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## CLIENT GUIDANCE NOTE

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Updated April 2016

# BC(A)R

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S.I. 9 OF 2014 AND S.I 365 OF 2015.

THE BUILDING CONTROL (AMENDMENT) REGULATIONS



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## What are the Building Regulations?

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The Building Regulations are the minimum requirements for the design and construction of buildings, and extensions, material alterations and certain changes of use of existing buildings.

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## What are the Building Control (Amendment) Regulations?

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In March 2014 the Government introduced the Building Control (Amendment) Regulations (BC(A)R), also referred to as S.I.9 of 2014. This legislation describes substantial new procedures for the control of building activity and applies to most building works. In September 2015, following a consultation period, the Government introduced a supplementary Statutory Instrument (S.I.365) that amended and clarified parts of S.I.9.

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## What buildings or works fall under S.I.9 and S.I.365?

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It remains the case that all building projects are required to comply with the building regulations. However S.I. 365 allows for limited exceptions from the S.I.9 processes. These are single domestic extensions with a floor area no greater than 40 square metres and certain alterations or refurbishments for which a Fire Safety Certificate is not required. In addition, S.I.365 allows building owners to Opt Out of S.I.9, using a Statutory Certificate, for one off houses or domestic extension greater than 40 square metres.

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## Who is the Building Owner?

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The “Building Owner” is the person who has commissioned or paid for the works and who has legal entitlement to have such works carried out on their behalf.

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## What are the Building Owner’s New Obligations under S.I.9?

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Building owners will be required to appoint a Design Certifier and an Assigned Certifier as well as a competent Builder. The building owner’s obligations include:

- a)** Give a written undertaking on a statutory form to the Building Control Authority to appoint a competent Design Team to design the new building in accordance with the Building Regulations.
- b)** Give a written undertaking on a statutory form to the Building Control Authority to appoint a competent Builder to construct the new building in accordance with the Building Regulations.
- c)** Give a written undertaking on a statutory form to the Building Control Authority to appoint a competent Assigned Certifier who will prepare an Inspection Plan, inspect and certify, with the Builder, that the new building, when complete, is built in accordance with the Building Regulations.
- d)** Ensure that adequate resources are made available to design, construct, inspect and certify the building works.
- e)** Where the Assigned Certifier or Builder withdraws from the project, for whatever reason, promptly appoint a replacement Assigned Certifier or Builder and give notice to the Building Control Authority of the new assignment.
- f)** Maintain records.

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## What is a Competent Person?

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A competent person must possess sufficient training, experience and knowledge appropriate to the nature of the work to be undertaken, taking account of the size, nature or complexity of the building or works.

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## What is a Design Certifier?

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A Design Certifier is the person appointed by the Building Owner to design and coordinate the design by others. A Design Certifier must be a registered architect, chartered engineer or a registered building surveyor and must be competent to perform the duties for the specific project.

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## What is an Assigned Certifier?

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An Assigned Certifier is the person appointed by the Building Owner to inspect and certify the building works and to coordinate the certification by others including the builder. An Assigned Certifier must be a registered architect, a chartered engineer or a registered building surveyor and must be competent to perform the duties for the specific project.

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## Will my Architect always be the Assigned Certifier?

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Your Architect may or may not provide this service, such as in the case of a PSDP (Project Supervisor Design Process). Where the Architect is appointed as Assigned Certifier, the RIAI advises that this should be under a separate agreement with an identified fee.

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## What are Ancillary Certifiers?

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Apart from the Assigned Certifier and Design Certifier there is likely to be a range of certifiers on most projects, including certifiers appointed by the Building Owner, by his design team and/or by the Builder. These typically will deal with areas of specialised design or construction, typical examples of which are Structural Design, Heating Installation and Window systems.

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## Who can act as the Builder?

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A person undertaking the role of the Builder must be competent to undertake that role. The Government is committed to establishing a statutory Register of Builders, and a voluntary Register is already in place ([www.ciri.ie](http://www.ciri.ie)). It is the building owner's responsibility to be satisfied that the builder is competent.

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## I am a Self-Builder, can I undertake the role of the Builder?

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S.I. 365 of 2015 provides that an owner intending to build a dwelling for their own use may take on the role of builder under either S.I.9 or S.I.365 for building control purposes and sign the statutory forms which must be signed by the builder. This does not negate the requirement for competency in the construction and supervision of construction, roles normally undertaken by a competent builder.

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## What must happen before the new building can be occupied?

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For projects that fall under S.I.9, the building may not be occupied until the completion documents have been accepted by the Building Control Authority and the project entered on the Register. A Certificate of Compliance on Completion, signed by the Builder and the Assigned Certifier, must be lodged on the BCMS (Building Control Management System) together with documents which show alterations from those originally lodged at Commencement Notice Stage and a completed Inspection Plan showing what inspections were undertaken.

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## What happens if I start a project on site without registering it on the BCMS?

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If you start a project without registering it on the BCMS you will have committed an offence. There is no provision in the Regulations to retrospectively submit a Commencement Notice. You should consult your solicitor as this will affect your ability to sell or let your premises.

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## What are the difference between S.I.9 and the Opt Out under S.I 365?

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If you Opt Out, you will not need:

- a)** Preliminary Inspection Plan prepared by the Assigned Certifier.
- b)** Certificate of Compliance (Design).
- c)** Notice of Assignment of Person to Inspect and Certify Works (Assigned Certifier).
- d)** Certificate of Compliance (Undertaking by Assigned Certifier).
- e)** Certificate of Compliance (Undertaking by Builder).
- f)** Certificate of Compliance on Completion and accompanying documents.

