

Building Safety Act 2022
What you need to know

March 2024



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The Partners

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1	Building Safety Act 2022
	- Higher-Risk Buildings
	- New Roles and Responsibilities
	- Registering Higher-Risk Buildings
	- Golden Thread & Gateways
	- Competence
2	Building Regulations etc. (Amendment) (England) 2023
	- Appointment of Principal Designer for Building Regs (Part 2a)
	- Timeline
	- Transition Phase

1

Building Safety Act 2022

The Building Safety Act 2022 (BSA)

We are writing to provide detail on the changes made to the building control process for higher-risk buildings and the wider changes to procedural building regulations that now apply (as of 1 October 2023) in England.

The Building Safety Act 2022 has been introduced, following Grenfell, to reform building safety and to bring about long-lasting change. The report issued by Dame Judith Hackitt after her independent review into the UK's building regulations, entitled 'Building a Safer Future', has made it clear that a very different approach to the regulatory framework needs to be adopted, covering the design, construction, and maintenance of high-rise residential buildings.

Why should you care about the Building Safety Act?

Failure to comply means you risk breaking the law. The Building Safety Act 2022 will lead to greater compliance across the supply chain. Demonstrating competence will be important and will involve proving appropriate skills, knowledge, experience, and behaviours.

Higher-Risk Buildings (HRB)

What is a HRB?

A HRB is also known as an in-scope building. HRBs are those in England that are classed as being:

- At least 18 metres in height or at least 7 storeys high, which contain at least two residential units, including hospitals, care homes and student accommodation.
- Hotels, prisons, and military accommodation are not classed as higher-risk buildings.

New Roles and Responsibilities

Building Safety Regulator (BSR)

The Health and Safety Executive has been named as the new Building Safety Regulator. It will be responsible for:

- Improving competence levels and accountability.
- Maintaining a register of:
 - Registered building inspectors and Building Control approvers
 - Setting out a common code of conduct for inspectors
 - Defining minimum performance standards
 - Setting reporting requirements
 - Managing a disciplinary process
 - To lead the implementation of the new regulatory framework for high-rise buildings.

Building Control Body

From the 1 of October 2023 the Building Safety Regulator became the Building Control Body for HRBs. This means that the Health and Safety Executive will be responsible for; verifying building works; ensuring that Applications meet the standards set out in the building regulations before issuing a completion certificate. In this role, the Health and Safety Executive will also be responsible for maintaining a **golden thread of information**. See further information in a later section.

Accountable Person (this is a Client obligation / role)

For buildings in scope (HRBs) an "**Accountable Person**" will need to be appointed.

- Defined as a Duty Holder of a building during its occupation (after the building has passed **Gateway 3** - this could be an individual, partnership, or corporate body).
- The Accountable Person will be legally responsible for ensuring that they understand fire and structural risks in their buildings and to take appropriate steps and actions to mitigate and manage these risks on an on-going basis so the building can be safely occupied.

The accountable person has a legal obligation to repair any common parts of a building. This covers the structure and exterior of a building, corridors, lobbies, and staircases.

Who might be an accountable person?

- Freeholder or estate owner
- Management company
- Resident management company
- Right to manage company
- Commonhold association
- Landlord

Registering Higher-Risk Buildings

All existing buildings over 18 metres are to be registered with the Building Safety Regulator. The cost of registration is £251.00 plus VAT. Means of registration can be found at; [Applying to register a high-rise residential building - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/applying-to-register-a-high-rise-residential-building)

Golden Thread & Gateways

The Golden Thread of Information

The golden thread is defined as ‘the information that allows you to understand a building and the steps needed to keep both the building and people safe, now and in the future’

The golden thread during design and construction of higher-risk buildings should enable the right people at the right time to have information to support compliance with all applicable building regulations, including those relating to building safety. Managing the information is a key part of the golden thread to ensure that people can trust that the information is accurate and compliant and can access and share this information as required.

The information must be kept securely, digitally and be available when the information is needed.

