

**2016 No. 412**

**BUILDING REGULATIONS**

**The Building (Amendment) Regulations (Northern Ireland)  
2016**

*Made* - - - - - *23rd November 2016*

*Coming into operation* - - - - - *28th November 2016*

The Department of Finance<sup>(a)</sup>, being a Department designated<sup>(b)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(c)</sup> in relation to the environment and in exercise of the powers conferred by section 2(2) of the said Act and Articles 3, 5(1), 5(2), 5(3), 5A(1) and 8 of, and paragraphs 6, 9, 13, 14, 17, 17A, 17C, 17D, 18, 19 and 22 of Schedule 1 to the Building Regulations (Northern Ireland) Order 1979<sup>(d)</sup> and now vested in it<sup>(e)</sup>, and after consultation with the Building Regulations Advisory Committee and such other bodies as appear to be representative of the interests concerned<sup>(f)</sup>, makes the following regulations:

**Citation and commencement**

1. These regulations may be cited as the Building (Amendment) Regulations (Northern Ireland) 2016 and shall come into operation on 28th November 2016.

**Interpretation**

2. In these Regulations “the principal Regulations” means the Building Regulations (Northern Ireland) 2012<sup>(g)</sup>.

**Transitional provisions**

3.—(1) The principal Regulations shall continue to apply to—

- (a) plans deposited or a building notice given in accordance with the principal Regulations before the commencement of these Regulations;
- (b) building work carried out in accordance with such plans or such building notice with or without any departure or deviation from those plans or that building notice; and
- (c) building work completed before the commencement of these Regulations,

as if the amendments effected by these Regulations had not been made.

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(a) The Department of Finance and Personnel was renamed the Department of Finance, section 1(4) of the Departments Act (NI) 2016 (c.5)  
(b) S.I. 2008 No. 301  
(c) 1972c. 68  
(d) S.I. 1979/1709 (N.I. 16) as amended by S.I. 1990/1510 (N.I. 14), Article 38(1) and Schedule 1, Part II and 2009 c4  
(e) See S.R. 1999 No. 481 Article 6 and Schedule 4, Part II  
(f) S.I. 1979/1709 (N.I. 16); Article 5(4)  
(g) S.R. 2012 No. 192 as amended by S.R. 2012 No. 375 and S.R. 2014 No. 44

- (2) The amendments made by regulations 5, 7, 8 and 9 shall not apply to—
- (a) plans deposited or a building notice given in accordance with the principal Regulations before 1st January 2017;
  - (b) building work carried out in accordance with such plans or such building notice with or without any departure or deviation from those plans or that building notice; and
  - (c) building work completed before 1st January 2017.
- (3) In paragraphs (1) and (2)—
- “building notice” means a notice given under regulation 9 (Giving of notices and deposit of plans) of the principal Regulations; and
- “building work” has the same meaning as in the principal Regulations.

#### **Amendment of the principal Regulations**

4. The principal Regulations shall be amended as provided in regulations 5 to 9.

#### **Amendment of Part A (Interpretation and general)**

- 5.—(1) In regulation 2 (Interpretation and general) in the Table to paragraph (7)—
- (a) below the Abbreviation or symbol “%” there shall be inserted “Mbps”; and
  - (b) below the Definitions “percent” there shall be inserted “Megabits per second”.
- (2) In regulation 4 (Exemptions)—
- (a) in paragraph (2) for “(3) and (6)” substitute “(3), (6) and (7)”;
  - (b) in paragraph (5)(b) for “Parts C to L” substitute “Parts C to M”;
  - (c) in paragraph (6) after “43B” insert “, and subject to regulation 77A, comply with the requirements of regulation 77B”; and
  - (d) after paragraph (6) insert the following paragraph—  
“(7) Regulation 77B shall apply to buildings controlled under other legislation falling within Class 1 of Schedule 2.”.
- (3) In regulation 5 (Application to erection of buildings) for “Parts A to L” substitute “Parts A to M”.
- (4) In regulation 7 (Application to alterations and extensions) in paragraph (1) for “Parts A to L” substitute “Parts A to M”.
- (5) In regulation 8 (Application to material change of use) for the Table to regulation 8 there shall be substituted the Table set out in Schedule 1 of these Regulations.
- (6) In regulation 11 (Application for a type approval certificate for the erection of a dwelling or dwellings)—
- (a) in paragraph (1)(f) delete “and”;
  - (b) in paragraph (1)(g) for “.” substitute “; and”; and
  - (c) after paragraph (1)(g) insert—  
“(h) matters relating to Part M (Physical infrastructure for high-speed electronic communications networks).”.

