

EXPLANATORY MEMORANDUM TO
THE BUILDING (AMENDMENT) REGULATIONS 2016
2016 No. 490

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument amends building regulations to make new provision for in-building physical infrastructure for high-speed electronic communications networks in new and certain renovated buildings.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 This instrument implements Article 8 (in-building physical infrastructure for high-speed electronic communications networks) of Directive 2014/61/EU of the European Parliament and of the Council on measures to reduce the cost of deploying high-speed electronic communications networks (“Directive 2014/61/EU”).
- 4.2 A transposition note for Article 8 of Directive 2014/61/EU is submitted with this memorandum.

5. Extent and Territorial Application

- 5.1 This instrument extends to England and Wales
- 5.2 The territorial application of this instrument is to England, and, but only in relation to “excepted energy buildings”, to Wales.
- 5.3 “Excepted energy building” is defined in the Schedule to the Welsh Ministers (Transfer of Functions) (No.2) Order 2009 (S.I. 2009/3019), and essentially means a building forming part of energy infrastructure.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 The Government has made a manifesto commitment to ensure that, from 2017, 95% of the UK has access to superfast broadband. The European Union is also committed to extending access to superfast broadband and in 2014 the European Commission released Directive 2014/61/EU. This instrument transposes Article 8 of the Directive, which requires that all new buildings, and buildings undergoing major renovation works, have the necessary in-building physical infrastructure to enable connections to superfast broadband.
- 7.2 This is being achieved by the introduction of a new Part R (in-building physical infrastructure for high-speed electronic communications networks) in Schedule 1 (requirements) to the Building Regulations 2010 (S.I. 2010/2214 as amended by S.I. 2011/1515; S.I. 2011/3058; S.I. 2012/809; S.I. 2012/3119; S.I. 2013/10; S.I. 2013/181; S.I. 2013/1105; S.I. 2013/1959; S.I. 2014/579, S.I. 2015/767 and S.I. 2016/285). Schedule 1 Part R sets out the requirements, and a new Part 9A (physical infrastructure for high-speed electronic communications networks) of the main regulations provides for application of Part R to buildings outside the scope of the Building Act 1984 (c.55), for interpretation, and for exemptions allowed by Directive 2014/61/EU.
- 7.3 The requirement is to provide only the in-building physical infrastructure, from the point at which service providers gain access to the infrastructure, up to the network termination points at which building owners and occupiers make connections to a broadband communications network. Multi-dwelling buildings must be equipped with a common access point for service providers.
- 7.4 Transitional provision is included, in accordance with Directive 2014/61/EU under which the new requirements will not apply where a notice of building work has been given before 1st January 2017.

Consolidation

- 7.5 The Department periodically carries out a consolidation of building regulations, although there are no immediate plans for the consolidation of the Building Regulations 2010. The amendments made by this instrument will be included the next time there is a consolidation of building regulations.

8. Consultation outcome

- 8.1 The Department for Communities and Local Government (DCLG) issued a public consultation *Part R of the Building Regulations: Physical Infrastructure for High Speed Electronic Communications Networks* on 30 November 2015. The consultation closed on 11 January 2016. Consultation also took place with the Building Regulations Advisory Committee for England.
- 8.2 The consultation received a total of 39 responses. The majority of respondents agreed that amending the Building Regulations 2010 was the most appropriate mechanism for delivering the requirements of Article 8 of Directive 2014/61/EU. There was also broad agreement with the suitability of the technical guidance provided in draft form and the proposed exemptions to the requirement. In some cases the draft regulations and technical guidance were amended to reflect comments made by respondents.

- 8.3 The consultation document and summary of responses will both be available at:
<https://www.gov.uk/government/consultations/new-part-r-of-the-building-regulations>

9. Guidance

- 9.1 Technical guidance on the new requirement for in-building physical infrastructure will be provided in an Approved Document for Part R, which is statutory guidance approved under section 6 of the Building Act 1984. Guidance for building control bodies (local authorities and approved inspectors) on the application of the amendments made by this instrument and on the statutory guidance will be given by a circular letter issued by DCLG and available to the public.

10. Impact

- 10.1 The impact on business, charities or voluntary bodies is set out in the impact assessment, which considers the impact of the new Part on the domestic and commercial development sectors, construction products and building control bodies. The annual net present value cost to business is estimated at £221k. This is outlined in the impact assessment.
- 10.2 The impact on the public sector is similar to that for other sectors, as public buildings are treated no differently from other buildings under these amendments to the Building Regulations.
- 10.3 The impact assessment is submitted with this memorandum, and will be published alongside the explanatory memorandum on the legislation.gov.uk website.

11. Regulating small business

- 11.1 The amendments made in this instrument apply to activities that are undertaken by small businesses.
- 11.2 The EU obligations to which provisions made in this instrument relate make no provision for different application to small businesses.

12. Monitoring & review

- 12.1 A review of Part 9A of and Part R of Schedule 1 to the Building Regulations will take place within five years from the day on which these Regulations come into force. Following this initial review, reviews will take place every five years.

13. Contact

- 13.1 Gabrielle Melvin at the Department for Communities and Local Government
Telephone: 0303 444 3780 or email: gabrielle.melvin@communities.gsi.gov.uk can answer any queries regarding the instrument.