

2016 No. 490

BUILDING AND BUILDINGS, ENGLAND AND WALES

The Building (Amendment) Regulations 2016

Made - - - - *11th April 2016*

Laid before Parliament *13th April 2016*

Coming into force - - *9th May 2016*

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to electronic communications.

The Secretary of State has consulted the Building Regulations Advisory Committee for England and such other bodies as appear to be representative of the interests concerned in accordance with section 14(3) of the Building Act 1984(c).

The Secretary of State makes the following Regulations, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and by sections 1, 1A, 3, 8(6), 34, 35 and 126 of, and paragraphs 7, 8, 9 and 10 of Schedule 1 to, the Building Act 1984.

Citation, application and commencement

- 1.—(1) These Regulations may be cited as the Building (Amendment) Regulations 2016.
- (2) These Regulations extend to England and Wales.
- (3) These Regulations do not apply to any building in Wales other than an excepted energy building, and “excepted energy building” shall have the same meaning as in the Schedule to the Welsh Ministers (Transfer of Functions) (No.2) Order 2009(d).
- (4) These Regulations come into force on 9th May 2016.

Amendments to the Building Regulations 2010

2.—(1) The Building Regulations 2010(e) are amended in accordance with the following paragraphs.

- (2) In regulation 9 (exempt buildings and work)—
- (a) in paragraph (1) for “and (3)” substitute “, (3) and (4)”;

(a) S.I. 2001/3495.

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

(c) 1984 c.55. Section 1 was amended by section 1(1) to (3) and section 1A inserted by section 2 of the Sustainable and Secure Buildings Act 2004. Section 14(3) was amended by Article 8(1) and (3) of S.I. 2009/3019. Section 126 is cited for the definition “prescribed”. There are other amendments but none is relevant to this instrument.

(d) S.I. 2009/3019.

(e) 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.

(b) after paragraph (3) insert the following paragraph—

“(4) The requirements of paragraph R1 of Schedule 1 apply to buildings falling within paragraphs 1 and 2 of Class 1 (buildings controlled under other legislation) in Schedule 2.”

(3) In regulation 11(3) (power to dispense with or relax requirements) after “26” insert “and paragraph R1 (in-building physical infrastructure for high-speed electronic communications networks) of Schedule 1”.

(4) After regulation 44 (commissioning) insert the following Part heading and regulations—

“PART 9A

Physical infrastructure for high-speed electronic communications networks

Application of paragraph R1 of Schedule 1 to educational buildings, buildings of statutory undertakers and Crown buildings

44A.—(1) The requirements of paragraph R1 (in-building physical infrastructure for high-speed electronic communications networks) of Schedule 1 apply (insofar as applicable to other buildings) also to—

- (a) educational buildings and buildings of statutory undertakers (notwithstanding section 4(1) of the Act);
- (b) Crown buildings; and
- (c) building work carried out or proposed to be carried out by Crown authorities.

(2) In this regulation “educational buildings and buildings of statutory undertakers” means buildings that fall within paragraphs (a), (b) or (c) of section 4(1) of the Act

Exemptions from paragraph R1 of Schedule 1

44B. The requirements of paragraph R1 (in-building physical infrastructure for high-speed electronic communications networks) of Schedule 1 do not apply to the following types of building or building work—

- (a) buildings which are—
 - (i) listed in accordance with section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990, or
 - (ii) in a conservation area designated in accordance with section 69 of that Act, where compliance with paragraph R1 of Schedule 1 would unacceptably alter their character or appearance;
- (b) buildings—
 - (i) occupied by the Ministry of Defence or the armed forces of the Crown, or
 - (ii) otherwise occupied for purposes connected to national security;
- (c) buildings situated in isolated areas 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;
- (d) major renovation works in cases in which the cost of compliance with paragraph R1 of Schedule 1 would be disproportionate to the benefit gained.

Interpretation of Part R of Schedule 1

44C. In Part R of Schedule 1—

“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 communications 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 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;

“network termination point” means a physical point at which an occupier is provided with access to high-speed electronic communications networks.”.

(5) After regulation 54 add—

“Review of Part 9A and Part R of Schedule 1

55.—(1) Before the end of each review period the Secretary of State must—

- (a) carry out a review of Part 9A and Part R of Schedule 1; and
- (b) publish a report setting out the conclusions of the review.

(2) In carrying out the review the Secretary of State must have regard to how Article 8 (in-building physical infrastructure) 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^(a) is implemented in other Member States of the European Union.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision in Part 9A and Part R of Schedule 1;
- (b) assess the extent to which those objectives have been achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way that imposes less onerous regulatory provision.

(4) In this regulation, “review period” means—

- (a) the period of five years beginning on the 9th May 2016; and
- (b) subject to paragraph (5), each successive period of five years.

(5) If a report under this regulation is published before the last day of the review period to which it relates, the next review period will begin with the day on which that report is published.”.

(a) OJ No L 155, 23.5.2014, p. 1.

(6) In Schedule 1 (requirements) after Part Q (security) insert the following Part—

“Part R PHYSICAL INFRASTRUCTURE FOR HIGH-SPEED ELECTRONIC COMMUNICATIONS NETWORKS

In-building physical infrastructure

R1

(1) Building work must be carried out so as to ensure that the building is equipped with a high-speed ready in-building physical infrastructure, up to a network termination point for high-speed electronic communications networks.

(2) Where the work concerns a building containing more than one dwelling, the work must be carried out so as ensure that the building is equipped in addition with a common access point for high-speed electronic communications networks.

Requirement R1 applies to building work that consists of—

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

Transitional provision

3. The amendments made by regulation 2(2), (3), (4) and (6) shall not apply to building work in respect of which a building notice, an initial notice, or a plans certificate has been given to, or full plans deposited with, a local authority before 1st January 2017.

Signed by authority of the Secretary of State for Communities and Local Government

James Wharton

Parliamentary Under Secretary of State

Department for Communities and Local Government

11th April 2016

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend 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) (“the Building Regulations”). They implement 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 (OJ No L 155, 23.5.2014, p.1) (“Directive 2014/61/EU”).

Regulation 2(6) inserts as Part R of Schedule 1 (requirements) to the Building Regulations the requirement to provide high-speed ready physical infrastructure in new and certain renovated buildings up to a point where connection can be made to high-speed electronic communications networks.

Regulation 2(4) inserts new Part 9A into the Building Regulations, containing new regulations 44A, 44B and 44C, to make provision relating to the operation of Part R of Schedule 1. Regulation 44A applies Part R to certain buildings outside the scope of the Building Act 1984 (c.55). Regulation 44B provides for exemptions from Part R requirements, and regulation 44C for interpretation. Regulation 44A is made under the powers in section 2(2) of the European Communities Act 1972 (c.68).

Regulation 2(2) takes Part 9A and Part R of Schedule 1 out of the scope of certain general provisions for exemptions from the Building Regulations.

Regulation 2(3) takes Part 9A and Part R of Schedule 1 out of the scope of provisions for relaxation of requirements of the Building Regulations.

Regulation 2(5) inserts into the Building Regulations provision for the review of Part 9A and Part R of Schedule 1, and of their implementation of Article 8 of Directive 2014/61/EU.

Regulation 3 makes transitional provision under which the new Part 9A of, and Schedule 1 of Part R to, the Building Regulations will not apply where building work commences, or a notice of building work has been given, before 1st January 2017.

An impact assessment is available with the explanatory memorandum for these Regulations at www.legislation.gov.uk/. A copy is also available from the Department for Communities and Local Government, 2 Marsham Street, London SW1P 4DF.

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