
***Building Control Regulation Fee
Exemption Policy for Building Control
Authorities
20191204 Compliance Support***

20190711 D01
20191202 D02
20191223 F01

PREPARED by: Regional Chairs

Pat Gaynor, Tim Kelleher & Sinéad Murphy

**CONSULTATION REVIEW & APPROVED FOR
ISSUE:** Mairéad Phelan-NBCO Project Manager

SIGNED: Mairéad Phelan

Mairéad Phelan

Table of Contents

1. BUILDING CONTROL REGULATIONS, Fees and Exemptions	2
1.1 Introduction.....	2
1.2 Overview Fees and Exemptions	2
1.3 Purpose of Fees and Exemptions Policy	2
2. Legislation	3
2.1 Part 5 Building Control Regulations Article 22	3
3. Definitions.....	4
3.1 How do you define a voluntary organisation?	4
3.2 How do you define an Approved Housing Body?.....	4
APPENDIX A	5
BCMS FEE EXEMPTION EXTRACTS	5
a. Building Control Regulation fees.....	i
b. Request for a Fee Exemption	i
APPENDIX B	ii
BCMS FEE EXEMPTION REQUEST FORM	ii

1. BUILDING CONTROL REGULATIONS, Fees and Exemptions

1.1 Introduction

Article 22 of the Building Control Regulations 1997, S.I. No. 496 of 1997 (as amended) details that a fee shall not be payable to a building control authority under these Regulations where the authority is of the **opinion** that the works or the building which are or is the subject of a notice or application is being made, by or on behalf of a **voluntary organisation** or a body standing approved of for the purposes of **section 6 of the Housing (Miscellaneous Provisions) Act, 1992 (No. 18 of 1992)**. In the case of a disability access certificate of a primary school, where the maximum number of mainstream teachers employed is or will be 4 or less.

1.2 Overview Fees and Exemptions

Where a building control authority is of the opinion that—
in the case of a **voluntary organisation**, the building concerned —
is **not** to be used mainly for **profit or gain**,
in the case of a body standing approved of for the purposes of **section 6 of the Housing (Miscellaneous Provisions) Act, 1992 (No. 18 of 1992)**, the building concerned —
is **not** to be used mainly for **profit or gain, or**
in the case of a **primary school**, the maximum number of **mainstream teachers employed is or will be 4 or less**.

1.3 Purpose of Fees and Exemptions Policy

For the purpose of proper public administration and good accounting practices it is necessary to have a formal exemption fee policy. Each Building Control Authority must have a complete record of the value of fees paid and fee exemptions.

This document outlines the policy to be implemented by the Building Control Authority in the discharge of its duties. An application for fee exemption can be validated as part of the validation process by the Building Control Authority.

2. Legislation

2.1 Part 5 Building Control Regulations Article 22

PART V of the Building Control Regulations (as amended) Article 22 relates to Fees Exemptions.

- 1) *A fee shall not be payable to a building control authority under these Regulations where the authority is of the opinion that the works or the building which are or is the subject of the;*
- *commencement notice, [7 day notice];*
 - *application for a fire safety certificate, [revised fire safety certificate, regularisation certificate], or a disability access certificate [revised disability access certificate] or*
 - *application for a dispensation or relaxation, as the case may be, are being carried out, or,*
 - *in the case of a material change of use,*

is being made, by or on behalf of a voluntary organisation or a body standing approved of for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act, 1992 (No. 18 of 1992).

