

Building Safety Act 2022

Landlords, are you prepared for the Building Safety Act 2022?



The Building Safety Act 2022 (the Act) sets out new compliance and safety requirements for landlords (building owners) who own higher-risk buildings with two or more residential units. Higher-risk buildings are those that are 18m or 7 storeys and above.

The Act received royal assent on 28 April 2022 and will be fully enforceable by October 2023.

Landlords need to meet these new building safety requirements. Failure to do so can lead to fines or prosecution, including imprisonment, so it's important you familiarise yourself with the responsibilities now.

We have compiled a few frequently asked questions which we hope you find helpful.

What is the Building Safety Act 2022?

The Act outlines the duties that will be imposed on landlords (building owners) for buildings in the scope of the legislation, which includes:

- **duty holder roles**
- **a new gateway process for the planning and construction stages of a building**
- **a new building safety regime**
- **more accountability throughout the life span of a building**
- **regulatory oversight by a new Building Safety Regulator**
- **landlords' responsibility for working collaboratively and responding to residents on building safety matters**
- **new leaseholder financial protections**
- **In addition, a new Homes Ombudsman has been set up.**

The building safety regime will provide residents with the assurance that they live in buildings where their landlords prioritise building safety.

Which buildings are covered by the Building Safety Act 2022?

The Act defines a higher-risk building as:

- **a building with two or more residential units and**
- **a height of at least 18m or at least 7 storeys.**

This includes any building used for housing, including care homes and hospitals that contain at least two residential units.

If you are planning to construct a new building or increase the number of storeys a building has, you should consider if the building needs to comply with the Act.

How will I know that I must adhere to the Building Safety Act 2022?

The new regime will apply to all landlords including private building owners, councils, registered providers and housing associations in England and Wales, who have a legal entity in a residential higher-risk building in scope of the Act. A higher-risk building is commonly referred to as a high-rise building.

What is the building safety regime?

The regime outlines responsibilities for the design, planning, construction and in-occupation stages of a building and provides a process for managing and minimising risk, including all fire safety risks.

Some of the responsibilities include:

- **registration of higher-risk buildings**
- **applying for a building assessment certificate which needs to be displayed in each higher-risk building**
- **demonstrating that building safety risks have been assessed**
- **minimising and mitigating building safety risk including fire safety risks**
- **maintaining a building safety case**
- **sending the regulator updated safety case reports**
- **operating a mandatory occurrence reporting system and providing information to the Building Safety Regulator.**
- **sharing prescribed documents with the Building Safety Regulator**
- **operating a complaints system for building safety related complaints**

The Act includes “duty holder roles” which cover each stage of a building as mentioned above. It is important to know who the duty holders are concerning a building you own; whether you are designing, in the construction phase or have an existing building that is occupied.

Each duty holder will have to carry out certain responsibilities and share building information with all stakeholders and the Building Safety Regulator.

Duty holder roles are outlined as follows:

Oversees Construction Stage	Design Stage	Construction Stage			Building Occupied Stage
Client	Principal Designer	Principal Contractor	Designer	Contractor	Accountable Person or Principal Accountable Person
<p>Any person or organisation for whom a construction project is carried out.</p>	<p>Appointed by the Client when more than one contractor is working on the building project. The Principal Designer is in control of planning, management, monitoring and coordinating the pre-construction phase.</p>	<p>Appointed by the Client, when more than one contractor is working on the building project, to plan, manage, monitor and co-ordinate the construction phase.</p>	<p>Carries on a trade, business or other undertakings in connection with preparing or modifying a design or instruct any person under their control to prepare or modify a design.</p>	<p>Manages or controls construction work.</p>	<ul style="list-style-type: none"> - This is usually the building owner. - If there is more than one Accountable Person for a building, a nominated person/entity must become the Principal Accountable Person. - The person or entity will be responsible for the building's safety compliance once people are living in a building. - The Accountable Person will also be responsible for registering the building with the Building Safety Regulator. - Securing a building safety assessment certificate before it is occupied. - Duty to manage risks and building safety cases - Promotes a strong partnership between residents via a Resident Engagement Strategy. - Sets up a Mandatory Occurrence Reporting framework for higher-risk buildings in occupation. - Communicating the work that has taken place on the building to stakeholders. - Ensuring the building is meeting the Regulator's requirements. - Keeping abreast of any advice or non-statutory guidance put in place by the Regulator.

What does each duty holder need to do?

Planning to Construction Stage

If landlords are planning to develop new buildings, they should be aware, that there will be a stop-start approach. The Building Safety Regulator will need to sign-off various points in the planning, design and constructions stages prior to the building being occupied.

Gateway One	Planning Stage <ul style="list-style-type: none">- This stage uses the existing planning permission process.- This Gateway occurs before dutyholders are required to be in place. its requirements will be fulfilled by those applying for planning permission for developments containing a higher-risk building.- From 1 August 2021 all planning permission requests require a fire statement to be submitted as part of the Planning Gateway 1.
Gateway Two	Pre-Construction Stage <ul style="list-style-type: none">- Gateway two occurs prior to construction work beginning.- This is the building control 'deposit of full plans' stage where a dutyholder provides the Building Control Body (Building Safety Regulator) with their full design intention.- Dutyholders will be required to submit information to the Building Safety Regulator to show how the building, once built, will comply with the requirements of building regulations.- Construction cannot begin until the Building Safety Regulator is satisfied that the duty holder's design meets the functional requirements of Building Regulations and does not contain any unrealistic safety management expectations.
Gateway Three	Completion Certification Stage (when building works are completed) <ul style="list-style-type: none">- Building Safety Regulator will become the Building Control Body and will work in collaboration with local authorities, fire & rescue authorities and specialist to assess whether the completed work has been carried out in accordance with Building Regulations.- Duty holders will be required to submit prescribed documents and information to the Building Safety Regulator.- A completion certificate will need to be obtained from the Building Safety Regulator prior to the building being occupied.- At this stage all prescribed documents and information (the golden thread) must be handed over to the Accountable Person.

