

Research Briefing

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Building regulations and safety



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Summary

Building regulations set standards for construction and refurbishment work in England. The Grenfell Tower fire in 2017 prompted a review of the rules and processes governing building safety.

In response, the government passed the [Building Safety Act 2022](#). It creates rigorous rules specifically for the construction, refurbishment and occupation of high-rise residential buildings.

Building regulations and safety are devolved matters. This briefing focuses on the situation in England with section 8 covering the devolved administrations.

What are building regulations in England?

All building work carried out in England must adhere to building regulations made under the [Building Act 1984](#) and the [Building Regulations 2010](#). These set minimum standards for the design, construction and performance of new buildings; building control bodies must approve new buildings to ensure they meet the standards. The standards apply to existing buildings only when they undergo certain changes, such as refurbishment.

Building regulations are performance based: they set outcomes that need to be met but do not set out how these outcomes must be achieved. For example, a building needs to meet energy efficiency requirements, but it does not need to be fitted with a specific type of insulation or heating system.

The government provides guidance of how to comply with building regulations in common building situations in [Approved Documents](#).

How is building work approved?

Anyone carrying out work that is controlled under building regulations must obtain approval from a building control body, either local authority building control or a privately approved inspector.

The building control approval process happens in three stages:

1. Before starting, the applicant or the privately approved inspector if one is used, will notify the local authority of the work.

2. During construction, the local authority building control or privately approved inspector will carry out regulatory inspections.
3. On completion, the local authority or privately approved inspector will issue a completion or final certificate if they are satisfied with the work.

How do local authorities enforce compliance?

A local authority has powers to ensure that buildings in its area comply with building regulations. It can force developers to fix non-compliant work and pursue prosecution against those who violate building regulations.

Those carrying out the building work are responsible for making sure they comply with building regulations. The local authority or privately approved inspector is not liable for any defects.

Review of building regulations and safety after the Grenfell Tower fire in 2017

The Grenfell Tower fire in 2017 in a residential tower block in London resulted in the deaths of 72 people. The rapid spread of the fire up the tower has been linked to the cladding material used in the external walls. The [Grenfell Tower Inquiry found “compelling evidence”](#) that the external walls did not comply with the Building Regulations 2010.

The fire prompted a [review of building regulations and fire safety led by Dame Judith Hackitt](#). The review recommended a new regulatory regime for high-rise buildings (including blocks of flats) as well as reforms to the wider building safety regime that covers all buildings.

The government’s main legislative response to the Grenfell Tower fire was the [Building Safety Act 2022](#). The Act made the changes recommended by the Hackitt review. It also created a new body, the Building Safety Regulator (BSR) within the Health and Safety Executive.

New regulations for high-rise buildings

The [Building Safety Act 2022](#) created a new regulatory regime for ‘higher-risk’ buildings, that is buildings that are 18 or more metres in height or have seven or more storeys and contain at least two residential units.

It will apply to residential buildings (such as blocks of flats), care homes and hospitals during design and construction. During occupation, it will cover only residential buildings.

During design, construction and refurbishment

From October 2023, the BSR will oversee the building control approval process for all higher-risk buildings. These buildings will also have to pass through a more rigorous process consisting of three gateway points:

- Gateway 1: Fire safety is considered as part of the planning permission process. Since August 2021, the local planning authority has been required to consult the Health and Safety Executive on planning applications for higher-risk residential buildings.
- Gateway 2: From October 2023, building work on higher-risk buildings will only be able to start after the developer has approval from the BSR. The BSR will also carry out regular inspections during construction.
- Gateway 3: From October 2023, higher-risk buildings will only be allowed to be occupied after the BSR has checked that the building work is compliant and has issued a building control certificate.

During occupation

For higher-risk residential buildings (but not hospitals and care homes), the government also created the role of the '[accountable person](#)'. The role will usually be fulfilled by the building owner or the person responsible for the building's maintenance. They will be responsible for assessing and managing 'building safety risks' during occupation.

The accountable person will be required to register their building with the BSR. The BSR will 'call in' registered buildings at regular intervals to make sure the accountable person complies with their duties to regularly assess and continuously manage building safety risks.

Wider reforms to building safety regulations

The [Building Safety Act 2022](#) also made reforms to better align private-sector and public-sector building control bodies. Both will be overseen by the BSR in future and will be required to adhere to common competency criteria.

Privately approved inspectors will be replaced by 'building control approvers' who will have to register with the BSR.

Failure to comply with the BSR's standards could result in enforcement action. For example, the BSR will be able to recommend that the Secretary of State should suspend a local authority's building control function, and it will be able to revoke a building control approver's registration.

Further enforcement powers

The [Building Safety Act 2022](#) will also strengthen the enforcement powers of local authorities to deal with violations of the building regulations:

- They will be able to issue new stop and/or compliance notices which require non-compliant work to stop temporarily and/or be fixed.
- Time limits for existing enforcement powers will be extended or removed.

The BSR will have the same powers as local authorities. In future, residents who suffer damages (such as property damage or personal injury) because building regulations and processes were not followed will also have recourse to claim compensation.

This briefing discusses building regulations and standards for building safety as well as the government's response to the Grenfell Tower fire.

This briefing discusses building regulations, which set standards for the construction, performance and safety of buildings, and the Government's response to the Grenfell Tower fire

1 Building regulations: Parts A to S

All building work that is carried out in England must adhere to building regulations as required by the [Building Act 1984](#) and the [Building Regulations 2010](#).¹ The government publishes [Approved Documents: Parts A to S](#) to provide guidance on how to meet building regulations requirements.

The government's [Manual to the Building Regulations](#) (PDF, July 2020) offers an overview of the regulatory framework and the building control process.²

Building regulations set minimum standards for the design, construction and performance of buildings, which are intended to secure the health, safety and welfare of people using or affected by a building.³ They also set requirements for energy efficiency, water use and reducing waste, among other things.

1.1 When do building regulations apply?

Building regulations apply when 'building work' is undertaken. They apply primarily when constructing new buildings and apply to existing buildings only when they are undergoing certain changes (such as refurbishment).

[Regulation 3 of the Building Regulations 2010](#) sets out a definition of 'building work' and, thus, when building regulations apply:

- Constructing a new building or extending an existing building
- Undertaking work required due to a material change of use of an existing building (for example, from an office to a residential building)⁴
- Altering a 'controlled' fitting or service (for example, installing or replacing a window or a boiler)
- Renovating the thermal elements of a building, such as ground floors, roofs or external walls (for example, to put in insulation).⁵

¹ [Building Act 1984](#); [Building Regulations 2010](#)

² Ministry of Housing, Communities and Local Government (MHCLG), [Manual to the Building Regulations](#) (PDF), July 2020

³ MHCLG, [Manual to the Building Regulations](#) (PDF), July 2020, page 5

⁴ [Regulation 5 of the Building Regulations 2010](#)

⁵ [Regulation 3 of the Building Regulations 2010](#). Further information on what is considered 'building work' for the purpose of the building regulations is set out in the [Manual to the Building Regulations](#) (PDF), pages 27-32.

The [Building Regulations 2010](#) apply only at the time when building work is taking place. This means standards for a building will usually depend on which version was in force when the building was built. For example, to a home built in 2005, the [Building Regulations 2000](#) would have applied. There is no requirement to retrofit a building to comply with updated requirements.

Exemptions from building regulations

Certain types of buildings are not required to adhere to building regulations:

- Buildings not visited by people, such as plant rooms
- Certain greenhouses, agricultural buildings and buildings for animals
- Temporary buildings that are only in place for up to 28 days
- Small, detached buildings without sleeping accommodation
- Conservatories, porches and carports with a maximum floor area of 30 square metres.⁶

Statutory undertakers, such as utility and telecoms companies, also do not have to follow building regulations and processes for buildings that they use for “the purposes of their undertaking”.⁷

Crown buildings, such as central government offices or courts of law, are also currently exempt from the procedural aspects of building regulations. They still have to meet the requirements set out in the [Building Regulations 2010](#) but have their own systems of control in place. In future, the [Building Safety Act 2022](#), the [Building Act 1984](#) will also apply to Crown buildings, however.⁸

1.2

A performance-based system

The [Building Regulations 2010](#) set performance-based requirements: they set outcomes that building work needs to achieve, but they do not set out how these outcomes need to be met. They do not set prescriptive rules over which materials, methods or technologies should be used to achieve compliance.⁹

[Schedule 1 of the Building Regulations 2010](#), which sets out the requirements, uses terms such as ‘reasonable’, ‘appropriate’ and ‘adequate’ to convey that

⁶ [Regulation 9 of the Building Regulations 2010](#); [Schedule 2 of the Building Regulations 2010](#)

⁷ [Section 4 of the Building Act 1984](#); MHCLG, [Manual to the Building Regulations](#) (PDF), July 2020, paras A8-A10

⁸ [Section 5 of the Building Act 1984](#); [Section 59 of the Building Safety Act 2022](#)

⁹ The terms ‘outcomes-based’ and ‘performance-based’ are often used interchangeably, both in contrast to a ‘prescriptive’ system, see MHCLG, [Building a Safer Future: Final Report](#) (PDF) CM 9607, May 2018, footnote 63

how requirements are met will depend on the specific circumstances of a building. For example, [Part B on fire safety](#) states that:

- a building must have ‘appropriate’ provisions to warn occupants in the event of a fire and ‘appropriate’ means to allow them to escape.
- the internal linings and external walls of a building must ‘adequately’ resist the spread of fire.
- a building must be able to maintain its structural stability for ‘a reasonable period’ in the event of a fire.
- a building must include measures such as, subdividing a building with fire-resisting construction and/or installing fire suppression systems where it is ‘reasonably necessary’ to inhibit the spread of fire.

By contrast, under a prescriptive system, the law would set out instructions for how a building needs to be constructed, depending on what the building is would be used for and who would occupy it. The law would also include rules about which materials, methods or technologies must or must not be used.¹⁰

The government explained its approach in a response to a January 2022 parliamentary question on solar panels. It said a performance-based system provided “the flexibility to innovate and select the most practical and cost-effective solutions appropriate in any development”.¹¹

Approved Documents: Prescriptive guidance

The government publishes [Approved Documents](#) to provide developers and builders with guidance on how to meet the requirements set out in the [Building Regulations 2010](#). The Approved Documents provide examples and solutions on how to achieve compliance in common building situations.¹²

Effectively, they provide prescriptive guidance on how to meet the performance-based requirements of the [Building Regulations 2010](#).

For example, [Approved Document B](#) on fire safety recommends that newly built blocks of flats over eleven metres should include a sprinkler system.¹³

However, there are other ways to meet the requirements set out in the [Building Regulations 2010](#) than following the Approved Documents.

¹⁰ MHCLG, [Building a Safer Future: Final Report](#) (PDF) CM 9607, May 2018, para 3.20

¹¹ PQ 98447 [on [Buildings and Housing: Solar Power](#)] 5 January 2022

¹² Department for Levelling Up, Housing and Communities (DLUHC) and MHCLG, [Approved Documents](#), last updated December 2021. Archived versions of the Approved Documents are available on the [website of the National Archives](#).

¹³ Since 2007, Approved Document B has recommended that sprinklers should be installed in high-rise blocks over 30 metres. In 2020, the government lowered the threshold to 11 metres.

1.3

What works do building regulations cover?

[Schedule 1 of the Building Regulations 2010](#) sets out the requirements that building work must adhere to are set out. The requirements are grouped in 17 parts, covering a range of aspects of building construction, design and performance. The annex provides a broad outline of each of these requirements.

Some apply both to dwellings (homes and flats) and non-dwellings (such as offices or shops), while others set different technical standards for different types of buildings.

The following Commons Library briefings provide further information on specific aspects of the [Building Regulations 2010](#):

- Sections 8.1 and 8.2 of the briefing on [Health inequalities: Cold or damp homes](#) (February 2023) set out the requirements in Part C (resistance to moisture) and Part F (ventilation) set for newly built homes.¹⁴
- Section 2.4 of the briefing on [Building broadband and mobile infrastructure](#) (December 2022) explains the requirements of Part R (electronic communications).¹⁵
- Section 2.4 of the briefing on [Electric vehicles and infrastructure](#) (February 2023) explains the requirements of Part S (electric vehicles).¹⁶

Table 1: Outline of the requirements of the Building Regulations

Relevant part	Requirements, as set out in the Building Regulations 2010
Part A: Structure	A building must be structurally safe. Ground movements and wind loads should not affect its structural stability or that of other buildings.
Part B: Fire safety	<p>The internal linings (the materials used in walls and ceilings) and external walls of a building must ‘adequately resist’ the spread of fire. A building must also be designed and constructed to inhibit the spread of fire and smoke in concealed spaces.</p> <p>The walls between buildings should also prevent the spread of fire. Where it is ‘reasonably necessary’ to inhibit the spread of fire, measures that subdivide a building (such as fire doors) and fire suppression system (such as sprinklers) should also be installed in a building.</p> <p>In the event of a fire, a building must have ‘appropriate provisions’ to warn occupants and ‘appropriate means’ to allow them to escape. A building</p>

¹⁴ Commons Library, [Health inequalities: Cold or damp homes](#) CBP 9696, February 2023

¹⁵ Commons Library, [Building broadband and mobile infrastructure](#) CBP 9156, December 2022

¹⁶ Commons Library, [Electric vehicles and infrastructure](#) CBP 7480, February 2023

