

2016 No. 361 (W. 113)

**BUILDING AND BUILDINGS,
WALES**

**The Building (Amendment)
(Wales) Regulations 2016**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Buildings Regulations 2010 (the “2010 Regulations”). They transpose 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⁾.

Regulation 2(4) inserts a new Part 9A into the 2010 Regulations, which provides for compliance with a new Part R (physical infrastructure for high speed electronic communications networks) of Schedule 1 to those Regulations. Regulation 2(5) inserts the new Part R, which requires all new buildings and those subject to major renovation, to be equipped with physical infrastructure up to a point where connection can be made to high speed electronic communications networks. It also requires that multi-dwelling buildings should be equipped with an access point to that network.

New regulations 44A and 44B of the 2010 Regulations are inserted by regulation 2(4). New regulation 44A applies Part R to categories of building which would not otherwise be covered by the 2010 Regulations. New regulation 44B sets out exemptions from the requirements of Part R.

Regulation 2 further amends the 2010 Regulations. Regulation 2(2) provides that the new Part R applies to buildings which would otherwise be exempt as falling within class 1 (buildings controlled under other legislation) of Schedule 2 to the 2010 Regulations. Regulation 2(3) excludes new Part R from the power of the local authority under section 8(1) of the Building Act 1984 and regulation 11 of the 2010

(1) OJ L155, 23 May 2014, p. 1.

Regulations to dispense with or relax requirements in the 2010 Regulations.

Regulation 3 contains a transitional provision.

A regulatory impact assessment has been prepared in relation to these Regulations. Copies may be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ and on the website at <https://www.wales.gov.uk>.

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**BUILDING AND BUILDINGS,
WALES**

**The Building (Amendment)
(Wales) Regulations 2016**

Made 10 March 2016

Laid before the National Assembly for Wales
15 March 2016

Coming into force 8 April 2016

The Welsh Ministers are designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the design and construction of buildings, and in relation to services, fittings and equipment provided in or in connection with those buildings.

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by section 2(2) of the European Communities Act 1972 and by sections 1, 3, 8(6) and 34 of, and paragraphs 7, 8 and 10 of Schedule 1 to, the Building Act 1984⁽³⁾, now exercisable by them⁽⁴⁾, having consulted the Building Regulations Advisory Committee for Wales and such other bodies as appear to them to be representative of the interests concerned in accordance with section

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- (1) S.I. 2016/161.
- (2) 1972 c. 68; section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c. 51) and section 3 of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).
- (3) 1984 c. 55. Section 1 was amended by section 1 of the Sustainable and Secure Buildings Act 2004 (c. 22) (the “2004 Act”); paragraph 7 of Schedule 1 was amended by section 3 of the 2004 Act and by section 11 of the Climate Change and Sustainable Energy Act 2006 (c. 19); paragraph 8 of Schedule 1 was amended by section 3 of the 2004 Act and by section 40 of the Flood and Water Management Act 2010 (c. 29).
- (4) The functions conferred on the Secretary of State by sections 1, 3 and 34 of and paragraphs 7, 8 and 10 of Schedule 1 to the Building Act 1984 were, insofar as exercisable in relation to Wales, transferred to the Welsh Ministers by the Welsh Ministers (Transfer of Functions) (No. 2) Order 2009 (S.I. 2009/3019).

14(7) of the Building Act 1984⁽¹⁾, make the following Regulations.

Title, application and commencement

1.—(1) The title of these Regulations is the Building (Amendment) (Wales) Regulations 2016.

(2) These Regulations apply in relation to Wales.

(3) These Regulations do not apply to an excepted energy building and “excepted energy building” has the same meaning as in the Schedule to the Welsh Ministers (Transfer of Functions) (No. 2) Order 2009⁽²⁾.

(4) These Regulations come into force on 8 April 2016.

Amendments to the Building Regulations 2010

2.—(1) The Building Regulations 2010⁽³⁾ 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)”; and

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

□(4) The requirements of paragraph R1 of Schedule 1 apply to buildings controlled under other legislation falling within class 1 in Schedule 2.□

(3) In regulation 11(3) (power to dispense with or relax requirements), for “and 29A” substitute “, 29A and paragraph R1 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. The requirements of paragraph R1 (in-building physical infrastructure for high-speed

(1) 1984 c. 55. Subsection (7) was inserted by article 1(2) of the Welsh Ministers (Transfer of Functions) (No. 2) Order 2009 (S.I. 2009/3019).

(2) S.I. 2009/3019.

(3) S.I. 2010/2214, as amended as described in the footnotes following. There are other amendments, but they are not relevant.

electronic communications networks) of Schedule 1 apply to—

- (a) educational buildings and buildings of statutory undertakers, falling within paragraphs (a), (b) or (c) of section 4(1) of the Act (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.

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,
 - (ii) in a conservation area designated in accordance with section 69 of that Act, or
 - (iii) included in the schedule of monuments maintained under section 1 of the Ancient Monuments and Archaeological Areas Act 1979,

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) 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. Regulation 2 does 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 1 January 2017.

Carl Sargeant

Minister for Natural Resources, one of the Welsh
Ministers

10 March 2016