



Department of

Finance

An Roinn

Airgeadais

www.finance-ni.gov.uk

The Building Regulations (Northern Ireland) 2012

PUBLIC CONSULTATION DOCUMENT C.3

Draft Consultation Regulatory Impact Assessment for amendments of Technical Booklet Guidance to Part R – Changing Places Toilets Provision

July 2021

Title: Part R of the Building Regulations – Amendment of building regulation statutory guidance with Changing Places Toilet (CPT) facilities provision	Regulatory Impact Assessment (RIA)		
	Date: July 2021 (Draft)		
	Type of measure: Secondary Legislation		
Lead department or agency: Department of Finance (the Department)	Stage: Draft Consultation		
	Source of intervention: Domestic NI		
Other departments or agencies:	Contact details: Building Standards Branch		
	Properties Division 6 th floor Goodwood House		
	44-58 May Street, Belfast BT14NN		

Summary Intervention and Options

What is the problem under consideration? Why is government intervention necessary? Changing Places Toilets offer larger support facilities supplementing the needs of people who find accessible toilets inadequate. The Building Regulations and supporting statutory guidance set access and use requirements, where sanitary facilities should be no less available to any group - access for all. Accessible toilet provision is a technical standard, however current Changing Places Toilets guidance has an advisory rather than compliance status, therefore criteria for Changing Places Toilets in defined types of larger new/relevant buildings would increase the provision of such facilities nationally. This Regulatory Impact Assessment deals with amending guidance to include a standard for Changing Places Toilet facilities provision in addition to accessible toilet standards.	
What are the policy objectives and the intended effects? The policy objective is that the Building Regulations supporting statutory guidance be clear on Changing Places Toilet facilities provision, in addition to accessible toilet provision. Current Changing Places Toilet facilities guidance status is advisory, this needs to change to become compliance – setting criteria with targets and triggers for in scope new/relevant buildings. By amending the Regulation’s guidance in Technical Booklet R, the Department will ensure that Changing Places provision is set for specific new large buildings commonly used by the public, or where such a building is formed by material change of use (as set out in the current Building Regulations).	
What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base) Option 1 - Do Nothing Option 2 - Amending the Building Regulations guidance to include Changing Places Toilets provision. This Draft stage Regulatory Impact Assessment considers the chosen policy option, updating Building Regulations guidance to include Changing Places Toilet facilities provision (Option 2), against a counterfactual ‘do-nothing’ scenario (Option 1). The chosen policy will provide clarity for developers and users as to where Changing Places Toilets should be provided, with compliance checked by District Council Building Control. In defining types of new/relevant larger buildings, this would increase the provision of such facilities nationally, where part of a wider NI regional strategy.	
Note	If applicable, set review date:

Cost of Preferred (or more likely) Option		
Total outlay cost for business £m	Total net cost to business per year £m	Annual cost for implementation by Regulator £m
0.4144 year 1	0.3300	N/A

Does Implementation go beyond minimum EU requirements?	N/A ✓		YES	
Are any of these organisations in scope?	Micro Yes ✓ No	Small Yes ✓ No	Medium Yes ✓ No	Large Yes ✓ No

The Final RIA supporting legislation must be attached to the Explanatory Memorandum and published with it.

Approved by: _____ Date: _____

Summary: Analysis and Evidence Policy Option 1

Description: **Do nothing**

ECONOMIC ASSESSMENT (Option 1)

Costs (£m)	Total Transitional (Policy)		Average Annual (recurring)	Total Cost
	(constant price)	Years	(excl. transitional) (constant price)	(Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	N/A		N/A	N/A

Description and scale of key monetised costs by 'main affected groups'

Option 1 - Do nothing, imposes no monetised costs on the main affected groups.

Other key non-monetised costs by 'main affected groups'

Option 1 - Do nothing, imposes no direct costs on the main affected groups, however retention of the current advisory status of Changing Places Toilet guidance within Technical Booklet R, will not increase the current voluntary provision of these facilities, or target specific new large buildings commonly used by the public, or where such a building is formed by material change of use (as set out in the current Building Regulations).

Benefits (£m)	Total Transitional (Policy)		Average Annual (recurring)	Total Benefit
	(constant price)	Years	(excl. transitional) (constant price)	(Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	N/A		N/A	N/A

Description and scale of key monetised benefits by 'main affected groups'

Option 1 - Do nothing, produces no additional benefits for the main affected groups.

Other key non-monetised benefits by 'main affected groups'

Option 1 - Do nothing, produces no additional benefits for the main affected groups.

Key Assumptions, Sensitivities, Risks

Without statutory guidance for Changing Place Toilets (CPT) provision, some new/relevant buildings that should have included appropriate facilities might not be targeted, with the missed opportunity to increase the national network provision. The continued voluntary requirements for these facilities would be inconsistent with the recent provision of CPTs in the statutory guidance to the Building Regulations of other jurisdictions.

BUSINESS ASSESSMENT (Option 1)

Direct Impact on business (Equivalent Annual) £m			
Costs: N/A	Benefits: N/A	Net: N/A	

Cross Border Issues (Option 1)

How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland)

Do nothing option retaining current guidance advisory status would be inconsistent with building statutory requirements within Scotland and England and EU Member States (though in this circumstance not the Republic of Ireland). The Irish Building Standards (Dept. of Housing, Planning & Local Government) have not set any requirement/guidance for Changing Places facilities provision.

Summary: Analysis and Evidence

Policy Option 2

Description: **Amendment of building regulations statutory guidance with Changing Places**

Toilets provision

ECONOMIC ASSESSMENT (Option 2)

Costs (£m)	Total Transitional (Policy)		Average Annual (recurring)	Total Cost
	(constant price)	Years	(excl. transitional) (constant price)	(Present Value)
Low	Optional	1	Optional	Optional
High	Optional		Optional	Optional
Best Estimate	0.0844		0.3300	Year 1 0.4144

Description and scale of key monetised costs by 'main affected groups'

Option 2 – industry and developers currently follow the accessible toilet standards within Technical Booklet R for relevant building sanitary provision. The change to include Changing Places within sanitary provision, will impose additional costs to include these facilities in targeted large new buildings commonly used by the public, or where such a building is formed by material change of use (£0.330m). There will also be a small transition cost (one-off cost in year 1) for construction industry (building control professionals, consultants, builders, etc.) however this may be overstated as many firms would offset this against continued professional development.