You will however need:

- a)** Declaration of Intention to Opt Out of Statutory Certification.
- b)** A Commencement Notice including: **(i)** general arrangement drawings, **(ii)** a schedule of compliance documents as currently designed or to be prepared at a later date, **(iii)** online assessment on the BCMS.
- c)** Notice of Assignment of Builder.
- d)** To ensure the building is designed and built in compliance with the Building Regulations.

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## Are there consequences if I decide to Opt Out under S.I.365?

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Potentially yes. The Department of the Environment, Community and Local Government has produced a guidance note called Information Note for Owners of New Dwellings and Extensions who Opt Out of Statutory Certification for building control purposes. This should be read before deciding to Opt Out. Among other things it cautions that “the onus is on the owner/builder concerned to demonstrate compliance with the Building Regulations when required to do so by the relevant local building control authority. Failure to do so is an offence under the Acts.....” and it advises that a person considering opting out should consult a solicitor.

At this early stage, the principle concerns relate to the ability to convey property that doesn't have a Completion Certificate or to get finance from Lending Institutions who may insist on S.I.9 being used.

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## How can I demonstrate compliance if I Opt Out?

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The RIAI is publishing documents that may be used as an alternative means of demonstrating compliance for projects where the Architect is engaged under a full service agreement. The RIAI is in discussion with Solicitors and Lending Institution with a view to these being acceptable in Opt Out cases.

## My project does not come under the new Regulations; do I need to submit a Commencement Notice?

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In cases where a project is exempt from S.I.9 (and by extension, S.I.365), a commencement notice may still be required, for instance a domestic extension not greater than 40 square metres to which a planning permission attaches, or an alteration to an office to which a Fire Safety Certificate does not apply. In these cases the Building Owner, Designer and Builder will be placed on the system, but there is no Assigned Certifier nor are any notices or certificates outlined above submitted.

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## Where can I find more information?

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More detailed information can be found at **[www.riai.ie](http://www.riai.ie)**

**Your Architect** can provide you with specific advice in relation to your project.

**Prior to commencing a project, Building Owners are advised to read** the BC(A)R Code of Practice for inspecting and Certifying Buildings and Works: <http://www.environ.ie/en/Publications/DevelopmentandHousing/BuildingStandards/FileDownload,38154,en.pdf>

and the Information Note on S.I.365: <http://www.environ.ie/en/Legislation/DevelopmentandHousing/BuildingStandards/FileDownload,42563,en.pdf>

# Working with an Architect

Whatever building project you are about to undertake, a registered architect has the qualifications, vision and experience to take you expertly through it. Working with an architect will be the best investment you will make as part of your building project.

An architect does a lot more than just provide you with a set of drawings, they will help you set a viable brief and budget, guide you through the planning process, obtain quotes for the work, manage consultants like surveyors and engineers, monitor the budget and administer the construction contract.

## Reasons for Employing a Registered Architect

- An architect offers a level of professional service and expertise which no other building professional can provide.
- An architect is professionally qualified, legally registered to practice and bound by a Professional Code of Conduct.
- An architect works as a team leader as well as an individual. In many building projects the role of the architect is to coordinate a team of specialist consultants such as landscape architects, engineers, quantity surveyors, interior designers, builders and subcontractors.
- In Ireland, the title 'architect' is registered and a person cannot practice as an architect unless he or she holds the relevant qualifications. The RIAI is the regulatory and support body for architects in Ireland. The online Register, lists over 2700 architects. Search the Register to see if your architect is registered: [http://www.riai.ie/register/the\\_register\\_of\\_architects](http://www.riai.ie/register/the_register_of_architects)
- Prior to becoming a registered architect, they will have trained professionally for seven years (5 years university and 2 years professional practice), in approved universities and institutes.

You can find an architect in your area by searching the RIAI online **Practice Directory**: [http://www.riai.ie/practice\\_directory/](http://www.riai.ie/practice_directory/)

## Services an Architect Can Provide

Your architect is a highly trained professional with a unique range of skills to guide you through all stages of the design and construction process. Architects provide a wide range of services including:

- Feasibility Studies
- Planning
- Building Design (all stages)
- Urban Design
- Interior Design
- Dispute Resolution
- Project Management
- Management of construction projects at the design and construction stages of projects.
- Certification services under the Building Control (Amendment) Regulations
- Energy Efficiency
- Project Supervision for the Design Stage (PSDP)

## About the RIAI

Since 1839 the Royal Institute of the Architects of Ireland (RIAI) has been the professional body for architects working and practicing in Ireland. The RIAI provides support and information services to its 3,100 Members in all categories. Since 1966 RIAI has set the qualification standards for Architectural Technologists and has provided support and information. The RIAI is designated as the competent authority for architects in Ireland under an EU Directive 2005/36/BC, the Professional Qualifications Directive and the Building Control Act 2007. The RIAI also acts as the Registration body for architects under the Building Control Act 2007. Only those architects on the RIAI Statutory Register have a legal right to use the title 'architect'.

The RIAI engages with Government, the professions, with industry, clients and the public to promote the value of quality of design in architecture so as to deliver attractive and sustainable built environments, to enrich our distinctive culture and heritage, to contribute to our economy and to improve the quality of life for the people of Ireland today and for generations to come.



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