

*Irish Building Control Institute (IBCI)*  
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## **Building Control Bill 2005**



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## **BUILDING CONTROL BILL 2005**

### **Progress of Bill to date**

- **Publication:** 22 December 2005, together with detailed Explanatory Memorandum.
- **Bill:** comprises 7 Parts and 68 Sections
- **Second Stage:** concluded on 2 March 2006
- **Committee Stage:** scheduled anytime from mid May 2006 onwards
- **IBCI:** welcome to propose amendments

## **Key Objectives**

- Strengthening the powers of local building control authorities to enforce minimum building standards set by the national Building Regulations.
- More effectively ensuring access to new or reconstructed buildings by people with disabilities
- Limitation of the lawful use of the title of “Architect”, “Building Surveyor” and “Quantity Surveyor” to suitably qualified people, whose names are entered on national registers This is to stop unqualified people passing themselves off to householders and others as qualified building professionals.
- Transposition of the Articles 5 and 7 of EU Energy Performance of Buildings Directive (2002/91/EC of 16 December 2002).

## Key Provisions (Summary)

- Full details in **Explanatory Memorandum** published with Bill.

### **Part 2: Stronger Enforcement Powers for Local Building Control Authorities**

#### **Access to Buildings**

- The Bill marks a further move in implementing Government's commitment to enhance the rights of people with disabilities. The Bill provides for the introduction of a **Disability Access Certificate (DAC) system**, as recommended in the Report of the Commission on the Status of People with Disabilities.
- Under DAC system, local building control authorities will have to certify that the designs of new Non-Domestic Buildings and new Apartment Blocks comply with Part M (Access for People with Disabilities) of Building Regulations, *before* work commences on the relevant projects.
- No final decision on who should issue DAC at local authority level.
- Part M (Access for People with Disabilities) and the related 2000 edition of Technical Guidance Document M under review.
- Public Consultation Notice: published in national newspapers in December 2005.
- Latest Date for Submissions: 31 March 2006
- Draft Proposals to BRAB: Autumn 2006
- Publication of Draft Proposals: Early 2007

## Proposed revisions in FSC procedures

- Section 4 of the **Building Control Bill 2005** proposes a number of provisions to strengthen the current FSC system, and takes account of practical experience in operating the FSC system since 1992.
- These proposals were **recommended by the Building Regulations Advisory Body (BRAB)** and are as follows:
- **“Revised FSC”**: application for revised FSC must be made where a design of a building is revised, to comply with conditions attached to a planning permission.
- **“Regularisation Certificate”**: to be applied for where works have been carried out without a prior FSC/7 Day Notice. This must be accompanied by construction drawings and a certificate that the works are in compliance with the requirements of the fire safety requirements (i.e. Part B) of the building regulations. This provides a clear legal basis for the granting of retrospective FSC, as is current practice.
- **“7 Day Notice”**: may be submitted to a building control authority where commencement of work is imminent. This must be accompanied by a *valid FSC application*, together with a *Declaration* in respect of the completeness and validity of the FSC; and undertaking to carry out any necessary modifications to works as may be required by the FSC, when granted. This is modelled on UK building control legislation and caters for developers who are anxious to start work on urgent projects, without waiting up to 2 months for FSC application to be processed.
- **Prohibition**: of the opening, operation, or occupation of buildings, which require a FSC, until such time as a FSC is granted. This prohibition will have major financial implications and should deter developers from flouting FSC requirements.
- **High Court Injunctions**: Local building control authorities will have wider powers to secure High Court injunctions e.g. where non-compliance with Enforcement Notice or design lacks DAC or FSC. More effective financial deterrent than fine on conviction.

## **Building Control Authority as Prosecution Authority**

- The Bill introduces the **option for local building control authority to bring summary prosecutions** for all building code offences in the District Court- rather than by way of prosecution, on indictment by the DPP, in the Circuit Court.
- This will **simplify the prosecution process** for the authorities.
- The authorities will also get the **benefit of fines** resulting from summary prosecutions brought by them.
- The **maximum monetary penalties** for breaches of the national Building Regulations will be substantially increased as follows:
  - (1) on summary conviction: from € 800 to **€ 1,500**
  - (2) for continuing offence: from €150 per day to **€500 per day**
  - (3) on conviction on indictment: from €10,000 to **€25,000**
- **Evidential Value of electronically stored building control records:** Section 9 of Bill

## **EU Energy Performance of Buildings Directive-EPBD: Transposition in IRELAND**

- *(Draft) Action Plan to Implement the EPBD in Ireland (April 2005).*
- Available on website:  
  
[www.epbd.ie](http://www.epbd.ie)
- Definitive Action Plan: to be finalised and forwarded to EU Commission, by end April 2006; and then published.
- **Ireland**: notified EU Commission of transposition measures on 20 January 2006. IRL is one of 10 (40%) of 25 EU Member States who had notified partial/total transposition, up to end January 2006.

