

# Report on the Building Safety (Wales) Bill

November 2025



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November 2025



# About the Committee

The Committee was established on 26 May 2021. Its remit can be found at [www.senedd.wales/SeneddLJC](http://www.senedd.wales/SeneddLJC)

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Current Committee membership:



**Committee Chair:**  
**Mike Hedges MS**  
Welsh Labour



**Alun Davies MS**  
Welsh Labour



**Samuel Kurtz MS**  
Welsh Conservatives



**Adam Price MS**  
Plaid Cymru

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# 1. Introduction

On 7 July 2025, the Cabinet Secretary for Housing and Local Government, Jayne Bryant MS (“the Cabinet Secretary”), introduced the Building Safety (Wales) Bill<sup>1</sup> (“the Bill”), and accompanying Explanatory Memorandum (“EM”).<sup>2</sup>

1. On 9 July 2025, the Business Committee referred the Bill to the Local Government and Housing Committee, and set a deadline of 28 November 2025 for reporting on its general principles.<sup>3</sup>
2. On 8 July 2025, the Cabinet Secretary for Housing and Local Government (“the Cabinet Secretary”) issued a statement of policy intent for subordinate legislation to be made under the Bill (“the statement of policy intent”).<sup>4</sup>

## Legislative background

3. Dame Judith Hackitt’s review of building regulations and fire safety (“the Hackitt Review”) was commissioned by the UK Government in 2017 following the Grenfell Tower fire on 14 June 2017. The Hackitt Review’s final report was published in May 2018.<sup>5</sup> In response to the report, the Welsh Government announced its intention to make “radical and far-reaching reforms to the regulatory system” underpinning fire safety, building regulations and housing standards.<sup>6</sup>

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<sup>1</sup> Welsh Government, [Building Safety \(Wales\) Bill, as introduced](#), July 2025

<sup>2</sup> Welsh Government, [Building Safety \(Wales\) Bill, Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), July 2025

<sup>3</sup> Business Committee, [Timetable for consideration: Building Safety \(Wales\) Bill](#), July 2025

<sup>4</sup> [Statement of Policy Intent for the Building Safety \(Wales\) Bill](#), July 2025

<sup>5</sup> UK Government, [Collection: Independent Review of Building Regulations and Fire Safety: Hackitt review](#), May 2018

<sup>6</sup> Welsh Government, [Written Statement – Hackitt Review of Building Regulations and Fire Safety](#), May 2018

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4. The Welsh Government subsequently convened an expert group on building safety.<sup>7</sup> In response to the group's recommendations<sup>8</sup>, the Welsh Government announced its intention in May 2019 to develop “an ambitious package of future regulatory reform”, separated into two workstreams. The first workstream would consider the design and construction phase of higher-risk buildings. The second workstream would focus on the management and regulation of fire safety in such buildings when they are occupied.<sup>9</sup>

5. The UK Government's *Building Safety Act 2022* (“the 2022 Act”) made provision for Wales in respect of the first workstream: the design and construction phase.<sup>10</sup> During the Building Safety Bill's passage through the UK Parliament, the Welsh Government said that the inclusion of provision for Wales in a UK Government Bill meant that it had the “ability to bring these reforms into place sooner and reap the safety benefits they will bring”.<sup>11</sup> The Welsh Government laid five Legislative Consent Memoranda to obtain the Senedd's consent in relation to the Building Safety Bill; the Committee laid two reports in relation to those memoranda and expressed concern at the use of the then Bill to legislate in the devolve area of building safety.<sup>12</sup> The Legislative Consent Motion was agreed by the Senedd on 29 March 2022.<sup>13</sup>

## Purpose of the Bill

6. The Bill forms part of the second workstream described above by focusing on the “occupation phase” of multi-occupied residential buildings.<sup>14</sup> On its introduction, the Cabinet Secretary stated:

*“The Bill will require fire and structural risks to be assessed and managed whilst buildings are in occupation, for the benefit of residents and others, with a robust enforcement regime to back that up. It will establish clear lines of responsibility in multi-occupied residential buildings, by creating new roles and responsibilities for those that own and manage these buildings.*

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<sup>7</sup> Welsh Government, Written Statement – Hackitt Review of Building Regulations and Fire Safety, May 2018

<sup>8</sup> Building Safety Expert Group, [A Road Map to safer buildings in Wales: Recommendations for Welsh Government to take forward change to improve the safety of residential building in Wales](#), March 2019

<sup>9</sup> Plenary, [21 May 2019](#), Record of Proceedings [330]

<sup>10</sup> [Building Safety Act 2022](#) (c. 30)

<sup>11</sup> Welsh Government, [Written Statement: Building Safety](#), 29 March 2022

<sup>12</sup> Welsh Parliament, [Legislative Consent: Building Safety Bill](#)

<sup>13</sup> [Plenary, 29 March 2022](#)

<sup>14</sup> EM, paragraph 1.1



*The Bill will also empower residents and give them a stronger voice in matters that affect their home.”<sup>15</sup>*

**7.** The Bill comprises 114 sections and four Schedules. It is arranged into four Parts as set out below.

**8.** Part 1 (sections 1 – 66) establishes the new building safety regime covering the assessment and management of risks in buildings containing two or more residential units.

**9.** It defines the scope of the regime and creates 3 categories of in-scope buildings. The categories are:

- Category 1 – at least 18 metres in height or have at least 7 storeys
- Category 2 – at least 11 metres in height or have at least 5 storeys but are less than 18 metres in height and have fewer than 7 storeys
- Category 3 – less than 11 metres in height and have fewer than 5 storeys

**10.** It establishes the accountable person (“AP”) and principal accountable person (“PAP”) roles, and places a number of duties on them with respect to building safety, depending on the building they are responsible for. It also places new fire safety duties on all adult residents of in-scope buildings, and new structural safety duties for adult residents in category 1 and 2 buildings.

**11.** Part 2 (sections 67 – 80) focuses on fire safety in certain Houses in Multiple Occupation (“HMO”). It creates new duties for landlords, duty holders<sup>16</sup> and adult residents.

**12.** Part 3 (sections 81 – 97) confers a range of enforcement and investigatory powers on building safety authorities and fire safety authorities, and sets out a right to appeal for affected persons. It establishes a number of offences that result from a failure to meet certain requirements under the Bill.

**13.** Part 4 (sections 98 – 114) makes supplementary provision.

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<sup>15</sup> Welsh Government, Written Statement: Building Safety, 7 July 2025

<sup>16</sup> “Duty holders” for a relevant HMO are defined in section 68 of the Bill as: the landlord; any other person who is a person managing the relevant HMO; any person who has an obligation under a contract or lease relating to the repair, maintenance or safety of the relevant parts of the relevant HMO; and any other person has any degree of control over the relevant parts of the relevant HMO in relation to matters within the person’s control.

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**14.** The Schedules provide as follows:

- Schedule 1 defines buildings that are excluded from being regulated buildings;
- Schedule 2 focuses on special measures orders;
- Schedule 3 makes minor and consequential changes to legislation; and
- Schedule 4 makes transitional and saving provisions to the Regulatory Reform (Fire Safety) Order 2005 (“the Fire Safety Order”).

### **The Committee’s remit**

**15.** The remit of the Legislation, Justice and Constitution Committee is to carry out the functions of the responsible committee set out in Standing Orders 21 and 26C. The Committee may also consider any matter relating to legislation, devolution, the constitution, justice, and external affairs, within or relating to the competence of the Senedd or the Welsh Ministers, including the quality of legislation.

