**Regulatory Impact Analysis (RIA)**

**Transposition of Article 8 of Directive 2014/61/EU**

**via**

**European Union (In-Building Physical Infrastructure for High-Speed Electronic Communications) Regulations 2023**

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1. **Introduction**

This Regulation proposes to transpose Articles 8(1) and 8(2) 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]](#footnote-1)*.

Articles 8(1) and 8(2) of *Directive 2014/61/EU* require Member States to ensure that new buildings and buildings undergoing major renovation works (‘major renovation works’ as defined by *Directive 2014/61/EU*) are equipped with a high-speed-ready in-building physical infrastructure to facilitate the future installation of cables or wireless devices capable of delivering broadband speeds greater than 30 Mbps.

The purpose of this RIA is to consider in detail the impacts, costs and benefits of the proposed introduction of the European Union (In-Building Physical Infrastructure for High-Speed Electronic Communications) Regulations 2023.

This RIA, together with draft copies of the proposed European Union (In-Building Physical Infrastructure for High-Speed Electronic Communications) Regulations 2023 and associated Technical Guidance, will form the basis for a comprehensive six week public consultation process. It is intended that this process, taking due account of submissions received, will enable the Department to recommend a final set of regulations to the Minister for Housing, Local Government and Heritage for signature in Q2 of 2023.

1. **Overview of Directive 2014/61/EU**

*‘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’* requires that its provisions are implemented into national law. For the purpose of the Directive, 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.

***Directive 2014/61/EU* has already been transposed into Irish law[[2]](#footnote-2), with the exception of Articles 8(1) and 8(2). The transposition of Articles 8(1) and 8(2) is a requirement under EU law and is an integral component of the EU’s Digital Single Market strategy. See link below**:

<https://ec.europa.eu/commission/priorities/digital-single-market_en>

Articles 8(1) and 8(2) of *Directive 2014/61/EU* oblige Member States to ensure that all newly constructed buildings and buildings undergoing major renovation works, for which applications for building permits have been submitted, are equipped with high-speed-ready in-building physical infrastructure.

Articles 8(1) and 8(2) provide that:

Article 8(1): Member States shall ensure that all newly constructed buildings at the end-user's location, including elements thereof under joint ownership, for which applications for building permits have been submitted after 31 December 2016, are equipped with a high-speed-ready in-building physical infrastructure, up to the network termination points. The same obligation applies in the event of major renovation works for which applications for building permits have been submitted after 31 December 2016.

Article 8(2): Member States shall ensure that all newly constructed multi-dwelling buildings, for which applications for building permits have been submitted after 31 December 2016, are equipped with an access point. The same obligation applies in the event of major renovation works concerning multi-dwelling buildings for which applications for building permits have been submitted after 31 December 2016.

1. **Regulatory Context**

The European Union (In-Building Physical Infrastructure for High-Speed Electronic Communications) Regulations 2023 and the Building Regulations 1997 to 2022 are proposed to be cited together as the Building Regulations 1997 to 2023 and be construed together as one. Under the Building Control Act 1990, enforcement of the Building Regulations (S.I. No. 497 of 1997) is the responsibility of the 31 local building control authorities who have a broad range of powers under the Act to investigate and, where appropriate, take action in the event that non-compliances are identified in buildings.

Responsibility for compliance with the requirements of the Building Regulations is primarily a matter for the owners, designers and builders of buildings.

The European Union (In-Building Physical Infrastructure for High-Speed Electronic Communications) Regulations 2023 Technical Guidance outlines the minimum provisions necessary to meet the objectives of Articles 8(1) and 8(2) of *Directive 2014/61/EU*.

1. **Impacts of Proposals**

The transposition of Articles 8(1) and 8(2) of *Directive 2014/61/EU* is a requirement under EU law and is an integral component of the EU’s Digital Agenda. The achievement of the Digital Agenda’s target requires that the infrastructure roll-out be brought close to the end-user's location.

The existence of high-speed electronic communications networks up to the end-user’s location should be facilitated while ensuring at the same time technological neutrality, in particular by the installation of high-speed-ready in-building physical infrastructure. Given that providing for in-building physical infrastructure/ ducting during the construction of a building has only a limited incremental cost while retrofitting buildings with high-speed electronic communications infrastructure may represent a significant cost, all new buildings or buildings on which major renovation works are to be carried out should be equipped with the in-building physical infrastructure/ ducting to facilitate the future installation of cables or wireless devices capable of delivering broadband speeds greater than 30 Mbps.