### **Amendment of Part F (Conservation of fuel and power)**

**6.**—(1) In regulation 40 (Target carbon dioxide emission rate)—

- (a) in paragraph (1) after “38(3)(b),” insert “minimum energy performance requirements in the form of”;
- (b) in paragraph (1) after “calculated” insert “and expressed”; and
- (c) in paragraph (2) after “rate” insert “, with all carbon dioxide emission rates calculated and expressed using a national calculation methodology”.

(2) In regulation 43B (Nearly zero-energy requirements for new buildings) in paragraph (2)(a) after “occupied” insert “and owned”.

### **Insertion of Part M (Physical infrastructure for high-speed electronic communications networks)**

**7.** After Part L (Combustion appliances and fuel storage systems) there shall be inserted the Part set out in Schedule 2 of these Regulations.

### **Amendment of Schedule 2 (Classes of exempted buildings)**

**8.** For paragraph (a) in Class 1 of Schedule 2, substitute—

“(a) Any building in which explosives are manufactured or stored under a licence granted under the Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006(a).”.

### **Amendment of Schedule 3**

**9.**—(1) Part A (Giving of notices and deposit of plans) in Rule B: Erection of buildings—

- (a) in paragraph (5)(g) delete “and”;
- (b) in paragraph (5)(h) for “.” substitute “; and”; and
- (c) after paragraph (5)(h) insert—

“(j) the provisions made in the building or part of the building for physical infrastructure for high-speed electronic communications networks.”.

(2) Part C (Particulars to be given with an application for a type approval certificate) in paragraph (2)(d)—

- (a) in sub-paragraph (viii) delete “and”;
- (b) in sub-paragraph (ix) for “.” substitute “; and”; and
- (c) after sub-paragraph (ix) insert—

“(x) the provisions made in the building for physical infrastructure for high-speed electronic communications networks.”.

Sealed with the Official Seal of the Department of Finance on 23rd November 2016



*Desi McDonnell*  
A senior officer of the  
Department of Finance

SCHEDULE 1

Regulation 5(5)

Table to be substituted for the Table to regulation 8 (Application to material change of use) to the principal Regulations

**Table to Regulation 8 (Application to material change of use)**

Part	Cases											
	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII
A	*	*	*	*	*	*	*	*	*	*	*	*
B	—	—	—	—	—	—	—	—	—	—	—	—
C	*1	*1	*1	*1	*1	*1	*1	*1	*1	*1	*1	*1
D	*2	*2	*2	*2	*2	*2	*2	*2	*2	*2	*2	*2
E	*3	*3	*3	*3	*3	*3	*3	*3	*3	*3	*3	*3
F	*4	*4	*4	*4	*4	*4	*4	*4	*4	*4	*4	*4
G	*5	*6	*6	—	*7	—	—	—	*6	*6	*6	*
H	—	—	—	—	—	—	—	—	—	—	—	*
J	*	*	*	*	*	—	—	—	*	*	*	*
K	*	*	*	*	*	—	—	—	*	*	*	*
L	*8	*8	*8	*8	*8	—	—	—	*8	—	—	*8
M	—	—	—	—	—	—	—	—	—	—	—	—
N	—	—	—	—	—	—	—	—	—	—	—	—
P	*9	*9	*9	*9	*9	—	—	—	*9	*9	*9	*9
R	—	—	*10	*10	*10	*10	—	—	—	—	—	*
V	*	*	—	—	—	—	—	—	*	—	—	—

Part to be inserted for Part M (Physical infrastructure for high-speed electronic communications networks) of the principal Regulations

“PART M

Physical infrastructure for high-speed electronic communications networks

**Application and interpretation**

**77A.**—(1) Regulation 77B applies only to building work that consists of—

- (a) the erection of a building; or
- (b) major renovation works.

(2) Regulation 77B shall not apply to—

- (a) a building for which compliance with regulation 77B would unacceptably alter its character or appearance and which is—
  - (i) a protected building; or
  - (ii) a building being any monument for the time being subject to Part II of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995(a);
- (b) a building situated in an isolated area where the prospect of high-speed connection is considered too remote to justify equipping the building with high-speed-ready in-building physical infrastructure or an access point; and
- (c) a building subject to major renovation works in which the cost of compliance with regulation 77B would be disproportionate to the benefit gained.