Gateways

A ‘gateway policy’ is to be implemented which means the design will be scrutinised by the Building Safety Regulator at three key stages in the building development to demonstrate that building safety risks are being managed appropriately before continuing to the next stage. Acting as ‘checkpoints’ the Gateways apply for construction, refurbishment, or any works in higher-risk buildings. Throughout this process the Building Safety Regulator will ask duty holders for evidence on how competence has been established, including a company’s own individuals and organisational capabilities, plus their supply chain. The gateways apply to both new build and refurbishment projects of higher-risk buildings.

Gateway One – Planning

Gateway one was introduced on the 1 of August 2021, any planning application for a higher-risk building must submit a Fire Statement which sets out fire and structural safety information for the building. Gateway one is granted when fire safety issues, which impact on planning have been considered by the Building Safety Regulator.

Gateway Two – Pre-Construction

The Building Safety Regulator needs to be satisfied that a buildings design meets the functional requirements of the Building Regulations. Construction duty holders will need to submit a building control approval application to the Building Safety Regulator to demonstrate how the building, once built, will comply with the requirements of the building regulations. No building work can begin until the Building Safety Regulator confirms that the plans meet building regulations. Complicated schemes can be submitted in phases, upon agreement with the Building Safety Regulator.

Gateway Three – Pre-Occupation

Pre-occupation begins when the construction of a building is completed, and the building control body assesses whether the work has been carried out in accordance with the building regulations.

This takes place before a building can be occupied. If the building passes, then the building will be registered and can subsequently be occupied. It is proposed that this process will take 12 weeks for the Health and Safety Executive to approve the application for a Completion Certificate. This certificate is issued by the Building Safety Regulator. It will be an offence to occupy a building without this certificate.

Competence

General competence applies to anyone undertaking building work. Any person carrying out any building work must have, the **skills, knowledge, experience, and behaviours** necessary. The Act requires you to perform due diligence on the supply chain. Principal Designer and Principal Contractor competence requirements incorporate **BSI 8670 Flex v3**. In addition to the PAS documents listed below:

- Framework for competence of Principal Designers - **PAS 8671**
- Framework for competence of Principal Contractors - **PAS 8672**

Client

It is the Client's responsibility to ensure there are suitable arrangements in place for planning, managing and monitoring a project. Therefore, the Client is required to appoint the right people, with the right competencies, making sure reasonable steps have been taken to validate this.

Principal Contractor (PC)

A Principal Contractor must plan, manage, and monitor building work, whilst adhering to the requirements of building regulations and other relevant legislation. They have a duty to cooperate, communicate and coordinate their work with other parties. A Principal Contractor is responsible for the construction site and any sub-contractors they appoint. In addition, they must provide information for the golden thread.

Principal Designer (PD) - CDM

There is a requirement to appoint a Principal Designer under CDM 2015 for compliance with the CDM Regulations 2015. This role is required on all projects where there is more than one contractor. This role is known as **PD - CDM**.

Principal Designer (PD) – Building Regulations

There is also a requirement to appoint a Principal Designer for Building Regulation compliance under The Building Regulations etc. (Amendment) (England) Regulations 2023. This role is known as **PD - BR**. This role is required for every project that requires a building control application. This role is separate to the PD role for CDM. The intention from the government is that the role of **PD – BR**, is carried out by the lead architect, however the government recognises there may be a need for the lead architect to utilise a consultant to assist in the discharge of duties for this role. In addition, this role is likely to fall to the design and build Principal Contractor in the post contract phase, again, this is a role that the Principal Contractor can utilise a consultant for, however, whichever party is named in writing holds the legal responsibility for the role.

Subcontractors

Everyone in the supply chain has a duty to comply with the Building Safety Act 2022, this includes having measures in place to demonstrate competency.

2

Building Regulations etc (Amendment) (England) Regulations 2023

Building Regulations (Part 2A)

Appointment of a Principal Designer for Building Regs (PD-BR)

The Building Regulations etc. (Amendment) (England) Regulations 2023 require the appointment of a Principal Designer for building regulation compliance for every project that requires a building control application.