**16.** In our scrutiny of Bills introduced into the Senedd, our approach is to consider:

- matters relating to the competence of the Senedd, including compatibility with the human rights protected by the European Convention on Human Rights (“Convention rights”);
- the balance between the information that is included on the face of the Bill and that which is left to subordinate legislation;
- whether an appropriate legislative procedure has been chosen in relation to the granting of powers to the Welsh Ministers to make subordinate legislation; and
- any other matter we consider relevant to the quality of legislation.

**17.** We took evidence from the Cabinet Secretary on 29 September 2025.<sup>17</sup> Following the evidence session, we wrote to the Cabinet Secretary on 2 October

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<sup>17</sup> Legislation, Justice and Constitution (“LJC”) Committee, 29 September 2025. Record of Proceedings (“RoP”).

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2025 including a series of additional questions in relation to the Bill.<sup>18</sup> We received a response from the Cabinet Secretary on 30 October 2025.<sup>19</sup>

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<sup>18</sup> Letter to the Cabinet Secretary for Housing and Local Government, 7 October 2025

<sup>19</sup> Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025

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## 2. Legislative competence

The Welsh Government is satisfied that the Bill is within the legislative competence of the Senedd.<sup>20</sup>

**18.** We considered the Bill under the reserved powers model of legislative competence, as set out in section 108A of the *Government of Wales Act 2006* (“the 2006 Act”).

**19.** In her statement on legislative competence, the Llywydd stated that the provisions of the Bill would be within legislative competence.<sup>21</sup>

**20.** The Cabinet Secretary stated in oral evidence that she was satisfied the Bill is within the Senedd’s legislative competence.<sup>22</sup>

**21.** Section 38(7) provides that certain building safety information submitted to a building safety authority or a fire safety authority is not admissible in criminal proceedings. However, the courts and criminal proceedings are reserved matters under the 2006 Act. We sought assurances that section 38(7) specifically is within the legislative competence of the Senedd. The Cabinet Secretary confirmed that she believed it was.<sup>23</sup>

**22.** Certain provisions of the Bill may affect the private interests or hereditary revenues of the King or the Duke of Cornwall. We therefore asked the Cabinet Secretary in writing whether Crown consent will be required for those provisions under section 111(4) of the 2006 Act and in accordance with Standing Order 26.67.<sup>24</sup> The Cabinet Secretary’s response acknowledges that the Bill will bind the Crown, by virtue of section 28 of the *Legislation (Wales) Act 2019* (subject to the limitation in section 28(3) of the 2019 Act and exceptions in section 97 of the Bill). Her letter explains that:

*“...if His Majesty were the owner of the common parts of a building within scope of the regime then His Majesty could be identified as an “accountable person” (subject to section 8 being satisfied) for that building. If this were the case then the*

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<sup>20</sup> EM, Member’s Declaration, page 1

<sup>21</sup> Presiding Officer’s Statement on Legislative Competence: Building Safety (Wales) Bill, 7 July 2025

<sup>22</sup> LJC Committee, 29 September 2025, RoP [11]

<sup>23</sup> LJC Committee, 29 September 2025, RoP [17-20]

<sup>24</sup> Letter to the Cabinet Secretary for Housing and Local Government, 7 October 2020

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*duties under the Bill would apply to His Majesty (subject to the aforementioned limitations), see in particular those in Chapter 4 (in respect of “regulated buildings”). The Duke of Cornwall would be capable of being affected by the Bill in the same way as His Majesty.”*

**23.** The letter goes on to confirm that His Majesty has granted his consent to the relevant provisions in the Bill as introduced.<sup>25</sup>

## Human rights implications

**24.** In the EM, the Cabinet Secretary states that human rights issues have been considered in respect of the Bill, but does not provide further details.<sup>26</sup> We therefore asked the Cabinet Secretary what consideration she has given to human rights issues when preparing the Bill. The Cabinet Secretary confirmed that the Welsh Government has carried out a “full human rights assessment” before introduction. She told us that impact assessments had found the impact on convention rights would be positive in a number of causes. Where there was a negative impact identified the Cabinet Secretary said:

*“... we did consider the mitigations and included appropriate measures within the Bill. So, for example, although the Bill does confer duties on residents, I do consider those to be limited and specific and proportionate. So, the full suite of impact assessments has been published on the website as well.”<sup>27</sup>*

**25.** Section 53 of the Bill enables an accountable person for an occupied regulated building to apply to a residential property tribunal to obtain rights of entry, providing certain conditions have been met. The Cabinet Secretary confirmed that these provisions in particular are compatible with Convention rights.<sup>28</sup>

## Our view

**26.** We note the evidence in relation to matters of legislative competence from the Cabinet Secretary.

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<sup>25</sup> Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025

<sup>26</sup> EM, paragraph 7.1

<sup>27</sup> LJC Committee, 29 September 2025, RoP [13]

<sup>28</sup> LJC Committee, 29 September 2025, RoP [16]

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**27.** As we have concluded previously,<sup>29</sup> it is disappointing that the EM does not include more detail about the Welsh Government's assessment of the impact of the Bill on human rights issues. If a human rights impact assessment has been carried out on the Bill, as the Cabinet Secretary assures us that it has, it would be helpful for us and others to have that assessment included within the EM.

**Conclusion 1.** We note the Cabinet Secretary's comments in respect of the Bill's impact on Convention rights but believe that, as a matter of good practice, an Explanatory Memorandum should always include a commentary on the consideration given to such implications.

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<sup>29</sup> See, for example: conclusion 1 of our [Report on the Environment \(Principles, Governance and Biodiversity Targets\) \(Wales\) Bill](#); conclusion 1 of our [Report on the Homelessness and Social Housing Allocation \(Wales\) Bill](#); conclusion 1 of our [Report on the Bus Services \(Wales\) Bill](#); and conclusion 1 of our [Report on the Welsh Language and Education \(Wales\) Bill](#).

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### 3. General observations

#### Development of and need for the Bill

**28.** The Bill falls under the Welsh Government’s Programme for Government commitment to improve building safety in Wales,<sup>30</sup> which in turn forms part of the Welsh Government’s response to the Grenfell Tower fire in June 2017. The Bill aims to address issues identified in the Hackitt Review, the Grenfell Tower Inquiry and by the Welsh Government’s Building Safety Expert Group, convened in 2018<sup>31</sup> (see paragraph 3 for further background to the Bill).

**29.** The Welsh Government argues that primary legislation is required to introduce a new building safety regime that covers the occupation and ongoing management of multi-occupied residential buildings.<sup>32</sup>

**30.** As outlined above, the Welsh Government worked alongside the UK Government to develop the 2022 Act, which legislated for Wales via an Act of the UK Parliament in relation to building safety during the design and construction phases. During the Local Government and Housing Committee’s scrutiny of the Legislative Consent Memorandum on the Building Safety Bill (“the Memorandum”) in November 2021, the then Minister for Climate Change stated that:

*“... in the light of the Grenfell tragedy and the need to respond to the subsequent independent review of building regulations—the Hackitt review that Members will be familiar with—we need to respond as quickly as possible, and this Bill is the most effective way to do that. We’ve made it clear as a Government that, whilst protecting the devolution settlement remains a critical area of priority for us and that our general principle is to legislate in the Senedd, we should be open to taking a pragmatic approach to using UK legislation to achieve the Welsh Government’s objectives where that’s necessary and it completely suits our policy agenda.”<sup>33</sup>*

**31.** This Committee, the Local Government and Housing Committee, and other individual Members of the Senedd challenged this approach, raising concern

<sup>30</sup> Welsh Government, *Programme for Government – Update*, January 2022, page 12

<sup>31</sup> EM, paragraphs 3.7 to 3.13

<sup>32</sup> EM, paragraph 3.4

<sup>33</sup> *Local Government and Housing Committee, 17 November 2021*, RoP [100]

about the implications of the Welsh Government's chosen legislative vehicle for devolution, and whether the legislative consent process was, in fact, faster than a Senedd Bill scrutiny process (expedited if necessary) would have been.<sup>34</sup>

**32.** Despite the Welsh Government's determination to respond quickly to the Grenfell Tower fire, over 8 years passed between the fire and the introduction of the Bill. We asked the Cabinet Secretary in writing whether, by enacting legislation for Wales via the UK Parliament in 2021, and taking an additional four years to introduce this Bill to the Senedd, the Welsh Government has failed both to respond quickly to the Grenfell tragedy and to protect the devolution settlement.

