

Building Regulations (Northern Ireland) 2000

Amendment

of

PART R

ACCESS TO AND USE OF BUILDINGS

Formerly known as -

“ACCESS AND FACILITIES FOR DISABLED PEOPLE”

FINAL REGULATORY IMPACT ASSESSMENT

August 20

SCOPE

1. This Regulatory Impact Assessment (RIA) relates to the amendment of Part R of the Building Regulations (Northern Ireland) 2000 with relation to access and facilities for disabled people and in keeping with the Government's policy of inclusivity the title of Part R is changed to "Access to and use of buildings". This amendment only relates to buildings other than dwellings. A new Technical Booklet R is provided to accompany the amendment to Part R.

OBJECTIVE

2. The overall objective of the amendment is to ensure that new buildings meet reasonable standards of accessibility and to secure cost-effective improvements to the accessibility of the existing building stock when certain building work is carried out. This will support and complement the aims of the Disability Discrimination Act (DDA), without imposing disproportionate bureaucracy and costs on building owners, developers or enforcement bodies. It is expected to add to initial construction costs, but such costs will be offset by the diminution in potential liability of employers and service providers for the costs of access remediation work, which may be required under the Disability Discrimination Act.
3. The publication in October 2001 of a new and comprehensive British Standard Code of Practice (BS 8300) on access for disabled people along with a major revision to the equivalent part in England & Wales, Part M, and Approved Document M makes this amendment essential.

BACKGROUND

Existing situation and current legislative framework

4. The Building Regulations (Northern Ireland) 2000 apply to most building work and are made principally to ensure the health, safety welfare and convenience of people in and around buildings. The deemed-to-satisfy provisions, if followed, will satisfy the requirements of the regulations. The methods and standards of building contained within Technical Booklet R covers the use of the built environment by disabled people in their capacity as residents, visitors, spectators, customers or employees, or participants in sports events, performances, and conferences.
5. Until April 2001 Part R applied only to buildings other than dwellings but on the 1st April 2001 the scope of coverage was extended to include new dwellings. No changes were made at that time to the deemed-to-satisfy provisions in Technical Booklet R relating to buildings other than dwellings. This amendment now addresses that matter and relates only to buildings other than dwellings.
6. The Department for Work and Pensions (DWP), in its UK wide RIA of the implementation of Part III of the Disability Discrimination Act 1995 (DDA), noted that the Government is committed to establishing comprehensive and enforceable civil rights for disabled people. Since previous attempts at persuading service providers to make improvements voluntarily has failed, the Government has decided to proceed with the implementation of the remaining rights in Part III of the DDA to ensure extra rights more quickly for disabled people.

7. DWP also notes, however, that not all service providers will have to make adjustments, or the same scale of adjustments: the DDA only requires them to do what is reasonable in all the circumstances of the case. There is no open-ended obligation on all service providers, irrespective of the nature or size of their business, to make every aspect of it accessible to disabled people whatever the cost of individual adjustments. There is thus no 'access standard' that applies in relation to the DDA.
8. The Regulations to Part III of the DDA also currently provide a time-limited exemption for features of a building that conforms to the relevant design standard - the relevant provisions set out in Technical Booklet R (both the 1994 and 2000 editions). This was considered necessary to protect building owners and developers working under the current arrangements from the possible double jeopardy of differing requirements from overlapping sets of regulations.
9. The Equality Commission for Northern Ireland (ECNI) in its Code of Practice "Rights of Access Goods, Facilities, Services and Premises" recognises that the provisions in Technical Booklet R are non-mandatory and advises that "... It is open to a developer to comply with Part R in other ways. Only certain features are addressed in Technical Booklet R. Where a building complies with Part R by methods and standards other than those set out in Technical Booklet R, those features must enable any disabled person to use the building with the same degree of ease as would have been the case had those features (or aspects of those features) accorded with those set out in Technical Booklet R. Therefore, a service provider that provides services from such a building is unlikely to have to make alterations or adjustments to those specific features if 10 years or less have passed since their construction or installation".
10. A preliminary UK wide consultation exercise in regard to building regulations was undertaken between January 2000 and January 2001. The overall aim of this exercise in Northern Ireland was to gather ideas through an initial consultation to form the basis of a revised Part R of the Northern Ireland Building Regulations and its supporting deemed-to-satisfy provisions. Aspects of the existing provisions to be clarified were -
 - Appropriate building features for which provisions should be included; and
 - Quantification, where possible, of potential benefits, practical problems or regulatory burdens.
11. The changes in the requirements of the Regulations and the deemed-to-satisfy provisions of Technical Booklet R fall into three main categories-
 - extending the scope of Part R to include all alterations and certain changes of use;
 - updating to take account of major changes to the England & Wales regulations and the guidance in Approved Document M coupled with extensive changes to the relevant British Standard; and
 - application of the concept of access and use for all.

