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STATUTORY INSTRUMENTS

2018 No. 952

EQUALITY

PUBLIC SECTOR INFORMATION

**The Public Sector Bodies (Websites and Mobile Applications)
(No. 2) Accessibility Regulations 2018**

Made - - - - *29th August 2018*

Laid before Parliament *31st August 2018*

Coming into force - - *23rd September 2018*

The Minister for the Cabinet Office is designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to the accessibility of public sector bodies' websites and mobile applications(b).

The Minister for the Cabinet Office makes these Regulations in exercise of the powers conferred by section 2(2) of, as read with paragraph 1A(c) of Schedule 2 to, the European Communities Act 1972.

These Regulations make provision for a purpose mentioned in section 2(2) of that Act, and it appears to the Minister for the Cabinet Office that it is expedient for certain references to provisions of EU instruments to be construed as references to those provisions as amended from time to time.

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018.

(a) 1972 c.68; section 2(2) was amended by section 3(3) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7), and section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51).

(b) S.I. 2018/622.

(c) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51) and amended by section 3(3) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7) and S.I. 2007/1388.

(2) These Regulations come into force on 23rd September 2018.

Revocation

2. The Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018(a) are revoked.

Interpretation

3. In these Regulations—

“accessibility requirement” means the requirement to make a website or mobile application accessible by making it perceivable, operable, understandable and robust;

“accessibility statement” means a detailed, comprehensive and clear statement produced by a public sector body on the compliance of its website or mobile application with these Regulations;

“bodies governed by public law” means bodies that have all of the following characteristics—

- (a) they are established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;
- (b) they have legal personality; and
- (c) they have any of the following characteristics—
 - (i) they are financed, for the most part, by the State, regional or local authorities, or by other bodies governed by public law;
 - (ii) they are subject to management supervision by those authorities or bodies;
 - (iii) they have an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities, or by other bodies governed by public law;

“the Directive” means Directive 2016/2102 of the European Parliament and of the Council on the accessibility of the websites and mobile applications of public sector bodies(b);

“European standard” has the meaning set out in Article 2(1)(b) of Regulation (EU) No 1025/2012 of the European Parliament and of the Council on European standardisation(c);

“harmonised standard” has the meaning set out in Article 2(1)(c) of Regulation (EU) No 1025/2012 of the European Parliament and of the Council on European standardisation(d);

“mobile application” means application software designed and developed by or on behalf of a public sector body for use by the general public on mobile devices such as smartphones and tablets, but does not include the software that controls those devices (mobile operating systems) or hardware;

“model accessibility statement” means an accessibility statement adopted by the European Commission in accordance with Article 7(2) of the Directive;

“Official Journal” means the Official Journal of the European Union;

“public sector body” means—

- (a) the State;
- (b) regional or local authorities;
- (c) bodies governed by public law; or

(a) S.I. 2018/852.

(b) OJ L 327, 2.12.2016, p.1.

(c) OJ L 316, 14.11.2012, p.19.

(d) OJ L 316, 14.11.2012, p.19.

- (d) associations formed by one or more of the authorities in paragraph (b) or one or more of the bodies in paragraph (c), if those associations are established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character; “standard” has the meaning set out in Article 2(1) of Regulation (EU) No 1025/2012 of the European Parliament and of the Council on European standardisation^(a); and “time-based media” means media of one or more of the following types: audio-only, video-only, audio-video, audio and/or video combined with interaction.

Application

4.—(1) These Regulations apply to a website or mobile application of a public sector body, except a website or mobile application of—

- (a) public service broadcasters and their subsidiaries, and of other bodies or their subsidiaries fulfilling a public service broadcasting remit;
- (b) non-governmental organisations, unless they provide services that—
 - (i) are essential to the public; or
 - (ii) specifically address the needs of, or are meant for, persons with disabilities; and
- (c) schools or nurseries, except for the content of their websites or mobile applications relating to essential online administrative functions.

(2) These Regulations do not apply to the following content of a website or mobile application of a public sector body—

- (a) office file formats published before 23rd September 2018, unless such content is needed for active administrative processes relating to the tasks performed by the public sector body;
- (b) pre-recorded time-based media published before 23rd September 2020;
- (c) live time-based media;
- (d) online maps and mapping services, as long as essential information is provided in an accessible digital manner for maps intended for navigational use;
- (e) third-party content that is neither funded nor developed by, nor under the control of, the public sector body;
- (f) reproductions of items in heritage collections that cannot be made fully accessible because of either—
 - (i) the incompatibility of the accessibility requirement with either the preservation of the item concerned or the authenticity of the reproduction; or
 - (ii) the unavailability of automated and cost-efficient solutions that would easily extract the text of manuscripts or other items in heritage collections and transform it into content compatible with the accessibility requirement;
- (g) content of extranets and intranets published before 23rd September 2019, until such websites undergo a substantial revision; and
- (h) content of websites and mobile applications qualifying as archives.

