



# **Review of Building Control (Amendment) Regulations 2014, S.I. 9 of 2014**

**SCSI Submission**

[policy@scsi.ie](mailto:policy@scsi.ie)

## Introduction

The Society of Chartered Surveyors Ireland (SCSI) is the professional representative body for c 5,000 surveyors and estate agents in the property, land and construction sectors. The Society works in partnership with RICS, the global professional body, and its mandate is to operate in the public interest.

The Society welcomes the opportunity to participate in the review of Building Control (Amendment) Regulations 2014, S.I. 9 of 2014 and believes that it is timely in the context of the increase in activity in the sector and the need to support the delivery of more housing in Ireland.

The Society also believes that the Building Control (Amendment) Regulations, which were introduced with effect from March 1<sup>st</sup> 2014, are very important to protecting the public and consumer interest to ensure that previous building control failures such as those witnessed in Priory Hall, do not re-occur.

The Society is also of the belief that the professionals who are competent to act as design/assigned certifiers, are best placed to ensure the standards are fully complied with.

The Society also believes that the review should ensure that the key improvements to the building control framework including (a) the empowerment of competence on professionalism in the design and execution of construction projects; (b) Greater accountability for compliance with the minimum requirements of the building regulations relevant to a particular building or works; and (c) Better oversight by industry and by local authorities of the design and construction of buildings. (d) Consolidation of Building Control regulations and related regulations into a single document (e) Existing warranty/latent defects insurance should be examined to ensure that they provide appropriate consumer protection. (f) The Society would welcome the early introduction of the legislation to introduce the CIRI mandatory register as a mechanism to provide further quality assurance in this area.

In relation to single dwellings, the Society is not in favour of the proposal to allow owners to 'opt out' of statutory certification. It is the view of members that this would be a retrograde step in relaxing the standards which have a vital role to play in protecting the public.

The SCSI recommends that serious consideration should be made for the introduction of Latent Defects Insurance (LDI) on a mandatory footing for all residential projects and it is recommended that this latent defects insurance product is robust enough to ensure consumer protection.

The Society is not in favour of widening the pool of professionals, at this early transition stage that can take on the role of assigned certifier or design certifier. Since the introduction of the Building Control Act 2007, all registered professionals are legally obliged to abide by a strict level of professional standards and code of practice and the SCSI has a concern that widening the pool to other sectors who do not have the same level of training, professional experience or professional indemnity cover may leave some of the more vulnerable consumers exposed to a high level of risk. The SCSI is of the view that there is already an adequate pool of professionals available.

In relation to the costs involved, the SCSI believes that the focus should be on the value, quality and compliance of the work. Compliance cost associated with the requirement of BCAR account for small proportion of the overall costs and in the context of one of the largest financial commitments people make in buying a home, it is a relatively low price to pay for safety and peace of mind. According to a recent study by SCSI, other costs such as development

contributions, VAT etc which make up 20% of the overall cost are greater barriers to housing development.

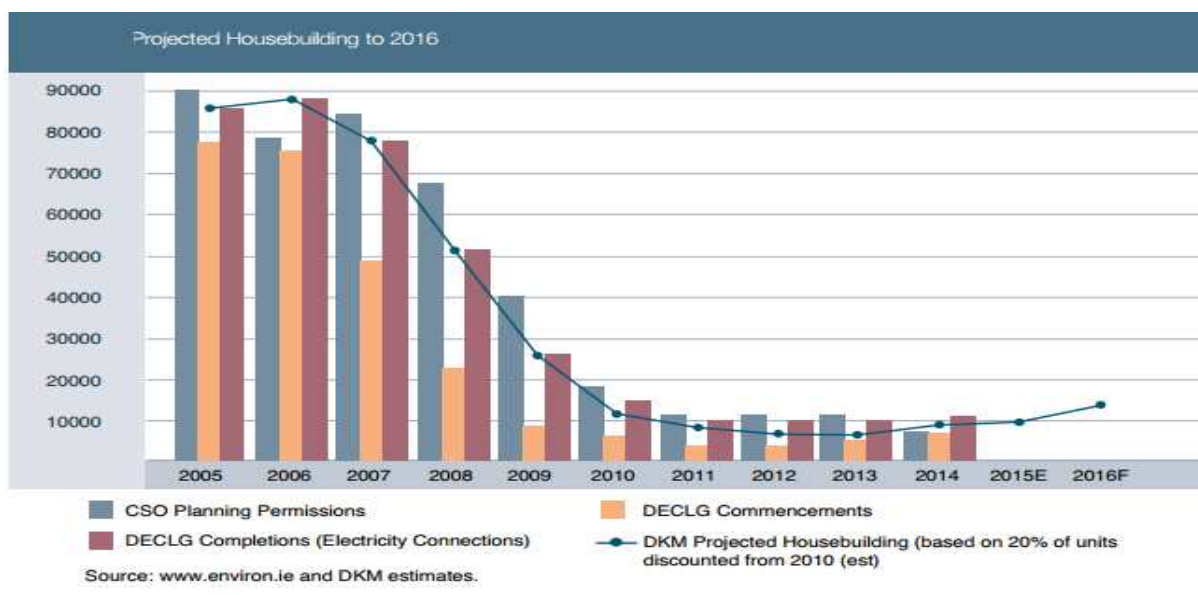
**It is the view of the SCSI that the principles of ensuring consumer protection through enforcement of the prescribed professional standards carried out by competent professionals should be maintained in the context of this review.**

