

Information Document No. 2

**New single dwellings (including self-build) and extensions
to existing dwellings**

to inform public consultation on the

Review of S.I. No. 9 of 2014

following its first 12 months of operation

April 2015



Comhshaol, Pobal agus Rialtas Áitiúil
Environment, Community and Local Government



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Introduction

The Building Control (Amendment) Regulations 2014 (S.I. No. 9 of 2014) were introduced with effect from 1 March 2014 in order to strengthen the arrangements in place for the control of building activity in response to the widespread failures that had occurred in all sectors of the industry in the period leading to the recent economic collapse.

Prior to S.I. No. 9 of 2014 coming into effect on 1 March 2014, the then Minister signalled the intention to review its effectiveness following its first twelve months of operation. This review is now underway and its Terms of Reference are on page 3.

This Information Note focusses in particular on one aspect of the Terms of Reference, namely the concerns that have been raised in relation to the impact of S.I. No. 9 of 2014 on single dwellings and extensions to existing dwellings. A more comprehensive information note is also being published by the Department of the Environment, Community & Local Government to inform the other elements of the Review.

Terms of Reference

The scope and objectives of the review are as follows:

- (a) To review the operation of S.I. No. 9 of 2014 in consultation with industry and local authority stakeholders and members of the public
- (b) To consider in particular the impact of S.I. No. 9 of 2014 on single dwellings and extensions to existing dwellings having regard to specific concerns which have been raised in relation the cost burden of the regulations and the level of certification required for this sector
- (c) To consider more generally the impact of S.I. No. 9 of 2014 on owners, occupiers and users of buildings have regard to the statutory purposes for which building regulations may be made (i.e. public safety, accessibility, energy efficiency, efficient use of resources and good building practice)
- (d) To make recommendations that will strengthen and improve the arrangements in place for the control of building activity in keeping with the principles of good and fair administration
- (e) To report with recommendations to the Minister of State as soon as possible, but in any event no later than 30 June 2015.

During the course of the review matters will inevitably arise which may be beyond the scope of S.I. No. 9 of 2014 and the Building Control Regulations 1997 to 2014. The review report will note and record such matters as an input into the future development of policy and legislation in this critical area of public policy.

New Single Dwellings and Extensions to existing Dwellings – Options for Consultation

Aim

The purpose of this paper is to outline options for consultation aimed at addressing concerns in relation to the cost burden of Building Control requirements on single new dwellings on a single unit development and on extensions to existing dwellings. It is important to balance such concerns with the need for strong regulatory controls to ensure that home owners are assured of the safety, quality and durability of their home. In the case of standalone dwellings on their own sites some of the more common failures that have presented themselves are:-

- Inadequate provision of drainage and wastewater treatment necessitating the introduction of an inspection regime for septic tanks;
- Poor insulation and energy performance standards – the national Building Energy Rating database illustrates that large number of dwellings fail to comply fully with Part L of the Building Regulations;
- Common complaints regarding materials and workmanship arising from a poor understanding/application of good building practice.

Current Context

Over 1,000 single dwellings have commenced to date since S.I. No. 9 of 2014 came into effect on 1 March 2014. The aim of the regulatory framework is to ensure that a home is designed and constructed in compliance with the relevant requirements of the building regulations. This is verified during construction through the execution of an inspection plan overseen by a registered construction professional (the assigned certifier) that enables the builder and the assigned certifier to give a statutory certificate of compliance on completion. This statutory certificate of completion effectively represents a badge of approval reassuring homeowners that their home is a quality, compliant home that is –

- Safe and healthy to live in;
- Structurally sound and resistant to fire;
- Energy efficient, therefore warm and comfortable, and requiring relatively inexpensive spending on fuel;
- Durable, having used properly certified materials combined with good construction practice.

The statutory certificate of completion attached to a property is now well placed – and already becoming – the ‘badge of approval’ that the property market places its trust in. It will become increasingly pivotal to the conveyance, insurance and financing of property. Investment in the proper design, professional oversight during construction and competent construction expertise is therefore critical in this sector of the property market as in all other sectors.

Homeowners should not be faced with inflated charges or excessive inspections in order to achieve the quality home they expect and deserve. However, it is in the interests of homeowners to have the home they invest in checked and inspected to ensure that it is fit for purpose at the time of completion and into the future.

The Department has been mindful of the above considerations in proposing the following options designed to protect consumers in as far as possible from exorbitant and unjustifiable costs and professional fees.

Options for varying approach for new single dwellings and extensions

Three options, together with the pros and cons of each option, are presented for consultation purposes.

Option A – Revise Building Control Regulations 1997 to 2014 to make statutory certification and related requirements advisory rather than mandatory in the case of new single dwellings and extensions to existing dwellings.

This option addresses the concern that the statutory certification requirements are considered too onerous for single dwellings and extensions to dwellings.