**33.** In her response, the Cabinet Secretary sets out that the 2022 Act "provided an opportunity to expediate the changes for the design and construction phase of higher risk buildings and create consistency for developers operating across England and Wales." She stresses that developing the Bill has "involved meaningful and significant stakeholder engagement", and that "Time and engagement have been needed to get this right and to ensure that the new regime is fit for purpose."<sup>35</sup>

## Consultation

**34.** In January 2021, the Welsh Government issued a consultation on proposed reform of legislation that contributes to building safety in Wales ("the White Paper"). The consultation received 95 responses, which have been summarised in a report by the Welsh Government.<sup>36</sup> The Welsh Government published its response to the consultation findings in December 2021.<sup>37</sup>

**35.** The Welsh Government carried out targeted engagement with what it describes as "a broad section of stakeholders" during the period since the publication of the White Paper. This included meetings with various organisations, including local authorities, fire and rescue authorities and housing associations. In the EM the Cabinet Secretary states that this engagement has informed the development of the Bill.<sup>38</sup>

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<sup>34</sup> Plenary, 29 March 2022, RoP [401-459]

<sup>35</sup> Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025

<sup>36</sup> Welsh Government, [Safer Buildings in Wales: Summary of responses](#), December 2021

<sup>37</sup> Welsh Government, [Safer Buildings in Wales: Welsh Government response](#), December 2021

<sup>38</sup> EM, paragraph 4.7

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**36.** The Cabinet Secretary stated that the provisions that are included in the Bill “align, for the most part”, with the provisions set out in the White Paper. The EM states that:

*“Where changes have occurred, these have reflected further consultation with stakeholders or have been made to ensure that the provisions in the Bill are proportionate and reasonable. The changes represent an evolution in approach, rather than a radical departure from the original intent.”<sup>39</sup>*

**37.** However, the Cabinet Secretary subsequently told us that the Welsh Government has “made some key refinements to policy in response to the feedback that we’ve had”. She explained that the main divergence was that there are three categories of buildings in the Bill, rather than two categories as proposed in the White Paper.<sup>40</sup>

**38.** The Welsh Government states in the EM that it was not considered necessary to consult on a draft Bill because of “the number of responses and ongoing engagement with key stakeholders throughout the development of the Bill”.<sup>41</sup> However, in evidence to the Local Government and Housing Committee, the Cabinet Secretary stated that the Welsh Government is still seeking views on how it can ensure consistency of application of the regulation regime across the 22 local authorities<sup>42</sup>, which is a source of significant concern for a number of stakeholders<sup>43</sup>). In light of the significance of the policy matters that have either been changed since the White Paper or remain unresolved, we asked the Cabinet Secretary why the Welsh Government did not use the time since the White Paper to publish a draft Bill for public consultation.

**39.** The Cabinet Secretary’s response states that “The Bill is complete and workable as drafted.” In relation to concerns raised about the consistency of the application of the regulations regime, she argues that the Bill provides local authorities with a level of flexibility around how they organise themselves:

*“While all 22 local authorities will be the building safety authority for their area, I’ve been clear that I do not envisage in practice all 22 will exercise their functions in isolation. Work is*

<sup>39</sup> EM, paragraph 3.121

<sup>40</sup> LJC Committee, 29 September 2025, RoP [46-47]

<sup>41</sup> EM, paragraph 3.124

<sup>42</sup> Local Government and Housing Committee, 17 July 2025, RoP [133-206]

<sup>43</sup> Written evidence, BSWB 07 – South Wales Fire Rescue Service; Written evidence, BSWB 14 – Welsh Local Government Association; Written evidence, BSWB 21 – Openreach; Written evidence, BSWB 24 – Propertymark

*ongoing around how local authorities work together to operationalise the new regime.”<sup>44</sup>*

**40.** She concludes by asserting that “I do not believe that publishing a draft Bill would have helped in this case” and that “Regulation making powers in the Bill, and accompanying guidance, will help to ensure consistent application of the functions given to the building safety authorities.”<sup>45</sup>

**41.** In a letter to that Committee dated 5 November, the Cabinet Secretary provided an update on her approach to the regulation regime:

*“I have recently received Local Partnerships’ report and have agreed with the recommendation for local authorities to work together, mirroring the footprint of each of the three fire and rescue authorities, with a single authority taking the lead in each area.”*

The letter goes on to state that work is ongoing to establish how those collaborative arrangements will work in practice, and in other key areas such as workforce capacity and training.<sup>46</sup>

## **Implementation of the Bill, if enacted**

**42.** The Regulatory Impact Assessment (“RIA”) for the Bill’s provisions has been undertaken on the basis that the building safety regime will be in place by 2027-28. It states that implementation planning will be undertaken and codesigned with partners.<sup>47</sup> We asked the Cabinet Secretary whether that timetable was too ambitious.

**43.** The Cabinet Secretary explained that the implementation of the Bill would be phased by categories to “allow local authorities, fire and rescue authorities and duty holders to acclimatise and adjust to the new regime”. She told us that the Welsh Government intends to consult on the regulations and guidance made under the Bill, which would take “some time”, but that the regulations and the guidance should be in place to enable:

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<sup>44</sup> Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025

<sup>45</sup> Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025

<sup>46</sup> Letter from the Cabinet Secretary for Housing and Local Government, 5 November 2025

<sup>47</sup> Welsh Government, Building Safety (Wales) Bill, Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes, July 2025, from paragraph 9.37

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- the registration of category 1 buildings by 2027, along with the fire safety duties on HMOs;
- category 2 registration to commence early in 2028; and
- category 3 duties to follow later in 2028.<sup>48</sup>

**44.** The Bill provides the Welsh Ministers with the power to make subordinate legislation in 65 areas. We asked the Cabinet Secretary in writing how many of these regulations will need to be in place in order for the Bill to be fully implemented. Her response states that the phased approach noted above will “support a smooth transition, recognising that stakeholder awareness and preparedness will be paramount to success.”<sup>49</sup>

### **The impact of this Bill on the accessibility and coherence of law relating to building safety**

**45.** As paragraphs 3 to 5 of this report set out, if enacted, this Bill would be an additional element in a suite of legislation relating to building safety that includes an Act of the UK Parliament (the 2022 Act), regulations made by the Welsh Ministers prior to the 2022 Act, and regulations made by the Welsh Ministers using powers in the 2022 Act. There is also a wider regulatory landscape which includes, for example, the *Housing Act 2004*, the Housing Health and Safety Rating System (Wales) Regulations 2006, the *Renting Homes (Wales) Act 2016* and the *Landlord and Tenant Act 1985*.

**46.** Since the Senedd consented to the UK Government legislating for Wales in the 2022 Act, the approach taken to building safety in Wales has diverged from that of the UK Government in England. For example, the UK Government has established a new independent body to act as the building control authority for higher-risk buildings. In Wales, this responsibility falls – and will continue to fall under the Bill – on local authorities.

