



Circular Letter BC04-2024

21 November 2024

Building Control (Amendment) (No. 2) Regulations 2024

Dear Chief Executive / Director General,

1. GENERAL

I wish to advise you that the Minister of State at the Department of Housing, Local Government and Heritage has signed the *Building Control (Amendment) (No. 2) Regulations 2024 (S.I. No. 531 of 2024)*. A copy of these Regulations is attached and is also available at <https://www.irishstatutebook.ie/eli/2024/si/531/made/en/print>.

2. BACKGROUND

The Minister for Housing, Local Government and Heritage received Government approval on 18 September 2024 for the priority drafting of the Apartment and Duplex Defects Remediation Bill 2024. The purpose of this legislation is to place the apartment defects scheme on a statutory footing. The scheme will establish supports for the remediation of relevant and eligible fire safety, structural safety and water ingress defects in purpose-built apartment buildings, including duplexes, constructed between 1991 and 2013.

An Interim Remediation Scheme for the funding of eligible emergency fire safety defect works in apartments and duplexes has been in place since December 2023. The Scheme is being administered by the Housing Agency on a nationwide basis.

3. CODE OF PRACTICE FOR THE REMEDIATION OF FIRE SAFETY DEFECTS

To support the operation of the scheme in respect of fire safety defects, a [Code of Practice for the Remediation of Fire Safety Defects](#), has been published in the context of Section 18(A) of the Fire Services Acts 1981 & 2003.

This Code of Practice (CoP) provides guidance to building professionals and Local Authority building control / fire services to promote a reasonable and practicable approach to resolving fire safety defects and ensure a consistent approach nationwide to remediation. The CoP facilitates stakeholders such as Owners' Management Companies (OMCs) and industry to align their work with its provisions.



The CoP contains a methodology and route to identifying and remediating relevant fire safety defects and illustrates the sequence of decision-making gateways in a series of steps from 1-16. This sequential approach provides a clear route to:

- a) identify relevant buildings,
- b) identify the presence of any fire safety defects,
- c) identify the relevant regulatory requirements that were applicable at the time of construction,
- d) require the preparation of remedial works plans,
- e) require the preparation of inspection plans,
- f) considerations during the remediation works, and
- g) the certification of the works on completion.

The CoP outlines the approach to be taken in respect of three remediation options (Tier 1, Tier 2 and Tier 3) depending on the scale and nature of defects identified.

- Tier 1 refers to circumstances where the building can be brought into compliance with the requirements of the original granted Fire Safety Certificate, without modification.
- Tier 2 refers to circumstances where the building can be brought into compliance with the requirements of the original granted Fire Safety Certificate, with limited modifications. This approach is appropriate in instances where the building, as constructed, is broadly in keeping with the original granted Fire Safety Certificate design but presents other issues where compliance with the granted Fire Safety Certificate is not practicable.
- Tier 3 relates to circumstances where the building cannot be brought into compliance with the requirements as set out in original granted Fire Safety Certificate, without substantial modification, thereby requiring a new Fire Safety Certificate application.

Furthermore, the CoP provides information on:

- the prioritisation of works items;
- carrying out of remediation works;
- engagement with the fire authority;
- notification and commencement of remedial works;
- carrying out of remedial works; and
- implementation of inspection plan.



4. REGULATIONS

The Building Control (Amendment) (No. 2) Regulations 2024 (S.I. No. 531 of 2024) streamline administration relating to the remediation of fire safety defects works in certain apartments, including duplexes by removing the building control requirements for Commencement Notices, Fire Safety Certificates and Revised Fire Safety Certificates where such work is being carried out in accordance with the Code of Practice for the Remediation of Fire Safety Defects (Section 3 above).

The Building Control (Amendment) (No. 2) Regulations 2024 amend the Building Control Regulations to exempt works to Tier 1 buildings or Tier 2 buildings from certain requirements of the Building Control Regulations provided that the works are carried out in accordance with the CoP. The exempted requirements are:

- Part II (Commencement Notices)
- Part III (Fire Safety Certificates), and
- Part IIIA (Revised Fire Safety Certificates)

as well as consequential elements such as the Certificate of Compliance on Completion.

As set out in the CoP, Tier 1 and Tier 2-type works relate to bringing the building into compliance with its original granted Fire Safety Certificate, with either no (Tier 1) or very limited (Tier 2) modification to the approved design set out in the Fire Safety Certificate.

Such building works would ordinarily be subject to the requirements of the Building Control Regulations. However, given that the works will consist of measures to fulfil the original granted Fire Safety Certificate and that the CoP (under the Fire Services Acts 1981 & 2003) sets out requirements for inspection, oversight, notification of commencement and certification on completion to ensure compliance, it is considered unnecessary to require further approval from the building control authority.

In contrast, for Tier 3 buildings, due to the fact that proposed remediation works can no longer rely on the strategy within the original granted Fire Safety Certificate, the remediation works will require a new Fire Safety Certificate and will need to adhere to the requirements of the Building Control Regulations in so far as they apply.

The Certificate of Remediation of fire safety defects in respect of remediation works, completed in accordance with the provisions of the CoP, when signed by the competent professional and competent builder, will demonstrate that the defects discovered have been satisfactorily remediated in accordance with the CoP.

Removal of the requirement for compliance with Building Control Regulations should reduce the regulatory burden for Tier 1 and Tier 2 buildings, and facilitate the commencement and completion of critical fire safety works to such buildings in accordance with the CoP published under the Fire Services Acts 1981 & 2003.



4. ENQUIRIES

Further enquires about this circular should be addressed to Maeve O'Brien, Assistant Principal, Tel: (01) 888-2666, or alternatively by e-mail to buildingstandards@housing.gov.ie.

Yours sincerely,

A handwritten signature in black ink that reads "Sarah Neary".

Sarah Neary
Principal Adviser
Building Standards Advisory Unit

- c.c. Director of Services for Building Control in each Local Authority
- Each Building Control Officer
- Each Chief Fire Officer
- National Building Control & Market Surveillance Office