The option would involve an amendment to Building Control Regulations to remove the mandatory requirement for full compliance with the level of statutory certification required under S.I. No. 9 of 2014 in the case of a new single dwelling or an extension to an existing dwelling. This in effect would mean that there would be no formal requirement for a statutory certificate signed by the designer prior to commencement or for a statutory certificate signed by the builder and the assigned certifier at completion. Owners who wish to invest in full compliance with the level of statutory certification currently required under S.I. No. 9 of 2014 may of course do so. The regulations and guidance would advise that so doing would be good practice notwithstanding the owner's facility to 'opt out.'

The Department will publish the Sample Preliminary Inspection Plan for Single Dwellings (see option C) to promote good practice in this sector.

Owners who 'opt out' of statutory certification would have to confirm this when they lodge the commencement notice, etc. on the online Building Control Management System. They would be reminded of their obligations to comply with building regulations. Owners who elect to avail of this option should demonstrate by way of lodgement of documentation their best alternative means of demonstrating compliance which would include lodgement of -

- (a) General arrangement design documents to facilitate targeted inspections by building control,
- (b) Confirmation that the Sample Preliminary Inspection Plan for Single Dwellings (referred to above) has been followed, and
- (c) Recognised industry forms of certification relevant to the design and construction of the dwelling concerned.

Pros:

- The 'opt out' clause would give owners a choice and would mean they need not be held to ransom by unaffordable quotes for professional services.
- Clarity as to where responsibility for compliance lies (i.e. with owners) is at all times preserved.
- Owners of new single dwellings and extensions would still have to invest in achieving compliance with building regulations.
- Owners who want to invest in quality assuring their home may still do so and may elect to obtain a statutory certificate of completion and have it placed on the public register.

Cons:

- Consumers may be driven by cost considerations rather than quality considerations.
- A two-tier system of residential houses would develop – those which enjoy statutory certificates of completion and those which do not. Homeowners who do not have a statutory certificate of completion may find themselves at a disadvantage for insurance, mortgage or conveyancing purposes.
- This sector, where consumers are vulnerable and where real shortcomings and risks to public safety are known to occur, may again prove to be vulnerable in the face of under regulation.
- The easing of the regulatory requirements may prove controversial should incidents of failure occur in relation to such homes in the future.

Specific Question for Public Consultation

Q.1 Do you agree with the proposed amendment to Building Control Regulations to provide that the requirements for statutory certification in line with S.I. No. 9 of 2014 be eased in the case of a new single dwelling and an extension to an existing dwelling by becoming advisory rather than mandatory and by allowing for alternative means of demonstrating compliance?

Option B – Broaden the pool of persons who may sign statutory certificates of compliance.

At present the construction professional who gives the statutory certificate of compliance at commencement and completion must be a person who is either one of the three registered professional groupings typically involved with the design of buildings, namely a registered Architect, Building Surveyor or Chartered Engineer.

At present there are some 5,000 construction professionals registered on the Building Control Management System for the purposes of fulfilling the roles of design certifier and assigned certifier.

Broadening the pool of persons who may undertake these roles would obviously lead to more competition in the market place and increase the choice of providers available to consumers. It may be that in particular geographical locations the number of professionals available for doing this work is limited.

The Department is actively considering options which may broaden the pool of persons who may sign statutory certificates of compliance for building control purposes. Initiatives currently underway or under active consideration in this regard include:-

- (a) Prescribing by regulation further courses and educational institutions which are recognised for the purposes inclusion on the register of Architects
- (b) Reviewing the arrangements in place for the registration of Architects (the Fennell review)
- (c) Working in conjunction with industry stakeholders and representatives of relevant educational institutions to agree, through Quality Qualifications Ireland structures, a common standard for the discipline of Architectural Technologist as a first step towards its becoming a registered profession
- (d) Amending Part 3 of the Building Control Act 2007 to provide a 'Minister's List' means of providing access to the register of architects, subject to defined criteria, for established practitioners (having at least ten years' experience of relevance prior to the commencement of the Act of 2007) as an alternative to the current under-utilised and unpopular technical assessment procedure.

In bringing forward any proposals, the Minister will have to objectively identify and defend the class or classes of persons who may be recognised by the Minister as a professional grouping undertaking comparable work to registered construction professionals. Any changes in existing arrangements for statutory registration must be consistent with relevant Irish and EU legislative requirements.

Pros:

- Pool of practitioners who can serve this sector of the housing market would be increased offering more competition and choice to consumers.

Cons:

- Specific proposals affect the working arrangements of registered architects, surveyors and chartered engineers.
- The Department does not regulate price and there is no guarantee that any individual who succeeds in being recognised as a construction professional will provide competitive quotes.

Specific Questions for

Public Consultation

Q.2 Do you have any views in relation to the proposals for broadening the pool of professionals who may sign certificates of compliance, in particular proposals (c) and (d) at Option B above ?