**47.** We asked the Cabinet Secretary for her views on how the Bill will sit within the wider set of building safety legislation affecting Wales. The Cabinet Secretary stated that the Bill responds to concerns about a lack of clarity in currently legislation about who is responsible for managing the safety of buildings raised by the Hackitt Review. An official accompanying the Cabinet Secretary added that the Welsh Government has worked “very closely with stakeholders to ensure that

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<sup>48</sup> LJC Committee, 29 September 2025, RoP [141]

<sup>49</sup> Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025

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the duties that the Bill imposes do not overly overlap or duplicate any duties under existing legislation". Another official gave us a specific example of how the Bill addresses inadequacies in existing legislation:

*"One of the problems that we have in my part of this is that the fire safety Order is not housing law at all. It was designed for workplaces. It presumes the existence of an employer and an employee, and it is shot through with provisions that are eminently sensible in a factory or an office, but make no sense at all in a tower block. So, one of the things this Bill does is say, 'Enough with that. We will create a regime in the Bill for residential properties that is more suited to the sorts of risks you find in residential properties, and presumes the existence of a landlord and tenant or owner and leaseholder rather than employer and employee.' I think that's a step on."*<sup>50</sup>

**48.** In subsequent correspondence, the Cabinet Secretary stresses that the current regulatory system covering safety in multi-occupied residential buildings is "not fit for purpose". She argues that the Bill:

*"... places a proportionate and relevant set of duties on them [duty holders] to ensure that risks are managed appropriately in buildings. I consider, therefore, that the changes brought about by this Bill will improve the coherence of the law on building safety."*<sup>51</sup>

**49.** Local Authority Building Control ("LABC") has highlighted that under regulations currently in force made under the 2022 Act, a building is considered a "higher-risk building" if it contains at least one residential unit. However, for the purposes of the Bill, a "regulated building" must contain at least two residential units. LABC argues that this inconsistency "may lead to confusion in the wider industry".<sup>52</sup> We asked for the Cabinet Secretary's views on these concerns, in light of her general views about the importance of alignment between this Bill and the 2022 Act.

**50.** The Cabinet Secretary's letter acknowledges that, for the design and construction phase, a higher-risk building is only required to have one residential unit. However, her letter also sets out that:

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<sup>50</sup> LJC Committee, 29 September 2025, RoP [29-42]

<sup>51</sup> Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025

<sup>52</sup> Housing and Local Government Committee, Written evidence: BSWB 19 – LABC

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*“The occupation phase’s focus continues to be on multi-occupied residential buildings, so it defines category 1 buildings (and other “regulated buildings”) as having two or more residential units. Across the occupation phase regime, buildings with only one residential unit would include all conventional houses and bungalows and it has never been the intention to capture such buildings in the occupation phase building safety regime.”<sup>53</sup>*

**51.** She adds that the Welsh Government is “confident that we will be able to communicate this difference clearly to stakeholders”.<sup>54</sup>

**52.** The letter goes on to acknowledge the Committee’s concerns about the accessibility and coherence of legislation more broadly. It sets out that the criteria the Welsh Government set itself for identifying suitable projects for consolidation and codification “clearly point to housing being a suitable subject for codification in due course. Indeed, this is identified as such in the Government’s Future of Welsh Law programme.” The letter concludes that:

*“There is a tension between the need to improve the accessibility of the law through consolidation and codification, and the understandable need to reform existing legislation and make provision for emerging issues. However, I believe we are approaching a point where reforms could operate within a body of codified Welsh housing law and I would hope that the next Government will consider this area of the statute book for formal codification.”<sup>55</sup>*

## **Balance between what is on the face of the Bill and what is left to subordinate legislation**

**53.** The Bill contains 114 sections, divided into four Parts, and four Schedules. Tables 5.1 and 5.2 of the EM provide a summary of the delegated powers in the Bill, which comprise of the following powers for the Welsh Ministers:

- 64 powers to make regulations;
- 1 power to make an order;

<sup>53</sup> Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025

<sup>54</sup> Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025

<sup>55</sup> Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025

- 1 power to issue a direction; and
- 2 powers to issue guidance.

**54.** Of these powers, 10 regulation-making powers enable the Welsh Ministers to make changes to primary legislation (so-called Henry VIII powers). When we asked the Cabinet Secretary to justify the number and scope of these powers, she stressed that the purpose of the powers was to ensure that the Bill remains fit for purpose in future:

*“They enable Welsh Ministers to react in good time to new developments, but, as I say, there are no plans to use these powers prior to implementation. Again, it is a long and technical Bill. There are a range of buildings and ownership models covered within that, and so it is wide. Generally, the powers have been proposed to ensure that amendments can be made, if necessary, to reflect the complexity of the built environment and the different interests that people have. ... We are confident that the Bill is fit for purpose, but again, we want to make sure that it is futureproofed.”<sup>56</sup>*

**55.** Following the evidence session, we sought more clarity in writing about why each Henry VIII power is necessary, reasonable and proportionate. The Cabinet Secretary’s full response is set out in Annex 1.

**56.** Some stakeholders raised concern about the range of matters that the Bill defers to future regulations.<sup>57</sup> The Cabinet Secretary acknowledged that there are “a significant number of delegated powers within the Bill”, but added that she is:

*“... satisfied an appropriate and proportionate balance has been struck between what’s on the face of the Bill and what will be set out in those regulations. Delegated powers are only included where the nature of those provisions will be too detailed or too technical to be on the face of the Bill, or where they may be needed to enable the regime to adapt or take into account unforeseen scenarios.”<sup>58</sup>*

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<sup>56</sup> LJC Committee, 29 September 2025, RoP [139]

<sup>57</sup> For example, Housing and Local Government Committee, Written evidence: BSWB 22 – Community Housing Cymru

<sup>58</sup> LJC Committee, 29 September 2025, RoP [156]

**57.** As an example of an unforeseen scenario, a Welsh Government official cited the fire risk arising from the widespread use of lithium-ion batteries in e-bikes and e-scooters, which may not have been considered five years ago.<sup>59</sup>

**58.** We asked the Cabinet Secretary for further detail about whether the Welsh Government believes that it would be appropriate for a government in the Seventh or Eighth Seneddau to change key matters in the Bill through secondary legislation, as is currently permitted by the broad relegation-making powers in the Bill, rather than by bringing forward primary legislation for full scrutiny by the Senedd.

**59.** In her response, the Cabinet Secretary argues that the way in which buildings are owned and managed “varies considerably”, and that the building environment is “complex and constantly changing”. The letter states that “The powers are proposed to ensure that if issues arise during implementation, or in the future, we are able to react to these to ensure the regime works as intended, without the need for further primary legislation.”<sup>60</sup>

**60.** Despite agreeing in principle that the powers granted to the Welsh Ministers are appropriate, some key stakeholders including the Welsh Local Government Association (“WLGGA”) have raised concerns about how future regulations will be developed, and the extent to which the sector will be consulted.<sup>61</sup> The Cabinet Secretary’s letter sets out that under the phased approach to developing and laying regulations under powers set out in the Bill (see paragraph 43 above):

*“... our initial focus will be on the regulations needed to ensure registration, category 1 duties, and duties in HMOs are in place. We intend to consult on those proposals and subsequently consult on issues more particular to category 2 and 3 buildings, which will be commenced subsequently during the course of 2028.”<sup>62</sup>*

**61.** Similarly, there is no requirement on the face of the Bill to consult or engage with residents specifically when developing secondary legislation or guidance. The Cabinet Secretary explained that many of the secondary legislation-making powers and the guidance-making powers included in the Bill are accompanied

<sup>59</sup> LJC Committee, 29 September 2025, RoP [62-64]

<sup>60</sup> Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025

<sup>61</sup> Housing and Local Government Committee, Written evidence: BSWB 14 - Welsh Local Government Association; Housing and Local Government Committee, Written evidence: BSWB 22 - Community Housing Cymru

<sup>62</sup> Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025

by a duty to consult such other persons as the Welsh Ministers consider appropriate. She stated that there would be many instances where they would have legitimate interest in those regulations or guidance being developed, and that the Welsh Ministers would be failing to comply with their duty if they did not feel it appropriate to consult residents in such cases.<sup>63</sup>

## Our view

### Development of and need for the Bill

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**62.** The evidence we heard from the Cabinet Secretary has highlighted the concerns we expressed in the our reports on the Welsh Government's Legislative Consent Memoranda on the Building Safety Bill regarding the use of UK legislation to make provision for Wales in the area of building safety.<sup>64</sup>

**63.** The passing of the 2022 Act has also demonstrated that it is not necessarily the case that the Welsh Government gains time by seeking the Senedd's consent for the UK Parliament to legislate on the Senedd's behalf, as was argued by the Welsh Government at the time of the Building Safety Bill Legislative Consent Memoranda.

