



STATUTORY INSTRUMENTS.

S.I. No. 526 of 2018



BUILDING CONTROL (AMENDMENT) REGULATIONS 2018

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I, DAMIEN ENGLISH, Minister of State at the Department of Housing, Planning and Local Government, in exercise of the powers conferred on me by sections 3, 6, 17 and 18 of the Building Control Act 1990 (No. 3 of 1990) (as adapted by the Housing, Planning, Community and Local Government (Alteration of Name of Department and Title of Minister) Order 2017 (S.I. No. 358 of 2017)), which powers are delegated to me by the Housing, Planning, Community and Local Government (Delegation of Ministerial Functions) (No. 2) Order 2017 (S.I. No. 352 of 2017), hereby make the following regulations:

Citation

1. (1) These Regulations may be cited as the Building Control (Amendment) Regulations 2018.

(2) The Principal Regulations and these Regulations may be cited together as the Building Control Regulations 1997 to 2018 and shall be construed together as one.

Commencement

2. These Regulations come into operation on 17 December 2018.

Interpretation generally

3. In these Regulations:

“Principal Regulations” means the Building Control Regulations 1997 (S.I. No. 496 of 1997) as amended by the Building Control (Amendment) Regulations 2000 (S.I. No. 10 of 2000), the Building Control (Amendment) Regulations 2004 (S.I. No. 85 of 2004), the Building Control (Amendment) Regulations 2009 (S.I. No. 351 of 2009), the Building Control (Amendment) Regulations 2014 (S.I. No. 9 of 2014), the Building Control (Amendment) (No.2) Regulations 2014 (S.I. No. 105 of 2014), the Building Control (Amendment) Regulations 2015 (S.I. No. 243 of 2015) and the Building Control (Amendment) (No. 2) Regulations 2015 (S.I. No. 365 of 2015).

Amendment of Article 20D of the Principal Regulations

4. The Principal Regulations are amended by:

(a) substituting for Article 20D the following—

“(1) Subject to sub-article (2) and articles 3 and 6, a certificate of compliance with respect to requirements under Part M of the Second Schedule of the Building Regulations (hereinafter referred to as a ‘disability access certificate’) shall be required in respect of—

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 14th December, 2018.*

- (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 hotel, hostel or guest building, or
 - (iii) an institutional building, or
 - (iv) a place of assembly, or
 - (v) 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, where 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 institutional building, becomes so used, or
 - (iv) a place of assembly, becomes so used, or
 - (v) a shop (which is not ancillary to the primary use of the building), becomes so used, or
 - (vi) a shopping centre, becomes so used,

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

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

- (a) a 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 building used as a domestic garage,
- (d) a 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 animal for domestic purpose's and is not used for the purposes of any trade or business or for human habitation,
- (e) a building used solely to enable inspection, repair or maintenance of fixed plant, building services, or machinery,

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 (e).

(3) Where a disability access certificate is required in respect of all works or buildings to which this Part applies, a person shall make an application to the building control authority for such certificate and not carry out such works or make a material change of use as regards such a building in contravention of Part M of the Building Regulations or any conditions subject to which the certificate is granted.

- (4) (a) An application for a disability access certificate shall be in the form specified for that purpose in the Third Schedule.
- (b) An application for a disability access certificate shall be accompanied by—
 - (i) such plans, (including a site or layout plan) (in duplicate) and such other particulars as are necessary to—

- (I) identify and describe the works or building to which the application relates,
 - (II) enable the building control authority to assess, whether the said works or building would, if constructed in accordance with the said plans and other particulars, comply with the requirements of Part M of the Second Schedule to the Building Regulations,
 - (III) identify the nature and extent of the proposed use and, where appropriate, of the existing use of the building concerned, and
- (ii) such fee as may from time to time be prescribed for that purpose in Part V.
- (5) (a) On receipt of an application for a disability access certificate, a building control authority shall—
- (i) stamp the documents with the date of receipt, and
 - (ii) consider whether the application complies with the requirements of paragraph (4).
- (b) Where a building control authority consider that an application for a disability access certificate complies with the requirements of paragraph (4), they shall send to the applicant an acknowledgement stating the date of receipt of the application.
- (c) Where a building control authority consider that an application for a disability access certificate does not comply with paragraph (4), they may, as they consider appropriate, having regard to the extent of the failure to comply with the said paragraph, by notice in writing—
- (i) inform the applicant that the application is invalid and cannot be considered by the authority, or
 - (ii) require the applicant to furnish such further plans, calculations, specifications or particulars, or such additional fee, as may be necessary to comply with the said article.
- (d) Where a building control authority serve a notice in accordance with subparagraph (c)(i), they shall return to the applicant all the documents and the fee which accompanied the application.
- (6) Where an application is made to a building control authority for a disability access certificate, the authority, in considering such application, shall—