In order to roll out high-speed electronic communications networks, Articles 8(1) and 8(2) of Directive 2014/61/EU require new buildings and existing buildings that are subject to major renovation works to install high-speed-ready in-building physical infrastructure/ ducting up to the network termination point, and in addition for multi-dwelling buildings, these are to be equipped with an access point.

When public communications network providers deploy high-speed electronic communications networks in a specific area, there are significant economies of scale if they can terminate their network to the building access point, or to a suitable location for an access point where in-building physical infrastructure/ ducting has been terminated. Once the network is terminated at the access point or at a suitable location for an access point, the connection of an additional customer is possible at a significantly lower cost, in particular by means of access to high-speed-ready in-buildings physical infrastructure/ ducting located inside the building, where it already exists.

1. **Other Impacts**

**Competition Assessment**

There are no significant areas where issues of competition, restriction or imbalance have been identified.

**Small and Medium-sized Enterprises Impact Test**

The Department considers that the proposed European Union (In-Building Physical Infrastructure for High-Speed Electronic Communications) Regulations 2023 would have no significant effect on competition in any markets. It is considered that the proposed Regulations apply in a proportionate and equitable way.

**Regulatory Burden**

There will be a familiarisation cost with implementing *Directive 2014/61/EU*. The know-how of installing the necessary infrastructure is a well-established knowledge in the building industry and is provided for in NSAI Standard I.S. 10101:2020 National Rules for Electrical Installations.

Building Control staff will need to familiarise themselves with the new regulations and guidance. It is generally accepted in the industry that building standards evolve over time. This should not have any major impact on design fees.

**Enforcement and Compliance**

The Building Regulations 1997 to 2022 and the proposed European Union (In-Building Physical Infrastructure for High-Speed Electronic Communications) Regulations 2023 may be cited together as the Building Regulations 1997 to 2023 and shall be construed together as one. Under the Building Control Act 1990, enforcement of the Building Regulations and these regulations is primarily the responsibility of the local Building Control Authorities, each of whom has a designated Building Control Officer. Responsibility for compliance with the requirements of the Building Regulations rests with the designers, builders and owners of buildings. The position in this regard remains unchanged.

1. **Policy Options**

The requirements of *Directive 2014/61/EU* have to be implemented by ‘laws, regulations and administrative provisions’. It has been agreed that this is best achieved through the European Communities Act 1972 (No. 27 of 1972). The proposed European Union (In-Building Physical Infrastructure for High-Speed Electronic Communications) Regulations 2023 and the Building Regulations 1997 to 2022 shall be construed together as one and cited as the Building Regulations 1997 to 2023 and as such enforcement or compliance checking will be undertaken by Building Control Authorities as part of their normal functions. Statutory guidance, i.e. European Union (In-Building Physical Infrastructure for High-Speed Electronic Communications) Regulations 2023 Technical Guidance, will be issued, which sets out some of the approaches that developers can take to meet the regulatory requirements. Where works are carried out in accordance with the guidance, this will, prima facie, indicate compliance with the European Union (In-Building Physical Infrastructure for High-Speed Electronic Communications) Regulations 2023.

For the purposes of public consultation two options are considered as follows:

**Option 1:** Do nothing.

**Option 2:** To make Regulations which will require new buildings and existing buildings undergoing major renovation works to be equipped with high-speed-ready in-building physical infrastructure/ ducting to facilitate the future installation of cables or wireless devices capable of delivering broadband speeds greater than 30 Mbps.

1. **Benefits and Costs**

This section examines the benefits and costs associated with each option. Costs are based on a study prepared for the European Commission DG Communications Networks, Content & Technology**[[3]](#footnote-3)** and adjusted for inflation.

1. **Benefits**

**Option 1**: Do nothing

There are no benefits associated with this option. Adopting Option 1 would result in Ireland being in breach of its obligations under EU law and risk infringement proceedings. This is therefore not considered a viable option.