**64.** We note the Cabinet Secretary's comments about the importance of consistency between Wales and England in respect of building safety. However, that is a difficult argument to reconcile with the policy decisions taken by the Welsh Government during the development of the Bill that will result in significant divergences between the regulatory framework in Wales compared to in England. Having three categories of regulated buildings rather than one for higher-risk buildings, and local authorities being building safety authorities rather than a central authority stand out as two particularly noteworthy examples. This again demonstrates that using Welsh Government Bills to legislate for Wales can provide different policy choices that better meet the needs of Welsh citizens.

**65.** This Bill also exposes challenges that the Welsh Government may face as a consequence of its decision to establish a regulatory framework for building safety via a combination of an Act of the UK Parliament and a Senedd Bill.

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<sup>63</sup> LJC Committee, 29 September 2025, RoP [67]

<sup>64</sup> See our report on [The Welsh Government's Legislative Consent Memoranda on the Building Safety Bill](#), December 2021 and our report on [The Welsh Government's Supplementary Legislative Consent Memoranda \(Memorandum No. 3 and Memorandum No. 4\) on the Building Safety Bill](#), March 2022

**66.** Certain provisions of the Bill have been drafted in anticipation of the need for a future Welsh Government to change key terms and definitions by regulations in order to insure regulatory alignment with the UK Government's decisions in relation to England. The consequence of the 2022 Act is therefore twofold. First, that the Senedd was not afforded the opportunity to fully scrutinise relevant provisions of that legislation due to the inherent limitations of the legislative consent process. And second, that, even when this Bill is brought before the Senedd for full scrutiny, certain provisions may ultimately be dependent on the regulatory regime in England, to be amended at a later date by the Welsh Ministers using regulation-making powers.

**67.** On balance, therefore, we are not persuaded by the arguments put forward to justify the Welsh Government's overall approach to legislating for a building safety regulatory regime via the 2022 Act and this Bill. In coming to this conclusion, we have reflected on the substantial – and unacceptable – delay between the Grenfell tragedy and the introduction of this Bill, and the constrained role that the Senedd has been afforded in scrutinising the overall regulatory framework.

**Conclusion 2.** The Welsh Government should have created a building safety regime solely via Welsh legislation, rather than by a hybrid of UK legislation making provision for Wales alongside this Bill.

## **Consultation**

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**68.** The Committee notes the engagement that the Welsh Government has carried out since the publication of the White Paper to inform the Bill.

**69.** The Committee also notes the concerns raised by certain stakeholders about the enforcement regime set out in the Bill, and the Cabinet Secretary's ongoing work to address these concerns.

**70.** It is our longstanding preference for the Welsh Government to consult on draft Bills. This approach allows stakeholders to see how the Welsh Government intends to translate White Paper proposals into legislation before a Bill is introduced but also allows the Welsh Government more time to ensure a Bill is complete and workable on introduction. Had the Welsh Government consulted on a draft of the Building Safety (Wales) Bill, the key issues that are still subject to ongoing discussion could have been resolved. The time afforded to the Senedd to scrutinise the Bill could have focused on refining and improving the legislation which, in turn, would lead to better legislation and a better chance of the legislation achieving the Welsh Government's desired outcomes.

**71.** We are not convinced by the arguments set out by the Welsh Government's decision not to publish and consult on a draft Bill for the following reasons:

- The argument set out in the EM that the Bill is consistent enough with the proposals in the White Paper to justify the decision not to consult on a draft Bill is inconsistent with the importance of key changes made in the Bill compared to the White Paper. The Cabinet Secretary highlighted the shift from having two categories of buildings to three as an example of a key area of policy that has substantively changed since the White Paper was published.
- There remain in the Bill as introduced significant unresolved issues that are central to its successful implementation. The question of how Wales' 22 local authorities work collaboratively to ensure regulatory consistency is fundamental to the working of the Bill.
- A very significant period of time has elapsed since the Grenfell tragedy and the need for legislation to improve building safety was first identified. We see no reason why a draft Bill could not have been published during this period to improve the quality and completeness of Bill as introduced.

**Conclusion 3.** The Welsh Government should have carried out a consultation on a draft of the Building Safety (Wales) Bill before its introduction to the Senedd.

**72.** We note the Cabinet Secretary's decision in her letter dated 5 November 2025 to support a regulatory model whereby the 22 local authorities work collaboratively to mirror the footprint of the three fire and rescue authorities.

**73.** It is unclear how this proposed model will work in practice. Provisions in the Bill as introduced make no reference to collaborative working between the local authorities in relation to their role as building safety authorities. Consequently, it is very challenging for the Senedd and others to scrutinise the Cabinet Secretary's proposals and the extent to which they will facilitate the successful implementation of the Bill. Neither is it clear whether the proposed collaborative arrangements will need to be set out in legislation and, if not, what the alternative governance arrangements will be. This, at a minimum, should be clarified by the Welsh Government at the earliest opportunity.

**Recommendation 1.** The Welsh Government should clarify whether the implementation of the proposals for local authorities to work collaboratively in their role as building safety authorities in three groups to mirror the footprint of



the fire and rescue authorities will require amendments to the Building Safety (Wales) Bill, namely:

- i. If the Welsh Government intends to table amendments to the Bill to give effect to these proposals, the Cabinet Secretary should clarify what those amendments are likely to be and the intended purpose and effect of each of those amendments.
- ii. If the Welsh Government does not intend to table amendments to the Bill to give effect to these proposals, the Cabinet Secretary should set out the governance arrangements under which it intends to establish the proposed collaborative structures, and the Senedd's role in considering and approving those governance arrangements.

### **The impact of this Bill on the accessibility and coherence of law relating to building safety**

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**74.** We remain concerned about the complexity of the existing body of legislation relating to building safety. We believe this legislation will add to that complexity by spreading relevant law across Acts of the Senedd, Acts of the UK Parliament, and secondary legislation laid, and guidance issued, under both.

**75.** This complexity risks making it more challenging for stakeholders operating either in Wales or at a UK-level to understand the building safety regime applying in Wales.

**76.** We note the comments made by the Cabinet Secretary in correspondence about the benefits of consolidating and codifying Welsh housing law. We agree. The Welsh Government should commit to doing so at the earliest opportunity.

**Recommendation 2.** At the earliest opportunity, the Welsh Government should commission the Law Commission to scope the potential for the consolidation and codification of housing law in Wales.

### **Balance between what is on the face of the Bill and what is left to subordinate legislation**

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**77.** There are 10 regulation-making powers in the Bill that enable the Welsh Ministers to amend primary legislation. Despite the assurances provided by the Cabinet Secretary, we remain concerned about the remarkably broad powers being given to the Welsh Ministers in the Bill, particularly those in sections 14 and 16, which give the Welsh Ministers the power to change definitions that are

fundamental to the working of the legislation. We discuss these powers in more detail in the next chapter.

**78.** We also note the concerns raised by stakeholders about the significance and extent of the matters central to the effective working of the Bill that have been left to regulations.