In-Occupation Stage

The Accountable Person or Principle Accountable Person will need to ensure that each building in scope of the Act has a building assessment certificate placed in a prominent place in the building where residents can see it. Each higher-risk building will need to have an up-to-date building Safety Case and the Accountable Person will need to send an updated Building Safety Case Report to the Building Safety Regulator, when any modifications or prescribed works have been carried out to the building.

Landlords are encouraged to refer to the Government's Building Safety Act 2022 webpage for updated details of duty holder responsibilities for the planning, design, construction and in-occupation stages of a building.

What is the Safety Case and Safety Case Report?

The Safety Case contains all identified building safety risks and assessment of the risks; outlining how the risk will be managed, mitigated or reduced if an incident occurs.

The Safety Case must be kept up to date when any modifications or refurbishments have been carried out to a building. A summary of the Safety Case, in the form of a Safety Case Report needs to be sent to the Building Safety Regulator. The Regulator must be in possession of the most up to date Safety Case Report.

What is the golden thread of information?

This is all the information that is passed on from each duty holder during the lifecycle of the building. It supports duty holders in understanding the intricate details on how to maintain the safety of a building. The golden thread of information must be kept up to date, especially when any modifications or refurbishments are carried out to a building and the information must be stored in a digital format.

Who is the Building Safety Regulator?

The Building Safety Regulator is being set up to oversee landlords carry out their new building safety requirements. The Regulator will have powers and responsibility for implementing and enforcing the stricter regime for higher-risk buildings.

The Regulator will set up a Building Regulations Advisory Committee, Industry Competence Committee and Residents Panel to act as support whilst overseeing the industry's building safety regime. The Regulator will also set up a multi-disciplinary team consisting of the Regulator, Fire Service and Local Authority Building Control.

Some of the Building Safety Regulator powers will include:

- **Issuing "stop notices" on construction projects found to be breaching regulations**
- **Issuing "compliance notices" which will compel the Principal/Accountable Person to rectify identified issues by a set date**
- **Issue fines, which could lead to imprisonment.**

When will I need to be prepared for the new building safety regime?

The Building Safety Act will be fully enforceable by October 2023, although some areas of the Act will become enforceable earlier, such as leaseholder protections.

Landlords will need to register higher-risk buildings they own with the Building Safety Regulator between April 2023 to October 2023. After which it will become an offence where a landlord/building owner has not registered their higher-risk building.

What are Leaseholder Protections?

On 28 June 2022, the Government introduced The Building Safety (Leaseholder Protections) (England) Regulations 2022. The regulations provide financial protection for leaseholder in buildings that are at least 11 meters or 5 storeys high. The regulation gives greater responsibility to developers and building owners for rectifying historical building defects and providing financial protection for the leaseholders in the buildings.

You can find more information regarding the leaseholder protections in below links:

<https://www.gov.uk/guidance/building-safety-leaseholder-protections-guidance-for-leaseholders>

https://www.legislation.gov.uk/uksi/2022/711/pdfs/uksi_20220711_en.pdf

What will happen if I do not comply with the Building Safety Act 2022?

Non-compliance may result in being put under special measures, sanctions, fines and in some cases, imprisonment. This could relate to any of the duty holders or anyone who is deemed by a tribunal as liable.

What is the New Homes Ombudsman?

In addition to the building safety regime, the Act states that a New Homes Ombudsman will be set up.

New homeowners will be able to make complaints against developers about the quality of the construction of their new home and have the complaints investigated by the New Homes Ombudsman.

All developers of new builds, regardless of height, must register with the New Homes Ombudsman once it is fully established.

<https://www.nhos.org.uk/>

Can the Council support me with developing my building safety regime?

As a landlord, the Council will have to comply with the requirements of the Building Safety Act. We are also likely to have responsibilities to make sure private landlords in the borough are complying with certain aspects of the Act. This may include some enforcement responsibilities.

You may find some useful information regarding our approach to building safety at the following webpage:

https://www.towerhamlets.gov.uk/lgnl/business/health_and_safety/fire_safety/Building-Safety-Act.aspx

Where can I find further information regarding the Building Safety Act 2022?

The best way to keep up to date regarding the Act is by registering for alerts on the Government's Building Safety webpages which will be updated as the Government publishes additional information and secondary legislation.

Topic	Webpage
The Building Safety Act 2022 Guidance:	https://www.gov.uk/guidance/the-building-safety-act
The Building Safety Act 2022: Enacted Version	https://www.legislation.gov.uk/ukpga/2022/30/contents/enacted
The Building Safety Act 2022 – Printed Version	https://www.legislation.gov.uk/ukpga/2022/30/pdfs/ukpga_20220030_en.pdf
The Building Safety Act 2022 Explanatory Notes	https://www.legislation.gov.uk/ukpga/2022/30/pdfs/ukpgaen_20220030_en.pdf
The Building Safety Act Secondary Legislation:	https://www.gov.uk/guidance/the-building-safety-act-secondary-legislation
The Building Safety Bill Transition Plan	https://www.gov.uk/government/publications/building-safety-bill-transition-plan
The Health & Safety Executive (HSE) Building Safety Webpage	https://www.hse.gov.uk/building-safety/index.htm