



White Paper
New fire legislation Q&A

November 2022



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As a follow up to our whitepaper in August 2022, this month we are taking a further look at the changes in our new fire legislation.

Both the Fire Safety Act 2021 (FSA) and Building Safety Act (BSA) 2022 target additional requirements for multi occupied residential properties. But in understanding how it might apply to you, we have seen several questions continue to be raised from the now 100s of people we've trained or provided seminars for.

We have looked at some of the most common questions we are being asked and the answers (as far as possible) to them.



1. When did the legislation come into force and where does it apply?

The Fire Safety Act 2021 received Royal Assent on 29th April 2021 and was enacted on 8th May 2022 in England and 1st October 2021 in Wales. The Fire Safety Act applies to multi-occupied residential buildings already in occupation.

It applies where a building contains two or more sets of domestic premises (i.e. a number of flats or individual residences) and covers:

- The building's structure and external walls (including doors, windows, anything attached to the exterior of the walls (e.g. balconies or solar panels) and any common parts; and
- All doors between the domestic premises and common parts.

The Responsible Person has a duty to make sure that an appropriate fire risk assessment is in place to assess fire safety risks relevant to both workplaces and buildings.

The Building Safety Act 2022 received Royal Assent and became an Act of Parliament on 28th April 2022. Unlike the Fire Safety Act 2021, the Building Safety Act 2022 focuses on the entire timeline for the development of high-rise multi-occupied properties from design stage to occupation, including the "Golden Thread" management of all relevant ongoing information. Scotland and Northern Ireland have taken slightly different approaches.

The Fire Safety (England) Regulations 2022 will come into force on 23rd January 2023. These were made under 'Article 24' of the RR(FS)O which is 'Power to make regulations about fire precautions and will impose new duties on the Responsible Person with regards to the areas detailed in the RR(FS)O by the Fire Safety Act.



Fire Safety Act 2021



Building Safety Act 2022



Fire Safety (England)
Regulations 2022

2. Is there a height threshold for my building fall into the scope of the Fire Safety (England) Regulations 2022?

For high-rise residential buildings (a multi-occupied residential building at least 18 metres in height or 7 or more storeys), the Responsible Person must:

- Share electronically information with their local fire and rescue service on the building's external wall system and provide them with electronic copies of floor plans and building plans for the building (not just architectural drawings);
- Keep hard copies of the building's floor plans, in addition to a single page orientation plan of the building, and the name and UK contact details of the Responsible Person in a secure information box (also known as a Premises Information Box) which is accessible by firefighters. More detail can be found in the Government Factsheet [Secure Information Box \(regulation 4\). Fire Safety \(England\) Regulations 2022 - GOV.UK \(www.gov.uk\)](#);
- Install wayfinding signage which is visible in low light or smoky conditions that identifies flat and floor numbers in the stairwells of relevant buildings. This does not have to be like green directional signage; and
- Undertake monthly checks on firefighting lifts and evacuation lifts. Report any defective lifts of firefighting equipment to the local Fire & Rescue Service if the fault cannot be fixed within 24 hours, as well as making information available to residents.

For multi-occupied residential buildings over 11 metres in height, Responsible Persons must:

- Undertake quarterly checks on all communal fire doors and annual checks on flat entrance doors.

In all multi-occupied residential buildings (essentially anything that falls under the scope of the Fire Safety Act 2021), the Responsible Persons must:

- Provide relevant fire safety instructions to their residents, which will include instructions on how to report a fire and any other instruction which sets out what a resident must do once a fire has occurred, based on the evacuation strategy for the building; and
- Provide residents with information relating to the importance of fire doors in fire safety.



3. Who will be responsible for enforcing the new legislation?

As part of the changes within the Building Safety Act 2022, a Building Safety Regulator has been created as a new role/department within the Health and Safety Executive (HSE). The new role/department will have responsibility for high-rise buildings (those with 7 or more storeys or 18 metres (or taller) in height and have 2 or more residential units). During their design and construction, hospitals and care homes will also be covered by this regulator.

