

## Building Safety Act Technical Update

On 16<sup>th</sup> August a package of five sets of regulations was published by the government. These implement various aspects of the new building safety regime, including the long awaited dutyholder and competence regulations. In this update, Hywel Davies, who chairs the Actuate UK Building Safety Working Group, summarises the key elements of this latest package and provides links to the latest regulations and to a series of articles written for CIBSE Journal.

This update is an initial review and reflects our understanding of the regulations at the time of writing. It does not constitute a definitive analysis and certainly not any formal advice. There is a list with links to the whole package of building safety regulations at the end of this update.

There is a strong argument that everyone reading this note needs to be aware of the [The Building Regulations etc. \(Amendment\) \(England\) Regulations 2023](#). Readers will need a copy of the original 2010 version alongside the amendments. There is as yet no published consolidated text of the [original Regulations](#) as subsequently amended.

The Dutyholder and Competence requirements have been tucked neatly into 9 new pages of the Building Regulations, forming a new Part 2A, comprising 17 new regulations. They cover clients, designers and contractors and introduce a statutory duty only to appoint those that the client has evidence to assure them of competence. Designers and contractors have a duty to assess their competence and to turn down work for which they are not competent.

There are also regulations which implement Part 3 of the Act, dealing with the building control process, covering the design and construction of HRBs in particular, and address the Gateways, mandatory occurrence reporting requirements, and change control.

There are regulations covering operation of HRBs in occupation, including the requirements for resident engagement, information management (part of the Golden Thread) and safety cases. It is understood that there is a further set of regulations still to be published covering the full detail of the Golden Thread. These look likely to arrive in early October after the party conferences.

There are also consequential amendments to the Building (Approved Inspectors) Regulations and a set of general consequential amendments to tidy up various things.

The key things to note are that this package is all due to come into force on 1<sup>st</sup> October 2023 and that the changes to the Building Regulations apply to ALL building work that is notifiable, as defined in Regulation 3. This is not a set of regulations for Higher Risk Buildings – the amendments to the Building Regulations are for everything that is controlled building work!

Whilst these changes are not a surprise and have been well signposted, for many they will still come as a surprise and may well prompt calls for delayed implementation. They are very unlikely to be given any credence at all, this reform programme has been running for some time and there is a wider view beyond the industry that its all been too slow and taken far too long!

The major issues foreseen for the building services sector are the new Part 2A of the Building Regulations and the changes to the building control regime (which apply to all work, with the new Building Safety Regulator led regime coming into effect for HRBs from 1<sup>st</sup> October, subject to transitional arrangements for those projects that are already underway. If you are working on one of those projects then you really need to understand the transitional arrangements that apply to your project – prepare for significant detail! And the new HRB building control regime is essential reading for anyone working on one of those. You need to be fully aware of the change control and mandatory occurrence reporting requirements, especially as ignorance of them may cause offences to be committed, and the ignorance will be prima facie evidence of a breach of the competence requirements as well.

## **CIBSE Journal articles on the recent Building Safety Act legislation**

The following short articles were written for the Journal website to give an introduction to some of the key elements of the package from a building services perspective. They can be found in the technical tab, but the links are all included below.

This article summarises the whole package of regulations and is recommended to be read first:

### [Competence and Compliance](#)

And then there are six further pieces which explore aspects of the package in more detail:

#### [Duties and Competence](#)

#### [Inspections and Information](#)

#### [A case for safety](#)

#### [Building Control for Higher Risk Buildings](#)

#### [Take Notice](#)

#### [All Change](#)

## **Building Safety Related Regulations**

For those who want to access all the related legislation the following list is current as at 4<sup>th</sup> September. Hyperlinks to the regulations on the legislation website are included. These are offered on the basis that we believe that this provides comprehensive coverage. If anyone finds any errors or omissions then please let us know.

### **Building Regulations**

- [The Building Regulations etc. \(Amendment\) \(England\) Regulations 2023](#)

### **Higher-Risk Buildings**

- [The Higher-Risk Buildings \(Descriptions and Supplementary Provisions\) Regulations 2023](#)
- [The Building Safety \(Registration of Higher-Risk Buildings and Review of Decisions\) \(England\) Regulations 2023](#)
- [The Higher-Risk Buildings \(Key Building Information etc.\) \(England\) Regulations 2023](#)
- [The Building \(Public Bodies and Higher-Risk Building Work\) \(England\) Regulations 2023](#)
- [The Building \(Higher-Risk Buildings Procedures\) \(England\) Regulations 2023 \(legislation.gov.uk\)](#)
- [The Building \(Approved Inspectors etc. and Review of Decisions\) \(England\) Regulations 2023 \(legislation.gov.uk\)](#)
- [The Higher-Risk Buildings \(Management of Safety Risks etc\) \(England\) Regulations 2023 \(legislation.gov.uk\)](#)
- [The Building Safety Act 2022 \(Consequential Amendments etc\) Regulations 2023](#)

## Other secondary legislation

### Architects Act and Consequential Amendments

- [The Architects \(Fees, Electronic Communications and Miscellaneous Amendments\) Regulations 2022](#)
- [The Architects Act 1997 \(Amendment\) Regulations 2023](#)
- [The Building Safety Act 2022 \(Consequential Amendments and Prescribed Functions\) and Architects Act 1997 \(Amendment\) Regulations 2023](#)

### Construction Products

- [The Construction Products \(Amendment\) Regulations 2022](#)

### Leaseholder Protections

- [The Building Safety \(Leaseholder Protections\) \(England\) Regulations 2022](#)
- [The Building Safety \(Leaseholder Protections\) \(Information etc\) \(England\) Regulations 2022](#)
- [The Building Safety \(Leaseholder Protections etc.\) \(England\) \(Amendment\) Regulations 2023](#)

### Responsible Actors Scheme

- [The Building Safety \(Responsible Actors Scheme and Prohibitions\) Regulations 2023](#)

## What next?

We know that there are further Golden Thread regulations still to come. The regulations covered in this update are due to come into effect on 1<sup>st</sup> October. A significant increase in activity by the Building Safety Regulator is anticipated, since they will want to make their mark and signal their intentions to deliver the new regime. There is a real concern that much of the industry is still in denial about the extent of the changes that they are expected to make to working practices and that there will be early enforcement activity to send a clear message that this is a about regime change..

An early sign of this may be the enforcement of the Register of HRBs, which is currently thought to be well short of the full complement of HRBs. Enforcement action is expected as some of those who have failed to register are prosecuted. It will send an early and telling message that there is regime change underway.

On a day to day basis industry should expect to see a shift in approach. The expectation is that the competent professionals working on projects know what the regulations are, are complying with them and have the evidence to demonstrate their compliance. And for those that do know, and are complying and have the evidence to show it life will be relatively straightforward. It will not be so straightforward for the rest.

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