If a building control notice was submitted and agreed before the 1 October 2023 and works have significantly commenced on site by the 6 April 2024, then the appointment of a Principal Designer for building regulation compliance will not be required.

The definition of sufficiently commenced has been described as when 15% of the proposed work is completed.

Timeline

28 April 2022	Building Safety Act 2022 becomes law.
12 April 2023	Registration opens for existing higher-risk buildings come into force.
24 July 2023	The Government confirms its intention to mandate second staircases in new residential buildings above 18m.
30 September 2023	Deadline for registering existing higher-risk residential buildings.
1 October 2023	Duty holders' responsibilities come into force. New building control system comes into force. The Building Safety Regulator becomes the new building control body for higher-risk buildings. Gateways 2 and 3 come into force. Registration opens for Building Control Approvers and Inspectors. Transitional arrangements for higher-risk buildings begins. A golden thread of information is required for each higher-risk building. A safety case is now required for each higher-risk building. A mandatory Occurrence Reporting system is now required for each higher-risk building. New higher-risk buildings must now be registered before they are occupied.
1 April 2024	Transitional arrangements for higher-risk buildings end. Deadline for registering as Building Control Approvers and Building Inspectors. Professional conduct rules for Registered Building Control Approvers and Code of Conduct for Registered Building Control Inspectors come into force. The Building Safety Regulator is expected to start issuing Building Assessment Certificates.

Transition Phase

Scenario	Transitional Arrangements
Scenario 1. No initial notice or full plans deposited for the relevant building by the day the new regime comes into force 1 of October 2023.	The transitional provisions do not apply. The new more stringent building control regime applies immediately i.e. gateways 2 and 3 to be complied with in full for higher-risk (in scope) buildings. HRBs. There is a requirement to appoint a Principal Designer for Building Regulation compliance.

Scenario	Transitional Arrangements
<p>Scenario 2. An initial notice or full plans deposited for the relevant building by the day the new regime comes into force and works have sufficiently commenced within 6 months of the day the new regime comes into force.</p> <p>Works to have sufficiently commenced by the 6 April 2024.</p> <p>“Sufficiently Commenced” Permanent foundations to be complete by the 6 April 2024, or approximately 15% of the works.</p>	<p>The softer version of the transitional provisions will apply.</p> <p>The works to continue to be supervised by the existing building control body and follow the building regulation requirements in place at the time of the submission of the initial notice or full plans application.</p> <p>However, the ‘in occupation’ requirements would apply (See Part 4 of the BSA), including the requirement to register the building, with the accountable persons managing the building safety risks and keeping residents safe.</p> <p>In this scenario, neither gateway 2 or 3 applies and the Building Safety Regulator (‘BSR’) won’t have jurisdiction, it would be the existing building control body.</p> <p>There is no requirement to appoint a Principal Designer for Building Regulation compliance.</p>
<p>Scenario 3. An initial notice or full plans deposited by the day the new regime comes into force and works have <u>not</u> sufficiently commenced within 6 months of the day the new regime comes into force.</p> <p>Plans deposited by the 1 October 2023.</p> <p>If works have not sufficiently commenced by the 6 April 2024.</p> <p>Transfer to BSR.</p>	<p>There will be a transfer from the existing building control body to the BSR within the 12 weeks of the end of the transitional period.</p> <p>Where some work has started (but not sufficiently to bring it into the softer regime of scenario no.2), the BSR will not reassess these projects which transfer to it, but the BSR can issue a notice and require work to be paused for 10 days whilst the BSR assesses the information etc and gathers any further information required.</p> <p>The BSR has the power to require tests on work which has been built and they can issue compliance or stop notices where there is or is likely to be contraventions of building regulations.</p> <p>The understanding is that parties won’t need to reapply for building control approval and so gateway 2 won’t be applicable.</p> <p>There is a requirement to appoint a Principal Designer for Building Regulation compliance.</p>



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