The Building Safety Regulator will have three main functions:

- “Overseeing the safety and standards of all buildings;
- Helping and encouraging the built environment industry and building control professionals to improve their competence; and
- Leading implementation of the new regulatory framework for high-rise buildings.”

Other changes will include:

- The Building Safety Regulator becoming the building control authority for high-rise buildings and mandatory reporting to them of prescribed fire and structural safety information;
- A gateway system for the progression of building developments during design, construction and prior to occupation/re-occupation;
- Increased accountability and statutory responsibilities for dutyholders when buildings are designed, built, refurbished and occupied;
- The development of an ongoing “golden thread” of building information from design stage and throughout the asset lifecycle; and
- Registers created for occupied high-rise buildings, building inspectors and building control approver.

Also being created are, a Construction Products Regulator (who will have the power to remove from the market unsafe products) and a New Homes Ombudsman scheme (to provide dispute resolution and determine complaints (by buyers of new homes)).



4. From a legal position how do the new responsibilities work?

New dutyholders for high-rise residential buildings include “Accountable Persons”, who could be the organisation or person who owns or has responsibility for the building, or for maintaining its common parts, under Part 4 of the BSA 2022. Where there is more than one Accountable Person for a building, those responsible for the structure and exterior will be the “Principal Accountable Person”.

The Accountable Person/ Principal Accountable Persons (if different) have “a duty to take all reasonable steps to”:

- Prevent a building safety risk happening (with ‘building safety risk’ defined as ‘spread of fire and/or structural failure’); and
- Reduce the seriousness of an incident if one happens.

Principal Accountable Persons must also:

- Register existing buildings with the Building Safety Regulator (BSR) - they can do this between April 2023 and October 2023;
- Register all new buildings before occupation;
- Prepare the building’s safety case report: for the building;
- Provide, on request the safety case report to the Building Safety Regulator; and
- Apply for a building assessment certificate (as directed by the Building Safety Regulator).

During design and construction, new duties are also placed on clients, designers, principal designers, contractors and principal contractors, in addition to their existing responsibilities under the Construction (Design and Management) Regulations 2015. These will include the planning, monitoring and management of their activities in relation to building regulations. New competency frameworks for these roles have also been created.

The HSE website has some useful information and definitions of the Accountable Person:
[New roles and responsibilities - Building safety - HSE](#)



5. We have 3 residential flats/houses on site but only 1 per building as we have several buildings on site. Should we be included?

The Government Factsheets state that “for the occupation regime, the primary legislation sets out the height criteria, and that the building must contain at least two residential units. A residential unit can be a dwelling, a flat, a bedroom in a hall of residence or any other unit of living accommodation”.

The Fire Safety Act 2021 should be applied to any building (regardless of height) that contains two or more residential units.

The Building Safety Act 2022 should be applied to a building that contains two or more residential units and is 18m (or greater) in height or 7 storeys (including basement levels), whichever is reached first.

6. Are hospitals, care homes, boarding houses etc. in scope of the Building Safety Act 2022 even when they don't meet the height criteria?