	<p>must also be able to maintain its structural stability in the event of a fire for ‘a reasonable period’, that is, it should not collapse.</p>
<p>Part C: Site preparation and resistance to contaminants and moisture</p>	<p>The ground on which a building is built should be free of materials that might damage a building or its stability, and contaminants from the ground should not affect the building.</p> <p>The walls, roof and floors of a building should protect the building and its occupants from moisture, rain and condensation.</p>
<p>Part D: Toxic substances</p>	<p>Toxic chemicals used in cavity wall insulation should not permeate to any part of the building occupied by people.</p>
<p>Part E: Resistance to passage of sounds</p>	<p>In homes and flats (and other residential buildings), separating walls and floors should reduce the passage of sound from other parts of the building or adjoining buildings. There are additional requirements for walls between bed- and bathrooms and between flats and common areas.</p> <p>Part E also sets standards for acoustic conditions in schools to minimise noise disturbance.</p>
<p>Part F: Ventilation</p>	<p>Part F requires that ‘adequate means of ventilation’ are provided to meet minimum air quality standards and prevent condensation. These standards may be met using natural ventilation (for example, windows), mechanical ventilation (for example, extract fans) or a combination of both.</p>
<p>Part G: Sanitation, hot water safety and water efficiency</p>	<p>A building must have a cold-water supply “where drinking water is drawn off” and a hot- and cold-water supply to sinks in areas where food is prepared and to sinks, showers and baths in bathrooms.</p> <p>All buildings must have a bathroom with a toilet and a sink. In addition, homes must also have a bath or shower in the bathroom.</p> <p>For new homes, Part G also sets water efficiency requirements: average water usage should not exceed 125 litres per person per day.</p>
<p>Part H: Drainage and waste disposal</p>	<p>A building must have a drainage system that is capable of carrying foul water to a public sewer (or to a private sewer that connects to a public one). Where it is not ‘reasonably practicable’ to connect a building to the sewerage system, a building may have a cesspool, wastewater treatment system, or septic tank as an alternative.</p>
<p>Part J: Fuel storage and combustion appliances</p>	<p>Part J sets safety standards for combustion appliances where fuel is burned to generate heat for space or water heating or cooking (such as boilers, fires, stoves and cookers). It also sets ventilation requirements allow for the discharge of by-products of combustion to the outside.</p> <p>In addition, homes must be fitted with a carbon monoxide alarm in rooms where combustion appliances are provided.</p>
<p>Part K: Protection from falling, collision and impact</p>	<p>All stairs, ramps and balconies in a building should have barriers to protect people from falling. Any glazing should be resistant to impact without breaking. If broken, should break in a way that is unlikely to cause injury.</p>

	In buildings other than dwellings, windows, doors and gates should be positioned so they do not hit people and people do not bump into them.
Part L: Conservation of fuel and power	The thermal elements of a building (such as walls, roof and floors) should limit heat losses and gains, and a building’s fixed services (such as heating and lighting) should be energy efficient. Part 6 of the Building Regulations 2010 also sets target carbon emission rates and, as of June 2022, target primary energy rates for new builds. In addition, homes should meet minimum fabric energy efficiency standards.
Part M: Access to and use of buildings	In all buildings, ‘reasonable provisions’ must be made to allow people (including those with disabilities) to gain access to the building and use its facilities, specifically habitable rooms and toilets on the ground floor. Part M also includes additional optional standards for accessible and adaptable homes (M2) and wheelchair accessible homes (M3) that local authorities may impose on developments in their area.
Part O: Overheating	Since June 2022, new homes and other residential buildings must be built to limit temperature increases from the sun. They have to include measures to remove excess heat and cool the inside of a home, so maximum glazing or internal temperature requirements are not exceeded. ¹⁷
Part P: Electrical safety	Part P set standards for electrical safety to protect the people who use, maintain, or alter electric installations from fire and injury, including from electrical shocks and burns.
Part Q: Security	Part Q requires that ‘reasonable provisions’ are made to stop unauthorised access to homes and flats. For example, doors and windows should be fitted with appropriate hardware to prevent burglars from entering.
Part R: Electronic communications	As of December 2022, new residential buildings must have gigabit-ready infrastructure that connects to a network distribution point (or as close as practicable) and, subject to a cap of £2000 per dwelling, a connection capable of delivering broadband speeds of 1000Mbps or more.
Part S: Charging of electric vehicles	Certain buildings with associated parking must have electric vehicle charging points (since June 2022).

Source: [Schedule 1 of the Building Regulations 2010](#); Designing Buildings, [Building regulations](#), last updated 25 November 2022

¹⁷ This includes buildings that contain rooms for residential purposes, for example care homes or student accommodation. It does not include hotels.

2

Building control approval

The person carrying out the work must seek approval from a building control body when carrying out work that is controlled under the [Building Regulations 2010](#). They can choose whether to use building control services by their local authority or a privately approved inspector.

Privately approved inspectors were introduced in 1985, initially only to provide building control services for homes and individual flats. Since 2013, they have been able to cover all types of building work.¹⁸ The National House Building Council (NHBC) is the largest privately approved inspector in England.¹⁹

The [Building \(Approved Inspectors etc.\) Regulations 2010](#) govern how they should operate. They set out that individuals or companies who want to have approved inspector status need to register with the [Construction Industry Council Approved Inspectors Register](#) (CICAIR), a subsidiary of the Construction Industry Council (CIC), and seek re-approval every five years.²⁰

Under the [Building Safety Act 2022](#), privately approved inspectors will have to register with the Building Safety Regulator between October 2023 and April 2024 to continue to provide building control services in future (see section 6.1). They will be known ‘registered building control approvers’ (RBCAs).

1 Competent person scheme

Minor building work, such as installing a boiler or replacing a window, does not require approval from a building control body if a ‘[competent person](#)’ carries out the building work. A competent person is an installer who is registered with [an authorised organisation](#).²¹ They can self-certify that their work complies with building regulations. To be registered as a competent person, they must show that they meet minimum competency requirements.²²

[Schedule 3 of the Building Regulations 2010](#) sets out which types of work are covered and which organisations can register installers.²³

¹⁸ MHCLG, [Building a Safer Future: Interim report](#) (PDF) CM 9551, December 2017, para 3.42

¹⁹ National House Building Council (NHBC), [What is building control?](#), April 2018

²⁰ [Building \(Approved Inspectors etc.\) Regulations 2010](#)

²¹ [Regulation 20 of the Building Regulations 2010](#)

²² DLUHC and MHCLG, [Competent person scheme - current schemes and how schemes are authorised](#), last updated March 2018

²³ [Schedule 3 of the Building Regulations 2010](#)

Regardless of whether a local authority or an approved inspector are used, the developer or builder has to pay a fee. Local authorities set their own rates in line with the [Building \(Local Authority Charges\) Regulations 2010](#). Approved inspectors have greater flexibility in setting their rates than local authorities.

2.1 Building control approval: Process

The building control approval process takes place in three steps:

1. Before starting work: The applicant, or the privately approved inspector if one is used, will notify the local authority of the work. The notice must include a description of the proposed work.²⁴
 - a) For certain types of work (for example, to buildings to which the [Fire Safety Order 2005](#) applies) the applicant must share building plans with the local authority. The local authority has to check the plans and consult relevant authorities (for example, the fire authority).²⁵
 - b) If the work is on a building to which the [Fire Safety Order 2005](#) applies, the approved inspector must also consult the fire authority. An applicant can also ask (but is not required to) their approved inspector to certify that their building plans are compliant.²⁶
2. During construction: An inspector from the local authority, or the privately approved inspector if one is used, will carry out regular inspections to assess whether the building work is compliant.²⁷
3. On completion of the work: The local authority, or the privately approved inspector if one is used, will issue a completion or final certificate if they are satisfied that the building work meets relevant requirements.²⁸

The government's [Manual to the Building Regulations](#) (PDF) sets out the steps in the building control approval process in detail in chapters 2 and 6.²⁹

A local authority will issue a 'completion certificate' if it is "satisfied, after taking all reasonable steps", that relevant requirements are met.³⁰ Where building work is not compliant, and the applicant does not fix the work, the local authority can take enforcement action (see section 2.3).

²⁴ [Regulation 13 of the Building Regulations 2010; Sections 47 to 48 of the Building Act 1984; Regulation 10 of the Building \(Approved Inspectors etc.\) Regulations 2010](#)

²⁵ [Regulations 12 to 14 of the Building Regulations 2010; Article 45 of the Regulatory Reform \(Fire Safety\) Order 2005; Regulation 15 of The Building Regulations 2010](#)

²⁶ [Section 50 of the Building Act 1984; Regulations 12 to 13 of the Building \(Approved Inspectors etc.\) Regulations 2010; MHCLG, \[Manual to the Building Regulations\]\(#\) \(PDF\), July 2020, paras E14-E17](#)

²⁷ [Regulation 16 of the Building Regulations 2010](#)

²⁸ [Regulation 17 of the Building Regulations 2010; Section 51 of the Building Act 1984](#)

²⁹ MHCLG, [Manual to the Building Regulations](#) (PDF), July 2020

³⁰ [Regulation 17 of the Building Regulations 2010](#)

If an approved inspector thinks that building work is not compliant, they will not issue a ‘final certificate’ and cancel the ‘initial notice’ they issued to the local authority. If no other approved inspector takes on the work, the matter is referred to the local authority, which can then take enforcement action.³¹

2 Where does the Fire Safety Order apply?

The fire safety of all non-domestic premises is governed by the [Regulatory Reform \(Fire Safety\) Order 2005](#) (the Fire Safety Order). The Fire Safety Order also applies to communal areas (such as, staircases and corridors) in multi-occupied blocks of flats. The [Fire Safety Act 2021](#) clarified that, in shared blocks of flats, the Fire Safety Order applies to:

- a building’s structure, external walls (including doors and windows in these walls and balconies) and any commons parts; and
- all doors between the domestic premises and common parts (entrance doors to individual flats).³²

2.2

Responsibility for compliance

Receiving a completion or final certificate is not a complete guarantee that building work meets required standards. The role of building control bodies is to ensure that technical standards are met; they are not responsible for monitoring build quality or supervising the construction process.³³

A local authority or approved inspector will issue a completion or final certificate if they are satisfied, after taking “all reasonable steps”, that the work complies with building regulations.³⁴ They will not have checked every piece of work or every aspect of plans.

On its website, the [Local Government Ombudsman](#) explains why local authorities are not responsible for defective or non-compliant work:

Councils should not be seen as a ‘guarantor of last resort’ when things go wrong and are not directly liable for poor or unlawful building work, because ... primary responsibility for building work and compliance with the Regulations rests with building owners and builders.

³¹ [Regulation 31 of the Building \(Approved Inspectors etc.\) Regulations 2010](#); [Section 51 of the Building Act 1984](#); MHCLG, [Manual to the Building Regulations](#) (PDF), July 2020, paras E31-E36

³² [Article 6 of the Fire Safety Order 2005](#), as amended by Section 2 of the [Fire Safety Act 2021](#)

³³ MHCLG, [Manual to the Building Regulations](#) (PDF), July 2020, page 24; Local Government and Social Care Ombudsman (LGSCO), [Building control: I have a problem with the council’s handling of a building control matter](#), August 2022

³⁴ [Regulation 17 of the Building Regulations 2010](#); [Section 51 of the Building Act 1984](#)

A Council may inspect work or issue a completion certificate, but this is not a guarantee that all works meet with Building Regulations. The Council's role is to maintain building standards for the public in general, rather than to protect the private interests of individuals.

The Council's role is simply to satisfy itself that buildings are safe and compliant with the Regulations. It is the responsibility of the person commissioning the works to ensure the work is to the required standard. If work is sub-standard, individuals may be able to seek redress in the courts, if they can show their builder did not act with reasonable care or skill.³⁵

Ultimately, it is the responsibility of those carrying out building work to ensure that it meets required standards and that there are no defects.³⁶

2.3 Enforcement of building regulations

Retrospective approval: Regularisation certificates

Where building work has been carried out without first obtaining building control approval, a building owner may be able to obtain a regularisation certificate from the local authority. If issued, it certifies that the building work complied with the regulations in place when the work was carried out.³⁷

The local authority may request that unauthorised work is 'opened up' for inspection. It may also require the owner to undertake certain remedial work.

Failure to comply with building regulations

A local authority has a general duty to ensure that building work in its area complies with building regulations. It has formal enforcement powers that it may use at its discretion in 'appropriate cases'. It will seek to enforce building regulations by informal means wherever possible, however.³⁸

- Under [Sections 35 and 35A of the Building Act 1984](#), a local authority can prosecute the person who carried out non-compliant building work (for example the builder or contractor). If found guilty, the person may have to pay an upfront fine and further daily fines for not fixing the problems.
 - Currently, prosecution can only be pursued up to two years from the date of completion of the building work. The [Building Safety Act 2022](#) will remove this time limit, so there will be no time limit in future.³⁹

³⁵ Local Government and Social Care Ombudsman (LGSCO), [Case reference: 20_013_465](#), paras 14-15

³⁶ MHCLG, [Manual to the Building Regulations](#) (PDF), July 2020, page 24

³⁷ [Regulation 18 of the Building Regulations 2010](#). Only for works carried out since November 1985.

³⁸ Designing Buildings, [What happens if you fail to comply with building regulations](#), last updated January 2021 [accessed 25 April 2023]

³⁹ [Section 35 of the Building Act 1984](#), as amended by [Section 39 of the Building Safety Act 2022](#)

- Under [Section 36 of the Building Act 1984](#), a local authority can require a building owner to remove non-compliant building work. If the owner does not comply, the local authority can undertake the remedial work itself.
 - Currently, this is only possible up to 12 months from the date of completion of the building work. This period will be extended to ten years when the [Building Safety Act 2022](#) takes effect.⁴⁰

A local authority cannot take enforcement action (under sections 35, 35A or 36 of the Building Act 1984) if the building work was carried out in line with building plans approved by the local authority.

3 Concerns about non-compliance

Concerns about non-compliance with building regulations should be directed to the local authority; however, it is up to the local authority whether to pursue enforcement action against building regulations violations.