(3) In this Part—

“Access point” means a physical point, located inside or outside the building, accessible to undertakings providing or authorised to provide public communications networks, where connection to the high-speed-ready in-building physical infrastructure is made available;

“High-speed electronic communications network” means an electronic communication network which is capable of delivering broadband access services at speeds of at least 30 Mbps;

“High-speed-ready in-building physical infrastructure” means in-building physical infrastructure intended to host elements or enable delivery of high-speed electronic communications networks;

“In-building physical infrastructure” means physical infrastructure or installations at the end-user’s location, including elements under joint ownership, intended to host wired and/or wireless access networks, where such access networks are capable of delivering electronic communications services and connecting the building access point with the network termination point;

“Major renovation works” means works at the end-user’s location encompassing structural modifications of the entire in-building physical infrastructure or of a significant part of it;

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(a) S.I. 1995/1625 (N.I. 9)

“Network termination point” means the physical point at which a subscriber is provided with access to a public communications network; in the case of networks involving switching or routing, the network termination point is identified by means of a specific network address, which may be linked to a subscriber number or name;

“Protected building” has the meaning assigned to it by regulation 38 in Part F; and

“Public communications network” means an electronic communications network used wholly or mainly for the provision of electronic communications services available to the public which support the transfer of information between network termination points.

### **In-building physical infrastructure**

**77B.**—(1) Building work shall be carried out so as to ensure that a building is adequately equipped with a high-speed-ready in-building physical infrastructure up to the network termination points.

(2) Where the building work concerns a multi-dwelling building, the building work shall be carried out so as to ensure that the building is adequately equipped with a common access point.”



## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Building Regulations (Northern Ireland) 2012 (as amended) (the principal Regulations) and they come into operation on 28th November 2016. The regulations transpose Article 8 and provide definitions from Article 2 of Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks. These regulations also clarify Articles 3, 4 and 9 of Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (recast).

These Regulations were notified in draft to the European Commission in accordance with Directive 2015/1535/EU.

These Regulations amend the principal Regulations as follows—

Regulation 5 amends Part A (Interpretation and general) to apply a new Part M (Physical infrastructure for high-speed electronic communications networks) to the erection of buildings and alterations and extensions to buildings. It applies the substantive requirements of Part M to buildings belonging to statutory undertakers and to certain buildings controlled under other legislation which would otherwise be exempt. It amends the table to application to material change of use and introduces a new abbreviation “Mbps”. It also makes matters relating to in-building physical infrastructure a site specific matter in relation to an application for a type approval certificate.

Regulation 6(1) amends regulation 40 in Part F (Conservation of fuel and power) of the principal Regulations. The amendment clarifies that the national calculation methodology approved by the Department must be used and expressed in determining and notifying the carbon dioxide emission rates of buildings.

Regulation 6(2) amends regulation 43B to clarify that it relates to all new buildings owned and occupied by public authorities.

Regulation 7 amends the principal Regulations by inserting the new Part M to apply the requirements of Article 8 of Directive 2014/61/EU. Part M restricts the application of the requirements to building work which is the erection of a building or major renovation works to a building. The Department of Finance has prepared a Technical Booklet giving guidance for the purposes of the Part M requirements.

Regulation 8 updates a reference in relation to Explosives legislation.

Regulation 9 amends Schedule 3 Part A (Giving of notices and deposit of plans) so that provisions for in-building infrastructure are to be shown on plans for the building, and Part C (Particulars to be given with an application for a type approval certificate) so that provisions for in-building physical infrastructure are to be deposited in relation to an application for a type approval certificate.

An impact assessment has not been produced for the changes to Part F as they do not introduce any additional regulatory burdens. A Regulatory Impact Assessment has been prepared along with a Transposition Note for the other changes. Copies may be downloaded from [www.legislation.gov.uk](http://www.legislation.gov.uk). Alternatively, copies of these documents may be requested from Building Standards Branch, Department of Finance, 3<sup>rd</sup> Floor, Northland House, 3-5a Frederick Street, Belfast BT1 2NR. Copies of the guidance document Technical Booklet M (Physical infrastructure for high-speed electronic communications) may be obtained from the Department’s website; [www.finance-ni.gov.uk/topics/building-regulations-and-energy-efficiency-buildings](http://www.finance-ni.gov.uk/topics/building-regulations-and-energy-efficiency-buildings).

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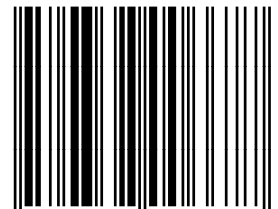


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