

Building Safety Bill Update & Gateway 1

Overview of recent developments

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Who we are?

London Building Control Ltd are one of the largest Corporate Approved Inspectors. LBC work to industry codes and building control performance standards to ensure our building control process provides added value - reducing unnecessary bureaucracy, delays and costs for our clients. With offices in London, Manchester, Welwyn Garden City, Chichester and Exeter we offer a high-level service for commercial, public sector and residential projects.

Our Professional Team

Our clients are important to us, so we take the time to listen to their needs and align our experience and expertise to ensure they are met. LBC's surveying team provide advice on all areas of compliance within Building Regulations. We provide pre-application advice and assistance to design teams throughout the process to ensure building regulation compliance.

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The Building Act 1984

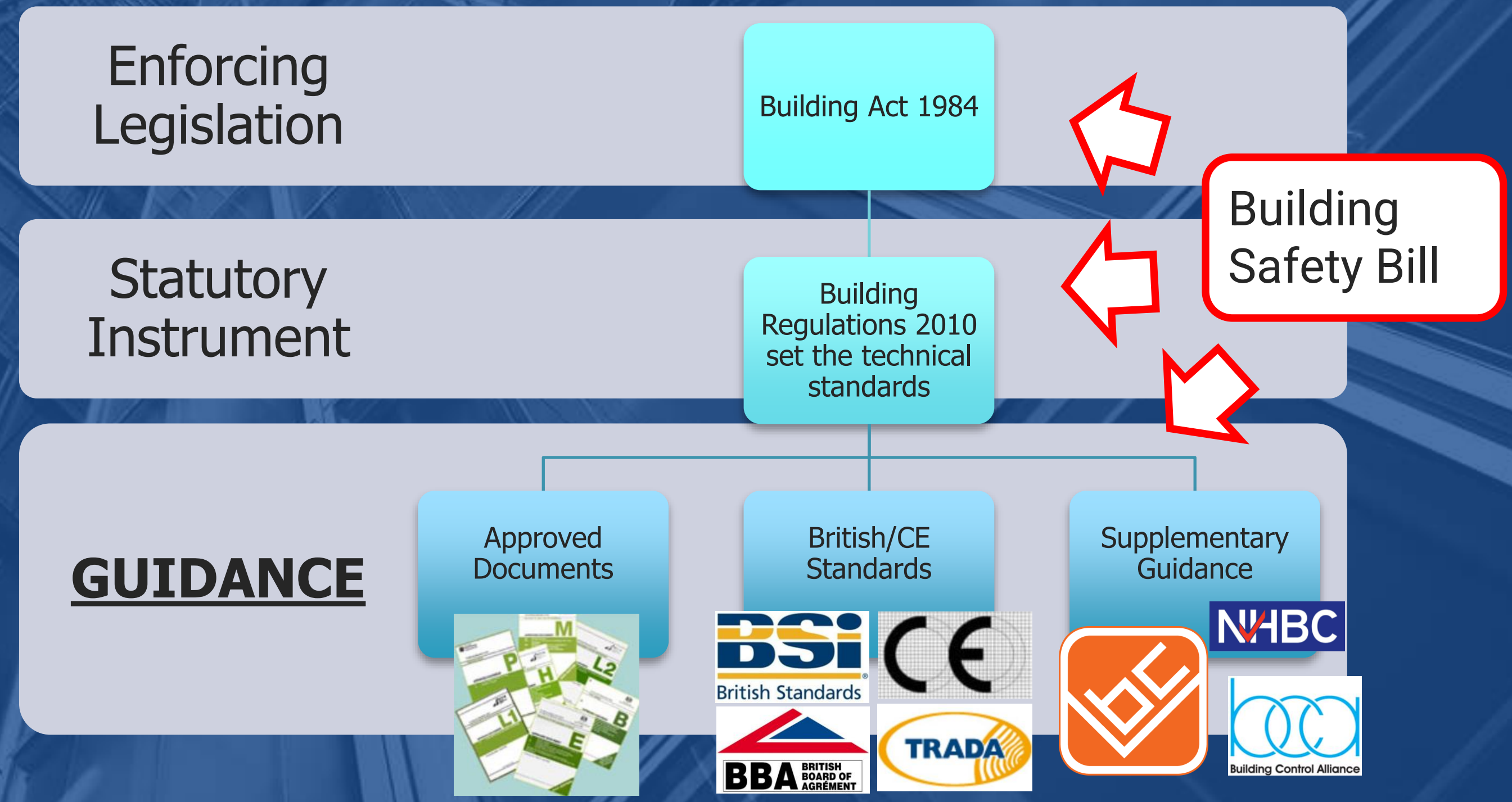


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Current Building Regulation Structure



Technical Requirements – Schedule 1



Requirement

Requirement

Means of warning and escape

B1. The building shall be designed and constructed so that there are appropriate provisions for the early warning of fire, and appropriate means of escape in case of fire from the building to a place of safety outside the building capable of being safely and effectively used at all material times.

Limits on application

Requirement B1 does not apply to any prison provided under section 33 of the Prison Act 1952^(a) (power to provide prisons, etc.).

