



STATUTORY INSTRUMENTS.

S.I. No. 365 of 2015



BUILDING CONTROL (AMENDMENT) (NO. 2) REGULATIONS 2015

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I, PAUDIE COFFEY, Minister of State at the Department of the Environment, Community 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) and the Environment, Community and Local Government (Delegation of Ministerial Functions) Order 2014 (S.I. No. 524 of 2014), hereby make the following regulations:

Citation

1. (1) These Regulations may be cited as the Building Control (Amendment) (No. 2) Regulations 2015.

(2) The Principal Regulations and these Regulations may be cited together as the Building Control Regulations 1997 to 2015 and shall be construed together as one.

Commencement

2. These Regulations come into operation on 1 September 2015.

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) and the Building Control (Amendment) Regulations 2015 (S.I. No. 243 of 2015).

Amendment of Article 5 of the Principal Regulations

4. The Principal Regulations are amended by:

(a) inserting after the definition of “commencement notice” the following definition—

“ “company” means a company to which the provisions of the Companies Act 2014 apply, or a company or a body corporate incorporated in another state;”,

(b) inserting after the definition of “statutory declaration” the following definition—

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“total floor area” as referred to under Articles 9(2)(b), 20A(2)(b)(ii) and 20F(2)(b) in the context of an extension to a dwelling refers only to the total floor area of the proposed extension as described in the commencement notice”, and

(c) inserting after Article 5(6) the following:

“(7) (a) For the avoidance of doubt, these regulations do not prevent an owner when completing, as required, a Notice of Assignment of Builder as set out in the Second or Third Schedules as appropriate, from taking on the role of the builder for the purposes of these regulations. The owner shall then also sign the form of Undertaking by the Builder and, where applicable, Part A — Certificate by the Builder — of the Certificate of Compliance on Completion.

(b) Where the assigned builder is a building company, the form of Undertaking by the Builder and Part A — Certificate by the Builder — of the Certificate of Compliance on Completion shall be signed by a Principal or a Director of the Building Company. These forms shall not be signed by an ordinary employee of the building company.”

Amendment of Article 6 of the Principal Regulations

5. The Principal Regulations are amended by:

(a) deleting Article 6(a), and

(b) substituting for Article 6(d) the following—

“(d) a building referred to in paragraph (b).”

Amendment of Article 9 of the Principal Regulations

6. The Principal Regulations are amended by:

(a) substituting for Article 9(2) the following—

“(2) Subject to paragraph (5), the requirements of paragraph (1)(b) shall apply to the following works and buildings—

(a) the design and construction of a new dwelling,

(b) an extension to a dwelling involving a total floor area greater than 40 square metres,

(c) works to which Part III applies.”

(b) inserting after Article 9(4) the following—

“(5) Notwithstanding the provisions of subparagraphs (2)(a) and (2)(b), in the case of a new single dwelling, on a single unit development, or an extension

to a dwelling, a commencement notice may, as an alternative to the requirements at subparagraphs (1)(b)(i)(IV), (1)(b)(ii)(I), (1)(b)(ii)(II), (1)(b)(ii)(III) and (1)(b)(ii)(V) be accompanied by a Declaration of Intention to Opt Out of Statutory Certification. This declaration shall be made by the owner via the Building Control Management System or on the appropriate form set out for that purpose in the Second Schedule.”

Amendment of Article 20F of the Principal Regulations

7. The Principal Regulations are amended by:

(a) substituting for Article 20F(2) the following—

“(2) Subject to paragraph (10), the requirement for a Certificate of Compliance on Completion shall apply to the following works and buildings—

(a) the design and construction of a new dwelling,

(b) an extension to a dwelling involving a total floor area greater than 40 square metres,

(c) works to which Part III applies.”

(b) inserting after Article 20F(9) the following—

“(10) Notwithstanding the provisions of subparagraphs (2)(a) and (2)(b), where a valid Declaration of Intention to Opt Out of Statutory Certification has been included on the public register in respect of a new single dwelling, on a single unit development, or an extension to a dwelling, then the provisions of Article 20F shall not apply.”

Amendment of Article 21 of the Principal Regulations

8. The Principal Regulations are amended:

(a) in Article 21(1)(h), by substituting “authority,” for “authority.”, and

(b) by inserting after Article 21(1)(h) the following—

“(i) any Declaration of Intention to Opt Out of Statutory Certification submitted in accordance with Article 9(5).”

