



**NOTE ON COVID-19 FURTHER
EXTENSION OF DISREGARDED
PERIOD WHEN CALCULATING BUILDING CONTROL SYSTEM TIME PERIODS.**

1. GENERAL

Having regard to the further announcement by the Taoiseach on 1 May 2020, and the subsequent making of [S.I. 153 of 2020](#) by the Minister for Health, the effect of which is to extend the period of the 'stay at home' restrictions for the general public announced on 10 April 2020 by an additional two weeks until Monday 18 May 2020, the Minister for Housing, Planning and Local Government proposed that the end date specified in the Section 251A(4) Extension Order should be Saturday 23 May 2020. This now means that the cumulative period to be disregarded under section 251A (1) will comprise 8 weeks in total.

The Government agreed, at the request of Eoghan Murphy T.D., Minister for Housing, Planning and Local Government, to make an additional order, which has the effect of further extending the period which may be disregarded when calculating any appropriate period, specified period, or other timelines in certain sections of the Building Control Act 1990 (and certain planning Acts) for 14 additional days, up to and including 23 May 2020, adding eight weeks to the normal time periods for such purposes.

The previous Government Orders, which were made on 29 March and 16 April 2020 respectively, had specified that the extension period was to end on 9 May 2020. In other words, the initial 23-day extension to the building control system time periods had been further extended, so that the total extension period was 42 days or 6 weeks.





The additional order, *Planning and Development Act 2000 (Subsection (4) of Section 251A) (No. 2) Order 2020 (S.I. No. 165 of 2020)*, which was made on 8 May 2020, specifies that the extension period is now to end on Saturday 23 May 2020. In other words, the initial 23-day extension to the building control system time periods has been again further extended, so that the total extension period is 56 days or 8 weeks.

2. Emergency Measures in the Public Interest (Covid-19) Act 2020

Having considered the potential impacts of the announcements by An Taoiseach on 27 March 2020, on the effective operation of planning and building control systems, the Minister for Housing, Planning and Local Government commenced Section 9 of the *Emergency Measures in the Public Interest (Covid-19) Act 2020 (Act of 2020)* by order *Emergency Measures in the Public Interest (Covid-19) Act 2020 (Part 3) (Commencement) Order 2020*. The end date was set out in a second order, by Government, *Planning and Development Act 2000 (Subsection (3) of Section 251A) Order 2020*. The end date was subsequently extended by the *Planning and Development Act 2000 (Subsection (4) of Section 251A) Order 2020*. The end date was subsequently further extended by the *Planning and Development Act 2000 (Subsection (4) of Section 251A) (No. 2) Order 2020 (S.I. No. 165 of 2020)*.

These Orders allow that the period from **Sunday 29th March 2020 to Saturday 23th May 2020 inclusive**, a total period of eight weeks (56 days), may be disregarded when calculating any appropriate period, specified period, or other timelines in certain sections of the Building Control Act 1990 (and certain planning Acts), namely

- Section 4(4) Dispensation or relaxation of building regulations¹,
- Section 6 Building control regulations², and

¹ 4. Application for a Dispensation or Relaxation

(4) Where, within a period of two months beginning on the date of an application, or within such extended period as may at any time be agreed in writing between the applicant and the building control authority, the building control authority does not notify the applicant of the decision on the application, a decision by the building control authority to grant the dispensation or relaxation, as the case may be, shall be regarded as having been made on the last day of the period or such extended period, as the case may be.

² 6. Building Control Regulations



- 17(6) Penalties³.

To illustrate how this works in the case of a fire safety certificate (FSC) application, the **time periods** specified in the Building Control Act of 2 months beginning on the date of an application (or within such extended period as may at any time be agreed in writing between the applicant and the building control authority), may be **extended** for the duration of the time period specified by the Orders, by disregarding 56 days from Sunday 29th March 2020 to Saturday 23rd May 2020 inclusive.

The exact calculation of the date of extended time period will depend on the date a FSC application is submitted.

For example, under Section 6(5) of the Building Control Act, 1990 – 2014, an application for a Fire Safety Certificate, which was lodged on 18 March 2020, would ordinarily require a decision on or before 17 May 2020, however, the Orders referred to above disregard the period between 29 March 2020, and 23 May 2020. Therefore, the application would now require a decision on or before 12 July 2020

While the above example demonstrates the extension to a Fire Safety Certificate, this same approach applies to the following:

- an application for a Dispensation or relaxation of building regulations, (as set out in Section 4 of the Building Control Act),
- a 7 day notice,
- revised fire safety certificate,
- regularisation certificate (including the 4month period for conditions to be complied with),
- disability access certificate, and
- revised disability access certificate.

³ **17. Penalties** (6) Notwithstanding the provisions of section 10(4) of the Petty Sessions (Ireland) Act, 1851 , summary proceedings for an offence under this Act may be instituted within twelve months after the date of the discovery of the offence but not later than five years after the date of the completion of any building or works in respect of which the offence is alleged to have been committed.



In respect of offences, under the Building Control Act (Section 17(6)) summary proceedings may be instituted within twelve months after the date of the discovery of the offence but not later than 5 years after the date of completion of any building or works in respect of which the offence is alleged to have been committed. These periods may be extended by the time periods specified by the recent Orders, by disregarding 56 days from Sunday 29th March 2020 to Saturday 23rd May 2020 inclusive.

The Orders also allow the period from Sunday 29th March 2020 to Saturday 23rd May 2020 inclusive (56 days) to be disregarded when calculating any appropriate period, specified period or other time limits referred to in regulations made under Section 6 of the Building Control Act i.e. the Building Control Regulations.

This includes the time limits and periods, set out in the Building Control Regulations, in relation to;

- commencement notices & 7 day notices
- Certificate of Compliance on Completion, and
- Appeals to An Bord Pleanála.

While the Orders facilitate the extension of time limits and periods, it does not affect the operation of the building control system as set out in the Building Control Regulations or the Building Control Act. In the interest of clarity, building control authorities can still grant or validate an application/ notice/ certificate etc., at any time within the time limits and periods.

It is very important that the building control system remains open for business at all times and continues to function; this includes ensuring that

- all applications, notices, submissions etc., can continue to be made and received by the building control authority,
- commencement notices and submissions for Certificates of Compliance on Completion are handled and processed appropriately as a priority, and



- every effort should be made to operate as efficiently as possible within the relevant periods and timelines.

This is particularly important so that essential construction work, that can be undertaken appropriately, continues and that the building control systems are ready and support social and economic activity when the construction industry, in general, reactivates in line with the Government's Roadmap for reopening Society and Business.

At an operational level, commencement notices and Certificates of Compliance on Completion are facilitated by the Building Control Management System (BCMS) which can be accessed remotely over the local authority network. The National Building Control Office (support@nbco.gov.ie) is on hand to provide support to individual building control authorities for continued operation of the system and assistance with validation of commencement notices or Certificates of Compliance on Completion should this be necessary.

It should be noted, the legislation provides that the Government may further extend the disregarded period (before it expires) as many times as is considered necessary until 9th November, once the statutory requirements for extension are met. Any such decision to further extend the period of the order will be communicated to building control authorities, although subject to matters progressing in line with the Government's Roadmap for reopening Society and Business, it is the intention of the Minister that this shall be the last such request for an Order to be made under Section 251A.

15 May 2020.