

SUBSIDIARY LEGISLATION 623.05

**IN-BUILDING PHYSICAL INFRASTRUCTURE
(ACCESS TO ELECTRONIC COMMUNICATION
SERVICES) REGULATIONS**

10th June, 2016

LEGAL NOTICE 225 of 2016 as amended by Legal Notice 409 of 2021.

1. (1) The title of these regulations is the In-Building Physical Infrastructure (Access to Electronic Communications Services) Regulations. Citation and scope.

(2) The scope of these regulations is to transpose in part the requirements under Article 8 of the Directive 2014/61/EU of the European Parliament and of the Council of the 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks and to give effect to its provisions.

2. (1) Unless otherwise stated in these regulations, the definitions prescribed in the Act shall apply. Interpretation.

(2) In these regulations unless the context otherwise requires:

"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;

"the Act" means the Building Regulation Act;

Cap. 513.

"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 are financed, in full or for the most part, by the State, or regional or local authorities, or by other bodies governed by public law; or are subject to management supervision by those authorities or bodies; or 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;

"civil works" means every outcome of building or civil engineering works taken as a whole which is sufficient of itself to fulfil an economic or technical function and entails one or more elements of a physical infrastructure;

Cap. 81

"competent utility regulator or regulators" means any such public sector body or bodies responsible at law for the regulation of those utility services listed in accordance with the Second Schedule to the Utilities and Services (Regulation of Certain Works) Act;

"high speed electronic communications network" means an electronic communication 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 and, 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 building or civil engineering works at the end user's location encompassing structural modifications of the entire in-building physical infrastructure or a significant part thereof, including the common parts, and requiring a building permit;

"network operator" means an undertaking providing or authorised to provide public communications networks as well as an undertaking providing a physical infrastructure intended to provide:

- (a) a service of production, transport or distribution of:
 - (i) gas;
 - (ii) electricity, including public lighting;
 - (iii) heating;
 - (iv) water, including disposal or treatment of waste water and sewage, and drainage systems;
- (b) transport services, including railways, roads, ports and airports;

"network termination point" means the physical point at which a subscriber is provided or is intended to be provided with access to a public communications network; in the case of networks involving switching or routing, the network termination point is identified by means of a specific network address, which may be linked to a subscriber number or name;

"physical infrastructure" means any element of a network which is intended to host other elements of a network without becoming itself an active element of the network, such as pipes, masts, ducts, inspection chambers, manholes, cabinets, buildings or entries to buildings, antenna installations, towers and poles; cables, including dark fibre, as well as elements of networks used for the provision of water intended for human consumption as defined in regulation 3 of the Water Intended for Human Consumption Regulations are not physical infrastructure within the meaning of these regulations;

S.L. 449.57.

"public sector body" means a state, regional or local authority, a body governed by public law or an association formed by one or several such authorities or one or several such bodies governed by public law; and

"permit" means an explicit or implicit decision of a competent authority following any procedure under which an undertaking is required to take steps in order to legally carry out building or civil engineering works.

3. (1) All newly constructed buildings at the location of an end-user, including elements thereof under joint ownership, or major renovation works concerning multi-dwelling buildings for which in either case applications for building permits have been submitted after 31 December 2016, must be equipped with the following:

Requirements for newly constructed buildings or major renovation works.

- (a) a high-speed-ready in-building physical infrastructure, up to the network termination points; and
- (b) an access point.

(2) Buildings equipped in accordance with this regulation, shall be eligible to receive the voluntary 'broadband-ready' label as may be issued by the Building and Construction Authority. An architect or any other qualified person as established under these regulations shall be responsible to certify the installation in accordance with the obligations provided for in sub-regulation (1) and any technical guidance document that may be issued in connection with these regulations. The Building and Construction Authority may devise schemes that serve to publicly acknowledge the broadband-readiness of buildings in accordance with these regulations.

(3) The Building and Construction Authority may, after having consulted with the competent utility regulator or regulators as the case may be and with any other public sector body or bodies as it may consider necessary, provide for exemptions from the obligations provided for in sub-regulation (1) for categories of buildings such as, and in particular, single dwellings, or major renovation works in cases in which the fulfilment of those obligations is disproportionate, such as in terms of costs for individual or joint owners, or in terms of type of building, such as specific categories of monuments, historic buildings, holiday homes, military buildings or other buildings used for national security purposes:

Provided that in doing so the Building and Construction Authority shall give its reasons in writing and shall before taking a final decision, give any interested parties the opportunity to make written submissions within such reasonable time as it may establish:

Provided further that any such exemption shall be notified to the Commission.

4. (1) The Building and Construction Authority may take the necessary measures to establish minimum requirements for in-building physical infrastructure.

Power to establish minimum requirements.

(2) When setting requirements, the Building and Construction Authority may differentiate between new and existing buildings and between different categories of buildings.

(3) Where the guidance contained in any technical guidance document as may be issued in connection with these regulations relates only to the particular requirements of these regulations, any construction works and the installation of any permanent mechanical or electrical services may be required to also comply with the requirements of any other laws that are operative for the control of construction works and installations.