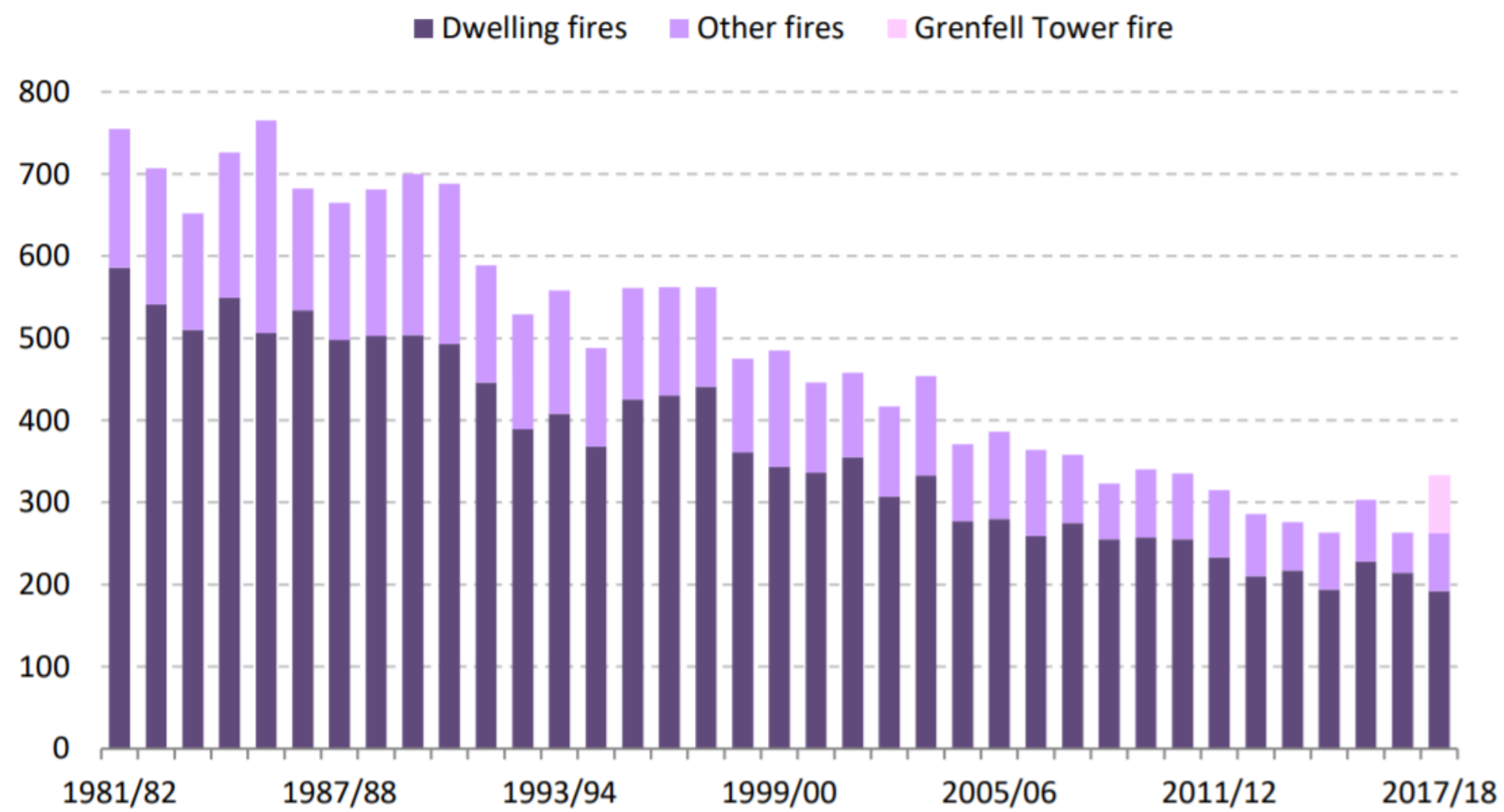

(a) 1952 c. 52; section 33 was amended by section 100 of the Criminal Justice and Public Order Act 1994 (c. 33) and by S.I. 1963/597.

Technical requirements of regulations are an Outcomes-based approach
Appropriate – Reasonable – Adequate – Suitable
Not prescriptive but with Approved Guidance

Why is Fire Safety important?



Figure 4.1 Total fire-related fatalities in dwellings or other fires, England; 1981/82 to 2017/18

Home Office

NATIONAL STATISTICS

**Fire and rescue incident statistics:
England, year ending June 2018**

Statistical Bulletin 25/18

8 November 2018

Why is Fire Safety important?



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Building Control – A brief history

The Great Fire of London 1666
Rebuilding Act 1667

Dwelling death Statistics
(approximate):

- Fire related – 200
- Falling down stairs – 1000
- Radon related – 1100+
- Overheating – 2000
- Global warming??
- Poor ventilation??



https://en.wikipedia.org/wiki/Great_Fire_of_London



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Hackitt Report & Building Regs Review

Building a Safer Future

Independent Review of Building
Regulations and Fire Safety:
Final Report

May 2018
Dame Judith Hackitt DBE FREng

Cm 9607

- *Implementation Plan published December 2018*
- *New regulatory framework*
- *Single streamlined regulatory route*
- *Duty holder roles and responsibilities*
- *Gateway points for regulatory oversight*
- *Rigorous enforcement powers*
- *Industry competence*

- *53 recommendations made*

Building a Safer Future
An Implementation Plan

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Draft Building Safety Bill

Parts & Contents – Overview

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The Building Safety Bill & Building Act 1984

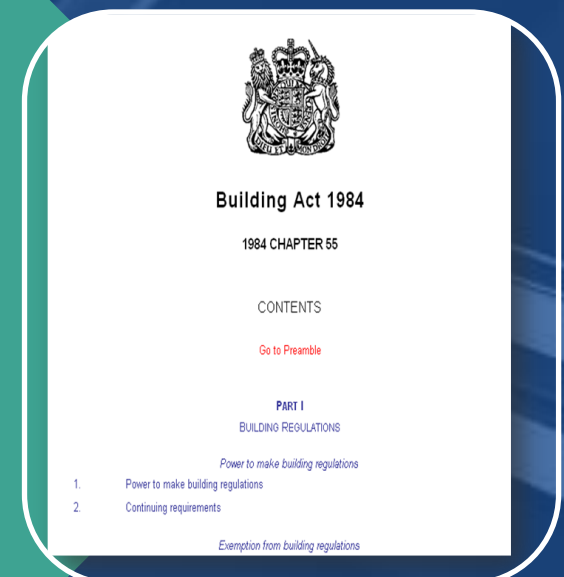


An Act is known as an 'Act of Parliament'

3 sets of readings as a Bill in each House

Royal Assent by the Queen

Legal Scrutiny



Building Safety Bill 'Parts'



- *Part 1 – Overview of the 'Act'*
- *Part 2 – The new Building Safety Regulator, definitions, scope, functions*
- *Part 3 – Amendments to the Building Act – Duty holder regime, registration of building control*
- *Part 4 – Occupied building obligations and the roles of Accountable Person and Building Safety Manager, plus offences and sanctions*
- *Part 5 – Supplementary provisions regarding*



Draft Building Safety Bill

The Building Safety Regulator

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Building Safety Regulator Overview



- *Health & Safety Executive*
- *Regulatory decisions under the new regime*
- *Implementing the new stringent regulatory regime*
- *Advising on Building Standards*
- *Overseeing Building control Bodies*
- *Competence in the built environment*
- *Assistance from 'Designated Body'*

- *Control of materials*
- *Developing guidance*

Probity

Building Safety Regulator Developments



HSE's people

HSE board of Non-Executives

Management Board

Speeches

Diversity and equality

Tackling discrimination

Equality Duty →

Peter Baker

Chief Inspector of Buildings - Health & Safety Executive



Peter has over 30 years' experience with HSE as an Inspector and in a number of senior operational roles dealing with a wide range of industry sectors, including construction, major hazard industries and local authorities. Peter led HSE's reform and delivery of the regulatory regime for chemical and downstream oil industries, and was appointed HSE's Chief Inspector of Construction in 2015.