Once a council's complaints procedures are exhausted, one option might be to refer to the matter to the [Local Government Ombudsman](#). The Ombudsman can “only rarely” help with building control matters, however, because local authorities are not directly liable for defective building work.⁴¹

⁴⁰ [Section 36 of the Building Act 1984](#), as amended by [Section 39 of the Building Safety Act 2022](#)

⁴¹ LGSCO, [Building control: I have a problem with the council's handling of a building control matter](#), August 2022

3 Review of building regulations after the Grenfell Tower fire

On 14 June 2017, a fire broke out at Grenfell Tower, a 24-storey residential block of flats in Kensington, London. The fire spread rapidly up the tower and affected most of the floors. 72 people died because of the fire, and over 70 people were injured.

The tower, which provided social housing, was managed by Kensington and Chelsea TMO (Tenant Management Organisation) on behalf of Kensington and Chelsea Borough Council. It was built in 1974 and contained 129 flats. In 2016, the tower was refurbished. The refurbishment included new exterior cladding, new windows and the remodelling of the bottom four floors.

The rapid spread of the fire up Grenfell Tower has been linked to the use of unsafe cladding material on the exterior walls of the building.⁴² The Housing, Communities and Local Government (HCLG) Committee's reports on the fire said, because of the way it had spread up the building, the fire had "focused attention on the flaws in the regulation of building safety":

[...] 72 people died at Grenfell Tower at least in part because of serious failures in this country's building regulations and fire safety regime.⁴³

In the wake of the fire, the government commissioned an [Independent Review of Building Regulations and Fire Safety](#) (the Hackitt review) and announced a public inquiry into the fire (the [Grenfell Tower Inquiry](#)).

The problems identified by the Hackitt review and the recommendations it made for the regulation of high-rise blocks of flats are set out below. Sections 4 to 7 of this briefing set out the provisions in the [Building Safety Act 2022](#), the government's main response to the Grenfell Tower fire.

This briefing does not cover all the actions taken by the government following the Grenfell Tower fire, rather it focuses only on those that relate to building regulations. For further information, see the following Library briefings:

- [Grenfell Tower Fire: Background](#), January 2020
- [The fifth anniversary of the Grenfell Tower fire](#), June 2020

⁴² Grenfell Tower Inquiry, [Phase 1 Report – Volume 1](#) (PDF), October 2019, para 2.16

⁴³ Housing, Communities and Local Government (HCLG) Committee, [Independent review of building regulations and fire safety](#) (PDF), July 2019, HC 2546 2017-19, para 1; HCLG Committee, [Pre-legislative scrutiny of the Building Safety Bill](#) (PDF), November 2020, HC 466 2019-20, para 1

3.1

Hackitt review: Review of building regulations and fire safety

Following the Grenfell Tower fire, the government commissioned a review, led by Dame Judith Hackitt, of building regulations and fire safety. An [interim report was published in December 2017](#) and a [final report in May 2018](#).

Problems identified by the Hackitt review

The interim report of the Hackitt review found the current regulatory system for ensuring fire safety in high-rise and complex buildings was “not fit for purpose”.⁴⁴ Specifically, it identified the following problems:

- Complex and unclear regulations and guidance, leading to confusion and misinterpretation in their application.
- Lack of clarity about accountability for building safety throughout a building’s lifecycle.
- No clear routes for residents to escalate concerns about their building.
- Inadequate systems for assessing buildings and ensuring that designs meet standards, and weak sanctions which failed to drive compliance.
- Inadequate means of assessing and ensuring competence among those working on high-rise and complex residential buildings.⁴⁵

A “cultural issue” across the sector

The final report found “a cultural issue across the sector”, which it described as a “race to the bottom”. It concluded there was “insufficient focus” on ensuring that buildings were safe and on “delivering the best quality building possible”.⁴⁶ In particular, it highlighted the following key problems:

- Ignorance: The regulations and guidance were not always read and, when they were, they were often misunderstood and misinterpreted.
- Indifference: The primary motivation was often to do things as quickly and cheaply as possible rather than to deliver quality homes that were safe for people to live in.
- Lack of clarity on roles and responsibilities: It was not always clear who in the construction process was responsible for building safety.

⁴⁴ MHCLG, [Building a Safer Future: Interim report](#) (PDF) CM 9551, December 2017, page 9

⁴⁵ MHCLG, [Building a Safer Future: Interim report](#) (PDF) CM 9551, December 2017

⁴⁶ MHCLG, [Building a Safer Future: Final Report](#) (PDF) CM 9607, May 2018, page 5

- Inadequate oversight: The complexity of a project did not inform the way in which it was overseen by regulators. Necessary enforcement was often not pursued, and penalties were not an effective deterrent.⁴⁷

Recommendations made by the Hackitt review

Dame Judith Hackitt proposed a new regulatory regime to address these problems, focused on multi-occupancy, higher-risk buildings (which she defined as those 10 or more storeys high). Specifically, she recommended:

- The establishment of a Joint Competency Authority (JCA) made up of local authority building control, fire and rescue authorities, and the Health and Safety Executive (HSE).
- The introduction of ‘gateway points’ at the design, construction and completion stage. At each point, dutyholders, including designers, clients and contractors, should have to get their plans signed-off before work could proceed and before a building can be occupied.
- A model of risk ownership in the building process, with defined responsibilities for clients, designers, contractors and owners.
- A requirement to keep records and an audit trail throughout the life of a building, from the planning stage to its occupation and maintenance.
- Common regulatory standards for local authority building control and private inspectors, and regulatory oversight of both by the JCA.
- The building control process of multi-occupancy higher-risk buildings should be overseen only by local authorities, not by approved inspectors.
- The introduction of new enforcement powers, including powers to stop construction temporarily and to require builders to rectify non-compliant building work, and the extension of time limits for existing enforcement.⁴⁸

Some of the problems highlighted in the Hackitt review and recommendations made are set out in further detail below.

Roles and responsibilities of dutyholders

The final report of the Hackitt review noted it was often unclear who was accountable for building safety during the construction process’. It also said that the means of assessing and ensuring competence among those involved in building work, including designers, builders and consultants, were often “inadequate”:

⁴⁷ MHCLG, [Building a Safer Future: Final Report](#) (PDF) CM 9607, May 2018

⁴⁸ MHCLG, [Building a Safer Future: Final Report](#) (PDF) CM 9607, May 2018

The vagueness in the legislation around “persons intending to carry out work” and “persons carrying out work” are insufficiently focused and make it difficult to understand where accountability primarily lies for showing compliance.

[...] the lack of a clear dutyholder and the competency issues combine together to underpin concerns that there is no reliable, competent oversight that work will be completed in line with the Schedule 1 [of the Building Regulations 2010] requirements or the Approved Documents.⁴⁹

The report also found that the current regime relied on local authorities or privately approved inspectors identifying risks “rather than for those constructing the building to remain fully accountable for the risks they may create and to manage them”.⁵⁰

There was “no clear legal obligation” for developers to inform the local authority or their privately approved inspector of significant changes.⁵¹

To address these problems, the final report recommended that dutyholders in the construction process, including designers and contractors, should have clear responsibilities (see section 6.2 of this briefing).⁵²

Flaws in the building control approval process

The Hackitt review also said the part-privatisation of the building control profession created a “unique competitive environment” where building control bodies could lose business if they did not approve risky designs:

There can be a difficult trade-off between BCBs [building control bodies] competing with one another for business with design and construction teams while ensuring rigorous and determined certification with all the requirements of the Building Regulations.

[...] this leads to situations where BCB personnel can fail to ‘win business’ where they will not commit in advance to approval of more risky designs and that those who do win business can become far too embedded in supporting the building design process rather than being an impartial rigorous verifier of building safety. [...] there are obvious commercial considerations for any BCB (whether LABC or AI) refusing to sign off completed work where that would jeopardise their future business with the same client.⁵³

The interim report was also critical of the lack of regulatory oversight of the building control profession and the lack of standardised competency criteria or training. It pointed to differences in standards between local authorities and privately approved inspectors, including:

- While approved inspectors have to demonstrate and maintain relevant qualification and experience because they are subject to audit by the

⁴⁹ MHCLG, [Building a Safer Future: Interim report](#) (PDF) CM 9551, December 2017, page 53

⁵⁰ MHCLG, [Building a Safer Future: Interim report](#) (PDF) CM 9551, December 2017, page 58

⁵¹ MHCLG, [Building a Safer Future: Interim report](#) (PDF) CM 9551, December 2017, pages 58-59

⁵² MHCLG, [Building a Safer Future: Final Report](#) (PDF) CM 9607, May 2018, recommendation 2.2

⁵³ MHCLG, [Building a Safer Future: Interim report](#) (PDF) CM 9551, December 2017, page 54

Construction Industry Council Approved Inspectors Register (CICAIR), there is no equivalent oversight of the competency of local authorities.

- While local authority building inspectors are required to consult fire and rescue services from the outset, approved inspectors only have to consult them prior to the completion of the building work. At that point, it is “very challenging to reverse works already well under way”.⁵⁴

To address these problems, the final report recommended introducing common competency requirements for local authorities and approved inspectors.⁵⁵ It also recommended that approved inspectors should only be allowed to work on “certain defined project categories”.⁵⁶

Lack of enforcement powers

The interim report concluded one of the key problems of the building safety regime was “inadequate regulatory oversight and enforcement”. It found that widespread deviation “from what is originally designed to what is actually built” occurred because of lack of enforcement and weak sanctions:

Where enforcement is necessary, it is often not pursued. Where it is pursued, the penalties are so small as to be an ineffective deterrent.⁵⁷

The interim report highlighted research by the LABC, an organisation which represents local authority building control inspectors. It showed that the number of court cases by local authorities against builders and developers had fallen by around 75% in the previous 10 years. The report concluded local authorities were hesitant to take legal action partly because of the cost.⁵⁸

The interim report was also critical of the “fairly tight time limits” for bringing prosecutions against those who breached building regulations. It questioned the usefulness of these time limits given that “some fundamental problems” with building work may become evident only after several years.⁵⁹

The Hackitt review found that, as a result, unsafe building work was rarely corrected. It said the lack of meaningful sanctions and penalties meant the threat of enforcement was not an effective deterrent to ensure compliance:

There is considerable informal enforcement activity by [Local Authority Building Controls] LABCs and [Approved Inspectors] AIs which appears effective in most cases. However, formal enforcement and sanctions activity is very limited – undermining the consequences associated with non-compliance. The level of financial deterrent usually applied under section 35 [prosecution of the person carrying out the work] is unlikely to prove an impediment to large or medium-sized developers. There is, therefore, little to drive compliant

⁵⁴ MHCLG, [Building a Safer Future: Interim report](#) (PDF) CM 9551, December 2017, pages 55-62

⁵⁵ MHCLG, [Building a Safer Future: Final Report](#) (PDF) CM 9607, May 2018, recommendation 5.3

⁵⁶ MHCLG, [Building a Safer Future: Final Report](#) (PDF) CM 9607, May 2018, page 138

⁵⁷ MHCLG, [Building a Safer Future: Interim report](#) (PDF) CM 9551, December 2017, page 17

⁵⁸ MHCLG, [Building a Safer Future: Final Report](#) (PDF) CM 9607, May 2018, page 44

⁵⁹ MHCLG, [Building a Safer Future: Interim report](#) (PDF) CM 9551, December 2017, page 60

behaviour where an individual or organisation is unwilling to meet their legal responsibilities under the Building Regulations.⁶⁰

The final report proposed that enforcement powers should be “reinforced so that penalties are effective deterrent against non-compliance”. For example, time limits for bringing prosecutions against dutyholders should be extended to five or six years where major deficiencies were found at a later date.⁶¹

In addition, the JCA and local authorities should be given powers to issue a ‘stop notice’ to dutyholders where they are concerned that building work might not meet building regulations and an ‘improvement/correction notice’ where building work was found to violate building regulations.⁶²

3.2 Grenfell Tower Inquiry

On 15 June 2017, the then Prime Minister, Theresa May, announced a public inquiry into the Grenfell Tower fire, to be chaired by Sir Martin Moore-Bick. The inquiry has been conducted in two phases:

- The [phase 1 report, published in October 2019](#), focused on the events on the night of 14 June 2017.
- The phase 2 report, examining the causes of events, including how Grenfell Tower came to be in a condition which allowed the 2017 fire to spread, is expected to be published in 2024.⁶³

Phase 1 report: “compelling evidence” that exterior cladding did not comply with building regulations

The phase 1 report did not directly address the extent to which Grenfell Tower complied with building regulations. However, it noted that participants in the inquiry emphasised that the tower’s façade did not comply with the fire safety requirements of the [Building Regulations 2010](#).⁶⁴

The tower was refurbished between 2012 and 2016. Part of the refurbishment involved adding a rainscreen insulation and a cladding system to the exterior walls of the building. Specifically, aluminium composite material (ACM) rainscreen panels were attached to the concrete façade of the tower.⁶⁵

The phase 1 report noted that the refurbishment was classified as ‘building work’ under the [Building Regulations 2010](#) because it involved a ‘material

⁶⁰ MHCLG, [Building a Safer Future: Interim report](#) (PDF) CM 9551, December 2017, page 60

⁶¹ MHCLG, [Building a Safer Future: Final Report](#) (PDF) CM 9607, May 2018, recommendation 2.13

⁶² MHCLG, [Building a Safer Future: Final Report](#) (PDF) CM 9607, May 2018, page 44

⁶³ [Grenfell Tower Inquiry final report will not be published until 2024](#), Inside Housing, 3 May 2023 [accessed 23 May 2023]

⁶⁴ Grenfell Tower Inquiry, [Phase 1 Report - Volume 4](#) (PDF), October 2019, para 26.2

⁶⁵ Grenfell Tower Inquiry, [Phase 1 Report - Volume 1](#) (PDF), October 2019, paras 6.1, 6.7

alteration of the building’.⁶⁶ Therefore, the cladding should have complied with requirements of [Schedule 1 of the Building Regulations 2010](#), including:

The external walls of the building shall adequately resist the spread of fire over the walls and from one building to another, having regard to the height, use and position of the building.⁶⁷

The phase 1 report concluded there was “compelling evidence” that, following the refurbishment, the exterior walls of the building did not comply with these requirements. It highlighted that the cladding did not resist the spread of fire. To the contrary, the cladding may have “actively promoted” it.⁶⁸

Phase 2 report (not yet published)

The second phase of the inquiry examined how Grenfell Tower came to be in a condition which allowed the fire to spread. The hearings have concluded but the phase 2 report has not yet been published.