Q.3 Do you have any further suggestions which would assist in broadening the pool of persons who may give statutory certificates of compliance for building control purposes?

Option C – No change in regulatory requirements; but produce guidance for single dwellings

The Department, in conjunction with the Housing Agency and the construction professional bodies, has developed a Sample Preliminary Inspection Plan for Single Dwellings which, together with costings for the execution of this inspection plan, accompany this document. Where a fully certified design is available, the assigned certifier role can be comfortably achieved for €3,800 (incl. VAT). Where the existing design is inadequate for addressing compliance with building regulations further work may be necessary at an additional cost of up to €2,200 (incl. VAT). Market forces and competition may also drive down these projected costs.

Under this option, the Sample Preliminary Inspection Plan for Single Dwellings would be incorporated as an annex to the existing Code of Practice for inspecting and certifying buildings and works which would confer its status as a statutory guidance document.

Pros:

- This option responds directly to the actual issue which is one of affordability/economic cost.
- The simplified approach will hasten the downward competitive pressure on pricing that will arise over time.
- Home owners are not forced to pay for inspections or services they do not require.
- Home owners will be assured of a fully compliant, certified dwelling.
- The statutory certificate of completion will be available for insurance and mortgage purposes and, if necessary, for conveyancing purposes at any future time.

Cons:

- There may be a time lag before a downward adjustment of pricing in the marketplace is observed.

Specific Question for Public Consultation

Q.4 Do you agree that there should be no change in the regulatory requirements for single dwellings and extensions to existing dwellings but that the Sample Preliminary Inspection Plan for single Dwellings should be incorporated into the existing Code of Practice for inspecting and certifying buildings and works thus becoming a statutory guidance document?

Option D – Exemptions for extensions to existing dwellings should be determined having regard to building plot ratio.

The Department would welcome views on the proposal that exemptions for extensions to existing dwellings should be determined by reference to the relationship between the scale of the extended dwelling and the overall size of the plot. The effect of this option would be to considerably increase the number of extensions to dwellings which would be exempted from building control requirements.

This option addresses the concern that the statutory certification requirements are considered to be too onerous for extensions to dwellings. The current threshold of 40 square metres has proved contentious, in particular where previous extensions to a dwelling exist and must be taken into account.

The implication of this option for planning requirements as well as for building control requirements needs to be carefully considered.

Pros:

- Owners would still have to invest in achieving compliance with building regulations in respect of the new extension to their dwelling.
- Onerous requirements for extension will have been eased.

Cons:

- The cons outlined in respect of option A above are also relevant to this option.
- The proposal may be regarded as being unfairly discriminatory – the effect of the plot ratio approach would mean that on a large landholding a large project would be exempt while a project of equal size on a smaller landholding would not be exempted.
- Variable criteria adds complications to oversight and administration by building control authorities

Specific Question for Public Consultation

Q.5 Do you have any views on the proposal that exemptions for extensions to existing dwellings should be determined having regard to a building to plot ratio?

Making Submissions

- All submissions should be returned by email to buildingstandards@environ.ie on the template provided.
- Submissions should state clearly and briefly what aspect of SI No. 9 of 2014 gives rise to a concern and how, in your view, this concern may be resolved. There is no restriction on the number of concerns which may be returned.
- Further information may be attached in support of your submission but key concerns and recommended solutions should be summarised on the template provided.
- The work of the Department is subject to the Freedom of Information Acts and persons are advised that any submission received may be published by the Department or by other parties on foot of a Freedom of Information request. Person, confidential or commercially sensitive information should not be included in a submission and it will be presumed that all information contained in submissions is releasable under the Freedom of Information Acts.
- For ease of reference, your attention is again drawn to the following specific questions on which responses are particularly welcome:-

Specific Questions for Public Consultation

- Q.1 Do you agree with the proposed amendment to Building Control Regulations to provide that the requirements for statutory certification in line with S.I. No. 9 of 2014 be eased in the case of a new single dwelling and an extension to an existing dwelling by becoming advisory rather than mandatory and by allowing for alternative means of demonstrating compliance? (Option A refers)
- Q.2 Do you have any views in relation to the proposals for broadening the pool of professionals who may sign certificates of compliance, in particular proposals (c) and (d) at Option B above?
- Q.3 Do you have any further suggestions which would assist in broadening the pool of persons who may give statutory certificates of compliance for building control purposes? (Option B refers)
- Q.4 Do you agree that there should be no change in regulatory requirements for new single dwellings and extensions to existing dwellings, but that the Sample Preliminary Inspection Plan for Single Dwellings should be incorporated into the existing Code of Practice for inspecting and certifying buildings and works thus becoming a statutory guidance document? (Option C refers)
- Q.5 Do you have any views on the proposal that exemptions for extensions to existing dwellings should be determined having regard to a building to plot ratio? (Option D refers)