(3) In this regulation—

- (a) “archives” means a website or mobile application which—
 - (i) only contains content that is not needed for active administrative processes; and
 - (ii) is not updated or edited after 23rd September 2019;
- (b) “extranets and intranets” means a website that is only available for a closed group of people and not to the general public;

(a) OJ L 316, 14.11.2012, p.19.

- (c) “items in heritage collections” means privately or publicly owned goods presenting an historical, artistic, archaeological, aesthetic, scientific or technical interest and that are part of collections preserved by cultural institutions such as libraries, archives and museums; and
- (d) “office file formats” means a document in a format that is not intended primarily for use on the web and that is included in web pages, such as Adobe Portable Document Format, Microsoft Office documents or their open-source equivalents.

PART 2

Obligations for public sector bodies

Application of Part 2

5. This Part applies as follows—

- (a) for a website of a public sector body published on or after 23rd September 2018, after 22nd September 2019;
- (b) for any other website of a public sector body, after 22nd September 2020; and
- (c) for a mobile application of a public sector body, after 22nd June 2021.

Obligation to make websites and mobile applications accessible

6. Subject to regulation 7, public sector bodies must comply with the accessibility requirement.

Disproportionate burden assessment

7.—(1) Regulation 6 does not require a public sector body to comply with the accessibility requirement if doing so would impose a disproportionate burden on the public sector body.

(2) A public sector body must perform an assessment of the extent to which compliance with the accessibility requirement imposes a disproportionate burden.

(3) In undertaking such an assessment, a public sector body must take account of relevant circumstances, including—

- (a) the size, resources and nature of the public sector body; and
- (b) the estimated costs and benefits for the public sector body in relation to the estimated benefits for persons with disabilities, taking into account the frequency and duration of use of the specific website or mobile application.

(4) If, following the assessment, a public sector body determines that compliance with the accessibility requirement would impose a disproportionate burden, it must—

- (a) explain in its accessibility statement the parts of the accessibility requirement that could not be complied with; and
- (b) where appropriate, provide accessible alternatives to documents held by that public sector body that are not available on their website or mobile application.

Accessibility statement

8.—(1) A public sector body must provide an accessibility statement in accordance with the model accessibility statement, and keep that statement under regular review.

(2) For a website, the accessibility statement must be—

- (a) provided in an accessible format; and
- (b) published on the website of the public sector body.

(3) For a mobile application, the accessibility statement must be—

- (a) provided in an accessible format; and
 - (b) available on the website of the public sector body or alongside other information available when downloading the mobile application.
- (4) The accessibility statement must include—
- (a) an explanation of those parts of the content that are not accessible and the reasons why;
 - (b) where appropriate, a description of any accessible alternatives provided;
 - (c) a description of, and a link to, a contact form which enables a person to—
 - (i) notify the public sector body of any failure of its website or mobile application to comply with the accessibility requirement; and
 - (ii) request details of the information excluded under regulation 4(2) and regulation 7(4); and
 - (d) a link to the enforcement procedure set out in Part 5 of these Regulations to which recourse may be had in the event of an unsatisfactory response to the notification or the request.

PART 3

Presumed conformity

9.—(1) A website of a public sector body will be presumed to be in conformity with the accessibility requirement to the extent that—

- (a) it meets harmonised standards, the references to which have been published in the Official Journal in accordance with Regulation (EU) No 1025/2012(a); or
- (b) where no references to the harmonised standards referred to in paragraph (a) have been published, it fulfils the relevant requirements of the European standard on the accessibility requirements suitable for public procurement of ICT products and services in Europe(b).

(2) A mobile application of a public sector body will be presumed to be in conformity with the accessibility requirement to the extent that—

- (a) it meets harmonised standards, the references to which have been published in the Official Journal in accordance with Regulation (EU) No 1025/2012;
- (b) where no references to the harmonised standards referred to in paragraph (a) have been published, it meets the technical specifications; or
- (c) where no references to the harmonised standards have been published, and in the absence of the technical specifications, it fulfils the relevant requirements of the European standard referenced in paragraph (1)(b).