(a) be restricted to considering only the extent to which the design or works complies with the requirements of Part M 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.

(7) Where a building control authority, having considered an application for a disability access 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 disability access certificate in respect of such revised plans, specifications or particulars so submitted.

(8) (a) A building control authority shall, having considered an application for a disability access certificate, grant such certificate, with or without conditions or refuse to grant the certificate, as the case may be.

(b) A disability access 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 M of the Second Schedule to the Building Regulations.

(9) Where a building control authority decide to grant a disability access certificate, with or without conditions, the form specified for that purpose in the Fourth Schedule or a form substantially to the like effect, shall be the form of every such certificate and where the disability access certificate is granted subject to conditions, they shall inform the applicant of the reasons therefor.

(10) Where a building control authority decide to refuse to grant a disability access certificate, they shall notify the applicant in writing of their decision and the reasons therefor.

(11) Where a building control authority grant a disability access certificate with conditions, or refuse to grant a disability access 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.”

Amendment of Article 20E of the Principal Regulations

5. The Principal Regulations are amended by:

(a) substituting for Article 20E(3)(d) the following—

“Where a building control authority serve a notice in accordance with subparagraph (c)(i), they shall return to the applicant all the documents and the fee which accompanied the application.”

(b) substituting in Article 20E(4) “20D(6), 20D(7) and 20D(8)” for “20D(5), 20D(6) and 20D(7)”.

Amendment of Third Schedule to the Principal Regulations

6. The Principal Regulations are amended:

(a) in the Third Schedule in the Form of Application for a Disability Access Certificate by substituting “Article 20D(4)” for “Article 20D(3)”.

Amendment of Fourth Schedule to the Principal Regulations

7. The Principal Regulations are amended:

(a) in the Fourth Schedule in the Form of Disability Access Certificate by substituting “Article 20D(9)” for “Article 20D(8)”.

GIVEN under my hand,
11 December 2018.

DAMIEN ENGLISH,
Minister of State at the Department of Housing, Planning and
Local Government.

EXPLANATORY NOTE

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

These Regulations amend certain provisions of the Building Control Regulations (the “Principal Regulations”) following a review of the operation of the Disability Access Certificate requirements introduced under S.I. No. 351 of 2009.

Article 20D of the Principal Regulations is substituted to provide for the following:

1. Sub-article 20D(1) is modified to provide clarification in relation to the classes of buildings, related to types of works which require a Disability Access Certificate, by listing the requirements in paragraphs (a) to (e) of sub-article (1).
2. A new sub-article 20D(2) is inserted to provide clarification in relation to the types of buildings, which do not require a Disability Access Certificate.
3. Sub-articles 20D(2) to (10) of the Principle Regulations are re-numbered to 20D (3) to (11) to account for the introduction of the new sub-article 20D(2).
4. 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).

Article 20E of the Principal Regulations is substituted to provide for the following:

1. Sub-article 20E(3)(d) is modified to clarify the requirements where an application is declared invalid by the Building Control Authority.
2. Sub-article 20E(4) of the Principle Regulations is amended to account for the re-numbering of Article 20D.

The effect of the above changes to Articles 20D and 20E is that the requirements for a Disability Access Certificate are now separated from the requirements for a Fire Safety Certificate, and are directly related to the requirements of Part M (Access and Use) of the Second Schedule to the Building Regulations.

The operative date of these Regulations is 17 December 2018.

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