



# Preparing for the Building Safety Act – What do I need to do?

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# Introduction

Where are we now?



# Summary

This is a time of unprecedented change in our sector:

the Building Safety Act and supporting regulations **are** driving the most far reaching review of building and fire safety legislation in half a century;

greater digitalisation, modularisation and off-site fabrication and assembly **are** government priorities;

the Climate Change Act's net zero carbon target by 2050 **is** driving changes to building energy legislation, including Parts L, F, O and S which came into force in June 2022 with the Future Homes and Buildings Standards due in 2025.



# Building a Safer Future

Independent Review of Building  
Regulations and Fire Safety:  
**Final Report**



# Key issues underpinning system failure

**Ignorance** and misunderstanding of regulations and guidance

**Indifference** –to quality and safety and focus on speed and cost

**Lack of clarity** on roles and responsibilities and of accountability.

**Inadequate regulatory oversight** and enforcement tools, action and deterrence

## Building a Safer Future

Independent Review of Building  
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# The government position

## Has accepted ALL of Dame Judith Hackitt's findings

Passed Fire Safety Act 2021– implementation via the Fire Safety (England) Regulations 2022 – commenced 16<sup>th</sup> May 2022

Passed the Building Safety Act 2022 – on 29<sup>th</sup> April 2022

- Establishing the new Building Safety Regulator for ALL buildings, NOT just higher risk buildings
- A new regime for Construction Products safety and approvals – *Draft Construction Product Regulations (Nov 2021)*
- Developing a new competence framework for ALL in the industry – *Draft Building (Appointment of Persons, Industry Competence and Duty holders) Regulations (Nov 2021)*
- Stringent procedures to notify work on HRBs – *Draft Building (Higher-Risk Buildings) (England) Regulations (Nov 2021)*



# Building Safety Act 2022

CHAPTER 30

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Explanatory Notes have been produced to assist in the understanding of this Act and are available separately

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# What is a ‘higher risk building’?

The term “Higher-risk building” means a building in England that—

- (a) is at least 18 metres in height or has at least 7 storeys, and
- (b) is of a description specified in regulations made by the Secretary of State.

It is initially expected to apply to buildings with two or more residential units that meet the height threshold during their whole life

Also applies to hospitals and care homes that meet the height threshold until completion (they then come under workplace regulations and the Health and Social Care Regulations, in particular Regulation 15 on fitness for use)

The new Act creates duties for the Accountable Person (the duty holder in occupation) in relation to building safety risks in their building

Part 4 defines the scope of the new regime for higher-risk buildings in England in occupation.





# Fire Safety Act 2021

External Walls and Fire Doors to individual flats or apartments ARE common parts and so the freeholder or person responsible for the building as a whole has a legal duty to include them in their fire risk assessments on the building;

The Act received Royal Assent in 2021

It has been brought into force on 16<sup>th</sup> May 2022 through the Fire Safety (England) Regulations 2022 and requires additional tasks for risk assessments and regular checking of fire safety equipment in relation to blocks over 11m in height and further safety requirements in all multi-residential buildings;

PAS 9980 Fire risk appraisal of external wall construction and cladding of existing blocks of flats - Code of practice has been published by BSI.



# Building Safety Reform Legislation

Where are we going now?



# Building Safety Act 2022



## Building Safety Act 2022

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300  
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298  
Days

# Aims of the Building Safety Act

To remedy the systemic issues identified by Dame Judith Hackitt by strengthening the whole regulatory system for building safety.

To create greater accountability and responsibility for fire and structural safety issues throughout the lifecycle of buildings, including:

- creating a Building Safety Regulator in England to drive improved building safety and performance standards in all buildings and oversee a new, more stringent regime for higher-risk buildings;
- defining “higher risk buildings” and creating powers to regulate their design, construction **and operation**
- improved competence and oversight of the industry and regulators in the built environment
- giving residents a stronger voice in the system;
- establishing additional protections for leaseholders in relation to remediation costs;
- extending scope of the Defective Premises Act 1972 to improve routes to redress for past actions;
- driving industry culture change and incentivising compliance;
- providing a stronger, clearer oversight framework for construction products.