Other key non-monetised costs by 'main affected groups'

Option 2 – None.

Benefits (£m)	Total Transitional (Policy)		Average Annual (recurring)	Total Benefit
	(constant price)	Years	(excl. transitional) (constant price)	(Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	N/A		N/A	N/A

Description and scale of key monetised benefits by 'main affected groups'

Option 2 – It is difficult to monetise benefits of providing Changing Places toilets. The benefits from these facilities are more to do with equality/inclusion. Increasing provision will enable more people with complex care needs to take part in everyday activities, employment and participate in public life, with significant quality of life benefits for both disabled people and their carers. The UK 'Purple £' = £269Bn/year, toilets increase access to services.

Other key non-monetised benefits by 'main affected groups'

Option 2 – The amendment to Technical Booklet R guidance will give people with complex and multiple disabilities and their families, the opportunity to visit public places with confidence, which they otherwise would not be able to do. More Changing Places toilets can therefore make a huge difference to their quality of life and everyday activities such as travel, shopping, family days out or attending a sporting event.

Key Assumptions, Sensitivities, Risks

This policy to amend supporting statutory guidance is to be clear on setting criteria for Changing Places Toilet facilities provision in addition to accessible toilet provision, it will impact only on new works where building regulations apply – affecting/adding 0.5-1% to existing relevant building stock.

Key assumptions are – build rate numbers of in scope buildings (Planning projections), and – the risk that post pandemic build rates will be considerably lower, until the construction industry recovers.

BUSINESS ASSESSMENT (Option 2)

Direct Impact on business (Equivalent Annual) £m			
Costs: 0.3300	Benefits: N/A	Net: 0.3300	2019 prices

Cross Border Issues (Option 2)

How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland)

Technical Booklet R in support of Part R regulations, would set building statutory guidance/criteria on Changing Place Toilet facilities provision, comparable with other UK regions, and provide industry with consistent technical guidance. The Republic of Ireland's Building Standards currently have not set any requirement/guidance for the provision of Changing Places Toilets.

[This page is intentionally blank]

Evidence Base (for summary sheets)

Contents

	Page
Introduction	7
Purpose and intended effect of measures; Scope and Objective	7
Background – Changing Places Toilets	8
Rationale for Government intervention	9
Summary of amendments	10
Summary compliance costs and benefits	11
Business sectors affected	12
Other impact assessments	12
Micro and Small Firms Impact Test	13
Enforcement and Sanctions	13
Monitoring and Review	13
Consultation	14
Contact Point	14
Appendix 1 – Amendment to Part R: Technical Booklet R guidance	15

INTRODUCTION

The Department of Finance has policy responsibility for maintaining the Building Regulations.

The Building Regulations apply to most building work and are made principally to secure the health, safety, welfare and convenience of people in or about buildings, further the conservation of fuel and power, further the protection and enhancement of the environment and promotion of sustainable development.

The regulations set mainly functional requirements and are supported by Technical Booklets giving guidance, including performance standards and design provisions, relating to compliance with specific aspects of the Building Regulations for the more common building situations.

PURPOSE AND INTENDED EFFECT OF MEASURES

The main purpose of the amendment is to pursue the objectives of building regulations by providing amended technical guidance, relating to the provision of Changing Places Toilet (CPT) facilities by updating the current advisory guidance, into compliance guidance for sanitary accommodation standards for specific new/relevant large buildings commonly used by the public. The intended effect of this amendment is to enhance equality and inclusion, by setting criteria for CPT facilities provision.

SCOPE

This Consultation DRAFT Regulatory Impact Assessment (RIA) addresses a proposed amendment of the Building Regulations to specifically update guidance within Technical Booklet R in support of Regulation 91 for access and use of a building's facilities (in this instance sanitary facilities), relating to CPT provision in addition to accessible toilet provision.

OBJECTIVE

The overall objective of the amendment is to update the current advisory guidance on the provision of CPT facilities, into compliance guidance for sanitary accommodation standards, under the existing Part R requirements of building regulations, without imposing disproportionate bureaucracy and costs on building owners, developers or on district councils whose role it is to enforce building regulations.

The proposal for updated statutory guidance with a standard for CPT provision is progressive, to ensure specific new/relevant large buildings commonly used by public, are fitted with sanitary facilities for people with complex and multiple disabilities (in addition to accessible toilet facilities), in a properly targeted proportionate manner and thus enhancing equality and inclusion within the building environment.

This Consultation DRAFT RIA is a review of the Building Regulations (Northern Ireland) 2012 (as amended), considering the Costs and Benefits (where applicable) of the proposals to amend current building regulations technical guidance, covering sanitary

accommodation and sanitary facilities in buildings other than dwellings - to ensure that specific new/relevant large buildings commonly used by the public, have set criteria for CPT provision in a targeted and triggered proportionate manner.

The amendment, to varying degrees, affects those in the construction industry who are involved in the development, construction or material change to specific large buildings commonly used by public and those who are tasked with ensuring compliance with building regulations.

BACKGROUND - CHANGING PLACES TOILETS

Changing Places Toilets (CPT) meet the needs of people with profound and multiple learning disabilities, as well as people with other physical disabilities such as spinal injuries, muscular dystrophy and multiple sclerosis. These toilets provide specific equipment including a height adjustable adult-sized changing table, a tracking hoist system, adequate space for a disabled person and up to two carers, a peninsular WC with room either side and a safe and clean environment including tear off paper to cover the bench, a large waste bin and a non-slip floor. These facilities enable people with complex care needs to take part in everyday activities such as travel, shopping, family days out or attending a sporting event, employment and participation in public life.

A network of 42¹ CPT facilities exist across Northern Ireland but there is no current legislative requirement for their provision within buildings. The vast majority of these facilities were installed on a voluntary basis, or as part of ongoing property redevelopment initiatives in the Health Trust Estate.

