Building Control (Amendment) Regulations 2009 and The New Fire Safety Certificate Regime

Dave Carroll
Chief Fire Officer
North Tipperary County Council
Introduction

- Building Control (Amendment) Regulations 2009
- 7-Day Notice
- Revised Fire Safety Certificate
- Regularisation Certificate
Building Control (Amendment) Regulations 2009

- All parts now in operation.
- Introduced 7-day Notice, Revised FSC, Regularisation Cert, Statutory Declaration, DAC, Revised DAC.

- Forms
- Fees
- Consolidate?
- When has a building commenced?
7-Day Notice 1

- Article 20A of BCAR
- Where it is proposed to commence before grant of FSC.
- Accompanied by ‘VALID’ application for FSC.
- Application form looks for FSC No.
- No commencement notice needed.
- What about a Disability Access Certificate?
7-Day Notice 2
Statutory Declaration

- I/We solemnly declare that FSC application is valid.
- I/We solemnly declare that all works will comply fully with Building Regs.
- Will comply with all conditions on FSC.......... APPEALS!
- Who completes same – applicant, builder or designer..........COMPETENCE!
- What if application is refused?
"We've decided to add forty floors."
Revised Fire Safety Certificate 2

- Article 20B of BCAR
- Facilitates changes to design enforced by planning.
- Where **significant** revision is made to design or **works** of a building (etc).
- Such **works** shall not be carried out in the absence of a revised FSC or in contravention of any conditions.
- Fees
Regularisation Certificate 1

- Article 20C of BCAR.
- Currently in excess of 100 ‘in the system’.
- Where works have been commenced or completed (includes material alteration) without FSC or 7-day notice. (Retrospective Certs.)
- Change of Use not explicitly mentioned in BCAR but covered in Article 5 (i) of BCA 2007.
- References to material alteration of a building includes reference to material change of use.
Application shall be accompanied by drawings of the relevant works as commenced or constructed to enable Authority to assess if works will comply or are in compliance with Part B.

Need to consider 3 situations;
- Works fully complete,
- Works partially complete,
- Change of use.
Works Fully Complete:
- Completed application form,
- Drawings and report as per normal,
- Statutory declaration and fee.

Would treat and assess as a ‘normal fire cert’ but issues arise with inspection and wording of certificate.
Works partially complete;

- First question is when have works deemed to have started....groundworks, foundation??
- Do works stop once discovered and wait until cert has been granted?
- How do we calculate fee?
- Does the application deal with the works to date only, or work on the assumption of a completed building?
Regularisation Certificate 5

- Option 1 – Single Cert Approach
  - Likely to have been the intent of the regs to have a single step process.
  - Assessment made on the basis of the proposed final building or works to be completed, irrespective of stage of construction.
  - 4 times fee levied on entire floor area.
  - Drawings and particulars submitted should be for works completed to date – authority to seek info. for completed building.
  - Conditions?
Option 2 – Two Cert Approach

- The regularisation cert would only deal with the works carried out to date of statutory declaration.
- A ‘normal’ cert or 7-day notice cert would be applied for the remaining work.
- Fee?
- Conditions.
Material Change of Use

- Would be dealt with as per a ‘normal’ cert or the fully complete building with 4 times fee.
- Implicit that the change of use has taken place i.e. works complete!
- New Article 43 provides for a prohibition on opening, operation or occupation.
- An offence contrary to Article 43(1) of the BCAR is an offence to which section 17(2) of the Building Control Act 1990 applies.
Regularisation Certificate 8
Statutory Declaration

- Who signs the declaration – applicant or designer?
- Signatory is making 4 ‘solemn’ declarations;
  I. Will agree to inspection
  II. Will abide by any conditions
  III. Accept that certificate will not have effect if conditions not complied with
  IV. Works comply fully with Part B
Regularisation Certificate 9

- Should a ‘Professional’ sign the declaration?
- Competency of ‘Professional’?
- Indemnity?
- Is it OK for ‘Professional’ to advise applicant to sign the declaration.
- Certificates of compliance?
- Cert of Compliance vs Statutory Declaration
- Need to identify designer on the application form as per other certificates.
- Unable to sign statutory declaration?
Regularisation Certificate 10

- Inspections

- Section 20C(6) provides for an Inspection before grant of certificate.

- What level of inspection – purpose?

- Liability on inspecting officer.

- Caveats.

- Definition of inspection?
Conclusion

- Definite need to re-visit parts of the regulations which have raised anomalies.
- Issue consolidated set of regulations.
- Welcome prohibition on opening.
- Training/workshops to ensure consistency of approach.
- Guidance on application of regs.
- Consider replacing statutory declaration with Certificate of Compliance.