(3) In this regulation, the “technical specifications” means the specifications established in implementing acts adopted by the European Commission which prescribe technical requirements for meeting the accessibility requirement.

PART 4

Monitoring and reporting

10.—(1) The Minister for the Cabinet Office must monitor the compliance by public sector bodies of their websites and mobile applications with the accessibility requirement, on the basis of the monitoring methodology.

(a) OJ No L 316, 14.11.2012, p.12.

(b) EN 301 549 V1.1.2 (2015-04). Available from <http://mandate376.standards.eu/standard> or in hard copy from the Cabinet Office.

(2) By no later than 23rd December 2021, and every three years thereafter, the Minister for the Cabinet Office must submit a report to the European Commission on the outcome of the monitoring referred to in paragraph (1), including the measurement data.

(3) The Schedule makes supplemental provision about the reporting requirements referred to in paragraph (2).

(4) In this regulation, the “measurement data” means—

- (a) the quantified results of the monitoring activity carried out in order to verify the compliance by public sector bodies of their websites and mobile applications with the accessibility requirement;
- (b) quantitative information about—
 - (i) a sample of websites and mobile applications tested, including the number of websites and applications; and
 - (ii) the extent to which such websites and mobile applications meet the accessibility requirement.

(5) In this regulation, the “monitoring methodology” means a methodology established in implementing acts by the European Commission for monitoring the conformity of websites and mobile applications of public sector bodies with the accessibility requirement.

PART 5

Enforcement

Enforcement bodies for the obligations in Part 2

11. Subject to regulation 14, the enforcement bodies are—

- (a) for a website or mobile application of a public sector body that is required to comply with the Equality Act 2010(a), the Equality and Human Rights Commission;
- (b) for a website or mobile application of a public sector body that is required to comply with the Disability Discrimination Act 1995(b), the Equality Commission for Northern Ireland.

Failure to make a reasonable adjustment

12.—(1) A failure by a public sector body to comply with the accessibility requirement is to be treated as a failure to make a reasonable adjustment.

(2) A failure by a public sector body to provide a satisfactory response to a request to provide information in an accessible format, pursuant to regulation 13(2) (right to request information in an accessible format), is to be treated as a failure to make a reasonable adjustment.

(3) A “failure to make a reasonable adjustment” in this regulation means a failure to make a reasonable adjustment for the purposes of—

- (a) sections 20, 21 and 29 of the Equality Act 2010; or
- (b) sections 19 to 21 and 21B to 21E of the Disability Discrimination Act 1995(c).

(a) 2010 c.15.

(b) 1995 c.50.

(c) 1995 c.50; section 19 was amended by Sch.8 para.9 of the Disability Discrimination Act 1995 (c.50), Sch 1 para.12 of the Disability Discrimination (Northern Ireland) Order 2006/312 and reg.8 of the Civil Aviation (Access to Air Travel for Disabled Persons or Persons with Reduced Mobility) Regulations 2007/1895. Section 20 was amended by Sch.8 para.10 of the Disability Discrimination Act 1995 (c.50). Sections 21B to 21E were inserted by art.4 of the Disability Discrimination (Northern Ireland) Order 2006/312. The Disability Discrimination Act 1995 was repealed for England, Wales and Scotland (subject to limited savings for Scotland) by the Equality Act 2010 (c.15).

Notification and request for information

13.—(1) If a person believes that a website or mobile application of a public sector body has failed to comply with the accessibility requirement, that person may notify the public sector body of that failure.

(2) A person may request information in an accessible format that has been excluded from a website or mobile application of a public sector body pursuant to regulation 4(2) or regulation 7(4).

(3) A public sector body must provide a response to a notification or request made by a person under this regulation within a reasonable period of time.

(4) If a public sector body does not comply with paragraph (3) of this regulation, or a person is dissatisfied with the response received, that person may complain to the applicable enforcement body.

Accessibility statements: enforcement

14.—(1) The Minister for the Cabinet Office may undertake an assessment as to whether a public sector body has complied with regulation 8.

(2) As part of an assessment, the Minister for the Cabinet Office may by notice require a public sector body to provide information to the Minister for the Cabinet Office for the purpose of demonstrating compliance with regulation 8.

(3) A public sector body that receives a notice under this regulation must provide such information within a period of 28 days beginning on the date of the notice.

(4) A notice under this regulation must not oblige a public sector body to give information that it is prohibited from disclosing by virtue of an enactment.

