



STATUTORY INSTRUMENTS.

S.I. No. 358 of 2020



EUROPEAN UNION (ACCESSIBILITY OF WEBSITES AND MOBILE
APPLICATIONS OF PUBLIC SECTOR BODIES) REGULATIONS 2020

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I, Eamon Ryan, Minister for Communications, Climate Action and Environment, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2016/2102 (EU) of the European Parliament and of the Council of 26 October 2016¹, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Accessibility of Websites and Mobile Applications of Public Sector Bodies) Regulations 2020.

Interpretation

2. (1) In these Regulations -

“body governed by public law” means a body that has all of the following characteristics:

- (a) it is established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;
- (b) it has legal personality; and
- (c) it has any of the following characteristics -
 - (i) it is financed, for the most part, by the State, a regional or local authority, or by another body governed by public law;
 - (ii) it is subject to management supervision by an authority or body referred to in subparagraph (i); or
 - (iii) it has an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, a regional or a local authority, or by another body governed by public law;

“Commission Implementing Decision (EU) 2018/1523” means Commission Implementing Decision (EU) 2018/1523 of 11 October 2018²;

“Commission Implementing Decision (EU) 2018/1524” means Commission Implementing Decision (EU) 2018/1524 of 11 October 2018³;

¹ O.J. L327, 2.12.2016, p 1

² O.J. L 256, 12.10.2018, p.103

³ O.J. L 256, 12.10.2018, p.108

“Directive” means Directive (EU) 2016/2102 of the European Union and of the Council of 26 October 2016¹;

“harmonised standards for websites and mobile applications” means the standard set out in the Annex to Commission Implementing Decision (EU) 2018/2048 of 20 December 2018⁴;

“local authority” means a local authority within the meaning of section 2 of the Local Government Act 2001 (No. 37 of 2001);

“monitoring body” means the body referred to in Regulation 8(1);

“operable” in relation to a website or mobile application means that a user of the website or mobile application must be able to operate the interface, that is to say, the interface cannot require interaction that a user cannot perform;

“perceivable” in relation to a website or mobile application means that a user of the website or mobile application must be able to perceive the information being presented on that website or mobile application, that is to say, the website or mobile application must be visible to at least one of the user’s senses;

“public sector body” means the State, a regional or local authority, a body governed by public law or an association formed by one or more such authorities or one or more such bodies governed by public law, if that association is established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;

“public service broadcaster” has the meaning assigned to it by section 2 of the Broadcasting Act 2009 (No. 18 of 2009);

“regional authority” includes a regional assembly established in accordance with section 43 (as amended by the Local Government Reform Act 2014 (No. 1 of 2014)) of the Local Government Act 1991;

“robust” in relation to a website or mobile application means that a user of the website or mobile application must be able to access the content of that website or mobile application as technologies advance, that is to say, as technologies and user agents evolve, the content should remain accessible;

⁴ OJ No. L. 327, 21.12.2018, p. 84

“time-based media” means media of the following types:

- (a) audio-only;
- (b) video-only,
- (c) audio-video,
- (d) audio or video, or both, combined with interaction;

“understandable” means that a user must be able to understand the information as well as the operation of the user interface, that is to say, neither the content nor the operation of the user interface can be beyond the user’s understanding.

(2) A word or expression which is used in these Regulations and is used in the Directive has, unless the context requires otherwise, the same meaning in these Regulations as it has in the Directive.

Application

3. (1) Subject to paragraphs (2) and (3), these Regulations apply in respect of the websites, independently of the device used for access thereto, and mobile applications of public sector bodies as follows:

- (a) in respect of websites of public sector bodies not published before 23 September 2018, from the date on which these Regulations come into operation;
- (b) in respect of websites of public sector bodies other than those referred to in paragraph (a), from 23 September 2020;
- (c) in respect of mobile applications of public sector bodies, from 23 June 2021.

(2) These Regulations do not apply in respect of the following:

- (a) websites and mobile applications of public service broadcasters and their subsidiaries, and of other bodies or their subsidiaries fulfilling a public service broadcasting remit;
- (b) websites and mobile applications of non-governmental organisations that do not provide services that are essential to the public, or services that specifically address the needs of, or are meant for, persons with disabilities.

(3) These Regulations do not apply in respect of the following content of websites and mobile applications of a public sector body:

- (a) office file formats published before 23 September 2018, unless such content is needed for active administrative processes relating to the tasks performed by the public sector body concerned;
- (b) pre-recorded time-based media published before 23 September 2020;
- (c) live time-based media;

- (d) online maps and mapping services, as long as essential information is provided in an accessible digital manner for maps intended for navigational use;
- (e) third-party content that is neither funded nor developed by, nor under the control of, the public sector body concerned;
- (f) reproductions of items in heritage collections that cannot be made fully accessible because of either -
 - (i) the incompatibility of accessibility requirements set out in Regulation 4 with either the preservation of the item concerned or the authenticity of the reproduction (e.g. contrast), or
 - (ii) the unavailability of automated and cost-efficient solutions that would easily extract the text of manuscripts or other items in heritage collections and transform it into content compatible with the accessibility requirements set out in Regulation 4;
- (g) content of extranets and intranets, that is to say, websites that are only available for a closed group of people and not to the general public as such, published before 23 September 2019, until such websites undergo a substantial revision;
- (h) content of websites and mobile applications qualifying as archives, meaning that they only contain content that is neither needed for active administrative processes nor updated or edited after 23 September 2019.

