

Project Name: National Building Control Management Project (NBCMP)^[1]

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Date: 20201125; -Compliance Support (CS):

20201102-NBCMP-CS-FAQ-Notice to Commence where a Valid Planning Permission not in Place

FAQ-Can a Notice to Commence for works or a building which requires the benefit of a valid planning permission be submitted to a Building Control Authority; be validated by that Building Control Authority and placed on the Building Register without the required Planning Permission being in place.

A commencement notice is required for the erection of a building, the material alteration or extension of a building, and a material change of use of a building, to which the Building Regulations apply. This with the exception that it is not required for works or a building as regards which a material change of use takes place, where the works are or the material change of use is exempted development for the purposes of the Local Government (Planning and Development) Acts, and Part III, or Part III of the Building Control Regulations, do not apply to the works or building.

A commencement notice is also required for works in connection with the material alteration (excluding a material alteration consisting solely of minor works) of a shop, office or industrial building to which Part III, or Part III of the Building Control Regulations, do not apply.

The Form of commencement Notice requires the planning number and date granted to be provided.

Issue:

Some Building Control Authorities will not validate a Commencement Notice is a Valid Planning Permission (where one is required) is not in place at the time of validation;

Response:

Building Control Act 1990-2014-Section 6 (k) *requiring the giving of notice to building control authorities of the erection of such buildings, or classes of buildings, or the carrying out of such works, or classes of works, as may be specified in the regulations;*

Building Control Regulations 1997 as amended; Obligation to give notice. Article 8. A person who intends to carry out any works, or to make a material change of use *as regards a building to which this Part applies, shall give, to the building control authority in whose functional area the works or building are, is or will be situated, notice in writing of such intention (in these Regulations referred to as a "commencement notice") not less than fourteen days and not more than twenty-eight days before the commencement of the works or the making of the material change of use."*

Form of Commencement Notice for Development Article 9 of the Building Control Regulations as Amended

(Article 9)

FORM OF COMMENCEMENT NOTICE FOR DEVELOPMENT
(Notice to a Building Control Authority pursuant to Part II of the Building Control Regulations 1997 to 2014)

Building Control Authority: _____ Unique Identifier: _____
(for official use only)

1. I, hereby give notice in accordance with Part II of the Building Control Regulations 1997 to 2014 that it is intended to carry out the development as described below commencing on the date of _____

Name of Building Owner(s): _____
Address: _____
Tel: _____ Fax: _____ Email: _____

2. I enclose the fee payable for making this Notice of €: _____

3a. PROJECT PARTICULARS: (In addition, for Residential Developments, please complete Section 3b below)

Description of proposed development: _____
Planning Permission No.: _____ Date Granted: _____
Date of expiry: _____
Fire Safety Certificate No. (if applicable): _____
Disability Access Certificate No. (if applicable): _____
Location of development: _____
Number of buildings: _____ Number of new buildings: _____
Use of buildings: _____

3b. Residential Development Information:

Total number of dwelling units (all phases*): _____
Total no. of phases* _____ of which _____ are multiple unit dwellings.
Phase for this commencement notice: _____
No. of units for this phase/commencement notice**: _____
Commencement date for this phase: _____
(Proposed) End-date for this phase: _____

* Where applicable, i.e. phasing not relevant for single houses.
** Include single house figure here also.

4. Builder:

Name: _____
Address: _____
Tel: _____ Fax: _____ Email: _____
Construction Industry Register Ireland registration number (where applicable): _____

5. Building Designer Details:

Name: _____
Address: _____
Tel: _____ Fax: _____ Email: _____
Practice registration number (where relevant): _____

Where required under Part III of the Building Control Regulations 1997 to 2014, the mandatory Certificate of Compliance (Design) signed by the above Building Designer accompanies this Notice.

6. Submission of Documents (where applicable): A Schedule of Documents accompanying this Commencement Notice is attached in the following format:

Schedule of Documents (Plans, Calculations, Specifications, Ancillary Certificates and Particulars)

Document	Reference	Description/Remarks

7. Signature by Building Owner:

Signature: _____ Date: _____
(Building Owner)

[1] NBCMP -National Building Control Management Project- the objective is to provide oversight, support & direction for the development, standardisation and implementation of Building Control as an effective shared service in the 31 Building Control Authorities; through four pillars of Training; Inspections; Compliance & Support; IT-Enabler/BCMS -localgov.ie; Collaboration is through the oversight board and three regional Building Control Committees.

Comment NBCO

Each Building Control Authority is the delegated for the purpose of building control in it's own functional area, where it has the administrative function in relation to validation of Notices to commence among other functions,

A Commencement Notice gives notice to the Building Control Authority of the intention to carry out works or a building, thereby, giving the Building Control Authority time to plan/schedule building control assessments and inspections, to promote compliance with the Building Regulations, the purpose is not to enforce other legislation e.g. planning legislation.

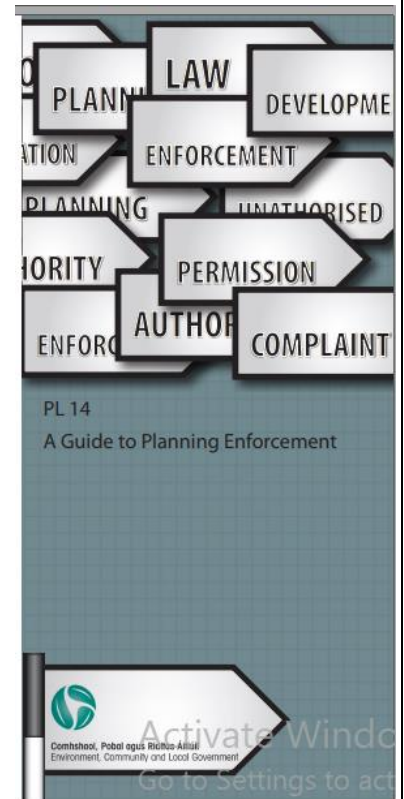
However, the Local Authority may be the Planning Authority and the Building Control Authority and the Authorised person for building control may also be the authorised person for planning; but using the Building Control Legislation to enforce Planning Legislation may be difficult to defend in a Judicial Review.

Also, it is noted that works or a building the subject of a Commencement Notice will not necessarily be subject to planning i.e. require planning permission.

While it is agreed there should be cross-compliance, this may require a change in legislation.

In the case of a potential breach of planning it is recommended that the Building Control Authority refer to "Planning Circular Letter, PL 11/12, 14 November 2012 issued to Each County/City Manager; Each Director of Planning and Each Town Clerk of Planning Authorities Re: Planning Enforcement Guidance" which refers to the [Planning and Development \(Planning Enforcement\) General Policy Directive 2013](#)¹ and make an official complaint in writing to the officer responsible to Planning Enforcement as set out in the directive. Also refer to [PL14 - Guide to Planning Enforcement in Ireland](#)². The Building Control Authority should also copy this to the relevant person/s who submitted the Notice to Commence.

Note a permission/permit under one legislative provision doesn't infer permission/permit under another legislative permission and the obligation for compliance with all relevant legislative requirements rests with the individual who requires these permissions/permits.



¹ https://www.opr.ie/wp-content/uploads/2019/09/Planning_Enforcement_General_Policy_Directive_20131.pdf

² <https://www.housing.gov.ie/file/2408>