**Draft Buildings Safety Bill**

On 20th January, the government confirmed the Health and Safety Executive (HSE) will started to establish the new Building Safety Regulator (BSR) in shadow form, ahead of it being fully established and following legislation.

It aims to raise building safety and performance standards, including overseeing a new, more stringent regime for higher-risk buildings.

*“Residents are being placed at the heart of Government plans for the biggest building regulation reforms in nearly 40 years”.*

In July, the Government published the draft [Building Safety Bill](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/906737/Draft_Building_Safety_Bill_Web_Accessible.pdf), which is based on the recommendations from [Dame Judith Hackitt’s ‘Building a Safer Future’](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/707785/Building_a_Safer_Future_-_web.pdf) review of building regulations and fire safety following the Grenfell Tower fire, and the draft document is currently under review by committee, before being formally presented to the House of Commons. The views of stakeholders are being taken into account at this committee stage.

Key measures include the creation of a national Building Safety Regulator (BSR), which will implement and enforce new safety standards for high-rise buildings, a greater voice for residents in implementing new rules, and a more robust complaints handling procedure.

**In July 2020**, a circular letter drew attention to landlords about changes to safety procedures

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/900943/Circular_letter_-_July_2020_update.pdf>

The draft Building Safety Bill aims to work in tandem with the [**Fire Safety Bill**](https://publications.parliament.uk/pa/bills/lbill/58-01/132/5801132.pdf) currently before the House of Lords, and the fire safety consultation to, as the Government says, “provide the biggest improvements to building safety in nearly 40 years.” (September 2020)

The BSR will:

* Introduce a better safety system
* Impose sanctions and regulations to ensure this happens

It will embed a strong regulatory framework to make building safety the focus for developers and landlords.

The draft Bill will be a set of new stricter rules on building safety, applying at all stages of the building process. The building process will be split into **Gateways** at each stage of the building’s construction and life. Each Gateway stage will have a **Dutyholder,** a person or organisation/company responsible for managing building safety risks at each stage.

The BSR will assess each ‘**Gateway’ handover** and can stop progress if building safety aims are not met. A digitally accessible golden thread of information including details of:

* the original design & construction
* changes and upgrades during the building’s lifecycle

This will be available to anybody at any stage when needed.

For residents, the **Dutyholder** (usually landlord/owner) is called the **Accountable Person** and will give them a greater voice in the safety of their buildings.

**An Accountable Person** will be appointed for any high-rise building over 18 metres in height, and will be accountable to the new BSR, of which Dame Hackitt is a senior adviser.

In Dame Judith Hackitt’s investigation into Building Safety, following the Grenfell Tower, (published May 2018), Dame Hackitt also advised that whilst her remit was for homes 18 metres and under, her **recommendation would be good practice to operate for all purpose-built flatted accommodation.**

**The Accountable Person** will be responsible for keeping residents of high-rise buildings safe, as well as listening and responding to their concerns and ensuring the buildings they live in are safe.

They will register the building with the BSR and obtain a **Building Safety Assurance Certificate** before it is occupied. The BSR will only issue the certificate if the Accountable Person meets statutory obligations. This applies to both new and existing buildings.

They will also be charged with developing a **‘Resident Engagement Strategy’**, which amongst other roles, will show residents how they can get involved, and the benefits they gain from engaging in Building Safety Regulation, while residents will also be able to request information from their Accountable Person, which few reasons for these requests to be rejected.

The **Accountable Person** will be required to employ a Building Safety Manager. Their role will be to:

* support the Accountable Person in the day-to-day running of the building to meet safety standards
* report works on the building to stakeholders
* ensure building meets regulator’s requirements
* on top of any advice or guidance put in place by the regulator

**The BSR will have powers to** implement and enforce newer regulations on all buildings. It will:

* issue stop notices on construction projects breaching safety standards
* issue compliance notices, compelling Accountable Persons to fix safety breaches by a set date

**Non-compliance** or stop notices could lead to an unlimited fine or jail for up to 2 years or both. For example, the BSR has the power to veto the appointment of a Building Safety Manager who does not meet the competencies required.

***For social landlords, the accountable person will probably be a team of people, meaning that the social landlord would face a hefty fine.***

Poor performing building control bodies will be held to account and could be removed from BSR’s register. If a director/executive of a corporate body, that has committed an offence, has ‘**consented or connived with or allowed through neglect’** that offence, they may also be prosecuted.

The time limit for prosecution of these offences will be increased from 2 to 10 years.

**The table below gives examples of breaches & penalties:**

|  |  |
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| **Breach** | **Potential Criminal Penalty** |
| Failure to appoint an Accountable Person or Building Safety Manager as soon as practicable with skills & knowledge to carry out the role. | A prison term of up to two years  or a fine or both.  There will be a daily fine for continued  breach until a suitable individual is appointed. |
| Failure to register a high-risk building with the BSR before it becomes occupied. | An unlimited fine or imprisonment up to 51 weeks or both.  A daily fine until the Accountable Person has made an application to register the building. |
| Failure to provide information or documentation to the regulator. | maximum penalty of an unlimited fine, along with up to two years’ imprisonment in the Crown Court or 12 months in a Magistrates’ Court. |
| Failure to provide information to the accountable person. | A prison term of up to two years  or a fine or both. |
| Provide false or misleading information to the BSR. | A prison term of up to two years  or a fine or both. |
| Obstruction of authorised officers, e.g. carrying out an inspection for the BSR. | A maximum fine of £1,000 in a Magistrates’ Court. |

The BSR will also have the power to appoint a ‘**Special Measures Manager’**, to replace the Accountable Person and Building Safety Manager of a high-risk building where safety breaches have occurred.

**To support the work of the BSR several new bodies will be created:**

* **Building Regulations Advisory Committee** - to produce evidence-based guidance on emerging built environment problems. The regulator will use this committee investigate these issues
* **Competence Committee** - this will improve the competence of workers and managers in the building safety sector with non-statutory advice, guidance, competence frameworks and capability training programmes
* **Residents Panel** - This will include residents from multi-storey flats and tenant’s groups and will ensure they have a voice in the development of the Regulator’s work. The BSR will have a statutory obligation to regularly report how it engages residents in it work

The draft Bill also commits to ensuring leaseholders are not left to pick up the tab for “unaffordable” historic safety repairs, and throughout the draft stage the Government says it will continue to engage with stakeholders on how this will be achieved, including working with financial and insurance industries to protect leaseholders, without relying on taxpayers’ money.

**A Building Safety Charge** is proposed for **leaseholde**rs which will cover fire safety works currently funded out of service charges. Freeholders will be required to have a separate account exclusively for this new charge.

If there is not a clear breakdown of costs or the Building Safety Charge is ‘unreasonable’ a leaseholder will be allowed to refuse to pay.

Whilst much of the Bill focuses on safety in high-rise blocks and higher risk properties, it also legislates that **buyers of new-build homes** will have the legal right **to complain to a New Homes Ombudsman**, to which all developers must be signed up, and which has the power to require developers to pay compensation.

As part of this scheme **the Ombudsman will** ensure there is a code of practice for new build covering:

* sales
* marketing
* the standard & quality of work

This will be developed in collaboration with builders/developers and enable them and buyers to know the standards expected. Builder/Developers will have to advertise their registration with the Ombudsman to buyers.

**Some discussions for S.Net might be:**

**a) Clarity of responsibilities for those building and managing buildings for residents**

**b) A stronger voice and better information to residents**