**79.** The Cabinet Secretary and her officials argued that the rate of change of technologies that affect building safety and rapidly evolving practices of building design and construction justify the overall approach taken to balancing regulation-making powers and detail on the face of the Bill.

**80.** However, the Cabinet Secretary should not assume that future Welsh Governments will share her ambitions for the Bill. As drafted, the Bill provides future governments with the powers to fundamentally change the nature and extent of the regulatory regime with very little opportunity for the Senedd to meaningfully scrutinise those changes. We are not convinced by the arguments made by the Welsh Government in favour of such broad powers when they come at such a heavy cost to the Senedd's ability to provide a check and balance on their use.

**Conclusion 4.** The sheer extent of the powers given to the Welsh Ministers in the Bill, combined with the extent of the practical workings of the Bill that have been left to regulations to establish, places the balance of power inappropriately in favour of the executive.

**81.** We also note some stakeholders' concerns about the extent to which they will be consulted by the Welsh Government as those regulations are developed.

**82.** The Cabinet Secretary has described a "phased" approach to the development and implementation of the regulations that are central to the working of this Bill. We note her comments that this will provide the Welsh Government with the opportunity to consult with stakeholders as those regulations are developed. We consider the key regulation-making powers in more detail in later sections of this report.

**83.** As highlighted during the evidence session, there is no duty in the Bill to consult residents when developing secondary legislation and guidance. We note the Cabinet Secretary's views that, in some instances, the Welsh Government may not be complying with its duty to consult if it did not consult with residents.

**84.** However, given the reasons for bringing forward this Bill, it is vital that residents are given an opportunity to provide their views on what constitutes an

effective building safety governance regime. The current Cabinet Secretary may believe that the Welsh Government would be failing to meet its duty to consult if it did not consult residents in certain cases, but a future Welsh Government may not be of the same opinion. In any case, if a future Welsh Government is not minded to consult with residents, we cannot assume that residents or resident groups would bring forward a legal challenge to ensure such consultation.

**85.** We also note the Cabinet Secretary's argument that Welsh Government consultations are open to the public, and as such residents or resident groups can respond if they so wish. However, we are not persuaded that placing the onus on residents to find and respond to online consultations is an appropriate form of engagement given the nature of the legislation.

**Recommendation 3.** The Welsh Government should table amendments to the Bill to ensure that there are active duties on the government to consult with residents in relation to the development of guidance and secondary legislation, where relevant and appropriate.

## 4. Specific observations on particular Parts and sections of the Bill

### Part 1, Chapter 2 (Key Terms)

**86.** Chapter 2 of Part 1 sets out the meanings of key terms used in the Bill. In particular, it makes provision about:

- the meaning of references to “regulated buildings” (sections 2 to 4), “residential units” (section 5) and the three categories of regulated buildings (sections 6 and 7);
- how to identify an “accountable person” (section 8), and the “principal accountable person” (sections 9 to 11), for a regulated building.

### Section 5 (meaning of “residential unit”)

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**87.** Section 5(5) enables the Welsh Ministers to make further provision in respect of the Bill’s definition of “residential units”. Subsection (6) in particular provides that regulations under subsection (5) may be used to exclude buildings or parts of buildings that might otherwise be captured by the definition. Such regulations will be subject to the Senedd approval procedure, and the EM states that they “are likely to be technical in nature and enable more usual [sic] or new designs of buildings to be accounted for” and may need to be “changed more frequently than would be sensible for primary legislation”.<sup>65</sup> According to the statement of policy intent, this power:

*“... will ensure clarity of the law should there be any emerging cases where it is not clear if certain accommodation is or is not a “residential unit”. Regulations can be made to provide that specified living accommodation will not be regarded as “residential units” for the purposes of the regime. If necessary, they can also be used to set out how “residential units” should be counted in specific circumstances if clarity is required. Living accommodation can be diverse in nature and potentially be open to more than one interpretation and could evolve in future to the point where the meaning of a “residential unit” in section 5 may need to be further provided for or supplemented.*

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<sup>65</sup> EM, page 49

*There is a need for the legislation to be able to keep pace with changes so that it can accurately reflect and depict multi-occupied residential buildings as intended. Regulations are needed to ensure the scope and application of the law is able to continue to be aligned with the policy intent if necessary.”<sup>66</sup>*

**88.** We asked the Cabinet Secretary whether she had considered making the powers in section 5(5) subject to an enhanced approval procedure requiring extended periods of consultation, including specific statutory consultees. In response, the Cabinet Secretary told us that “Ministers would have to come in front of the Senedd to make their case, with the subsequent debate and vote. I think that is appropriate and that an enhanced procedure is not necessary for a power such as this.” She added that the Welsh Government does not have any existing plans to use this power.<sup>67</sup>

### **Our view**

**89.** The meaning of “residential unit” is critical to the regulatory regime created by the Bill. The powers in section 5(5), therefore, enable the Welsh Ministers to bring within scope, or exclude from scope, building structures to which the building safety standards in the Bill will apply.

**90.** We note the Cabinet Secretary’s views that the intended use of this power is to ensure that the legislation remains fit for purpose in the case of new or novel building designs. We also note the Cabinet Secretary’s assurances that the current Welsh Government does not have any plans to use this power.

**91.** However, irrespective of the current Cabinet Secretary’s intentions in respect of its use, the power remains. A current or future Welsh Government can, by Senedd approval procedure and without consultation, change a fundamental definition that has implications for the range of buildings that are subject to the safety provisions in the Bill. We do not believe that the approval procedure alone provides an appropriate safeguard for the powers provided to the Welsh Ministers in section 5(5).

**Recommendation 4.** The Welsh Government should table amendments to section 5 of the Bill to place a duty on the Welsh Government to consult relevant stakeholders during the development of the regulations, including residents, before laying the regulations subject to the approval procedure.

<sup>66</sup> Statement of Policy Intent for the Building Safety (Wales) Bill, July 2025, page 5

<sup>67</sup> LJC Committee, 29 September 2025, RoP [69]

## Section 6 (categories of regulated building)

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**92.** Section 6(5) provides a regulation-making power for the Welsh Ministers to make further provision in respect of the Bill’s categorisation of regulated buildings. Subsection (6) provides that regulations made under this power may in particular:

- make provision about how the height or number of storeys of a regulated building is to be determined, which may include requiring that account be taken of parts of a structure or set of structures of which the building forms part;
- define “storey”; and
- provide that a regulated building of a description specified in the regulations that would otherwise fall into a category set out in this section falls into a different category.

**93.** Regulations made under section 6(5) will be subject to the Senedd approval procedure. The EM states that regulations are considered appropriate to contain detail about the height or number of storeys of buildings as they will be “detailed and technical in nature”.<sup>68</sup> According to the statement of policy intent, this approach will:

*“... provide opportunity to consult industry further on these more technical details when the regulations are made ... [and] will ensure the regime and the intended approach of creating different duties for different “categories” of regulated buildings is able to keep pace with changes and new evidence. Regulations are needed to ensure the scope and application of the law is able to continue to be aligned with the policy intent, if necessary, in the future.”<sup>69</sup>*

**94.** In its consultation response, Cast Consultancy stressed that the definitions in section 6 should be clearly defined at the outset, preferably in legislation, to “provide absolute clarity on the route to approval”.<sup>70</sup>

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<sup>68</sup> EM, page 49

<sup>69</sup> Statement of Policy Intent for the Building Safety (Wales) Bill, July 2025, page 6

<sup>70</sup> Written evidence, BSWB 27 – Cast Consultancy

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**95.** When we asked the Cabinet Secretary why the term “storey” had been left to be defined in regulations, and whether she could define a storey for us, she told us that:

*“We’re not tending to do anything novel with the definition of ‘storey’. There is a benefit in aligning definitions between the design and the construction phase and the occupation phase, and that’s designed to assist with the alignment. So, the detail in the regulation as to what constitutes a storey is likely to only be relevant in niche examples, for example, like a mezzanine, and to include such detail on the face of the Bill just risks overcomplicating the Bill, and I think that’ll be a rare example.”*

**96.** An official accompanying the Cabinet Secretary added that the regulation-making powers in section 6(5) are for the purposes of consistency across the statute book between the design and construction phase (legislated for by the 2022 Act) and the occupation phase (which the Welsh Government intends to legislate for in this Bill). She explained that if the definition of “storey”, for example, were to change for the design and construction phase, the Welsh Government would need to consider changing it for the occupation phase. The regulation-making powers in section 6(5) would enable them to do so.<sup>71</sup>

**97.** In subsequent correspondence to the Cabinet Secretary, we noted that a definition of mezzanine and some detail about the definition of a storey are included in section 118(3) of the 2022 Act. In light of this, we asked for more clarity about why including the definitions of storey or mezzanine in primary legislation “risks overcomplicating the Bill”.