Part R (Access to and Use of Buildings) of the Building Regulations sets minimum access standards for all new buildings. These requirements are supported by statutory guidance in Technical Booklet R. The Technical Booklet sets out performance standards and design provisions - a way in which new building work, or material change of use or extensions to buildings, dwellings and workplaces in most common situations should make reasonable provision for accessibility.

The Building Regulations statutory guidance (Technical Booklet R: Access to and use of buildings: October 2012) already sets out minimum standards for accessible toilets in new buildings used by public/employees. This includes standards for unisex wheelchair - accessible toilets with a corner WC (even in small buildings) and additional provision in larger buildings. See link below to existing statutory guidance:

<https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/Technical-booklet-R-Access-to-and-use-of-buildings-October-2012.pdf>

After consultation with MENCAP and other lobbying groups, Changing Places were referenced for the first time within the Northern Ireland Building Regulations Part R guidance in 2012 Technical Booklet R under the new Appendix A 'Informative – Facilities for people with profound and multiple learning disabilities'. The Appendix points to information that will assist the designers in their development decisions, where they have opted to provide such a facility.

¹ As of June 2020 from Changing Place Toilet Map <https://changingplaces.uktoiletmap.org/>

Therefore, Appendix A is informative guidance as opposed to compliance guidance within Technical Booklet R.

The informative guidance within Appendix A also points to MENCAP for specialist advice or information provided by the Changing Places Campaign website (www.changing-places.org) on how to provide a new Changing Places toilet. It also refers to a British Standard BS 8300, which provides good practice guidance on the design of an accessible and built environment. This standard was updated in January 2018 and guidance on Changing Places toilets is now in section 18.6 of the new “BS 8300-2:2018 Design of an accessible and built environment. Buildings. Code of practice”.

Nonetheless, the Changing Places information along with the BS 8300 Changing Places design standard referenced in Appendix A, is currently good practice guidance, not a specified standard for compliance within Technical Booklet R statutory guidance.

RATIONALE FOR GOVERNMENT INTERVENTION

The Northern Ireland 2011 Census² reported that 20.6 percent of the Northern Ireland population (then 374,646) had their day to day activities limited because of long standing health problems or disability. Around 7,500 (conservative figure) disabled users can benefit from the additional facilities offered by a CPT where standard accessible toilets do not meet their needs.

There are over 1,400 CPTs across the UK, up from just 140 in 2007. Although the increase in numbers and action by forward looking building owners is to be welcomed, provision is still haphazard, subsequently the Finance Minister asked the Department’s Building Standards Branch to introduce a requirement into building regulations for CPT facilities. The policy under consideration here is focused to a new standard within the Building Regulations statutory technical guidance that includes criteria for CPT provision in new/relevant buildings.

In developing proposals the Department has been in continued liaison with the Technical Policy Division of the Ministry of Housing Communities and Local Government (MHCLG who are responsible for England’s Building Regulations), with regard to their development of a new CPT mandatory standard proposed within their building regulations, whilst being mindful of their Building Act’s Primary legislative sanitary appliance requirements. July 2020 saw their publication of amendment guidance document ADM Volume 2 (applicable from January 2021) without the need for specific regulation.

The Department has considered the Welsh Technical Policy Division (MHCLG), ongoing development of a new CPT standard that had been proposed within their building regulations Consultation, whilst being mindful of their public toilet (definition includes CPT) requirements within Part 8 of the Public Health (Wales) Act 2017, and their Planning Policy for Wales, a good practice requirement for CPT provision within Technical Advice Note (TAN 12 – 5.3.7).

The Department has also considered the development in Scottish Building Standards, of a CPT standard and their determination that provision for CPTs can be made without the need to amend the relevant mandatory standard. October 2019 saw Scottish Building Standards introduction of guidance on the circumstances where a CPT facility should be

² NINIS Census 2011: Long-Term Health Problem or Disability: QS303NI (statistical geographies) – Table view

provided, the form that accommodation should take and the in scope buildings targeted in a proportionate manner. The Department is also mindful of the new CPT facility Scottish Planning legislation 'Town and Country Planning (Changing Places Toilet Facilities) (Scotland) Regulations 2020' (which came into force 20th May 2020).

The 2019 England Changing Places toilet policy Consultation considered the range of in scope new/relevant buildings further, to define the focus in a targeted and proportionate manner. The Consultation has also tested the costs originally derived from research undertaken for previous building regulations reviews, and for the Scottish Government Building Standards CPT Consultation. England's Consultation also determined the need for further ergonomic research to establish whether a smaller 3x3m (9m²) toilet is feasible for a user of modern wheelchairs, two carers and associated equipment, to be provided in existing buildings.

The Department proposals have been informed by the other UK regions in their determination that the provision of CPT facilities, should be set as an accessible sanitary accommodation standard within building regulations statutory guidance. That guidance should define in scope new/relevant large buildings commonly used by public, setting targets and proportionate triggers for those buildings - while providing industry with consistent technical guidance. The interest of the Finance Minister has determined that the Department will consider intervention to address this in Option 2.

SUMMARY OF AMENDMENTS

Part R (Access to and use of buildings)

The proposals amend the Building Regulations supporting Technical Booklet R statutory guidance on "Sanitary accommodation and associated sanitary facilities in buildings other than dwellings" (Section 6), updating the current accessible and usable performance criteria for accessible sanitary provision standards, to include criteria for where a CPT facility should be provided in certain buildings. Additionally, to ensure that specific new/relevant large buildings commonly used by the public, have CPT provision in a targeted and proportionate manner, a list of in scope buildings based on variables such as the building function and its people capacity or gross floor area, will be clearly defined within the new standard for provision within the Technical Booklet R Section 6.

The Department will also identify further specialist guidance sources on specific aspects of CPT facility layout and equipment, available from;

- a) the Changing Places consortium campaign website (www.changing-places.org) and;
- b) BS 8300-2:2018 Clause 18.6 guidance, diagram 48 as well as Annexes F and G.

These two sources are referenced as the most appropriate guidance to CPT facility layout and equipment, for specific aspects beyond those considered in the more common building situations.