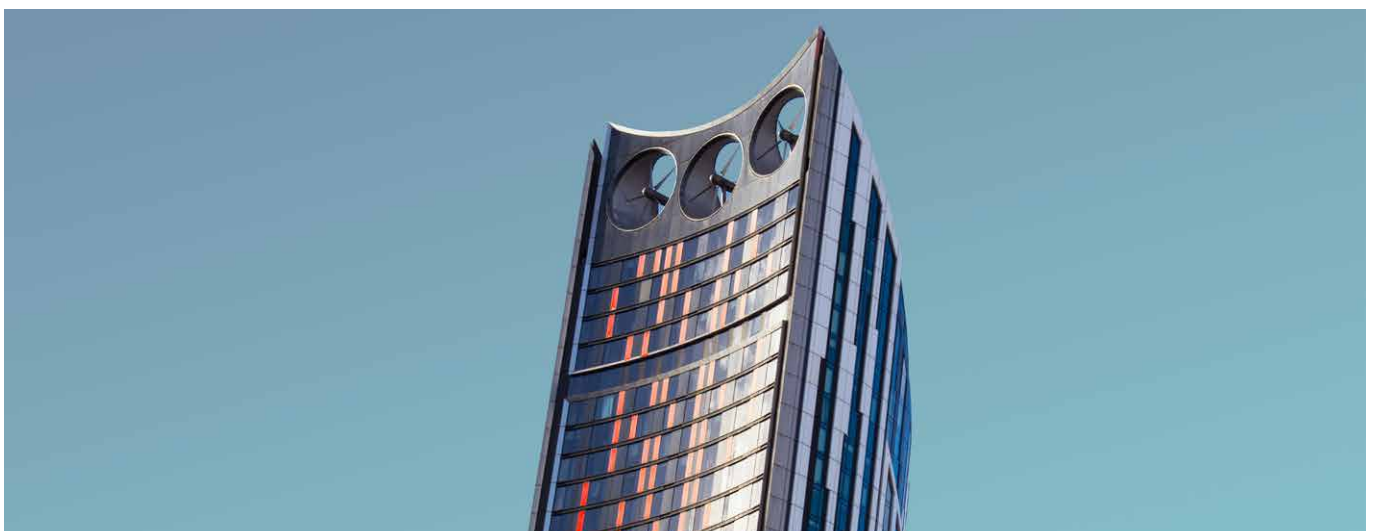
No, they must meet the height threshold to be included within the Building Safety Act 2022. The reason why hospitals, care homes, prisons and boarding schools are listed separately is that these are workplaces which could contain residential units.

7. For the Fire Safety Act 2021, you gave the example of two staff flats in a mixed occupation building. So, for example would student rooms not to be included in the calculation of 'two or more sets of domestic premises'?

To clarify, student rooms are included in the scope and classed as a 'residential unit' within the Fire Safety Act 2021.

8. Do we only need to register if our building is 18m and above?

Yes, you only need to register your building if it falls into the scope of the Building Safety Act 2022 which is defined as: a building that contains two or more residential units and is 18m in height or 7 storeys (including basement levels), whichever is reached first.



9. Fire door checks (now a requirement of the Fire Safety (England) Regulations 2022), should these be completed by an external company, or can these be done in house by a competent person?

This is your decision, there are many organisations that offer these services, but also offer to do the repair work too, so it is imperative that the external provider carrying out the work is independent.

It is most likely more beneficial to conduct this in-house and introduce fire doors checks into your routine health and safety walk-around. Any repairs needed to the doors or door frames should be carried out. However, any works to the door structure or frame should be carried out by a competent individual. Altering doors, fitting them with components that have not been approved, and fitting glazed or non-glazed fittings, such as vision panels, are all tasks that should not be undertaken by anybody without specific expertise, because they can damage the performance of the door, which can unfortunately can even reduce the fire resistance of the door to just 5-10 minutes.

Despite the fact the British Standard BS 8214: 2008 Code of Practice for Fire Door Assemblies does not require official qualifications from fire door installers, it is possible to undertake accreditation, which is a useful way to make sure skills are up to date and sufficient. Your in-house team members being accredited also can offer some reassurance that they are then competent. When looking for courses, there are quite a few and most are quite inexpensive. We don't recommend any specific courses (due to our independence as a business), but consider those that are FIRAS, UKAS, or FDIS accredited.



10. Does The Golden Thread have to be digitally recreated for existing buildings (just want to clarify what 'existing assets' means)?

Yes, if the building falls into the scope of the Building Safety Act 2022, then all information relating to the management of that building (regardless of whether it being designed, built, occupied or vacant), should be stored digitally as part of the Golden Thread.

11. Do I need to register my building?

If you have an existing building that is in scope for the Building Safety Act 2022, it will need to be registered with the Building Safety Regulator. This can be done between April 2023 and October 2023. It will be an offence under the legislation if your existing, in scope building is not registered after October 2023.

All new buildings must be registered before occupation.

12. Is there a change to the amount and or placement of smoke detectors needed in buildings/accommodation?

No, the siting and positioning of automatic fire detectors is detailed in BS 5839 series.



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