From 2017, Peter led HSE's involvement in the Government's Building Safety Programme following the Grenfell Tower tragedy. As Chief Inspector of Buildings he is now at the forefront of establishing the new Building Safety Regulator in HSE and leading the delivery of the stronger, more robust building safety regime for higher risk buildings working with government, industry, partner regulators and residents.

As Director of HSE's Building Safety and Construction Division, Peter also has Executive Board responsibility for HSE's construction operations across Great Britain.

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Building Safety Regulator Overview



4 Duty to facilitate building safety: higher-risk buildings

- (1) The regulator must provide such assistance and encouragement to relevant persons as it considers appropriate with a view to facilitating their securing the safety of people in or about higher-risk buildings in relation to building safety risks as regards those buildings.
- (2) For this purpose “relevant persons” means –
 - (a) residents of higher-risk buildings,
 - (b) persons upon whom duties are imposed by virtue of paragraph 4D of Schedule 1 to the Building Act 1984 (dutyholders), and
 - (c) persons who are accountable persons or building safety managers within the meaning of Part 4 of this Act.
- (3) Parts 3 and 4 contain provision conferring further functions on the regulator in relation to higher-risk buildings.

Building Safety Regulator Overview



- 6 Facilitating improvement in competence of industry and building inspectors**
- (1) The regulator must provide such assistance and encouragement as it considers appropriate to—
 - (a) persons in the built environment industry, and
 - (b) registered building inspectors,with a view to facilitating their improving the competence of persons in that industry or members of that profession (as the case may be).
 - (2) For the meaning of “built environment industry” and “registered building inspector” see section 35.

Building Safety Committees



- ***Building Advisory Committee – Section 9***
Validate and assure guidance
- ***Committee on Industry Competence – Section 10***
System for competence oversight.
- ***Residents' Panel – Section 11***
Resident's voice on decisions

BSB Definition of “in-scope” buildings

Clause 19: Meaning of “higher-risk building

Preliminary defined as:

- *Buildings with two or more dwellings*
- *Two or more Rooms for Residential Purposes*
- *Student accommodation*
- *Meets the height condition (18m or 7 storeys)*

Excludes:

- *Secure residential institutions*
- *Temporary accommodation*

Amendments

BSR will regulate high-rise buildings:

1. have at least 2 residential units
2. are hospitals or care homes (during design and construction)

Meet height condition





Draft Building Safety Bill

Dutyholder regime

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Dutyholders – Accountability



Robert Jenrick MP (Secretary of State for Housing, Communities and Local Government)

“the draft Bill will introduce a new era of accountability, making it clear where the responsibility for managing safety risks lies throughout the design, construction and occupation of buildings in scope. There will be tougher sanctions for those that fail to meet their obligations.”



Dutyholders – Accountability



38 Dutyholders and general duties

In Schedule 1 to the Building Act 1984 (building regulations) after paragraph 5 insert –

“Appointed persons

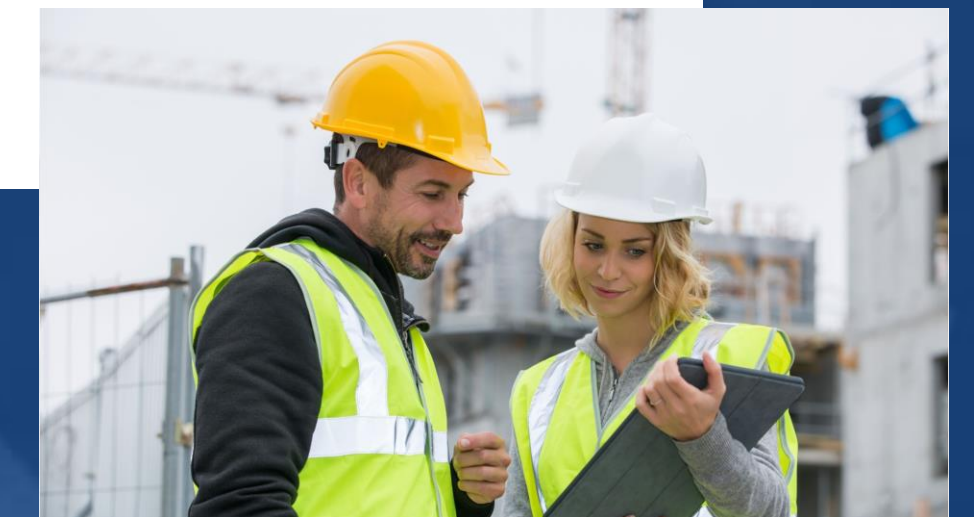
- 5A (1) Building regulations may require prescribed appointments to be made, in relation to any work or other matter to which building regulations are applicable.
- (2) Building regulations may make provision about appointments, including provision about –
- (a) the persons who are to make appointments;
 - (b) the persons who may be appointed;
 - (c) the time by which appointments must be made;
 - (d) the period for which persons are to be appointed;
 - (e) the termination of appointments;
 - (f) the replacement of appointed persons.
- (3) The regulations may provide that in prescribed circumstances an appointment is treated as made.
- (4) In this Schedule “appointed person”, in relation to any work or other matter to which building regulations are applicable, means a person appointed in relation to that work or matter under building regulations made by virtue of this paragraph.

Dutyholders – General duties



General duties

- 5B (1) Building regulations may, for the purpose of facilitating compliance with any requirement of building regulations in relation to any work or other matter to which building regulations are applicable –
- (a) impose duties on relevant persons in connection with the planning or management of the work or other matter;
 - (b) require relevant persons to co-operate with other relevant persons.
- (2) The following are “relevant persons” for this purpose –
- (a) any appointed person;
 - (b) any prescribed person.”



