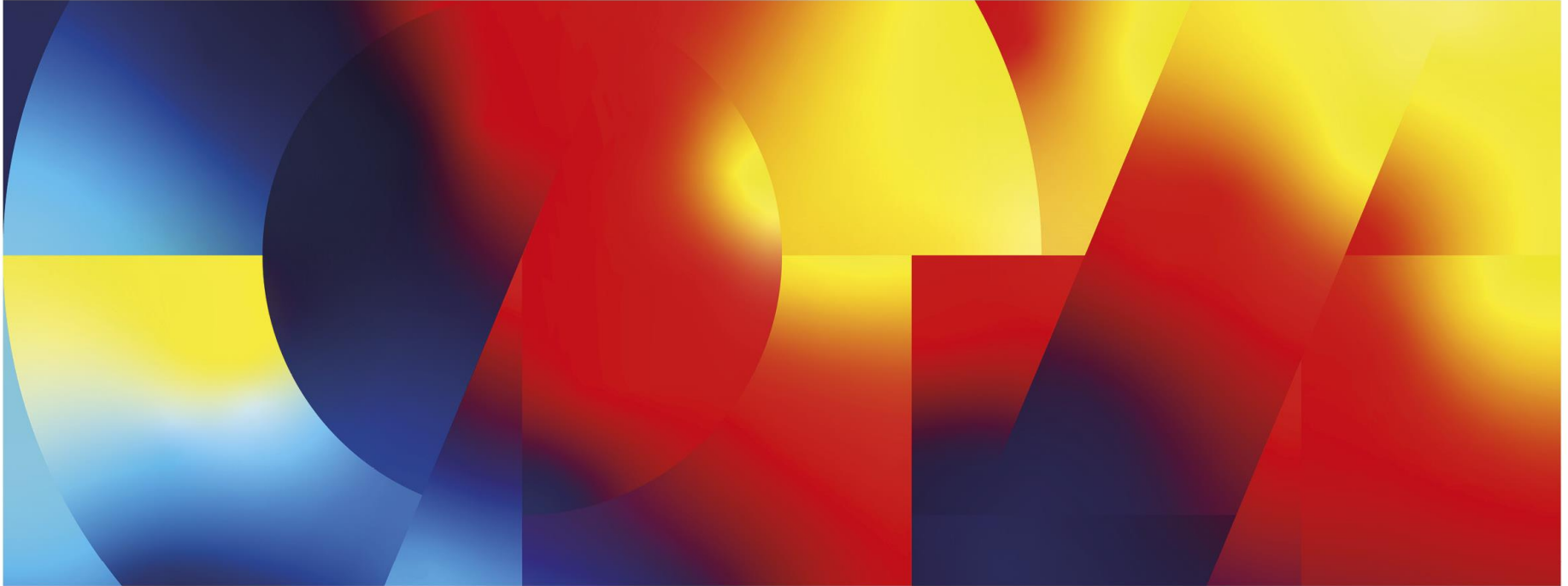


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ward
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Building Safety Act 2022



“intended to secure the safety
of people in or about buildings and to
improve the standard of buildings”

- Origins in Hackitt Review following Grenfell Tower fire on 14 June 2017
- Introduced to Parliament as Bill on 5 July 2021
- Royal Assent on 28 April 2022

Uncertainty

- Only parts of Act currently in force, with remainder to be introduced in phases
- Much of the detail still to be set out in secondary legislation
- Government have published and then withdrawn factsheets and draft Regulations
- More guidance, case law and best practice still to be developed where Act is still relatively new

- Mainly limited to England
- Imposes more onerous regime on “higher-risk buildings”
- A building in England that
 - is at least 18 m in height or has at least 7 storeys, and
 - is of a description specified in regulations – draft regulations indicate this will include a building that contains at least 2 residential units, a care home or a hospital
- Definition may be refined, and it has been the subject of much debate
- Excludes secure residential institution, temporary leisure establishment, military premises
- Slightly different definition of “higher-risk buildings” for those parts relating to occupation

- New body will be a division of the HSE
- Role includes:
 - to oversee the safety and performance of all buildings and building control bodies
 - to implement more stringent regulatory regime for higher-risk buildings
 - assisting and encouraging competence among the built environment industry
- Draft Regulations published allowing the BSR to charge fees for its services
- Enforcement powers for non-compliance with Building Regulations, ability to prosecute offences and to issue compliance and stop notices
- Failure to comply with a compliance or stop notice a criminal offence (2 years/unlimited fine)
- Power to hold building control bodies to account and to suspend or remove inspectors