# Secondary Legislation

In addition to the Act eight sets of draft regulations were issued last November as examples:

The Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations [2021]

The Architects (Fees for Services) Regulations [2022]

The Building (Restricted Activities and Functions) (England) Regulations [2022]

The Building Safety (Fees) Regulations [2022]

The Construction Products Regulations [2022]

The Building (Higher-Risk Buildings) (England) Regulations [2022]

The Higher-Risk Buildings (Prescribed Principles for Management of Building Safety Risks) Regulations [2022]

The Building (Appointment of Persons, Industry Competence and Duty holders) (England) Regulations [2021]

**We now have the latest consultation package live  
Implementation will run through into 2024**



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# Building Safety Act 2022

An Act in six Parts

- Introduction and Scope
- Establishing the new Regulator, Committees and Powers
- Major revision and reform of the Building Act 1984 (England & Wales) including the definition of higher risk buildings
- The new Higher Risk Buildings Regime in operation (*residential*)
- Construction Products, Architects Registration (UK wide)
- Technical clauses relating to liability, Crown Application, transitional arrangements and other legal provisions

The Act also contains enabling provisions relating to the costs of building remediation

# Building Safety Act

## Part 1: Introduction and Scope

The Act takes forward the Government's commitment to fundamental reform of the building safety system.

The Act is also a vehicle for wider improvements including changes to the Architects Act, the Housing Act 1996, and provisions to establish a National Regulator for Construction Products and a New Homes Ombudsman.

Much of the Act applies only to England. However, procedural provisions, particularly in Part 3, also apply to Wales.

Provisions in Part 5 relating to Construction Products and Architects Registration provisions apply to the whole of the UK.



# Building Safety Act

Part 2: Establishing a new Regulator, Committees and Powers

This part has legally established the Building Safety Regulator (BSR) for England, within the HSE, with overall responsibility for the building safety regime for ALL buildings;

The BSR will operate within the HSE and is answerable to DLUHC (or its successor Departments);

Once the BSR is up and running it will establish the

Buildings Advisory Committee

Industry Competence Committee

Residents Committee

BRAC will be abolished





# The Building Safety Regulator

The Act gives the new Regulator various duties:

- Transfers oversight of the building control system to the BSR

*This includes ALL building work that requires building control approval – whether through a building notice or full deposit of plans - NOT just for higher risk buildings – its for everything!*

*The BSR will set standards and operate a statutory register for all building control professionals – both building inspectors and building control approvers*

*The BSR will have oversight of enforcement of building regulations, with potential criminal sanctions in the worst cases*

*For all HRBs the BSR will be the Building Control Body*

- Sets duties to oversee competence requirements for work on ALL buildings
- Establishes new duty holder roles and regulatory gateways



# Building Safety Act

Part 3: Major revision and reform of the Building Act 1984 and definition of Higher Risk Buildings (HRBs)

Part 3 makes wide ranging and extensive changes to the Building Act 1984 to enable the new regime.

These apply to the Building Act 1984, and so apply to ALL building work\* regulated under that Act. It also provides for the registration of building inspectors and building control approvers to better regulate and improve competence levels in the building control sector.

The Building Act applies to England and Wales – Building Regulations are devolved in Wales

\* Building work is defined in Regulation 3 of the Building Regulations



# Meaning of building work

3.—(1) In these Regulations “building work” means—

- (a) the erection or extension of a building;
- (b) the provision or extension of a controlled service or fitting in or in connection with a building;
- (c) the material alteration of a building, or a controlled service or fitting, as mentioned in paragraph (2);
- (d) work required by regulation 6 (requirements relating to material change of use);
- (e) the insertion of insulating material into the cavity wall of a building;
- (f) work involving the underpinning of a building;
- (g) work required by regulation 22 (requirements relating to a change of energy status);
- (h) work required by regulation 23 (requirements relating to thermal elements);
- (i) work required by regulation 28 (consequential improvements to energy performance).

# Building Safety Act

Part 4: defines the scope of the new regime for higher-risk buildings in England **in occupation.**

In Part 3 a new section is added to the Building Act 1984 - Section 120D

“Higher-risk building” means a building in England that—

- (a) is at least 18 metres in height or has at least 7 storeys, and
- (b) is of a description specified in regulations made by the Secretary of State.

Initially expected to apply to buildings with two or more residential units during their whole life and also to hospitals and care homes until completion.

Creates duties for the Accountable Person (the duty holder in occupation) in relation to building safety risks in their building.



# The new regime and “Buildings in Scope”



The new Building Safety Regulator applies to all buildings, not just those in scope of the more stringent regime for higher risk buildings set out in Part 4 of the Bill

# Building Safety Act

## Part 5: Architects Registration

Amends the regulation of architects **across the UK**

Allows disciplinary orders made against architects by the Professional Conduct Committee of the Architects Registration Board to be listed alongside an architect's entry in the Register of Architects.