Dutyholders – Competence



“Competence requirements

- 5C (1) Building regulations may, in relation to any work or other matter to which building regulations are applicable, impose competence requirements on—
- any appointed person, or
 - any prescribed person.
- (2) A “competence requirement” is a requirement relating to—
- the skills, knowledge, experience and behaviours of an individual;
 - the capability of a person other than an individual to perform its functions under building regulations.
- (3) The regulations may require an appointed person who is not an individual to give an individual acting under its control who has the appropriate skills, knowledge, experience and behaviours the task of managing its functions as an appointed person.”



Dutyholders – Competence



Built environment – Core criteria
for building safety in competence
frameworks – Code of practice

April 2021 Version 3



BSI Flex 8670: v3.0 2021-04

Ministry of Housing,
Communities &
Local Government

bsi.

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Dutyholders – Accountability

61 Accountable person

- (1) In this Part any reference to the “accountable person” for a higher-risk building is to—
- a person who holds a legal estate in possession in any part of the common parts (subject to subsection (2)), or
 - a person who is under a relevant repairing obligation in relation to any part of the common parts.



70 Nominated individual

- (1) This section applies where a person other than an individual has been appointed as the building safety manager for a higher-risk building.
- (2) The building safety manager must as soon as reasonably practicable appoint an individual acting under its control to be the nominated individual for the building.
- (3) If at any time there is no nominated individual for the building, the building safety manager must as soon as reasonably practicable appoint another individual acting under its control to be the nominated individual for the building.
- (4) A nominated individual must manage the building safety manager’s functions.
- (5) The building safety manager may appoint an individual under subsection (2) or (3) only if satisfied that the individual has the appropriate skills, knowledge, experience and behaviours to manage their functions.





Building Safety Bill

The Gateway Process

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Building Safety Bill - Gateway Overview



Pre-construction
Phase

Construction
Phase

Occupation

Gateway
1

Gateway
2

Gateway 3

Safety Case

Design

Regulation 38

Golden Thread

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Building Safety Bill - Gateway Overview



RIBA Plan of Work 2020

The RIBA Plan of Work organises the process of briefing, designing, delivering, maintaining, operating and using a building into eight stages. It is a framework for all disciplines on construction projects and should be used solely as guidance for the preparation of detailed professional services and building contracts.

Stage Boundaries: Stages 0-4 will generally be undertaken one after the other. Stages 4 and 5 will overlap in the Project Programme for most projects. Stage 5 commences when the contractor takes possession of the site and finishes at Practical Completion. Stage 6 starts with the handover of the building to the client immediately after Practical Completion and finishes at the end of the Defects Liability Period. Stage 7 starts concurrently with Stage 6 and lasts for the life of the building.

Planning Note: Planning Applications are generally submitted at the end of Stage 3 and should only be submitted earlier when the threshold of information required has been met. If a Planning Application is made during Stage 3, a mid-stage gateway should be determined and it should be clear to the project team which tasks and deliverables will be required. See Overview guidance.

Procurement: The RIBA Plan of Work is procurement neutral – See Overview guidance for a detailed description of how each stage might be adjusted to accommodate the requirements of the Procurement Strategy.

ER: Employer's Requirements
CP: Contractor's Proposals

	0 Strategic Definition	1 Preparation and Briefing	2 Concept Design	3 Spatial Coordination	4 Technical Design	5 Manufacturing and Construction	6 Handover	7 Use
Stage Outcome at the end of the stage	The best means of achieving the Client Requirements confirmed	Project Brief approved by the client and confirmed that it can be accommodated on the site	Architectural Concept approved by the client and aligned to the Project Brief	Architectural and engineering information Spatially Coordinated	All design information required to manufacture and construct the project completed	Manufacturing, construction and Commissioning completed	Building handed over, Aftercare initiated and Building Contract concluded	Building used, operated and maintained efficiently
Core Tasks during the stage	Prepare Client Requirements Develop Business Case for feasible options including review of Project Risks and Project Budget Ratify option that best delivers Client Requirements Review Feedback from previous projects Undertake Site Appraisals	Prepare Project Brief including Project Outcomes and Sustainability Outcome Undertake Feasibility Studies Agree Project Budget Source Site Information including Site Surveys Prepare Project Programme Prepare Project Execution Plan	Prepare Architectural Concept incorporating Strategic Engineering requirements and aligned to Cost Plan, Project Strategies and Outline Specification Agree Project Brief Derogations Undertake Design Reviews with client and Project Stakeholders Prepare stage Design Programme	Undertake Design Studies, Engineering Analysis and Cost Exercises to test Architectural Concept Coordinate design aligned to Cost Plan, Project Strategies and Outline Specification Initiate Change Control Procedures Prepare stage Design Programme	Develop architectural and engineering technical design Prepare and coordinate design team Building Systems information Prepare and integrate specialist subcontractor Building Systems information Prepare stage Design Programme	Finalise Site Logistics Manufacture Building Systems and construct building Monitor progress against Construction Programme Inspect Construction Quality Resolve Site Queries as required Undertake Commissioning of building Prepare Building Manual	Hand over building in line with Plan for Use Strategy Undertake review of Project Performance Undertake seasonal Commissioning Rectify defects Complete initial Aftercare tasks including light touch Post Occupancy Evaluation	Implement Facilities Management and Asset Management Undertake Post Occupancy Evaluation of building performance in use Verify Project Outcomes including Sustainability Outcomes
Project Strategies might include:	- Conservation (if applicable) - Cost - Fire Safety - Health and Safety - Inclusive Design - Planning - Plan for Use - Procurement - Sustainability							
Core Statutory Processes during the stage:	Strategic appraisal of Planning considerations	Source pre-application Planning Advice Initiate collation of health and safety Pre-construction Information	Obtain Pre-construction Planning Advice Agree route to Building Regulations compliance Option: submit outline Planning Application	Review design against Building Regulations Prepare and submit Planning Application	Submit Building Regulations Application Discharge pre-commencement Planning Conditions Prepare Construction Phase Plan Submit form F10 to HSE if applicable	Carry out Construction Phase Plan Comply with Planning Conditions related to construction	Comply with Planning Conditions as required	Comply with Planning Conditions as required
Procurement Route	Traditional Design & Build 1 Stage	Design & Build 2 Stage Management Contract	Construction Management Contractor-led					
Information Exchanges at the end of the stage	Client Requirements Business Case	Project Brief Feasibility Studies Site Information Project Budget Project Programme Procurement Strategy Responsibility Matrix Information Requirements	Project Brief Derogations Signed off Stage Report Project Strategies Outline Specification Cost Plan	Signed off Stage Report Project Strategies Updated Outline Specification Residual Project Strategies Updated Cost Plan Planning Application	Manufacturing Information Construction Information Final Specifications Residual Project Strategies Building Regulations Application	Building Manual including Health and Safety File and Fire Safety Information Practical Completion certificate including Defects List Asset Information	Feedback on Project Performance Final Certificate Feedback from light touch Post Occupancy Evaluation	Feedback from Post Occupancy Evaluation Updated Building Manual including Health and Safety File and Fire Safety Information as necessary