SUMMARY OF COMPLIANCE COSTS AND BENEFITS

The cost impacts have been initially developed from a Scottish Government sponsored BRE 2012 Research report 'To inform the requirements and installation criteria for changing places toilets'. The associated costs were again subject to further study/development as part of the; – (a) Scottish Building Standards 2019 Business and Regulatory Impact Assessment; and – (b) MHCLG Building Regulations 2020 Government Response Impact Assessment adjusted costs.

It is anticipated at this stage that there will be a minimal cost impact given that the new CPT provision criteria, as with all accessible sanitary standards associated with building regulations, will only affect between 0.5-1% of the targeted in scope large buildings stock, as building regulations are only applicable at the time that building work (new building, and material change of use) takes place. The Regulations do not apply retrospectively for existing buildings, not undertaking works.

Part	Change	Cost Impact
R	Amend Technical Booklet R Section 6 accessible sanitary accommodation to include standard criteria for Changing Places Toilet (CPT) facilities provision – with set targets and triggers for in scope new/relevant large buildings commonly used by the public.	For an affected in scope large new/relevant building, a CPT facility 3x4m in size and 2.4m height designed from inception & equipped with specialist - adjustable basin, - adjustable changing bench, - ceiling hoist etc., an installation cost would be in the region of £25,000* (<i>Note: optional shower excluded</i>)
		<p>For an affected in scope large new/relevant building, venue staff training (year 1) to guide users on safe use of a CPT facility - training cost would be in the region of £400*.</p> <p>For an affected in scope large new/relevant building, CPT hygiene cleaning (per year) - cost would be in the region of £1,300*.</p> <p>For an affected in scope large new/relevant building, CPT maintenance - HSENI regulatory requirements (basin, table, hoist) per year - cost would be in the region of £600*</p> <p>*= hospital settings provision may cost more</p>

There would be an opportunity cost associated with using the space for a CPT facility as opposed to other uses. This has not been costed but would be most significant for retail properties in areas with high valued floor space.

The benefits from CPT facilities relate to equality and inclusion (to address a known need within our population and communities) and there may be monetary benefits via the 'purple pound' however, these are not quantifiable for an RIA. Increasing provision will enable more people with complex care needs to take part in everyday activities – with significant quality of life benefits for both disabled people and their carers.

BUSINESS SECTORS AFFECTED

The amendments impose some additional burdens on large building construction development/design professionals, and building contractors for large buildings. A number of commercial and public construction sector businesses would already appear to be aware of the best practice CPT standards, with some involved in the voluntary installations included within the current Changing Places mapping for Northern Ireland. Where CPT provision is a development of the accessible wheelchair toilet provisions, this should not require any new skills, so it is anticipated that these costs will relate to initial year one familiarisation costs, in understanding the additional requirements in newly classified in scope buildings.

The construction business sectors affected can be identified by drawing on Northern Ireland Statistical Research Agency (NISRA) Construction Output quarterly information for the Construction Sector – i.e. the types of construction firms operating in Northern Ireland, the development/design firms and construction firms with turnovers derived from in scope large building projects greater than £1million.

The costs to business relating to the provision of CPT facilities to new/relevant large buildings, have been considered for construction projects valued greater than £1million, however considering the building types, the targeted footprint and people capacities would suggest projects valued more between £5-10million. These larger higher cost new build projects can therefore reduce the application (£25-26K CPT installation cost) and economic impact considerably.

OTHER IMPACT ASSESSMENTS

The Department considers that the amendments will have no significant effect on competition in any markets.

The amendments apply to new/relevant large buildings (where building regulations apply) and therefore have an effect on the commercial and public construction sectors, property owners, developers, etc. The Rural Needs Act (NI) 2016 requirements should not be adversely impacted, where the building regulations objective in this matter is to make sanitary provision more inclusive in new/relevant buildings – where performance and technical standards are applied equally, regardless of the works rural or urban setting. This policy does not determine the locality for a building or locality for any type of buildings (other legislation determines this, prior to the application of building regulations).

Subsequently CPT provision through the application of building regulations alone, may not deliver a regional strategy, or a focused area coverage at a local needs level - therefore NI Government may have to consider CPTs provision more strategically.

The Department does not expect an Environmental Impact from the preferred Option to affect the wider environment outside, by the installation of accessible sanitary facilities and it will not result in additional greenhouse gases being emitted.

The preferred Option is primarily focused on a minority population group health improvement. The proposed amendments, under Section 75 equality categories (disabled and old people), are likely to lead to a positive effect on those peoples equality of opportunity. Increasing provision will bring a number of non-monetised social benefits enabling more people with complex care needs to take part in everyday activities – with significant quality of life benefits for both disabled people and their carers.

MICRO AND SMALL FIRMS IMPACT

The provision of CPT facilities in larger buildings such as commercial/retail and other large buildings accessible to the public, suggest in scope venues owned by larger businesses or part of the public estate. It could be therefore argued that the types of in scope large buildings, along with the targeted floor areas and people capacities, would suggest developments by business entities beyond micro and small firms. Furthermore, where installation space requirements and compliance costs are factored in at the project design stage, this will dramatically reduce the financial impact on that business (be they micro, small or other).

There will be ongoing cleaning and maintenance costs associated with CPT facilities imposed on business, however any increased access to services for everyone, regardless of their ability, should offer positive change to the number of customers accessing goods and services. Micro and small firms in close proximity to new facilities may benefit from CPT users, their families and carers buying goods or services.

The UK Ministry of Housing, Communities and Local Government (MHCLG) Consultation, when proposing the equivalent England Part M CPT amendment of their building regulations, targeted relevant construction and property sector businesses. The aim was for industry feedback to inform the financial modelling for installation and ongoing maintenance costs. Overall, no businesses had any strong objections to CPT provision and the amendment to guidance. The Department considers it reasonable to assume local micro/small firms will be similarly unconcerned by this proposed technical amendment.

ENFORCEMENT AND SANCTIONS

The amended statutory guidance supporting regulation will continue to be enforced by district councils, through the existing mechanisms and sanctions provided through the Building Regulations (Northern Ireland) Order 1979 (as amended) (the 1979 Order).

