Chartered Engineer, Registered Architect or a Registered Building Surveyor. Under the Regulations they are required to inspect, coordinate inspections and certify the building or works on completion. The Assigned Certifier does not have to be a member of the design team.



## Some of their Key Tasks:

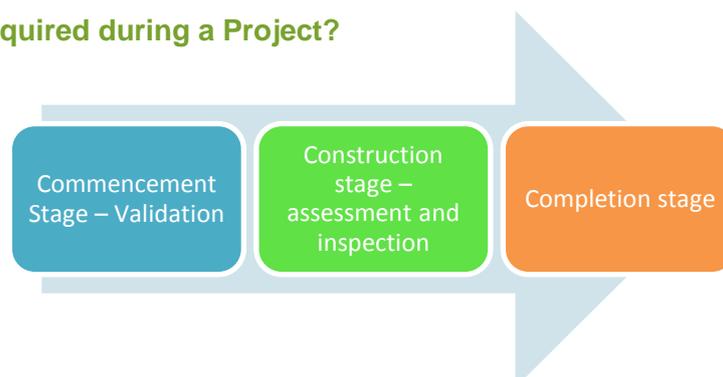
- Provide and sign the relevant statutory certificates
- Prepare the Preliminary Inspection Plan and oversee adherence to this plan, and on completion provide the Inspection Plan as implemented;
- Plan and oversee the implementation of the Inspection Plan during construction;
- Co-ordinate the ancillary certification by others for the Certificate of Compliance on Completion
- Act as the single point of contact with the Building Control Authority during construction;
- Maintain records of inspection.

## What certificates and other documents are required to be signed?

- Commencement Notice
- Notice of Assignment of Assigned Certifier
- Certificate of Compliance (Assigned Certifier)
- Certificate of Compliance (Design)
- Notice of Assignment (Builder)
- Certificate of Compliance (Builder)
- Certificate of Compliance on Completion

**NB:** The Certificate of Compliance on Completion must be validated and registered by the Building Control Authority before the building it relates to may be **opened, used or occupied**. If rejected by Building Control Authority within 21 days, the certificate is not valid.

## What are the stages required during a Project?



## 1. Commencement Stage – Validation

This will occur prior to commencing construction on site and is where the Commencement Notice is submitted to the Building Control Authority along with Notices of Assignment (Builder and Assigned Certifier), Undertakings, the Design Certificate and accompanying plans and documentation. A Preliminary Inspection Plan is required to be prepared and submitted. All information will be submitted using the new online Building Control Management System.

The commencement notice must be received by the Building Control Authority not less than 14 days and not more than 28 days before commencing works on site.

## 2. Construction stage – assessment and inspection

During construction inspections are carried out in accordance with the Inspection Plan. It is expected that local authorities will inspect 12% to 15% of new buildings during construction and inspections will be targeted and based on risk assessments. Therefore they are likely to be focused on multi-unit developments such as apartments.

## 3. Completion stage

Approximately 3 to 5 weeks in advance of occupying the building, the Certificate of Completion is submitted along with the actual inspection plan implemented as well as plans, calculations, specifications and particulars demonstrating how the completed project has complied with the Building Regulations.

Within 21 days of submitting the certificate of completion, the Building Control Authority will consider whether the certificate is valid and if valid, include details of the certificate on the statutory register at which point the building can be opened, used or occupied. After 21 days, if the authority has not reverted, the building is automatically added to the register.

Within 21 days, if the certificate is regarded as not being valid, the Building Control Authority will reject the certificate and notify the Assigned Certifier giving reasons the certificate cannot be accepted or require the Assigned Certifier to submit such revised certificate or additional documentation as may be deemed necessary by the authority for the purposes of validation. Upon receipt of further information the authority have 7 days to revert.

**If a building is not added to the register it cannot be opened, used or occupied.**

### What if my project is phased?

The phased completion of projects is possible. It does require individual submissions to the building control authority at each phase completion stage.

### How frequently are inspections required?

The frequency of inspection will be determined by the Inspection Plan. The Inspection Plan will be judged by the appropriate intensity and frequency of inspections as per the nature of the building project. The following must be considered:

- a) Type of building, type of construction and expertise of the Builder
- b) How complicated or relatively straight forward the method of construction is
- c) Whether recent experience indicates current problems in interpreting and/or achieving compliance with certain requirements.
- d) How serious the consequences of a particular contravention might be
- e) The impracticability or impossibility of subsequent inspection of closed up work
- f) The speed of construction, or methods of fast track construction

## Does everything have to be inspected on site?

The Code of Practice highlights that it is not practicable to examine every item of work and inspections of elements are subject to the appropriate professional judgement and risk assessment, and recognising that, inspection arrangements should normally make provision for inspection of:

- a) Elements and components, the failure of which would, in the opinion of the certifier, be significant
- b) Works which, in the opinion of the certifier, constitute unusual designs or methods of construction
- c) Work relating to fire safety
- d) Types of work, construction, equipment or material which could, if not verified, cause defects which would, in the opinion of the certifier or designated inspector, be seriously detrimental to the fundamental purposes of the Building Regulations
- e) Additional areas of work necessary for the subsequent issue of a certificate at completion.

In practice it is very likely that Resident Engineers will need to be appointed on a full or part time basis for any substantial building project to facilitate the necessary inspections.