RISK ASSESSMENT

12. Since Part R does not currently apply to all alterations or changes of use of existing buildings and the provisions offered in its supporting documentation – Technical Booklet R, are based on the 1999 Edition of the England & Wales Approved Document M (which itself is based on a twenty-four-year old British Standard) there are risks inherent in the present situation. These fall into the following broad classes:
- the possibility that new buildings built to current Building Regulations deemed-to-satisfy provisions will not adequately address the needs of disabled people;
 - that work to existing buildings will not secure any necessary improvements;
 - continuing uncertainty for disabled people about the extent to which their needs will be met in any particular case in the future;
 - the risk for businesses that work that is not covered at all by the current Building Regulations deemed-to-satisfy provisions will not be proof against a legal challenge under the provisions of the DDA;
 - considerable uncertainty for businesses about what level of provision might be required to meet their obligations under the DDA when dealing with existing premises.

OPTIONS

13. There are four options that will be examined in detail within this RIA:

Option 1 – do nothing;

Option 2 – amend the Building Regulations and introduce amendments to Technical Booklet R;

Option 3 – publicise best practice; or

Option 4 – make satisfaction of the Requirements of Part R conditional on compliance with the recommendations of BS 8300.

The costs and benefits of these options are discussed in detail below.

BENEFITS

OPTIONS

14. **Option 1** – do nothing, will clearly have no positive impact. The Building Regulations and Technical Booklet R will not reflect the new standards and methods. Businesses, particularly small businesses, will then remain uncertain about the implications of their obligations under Part III of the Disability Discrimination Act, and lack clear standards and methods on specific measures they can take when carrying out alterations and refurbishment of their properties.

15. **Option 2** – Introduce amendments to Part R and Technical Booklet R. The main benefit of the amendments to Part R and Technical Booklet R is that it will ensure that new buildings and existing buildings when altered meet reasonable standards of accessibility for disabled people. It generally supports and complements the aims of the Disability Discrimination Act. It will also result in time in a wider range of premises becoming accessible to people with disabilities.
16. The effect of this amendment will be to extend the benefits from the DDA Part III and the existing Regulations by updating Technical Booklet R in accordance with the major changes in the England & Wales Approved Document M.
17. Extending the coverage of Part R will make a wider range of premises accessible to people with disabilities.
18. Early indications of the impact of the DDA show that among the factors that facilitate or hinder compliance are the availability and relevance of information, advice and standards and methods. A common reason given by establishments for not making adjustments is their belief that no special arrangements or adjustments are required, or that there is no demand or pressure on the establishment to make such adjustments. By extending the Part R requirements to cover alterations in all existing buildings, these adjustments will act as a spur to access improvement where none was otherwise intended.
19. The benefits will therefore be an extension of the benefits as described in the DDA Part III RIA. These include:-

Benefits to disabled people

- improved legal rights of access to goods, facilities and services in both the public and private sectors. More services will be accessible, and services that are already doing much to help disabled customers will be encouraged to do more;
- better opportunity to play as full a role as possible in the economy and in society;
- reduced social and financial cost of injuries resulting from negotiating inadequately accessible premises;
- reduced travelling costs as more services closer to home/work become more accessible;
- wider range of facilities disabled people can enjoy with carers and with friends and families.

20. Benefits to Other People with Difficulties

Other groups also stand to benefit from the proposals. These include –

- people with young children in prams or buggies;
- elderly people;
- people encumbered with luggage, shopping bags, etc.; and

- people with temporary impairments (for example, people with broken limbs).

Premises made more accessible to disabled people will be more convenient for this group to use, giving them a wider range of facilities, including shopping and leisure.

21. Benefits to business/service providers

- a greater degree of certainty about what may be considered reasonable provision for accessibility, and a degree of protection from the double jeopardy of overlapping sets of regulations;
- a better public image which could lead to better business opportunities;
- easier movement of goods and trolley delivery of larger items where there is level access and a passenger lift;
- reduced need for individual home support services where easier access to buildings allows mothers with children, the elderly and disabled people to get out and about;
- reduction in accidents where there are lifts, safer stairs, handrails, better lighting, fewer obstructions and more even floor surfaces;
- increased tourism where there is suitable accommodation for wheelchair users (not just for wheelchair users but for all tourists who appreciate more spacious accommodation).

22. Part R is also expected to generate some amount of synergy in the costs anticipated for compliance with the DDA Part III. Requiring owners or occupiers of buildings to carry out such access improvements as can reasonably be made during the course of other works through the application of Part R will reduce the cost of individual improvements compared with the cost of carrying them out in isolation. Some of these adjustments would, of course, be made in the course of carrying out other works, but many will not.