MONITORING AND REVIEW

MHCLG undertakes reviews of amendments made to the Building Regulations. The outcomes of these reviews and additional research undertaken by MHCLG (on behalf of

England, and the devolved administrations) will inform the need for further amendments to the Building Regulations. It is thought likely that these proposals will be reviewed in light of future ergonomic research to investigate whether a smaller 9m² facility is suitable for the whole spectrum of changing places users, in regard to extensions and works to existing buildings.

CONSULTATION

GOVERNMENT CONSULTATION

Building Standards Branch (BSB) has been involved in discussions with the MHCLG Building Regulations Technical Policy Division, Scottish Government Building Standards, and Welsh Government Building Regulations, in the development of a UK regional building regulations Policy on CPT facilities provision.

PUBLIC CONSULTATION

There is a statutory duty to consult the Northern Ireland Building Regulations Advisory Committee (NIBRAC) and such other bodies as appear to the Department to be representative of the interests concerned. There is also an expectation of wider targeted public consultation.

A working group has been established within NIBRAC for CPT provision, to inform the consultation documents alongside the release of this consultation, and to consider the proposed amendment to Technical Booklet R statutory guidance, in support of Part R of the Building Regulations.

BSB has an extensive database of names of individuals and organisations to approach, that have expressed a specific interest in building regulations and technical guidance. As well as directly contacting stakeholders with a known interest, this consultation exercise will also be promoted on the BSB Building Regulations homepage of the DoF website.

The public consultation period will run for 12 weeks, commencing on **Wednesday 28 July 2021** and closing on **Wednesday 20 October 2021**.

CONTACT POINT

This Regulatory Impact Assessment, and the Departments Response to Public Consultation, may be downloaded from www.finance-ni.gov.uk/articles/building-regulations-consultations or a hard copy may be obtained from the Consultation Co-ordinator at:

Department of Finance
Properties Division
Building Standards Branch
6th Floor, Goodwood House
44-58 May Street
Belfast
BT1 4NN
Tel 028 9025 7048
Email: info.bru@finance-ni.gov.uk

AMENDMENT TO PART R (Access and use of buildings) Technical Booklet R statutory guidance, with the inclusion of criteria for Changing Places Toilets (CPT) facilities provision

BACKGROUND

- R1. The Northern Ireland Building Regulations accompanying Technical Booklet R, specifically in support of Regulation 91 for access to and use of a building's facilities (in this instance sanitary facilities), currently considers the provision of CPT facilities as informative guidance in an Appendix to the technical standards.

The policy objective is that the CPT facilities informative guidance (first introduced in the 2012 technical uplift) be upgraded to that of compliance guidance within Section 6 sanitary accommodation standards, in addition to the current accessible toilet standard. This progressive CPT policy change to a provision standard, also requires triggers to be set for the targeting of specific new/relevant large buildings commonly used by the public. By amending guidance in Technical Booklet R, the Department will ensure that CPT facilities will be installed in a properly targeted proportionate manner, thus enhancing equality and inclusion within the building environment.

RISK ASSESSMENT

- R2. The Department considers that without statutory guidance for CPT provision, some new/relevant buildings that should have included appropriate facilities might not be targeted, with the missed opportunity to increase the national network provision. The retention of a best practice status within technical guidance and the continued voluntary provisions for these facilities, would be inconsistent with recent requirements of other jurisdictions.

Northern Ireland building regulations do not require the provision of toilets for sanitary convenience, beyond that required for a dwelling (regulation 85 of Part P). Section 6 of Technical Booklet R is the statutory technical guidance on sanitary provisions, ensures that when sanitary accommodation and/or associated sanitary facilities are being provided in a building, these are no less available for disabled people than for non-disabled people. Therefore, other legislation sets sanitary requirement for non-dwellings, where building regulations set the technical standards for those sanitary facilities to be accessible.

- R3. Building regulations are only applicable at the time that building work takes place. The Regulations do not apply retrospectively for existing buildings, because these should comply with the Regulations in force at the time they were built. Therefore provision of CPT facilities in addition to accessible toilet provision, will impact only on new works where building regulations apply – affecting/adding 0.5-1% to existing relevant building stock.

Building regulations do not impose ongoing management requirements, so continuing maintenance/service provision requirements (which are vital for this

sanitary facility) cannot be guaranteed. Similarly building regulations do not impose ongoing or continuing requirements, in other words, they cannot enforce or require the retention of that facility beyond 12 months of completion of the works.

- R4. Therefore whilst Northern Ireland building regulations can set supporting standard criteria for CPT provision, along with definitive triggers for new/relevant large buildings commonly used by the public;- the limitations noted above in paragraph R2-R3 mean that: a) a regional strategy: b) focused area coverage at a local needs level: and c) retrospective application to existing buildings, will require further policy intervention beyond the remit of building regulations to address these items.
- R5. In the current COVID 19 pandemic, it is difficult to estimate the number of new/relevant in scope large buildings that will be built, therefore projections based on previous Planning statistics may be considerably lower for future commercial and public sector projects.

OPTIONS

- R6. Appendix A of Technical Booklet R, to Part R of the current 2012 (as amended) Northern Ireland Building Regulations, provides informative guidance for CPT facilities by referencing MENCAP advice and BS 8300 best practice, so in considering how to update this guidance, only two options were examined:

Option 1 – ‘do nothing’, continue with the informative status of current guidance and rely on the commercial and public sector developers voluntary provision; or

Option 2 – amend the Technical Booklet Appendix A informative guidance, by upgrading to that of a standard/criteria for provision within statutory guidance, in Section 6 accessible sanitary accommodation standards, along with setting definitive triggers for in scope new/relevant large buildings.

- R7. The ‘do nothing’ Option is not preferred because:

- a) retention of the 2012 introduced informative guidance, will not progress the status of guidance into a compliance standard within the Technical Booklet;
- b) consequently some new/relevant large buildings that should have included appropriate facilities might not be targeted, with a missed opportunity to increase the national network provision, and;
- c) without defined triggers, some inappropriate buildings would incorporate CPT facilities where it may not be sustainable to do so.