Accessibility Requirements

4. Subject to Regulation 6, public sector bodies shall, in accordance with Regulation 3, take necessary measures to make their websites and mobile applications more accessible by making them perceivable, operable, understandable and robust.

Presumption of Conformity

5. Content of websites and mobile applications that meets harmonised standards for websites and mobile applications or parts thereof shall be presumed to be in conformity with the accessibility requirements set out in Regulation 4 to the extent to which those requirements are covered by those standards or by parts thereof.

Disproportionate burden

6. (1) A public sector body shall apply the accessibility requirements set out in Regulation 4 to the extent to which those requirements do not impose a disproportionate burden on the public sector body for the purposes of that Regulation.

(2) A public sector body claiming that the application by it of the accessibility requirements set out in Regulation 4 would impose on it a disproportionate burden in accordance with paragraph (1) shall carry out an assessment of the extent to which compliance with those accessibility requirements would impose on it such a burden.

(3) In carrying out the assessment referred to in paragraph (2), the public sector body concerned shall take into account the relevant circumstances, including the following:

- (a) the size, resources and nature of the public sector body concerned;
- (b) the estimated costs and benefits for the public sector body concerned in relation to the estimated benefits for persons with disabilities, taking into account the frequency and duration of use of the websites or mobile applications concerned.

(4) Where, having conducted the assessment referred in paragraph (2), a public sector body avails of the derogation provided for in paragraph (1) in respect of a specific website or mobile application, the public sector body shall explain, in the accessibility statement referred to in Regulation 7, the parts of the accessibility requirements set out in Regulation 4 that could not be complied with in respect of that website or mobile application and shall, where appropriate, provide accessible alternatives.

Accessibility Statement

7. (1) Public sector bodies shall prepare and regularly update a detailed, comprehensive and clear accessibility statement on the compliance of their websites and mobile applications with these Regulations.

(2) The accessibility statement in respect of a website shall -

- (a) be in an accessible format;
- (b) be prepared using the model accessibility statement referred to in Commission Implementing Decision (EU) 2018/1523 and,
- (c) be published on the website concerned.

(3) The accessibility statement in respect of a mobile application shall -

- (a) be in an accessible format,
- (b) be prepared using the model accessibility statement referred to in Commission Implementing Decision (EU) 2018/1523, and
- (c) be available on the website of the public sector body that developed the mobile application concerned or alongside other information available when downloading the application.

(4) An accessibility statement referred to in paragraph (2) or (3) shall include

- (a) an explanation concerning those parts of the content of the website or mobile application, as the case may be, that are not accessible, the reasons for that inaccessibility and, where appropriate, the accessible alternatives provided,

- (b) a description of, and a link to, a feedback mechanism enabling any person -
 - (i) to notify the public sector body concerned of any failure of any of its websites or mobile applications to comply with the accessibility requirements set out in Regulation 4, and
 - (ii) to request information in relation to those parts of the content that is inaccessible notwithstanding that the content concerned may be content referred to in Regulation 3 (3) or 6, and
- (c) a link to the redress or complaint provisions, or both, as the case may be, of the Equal Status Act 2000 (No. 8 of 2000) and the Disability Act 2005 (No. 14 of 2005) to the extent to which they apply to the body concerned.

(5) Public sector bodies shall give an adequate response to a notification or request referred to in paragraph (4)(b) within a reasonable period of time.

Monitoring and Reporting

8. (1) The National Disability Authority is the monitoring body for the purposes of the Directive and these Regulations.

(2) The monitoring body shall periodically monitor the compliance of websites and mobile applications of public sector bodies with the accessibility requirements set out in Regulation 4 on the basis of the monitoring methodology provided for in Commission Implementing Decision (EU) 2018/1524.

(3) The monitoring body shall, subject to paragraph (4), submit a report to the Minister for Communications, Climate Action and Environment not later than 23 December 2021, and on each third anniversary of 23 December 2021, on the outcome of the monitoring carried out by it under paragraph (2), including measuring data. The report shall also include information on the use of the complaint and redress provisions referred to in Regulation 7(4)(c).

(4) The first report submitted in accordance with paragraph (3) shall also include -

- (a) a description of the mechanisms set up for consulting with relevant stakeholders on the accessibility of websites and mobile applications,
- (b) procedures to make public any developments in accessibility policy relating to websites and mobile applications,
- (c) experiences and findings from the implementation of the rules on conformity with the accessibility requirements set out in Regulation 4, and
- (d) information on training and awareness-raising activities in relation to the accessibility of websites and mobile applications.

(5) Where, in relation to the matters referred to in paragraph (4), there have been significant changes since the submission of the first report, the monitoring body shall include in its next following report information concerning those changes.

(6) The content of all reports shall be made public in an accessible format.

(7) A report prepared under this Regulation is not required to include a list of the websites, mobile applications or public sector bodies which have been the subject of monitoring under this Regulation.



GIVEN under the Official Seal of the Minister for
Communications, Climate Action and Environment,
23 September 2020.

EAMON RYAN

Minister for Communications, Climate Action
and Environment.

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