The phase 2 report will consider whether the refurbishment met the [Building Regulations 2010](#) and whether those responsible for the refurbishment made sure that it was compliant.⁶⁹ It will also consider whether regulations should specify exactly how buildings should be made safe, rather than requiring that they meet certain outcomes.⁷⁰

3.3

Government response: Building Safety Act

The government accepted all the recommendations of the Hackitt review (and the Grenfell Tower Inquiry). In [Building a safer future: An implementation plan](#), published in December 2018, the government set out how it would address the problems identified by the review.

Between June and July 2019, it consulted on these proposals. In its [response to the consultation](#) published in April 2020, the government said it would implement these reforms through the Building Safety Bill (now the Building Safety Act 2022).⁷¹

A draft Bill was published in July 2020, and the Act received Royal Assent April 2022. Its provisions will be fully enforceable by October 2024; however, some provisions will come into force earlier (see the chart on page 29).

⁶⁶ Requirement B4(1) of [Schedule 1 of the Building Regulations 2010](#)

⁶⁷ Grenfell Tower Inquiry, [Phase 1 Report - Volume 4](#) (PDF), October 2019, para 26.4

⁶⁸ Grenfell Tower Inquiry, [Phase 1 Report - Volume 1](#) (PDF), October 2019, para 2.16

⁶⁹ Grenfell Tower Inquiry, [Phase 1 Report - Overview](#) (PDF), October 2019, para 2.16

⁷⁰ Grenfell Tower Inquiry, [Phase 1 Report - Volume 4](#) (PDF), October 2019, para 33.8

⁷¹ MHCLG, [Building a safer future: an implementation plan](#), December 2018; MHCLG, [Building a safer future: proposals for reform of the building safety regulatory system](#), last updated April 2020

Further information about the Bill's passage through Parliament can be found in the following Commons and Lords Library briefings:

- [Building Safety Bill](#), published before second reading in the House of Commons, July 2021
- [Building Safety Bill: Committee stage](#), January 2022
- [Building Safety Bill: Lords amendments](#), April 2022

Summary of the provisions in the 2022 Act

The [Building Safety Act 2022](#) was the government's main vehicle for reforming building regulations in England. Its provisions are intended to address the problems identified by the Hackitt review. In short, the 2022 Act:

- created a new body, the Building Safety Regulator (BSR) within the Health and Safety Executive (HSE).
- established a new regulatory regime for higher-risk buildings, that is, buildings that are 18 or more metres in height or have seven or more storeys.
 - Their design and construction will be overseen by the BSR.
 - During occupation, building safety risks in higher-risk blocks of flats will be assessed and managed by the 'accountable person'.
- created accountability for clients, designers and contractors in the construction process.
- strengthened the powers of local authorities to deal with violations of building regulations.
- aligned standards for public-sector and private-sector bodies and subjected both to oversight by the BSR.

These provisions are set out in greater detail in sections 4 to 6 of this briefing. The 2022 Act also included provisions on remediation and redress of unsafe building work; these provisions are not covered in this briefing.

The following chart sets out how the changes made by the Building Safety Act 2022 will affect different types of building and the timescales for the changes.

The 2022 Act also gives the government the power to amend building regulations through statutory instruments. In future, the government could therefore change certain provisions using secondary legislation and without amending the primary legislation, the [Building Act 1984](#).⁷²

⁷² [Section 33 of the Building Safety Act 2022](#)

	Higher-risk buildings*			Other (non higher-risk)	Applies to new or existing buildings?	In effect from
	Residential	Hospitals	Care homes			
During design and construction						
Gateway 1: Fire statement and consultation of HSE	x				Only new	Aug 2021
Gateway 2: Approval from BSR for construction	x	x	x		Only new	Expected Oct 2023
Gateway 3: Certificate from BSR for occupation	x	x	x		Only new	Expected Oct 2023
Dutyholders (client, designer, contractor)	x	x	x	x	Only new	Not yet known
During occupation						
Registration of buildings with the Building Safety Regulator (BSR)	x				New Existing	Oct 2023 Apr 2023 to Oct 2023
Accountable person to prepare building safety case	x				Both	Not yet known
Call-in by the BSR for building assessment certificate	x				Both	Expected Apr 2024
Building control bodies (BCBs)						
Building control approvers and inspectors to register with the BSR				x	Only new	Oct 2023 to Apr 2024
Operational Standards Rules for public and private building control				x	Only new	Expected Apr 2024
Enforcement powers						
New powers: stop and compliance notices	x	x	x	x	Only new	Not yet known
Extension of time limit for section 36 notices to 10 years	x	x	x	x	Only new	Not yet known
Removal of time limit for prosecution under section 35	x	x	x	x	Only new	Not yet known
Recourse for homeowners under section 38	x	x	x	x	Only new	Not yet known

*Note: Higher-risk buildings are those that are 18 or more metres in height, or have seven or more stories. Higher-risk residential buildings are those that meet those height requirements AND contain two or more dwellings (flats or homes). This includes educational accommodation.

Source: Health and Safety Executive (HSE), [What we are doing to prepare – Building Safety](#), undated [accessed 23 May 2023]; DLUHC and MHCLG, [Fire safety and high-rise residential buildings \(from 1 August 2021\)](#), August 2021; [The Building Safety Act 2022 \(Commencement No. 4 and Transitional Provisions\) Regulations 2023](#); DLUHC, [Operational Standards Rules for Building Control Bodies \(BCBs\)](#), April 2023

Government [guidance on the Building Safety Act 2022](#) sets out what the Act means for residents of higher-risk buildings, building owners and the built environment industry. The following links provide further information:

- [Consultations on regulations](#) to support the Building Safety Act 2022
- Guidance by the [Health and Safety Executive \(HSE\) on the Building Safety Regulator \(BSR\)](#)

3.4 Ban of combustible material and remediation

Following the Grenfell Tower fire, the government also created the [Building Safety Programme](#). It appointed an expert panel, led by Sir Ken Knight (a former Chief Fire and Rescue Adviser to the government), to advise it on the measures needed to ensure building safety. The panel recommended that:

- the use of combustible materials on new high-rise residential buildings should be banned; and
- all existing high-rise residential buildings should be screened for materials used in their cladding and, if necessary, remediated.⁷³

⁷³ DLUHC and MHCLG, [Building safety: independent expert advisory panel](#), updated September 2018

The government subsequently banned the use of combustible materials on external walls of new high-rise residential buildings (over 18 metres) in 2018. In 2022, it extended the ban to high-rise hotels and hostels.⁷⁴ The government also discouraged, through a change to [Approved Document B](#), the use of combustible materials in mid-rise buildings (between 11 and 18 metres).

4 Other changes to Approved Document B

Since 2017, the government has made a number of changes to [Approved Document B](#), which provides statutory guidance on how to meet the fire safety requirements of the [Building Regulations 2010](#). In November 2020, the government updated Approved Document B to recommend that:

- sprinklers should be installed in new residential blocks over 11 metres.
- wayfinding signage (such as floor and flat identification signage) should be included in new residential blocks over 11 metres.

In December 2022, it further amended Approved Document B to recommend:

- secure information boxes (which should contain up-to-date floor plans and information about the fire-fighting lifts) should be installed in new residential blocks over 11 metres.
- evacuation alert systems (which can be used by fire and rescue services to alert residents to evacuate a building in an emergency) should be installed in new residential blocks over 18 metres.⁷⁵

As of December 2022, the [Building Regulations 2010](#) also prohibited the use of metal composite materials with an unmodified polyethylene core (the type that was used on Grenfell Tower) on all new buildings, regardless of height.⁷⁶

The Housing, Communities and Local Government (HCLG) Select Committee welcomed the ban but has called for it to be extended to existing residential buildings over 18 metres and non-residential buildings.⁷⁷

Remediation progress and funding

The Department for Levelling Up, Housing and Communities (DLUHC) publishes a [monthly Building Safety Programme bulletin](#) on the progress of the remediation works to remove aluminium composite material (ACM) cladding from high-rise blocks of flats across England.

⁷⁴ [Building \(Amendment\) Regulations 2018](#); [Building etc. \(Amendment\) \(England\) Regulations 2022](#)

⁷⁵ DLUHC and MHCLG, [Fire safety: Approved Document B](#), last updated December 2022; DLUHC and MHCLG, [Sprinklers and other fire safety measures in new high-rise blocks of flats](#), last updated June 2022

⁷⁶ [The Building etc. \(Amendment\) \(England\) Regulations 2022](#)

⁷⁷ HCLG Committee, [Independent review of building regulations and fire safety](#) (PDF), July 2018, HC 555 2017-19, paras 36-38

Information on progress and funding is also covered in the Commons Library briefing: [Leasehold high-rise flats: Who pays for fire safety work?](#).⁷⁸

5 Safety of construction products

The Construction Products Regulations, which are retained EU law, require manufacturers of products that are covered by the Regulations to assess, verify and declare their performance before placing them on the market.⁷⁹

However, not all construction products are covered by the Regulations.⁸⁰ An [review of construction product testing](#) commissioned by the government found:

- only around one third of all construction products are currently covered by the Construction Products Regulations.
- the Regulations were primarily designed for the purpose of creating a single EU market, not for ensuring a safe or sustainable products.
- there is little to no enforcement of the Regulations, “so that bad actors feel that they can bypass the regulations without consequence”.⁸¹

The review called for the Construction Product Regulations to apply to all construction products and for enforcement powers to be strengthened. In response, the government said it was “committed to ensuring the testing regime for construction products is effective”.⁸²

The Building Safety Act 2022 gives the government the power to change how the safety of construction products is assessed and regulated.⁸³ To enforce any new rules, the government created a National Regulator for Construction Products (NRCP) within the Office for Product Safety and Standards (OPSS).⁸⁴

⁷⁸ Commons Library, [Leasehold high-rise flats: Who pays for fire safety work?](#) CBP 8244, January 2023

⁷⁹ DLUHC and MHCLG, [Construction Products Regulation in Great Britain](#), last updated December 2022

⁸⁰ DLUHC and MHCLG, [Building Safety Bill: Factsheets - Construction products regulatory framework](#) [Withdrawn], last updated April 2022

⁸¹ DLUHC, [Independent Review of the Construction Product Testing Regime](#), April 2023

⁸² HCWS730 [on [Construction Product Testing: Independent Review](#)] 20 April 2023

⁸³ [Section 146 of the Building Safety Act 2022; Schedule 11 of the Building Safety Act 2022](#)

⁸⁴ Office for Product Safety and Standards (OPSS), [National regulation: construction products](#), January 2022; DLUHC and MHCLG, [Building Safety Bill: Factsheets - National regulator for construction products](#) [Withdrawn], last updated April 2022

4

The Building Safety Regulator (BSR)

The [Levelling Up and Regeneration Bill](#) would give the government the power to replace the HSE as the BSR.

The [Building Safety Act 2022](#) established a new body, the [Building Safety Regulator](#) (BSR), within the Health and Safety Executive (HSE).

The BSR will be responsible for overseeing the regulatory regime which the Building Safety Act 2022 establishes for higher-risk buildings:

- It will be the building control authority for higher-risk buildings, including blocks of flats, hospitals and care homes. It will make sure building regulations are met during their design, construction and refurbishment.
- For higher-risk residential buildings, during occupation, the BSR will also ensure that building safety risks are assessed and managed by their '[accountable person](#)', a new role created by the [Building Safety Act 2022](#).

The BSR will also be responsible for overseeing the wider building control profession, ensuring that local authority building control and private-sector inspectors meet minimum competency standards.

The BSR's role will be phased in; it will take on its functions in stages (see the table on page 29). [Guidance on the HSE's website](#) sets out the BSR's roles and its powers relating to fire and structural safety.

6 Committees to support the BSR's work

The BSR is required to establish three committees to support its work:

- a Building Advisory Committee, which will provide advice on technical guidance such as Approved Documents. It first met in December 2022.⁸⁵
- a Committee on Industry Competence to help the BSR unify the building control profession and advise the BSR on industry competence. The HSE sought members to join the Committee between March and April 2023.⁸⁶
- a [Residents' Panel](#), comprising residents of higher-risk buildings, which the BSR will need to consult prior to issuing certain guidance. The Panel was recruited in December 2022.⁸⁷

⁸⁵ HSE, [Building Advisory Committee](#), last updated October 2022

⁸⁶ Croner-i, [HSE seeks members for new Industry Competence Committee](#), March 2023

⁸⁷ [Sections 9 to 12 of the Building Safety Act 2022](#); HSE, [Statutory Residents Panel](#), undated [accessed 23 May 2023]

5

New regime for higher-risk buildings

The [Building Safety Act 2022](#) made various changes to the wider building safety regime that will affect all buildings, regardless of their height. One of the key changes introduced by the Act, however, is the regime it established for ‘higher-risk’ buildings. A building is defined as being ‘higher-risk’ if it:

- is 18 or more metres in height, or has seven or more storeys; and
- contains at least two residential units.⁸⁸

A residential unit is “a dwelling or any other unit of living accommodation”.⁸⁹ This means higher-risk buildings include, for example, high-rise blocks of flats and student accommodation.

The [Higher-Risk Buildings \(Descriptions and Supplementary Provisions\) Regulations 2023](#) set out how height and number of storeys are measured.