Building Control and Building Regulations

- Aims to create a unified regime for building control professionals
- Makes changes to approved inspectors and brings in 'registered building inspectors'
- BSR maintain registers, introduce a code of conduct and sanction misconduct
- Provides that building control approval will lapse after 3 years if work not started
- BSR will act as building control for higher-risk buildings

- Creates framework for a 'dutyholder regime' during the design and construction of higher-risk buildings to be introduced through secondary legislation
 - Dutyholders – like CDM, Client, Principal Contractor, Principal Designer, Contractor and Designer
 - Probably a greater burden than CDM
 - Will introduce competence requirements for dutyholders

- Allows for creation of a gateway regime to ensure that all involved in a project consider safety issues at 3 distinct points
 - Gateway one – at planning
 - Gateway two – before construction at the ‘deposit of full plans’ stage. Construction cannot commence until BSR satisfied design meets the functional requirements of the Building Regulations and no unrealistic safety management expectations
 - Gateway three – completion when work carried out in accordance with Building Regulations
- Gateway 2 Developer Levy

“The golden thread is both 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”

- To be introduced by secondary legislation
- Regulations will define the principles the Dutyholder or Accountable Person must follow in maintaining and storing their golden thread information in an electronic form
- Will be accompanied by detailed guidance
- Actions may be taken now, including using BIM as a tool to assist
- <https://www.hse.gov.uk/building-safety/how-to-prepare.htm>

Management of Building Safety in Occupied Higher Risk Buildings

- Slightly different definition of higher risk buildings
- Accountable person – may be more than one; if so, then a principal accountable person
- Requirement for Building Regulations Certificate before occupation
- Registration of building with BSR
- Building Assessment Certificates
- Assessment and Management of Building Safety Risks
- Safety Case Reports
- Engagement with residents
- Enforcement – compliance notices, prosecution and special measures

- Liability for cost of building safety measures:
 - Relevant lease of residential premises in higher risk building (not a relevant social housing tenancy)
 - Amends service charge provisions
- Liability for cost of remedial works:
 - Removing unsafe cladding
 - Remedying non-cladding defects
 - Definitions - relevant buildings, relevant defects, relevant measures, qualifying leases
 - Then rules on recovery

- Defective Premises Act 1972:
 - Additional duty
 - Limitation period extended from 6 to 15 years prospectively (sections 1 and 2A)
 - Limitation period extended from 6 to 30 years retrospectively (section 1 only)
 - Buffer period
- Section 38 Building Act 1984:
 - To (finally) be brought into force re Building Regulations failures
 - Extended limitation period from 6 to 15 years prospectively
- Prosecuting non-compliance with Building Regulations, and Construction Products Regulations claims
- Worth re-considering old claims

- New Homes Ombudsman scheme (entire UK)
 - Forum for owners of newly built homes to seek redress against developers and builders
 - Code of practice for standards of conduct and levels of workmanship
- Building Liability Orders
- Remediation Orders and Remediation Contribution Orders
- New build home warranties
- Blocking developers and product manufacturers from the housing market
- Construction products – enhanced provisions
- Architect competence
- Removal of social housing resident ‘democratic filter’

Building and Fire Safety – Compliance and Enforcement



Agenda

- Overview of landlord's Fire Safety compliance obligations in renting social housing
 - Houses
 - Flats
 - Specialised Housing
- Common Areas
- BSR and Enforcement

Fire Safety Duties - Houses

- Relevant Legislation
- House – single property
 - HASWA
 - Gas and Electrical Testing
 - HHSRS
 - Building Regs
 - Furniture and furnishings
- HMOs – houses of multiple occupation
 - Fire Risk Assessment

Fire Safety Duties - Flats

- Communal Areas
- Fire Risk Assessment
- Impact of Fire Safety Act 2021
- In practice:

Specialised Housing - recap


- 3 Groups - Sheltered, Extra Care and Supported Housing
- Legislation and regulation – complications
 - LA, FRS and CQC
- Person centred risk assessment
- Risk Reduction

Enforcement Framework

- Overview
 - The Building Safety Regulator – three main areas
 - Buildings Regulated
 - The Enforcement Principles
 - Committees
- Enforcement Powers
 - Entry, search and seizure
 - Penalties for non-compliance
 - Legal Privilege
 - Offences

Questions and answers

Thank you

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