Amendment of Second Schedule to the Principal Regulations

9. The Principal Regulations are amended by inserting in the Second Schedule after the Form of Commencement Notice for Development the following:

“

(Article 9)

DECLARATION OF INTENTION TO OPT OUT OF STATUTORY CERTIFICATION

Building Control Authority: _____ **Unique Identifier:** _____
(for official use only)

1. This declaration relates to the following dwelling or extension:

 Planning Permission No.: _____

2. As the owner of the dwelling or extension, I hereby declare that, having regard to the provisions of Article 9(5) of the Building Control Regulations 1997 to 2015, I have decided to opt out of the requirement to subject the above building works to statutory certification as comprehended by Part II and Part IIC of the Building Control Regulations 1997 to 2015.

3. I understand my statutory obligation as owner to ensure that the dwelling or extension is designed and constructed in accordance with the relevant requirements of the Second Schedule to the Building Regulations 1997 (as amended).

Dwelling Owner's Signature: _____ **Date:** _____

Name of Dwelling Owner(s): _____

Address: _____

Tel: _____ Fax: _____ Email: _____

”

GIVEN under my hand,
31 August 2015.

PAUDIE COFFEY,
Minister of State at the Department of the Environment,
Community 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 the Building Control Regulations (the “Principal Regulations”) following a review of the operation of the procedures introduced under S.I. No. 9 of 2014 during its first 12 months in operation.

Article 5 of the Principal Regulations is amended to provide clarification that an owner intending to build a dwelling for their own use may take on the role of builder for building control purposes and sign the statutory forms which must be signed by the builder.

Definitions for the term “company” and — in the context of domestic extensions — for the term “total floor area” have also been included.

Article 6 of the Principal Regulations is amended to remove the general exemption from building control regulations for works undertaken by a local authority within its own functional area.

Article 9 and Article 20F of the Principal Regulations are revised to give the owner of works involving the construction of a new single dwelling, on a single unit development, or of a domestic extension, the facility to opt out of the requirement to obtain statutory certificates of compliance signed by a registered construction professional. A homeowner who wishes to avail of this facility must, when submitting the commencement notice, sign and submit the new form of “Declaration of Intention to Opt Out of Statutory Certification” now included in the Second Schedule to the Principal Regulations. The homeowner in such circumstances is no longer required to provide the following compliance documentation specified under Article 9 of the Principal Regulations:

- the preliminary Inspection Plan prepared by the Assigned Certifier [Art. 9(1)(b)(i)(IV) refers];
- a Certificate of Compliance (Design) [Art. 9(1)(b)(ii)(I) refers];
- a Notice of Assignment of Person to Inspect and Certify Works (Assigned Certifier) [Art. 9(1)(b)(ii)(II) refers];
- a Certificate of Compliance (Undertaking by Assigned Certifier) [Art. 9(1)(b)(ii)(III) refers];
- a Certificate of Compliance (Undertaking by Builder) [Art. 9(1)(b)(ii)(V) refers];
- a Certificate of Compliance on Completion, and accompanying documents.

For the avoidance of doubt, a homeowner who opts out of the statutory certification process as outlined above is required, prior to the commencement of works, to submit a commencement notice accompanied by:

- a Declaration of Intention to Opt Out of Statutory Certification,
- such plans, calculations, specifications and particulars as are necessary to outline how the proposed dwelling or domestic extension will comply with the relevant requirements of the Second Schedule to the Building Regulations; This will typically include, but not be confined to, general arrangement drawings; a schedule of compliance documents, as designed or to be prepared at a later date; the online BCMS assessment of the proposed approach to compliance (Art. 9(1)(b)(i) of the Principal Regulations refers),
- a Notice of Assignment of Builder (Art. 9(1)(b)(ii)(IV) of the Principal Regulations refers),
- a fee of €30 (Part V of the Principal Regulations refers).

The effect of the above changes to Articles 9 and 20F is that the statutory forms of certification signed by builders and registered construction professionals are no longer mandatory in the case of a new single dwelling, on a single unit development, or a domestic extension.

Finally, Article 21 of the Principal Regulations has been amended to provide for reference to be made on the public register where a homeowner has declared their intention to opt out of statutory certification.

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