Different types of high-rise buildings will be covered by the new regime at different stages of development:

- During design and construction, residential buildings, care homes and hospitals that met height requirements will be subject to the regime.
- During occupation, only residential buildings that are at least 18 metres in height or have at least seven storeys will be covered by the regime.⁹⁰

The government said care homes and hospitals will not be covered by the new regime during occupation because, as workplaces, these buildings were already subject to the [Fire Safety Order 2005](#). They were also already subject to [inspections by local fire authorities](#) and the [Care Quality Commission](#).⁹¹

Buildings not covered by the new higher-risk regime

Regardless of their height, hotels, military premises, such as barracks, and prisons will not be covered by the new higher-risk regime.⁹²

⁸⁸ [Section 65 of the Building Safety Act 2022; Higher-Risk Buildings \(Descriptions and Supplementary Provisions\) Regulations 2023](#)

⁸⁹ [Section 115 of the Building Safety Act 2022](#)

⁹⁰ DLUHC and MHCLG, [Building Safety Bill: Factsheets - Buildings included in the new more stringent regulatory regime](#) [Withdrawn], last updated April 2022

⁹¹ DLUHC, [Government response to the Higher-Risk Buildings \(Descriptions and Supplementary Provisions\) Regulations consultation](#), December 2022, para 4.18

⁹² [Higher-Risk Buildings \(Descriptions and Supplementary Provisions\) Regulations 2023](#)

The government said hotels and prisons would not be covered by the regime because they already had multiple escape routes, signage and emergency lighting, and detection and alarm systems. They were also staffed 24/7.⁹³

It also pointed out that military premises were covered by the [Ministry of Defence's \(MoD\) own building safety and fire safety arrangements](#).⁹⁴

5.1 During construction: BSR as building control

From October 2023, developers of higher-risk buildings will no longer be able to choose whether they want to use local authority building control or a privately approved inspector as their building control body. The BSR will automatically be the building control authority for all higher-risk buildings.

Under certain circumstances, the BSR will also oversee the construction (or refurbishment) of buildings that do not meet the 'higher-risk' definition:

- where a non-higher-risk building will become one as a result of building work being undertaken.
- where a higher-risk building ceases to be one.⁹⁵

5.2 Three gateway points for higher-risk buildings

From October 2023, higher-risk buildings will be subject to a rigorous building control approval process: they will pass through three gateway points at the design, construction and completion stage.⁹⁶ The government said that these gateway points would act as 'hard stops' on development, ensuring that "safety is considered at each and every stage of a building's construction".⁹⁷

⁹³ DLUHC, [Government response to the Higher-Risk Buildings \(Descriptions and Supplementary Provisions\) Regulations consultation](#), December 2022, para 4.22

⁹⁴ DLUHC, [Consultation on the Higher Risk Buildings \(Descriptions and Supplementary Provisions\) Regulations](#), last updated December 2022, para 5.8

⁹⁵ [Section 32 of the Building Safety Act 2022](#), which inserts Section 91ZA-91ZC in the [Building Act 1984](#). A regulator's notice cannot be issued where a project does not comprise higher-risk building work.

⁹⁶ DLUHC and MHCLG, [Building Safety Bill: Factsheets – Building control regime for higher-risk buildings \(Gateways 2 and 3\)](#) [Withdrawn], last updated April 2022

⁹⁷ MHCLG, [New regulator at heart of building safety overhaul](#), July 2021

Gateway 1: At the planning stage

Gateway 1 occurs at the planning stage. The changes were implemented as an amendment to the [Town and Country Planning \(Development Management Procedure\) Order 2015](#).⁹⁸ As of August 2021:

- Developers of high-rise residential buildings are required to submit a fire statement alongside their planning application. The fire statement should show that buildings have been designed with fire safety in mind.
- The HSE is a statutory consultee on planning applications for high-rise residential buildings. Prior to making a decision on a relevant planning application, local planning authorities must seek advice from the HSE.⁹⁹

Guidance on GOV.UK sets out how [fire safety matters are incorporated at the planning stage](#) for schemes involving a relevant high-rise residential building.

Gateway 2: During construction

Gateway 2 will occur prior to and during construction. It will act as a ‘hard stop’ on construction. From October 2023, work on higher-risk buildings will only be able to start after a developer has obtained approval from the BSR.¹⁰⁰

The BSR will decide applications after consulting the local fire authority and only give its approval if it is satisfied that relevant requirements are met.¹⁰¹

Starting building work without approval from the BSR will be an offence.

During construction, the developer must notify the BSR at set stages to allow it to carry out inspections. The BSR can also carry out inspections without notice. As part of these inspections, the BSR will be able to take samples of building materials by cutting into or opening up building work. It will also be able to stop a developer from covering up building work for a period.¹⁰²

If a developer deviates from their application, they must inform the BSR if these changes are ‘notifiable’ and obtain approval for any ‘major’ changes. In a [consultation on the new building control regime for higher-risk buildings](#), the government set out how major and notifiable changes will be defined.¹⁰³

⁹⁸ [Town and Country Planning \(Development Management Procedure and Section 62A Applications\) \(England\) \(Amendment\) Order 2021](#)

⁹⁹ DLUHC and MHCLG, [Fire safety and high-rise residential buildings \(from 1 August 2021\)](#), last updated August 2021

¹⁰⁰ DLUHC and MHCLG, [Building Safety Bill: Factsheets – Building control regime for higher-risk buildings \(Gateways 2 and 3\)](#) [Withdrawn], last updated April 2022

¹⁰¹ DLUHC, [Consultation on implementing the new building control regime for higher-risk buildings and wider changes to the building regulations for all buildings](#), July 2022, paras 3.56-3.62

¹⁰² DLUHC, [Consultation on implementing the new building control regime for higher-risk buildings and wider changes to the building regulations for all buildings](#), July 2022, para 3.4

¹⁰³ As above, paras 6.6-6.9

Gateway 3: On completion

Gateway 3 will be reached on completion of the building work. From October 2023, a higher-risk building can only be occupied after the BSR has checked that the building work is compliant and issued a ‘building control certificate’.

At the end of the construction process, the developer must submit updated information on their development ‘as built’ to the BSR. Their application must show how their completed project complies with building regulations.¹⁰⁴

The BSR will undertake a final inspection of the completed building work and assess it against building regulations. If the BSR is satisfied that relevant requirements are met, it will issue a ‘building control certificate’.¹⁰⁵

7 The ‘golden thread’ of information

The [Building Safety Act 2022](#) requires dutyholders in construction (clients, designers and contractors) and accountable persons (during occupation) to keep an audit trail of building safety risks throughout the life of a building.¹⁰⁶

This is called the ‘golden thread’ of information. The government said it would ensure that “those people responsible will have easily accessible, reliable, up to date and accurate information [...] to manage buildings safety”.¹⁰⁷

- For new high-rise buildings, the golden thread will be developed through design and construction (and, if relevant, refurbishment). Any documents produced for the gateways process will form part of the golden thread.
- On completion of building work, information should be handed over to the accountable person. They will keep a record of their safety case report and any instances of safety risks (see section 5.3).

5.3

During occupation: Accountable person

The [Building Safety Act 2022](#) creates a new role for higher-risk residential buildings: the ‘[accountable person](#)’. The accountable person will be responsible for overseeing the building safety of high-rise blocks of flats (but not care homes and hospitals) during occupation.

¹⁰⁴ [Section 76 of the Building Safety Act 2022](#)

¹⁰⁵ DLUHC, [Consultation on implementing the new building control regime for higher-risk buildings and wider changes to the building regulations for all buildings](#), July 2022, paras 3.85-3.93

¹⁰⁶ MHCLG, [Building Regulations Advisory Committee: golden thread report](#), July 2021

¹⁰⁷ DLUHC and MHCLG, [Building Safety Bill: Factsheets – Golden thread](#) [Withdrawn], last updated

Specifically, the accountable person will be responsible for assessing and managing 'building safety risks', defined as risks that may arise if:

- fire spreads from one part of a building to another, for example, from one flat to another one or from the inside to the outside of a building.
- part or all of a building were to collapse.¹⁰⁸

The role of the accountable person will be fulfilled by the building owner or by whoever holds responsibility for a building's maintenance. This could be an individual, a partnership or a corporation. There may be multiple accountable persons for a building, in which case the person responsible for the building's structure and exterior will be known as the 'principal accountable person'.¹⁰⁹

8 During occupation: Fire safety in blocks of flats

The fire safety of non-domestic premises, including common areas in blocks of flats, is governed by the [Fire Safety Order 2005](#). The 2005 Order imposes a duty on the person in control of a building (the 'responsible person') to:

- carry out and regularly review fire risk assessments, which should identify what is needed to prevent fires and keep the people in a building safe.
- put in place and maintain measures to reduce the risks they identified.

In blocks of flats, [the 'responsible person' is usually the building owner or manager](#). The [Fire Safety Act 2021](#) clarified that, in blocks of flats, they are responsible for a building's structure, external walls (including cladding), any common parts and entrance doors to flats.

In some buildings, such as blocks of flats that are 18 or more metres in height or seven or more storeys, there will be both an accountable person and a responsible person. [Section 109 of the Building Safety Act 2022](#) requires them to cooperate with each other to manage building and fire safety risks.¹¹⁰

Assessing and managing of building safety

The accountable person will be under an 'ongoing duty' to assess and manage building safety risks, including to:

- [register their higher-risk residential buildings](#) with the BSR: existing buildings must be registered between April and October 2023, and new buildings must be registered from October 2023.

¹⁰⁸ [Section 62 of the Building Safety Act 2022](#). The risk of fire spreading within a flat is not covered.

¹⁰⁹ [Sections 72 to 73 of the Building Safety Act 2022](#); DLUHC, [Consultation on the new safety regime for occupied higher-risk buildings, Government response](#), last updated March 2023, para 3.17

¹¹⁰ [Section 109 of the Building Safety Act 2022](#)

- carry out assessments of building safety risks and review these assessments at regular intervals (or at the direction of the BSR).
- take “all reasonable steps” to manage the risks they identified to prevent them from materialising or to reduce the severity of their impact.
- set out their assessment of building safety risks and the steps they have taken to manage these risks in a ‘safety case report’.
- share their ‘safety case report’ with the BSR on request as part of the building assessment process.¹¹¹

The government provides further guidance on [registration requirements](#) and [roles and duties of the accountable person](#). [Guidance on the HSE’s website](#) also sets out the responsibilities of accountable persons.

9 Expected timeline for ‘call-in’ of registered buildings

Once all occupied higher-risk residential buildings are registered with the BSR, the BSR will start issuing ‘call-in’ notifications (from April 2024):

- Existing buildings will be called-in in tranches, based on height and other risk factors to be determined by the BSR.
 - As there are over 12,500 occupied higher-risk residential buildings in England, the government estimates that it will take BSR around five years to call them all in for the first time.
- New buildings will be called-in within six months of occupation.¹¹²

The BSR will then call-in buildings for reassessment periodically. How often buildings are reassessed will be set out in regulations; the government has indicated that buildings will be reassessed at least every five years.¹¹³

Enforcement powers of the BSR

If the BSR has assessed the accountable person’s performance and is satisfied with it, the BSR will issue a ‘building assessment certificate’. It will “provide an indication to residents” that the accountable person has fulfilled their duties at the time of assessment.¹¹⁴

¹¹¹ [Sections 79 to 81 of the Building Safety Act 2022; Sections 83 to 86 of the Building Safety Act 2022](#); HSE, [What we are doing to prepare](#), undated [accessed 23 May 2023]

¹¹² DLUHC and MHCLG, [Building Safety Bill: Factsheets - Building Assessment Certificate: Transitional arrangements](#) [Withdrawn], last updated April 2022; HSE, [What we are doing to prepare](#), undated [accessed 23 May 2023]

¹¹³ DLUHC, [Consultation on the new safety regime for occupied higher-risk buildings](#), March 2023

¹¹⁴ DLUHC and MHCLG, [Building Safety Bill: Factsheets - Building registration and certification](#) [Withdrawn], last updated April 2022

If an accountable person is not fulfilling their duties, BSR will also have enforcement powers, including powers to issue:

- a ‘compliance notice’, setting out the steps an accountable person needs to take within a specified time to comply with their duties.¹¹⁵
- a ‘urgent action notice’ if an accountable person’s actions have placed residents “in imminent danger”. In that case, the BSR can also appoint a ‘special measures manager’ to replace the accountable person.¹¹⁶

An accountable person commits an offence if they do not to comply with a compliance or urgent action notice, or act in a way that places building’s residents at significant risk of serious injury or death. An accountable person also commits an offence if they do not to register a building that is occupied.

On conviction, these offences may result in a fine (and, potentially, further daily fines) and/or imprisonment.¹¹⁷

Engagement with residents

One of the problems highlighted in the Hackitt review was that the voices of residents were often not heard.¹¹⁸ It recommended that residents should be able to report fire safety concerns to their landlord or managing agent and, if their concerns were not addressed, escalate them to an independent body.¹¹⁹

The principal accountable person or, where relevant, accountable person will be required to prepare a residents’ engagement strategy, setting out how a building’s residents (and the owners of flats) can participate in the decision-making process for building safety risks. The strategy should include:

- which information will be shared with residents;
- when and how residents will be consulted; and
- how the effectiveness of the strategy will be measured and reviewed.

On request, the principal accountable person will also have to provide residents with ‘prescribed information’, including information on building safety risk assessments and the steps they have taken to manage risks.¹²⁰

The principal accountable person will also be required to set up and operate a system to investigate relevant complaints. These are complaints related to:

- building safety risks; and

¹¹⁵ [Section 99 of the Building Safety Act 2022](#)

¹¹⁶ [Section 99 of the Building Safety Act 2022](#); [Section 102 of the Building Safety Act 2022](#)

¹¹⁷ [Sections 99 to 101 of the Building Safety Act 2022](#); [Section 77 of the Building Safety Act 2022](#)

¹¹⁸ MHCLG, [Building a Safer Future: Interim report](#) (PDF) CM 9551, December 2017, para 4.5

¹¹⁹ MHCLG, [Building a Safer Future: Final Report](#) (PDF) CM 9607, May 2018, recommendations 4.1-4.6

¹²⁰ [Sections 91 to 92 of the Building Safety Act 2022](#)

- the performance of an accountable person.