Also makes further changes to the Fire Safety Order

Includes provisions to require a New Homes Ombudsman scheme to be established

Makes provisions relating to service charges and redress



# Construction Products

Part 5 also includes specific provisions relating to construction products:

It intends that all construction products made available on the UK market should be regulated. The Building Safety Act takes powers to:

- require construction products to be safe; and
- create a statutory list of ‘safety critical’ construction products.
- introduces new liabilities on materials producers for defective products

This is in addition to the existing product safety regulatory regime.

Creates “building liability orders” and amends the Defective Premises Act 1972.

# Construction Products

Part 5 gives the Secretary of State the power to regulate construction products for the whole of the United Kingdom, to enforce the regulations and to amend the current regime to ensure that it remains fit for purpose.

Creates a new National Regulator for Construction Products within the Office of Products Safety and Standards. Whilst the OPSS sits within BEIS, DLUHC will retain responsibility for construction products policy and DLUHC Ministers will remain accountable to Parliament.

Part 5 creates “building liability orders” and amends the Defective Premises Act 1972.





## So What?

How will building professionals need to respond?



# A new, rigorous legal framework for design and construction of ALL buildings

This will include:

Defined dutyholder roles, based on the CDM model i.e. client, principal designer, principal contractor, designers and contractors.

These will apply to **all** building work – not just work on higher-risk buildings.

Explicit competence requirements to ensure that those carrying out design or building work are competent or are in training and appropriately supervised.

a new unified professional and regulatory structure for building control, including registration of building control inspectors and building approvers (the new term for approved inspectors),

oversight of competence and performance of building control by the Building Safety Regulator

the BSR will be the building control body for all HRBs



# Enforcement during design and construction

Changes to the Building Act 1984 strengthen existing powers and introduce new powers for the Building Safety Regulator and for local authorities. Directors/managers can be found liable for any of the **criminal offences**

## **Section 35 of BA84 (breach of building regulations):**

Triable either way – removes altogether the time limit for prosecutions under s35  
Increased penalty – max. penalty of an unlimited fine and up to two years in prison

## **Section 36 of BA84 (notice for remedial action):**

Extending the time limit for enforcement from one year to ten years

## **Compliance notices**

For any breach of building regulations, requiring corrective action by a set date: failure to comply a **criminal offence**

## **Stop notices:**

Can be served against a breach of specified building regulations (i.e. at Gateways), a breach of a compliance notice and any breach of building regulations which is likely to cause 'serious harm'. Requires all specified work is stopped until the contravention is rectified. Failure to comply will be a **criminal offence**.



# Building Control requirements for HRBs

Specific requirements for building control of HRBs

Gateways for design and construction

Requirements to record, manage, notify and obtain approval of changes

Requirements for the Golden Thread of information to support safe operation of the building in occupation

Occurrence reporting requirements

Completion certificates

Notification of and transfer of information on change of client or principal designer or contractor

# Managing HRBs – implications for building owners

Regulating building safety in operation for the first time

Requiring accountable persons to have, maintain and use the golden thread of information to enable them to manage their building safely

Managing safety risks effectively with clearly identified and competent dutyholders during occupation and any refurbishment of high-rise buildings.

During occupation, Accountable Persons must demonstrate to the Building Safety Regulator and to their residents, that they have effective, proportionate measures in place to manage safety.

Those who don't meet their obligations may face criminal charges.



# So What?

- Changes in legislation ARE coming to the industry – the whole industry
  - This will not be going away!
  - Changes to Professional Accreditation and greater regulation
  - New, key, roles of Principal Designer and Principal Contractor
  - The HSE will oversee the Building Regulations and Building Control
  - Responsibility being placed on accountable person for the owners
  - Integration of the Golden Thread into building safety management
  - The need for a safety case process and regular safety case reports
  - - so HRBs will need to be re-approved for occupation regularly
  - Both new and existing buildings are covered
  - The industry is concerned about resources and timing, but the message is clear – start to prepare now. There will be little sympathy for excuses later!
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- **The time to start preparing is now!**



## Further reading & resources

For the latest on the Act and its implications for CIBSE members see  
<https://www.cibse.org/policy-insight/key-policy-areas/building-safety-act>

For more on the changes to Parts F, L and the new Parts O and S  
<https://www.cibse.org/policy-insight/key-policy-areas/building-regulations-2021>



## Further reading & resources

The following links are almost essential reading to provide fuller context for the material presented above:

The government's Building Safety Act webpage

<https://www.gov.uk/government/collections/building-safety-bill>

In particular the factsheets that accompanied the Bill through parliament and explain the policy changes in detail:

<https://www.gov.uk/government/publications/building-safety-bill-factsheets>

The Act itself

<https://www.legislation.gov.uk/en/ukpga/2022/30/contents/enacted>



**Thank you for listening**

**Any questions?**

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