## What information needs to be submitted with a commencement notice?

The following information needs to be submitted by the Assigned Certifier in the process of submitting a commencement notice:

- Commencement notice (or 7 day notice);
- Plans, calculations, specifications and particulars as are necessary to outline how the building proposed works or building will comply with the requirements of the Second Schedule to the Building Regulations relevant to the works or building concerned, and including -
- The preliminary Inspection Plan prepared by the Assigned Certifier;
- A Design Certificate (with a schedule of Ancillary Certificates by members of the design team, who should also sign their certificate);
- A Notice of Assignment of Assigned Certifier by the Building Owner;
- A Notice of Assignment of Builder by the Building Owner;
- Form of Undertaking by the Assigned Certifier;
- Form of Undertaking by the Builder
- The appropriate fee



It is important to note that there is no requirement or obligation on the Building Control Authority to carry out a technical assessment of the plans or other documents submitted.

## What information needs to be submitted with the Certificate of Completion?

At completion stage, the Assigned Certifier is required to submit the following to the Building Control Authority:

- A Certificate of Compliance on Completion signed by the Builder and by the Assigned Certifier
- Plans, calculations, specifications and particulars, showing how the completed building has achieved compliance with the Building Regulations must be lodged on the Building Control Management System when the Certificate of Compliance on Completion is submitted or at an earlier date. Where design documents have changed or supersede design documents previously lodged with the Building Control Authority with the Commencement Notice or at a later date, any such difference should be clearly identified;
- The Inspection Plan as implemented by the Assigned Certifier in accordance with the Code of Practice.

## So what's the big deal?

Previously the standard would have been to issue opinions on substantial compliance. However the Amendments now require strict confirmation that the works comply. This places much greater responsibility on the Assigned Certifier and Design Certifier than previously and makes them much more likely to face prosecution should any breaches occur.

### But has anything really changed?

**Yes**, a lot more information is required to be completed and submitted to the Building Control Authority and it is likely that more site inspections by duty holders will be carried out.

**No**, the system still relies on self-certification as before. The only difference being that it will be easier to identify and prosecute duty holders.

**No**, there are no new legal rights or remedies for consumers created by the Amendments

**Yes**, self builds are no longer possible

## Will this cost more to implement?

Yes. A large amount of additional information and paperwork is required to be completed and a greater amount of site inspections will be required.

## Can you still Self-Build?

No self-build is no longer possible, the Regulations clearly require competent experienced builder. The Certificate of Completion has to be signed by "a Principal or Director of a Building Company only". Builders included on the Construction Industry Register Ireland or equivalent may be regarded as competent for projects consistent with their registration profile. To join the register you must provide 3 examples of project experience.

## How do I register as a Builder?

Registration is completed via the Construction Industry Register Ireland (CIRI). It requires construction companies and sole traders to demonstrate they follow industry best practice and comply with the statutory regulations for the construction sector. Also included in the criteria for registration is tax compliance, continuous professional development, compliance with health and safety regulations, and obtaining relevant insurance policies. Further to this, registration is required annually. A full list of CIRI requirements and how to register can be found at: <https://www.ciri.ie/index.php/faqs>

## As a client or building owner should I consider any other legislation?

Yes, the Safety, Health and Welfare at Work (Construction) Regulations 2013 impose a number of legal duties on the "Client" including the appointment of a project supervisor design process (PSDP) and project supervisor construction stage (PSCS). Further details on this legislation can be found here: <http://www.garlandconsultancy.com/news-and-resources/safety-regulations-client-assessment-tool.html>

## Garland are Providing Building Control Services

Based on our expertise in Design, Project Management, Health and Safety, and Building/Construction Regulations, Garland are providing the services of **Assigned Certifier** and **Design Certifier** to our clients.

We are currently engaged in projects as designer and Assigned Certifier under the new Building Control Amendment Regulations and our expertise with the new regulations and BCAS system may be invaluable to the successful completion of your project.

If you wish to enquire about the new regulations or any of our other services, please contact us at:

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## Our Services Include

### Range of Civil and Structural Services:

Feasibility studies | Master planning | Infrastructure appraisals | Preliminary, scheme and detailed structural & civil engineering designs | Tender documentation production | Procurement of construction services | Contract administration & site supervision | Resident engineers and clerk of works | Risk management | Value engineering | Due diligence | Project appraisal | Project monitoring | Structural Surveys | Condition Surveys | Stage Inspections

### Range of Project Management Services:

Contract administration | Due diligence | Employers agent | Lessons learned (facilitation of study and preparation of documentation) | Option appraisals (workshop facilitation and preparation of output documentation) | Peer reviews | Procurement services | Programme management | Programming and scheduling (time and resource modelling, including earned value)

### Range of Safety and Health Services:

Project Supervisor Design Process | Design and Construction Management Consultancy | Safety Training for Designers, Clients & PSDP | Safety Statements | Risk Assessments | Standard Operating Procedures | Construction Regulation Compliance Audits | Aspergillosis Construction Audits

*The guidance given in this document is intended as general advice based on present understandings of the Building Regulations Amendment 2014. While legal advice has been sought and taken into account in preparing the guide, the advice given should not be regarded as a legal interpretation of the Building Regulations Amendment 2014. Advice given here must be considered in the context of professional judgement being exercised by competent persons; it is not intended to provide the definitive approach.*