- 2) *Where a building control authority is of the opinion that—*
- (a) in the case of a voluntary organisation, the building concerned is—*
- i. intended to be used for social, recreational, educational or religious purposes by inhabitants of a locality generally or by people of a particular group or religious denomination and is not to be used mainly for profit or gain,*
 - ii. intended to be used as a hostel, work-shop or other accommodation for disabled, poor or homeless persons and is not to be used mainly for profit or gain, or*
 - iii. is ancillary to (i) or (ii),*
- (b) in the case of a body standing approved of for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act, 1992 (No. 18 of 1992), the building control authority is of the opinion that the building concerned is—*
- i. designed or intended to be used for the accommodation of poor or homeless persons or persons who would otherwise be likely to require housing accommodation provided by a housing authority, and is not to be used mainly for profit or gain, or*
 - ii. is ancillary to (i).*
- 3) *A fee shall not be payable to a Building Control Authority under these Regulations where the works or the building which are or is the subject of an application for a disability access certificate or a revised disability access certificate are being carried out, or, in the case of a material change of use, is being made, by or on behalf of a primary school, where the maximum number of mainstream teachers employed is or will be 4 or less.*

3. Definitions

3.1 How do you define a voluntary organisation?

The term voluntary organisation is an undefined term within the meaning of the Regulations or the primary Building Control Acts 1990-2007 and ultimately the waiver of fees rests on the opinion of the Building Control Authority that an application (1) is being made by or on behalf of a voluntary organisation and (2) relates to a building covered by the terms of 22 (2) (a) (i) to (iii) above. Neither is there any statutory register of voluntary bodies.

The onus would be on the applicant to demonstrate the organisation status as a voluntary organisation and to show that the purposes of its function are not mainly for profit or gain.

What might satisfy a Building Control Authority in this regard could be that the organisation's Articles /Memorandum of Association/Constitution and Annual Accounts would provide sufficient evidence as to its status. Clearly a voluntary body would not have paid Directors, would not be engaged in commercial activities, and would devote all funds raised to furthering the organisations aims. If an organisation has no employees, it is clearly a voluntary body, but opinions differ on whether a number of paid employees means the organisation can no longer be classified a voluntary body.

For example, is a sports club with a licensed premises and paid employees a voluntary organisation?

It is considered that the intention in the Act for this exemption envisaged community halls, parish centres, local clubs, schools, buildings used for educational or religious purposes by inhabitants of a locality generally or by people of a particular group or religious denomination, etc. where the building concerned is not to be used mainly for profit or gain.

The other thing to watch is that many people will consider that a charitable organisation automatically qualifies. The building control legislation does not use the word charitable organisation even though Revenue run a register for such bodies for tax purposes. There is no guarantee that a charitable organisation with a registered charitable number would in all cases be a voluntary organisation.

3.2 How do you define an Approved Housing Body?

An approved housing body is one that is listed on the current "Register of Housing Bodies with Approved Status under Section 6 of the Housing Act 1992". This is available on the website of the Department of Housing, Planning and Local Government <https://www.housing.gov.ie/housing/social-housing/voluntary-and-cooperative-housing/register-housing-bodies-approved-status>

APPENDIX A

BCMS FEE EXEMPTION EXTRACTS

a. Building Control Regulation fees

The following processes can require fees:

- Commencement Notice
- Application for a fire safety certificate, a revised fire safety certificate, a regularisation certificate, a disability access certificate, a revised disability access certificate or the submission of a 7 Day notice
- Application/Relaxation for a Dispensation from Building Regulations
- Providing a copy of an entry into the register
- Providing a copy of a fire safety certificate, a revised fire safety certificate, a regularisation certificate, a disability access certificate, a revised disability access certificate or a 7 day notice.
- Providing a copy of a document which indicates that a dispensation or a relaxation has been granted.
- Scanning and uploading documentation onto the BCMS.

b. Request for a Fee Exemption

The person granting/refusing a request for a fee exemption should be an authorised person for the purpose of Article 22 of the Building Control Regulations, and there should be a record of the fee exemption in the accounts. All income should be receipted, and all fee exemptions should also be accounted for. The Local Authority Chief Executive can delegate this authority to authorised person/s for the purpose of making decisions on fee exemptions (based on the fee value).

At the end of the year the Building Control Authority should have a record of all fee income and all fee exemptions for proper accounting purposes.

In order for the Building Control Authority to process a request for a fee exemption, the onus is on the applicant to provide certain information and supporting documentation to justify that the organisation is either a voluntary organisation, an approved housing body or a primary school with maximum amount of mainstream teachers of not more than 4.