23. **Option 3** – publicise best practice, will clearly help to reduce some of the uncertainty about what constitutes best practice. It can be expected that that the desire to follow “good practice”, and moral, ethical and social reasons will be important drivers for many establishments making adjustments.

However, the extent of the benefits will depend on the extent to which best practice will be adopted. Therefore the benefits under this option are expected to be on a significantly smaller scale.

24. **Option 4** – make satisfaction of the Requirements of Part R conditional on compliance with the recommendations of BS 8300, would remove all uncertainty about what was required to be achieved. This would also be mandatory and could be expected to secure the maximum benefits.

It should be noted however, that many of the recommendations in BS 8300 are not apt for regulation, being concerned with furnishings, or management issues that would lie outside the scope of regulations concerned with the suitability of a building

at its first point of use. This option would therefore be exceedingly burdensome to business. The difficulty of and resistance to implementation would restrict compliance and the benefits to be achieved.

BUSINESS SECTORS AFFECTED

25. Option 2 will impose burdens on builders, developers and building owners who will have to meet higher standards with respect to accessibility and features of buildings.

It is estimated by the district council staff responsible for this work that the revised requirements will initially add an average of 90 minutes to the normal time required to assess submissions (plan assessment and site inspection) for new building works. This additional time should reduce as staff become more familiar with the changes and may well be offset by a increase in fees associated with an acceptable increase in construction costs.

OTHER IMPACT ASSESSMENTS

26. The amendment to Part R will apply to all buildings (other than dwellings) and therefore have an affect on all sectors, businesses, building owners, developers etc. with no adverse impact on equality of opportunity or the needs of rural customers.

BENEFITIAL COSTS

27. Option 1 imposes no costs.
28. Option 2. It is estimated that annual increase in the cost of new buildings and extensions will be **£5.468M** at 2005 prices.

This is calculated using the following methodology –

The England & Wales Part M RIA shows the costs of implementing Part M changes as £120M based on 2000 prices which equates to 0.5% of the 2000 total output of construction for the affected sectors. *It should be noted that the England & Wales Part M RIA is based on comprehensive statistics and can be accessed by logging onto –*

http://www.communities.gov.uk/stellent/groups/odpm_buildreg/documents/page/odpm_breg_025247.hcsp.

Similar comprehensive and wide ranging statistics are not available for Northern Ireland.

29. The statistics below were obtained from the Northern Ireland Construction Bulletin, 1 April to 30 June 05 (available at –

www.csu.nisra.gov.uk/archive/Surveys/QCE/Publication/niconsq22005.pdf

the output of construction in Northern Ireland (between the 3 rd Quarter 2004 and the 2 nd Quarter 2005) was	(a) £2823M
less the cost of –	
(b) new housing	£1159.9M
(c) housing maintenance	£218.3M
(d) infrastructure	£351.2M
sub-total (b) + (c) + (d)	(e) £1729.4M
total output of construction for the affected sectors (0) – (e)	£1093.6M
0.5% of the total output of construction for the effected sector (as per the E&W Part M RIA)	£5.468M

30. One of the changes to the provisions of Technical Booklet R is the removal of the existing limits where a passenger lift is not required in a building. New provisions will require a lifting device in all new buildings of more than one storey, but there will be a recognition that a lifting platform could, depending on circumstances, be an acceptable alternative to a passenger lift. This will have the following impact on smaller new developments where presently a lifting device is not required (the examples below are based on a new two storey building)

Installation of a passenger lift (excluding running costs and maintenance)	£34k
Installation of a lifting platform (excluding running costs and maintenance)	£24k

31. It should be borne in mind that retro fitting a lifting device is much more expensive and disruptive than taking the opportunity to install a lift at the construction stage. An employer or service provider should also be mindful of possible legal challenges under the DDA in relation to access issues, see paragraphs 6 to 9 and 34 to 36.
32. Option 3 might cost Government some hundreds of thousands of pounds per year in advertising projects.
33. The costs that would accrue from Option 4 would be, given the range of recommendations in BS 8300, the range of building situations to which they would apply and the fact that many of the recommendations relate to management issues and are thus not directly controllable through the building regulation process, substantial and very difficult to estimate, but certainly in excess of Option 2.

OTHER COSTS

34. The annual cost to owners and occupiers of existing buildings has been anticipated by the **UK wide** DDA III RIA which says (paragraph 32) "The range of costs from

£606M to £1.2Bn is the total policy cost of complying with the 2004 duties and is drawn up as if all adjustments will take place in 2004. Assuming that adjustments to doors, lights, ramps, rails etc. last about five years, it can be estimated that... the private sector will incur annual policy costs in the range of £112M - £229M pa."