### **Key Actions in 2005/2006**

- S.I. No. 872 of 2005: amends Section 3 of Building Control Act 1990 so as to enable Building Regulations to be made transposing the EPBD.
- S.I. No. 873 of 2005: amends Part L (Conservation of Fuel and Energy) to broaden application of Part L from fabric of building to include heating, cooling and lighting installations; legal basis for introduction of energy performance assessment methodology for New Dwellings- to be known as **Domestic Energy Assessment Procedure (DEAP)**.
- Circular BC 2/2006: dated 5 January 2006.
- Technical Guidance Document L (2006 Edition): will be published in April 2006.
- DEAP Methodology: will be published by SEI shortly
- DEAP Calculation Software: based on methodology, will be published by SEI before end June 2006.

## **Alternative Energy Systems (AES)- Large New Buildings (Article 5 of EPBD)**

- Section 5 of Bill: inserts new **Section 6A** in Building Control act 1990.
- **Design of large new Buildings -over 1,000 m<sup>2</sup> (10,800 square foot)-** must include assessment of the **economic/ technical feasibility of using alternative energy systems (AES)**.
- Proposed Operative Date: new large buildings for which planning permission is applied for on or after **1 January 2007**

Examples of AES:

- District or Block Heating
- Combined Heat and Power (CHP)
- Heat Pumps
- Energy Supply Systems, using Renewable Energy e.g. solar power, wind power.
- **Sustainable Energy Ireland (SEI)** is developing software to help designers and builders to carry out such assessments.

## **Building Energy Rating (BER) Certification (“Labelling”)**

- Section 5 of Bill: inserts new **Section 6B** in Building Control Act 1990.
- Legal basis for the planned phasing in of BER as follows (dates not cited in Bill-to be prescribed by Regulations).
- **BER of newly constructed Dwellings**: from 1 January 2007\*

\* Proposed transitional exemption: newly constructed dwellings for which planning permission applied for on or before 30 June 2006 and which are substantially complete by 30 June 2008.

- **BER of newly constructed Non-Domestic Buildings**: from 1 January 2008.\*

\* Transitional Exemption: to be decided

- **BER of Existing Buildings**: when existing buildings are being offered for sale or letting, from 1 January 2009.
- **BER Display (Existing and new Public Service Buildings)**: to be operative from 1 January 2009- Section 4 of Bill
- Those buying or renting houses will be given clear information on building energy efficiency.
- BER Certificate will incorporate **recommendations** for building owners and landlords on how to cost effectively improve BER; and will be **valid for 10 years**.
- BER Certifiers: building professionals (e.g. architects engineers, surveyors) who have undergone SEI recognised training, assessment and certification.
- Number of BER Certifiers required: estimated 1,000 to 2,000 BER certifiers must be trained, over period 2006 – 2008.
- Training of BER Certifiers: SEI to arrange commencement of training, in second half of 2006.

### **Parts 3-7: Registration of Building Professions**

- The Bill provides for the **registration of the titles** of certain building professionals; and the **statutory protection of such titles** from misuse.
- Bill will require that people calling themselves  
**“Architect”** or  
**“Building Surveyor”** or  
**“Quantity Surveyor”**

are properly qualified, and registered on relevant national registers.

- The registers will be administered by designated “registration bodies”.
- **Royal Institute of Architects of Ireland (RIAI)**, in the case of Architects.
- **Society of Chartered Surveyors (SCS)**, in the case of Building Surveyors and Quantity Surveyors.
- Registration eligibility criteria: will be defined in the Bill to be enacted by the Oireachtas; and not by the registration bodies themselves.
- Processes and procedures: designed to ensure that **all applicants/applications are treated fairly, and in a transparent way**.
- Admission Decisions: made by independent Admission Boards, Technical Assessment Boards, Appeal Boards- not by registration body
- Ultimately, a right of appeal against refusal of registration to the High Court.
- Board Members: the majority of ordinary members of the various boards will be non- building professionals.
- Board Chairperson: each Board will be independently chaired by a retired judge or a lawyer