The Request Form is set out in Appendix B and it requires information on the reasons that the organisation is seeking a fee exemption. This Request Form outlines the basic information required to allow the Building Control Authority to make an initial assessment and begin this process. However, the Building Control Authority may seek additional information/documentation in order to complete the assessment.

It is noted that the discretion is with the Building Control Authority and the authorised person for the purpose of administering Article 22 of the Building Control Regulations to grant or refuse a fee exemption and the purpose of this document is the provide guidance to for the purpose of proper public administration.

APPENDIX B

BCMS FEE EXEMPTION REQUEST FORM

**REQUEST FOR EXEMPTION OF FEES FROM BUILDING CONTROL MANAGEMENT SYSTEM
(Article 22 – Exemptions – Building Control Regulations 1997 to 2018)**

I hereby seek an exemption from fees under the above article of the regulations for reasons as outlined below –

Application or Notice Types or Certificates Fee Exemption	Y	N	€ amount of fee
1. Commencement Notice,			
2. 7 Day Notice,			
3. Fire Safety Certificate,			
4. Revised Fire Safety Certificate,			
5. Regularisation Certificate,			
6. Disability Access Certificate,			
7. Revised Disability Access Certificate,			
8. Dispensation from Building regulations			
9. Relaxation of Building Regulations			
10. Material Change of Use			

REASON FOR CLAIM OF FEE EXEMPTION:

VOLUNTARY BODY - Article 22(2)(a) **Y/N**

The Application is being made by or on behalf of a Voluntary Organisation.

Note Voluntary and Charitable are not the same thing, see below.

If **Yes** complete the **section** below.

Provide at least three distinct justifications in writing to support Voluntary Status and to demonstrate that the purposes of the organisation are not mainly for profit or gain:

a. CONFIRM THE FOLLOWING:

1. Voluntary funding only

provide details _____

2. Number of paid directors

provide details _____

3. Other

provide details _____

b. OUTLINE ONE OF THE FOLLOWING USES OF THE BUILDING:

1. Article 22 (2)(a)(i) - intended to be used for social, recreational, educational or religious purposes by inhabitants of a locality generally or by people of a particular group or religious denomination and is not to be used mainly for profit or gain

provide details _____

2. Article 22 (2)(a)(ii) - intended to be used as a hostel, work-shop or other accommodation for disabled, poor or homeless persons and is not to be used mainly for profit or gain

Provide details _____

3. Article 22 (2)(a)(iii) - is ancillary to as described in item 1. Or 2. above,

Provide details _____

revised disability access certificate are being carried out, or, in the case of a material change of use, is being made, by or on behalf of a primary school, where the maximum number of mainstream teachers employed is or will be 4 or less.

APPROVED

Article 22(2)(b)..... Y/N

already standing approved of for the purposes of section 6 (Miscellaneous Provisions) Act, 1992 (No. 18 of 1992).

If Yes () provide proof of the above status _____

provide details _____

Outline **one** of the following uses of the building

1. Article 22 (2)(b)(i) - designed or intended to be used for the accommodation of poor or homeless persons or persons who would otherwise be likely to require housing accommodation provided by a housing authority, and is not to be used mainly for profit or gain

provide details _____

2. Article 22(2)(b)(ii) – ancillary to CI 22(2)(b)(i)

provide details _____

I hereby confirm that I have read Article 22 of the Building Control Regulations 1997 to 2018 and comply fully with its provisions and as such request an exemption from fees for the application/notice as outlined above.

Signed: _____ Date: _____

Name (Block Letters): _____

Role or Title: _____

Premises Name: _____

Premises Address: _____

Use of Premises: _____

Validation Building Control Office

Delegated Person (Article 22) Name: _____

Local Authority Exemption Policy Ref No: _____

This completed form should be attached to the Notice or Application being submitted. A separate form should be completed in respect of each Notice or Application.