**Option 2**: To make Regulations which will require new buildings and existing buildings undergoing major renovation works to be equipped with high-speed-ready in-building physical infrastructure/ ducting to facilitate the future installation of cables or wireless devices capable of delivering broadband speeds greater than 30 Mbps.

The small minority of new buildings that are not planned to be equipped with in-building physical infrastructure/ ducting to facilitate high-speed electronic communication networks would now be required to have this infrastructure installed.

There will be non-monetised benefits associated with implementation of Articles 8(1) and 8(2) of *Directive 2014/61/EU* as it will mean that buildings in Ireland will be future proofed for connection to high-speed electronic communications networks.

1. **Costs**

As Option 1 is not considered a viable option, the following outlines the costs associated with Option 2.

**Option 2 – Build Costs**

There are no foreseeable Exchequer costs arising from this proposed transposition. Additional building costs are likely to be minimal for the majority of new non-residential buildings, new multi-dwelling buildings and buildings undergoing major-renovation works, as it is considered that in-building physical infrastructure that enables a connection to high–speed electronic communication networks will already be provided. The provision of in-building physical infrastructure in new buildings could feasibly save money for customers and business, according to the EU. Broadband infrastructure is already installed in many new buildings for business purposes and therefore the in-building physical infrastructure costs outlined below for common building types are already being met in the vast majority of cases.

**Multi-dwelling (Apartment) Buildings**

*Directive 2014/61/EU* imposes specific requirements for multi-dwelling buildings, i.e. apartment buildings. Under the Directive, developers of multi-dwelling buildings/ apartments are required to provide an access point and in-buildings physical infrastructure/ ducting to each individual dwelling, up to the network termination points. Modern apartment buildings will generally already make provision for the technological requirements provided under Articles 8(1) and 8(2) of the Directive, and have to include vertical and horizontal distribution space for utilities such as water, electricity and gas which can easily accommodate telecom provision. The provision of this existing infrastructure should minimise any additional costs.

**Single Dwellings**

For single dwellings, the ducting is not a necessary part of the in-building infrastructure. Instead, a direct route, in accordance with the relevant standards, from an external access point to the network termination point inside the house is appropriate. As such the unit cost for houses is estimated to be approximately €180 per dwelling.

**Commercial Buildings**

For large commercial/ non-residential buildings it is considered that the necessary in-building physical infrastructure required by the Directive to deliver speeds of at least 30 Mbps is already universally provided for in new commercial/ non-residential buildings. There would simply not be a market for any kind of commercial/ non-residential building without access to a high–speed electronic communication network, and therefore there would always be the necessary in-building physical infrastructure already in place to enable connection.

**Major Renovation Works to Existing Buildings**

For major renovation works, Ireland’s interpretation of *Directive 2014/61/EU* is that in-building physical infrastructure to enable a connection to a high-speed electronic communication network/ broadband will only be a requirement where there is existing infrastructure related to the provision of broadband within the building, and where the major renovation works involves the removal or alteration of those elements. Where no such infrastructure exists, the regulation will not apply.

1. **Recommendation**

Based on the above, the Department of Housing, Local Government and Heritage proposes to proceed with implementing Articles 8(1) and 8(2) of *Directive 2014/61/EU* through the European Union (In-Building Physical Infrastructure for High-Speed Electronic Communications) Regulations 2023 so that all new buildings and existing buildings undergoing major renovation works would be required to be equipped with high-speed-ready in-building physical infrastructure capable of delivering broadband speeds greater than 30 Mbps.

Taking due account of submissions received, the Department will recommend a final set of regulations to the Minister for Housing, Local Government and Heritage for signature in Q2 of 2023.

1. https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32014L0061 [↑](#footnote-ref-1)
2. S.I. No. 391 of 2016 European Union (Reduction of Cost of Deploying High-Speed Public Communications Networks) Regulations 2016 https://www.irishstatutebook.ie/eli/2016/si/391/made/en/print [↑](#footnote-ref-2)
3. Support for the preparation of an impact assessment to accompany an EU initiative on reducing the costs of high-speed broadband infrastructure deployment – Final Report

   See: https://op.europa.eu/cs/publication-detail/-/publication/fbbfe455-d00d-4ae7-af7c-c2ba1d819d85 [↑](#footnote-ref-3)