Option 2 is preferred to avoid the adverse impacts set out under the ‘do nothing’ Option above. It will require setting criteria for CPT facilities provision in addition to ambulant disabled and wheelchair accessible toilets in the accessible sanitary standards, - targeted to new/relevant in scope large buildings, in a proportionate manner via defined triggers. This progression maintains and extends the current policy of access for all and equality, by the inclusion of criteria for CPT facilities provision within accessible sanitary accommodation standards.

R8. In developing this Draft RIA, the Department has drawn upon work carried out by MHCLG and their 2020 Government response adjusted IA costs. This has highlighted the fact that there may potentially be two possible options for the layout of CPT facilities:

- a) A standard-sized CPT as set out in BS 8300-2:2018, is a room with a floor area of 12m² (3m wide and 4m long, with a ceiling height of 2.4m). The room has a peninsular WC, hoist, basin, adult-sized height-adjustable changing bench, shelving, grab rails and an optional shower, for use by people with complex and multiple impairments who require the help of up to two assistants, and;
- b) A smaller size CPT where the space required for a full CPT is not available or the cost is prohibitive due to potentially extensive building works to create the additional space, in such cases, a smaller-sized one could be provided. MHCLG and the CP Consortium had considered an alternate of a minimum 3m by 3m (9m²) CPT with a door with a minimum clear opening width of 1m and a minimum ceiling height of 2.4m, with associated fixtures.

The MHCLG Consultations and stakeholder engagements supported the role of a smaller CPT facility for existing buildings, extensions or alteration works with development restrictions. However further ergonomic research is required, to investigate for example whether a smaller 9m² facility is suitable for the whole spectrum of changing places users with up to two additional carers. Therefore this RIA will not consider the smaller 9m² CPT facility, but rather focus on a 12m² CPT facility layout for targeted large new buildings commonly used by the public or where such a building is formed by material change of use.

BENEFITS

Option 1 – do nothing

R9. There are no benefits associated with this option. The continued use of informative guidance on a good practice basis, will mean some new/relevant buildings that should have included appropriate facilities might not be targeted, with the missed opportunity to increase the national network provision. The continued voluntary requirements for these facilities would be inconsistent with CPT requirements in the Building Regulations of other jurisdictions.

Benefits – CPT provision for targeted in scope new/relevant large buildings commonly used by the public

R10. The benefits from CPT facilities provision are inclusive and societal, to address a known need within our population and communities. Action through review of building regulations offers a mechanism for the Department, to recognise and signal further change in what provision is expected, where applicable building work delivers new/relevant large buildings.

R11. The progression of a standard for CPT provision, is considered to be part of a continual review of the provisions that define and implement minimum standards applicable to building work. In making and upgrading sanitary provisions for the access and use of non-domestic buildings in Northern Ireland, our review considers

implementing good practice taken from recognised authoritative sources of guidance, including BS 8300-2: 2018 'Design of an accessible and built environment - Part 2: Buildings 'Code of practice'. Whilst BS 8300 suggests relevant buildings, it does not set triggers.

- R12. The setting of criteria that targets/triggers CPT facilities provision to enhance sanitary accommodation, will enable people with complex care needs to take part in everyday activities such as shopping, family days out or attending a sporting event, employment and participate in public life. As is demonstrated by the current voluntary network of CPT facilities across the UK, the need to make provision of such facilities is already recognised and valued by many building operators.

Option 2 – amend Technical Booklet R statutory guidance, with the inclusion of criteria for Changing Places Toilet (CPT) facilities provision

- R13. This policy is to amend supporting statutory guidance to be clear on CPT facilities provision in addition to accessible toilet provisions, on new works where building regulations apply, ensuring that specific new/relevant large buildings commonly used by the public, have CPT facilities provision in a targeted and proportionate manner. Listed in scope buildings based on variables such as the building types and its people capacity or gross floor area, will be clearly defined for commercial and public sector development. This policy change will increase the numbers of CPT facilities throughout the country, albeit this will depend upon decisions (post pandemic recovery period) to undertake such development in a particular location.
- R14. Subsequently, CPT facilities may still not exist where they are needed most and other action, including voluntary or initiative supported provision will still be beneficial. However as noted before, this is a limitation of building regulations which relies upon development taking place. Additional CPT provision will therefore only be created where specific building types are developed. Option 2 is targeted at larger projects to deliver the policy in a proportionate manner (applied to defined building types), where development costs can accommodate larger sanitary facilities within these more extensive works.
- R15. An important point with a proportionate approach for CPT facilities in large new commercial and public sector developments, is it can set a standard for provision and link this to specific use or access characteristics for a building type and size. NI Disability Discrimination legislation considers Technical Booklet R as 'a relevant design standard' so in the future this may afford CPT provision under 'reasonable adjustment' to larger buildings of a similar type and size.

COSTS

OPTION 1 – do nothing

- R16. This option imposes no implementation costs on the commercial and public sector building industry plus imposes no transition costs. Under the current best practice policy, the existing network of 42 CPT facilities across Northern Ireland has been established on a voluntary basis. Nonetheless, the Department feels that under this option, there is potential for new/relevant buildings not to be targeted in a

proportionate manner, and subsequently missed opportunity to increase the national network CPT provision.

OPTION 2 – amend Technical Booklet R statutory guidance, with the inclusion of criteria for Changing Places Toilet (CPT) facilities provision