(5) Paragraph (6) applies where the Minister for the Cabinet Office sends a public sector body a notice under paragraph (2) and—

- (a) the Minister for the Cabinet Office considers that the public sector body's response does not demonstrate compliance with regulation 8; or
- (b) the public sector body does not respond at all, within a period of 28 days beginning on the date of the notice.

(6) The Minister for the Cabinet Office must make a determination that the public sector body has failed to demonstrate compliance with regulation 8, and notify the public sector body of the determination.

(7) A public sector body that receives a determination made under paragraph (6) and disagrees with it may request a review.

(8) Any request for a review must—

- (a) be in writing;
- (b) state the reason for the request for a review; and
- (c) be made within a period of 28 days beginning on the date of the determination.

(9) The Minister for the Cabinet Office must consider a request for a review, made in accordance with paragraphs (7) and (8), within a reasonable period of time.

(10) If, following a request for a review, the Minister for the Cabinet Office determines that the public sector body has complied with regulation 8, the Minister for the Cabinet Office must set aside the determination made under paragraph (6), and notify the public sector body.

(11) The Minister for the Cabinet Office may uphold the determination made under paragraph (6) if—

- (a) the public sector body does not request a review in the form specified in paragraph (8);
- (b) the public sector body does not request a review at all; or
- (c) the Minister for the Cabinet Office has considered the request for a review and is not satisfied that the public sector body has complied with regulation 8.

(12) If the determination has been upheld pursuant to paragraph (11), the Minister for the Cabinet Office must publish the name of the public sector body and the determination of the Minister for the Cabinet Office electronically, and notify the public sector body.

Oliver Dowden
Minister for Implementation
Cabinet Office

29th August 2018

SCHEDULE

Regulation 10

Reporting requirements

1. The first report referred to in regulation 10(2) must contain—
 - (a) a description of the mechanisms set up by the Minister for the Cabinet Office for consulting with relevant stakeholders on the accessibility of websites and mobile applications of public sector bodies;
 - (b) procedures to announce any developments in accessibility policy in the United Kingdom relating to public sector bodies' websites and mobile applications;
 - (c) findings from the implementation of the accessibility requirement;
 - (d) information on the training and awareness-raising activities undertaken by the Minister for the Cabinet Office; and
 - (e) information on the use of the enforcement procedure.
2. The report is not required to list the websites, mobile applications or public sector bodies examined.
3. The report must be made public in an accessible format.
4. The report must conform to the arrangements for reporting established by the European Commission in implementing acts in accordance with Article 8(6) of the Directive.
5. Where significant changes have been made in relation to the elements referred to in paragraph 1 of this Schedule since the last report, the Minister for the Cabinet Office must include in the report information concerning those changes.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations transpose Directive 2016/2102 of the European Parliament and of the Council on the accessibility of websites and mobile applications of public sector bodies (OJ No L 327, 2.12.2016, p.1) (“the Directive”).

These Regulations revoke the Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018 (S.I. 2018/852).

The objective of the Directive is the establishment of a harmonised market for the accessibility of public sector bodies' websites and mobile applications. The Directive aims to make websites and mobile applications of public sector bodies more accessible to users, particularly persons with disabilities.

Part 1 establishes what the Directive applies to, and lists the types of public sector bodies and content that are exempt from the Directive.

Part 2 imposes an obligation on a public sector body to make its websites and mobile applications more accessible, to the extent that this does not impose a disproportionate burden. It also contains a further obligation for a public sector body to publish an accessibility statement on compliance with the accessibility requirement, and keep that statement under regular review. It also sets out

the requirement for a public sector body to make a disproportionate burden assessment, and specifies the type of factors that must be taken into account when making such an assessment.

Part 3 sets out the standards that a public sector body's website or mobile application must meet to be presumed to be in conformity with the accessibility requirement.

Part 4 establishes the requirements for monitoring public sector bodies' compliance with the accessibility requirement, and for reporting back to the European Commission on these findings.

Part 5 establishes the relevant enforcement bodies, and sets out the framework for enforcement, including the procedure for assessing accessibility statements.

The Schedule lists the specific requirements for the Minister for the Cabinet Office's report to the European Commission on the outcome of the monitoring.

An impact assessment has not been produced for this instrument as no significant impact on the private or voluntary sectors is foreseen.

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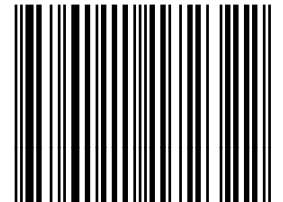
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