The principal accountable person will have to report certain issues related to fire and structural safety to the BSR. The BSR will establish its own system for the investigation of complaints that are referred to them by accountable persons or made directly to them by residents. This will allow residents to escalate their concerns to the BSR.¹²¹

The government said it would set out in regulations how complaints must be handled and investigated by accountable persons, which occurrences must be reported to the BSR and how complaints can be escalated to the BSR.¹²²

¹²¹ [Section 94 of the Building Safety Act 2022](#)

¹²² DLUHC and MHCLG, [Building Safety Bill: Factsheets - Residents' Voice](#) [Withdrawn], last updated April 2022

6 Wider reforms to building safety regime

In addition to establishing a new regime for managing building safety in higher-risk buildings during construction and occupation, the [Building Safety Act 2022](#) also makes changes to the wider building safety regime applicable to all buildings, regardless of their height.

Like building regulations generally, however, these provisions will not apply retrospectively to buildings, unless they are undergoing building work.

6.1 Reforms to the building control profession

[Part 3 of the Building Safety Act 2022](#) aims to establish “a unified professional and regulatory structure for building control” by setting common competency requirements for public-sector and private-sector building control: local authorities control and registered building control approvers (RBCAs).

The 2022 Act also introduces a new role: the ‘registered building inspector’ (RBI). RBIs will not be able to issue building control approval, but will advise the BSR, local authorities and RBCAs on ‘restricted’ functions and activities.¹²³

From January to March 2023, the government [consulted on which functions and activities would be ‘restricted’](#) and thus require the advice of an RBI.¹²⁴

Registration with the BSR

From April 2024, registered building control approvers (RBCAs) will replace privately approved inspectors. To continue performing their building control role, individuals and organisations who are currently [registered with the Construction Industry Council Approved Inspectors Register \(CICAIR\)](#) will be required to register with the BSR between October 2023 and April 2024.¹²⁵

Building control professionals who work for local authorities or are privately approved inspectors will also be able to register as RBIs with the BSR if they meet minimum criteria.

¹²³ [Section 44 of the Building Safety Act 2022](#)

¹²⁴ DLUHC, [Changes to the building control profession and the building control process for approved inspectors](#), January 2023

¹²⁵ [Section 43 of the Building Safety Act 2022](#); HSE, [What we are doing to prepare](#), undated [accessed 23 May 2023]

The BSR will also be able to impose restrictions on RBCAs and RBIs, such as specifying which types of buildings they can work on. It can also require them to undertake regular training. An RBCA's registration is likely to be valid for five years, and an RBI's registration is likely to be valid for four years.¹²⁶

Local authorities will not be required to register with the BSR to continue to their building control role, as they are the default building control authority for all non-higher-risk buildings in an area.¹²⁷

Oversight of the profession by the BSR

Local authorities, RBCAs and RBIs will be subject to oversight by the BSR from April 2024.¹²⁸ To ensure they meet performance standards, the BSR will:

- set [operational standards rules](#) for local authorities and RBCAs, which will include practices, procedures and methods they should adopt.¹²⁹
- set professional conduct rules for RBCAs. The HSE consulted on [these professional conduct rules](#) for RBCAs in January and February 2023.¹³⁰
- set a [code of conduct](#) and [competence framework](#) for RBIs.¹³¹
- require local authorities and RBCAs to provide it with, at specified times and at regular intervals, certain reports and information.

The BSR will have a series of escalating enforcement powers to sanction poor performance among building control professionals to ensure that they meet minimum competency standards. From April 2024, the BSR will be able to:

- issue 'improvement notices' to local authorities or RBCAs, if they breach [operational standards rules](#).
- issue 'serious contravention notices' if local authorities or RBCAs do not comply with an improvement notice or if safety of a building's occupants is put at risk as a result of a breach of [operational standards rules](#).
- revoke an RBCA's registration or recommend to the Secretary of State to transfer a local authority's building control function to another local authority if they continue to fail to meet [operational standards rules](#).

¹²⁶ DLUHC, [Consultation for changes to the building control profession and the building control process for approved inspectors \(in future to be known as registered building control approvers\)](#), January 2023, paras 35-36

¹²⁷ [Section 91 of the Building Act 1984](#)

¹²⁸ [Section 42 of the Building Safety Act 2022](#)

¹²⁹ HSE, [Codes and Standards: Building control operational standards rules \(OSRs\)](#), last updated April 2023; DLUHC, [Operational Standards Rules for Building Control Bodies \(BCBs\)](#), April 2023

¹³⁰ HSE, [Professional conduct rules for Registered Building Control Approvers](#), February 2023

¹³¹ HSE, [Code of conduct for registered building inspectors](#), February 2023

- require an RBCA or RBI to pay a financial penalty and/or vary, suspend, or cancel their registration if they violate [professional conduct rules](#) or the [code of conduct](#).¹³²

Guidance on the HSE's website provides further information on the [role of the BSR](#) and its [oversight of the building control profession](#).

10 Changes to the building control process

The approval process for minor building work will largely remain the same: as is the case currently, the applicant or RBCA if one is used will be required to notify the local authority of the planned building work.

For major building work, developers will have to include further information on their application to the local authority in future: in addition to buildings plans, they will be required to submit contact details for the client, designer and contractor to the local authority.

In future, developers will also be required to ask their RBCA to certify that their building plans are compliant with building regulations for certain major building work. Currently, developers can request a 'plans certificate' from their privately approved inspector, but they are not required to do so.

The [Building Safety Act 2022](#) sets out the steps an RBCA needs to take to issue a plans certificate: they must have assessed the building plans and ensured building work would meet relevant requirements. Where relevant, they must also have consulted the local fire authority and/or sewerage undertaker.¹³³

6.2

New 'dutyholder' responsibilities

The [Construction \(Design and Management\) Regulations 2015](#) already require certain 'dutyholders' to ensure health and safety standards are met during the construction process. The [Building Safety Act 2022](#) extends their duties to also cover compliance with building regulations.

In future, the following dutyholders will be required to also "actively consider and manage building safety risks throughout the [construction] process":

- the client for whom the building work is done (for example, the developer or building owner)
- the (principal) designer who makes plans for the building

¹³² [Section 42 of the Building Safety Act 2022](#)

¹³³ [Section 49 of the Building Safety Act 2022](#), which amends [Section 50 of the Building Act 1984](#)

- the (principal) contractor who supervises the project during construction

The designer and contractor on a project will be required to be ‘competent’. This means they will have to have relevant “skills, knowledge, experience and behaviours”. The person appointing them, usually the client, will be required to make sure that they meet relevant competency standards.¹³⁴

For higher-risk buildings, the client will have to submit a declaration to the BSR at gateway 2 (described in section 5.2), certifying they have assessed and are content with the competency of the (principal) designer and contractor.¹³⁵

Between July and October 2022, the government [consulted on competence requirements](#) for those carrying out design or building work.¹³⁶ It noted that at a minimum dutyholders should have to meet standards set by their sector:

- training and qualifications recognised by accredited institutions
- membership of an established trade or professional body
- relevant experience of the type of work they will undertake

The government asked the [British Standards Institution \(BSI\) to develop competence standards](#). It said it expects there that professional and trade bodies will assess individuals against the BSI’s standards and any sector-specific frameworks and that there will be third-party accreditations.¹³⁷

6.3 Strengthening enforcement powers

The [Building Safety Act 2022](#) will also expand the enforcement powers of local authorities to respond to violations of building regulations. The BSR will have the same enforcement powers as local authorities; RBCAs (and RBIs) will not have enforcement powers but can refer matters to the local authority.

- Currently, local authorities can only pursue prosecution up to two years from the date of completion of the building work. [Section 39 of the Building Safety Act 2022](#) removes this time limit.¹³⁸
 - On conviction, the person who carried out the building work could in future also face imprisonment (up to two years). Currently, failure to comply with building regulations is only subject to a fine.

¹³⁴ [Sections 34-35 of the Building Safety Act 2022](#), which amends [Schedule 1 of the Building Act 1984](#)

¹³⁵ [Sections 34-35 of the Building Safety Act 2022](#), which amends [Schedule 1 of the Building Act 1984](#)

¹³⁶ DLUHC, [Consultation on implementing the new building control regime for higher-risk buildings and wider changes to the building regulations for all buildings](#), July 2022, para 2.25

¹³⁷ DLUHC, [Consultation on implementing the new building control regime for higher-risk buildings and wider changes to the building regulations for all buildings](#), July 2022, paras 2.22-2.28

¹³⁸ [Section 35 of the Building Act 1984](#), as amended by [Section 39 of the Building Safety Act 2022](#)

- [Section 39 of the Building Safety Act 2022](#) also changes how long after the date of completion local authorities can require the correction of non-compliant building work: from twelve months to ten years.¹³⁹

The [Building Safety Act 2022](#) also extends liability for offences under the [Building Act 1984](#) to directors and managers of corporate bodies in certain circumstances. A director or manager is also considered to have committed a criminal offence if they consented to a violation of building regulations or if non-compliant building work is attributable to neglect on their part.¹⁴⁰

Further, the [Building Safety Act 2022](#) gives local authorities and the BSR powers to tackle non-compliant work during construction without having to resort to criminal prosecution. It inserts the following in the [Building Act 1984](#):

- Under new section 35B, local authorities and the BSR will be able to issue a ‘compliance notice’, requiring non-compliant building work to be fixed within a prescribed period.
- Under new section 35C, local authorities and the BSR will be able to issue a ‘stop notice’, requiring that construction or refurbishment is stopped until non-compliant building work is fixed.¹⁴¹

Failure to comply with these notices is an offence that, on conviction, can result in an upfront fine (and further daily fines each day the issues are not fixed) and/or a prison sentence of up to two years.¹⁴²

Recourse for homeowners who suffered damages

In future, homeowners who suffer damages (such as property damage or personal injury) because developers did not follow building regulations and processes will also have a right of recourse and a way to claim compensation.

The principle of the right for recourse was established under [Section 38 of the Building Act 1984](#), but relevant provisions were never brought into force. The [Building Safety Act 2022](#) gives effect to that right and extends the time limit for claiming damages to 15 years. However, it will not apply retrospectively to breaches that occurred prior to Section 38 coming into force.¹⁴³

To claim compensation, damages will also need to be attributable to non-compliance with the regulations that were in force at the time of the work.¹⁴⁴

¹³⁹ [Section 36 of the Building Act 1984](#), as amended by [Section 39 of the Building Safety Act 2022](#)

¹⁴⁰ [Section 39 of the Building Safety Act 2022](#), which inserts new Section 112A into the [Building Act 1984](#)

¹⁴¹ [Section 38 of the Building Safety Act 2022](#), which add new Sections 35B-35C to the [Building Act 1984](#)

¹⁴² [Section 38 of the Building Safety Act 2022](#), which add new Sections 35B-35C to the [Building Act 1984](#)

¹⁴³ [Section 38 of the Building Act 1984](#), as amended by [Section 135 of the Building Safety Act 2022](#)

¹⁴⁴ DLUHC and MHCLG, [Building Safety Bill: Factsheets - Redress](#) [Withdrawn], last updated April 2022

7

Reaction to the Building Safety Act: Select Committee evidence

The Housing, Local Government and Communities (HCLG) Select Committee scrutinised the Building Safety Bill (now the Building Safety Act 2022). It said the Bill was “a profoundly important step towards remedying the flaws in the building safety regime identified in the Hackitt report” and noted that it found “overwhelming support” for its intent.¹⁴⁵

However, the Committee and stakeholders raised concerns about the scope of the regime and questioned whether the Grenfell Tower fire should have prompted a more complete overhaul of the UK’s approach to building safety.

This section of the briefing discusses some of the concerns highlighted by the Committee and in the evidence submitted to the Committee. The relevant reports and Government responses can be found on:

- HCLG Committee, [Independent review of building regulations and fire safety: Next steps](#) (PDF), July 2018
 - MHCLG, [Government response to the Select Committee report: Next steps](#) (PDF), September 2018
- HCLG Committee, [Independent review of building regulations and fire safety: Consultation response and connected issues](#) (PDF), July 2019
 - MHCLG, [Government response to the Select Committee report: Consultation response and connected](#) (PDF), October 2018
- HCLG Committee, [Pre-legislative scrutiny of the Building Safety Bill](#) (PDF), November 2020
 - MHCLG, [Building Safety Bill: Government response to pre-legislative scrutiny by the Select Committee](#), July 2021

7.1

Scope of the new higher-risk regime

The Hackitt review recommended that the new regulatory regime for higher-risk buildings should initially include buildings of ten or more storeys (around

¹⁴⁵ Housing, Communities and Local Government (HCLG, now Levelling Up, Housing and Communities) Committee, [Scrutiny of the Building Safety Bill](#) (PDF), November 2020, HC 466 2019-21, para 10

30 or more metres). It also recommended that the regime should be widened in future, taking into account factors such as the vulnerability of residents.¹⁴⁶

The government decided to apply the new regime to high-rise buildings of 18 or more metres (or seven or more storeys) and student accommodation.