OPTION 2 – Transition costs

- R17. The Department would expect there to be some minor familiarisation costs in year one, based upon an estimate of the number of large building construction development/design professionals, and construction managers for large buildings. This is likely to be an over estimate since a number of these businesses will be familiar with good practice voluntary installation of CPT facilities, that already appear on the Changing Places map for the Province.
- R18. Drawing on Northern Ireland Statistical Research Agency (NISRA) Construction Output 2019 quarterly information³ for the Construction Sector (i.e. the types of construction firms operating in Northern Ireland) specifically; – development/design firms and construction firms with turnovers derived from in scope large building projects greater than £1million, would suggest an estimate of 1,235 Northern Ireland firms (670 professional Design/Development firms + 565 large commercial building firms) working in this targeted sector.
- R19. Previous MHCLG Consultation modelling had developed wage rates derived from the Annual Survey of Hours and Earnings (ASHE). This reflects the value by the market of professional/skilled trade occupations including wage, on costs and other business costs to the organisation, and is the rate a firm would charge someone else per hour for an individual's time. This approach is widely used in the construction Industry. However, more generally in Impact Assessments the ASHE forms the basis to estimate the cost of someone's time (plus an additional estimate of 30% for additional overheads such as pension contributions and national insurance contributions).
- Blended hourly rates have been calculated from the 2019 ASHE UK National Statistics and NISRA 2019 Construction Sector bulletin, for Northern Ireland Construction Professional and Skilled Building Trade occupation groups. These wage rates were developed from the UK Median hourly earnings (average full time employee banding) per occupation, then applying a Northern Ireland weighting, attaching a 30% overheads, and a mid-range weighting between these wage rates and market hourly rates for that occupation developed by an MHCLG Consultant.
- R20. Assuming 1 person needing up-skilled per affected firm, the Department believes it will take 670 professional Design/Development firms, 1 hour to become familiar with the new guidance. An hourly blended rate for this occupation group of £53.31⁴

³ From 2019 4th Quarterly <https://www.nisra.gov.uk/publications/construction-output-statistics-q4-2019> NI Construction Output Statistics Bulletin (NISRA) Structure of the Construction Industry Information: Table 2.1 – using Subclass 4110 (Development of building projects) Firms with turnover (@10% fee project value) bands 100-499 up to 10,000+ – using Subclass 4120 (Construction of buildings) Firms with turnover (@ full project value) bands 500-1,999 up to 10,000+

⁴ Construction professional occupation blended hourly rate – 2019 ASHE UK Table 2.6a median hourly wage + NI market weighting, with 30% overheads, mid weighting @ EC Harris market hourly rate £80 = £53.31

yields familiarisation cost of £35,720. Similarly it will take 565 large commercial building firms 1 hour to become familiarised with an hourly blended rate of £18.06⁵ yields a cost of £10,200. The total year one cost of familiarisation to the Construction Industry would be £46k. However, for many of these individuals, such activity may form part of mandatory CPD activity where their professional activity includes working to building regulations.

R21. The Department would also expect there to be some training and familiarisation costs (no more than 4 hours) in year one, for building control officers with the inclusion of this standard within prescriptive technical guidance. There are approximately 180 building control professionals in Northern Ireland. Based upon the Construction Professional hourly blended rates of £53.31 yields a year one familiarisation cost of £38.4K. Again, for many of these individuals, such activity may form part of mandatory CPD activity.

Familiarisation / Transition Cost Analysis

Large building development/design professionals and large commercial builder costs	
UK ASHE 2019 Table 2.6a Full time employees pay occupation groups, construction salary research suggests; Professional occupations <ul style="list-style-type: none"> - £21.11 (Median hourly earnings) - x 0.97 Northern Ireland market weighting (NISRA) - + 30% overheads - So: £21.11 x 0.97 + £6.14 (30%) = £26.62 - £26.62 mid weighting EC Harris market hourly rate @ £80 	£53.31 (Dvl/De)
Skilled trade occupations <ul style="list-style-type: none"> - £12.79 (Median hourly earnings) - x 0.97 Northern Ireland market weighting (NISRA) - + 30% overheads - So: £12.79 x 0.97 + £3.72 (30%) = £16.12 - £16.12 mid weighting EC Harris market hourly rate @ £20 	£18.06 (Bld)
Construction professional occupations; <ul style="list-style-type: none"> - NI affected professional firms @ 670 - Affected group blended wage per hour @ £53.31 - 1 hour familiarisation to guidance change - So: (670 x £53.31) x 1 = £35,720 	£35,720
Construction skilled trade occupations; <ul style="list-style-type: none"> - NI affected skilled trade firms @ 565 - Affected group blended wage per hour @ £18.06 - 1 hour familiarisation to guidance change - So: (565 x £18.06) x 1 = £10,200 	£10,200
So Design/Development and Construction firm's combined	

⁵ Skilled trade builder occupation blended hourly rates – 2019 ASHE UK Table 2.6a median hourly wage + NI market weighting, with 30% overheads, mid weighting @ EC Harris market hourly rate £20 = £18.06

industry costs: £35,720 + £10,200 = £45,920	
Total Industry Cost (Year 1 familiarisation)	= £46,000
Building Control profession costs	
Using the construction salary research modelling noted above suggests; Building Control profession occupations; - NI affected professional officers @ 180 - Affected group blended wage per hour @ £53.31 - 4 hours training/familiarisation to guidance change - So: (180 x £53.31) x 4 = £38,383	
Total Building Control Cost (Year 1 familiarisation)	= £38,400

OPTION 2 – amending Technical Booklet R statutory guidance costs

- R22. The focus for CPT facility provision is to ensure that specific new/relevant large buildings commonly used by the public, on new construction or formed by material change of use, are targeted in a proportionate manner. The MHCLG 2020 Government Response Post Consultation wider-catch list of in scope buildings, has informed NI modelling. A detailed modelling exercise was undertaken to estimate a potential annual projection for Northern Ireland, based on the last 3 years relevant in scope buildings NI Planning approvals statistics, supplied by NISRA Analytical Statistics and Research Branch (ASRB). The ASRB Planning dataset was analysed, in the absence of;
- Lands and Property Service - Valuation and Land registration data (the equivalent to England's IA in scope buildings build rates, based on Valuation Office Agency (VOA) projections) or;
 - NI Building Control non-domestic in scope buildings completion data (the equivalent to Scotland's RIA in scope buildings Building Control Warrant completions - linked to floor area).
- R23. Based on the 6 targeted in scope building types (-assembly/entertainment & recreation, -shopping centres/malls & retail parks, -retail premises, -sport & leisure buildings, -hospital & primary care centres, & -cemetery & crematoria buildings) filtered against specific size and capacity triggers, the ASRB dataset analysis and modelling projects a one year average of 12 no. potential CPT provisions. Note: We have also assumed 100% additionality for the policy. Although the Department welcomes the increase in the number of CPT facilities provided voluntarily, this is ad hoc and dependent on the goodwill of building owners and developers.