**98.** In her response, the Cabinet Secretary states that detailed definitions of a “higher-risk building” for the design and construction phase (such as how height is to be measured and how storeys are to be calculated) are set out in regulations made under the *Building Act 1984*. She notes that generally “a “higher-risk building” in the design and construction phase will be a “category 1 building” in the occupation phase”, adding that:

*“The intention is that regulations under section 6(5) will largely mirror, in terms of height and storeys at least, the provision in the 2023 Regulations.”<sup>72</sup> This approach will enable regulations*

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<sup>71</sup> LJC Committee, 29 September 2025, RoP [72-77]

<sup>72</sup> See: Gov.uk, [The Building Safety \(Description of Higher-Risk Building\) \(Design and Construction Phase\) \(Wales\) Regulations 2023](#)

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*for both phases to be aligned now, and in the future. If the 2023 Regulations were amended then the power in section 6(5) would enable, but not require, the occupation phase regulations to follow suit.”<sup>73</sup>*

## **Our view**

**99.** The Cabinet Secretary argued that setting out the definition of storey in regulations, rather than on the face of the Bill, will help to ensure consistency with the 2022 Act and its subordinate legislation. This argument is a clear illustration of the inherent risks of legislating for Wales in a devolved area via legislation delivered by the UK Parliament. Effectively, this argument places the Senedd’s preferences secondary to those of the UK Parliament. Of course, a future Welsh Government could just as easily change that definition via regulations to diverge from UK legislation as it could change it to ensure continued alignment.

**100.** The Cabinet Secretary has also argued that regulations made by UK ministers under UK legislation are used to define key terms such as “storey” and set out how height is to be measured and that, therefore, the same approach should be adopted in this Bill.

**101.** We do not agree that the approach to defining key terms adopted for UK legislation should necessarily be the approach that is adopted by the Senedd. Once again, while we acknowledge certain benefits of a consistent building safety regime across both Wales and England, cross-border consistency is just one of a number of important considerations about the merits or otherwise of leaving critical terms and definitions to secondary legislation.

**102.** We agree that some matters, such as the methods by which height is to be measured, are appropriately left to secondary legislation. However, the definition of “storey” is central to the legislation, and one of the two ways by which the categories of “regulated building” are defined. It should be placed on the face of the Bill, irrespective of the approach taken to its definition in legislation of the UK Parliament.

**Recommendation 5.** The Welsh Government should table an amendment to section 6 of the Bill to include the definition of “storey” by which categories of regulated buildings will be defined.

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<sup>73</sup> Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025

## Section 14 (power to amend the meaning of “accountable person” and “principal accounting person”) and Section 16 (power to amend sections 2 to 14)

**103.** Section 14 provides a regulation-making power for the Welsh Ministers to make further provision for the purposes of sections 8 to 13 of the Bill. The EM states that regulations made under this power will be subject to the Senedd approval procedure and the power:

*“Will enable regulations to be made to account for e.g. more unusual ownership models and designs of buildings and in the future for new designs of buildings. The regulations are likely to be detailed in nature and particularly in relation to new designs of buildings are likely to require amending more frequently than would be sensible for primary legislation.”<sup>74</sup>*

**104.** The statement of policy intent provides examples of circumstances in which the power in section 14 may be used:

*“There will be some areas of a building that no accountable person has a legal estate in possession of and no accountable person has repairing obligations in respect of, for example areas in the demise of a residential unit let out under a long lease as long leases generally provide for the leaseholder to have repairing obligations in respect of the demised property. The power could be used, for example, when no common parts can be identified in a house split horizontally into 2 residential units owned by leaseholders because all parts of the building are demised to leaseholders. The power could be used to specify that in these scenarios a shared stairwell inside the house is a common part (thereby enabling accountable persons to be identified for the building). Without this regulation making power there is a risk that accountable persons for these buildings cannot be identified.*

*The power could also be used, for example, to make regulations about “accountable persons” and “principal accountable persons” for a regulated building which is not on commonhold*

<sup>74</sup> EM, page 51

*land or has no common parts of a description as specified in regulations.”<sup>75</sup>*

**105.** The Cabinet Secretary told us that the power in section 14(1) is “primarily intended to ensure that regulations can be made for the most unusual ownership models for the buildings of more unusual design.” She explained that the regulations would provide for “more unusual scenarios by supplementing what’s already on the face of the Bill.” When we asked her whether she had considered restricting the powers by limiting on the face of the Bill the scope regulations, the Cabinet Secretary told us that:

*“... a list of matters that regulations could not cover, we think, would be very long and wouldn’t really serve a useful purpose. So, the power is already limited only to matters covered by sections 8-13.”<sup>76</sup>*

**106.** Section 16 enables the Welsh Ministers, by regulations subject to the Senedd approval procedure, to amend sections 2 to 14 of, and Schedule 1 to, the Bill. The regulations may add, remove or amend a description of “building”, or include vehicles, vessels or other moveable objects within the meaning of “building”, or to amend a category of building. In accordance with subsection (3), the Welsh Ministers must consult each building safety authority, fire safety authority and other appropriate persons before making such regulations.

**107.** According to the statement of policy intent, the powers in this section “are not intended to be used unless required”, but that:

*“It may be necessary for any of these definitions [within section 2 to 14] to be amended in the future in order for the regime to keep pace with, and continue to meet, the policy intention of regulating building safety in all multi-occupied residential buildings. Schedule 1 sets out a list of buildings that are excluded from being regulated buildings. This power will provide flexibility in the future to enable the list of “excluded buildings” to be amended should the need arise. Given the wide range of ways in which buildings are used and that usage/design may change in the future, it enables regulations to be made to ensure that the policy intent is fully met and that*

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<sup>75</sup> Statement of Policy Intent for the Building Safety (Wales) Bill, July 2025, page 9

<sup>76</sup> LJC Committee, 29 September 2025, RoP [93]

*future changes in use can be accounted for, in relation to which buildings are in-scope of the Bill.”<sup>77</sup>*

**108.** The Cabinet Secretary told us that the “broad power” in section 16 is proposed to enable amendments to the key term section, and not about changing duties under the Bill. She agreed that, subject to the Senedd’s approval, a future Government could use the powers in section 16 to amend the key definitions, the purpose of which is to ensure that the right buildings and the right people are identified.<sup>78</sup> She added that:

*“We’ve got no current plans to use this power, and it’s been, again, included so that there’s consistency between that design and construction phase and the occupation phase. So, it’s primarily a safeguard—again, not intended to be used. But an example could be that if it becomes apparent that certain types of structures, such as static caravans, freight containers, or even large houseboats are being interpreted as buildings in a way that was not intended, we could use the power to clarify the definition.”<sup>79</sup>*