Core RIBA Plan of Work terms are defined in the RIBA Plan of Work 2020 Overview glossary and set in Bold Type. Further guidance and detailed stage descriptions are included in the RIBA Plan of Work 2020 Overview.

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Building Safety Bill – Planning Gateway 1

Fire safety measures included at an early Planning Stage

- *Town and Country Planning changes (pre BSB)*
- *Relevant buildings*
- *Establishes the BSR as a mandatory consultee*
- *Fire Safety Statements*
- *Exemptions*

Issues

- *Planning Problems*
- *The competency and skills challenge*
- *Wider regulatory framework of BSB?*



Gateway 1 – Fire Statement

*Two options - dynamic fire statement form
or static fire statement form*



Relevant building (height condition)

- *Site address, description, etc*
- *Competence of person completing*
- *Building Schedule*
- *Plans, information, proposals, etc*
- *Specific technical complexities*
- *Signatories*

Fire statement placed on planning register

Draft guidance: fire statement

The purpose of this document is to provide guidance on the completion of a fire statement where there is a requirement to submit a fire statement with an application for planning permission.

Users of this guidance should be aware of and familiarise themselves with Article 9A of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (see Annex B).

The fire safety matters contained in a fire statement are relevant only to the extent they are relevant to land use planning. The level of detail and focus of information should not contain the breadth and depth of information on fire safety which will be submitted at building control application stage. Requirements of the fire statement will not duplicate or require compliance with the building regulations or the Fire Safety Order¹, and local planning authorities will not be responsible for any building regulation matters or the enforcement of building control requirements. Rather fire statements will support the consideration of information on fire safety issues relevant to land use planning matters e.g. where fire safety issues relate to site layout and access. It is the intention that the information provided within fire statement is focussed and concise, specific and relevant to the development, and proportionate to the scale, type and complexity of the proposal.

As many fire safety matters relevant to land use planning impact on the external layout of a site including the spaces between buildings, fire statements are required to include information on the entire development as set out on the plan which identifies the land to which the application relates which must be submitted with the application (often referred to as "the red line boundary").

There are two options for completing the fire safety form published by the Secretary of State:

- dynamic fire statement form (which can be completed electronically using drop down answer fields)
- static fire statement form (which can be printed and filled in by hand)

¹Regulatory Reform (fire safety) Order 2005

Gateway 1- Fire safety first principles

Identification of base design criteria

Key Information

- *Occupancy*
- *Fire hazards*
- *Location/Site*
- *Size (Height)*
- *Guidance/deviations*

Not full Fire Strategy



Gateway 1

Amendments to The Town and Country Planning



Amendments to the Town and Country Planning (General Permitted Development) (England) Order 2015

2.—(1) Part 20 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015(1) is amended as follows.

(2) In paragraph A.2(1)—

- (a) omit “and” at the end of paragraph (g);
- (b) after paragraph (h) (and immediately before the words that follow that paragraph) insert—
 - “and
 - (i) where the existing building is 18 metres or more in height, the fire safety of the external wall construction of the existing building,”.

(3) In paragraph AA.2(1), after paragraph (j) (and immediately before the words that follow that paragraph) insert—

- “and
- (k) where the existing building is 18 metres or more in height, the fire safety of the external wall construction of the existing building,”.

(4) In paragraph B—

- (a) in sub-paragraph (2)—
 - (i) omit “and” at the end of paragraph (g);
 - (ii) after paragraph (h) (and immediately before the words following that paragraph) insert—
 - “and
 - (i) where the application for prior approval relates to the requirement mentioned in paragraph A.2(1)(i) or AA.2(1)(k), a report from a chartered engineer or other competent professional confirming that the external wall construction of the existing building complies with paragraph B4(1) of Schedule 1 to the Building Regulations 2010(2),”.

(b) after sub-paragraph (9) insert—

“(9A) Where the application relates to prior approval under paragraph A.2(1)(i) or AA.2(1)(k), the local planning authority must refuse prior approval if the application is not accompanied by the report mentioned in subparagraph (2)(i) above.”.

Building Safety Bill - Gateway 2

Strengthened oversight at technical design and pre-construction stage:

- *Enhances current building control 'deposit of plans' with the BSR controlling in scope buildings*
- *Implements a 'hard stop' where construction cannot begin until the BSR has approved the application*
- *Complete plans plus a Fire and Emergency File and Construction Control Plan. Decisions to be well considered and justified with realistic fire safety management expectations*
- *Requirements set for construction including effective change information and competence management.*



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Building Safety Bill - Gateway 3

Strengthened oversight at completion, commissioning and handover stage:

- *Final/completion certificate stage*
- *Implements 'hard stop' where the BSR must approve the scheme, undertaking final inspections issue a certificate*
- *Required as built detailed documentation on building required to issue a certificate*
- *Documents and information must be handed over to Accountable Person (the golden thread)*



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Building Safety Bill – Regulation 38

Simple/Complex buildings?

- **Escape routes**
- **Fire-separating elements**
- **Fire/life safety systems**
- **Fire doorsets**
- **Type of evacuation?**
- **Assumptions RE management?**

Fire Strategy plans/document!

Fire Risk Assessments!



R38 ONLINE VERSION

Regulation 38: Fire safety information

This section deals with the following regulation of the Building Regulations 2010.

Fire safety information

38. (1) This regulation applies where building work—

(a) consists of or includes the erection or extension of a relevant building; or

(b) is carried out in connection with a relevant change of use of a building, and Part B of Schedule 1 imposes a requirement in relation to the work.