The 12 no. projection figure includes CPT provisions for new in scope buildings via other NI Government public sector development, as well as those potentially attributable to private sector business development. The filtered in scope buildings 3 year analysis would suggest hotel development to be the biggest potential for targeted delivery of CPT facilities, followed by hospital & primary care development.

R24. The Department has been informed by the MHCLG 2020 Government Response Post Consultation adjusted IA costs. The cost to design, equip and install a new CPT facility is estimated at £25,000 (hospital settings provision may cost more), using their Public Consultation response and Northern Ireland Industry returns. The BS 8300 3x4m CPT layout is relatively standard, so extra design costs are minimal. The £25,000 overall cost (£15,000 equipment and £10,000 construction costs) is lower than the cost estimate in the IA to MHCLG's initial Consultation, this is due to the narrowing of scope down to only new builds or relevant buildings formed by a material change of use. For such buildings in the design phase, it is possible for designers/planners to allocate space for a CPT facility without costly adjustments to other building structures, which significantly lower costs.

R25. The cost of upskilling staff to be able to guide users in using a CPT facility has been estimated at £391. This is based on 10 staff per venue receiving training for 3 hours being paid at a rate of £13.04⁶ per hour.

R26. Cleaning costs are estimated to be £1,304 a year per CPT facility. This is based on 2 x 10 minute cleans per day for 300 days a year at a rate of £13.04 an hour.

Servicing in line with HSENI regulations (PUWER and LOLER) has been estimated at £195 each for the hand basin, bench and hoist⁷. This Industry feedback projects a total annual servicing cost of £585.

R27. The £25,000 installation along with £391 training costs per CPT facility, with £1,304 cleaning and £585 maintenance costs per CPT per year, projects a one off cost of establishing a CPT facility of £25,391, with a recurring annual cost of £1,889. Based on the in scope buildings ASRB Planning assumptions, which projects 12 new CPT installations each year, this would suggest a key monetarised cost to 'main affected groups' estimated at £330K over the first year (year 1) appraisal period (attributable to new statutory guidance for CPT provision).

CPT Projection Figures Cost Analysis

Affected group - new/relevant large buildings commonly used by public	
<p>NISRA (ASRB) Planning application approvals for;</p> <ul style="list-style-type: none"> - Major developments, &; - Regional significant developments. <p>2017-2018 = 168 no. approvals targeted with specific floor area & capacity triggers applied = 12 no. potential buildings.</p> <p>2018-2019 = 128 no. approvals targeted with specific floor area & capacity triggers applied = 13 no. potential buildings.</p>	

⁶ This is based on the ASHE UK hourly rates, which gives £10.03 as the mean hourly pay for all elementary workers, including venue staff and cleaners. This has been uprated by 30% to account for overhead costs, such as National Insurance.

⁷ Costs from suppliers of Changing Places toilets

<p>2019-2020 = 125 no. approvals targeted with specific floor area & capacity triggers applied = 12 no. potential buildings.</p> <p>Combined 3 year average $(12+13+12) \div 3 = 12$ no.</p>	12 per year
<p>MHCLG 2020 Post Consultation adjusted IA costings: New building CPT installation; - public response & NI Industry returns = @ £25,000</p> <p>Venue staff CPT training: - 10 staff x 3 hours - elementary worker mean hourly pay @ £10.03 - $(10 \times 3) \times £13.04 = £391$</p> <p>One off cost to establish new building CPT facility; - £25,000 + £391 = £25,391</p>	£25,400 (establish year 1)
<p>MHCLG 2020 Post Consultation adjusted IA costings: CPT hygiene cleaning; - 2 x 10 minute clean per day - @ 300 days per year - elementary worker mean hourly pay @ £10.03 - $(20 \times 300) \times (£13.04 \div 60) = £1,304$</p> <p>HSENI regulations essential annual servicing: - adjustable basin @ £195 - adjustable bench @ £195 - ceiling track hoist @ £195 - £195 + £195 + £195 = £585</p> <p>Annual cost of cleaning / maintenance to new CPT facility; - £1,304 + £585 = £1,889 (Note: building regulations do not apply continuing requirements beyond 1 year from completion)</p>	£1,900 (recurring per year)
<p>Affected group CPT projection figure costs @ year 1 appraisal: - average 12 no. potential buildings per year - one off establishment costs @ £25,400 - yearly recurring cleaning / maintenance costs @ £1,900 - $12 \times (£25,400 + £1,900) = £327,600$</p>	
Total CPT Projected Figure Cost (2019 modelled 1 year appraisal)	= £330,000

R28. There will be an opportunity cost associated with using the space for a CPT facility as opposed to other uses. This has not been costed but would be most significant for retail properties, in areas with high valued floor space.

COMPLIANCE COSTS

R29. Compliance costs are as follows:

- Option 1 maintaining the status quo attracts no compliance costs; however
- Option 2 is the better option as this establishes in scope new/relevant large buildings while setting criteria (targets/triggers) for CPT facilities provision. There will be some low level cost implications (in comparison to new large building construction costs), to address the anticipated figure of affected new/relevant buildings, not including CPT facilities.

Setting criteria for CPT facilities provision costs		Year 1
Affected new/relevant large buildings commonly used by public		£330,000
Familiarisation / transition costs		£84,400
Total Costs (Year 1)		= £414,400

SUMMARY AND RECOMMENDATION

R30. Option 1 is not considered valid as there is potential for new/relevant buildings not to be targeted in a proportionate manner, with subsequent missed opportunity to increase the national network CPT provision.

R31. Option 2 may result in an overall cost implication however, this option clarifies what are in scope buildings while setting proportionate criteria (targets/triggers) for CPT provision; and

On the basis of the assessments presented herein, the Department proposes to opt for Option 2 which amends Technical Booklet R statutory guidance with the inclusion of criteria for CPT facilities provision.

R32. The Department estimates that on this basis a year one cost to business will be around £414.4K with an annual cost around £330K per year thereafter. The inclusion of criteria for CPT facilities provision should not require any new skills. Familiarisation costs and some initial transitional costs, in determining in scope new/relevant building classifications, will only relate to the initial year one. These transitional costs have been estimated for year one at around £84.4K. These figures have been established as set out above.