### Lack of Supply

The Society recognised the need to improve levels of supply in the property market given the dearth in new home construction since 2009.

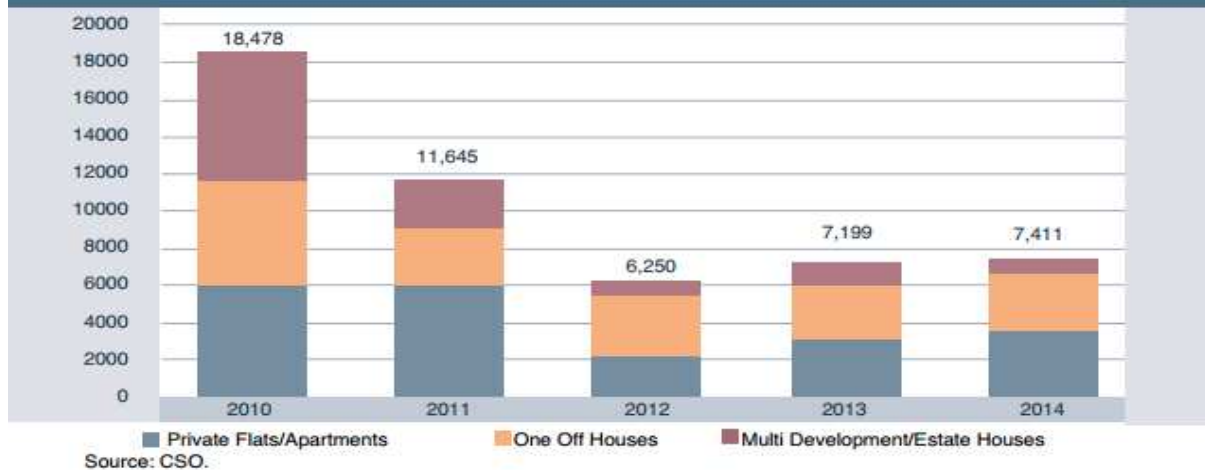
According to the Department of Environment, Community & Local Government, there were 11,016 completions last year compared to average requirements of around 26,000 units per annum.

A new report by the Society of Chartered Surveyors Ireland (SCSI), the number of units actually built within a given year even is less than the official figure suggests as it is based on 'completions' i.e. units which are connected to the electricity supply. The SCSI forecasts that approximately 10,000 units will be actually built in 2015 and 14,000 in 2016 as the large number of units from unfinished estates washes through the system.



A high proportion of completed units are one off housing. According to the CSO, around 30% of the units granted planning permission in 2013 were for one off houses.

Figure 3.1: Total Units Granted Planning Permission by the Dwelling 2010-2014E



As the construction of one off houses forms a large part of the overall housing supply in the country it is imperative that proper regulation and control is implemented in their construction.

The Society believes that the building standards are an important safeguard and provide essential safety and peace of mind for the public. It is not in any ones interests to see a return to a situation whereby there are unacceptable standards and safety risks to homeowners due to poor oversight and enforcement.

If cost reduction are required to ensure the viability of construction other costs such as development contributions, VAT etc which make up 20% of the overall cost are greater barriers to housing development and reduce the overall viability.

The Society has previously outlined a number of measures to increase the delivery of housing supply in its '10 Step Strategy to Address the Housing Supply Shortage'.

The Society also believes that the speedy implementation of the Planning & Development (No. 1) Bill, which provides for reduced Part V, development contributions and a 'use it or lose it' approach, will also encourage more development by making it more viable.