Opposition Members criticised the 18-metre threshold. For example, during second reading of the Building Safety Bill, Lucy Powell, then Shadow Minister for Housing, said it was “arbitrary” and called for an 11-metre threshold.¹⁴⁷

The Royal Institute of British Architects (RIBA), the Fire Brigades Union (FBU), and the Local Government Association (LGA) also called for an 11-metre threshold.¹⁴⁸ RIBA pointed to “some big fires and some quite near misses” in buildings under the 18-metre threshold.¹⁴⁹ The Fire Brigades Union argued for using an 11-metre threshold, because firefighting ladders could be used to carry out rescues up to that height.¹⁵⁰

There were also calls to consider other factors, such as the vulnerability of residents and their ability to self-evacuate, when defining the scope of the new regime. The London Fire Brigade (LFB) argued that a height threshold was “too blunt an instrument to fully account for risk”.¹⁵¹

The Royal Institution of Chartered Surveyors (RICS) expressed concerns that the 18-metre threshold might “create a 2-tier system of regulation”, because high-rise blocks would be covered by new rules but low- and mid-rise blocks would remain vulnerable to the problems identified by the Hackitt review.¹⁵²

Some stakeholders, including the LGA, called for all care homes (regardless of height) to be included in the new regime. The LGA argued that:

The height is a bit of a red herring, really. It is the complexity of the building and the complexity of the needs of the people who live in the building. A five-storey building full of elderly, infirm people is probably more of a health risk than a seven-storey building full of relatively fit young people. A building with two fire escapes is a lot better than one with one fire escape. The height is missing the point; it needs to be the complexity of that building. Overall safety factors should be taken into account, not just an arbitrary height.¹⁵³

¹⁴⁶ MHCLG, [Building a Safer Future: Final Report](#) (PDF) CM 9607, May 2018, para 1.5

¹⁴⁷ HC Deb 21 July 2021 [[Building Safety Bill](#)], c1030-31

¹⁴⁸ HCLG Committee, [Pre-legislative scrutiny of the Building Safety Bill](#) (PDF), November 2020, HC 466 2019-21, para 62

¹⁴⁹ HCLG Committee, [Oral evidence from the Royal Institute of British Architects \(RIBA\)](#), HC 466 2019-21, 14 September 2020, Q34

¹⁵⁰ HCLG Committee, [Written evidence \[Fire Brigades Union \(FBU\)\]: Pre-legislative scrutiny of the Building Safety Bill](#) HC 466 2019-21, BSB 066

¹⁵¹ HCLG Committee, [Written evidence \[London Fire Brigade \(LFB\)\]: Pre-legislative scrutiny of the Building Safety Bill](#), HC 466 2019-21, BSB 270

¹⁵² Royal Institution of Chartered Surveyors (RICS), [RICS response to the publication of the Building Safety Bill](#), July 2021

¹⁵³ HCLG Committee, [Oral evidence: Independent review of building regulations](#), HC 555 2019-21, 8 July 2019, Q577

The Health and Safety Executive (HSE), which was tasked by the government to take on the role of the BSR, said it recognised that the scope of the higher-risk regime may be “contentious”. It said, however, the threshold was “simple to understand, objective and as measurable as possible”, which avoided ambiguity about which buildings were in scope.¹⁵⁴

The Chief Executive of the Construction Industry Council (CIC) also argued that widening the initial scope of the new regulatory regime could “create a situation where the capacity issues become a problem”.¹⁵⁵

Recommendations made by the Select Committee

In its [report on the Building Safety Bill](#), the HCLG Committee accepted that defining higher-risk buildings based on height was a “reasonable initial scope” but concluded that “height alone” was not “a satisfactory measure of risk”. It called on the government to commit to taking other risk factors, such as the vulnerability of residents and their ability to evacuate, into account and expand the regime “at a specified point in the future”.¹⁵⁶

The HCLG Committee called on the government to set out a timescale for bringing other buildings into scope of the regime for higher-risk buildings.¹⁵⁷

Government response to the Select Committee

The government defended its 18-metre threshold, arguing that buildings over 18 metres posed “the greatest safety risks”.¹⁵⁸ It also said the use of height to define the scope of the new regime provided greater certainty to the sector.¹⁵⁹

In its [response to the Committee’s report](#), the government said it was open to extending the regime to “other premises, based on emerging risk evidence”. It did not, however, publish a timetable as called for by the Committee. It said a timetable was “unnecessary”, referring to the requirement placed on the BSR to monitor the scope of the regime continuously.¹⁶⁰

¹⁵⁴ HCLG Committee, [Written evidence \[Health and Safety Executive\]: Pre-legislative scrutiny of the Building Safety Bill](#), HC 466 2019-21, BSB 424, Q2

¹⁵⁵ HCLG Committee, [Oral evidence: Pre-legislative scrutiny of the Building Safety Bill](#), HC 466 2019-21, 14 September 2020, Q33

¹⁵⁶ HCLG Committee, [Pre-legislative scrutiny of the Building Safety Bill](#) (PDF), November 2020, HC 466 2019-21, page 6

¹⁵⁷ HCLG Committee, [Building regulations and fire safety: Consultation response and connected issues](#) (PDF), July 2019, HC 2546 2019-21, paras 65-66

¹⁵⁸ HC Deb 21 July 2021 [[Building Safety Bill](#)], c1019

¹⁵⁹ DLUHC and MHCLG, [Building Safety Bill: Factsheet – Buildings included in the new more stringent regulatory regime](#) [Withdrawn], last updated April 2022

¹⁶⁰ MHCLG, [Building Safety Bill: Government response to pre-legislative scrutiny by the Select Committee](#), July 2021, paras 40-42

Through regulations, the government can amend and expand the scope of the regulatory regime for higher-risk buildings. The BSR can also recommend that the government amend the scope of higher-risk buildings.¹⁶¹

7.2

Ability to choose building control body

The Hackitt review found that the ability of developers to choose their own building control body was one of the weaknesses of the regulatory regime. It created “incentives for building control competitors to attract business by offering minimal interventions”.¹⁶² The [Building Safety Act 2022](#) will remove client choice only for work on higher-risk buildings, not for other buildings.

Some stakeholders expressed concern that the [Building Safety Act 2022](#) did not remove client choice entirely. For example, the LGA said allowing local authorities to “remain in competition” with private-sector inspectors would leave “in place one of the root causes of the current crisis”.¹⁶³

The Chief Executive of the LABC, which represents all local authority building control teams, expressed similar concerns about competition remaining “for the other 95% of building projects”. The result of competition was that “some people will seek the least intervention at the least price”.¹⁶⁴

Industry groups representing private-sector inspectors defended the ability of developers to choose their own building control body. The Association of Consultant Approved Inspectors argued that “the removal of all choice and competition” would “stifle innovation and incremental improvements”. It also argued that there would be “a lack of incentive for continual improvement”.¹⁶⁵

Recommendations made by the Select Committee

Although the HCLG Select Committee welcomed that the Building Safety Bill created a single regulatory route for work on higher-risk buildings, it shared concerns that the Bill did not remove client choice entirely. It argued that, as a result, “the majority of building control work will remain exposed to the weaknesses and conflicts of interest”:

[...] the draft Bill only removes dutyholder choice from building work on higher-risk buildings and so does nothing to remove conflicts of interest from the vast

¹⁶¹ [Section 69 of the Building Safety Act 2022](#)

¹⁶² MHCLG, [Building a Safer Future: Final Report](#) (PDF) CM 9607, May 2018, para 2.41

¹⁶³ HCLG Committee, [Written evidence \[Local Government Association \(LGA\)\]: Pre-legislative scrutiny of the Building Safety Bill](#), HC 466 2019-21, BSB 062, paras 3.18-3.19

¹⁶⁴ HCLG Committee, [Oral evidence: Pre-legislative scrutiny of the Building Safety Bill](#), HC 466 2019-21, 21 September 2020, Q102

¹⁶⁵ HCLG Committee, [Written evidence \[Association of Consultant Approved Inspectors\]: Pre-legislative scrutiny of the Building Safety Bill](#), HC 466 2019-21, BSB 059

majority of building work. Only by removing it completely can the Bill provide for a genuinely reliable system of building control.¹⁶⁶

Government response to the Select Committee

In its [response to the Committee's report](#), the government highlighted that the BSR would oversee the performance of public-sector and private-sector building control bodies and that both would need to seek advice from RBIs.

The government said it was therefore not necessary to remove client choice and replace it with a system of independent appointment.¹⁶⁷

7.3 Prescriptive or performance-based rules

As set out in section 1.2, building regulations are performance based: they set outcomes that building work needs to meet but not how these need to be met. The government's [Approved Documents](#), which support building regulations, offer prescriptive guidance on how to meet these requirements.

Following the Grenfell Tower fire, this approach was called into question.

The Hackitt review said there was confusion about the differences between the performance-based requirements of the [Building Regulations 2010](#) and the prescriptive guidance set out in the [Approved Documents](#). Some industry stakeholders, it reported, thought the guidance set out the requirements.¹⁶⁸

The Hackitt review argued that those designing and constructing buildings did not take ownership of building safety; instead, they often used the [Approved Documents](#) as a "simple tick-box exercise".¹⁶⁹ It therefore called for a move to a "truly outcomes-based" system:

This approach also acknowledges that prescriptive regulation and guidance are not helpful in designing and building complex buildings [...] and will prevent those undertaking building work from taking responsibility for their actions. [...] An outcomes-based framework requires people who are part of the system to be competent, to think for themselves rather than blindly following guidance.¹⁷⁰

It also proposed that the government should set out requirements but the industry should prepare guidance on how to meet these requirements.¹⁷¹

¹⁶⁶ HCLG Committee, [Pre-legislative scrutiny of the Building Safety Bill](#) (PDF), November 2020, HC 466 2019-21, page 7

¹⁶⁷ MHCLG, [Building Safety Bill: Government response to pre-legislative scrutiny by the Select Committee](#), July 2021, paras 88-95

¹⁶⁸ MHCLG, [Building a Safer Future: Interim report](#) (PDF) CM 9551, December 2017, page 50

¹⁶⁹ MHCLG, [Building a Safer Future: Interim report](#) (PDF) CM 9551, December 2017, page 50

¹⁷⁰ MHCLG, [Building a Safer Future: Final Report](#) (PDF) CM 9607, May 2018, page 6

¹⁷¹ MHCLG, [Building a Safer Future: Final Report](#) (PDF) CM 9607, May 2018, recommendation 6.1

The HCLG Committee found that many stakeholders “strongly disagreed” with the Hackitt review’s recommendation for an outcomes-based system, given the “deep-rooted cultural problems” that the Hackitt review had identified.¹⁷²

The Committee highlighted evidence from the National Fire Chiefs Council (NFCC) that cultural change and prescription had to go “hand in hand”.¹⁷³

The Royal Institute for British Architects (RIBA) also disagreed with the view that building regulations “should be founded purely on an outcomes-based approach”. The RIBA called for “baseline prescriptive standards” to provide clarity for the construction industry and ensure the safety of residents.¹⁷⁴

Others who submitted evidence to the Hackitt review expressed a preference for the current system of broadly outcomes-based requirements supported by prescriptive guidance. The London Fire and Emergency Planning Authority said the system allowed “for innovation within the design development”.¹⁷⁵ A University of Edinburgh research group argued that the performance-based regulations allowed for them “to be interpreted for specific applications”.¹⁷⁶

Select Committee response to the Hackitt review

In their [report on the Hackitt review](#) (PDF), the HCLG Committee said it did not think with the Hackitt review’s suggestion that there was a “binary choice” between a responsible industry and a prescriptive approach. It called for “a system in which a reformed industry can be trusted [...] but underpinned but a strong prescriptive approach”.¹⁷⁷

Government response to the Hackitt review

The government continues to support the current system of broadly outcomes-based requirements supported by prescriptive guidance.

It did not take forward the recommendation to hand over responsibility to develop guidance to the industry, following a [report by an expert group](#) which found that an industry-led approach would “hard to implement”.¹⁷⁸

¹⁷² HCLG Committee, [Independent review of building regulations and fire safety](#) (PDF), July 2018, HC 555 2017-19, para 20

¹⁷³ HCLG Committee, [Oral evidence: Independent review of building regulations](#), HC 555, 27 June 2018, Q248

¹⁷⁴ RIBA, [RIBA submits evidence and recommendations to the Independent Review of Building Regulations and Fire Safety](#), October 2017

¹⁷⁵ London Fire and Emergency Planning Authority, [Consultation response: Call for evidence for the independent review of building regulations and fire safety](#) (PDF), October 2017

¹⁷⁶ University of Edinburgh, School of Engineering, [Submission of evidence: Review of building regulations and fire safety](#), 2018

¹⁷⁷ HCLG Committee, [Independent review of building regulations and fire safety](#) (PDF), July 2018, HC 555 2017-19, para 22; HCLG Committee, [Building regulations and fire safety: consultation response and connected issues](#) (PDF), July 2019, HC 2546 2017-19, para 13

¹⁷⁸ MHCLG, [Final report of the expert group on structure of guidance to the building regulations](#), April 2020

8 Devolved administrations

Building regulations are a devolved matter. Standards for performance are set by the devolved administrations. Local councils in Scotland and Wales and district councils in Northern Ireland are responsible for administering them and ensuring compliance.

Across the UK, as described above in relation to the regulations in England, standards are performance based; they set requirements for what should be achieved but not how it should be achieved. They also apply primarily at the time of construction. Updated standards are not retrospectively applied to existing buildings, except where these are undergoing relevant building work.

8.1 Wales

In Wales, standards for building works are also governed by the [Building Act 1984](#) and the [Building Regulations 2010](#).¹⁷⁹ They are supported by [Approved Documents](#) which help builders achieve compliance in common situations.

Compliance and enforcement

As in England, when carrying out building work, developers in Wales need to obtain approval from either their local authority or a privately approved inspector.¹⁸⁰ Failure to do so can result in enforcement action.

In Wales, local authorities are responsible for making sure building work in their area is compliant with building regulations. They can prosecute developers, installers and builders who carry out faulty work and require building owners to remedy non-compliant work.¹⁸¹

Response to the Grenfell Tower fire

In a [statement published in 2020](#), the Welsh Government said it would reform the building safety regime in Wales in line with the recommendations of the Hackitt review.¹⁸² It subsequently [consulted on its proposals between January and April 2021](#); in its December 2021 response to the consultation, it indicated

¹⁷⁹ Welsh Government, [Building regulations: approved documents](#), last updated 20 December 2022. The [Welsh Ministers \(Transfer of Functions\) \(No.2\) Order 2009](#), which came into force on 31 December 2011, devolved responsibility for the building regulations to the Welsh Government.

