

Building Control (Amendment) Regulations 2018 (S.I. No. 526 of 2018)

1. GENERAL

I wish to advise you that the Minister of State for Housing, Planning and Local Government, Mr. Damien English T.D. signed the *Building Control (Amendment) Regulations 2018* (S.I. No. 526 of 2018) which come into effect on 17 December 2018.

A copy of the *Building Control (Amendment) Regulations 2018* (S.I. No. 526 of 2018) may be found at: <http://www.irishstatutebook.ie/eli/2018/si/526/made/en/pdf>

2. BACKGROUND

Pillar 5 of *Rebuilding Ireland: Action Plan for Housing and Homelessness* commits to ensuring that the existing housing stock is used to the maximum degree possible. In this regard, a Working Group on the Reuse of Existing Buildings was established and chaired by the Department of Housing, Planning and Local Government, in order to explore the regulatory procedures that apply for such development and to recommend ways of streamlining the process. The *Report of the Working Group on the Reuse of Existing Buildings* (available at: <https://www.housing.gov.ie/housing/home-ownership/vacant-homes/vacant-homes>) recommended that ‘a review of the *Building Control Regulations 1997-2015* be undertaken to give further clarification with respect to the building control approvals required for material changes of use to dwellings’.

On foot of this recommendation, a review was carried out by the Department, which has resulted in the Minister amending the Building Control Regulations in respect of the application for Disability Application Certificates (DACs).

3. AMENDMENTS

This document summarises the main elements of the amended regulations:

The *Building Control (Amendment) Regulations 2018* separates the requirements for a Disability Access Certificate from the requirements for a Fire Safety Certificate, and explicitly specify the buildings or works, which require/ do not require a Disability Access Certificate with respect to the requirements of Part M (Access and Use) of the Second Schedule to the Building Regulations. The amendment primarily clarifies the application of Disability Access Certificates to existing buildings when brought back into use.

Article 20D (1)

The *Building Control (Amendment) Regulations 2018* set out the classes of buildings or works, which will require a DAC, as follows:

- (a) The construction of a new building,
- (b) The material alteration (excluding minor works) 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,
- (c) The material alteration of a shop, office or industrial building where -
 - (i) the building is being subdivided into a number of units for separate occupancy, or
 - (ii) additional floor area is being provided within the building,
- (d) The extension of a building by more than 25 square meters,
- (e) The material change of use where the building, becomes used as:
 - (i) a day centre,
 - (ii) a hotel, hostel or guest building,
 - (iii) an institutional building,
 - (iv) a place of assembly,
 - (v) a shop (which is not ancillary to the primary use of the building), or
 - (vi) a shopping centre.

In relation to Article 20D (1)(b), it should be noted that a DAC is no longer required for Material Alterations to a building containing a flat. However, this does not exempt the works from the requirements of Part M (Access and Use) of the Second Schedule to the Building Regulations (where there is a Part M requirement). Part M continues to apply in the case of Material Alterations to a flat, or to a building containing a flat where Part M is applicable (but only to those works), as per Article 11 of the Building Regulations 1997 – 2017 (as amended).

Article 20D (1)(e) clarifies that a DAC is not required for the Material Change of Use to a building, where:

- a) a flat, becomes so used,
- b) an office, becomes so used, or
- c) an industrial building, becomes so used.

This is in keeping with the requirements of Article 13 of the Building Regulations 1997 – 2017 (as amended).

Article 20D (2)

The *Building Control (Amendment) Regulations 2018* set out the classes of buildings or works, which do not require a DAC, as follows:

- (i) An agricultural building,
- (ii) A dwelling (other than a flat),
- (iii) A garage ancillary to a dwelling,
- (iv) Certain other buildings ancillary to a dwelling,
- (v) A building used solely to enable inspection, repair or maintenance of fixed plant, building services, or machinery.

In relation to Article 20D (2)(a) to (d), it should be noted that the exemption for a DAC equates to the same building types which are currently exempted from the requirements for a Fire Safety Certificate, as specified in Article 11(2). However, the exemption for a DAC is irrespective of storey height.

In addition, Article 20D (2)(e), clarifies that a DAC is not required for a building used solely to enable inspection, repair or maintenance of fixed plant, building services, or machinery, such as access to roof top air handling units or electric substations.

Article 20D(3) to (11)

Sub-articles 20D(2) to (10) are re-numbered to 20D (3) to (11) to account for the introduction of the new sub-article 20D(2).

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).

Sub-article 20E(3)(d) is modified to clarify the requirements where an application is declared invalid by the Building Control Authority.

Sub-article 20E(4) of the Principle Regulations is amended to account for the re-numbering of Article 20D.

4. FURTHER INFORMATION

For the avoidance of any doubt, the *Building Control (Amendment) Regulations 2018* (S.I. No. 526 of 2018) makes no change to the requirement for a Fire Safety Certificate, which remains as per *Part III Fire Safety Certificates*. Accordingly, the provisions of *S.I. No. 9 of 2014*, which requires statutory certification, remain unchanged.

For your information and use, please refer to the website of the Department of Housing, Planning and Local Government at the following [link](#) for answers to Frequently Asked Questions (FAQs), which may arise relating to the proposed changes.

Further enquires about this circular should be addressed to Mr. Colm Cahalan, Higher Executive Officer (Tel: 01 888 2386) or to Ms. Claire Manifold, Executive Officer (Tel: 01 888 2893), or alternatively by e-mail to buildingstandards@housing.gov.ie