(2) The person carrying out the work shall give fire safety information to the responsible person not later than the date of completion of the work, or the date of occupation of the building or extension, whichever is the earlier.

(3) In this regulation—

(a) “fire safety information” means information relating to the design and construction of the building or extension, and the services, fittings and equipment provided in or in connection with the building or extension which will assist the responsible person to operate and maintain the building or extension with reasonable safety;

(b) a “relevant building” is a building to which the Regulatory Reform (Fire Safety) Order 2005 applies, or will apply after the completion of building work;

(c) a “relevant change of use” is a material change of use where, after the change of use takes place, the Regulatory Reform (Fire Safety) Order 2005 will apply, or continue to apply, to the building; and

(d) “responsible person” has the meaning given by article 3 of the Regulatory Reform (Fire Safety) Order 2005.

Intention

The aim of this regulation is to ensure that the person responsible for the building has sufficient information relating to fire safety to enable them to manage the building effectively. The aim of regulation 38 will be achieved when the person responsible for the building has all the information to enable them to do all of the following.

a. Understand and implement the fire safety strategy of the building.

b. Maintain any fire safety system provided in the building.

c. Carry out an effective fire risk assessment of the building.

110 Approved Document B Volume 1, 2019 edition Building Regulations 2010

Building Safety Bill – Gateway developments

Evacuation Alert Systems – BS 8629:2019

A new standard that sets out requirements for Evacuation Alert Systems (EAS), to be used by the Fire and Rescue Service (FRS) in the event of emergencies in apartment blocks.

An evacuation alert system is an alarm system operated by a control panel inside an apartment block for use by the FRS when they attend an emergency. BS 8629 requires an alarm sander to be situated in each flat in a block - with the control panel capable of triggering evacuation alerts for specific areas or floors within a building.

It does not need to incorporate a two-way communication mechanism or a Voice Alarm System, but each flat must be fitted with an alarm sander and a visual alarm device (VAD).

It is separate from a fire alarm system. It is not triggered by heat or smoke sensors. Instead, it should only be operated by the FRS via a control panel also known as an EACIE (evacuation alert control and indicating equipment).



Building Safety Bill – Gateway developments

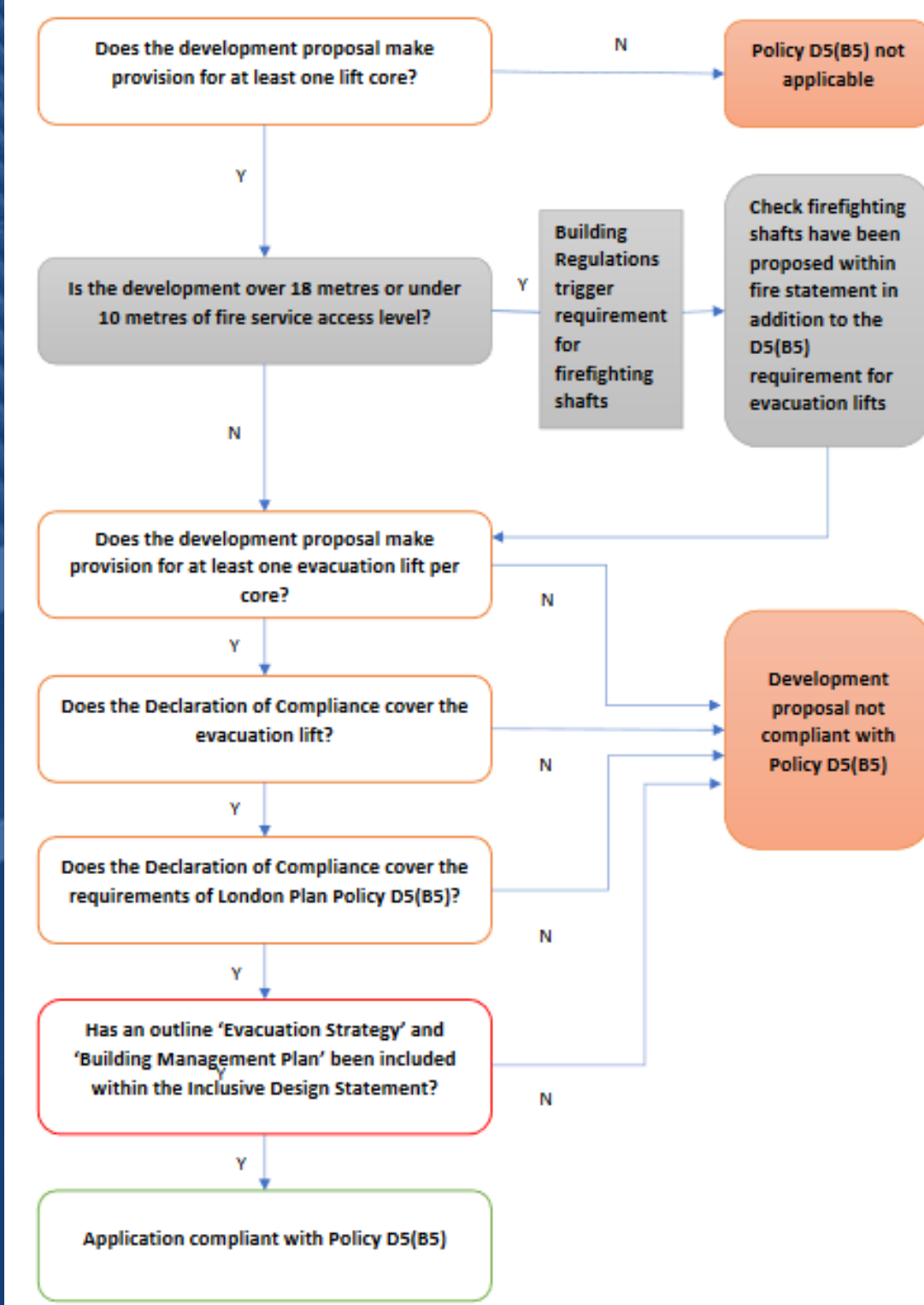
London Plan Fire Statements – Policy D12(B) March 2021

Evacuation Lifts

- *Policy D5 (B5) requires development proposals to be designed to incorporate safe and dignified emergency evacuation for all building users. In all developments where lifts are installed, as a minimum at least one lift per core (or more subject to capacity assessments) should be a suitably sized fire evacuation lift suitable to be used to evacuate people who require level access from the building.*
- *Evacuation lifts should be provided in addition to Building Regulations requirements for firefighting shafts/ lifts to ensure they can be used for evacuation purposes when the firefighting lift is in use*
- *Emergency carry down or carry up mechanical devices or similar interventions that rely on manual handling are not considered to be appropriate, for reasons of user dignity and independence. The installation of lifts which can be used for evacuation purposes (accompanied by a management plan) provide a dignified and more independent solution.*

https://www.london.gov.uk/sites/default/files/the_london_plan_2021.pdf

Figure 1: London Plan Policy D5(B5) Evacuation lift checklist





Draft Building Safety Bill

Building Control regime &
More...