The Building Control (Amendment) Regulation costs vary depending on the property but comprise a small proportion of the overall cost of building a home and provide the consumer with a quality assurance and peace of mind that the property they have purchased has been built in accordance with high standards.

## **BCAR Consultation Questions**

**Do you agree with the proposed amendment to Building Control Regulations to provide that the requirements for statutory certification in line with S.I. No. 9 of 2014 be eased in the case of a new single dwelling and an extension to an existing dwelling by becoming advisory rather than mandatory and by allowing for alternative means of demonstrating compliance? (Option A refers)**

We are NOT in favour of the proposal to allow owners to 'opt-out' of statutory certification. We think this would be a retrograde step and create a two tier market of properties. There are health and safety implications and a risk that the building will be substandard and there could be further incidents to public health and safety which must be avoided.

Furthermore there is a risk of a negative impact on the reputation of Irish construction. It could seriously prejudice future conveyancing transactions in the single house market which currently represents over half of all new houses built.

In the context of the Safety, Health and Welfare at Work (Construction) Regulations 2013 with regard to self-build properties, the building owner is legally obliged to register with the Health and Safety Authority in certain circumstances. The SCSi is of the opinion that this health and safety legislation works in tandem with the current building control regulations as the competence of the building contractor is queried under both pieces of legislation.

**Do you have any views in relation to the proposals for broadening the pool of professionals who may sign certificates of compliance, in particular proposals (c) and (d) at Option B above?**

We think that it is very important that the professionals who may sign certificates of compliance possess the necessary skill sets and have demonstrated the competence to carry out the duties of the assigned certifier and design certifier and who sign up to a rigid code of professional conduct and have the prerequisite PI insurance.

If the intention to widen the pool is to reduce costs we believe there is a risk that the quality of the inspection and reporting would be compromised.

**Do you have any further suggestions which would assist in broadening the pool of persons who may give statutory certificates of compliance for building control purposes? (Option B refers)**

We don't think the issue is in relation to the available pool of persons, which is significantly in excess of 8,500 potentially available designated professionals who may give statutory certificates of compliance. But rather ensuring that the people acting as assigned certifiers and design certifiers have the competence to do so and are fully insured.

Given the current levels of PI requirements, this would be a serious issue should people who are not competent be given the authority and there is a risk that PI premiums may increase for all therefore increasing the overall costs. We understand that latent defects insurance or improvements in the warranty options in housing would be considered for residential construction.

**Do you agree that there should be no change in regulatory requirements for new single dwellings and extensions to existing dwellings, but that the Sample Preliminary Inspection Plan for Single Dwellings should be incorporated into the existing Code of Practice for inspecting and certifying buildings and works thus becoming a statutory guidance document? (Option C refers)**

We agree that no changes to the regulatory requirements is the most suitable option. While the sample preliminary inspection plan has merit as a general template for non-complex dwellings it should not replace the requirement for professional judgement. We would also note that the cost of inspection and certification will depend on the complexity of the house, the level of competent and supervision available to construct the houses or extensions, the and the time involved in ensuring compliance with the regulations and there should be due awareness around this fact.

The sample pre inspection plan should not be a substitute for professional judgement and is useful as a tool for the assigned certifier. However, the pre inspection sample will not encompass all varying risks associated with individual projects.

### **Question Option D – Exemptions for extensions to existing dwellings should be determined having regard to building plot ratio.**

The building plot ratio proposal ignores the fact that the BCAR regulations are concerned with construction standards and other safety related and risk related issues. This is in relation to building control/building regulations and planning terminology is inappropriate in this regard.

### **Conclusion**

The Society believes that maintaining the integrity of the Building Control (Amendment) Regulations is very important and is underpinned by the professional competence of assigned certifiers and design certifiers involved.

The intention of the new regulations is to provide assurance and security for people purchasing a home and this should not, in the view of the SCSI, be compromised.

The SCSI would recommend that further guidance is provided for design / assigned certifiers. The SCSI is aware that some of template inspection plans have been published, however, given the complexity and uniqueness of most construction projects, any published inspection plans should come with caveats attached stating that any template inspection plans are only designed as an additional aid and should not replace professional judgment.

SCSI would also welcome clarification on the calculations of cumulative floor areas of extensions which trigger the requirements for the different BCAR lodgements regarding commencement notices. An amendment to SI 9 might help to clarify this matter. Consolidation of the BCAR regulations and related legislation is also required.