

Insights

BUILDING SAFETY ACT GAINS ROYAL ASSENT

Apr 29, 2022

SUMMARY

The Building Safety Act received Royal Assent on 28 April 2022. In this BCLP Insight, Alex Clough, Gareth Stringer, Jeremy Bark and Katharine Tulloch take a look at the structure of the Act and what is known so far about when it is likely to come into force.

The Building Safety Act received Royal Assent on 28 April 2022.

The Act will introduce major changes to the regulation of building safety of residential and mixed use buildings.

The changes will be far reaching and the Act (even before receiving Royal Assent) has already been a catalyst for change. For example, the changes introduced by the Act will not only affect the way future residential buildings will be procured, constructed and occupied but also will alter the landscape for remediation claims and cost recovery.

This Insight provides detail of the structure of the Building Safety Act and then focuses on what we know so far about when it will come into force.

STRUCTURE

The Act is over 200 pages in length. It roughly breaks down into 6 parts and 11 Schedules. These are:

- Part 1: Introduction - this sets the scene for what the Act will do and explains that it contains provisions intended to secure the safety of people in or about buildings, and improve the standard of buildings.
- Part 2: The Regulator and its functions – this Part focuses on the role of the Building Safety Regulator, its powers, purpose and functions.

- Part 3: The Building Act 1984 – this is the Part which will dramatically affect the Building Regulations approval process.
- Part 4: Higher risk buildings – this focuses on Higher Risk Buildings and the duties and obligations that arise in relation to these. Key areas to understand will be the new concepts of accountable and principal accountable persons.
- Part 5: Other provision about safety and standards – this is the Part where some of the significant changes for landlords and developers can be found. It also covers the changes to the Defective Premises Act 1972 (DPA) and enacts the provisions in the Building Act 1984 to allow Building Regulations “breaches” to be actionable.

In addition, it covers remediation of certain breaches (FTT – remediation orders) and limits the ability to pass on cost to leaseholders. In addition, it introduces the concept of Building Liability Orders and implements changes to the Landlord and Tenant Act 1985 (s20 and new s20D provisions). It also introduces new home warranties, the New Homes Ombudsman Scheme and details remedies for defective construction products.

- Part 6: General – this is mainly boilerplate.
- Schedules 1 to 11 – these provide more detail on the provisions in the main body of the Act.

WHEN DOES IT COME INTO FORCE?

Some parts of the Act come into force with immediate effect, some within 2 months of Royal Assent and others at a time to be determined.

The timeline published last summer seems to be now largely redundant and has been replaced by today’s latest announcements confirming the passage of the Bill and dealing with some of the initial commencement provisions (which will be supplemented with more information over the coming weeks).

WHAT NEXT?

The impact of the Building Safety Act will be wide-ranging and significant. Even though the Act itself is complex and technical, there will be a lot more detail to follow in secondary legislation which has yet to be passed.

What is not clear is the extent to which there will be a transition period (similar to that which preceded the introduction of the CDM Regulations 2015) prior to the introduction of changes such as the additional duties on dutyholders, the requirement to maintain the golden thread of information and the operation of the gateways. We expect this to be clarified shortly.

It is also important to view the Act in context. It is not the only vehicle driving change in building safety. For example, change is also being implemented via government guidance (for example PAS 9980) and the introduction of new funds (for example, the planned developer remediation funds). We may yet see further change as a result of the Grenfell Inquiry. The point being: the Act is not the last word on the subject of building safety and more change will probably follow.

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MEET THE TEAM



Gareth Stringer

London

gareth.stringer@bclplaw.com

[+44 \(0\) 20 3400 4761](tel:+442034004761)



Jeremy Bark

London

jeremy.bark@bclplaw.com

[+44 \(0\) 20 3400 2122](tel:+442034002122)



Katharine Tulloch

London

katharine.tulloch@bclplaw.com

[+44 \(0\) 20 3400 3056](tel:+442034003056)

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