¹⁸⁰ Welsh Government, [Guide to building regulations](#), December 2021, section 5

¹⁸¹ As above, section 6

¹⁸² Welsh Government, [Building safety: position statement](#), last updated September 2020

it would move forward with similar reforms for Wales as the UK Government implemented for England.¹⁸³

New regulations for higher-risk buildings

The Welsh Government asked the UK Government to include provisions for Wales in the Building Safety Act 2022.¹⁸⁴ However, the Welsh Government will implement a slightly different regime:

- A new, more rigorous building control approval process for the design and construction of higher-risk buildings with three gateways will also exist in Wales, but this will be based on a different definition of ‘higher-risk’ from that in England.
 - The building control authority approving building work for higher-risk buildings will be the local authority in Wales (not the Building Safety Regulator, or BSR, as in England).
 - Where the local authority is the developer, Welsh Ministers will choose another local authority to act as building control body.
- All higher-risk buildings will be required to have an accountable person to assess and manage building safety risks during occupation in Wales.
- Public-sector and private-sector building control bodies will be required to adhere to common standards in future. The role of ‘registered building inspectors’ (RBIs) to support them will exist in Wales as in England.
 - However, the building control profession will be subject to oversight by the Welsh Government (rather than by the BSR, as in England).
 - To continue to perform their building control function, privately approved inspectors will be required to register as ‘registered building control approvers’ (RBCAs) with the Welsh Government.
 - The Welsh Government will set out its own, separate [professional conduct rules for RBCAs](#) and a [code of conduct for RBIs](#). It consulted on these between February and April 2023.¹⁸⁵
- Welsh local authorities will be given greater enforcement powers to respond to violations of building regulations. They will be able to issue ‘compliance notices’ and ‘stop notices’ and pursue remediation works and prosecution for an extended time period, as in England.

¹⁸³ Welsh Government, [Safer buildings in Wales](#), last updated December 2021

¹⁸⁴ Senedd Cymru/Welsh Parliament, [Legislative Consent: Building Safety Bill](#), last updated July 2020

¹⁸⁵ Welsh Government, [Professional conduct rules for registered building control approvers](#), last updated April 2023; Welsh Government, [Code of conduct for registered building inspectors](#), last updated April 2023

Definition of ‘higher-risk’ buildings

The Welsh Government will set out its own definition of higher-risk buildings for Wales. Between February and March 2023, it consulted on [which buildings should be covered by the new regulation regime](#) during their design and construction. It proposed that buildings should be classified as higher-risk for the purposes of their design and construction if they:

- are 18 or more metres in height or have seven or more storeys, and
- contain at least one residential unit, or are care homes or hospitals (with at least one bed to be used by people for an overnight stay).¹⁸⁶

The Welsh Government said residential institutions (such as prisons), military premises (such as barracks) and temporary leisure establishments (such as hotels) would be excluded from the higher-risk definition.¹⁸⁷

The new regime for the design and construction of higher-risk buildings will therefore apply to similar developments in Wales and England. However, the Welsh Government has proposed a different definition of higher-risk during occupation. In Wales, all buildings with two or more dwellings might need to have an accountable person. This would:

- include blocks of flats and houses in multiple occupation (HMOs).
- exclude prisons, hospitals, care homes and hotels.¹⁸⁸

8.2

Scotland

In Scotland, building standards are governed by the [Building \(Scotland\) Act 2003](#) and the [Building \(Scotland\) Regulations 2004](#). They are supported by the [Technical Handbooks](#) which provide guidance on compliance.¹⁸⁹

Compliance and enforcement

Before carrying out work to which the regulations apply, a developer needs to obtain a ‘building warrant’ from their local authority. This warrant confirms that the proposed work meets the regulations. Privately approved inspectors cannot approve building work in Scotland as they can in England and Wales.

After the construction work or refurbishment is completed, a developer must submit a ‘completion certificate’ to the local authority, setting out that that

¹⁸⁶ Welsh Government, [Building safety for higher-risk buildings](#), last updated May 2023

¹⁸⁷ Welsh Government, [Building safety for higher-risk buildings](#), last updated May 2023

¹⁸⁸ Welsh Government, [Safer buildings in Wales](#), last updated December 2021

¹⁸⁹ [Building \(Scotland\) Act 2003; Building \(Scotland\) Regulations 2004](#); Scottish Government, [Building standards technical handbook 2022: Domestic](#), June 2022

their work complies with regulations. A building can only be occupied after the local authority accepts this certificate.¹⁹⁰

Failure to comply with building regulations can result in enforcement action by the local authority. It can require that building works are altered to comply with building regulations and, if the owner fails to comply, may fix the works itself and recover the costs from the owner. A local authority can also prevent the occupation of a home until it meets building standards.¹⁹¹

New requirements for higher-risk buildings

In response to the Grenfell Tower fire, the Scottish Government established a Building and Fire Safety Ministerial Working Group to review building and fire safety regulatory frameworks.¹⁹² It carried out reviews of:

- the [building standards for fire safety](#)
- [compliance with and enforcement of the building standards](#)
- the [fire safety regime for high-rise domestic properties](#)

In line with the recommendations issued by these reviews, the Scottish Government made various changes to building standards, including:

- As of February 2022, all new and existing homes are required to have interlinked fire and smoke alarm systems.¹⁹³
- The use of combustible cladding for new blocks of flats, entertainment and assembly venues, hospitals and care homes over 11 metres has been banned since June 2022. The use of metal composite cladding materials has been banned for use on new buildings of any height.¹⁹⁴
- Since March 2021, new social homes, flats, and shared multi-occupied residential buildings must have automatic fire suppression systems (such as sprinklers) regardless of their height.¹⁹⁵
- Since July 2019, the Technical Handbook to the building standards states that all new domestic buildings that are over 18 metres in height should have at least two escape stairs, an evacuation alert system and floor and flat identification signs.¹⁹⁶

¹⁹⁰ Scottish Government, [Building standards: procedural handbook](#), September 2019, sections 3 and 6

¹⁹¹ As above, section 7

¹⁹² Scottish Government, [Building and Fire Safety: Ministerial Working Group](#), undated [accessed 23 May 2023]; Scottish Government, [Building and Fire Safety: Ministerial Working Group: terms of reference](#), May 2023

¹⁹³ Scottish Government, [Fire and smoke alarms: changes to the law](#), last updated February 2022

¹⁹⁴ [Building \(Scotland\) Amendment Regulations 2022](#); Scottish Government, [Ban on combustible cladding](#), April 2022

¹⁹⁵ Scottish Government, [Improved fire safety for new flats and social homes](#), December 2020

¹⁹⁶ Scottish Government, [Building standards technical handbooks 2019: summary of changes](#), July 2019

The Building Safety Act 2022 only has very limited application to Scotland; only the provisions on the safety of construction products and regulation of architects apply to Scotland.¹⁹⁷ The Scottish Government set up [Building Standards Futures Board](#) in 2019 to inform any decisions on reforms to the building standards system that may be required to improve compliance.¹⁹⁸

8.3

Northern Ireland

In Northern Ireland, standards for building work are governed by the [Building Regulations \(Northern Ireland\) 2012](#). They are modelled on the regulations in England; they set broadly similar requirements for the design, construction and performance of buildings. They are supported by [Technical Booklets](#) which provide guidance on compliance in common building situations.¹⁹⁹

Compliance and enforcement

A building owner is required to notify their local council when carrying out minor building work, for example, to replace a boiler or install insulation. For major building work, they must submit full building plans to the local council.

Officers from the council will carry out site inspections during construction.²⁰⁰

Where these officers discover work that violates building regulations, they can issue a 'contravention notice', requiring the faulty work to be fixed.²⁰¹

Ban of combustible cladding material

Following the Grenfell Tower fire, the Northern Ireland Housing Executive (NIHE) established an Independent Reference Group on fire safety in tower blocks. The group examined the cladding used on four Housing Executive tower blocks; it found that none of them were fitted with the type of cladding used on Grenfell Tower.²⁰²

The group also considered other aspects of fire safety of the organisation's 33 tower blocks. Its [subsequent January 2018 report](#) (PDF) recommended that the Housing Executive should:

- consider installing sprinkler systems in its high-rise tower blocks.

¹⁹⁷ Scottish Government, [Building and fire safety working group minutes: June 2022](#), August 2022

¹⁹⁸ Scottish Government, [Building Standards Futures Board](#), undated [23 May 2023]

¹⁹⁹ [Building Regulations \(Northern Ireland\) 2012](#); Northern Ireland Executive, [Building Regulations Technical Booklets](#), last updated June 2022

²⁰⁰ Building Control Northern Ireland, [Advice & Guidance](#), undated [accessed 11 January 2023]

²⁰¹ As above

²⁰² Housing Executive, [Fire Risk Assessments](#), undated [accessed 23 May 2023]

- assess the cladding systems used on the four tower blocks against new regulatory standards which may arise from ongoing reviews.
- give more resources to its compliance team to ensure a robust inspection, testing and maintenance regime is in place.
- keep residents updated on key findings for each tower block and what actions it undertakes to address any problems that are identified.²⁰³

Between August and October 2020, the Department of Finance consulted on whether it should introduce a similar ban on the use of combustibile cladding material as had been adopted in England.²⁰⁴ In 2022, it banned the use of materials that are not classified as A2-s1, d0 or Class A1 on external walls in:

- buildings that are 18 or more metres and contain:
 - a dwelling,
 - an institution, or
 - a room for residential purposes.²⁰⁵

The ban applies to blocks of flats, student accommodation, care homes, nursing homes, sheltered housing, hospitals and dormitories in boarding schools. It does not extend to hostels, hotels or boarding houses.²⁰⁶

²⁰³ Independent Reference Group, [Fire Safety in Housing Executive Tower Blocks](#) (PDF), January 2018

²⁰⁴ Department of Finance, [The Building \(Amendment\) Regulations \(Northern Ireland\) 2022: Department's Response to Public Consultation on Fire safety and Radon issues](#), March 2022

²⁰⁵ [Building \(Amendment\) Regulations \(Northern Ireland\) 2022](#)

²⁰⁶ [Building \(Amendment\) Regulations \(Northern Ireland\) 2022](#)

9

Terminology

Approved Documents: A series of guidance documents prepared by the government that offer practical examples and solutions on how to achieve compliance with the requirements of in the [Building Regulations 2010](#).

Accountable person: A new role created by the [Building Safety Act 2022](#). They will be responsible for assessing and managing building safety risks in higher-risk residential buildings during occupation.

Building assessment certificate: A certificate issued by the BSR which shows that the BSR is satisfied that an accountable person has met their duties to assess, review and manage building safety risks at the time of assessment.

Building control approval: An approval process involving a third-party assessment (by the local authority or a privately approved inspector) to ensure building work complies with building regulations.

Building control body (BCB): The body that checks and certifies compliance with building regulations. It describes both local authority building control and privately approved inspectors.

Building safety case report: A report prepared by the accountable person which sets out their assessment of building safety risks and the steps they have taken to manage these risks. It must be shared with the BSR on request.

Building Safety Regulator (BSR): A new body that the [Building Safety Act 2022](#) established. It [sits within the Health and Safety Executive \(HSE\)](#). The BSR will oversee construction work on higher-risk buildings, ensure safety risks are managed in higher-risk residential buildings, and oversee the performance of building control bodies (local authorities and private-sector inspectors).

Building regulations: Minimum standards for the design, construction and performance of buildings. They apply when new buildings are constructed and when certain changes are made to existing buildings (for example, when they are refurbished).

Building work: Work that is carried out when constructing a new building or refurbishing an existing building. Work on ‘controlled fittings or services’, such as replacing a boiler, and work on ground floors, roofs or external walls (for example to put in insulation) are also considered building work.

Completion (or final) certificate: A certificate given by local authority building control (or a privately approved inspector) after they have taken “all reasonable steps” to assess whether building work complies with building regulations. It is evidence of compliance, but not a guarantee.

Dutyholders: Clients, designers and contractors who, in future, will have to make sure their work complies with building regulations. Clients will have to make sure the designers and contractors they engage are ‘competent’.

Gateways process: A series of steps higher-risk buildings will pass through prior to and during construction. The three gateways act as ‘hard stops’ to make sure building safety is considered at the design/planning stage, before and during construction/refurbishment and before a building is occupied.

Grenfell Tower Inquiry: An inquiry into the Grenfell Tower fire commissioned by the government in 2017. It is chaired by Sir Martin Moore-Bick. The Inquiry published its phase 1 report in 2020; phase 2 is expected in 2023 or 2024.

Hackitt review: A review of building regulations and safety commissioned by the government following the Grenfell Tower fire. It was chaired by Dame Judith Hackitt. The [Building Safety Act 2022](#) is the government’s response to the problems identified by the Hackitt review.

Higher-risk buildings: A building that is 18 or more metres in height, or has seven or more storeys, and contains at least two residential units. During design and construction, residential buildings, hospitals and care homes are covered by the new higher-risk regime the [Building Safety Act 2022](#) created. During occupation, only residential buildings will be covered by the regime.

Performance-based versus prescriptive requirements: Performance-based requirements set outcomes that need to be met (for example, emissions target for new homes) but not how these outcomes need to be achieved. Prescriptive rules set out which materials, methods or technologies must or must not be used (for example, they might require cavity wall insulation or solar panels to be installed in all new homes).

Privately approved inspector: A private-sector individual or organisation who is registered with CICAIR to carry out building control functions as an alternative to local authority building control.

Registered building control approver (RBCA): A person or organisation who registers with the BSR to carry out building control functions as an alternative to the local authority. RBCAs will replace privately approved inspectors.

Registered building inspector (RBI): A new building control professional created by the [Building Safety Act 2022](#). RBIs cannot issue building control approval but provide advice and support to the BSR, local authorities and RBCAs. Both private-sector individuals and local authority employees will be able to register as registered building inspector with the BSR.

Regularisation certificate: A certificate issued by the local authority for work that was carried out without approval but complied with the regulations that were in place at the time when the work was carried out.

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