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Strengthened oversight

- *The Regulator is the building control authority for higher-risk buildings*
- *Regulation of Building Control Approvers
Local Authority & Approved Inspectors*
- *Register of BCB's*
- *Building Registration*



Building Control



58A “Registered building inspector”

In this Act “registered building inspector” means an individual registered as a building inspector in accordance with this Part.

- *Authorised officers – Section 27 & 28*
- *Regulatory Enforcement regime – Section 42...*
Compliance notices
Stop Notices

Building Control Enforcement



- ***Increase of time-limits for formal enforcements of non-compliance with Building Regulations (see sections 35 and 36 of the Building Act 1984). It extends prosecutions for contravention of the Regulations from 2 years to 10 years.***
- ***Requirement to correct non-compliant work from 1 year to 10 years.***
- ***Stronger sanctions***



Legal Action & Liability

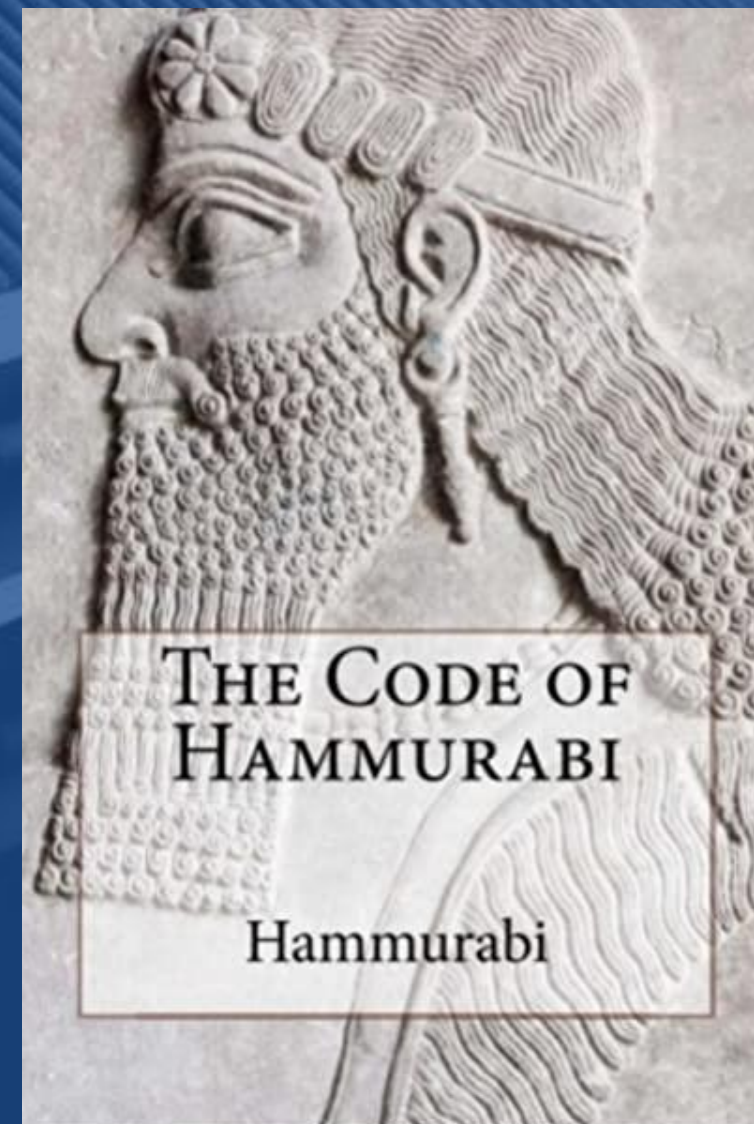
(13) Amendments to the Defective Premises Act 1972 and commencing section 38 of the Building Act 1984

The Bill will amend the Limitation Act 1980 to extend the period in which a claimant can bring a claim under section 1 of the Defective Premises Act 1972. Currently, under the Defective Premises Act 1972 claimants can seek compensation in respect of the work to construct a dwelling, if the dwelling is unfit for habitation, within 6 years of the work taking place. The Government thinks that it is right to extend that period from 6 to 15 years, to afford leaseholders and other claimants more time to bring proceedings. The measures will apply retrospectively, and the amendment will make provision to ensure that all parties have access to a fair trial.

Currently the Defective Premises Act 1972 only applies to the 'provision' of a dwelling. We will also be extending the cause of action under the Defective Premises Act 1972 to include refurbishment works. This change will also be subject to the extended 15-year limitation period. This change will only apply prospectively.

Additionally, we will be commencing section 38 of the Building Act 1984. This provision will also be subject to the extended 15-year limitation period and will apply prospectively only.

Commencement: The expansion of the Defective Premises Act 1972 to include refurbishments and extension to the limitation period for the existing duty will come into force two months after the Bill receives Royal Assent; we intend to commence section 38 of the Building Act 1984 at the same time.



<https://www.amazon.com/Code-Hammurabi/dp/1512649825>

PROSPECTIVE

38 Civil liability.

- (1) Subject to this section—
 - (a) breach of a duty imposed by building regulations, so far as it causes damage, is actionable, except in so far as the regulations provide otherwise, and
 - (b) as regards such a duty, building regulations may provide for a prescribed defence to be available in an action for breach of that duty brought by virtue of this subsection.
- (2) Subsection (1) above, and any defence provided for in regulations made by virtue of it, do not apply in the case of a breach of such a duty in connection with a building erected before the date on which that subsection comes into force unless the regulations imposing the duty apply to or in connection with the building by virtue of section 2(2) [F51 or 2A] above or paragraph 8 of Schedule 1 to this Act.
- (3) This section does not affect the extent (if any) to which breach of—
 - (a) a duty imposed by or arising in connection with this Part of this Act or any other enactment relating to building regulations, or
 - (b) a duty imposed by building regulations in a case to which subsection (1) above does not apply, is actionable, or prejudice a right of action that exists apart from the enactments relating to building regulations.
- (4) In this section, "damage" includes the death of, or injury to, any person (including any disease and any impairment of a person's physical or mental condition).

