

THE BUILDING (AMENDMENT) REGULATIONS 2016

TRANSPOSITION NOTE

Article 8 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

1. This note describes the implementation in the Building (Amendment) Regulations 2016, “these Regulations”, of Article 8 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 networks¹ “Directive 2014/61/EU”. These Regulations amend the Building Regulations 2010² (“the Building Regulations”). Directive 2014/61/EU requires the implementation of measures aiming at increasing efficiency in the use of existing infrastructure and at reducing costs and obstacles in carrying out new civil engineering work. It aims to reduce the costs and inefficiencies in the roll-out process related to the use of existing passive infrastructure, delays related to coordination of civil works, burdensome administrative permit granting procedures, and bottlenecks concerning in-building deployment of networks.
2. The European Commission tabled a proposal for a regulation to lower the cost of broadband deployment in March 2013, which was considered by the European Scrutiny Committee in its second report of 2013-2014. The report questioned whether action at Union level was required, and stated that if such action were taken it should be by directive and not by regulation. By December 2013 the UK had successfully argued for a change in instrument from a regulation to a directive, to address the concerns raised by the Committee and give Member States greater flexibility in implementing its provisions. Directive 2014/61/EU was adopted on 8 May 2014, and considered by EU sub-committee B on the Internal Market, Infrastructure and Employment in October 2014. The Committee chairman confirmed by letter to the responsible minister on 17th October 2014 that its concerns and questions about the Directive had been addressed.
3. These Regulations implement Article 8 of Directive 2014/61/EU. Article 8 requires that all new buildings, and buildings undergoing major renovation works, as defined, be equipped with the necessary in-building physical

¹ OJ L 155, 23.5.2014, pp. 1–14.

² 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.

infrastructure to enable connections to superfast broadband. The implementing provisions are included in the Building Regulations as Part 9A and Schedule 1 Part R. The powers under which these regulations are made are the powers to make building regulations under the Building Act 1984, and the powers to implement EU obligations under the European Communities Act 1972.

4. The table below describes how the Building Regulations, as amended by these Regulations, and related national provisions, implement Article 8 and related Articles of Directive 2014/61/EU.

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				
Article	Objective	Copy out (yes/no)	If no – Reason for Elaboration	National Provision (in Building Regulations 2010 unless stated otherwise)
2.3, 2.7, 2.8, 2.9 and 2.11	Definitions of key terms.	Yes, plus one supplementary definition.	One supplementary definition “network termination point included for reasons of clarity.	Part 9A (physical infrastructure for high speed electronic communications networks), regulation 44C (Interpretation of Part R of Schedule 1).

8.1	All newly constructed buildings and buildings undergoing major renovation works for which applications for building permits are submitted after 31 Dec 2016 must be equipped with high-speed ready physical infrastructure up to network termination points.	Yes		Schedule 1, Part R (physical infrastructure for high speed electronic communications networks), requirement R1 (1) (in-building physical infrastructure). Applied to buildings outside the scope of the Building Act 1984 by regulation 44A (application of Part R1 of Schedule 1 to educational buildings, buildings of statutory undertakers and Crown buildings). The Building (Amendment) Regulations 2016 regulation 3 (transitional provision) disapplies Part 9A and Schedule 1 Part R to work in respect of which a building notice is given before 1 Jan 2017.
8.2	All newly constructed multi-dwelling buildings and major renovation works concerning multi-dwelling buildings for which applications for building permits are submitted after 31 Dec 2016 must be equipped with an access point.	Yes, except for one addition, at right.	Access point described as “common access point” for clarity.	Schedule 1, Part R, requirement R1 (2) (in-building physical infrastructure). Applied to buildings outside the scope of the Building Act 1984 by regulation 44A. The Building (Amendment) Regulations 2016 regulation 3 disapplies Part 9A and Schedule 1 Part R to work in respect of which a building notice is given before 1 Jan 2017.

8.4	Member States may provide for exemptions from the obligations provided for in 8.1 and 8.2 in respect of various categories of buildings.	No	Copy out is inapplicable as Member States have the discretion to put in place specific exemptions for categories of buildings if duly reasoned. The full range of available exemptions, except for holiday homes, has been implemented.	Schedule 2 Class 1 paragraph 3 (scheduled monuments) and regulation 44B (exemptions from paragraph R1 of Schedule 1) set out the exemptions.
11	Requirement for suitable penalties applicable to infringements of national measures adopted as part of the Directive.	No	Copy out is inapplicable as Member States are responsible for determining penalties.	Building Act 1984 section 35 (penalty for contravening building regulations) provides for fines to be imposed on conviction of a contravention of a provision in building regulations.
13	Laws regulations and administrative provisions necessary to comply with the Directive to be adopted and published by 1 January 2016 and be applied from 1 July 2016, and shall contain a reference to the Directive or be accompanied by such reference on the occasion of publication.	No	Copy out is inapplicable. This is an obligation on the United Kingdom as a member state to make necessary legislative and administrative provisions.	The Building (Amendment) Regulations 2016 come into force on 9th May 2016. The Directive is referred to in the Explanatory Note at the foot of the Regulations and in the accompanying explanatory memorandum.