35. If these amendments to Part R proceed much of the work that was forecast to meet the DDA obligations will be required to comply with the Building Regulations. It is known that government bodies and many large corporations have already undertaken work in relation to the DDA 2004 duties. There will thus be little or no additional financial burden imposed as a result of the extension of Part R to all existing buildings, and there may indeed be savings arising from economies of scale: access improvement work carried out as part of wider refurbishment activity will be cheaper, item for item, than the same work carried out in isolation.
36. There may be some marginal cases where the additional cost of compliance with the amended provisions may make the difference between deciding to proceed with a project or not, or more probably tip the balance of costs in favour of new-build rather than refurbishment, but these are expected to be relatively insignificant.

COSTS FOR A TYPICAL BUSINESS

37. The following data is taken from the England & Wales Part M RIA – “TABLE 3: Cost of Part M changes as a percentage of total cost” and illustrates an average percentage increase in costs for certain types of buildings. The list focuses on new buildings only and does not include extensions, structural alterations or the material change of use of a building.

Type of new building	% increase of total cost
Factories	0.9
Warehouses	1.0
Schools & Colleges	
Schools	0.3
Colleges	0.9
Universities	0.5
Health	
Hospitals	0.1
Surgeries, clinics etc.	0.7
Offices	0.9
Entertainment	
Theatres, cinemas, etc.	1.3
Hotel and catering	0.6
Sports	0.5
Garages	0.9
Shops	0.1

CONSULTATION WITH SMALL BUSINESS: THE SMALL BUSINESS IMPACT TEST

38. Service providers of all sizes have obligations under the DDA to make their services accessible to disabled people without unjustifiable discrimination. However, the DDA requires only that to be done which is reasonable in all the circumstances.
39. Many small businesses carry out improvements to their premises, either when they fit out, or at periodic intervals. Most would prefer on economic grounds to make improvements to access during the course of carrying out other work, rather than separately as a one-off exercise. An Official of the Department met with Northern Ireland representatives of the **Federation of Small Businesses** and they confirmed in discussions that though many of their members would be likely at first to perceive the amended regulations as an additional burden, ultimately it would be beneficial for them in providing a secure basis for responding to their obligations under the DDA.

ENFORCEMENT AND SANCTIONS

ENFORCEMENT

40. Building work that is subject to the requirements of Part R, or of any other Part to the Building Regulations (Northern Ireland) 2000, must be notified to the District Council within whose area the work is to take place. The work is subject to inspection and enforcement by the district council's building control department.

SANCTIONS

41. Failure to comply with the requirements of the Building Regulations is a criminal offence. District council's have the power to require the removal or alteration of work that does not comply with the requirements of the regulations.

MONITORING AND REVIEW

42. Amendments to Building Regulations in Northern Ireland are made in light of the amendments that have been made in England and Wales, the aim being to maintain technical harmony with the other UK regulatory bodies. The Department for Communities and Local Government (DCLG) undertakes reviews of amendments to the Building Regulations that it brings into operation. These reviews and additional research that is carried out to inform further amendments to Building Regulations is undertaken mainly by DCLG on behalf of England & Wales, Scotland and Northern Ireland.

PUBLIC CONSULTATION

44. The consultation was launched on 1st April 2005 and concluded on 8th July 2005, a period of 14 weeks to allow 2 weeks extra time for the general election of May 2005. Documents were available in hard copy or electronic format via the Department's web site and the Government consultation web site. Other formats were available on request.

The methodology involved distributing 216 consultation packages, 187 notification of consultation letters and by press release to the main Northern Ireland daily publications and trade/professional journals.

The Department also consulted with the Northern Ireland Building Regulations Advisory Committee (NIBRAC) in relation to the proposals.

All responses to the consultation were recorded and discussed with the Chair of the NIBRAC working party prior to the drafting of the final Technical Booklet.

SUMMARY AND RECOMMENDATION

45. Option 1 imposes no costs, but provides no benefits. This is not a viable option since it will lead to continuing uncertainty (see 6.2.1) and, in the view of some commentators, potential blight of buildings considered too risky to be worthy of development. Technical Booklet R would be seen as out-dated and no longer a credible support to the statutory requirements.
46. Option 3 imposes costs on Government and it is anticipated that there would only be marginal benefits compared with Option 1. It would, furthermore, highlight the deficiencies of Technical Booklet R.
47. Option 4 would impose significant costs, would make many ventures unthinkable, would impose totally unacceptable burdens on many small businesses, and would, if anything, lead to greater blight than Option 1.
48. On the basis of the assessments presented in this paper the recommendation is to amend Part R of the Building Regulations (Northern Ireland) 2000 and the corresponding Technical Booklet. This is also complementary to other Government policies on access for disabled people and will bring the Regulations into line with those for England and Wales.

MINISTERIAL DECLARATION

"I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs."

Signed by the responsible Minister

David Hanson MP

Date August 2006

CONTACT POINT

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