Textual Amendments

F51 Words in s. 38(2) inserted (16.11.2004) by Sustainable and Secure Buildings Act 2004 (c. 22), ss. 4(3), 11(4)

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'Safety Cases' for existing buildings



- *Regulator issues Building Assurance certificates.*
- *Accountable persons must apply for an Assurance Certificate and produce a 'safety case'.*
- *Mandatory Occurrence reporting system*
- *Duties on residents to ensure safety*
- *Leaseholder protection*
- *The Golden Thread of information.*
- *Building Regulation 38 changes?*



Early Guidance on 'Safety Cases'

The safety case report should include:

- *The major hazards associated with the building*
- *What measures are in place to manage, control and mitigate the risks*
- *Safety management systems and the physical provisions and precautions in the building*
- *How measures are maintained*
- *What checks are being done to make sure the measures will work when they are needed*
- *How the safety case is kept up to date (periodic reviews, before/after major changes, refurbishments, etc)*



Safety case principles for high-rise residential buildings
Building safety reform – Early key messages



Draft Building Safety Bill

Supplementary provisions

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New complaints procedures



- ***New Homes Ombudsman***

Approve a code of practice about the standards of conduct and quality of work

- ***Housing Ombudsman***

Prevents the apparent “democratic filter” and allows social housing complainants to escalate a complaint directly to the Housing Ombudsman

<https://www.housing-ombudsman.org.uk/>

Housing
Ombudsman Service

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Construction Products Regulations

- Construction Products (Amendment etc.) (EU Exit) Regulations 2020
- Imposes requirements on product manufacturers
- Declarations of performance
- Secretary of State may regulation make provision for products that are 'safety critical'
- Definition – *'any product that would cause death or serious injury to any person'*
- Current discussions (CPA, ASFP, etc)



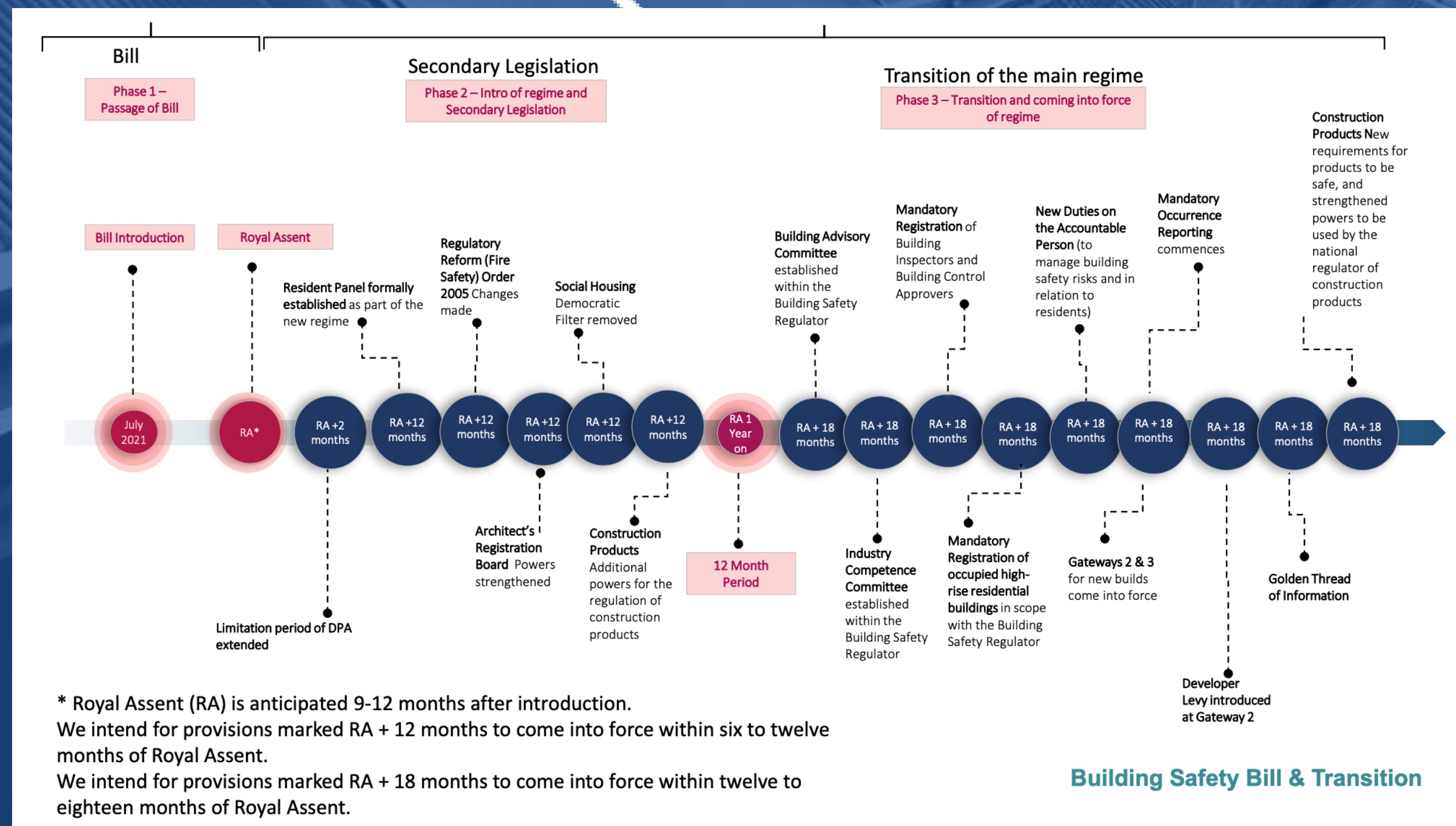
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Commencement and transitional periods



- *Scrutiny – Parliamentary Committee*
- *Introduced to House of Commons*
- *Secondary Legislation*
- *Statutory Instruments*
- *Act Amendments*
- *New industry frameworks*



Thank you for listening
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