**109.** In response to our written questions about why certain structures should be excluded from the Bill, the Cabinet Secretary stresses that the power in section 16 is to enable amendments to be made to the key terms section, rather than changing duties under the Bill. Her letter acknowledges that a future government could exclude certain buildings or structures. However, she argues that:

*“Such regulations could only be made after consultation and with the approval of the Senedd. Based on the existing available evidence, we believe all of the buildings we have included should be in scope of the regime. But it would be remiss of us not to ensure the regime can respond to evidence if it needs to.... This power is designed to be proportionate and ensure the Government is able to respond to change when there is clear evidence to support such a change and we have included safeguards that limit the use of these powers to that effect. These include the requirement to consult the building safety and fire safety authorities and the use of the Senedd*

<sup>77</sup> Statement of Policy Intent for the Building Safety (Wales) Bill, July 2025, page 11

<sup>78</sup> LJC Committee, 29 September 2025, RoP [83-85]

<sup>79</sup> LJC Committee, 29 September 2025, RoP [95]

*approval procedure thus ensuring it is subject to additional Senedd scrutiny and the Senedd's agreement.”<sup>80</sup>*

**110.** The letter confirms that the Welsh Government has explored alternative drafting approaches to include safeguards against different structures being either included or excluded from the definition of building for the purposes of this Bill in a manner that was not intended by the legislation (for example by “listing exclusions or defining building types more narrowly on the face of the Bill”). However, she reports that “these approaches were considered too rigid and potentially problematic given the evolving nature of residential accommodation” and that any changes to the definition must be subject to consultation and will be subject to the Senedd approval procedure, which “provides the appropriate level of transparency and accountability in the exercise of this power in the future.”<sup>81</sup>

## **Our view**

**111.** The powers given to the Welsh Ministers under sections 14 and 16 are incredibly broad. Depending on their use, they could fundamentally alter the nature of the building safety regime.

**112.** We note the Cabinet Secretary’s view that the powers under section 14 are intended to address “unusual” ownership models, and could only be used in relation to matters considered in sections 8 to 13.

**113.** We also note the Cabinet Secretary’s assurances that the powers in section 16 are “not intended to be used unless required”, that the powers are to amend key definitions rather than the scope of the Bill, the duty to consult, and that the regulations being subject to the approval procedure provide an “appropriate level of transparency and accountability”. We note, too, that the Welsh Government has explored alternative drafting approaches to include more safeguards to protect against unintended use of the section 16 powers, but has judged them to be “too rigid and potentially problematic”.

**114.** We appreciate that building design and ownership models are liable to change, as new building technologies emerge and as usage of building structures changes. We therefore agree that the regulation-making powers in the Bill should allow governments to take account of those technical changes in a timely and proportionate manner.

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<sup>80</sup> Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025

<sup>81</sup> Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025

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**115.** However, the powers in sections 14 and 16 vastly exceed the power to make technical amendments to the meaning of “accountable person”, or to definitions to ensure that new buildings, or new ways that buildings are used, are considered by the building safety regime. As a simple illustration, the powers in section 16 allow the Welsh Ministers to change, add, remove or amend category of buildings set out in section 6. Those categories provide the entire regulatory framework for the various roles and responsibilities set out in the Bill.

**116.** Despite the Cabinet Secretary’s assurances about the potential use of the powers in section 14, we remain unclear about the extent to which the regulation-making powers are limited in their scope to the specific circumstances set out by the Cabinet Secretary.

**117.** In relation to section 16, there does not appear to be any constraint on how sections 2 to 14 or Schedule 1 of the Bill could be amended; there is no reference to sections 2, 5 and 7 to 14. As such, we consider that section 16(1) of the Bill represents an inappropriate delegation of powers to the Welsh Ministers, particularly when considering the net effect of the section, alongside section 14 and the individual regulation-making powers in preceding sections.

**118.** We are therefore not persuaded by the Cabinet Secretary’s assurances about how the powers will be used. The scope of the powers in sections 14 and 16 allow a current or future Welsh Government to re-write the Bill to such an extent that the original policy intent and intended scope is wholly altered. Given the point in the Senedd term at which this Bill has been introduced, whether and how this Welsh Government intends to use the powers is of relatively limited importance. What is important, and an issue that is often raised by this Committee when scrutinising Bills, is how the powers delegated to the Welsh Ministers *could* be used by future governments. The fundamental principle remains, irrespective of the government of the day: section 16 provides entirely disproportionate powers to the executive at the expense of the Senedd.

**119.** If a future Welsh Government wishes to re-write the Bill to such an extent that the original policy intent and intended scope is wholly altered, that should be proposed by means of primary legislation and not through regulation-making powers delegated to the executive by this Bill.

**Conclusion 5.** Sections 14 and 16 of the Bill represent an unacceptable delegation of regulation-making powers to the Welsh Ministers.



**Recommendation 6.** The Welsh Government should table amendments to section 14 of the Bill to limit the scope of the regulation-making power to the matters set out in sections 14(2)(a) and 14(2)(b).

**Conclusion 6.** The Cabinet Secretary has not made an adequate case for the inclusion of section 16(2)(b)(ii) in the Bill.

**Recommendation 7.** The Welsh Government should table amendments to section 16 of the Bill to limit the scope of the regulation-making power to the matters set out in sections 16(2)(a), 16(2)(b)(i) and 16(2)(c).

**Recommendation 8.** The Welsh Government should table amendments to section 16 of the Bill to ensure that any powers given to the Welsh Ministers to amend primary legislation in respect of crucial definitions set out in the Bill (such as those relating to the description of “building”) are subject to an enhanced approval procedure, such as one that requires a draft of the regulations to be consulted on before being laid for scrutiny purposes.

**120.** There is one further point we wish to make. The very broad powers in sections 14 and 16 to varying degrees enable the Welsh Ministers to amend sections of the Bill that can also be amended under other regulation-making powers in the Bill. For example, the regulation-making power in section 10(3) relates to applications about principal accountable persons, which is relevant to the broader powers set out in section 14. The regulation-making powers in section 6(5) relate to how categories of regulated buildings are defined, which seems to fall within the scope of the powers in section 16 as defined by 16(2)(c). The regulation-making power in section 12(3) could potentially be relevant to the broader powers under both sections 14 *and* 16.

**121.** The Cabinet Secretary has argued that the plethora of regulation-making powers in the Bill, including the particularly broad powers under sections 14 and 16, are necessary to ensure that the Bill remains fit for purpose into the future. However, the number of Henry VIII powers and the sweeping nature of some of those powers means that the specific purpose of each individual regulation-making power is not as clearly defined as it should be. The inappropriate use of those powers by a future Welsh Government is more likely without clear safeguards in the drafting of the Bill, as we call for above, and absolute clarity from the Welsh Government about the purpose of the regulation-making powers and how each power is distinct, necessary, and dovetail effectively alongside one-another.

**Recommendation 9.** In its response to this report, and taking into account its response to recommendations 7, 8 and 9, the Welsh Government should set out:

- i. any occasion whereby two or more powers in the Bill could potentially be used for the same purpose; and
- ii. why each individual Henry VIII power in the Bill is necessary and distinct from the other regulation-making powers in the Bill (Henry VIII or otherwise).

## **Part 1, Chapter 3 (Registration of Category 1 Buildings and Category 2 Buildings)**

**122.** Chapter 3 of Part 1 provides for the registration of category 1 buildings and category 2 buildings by building safety authorities.

**123.** Section 17 requires that a building safety authority must keep a register of category 1 and category 2 buildings for which it is the building safety authority. Section 18 provides that category 1 and 2 buildings must be registered before they can be occupied.

**124.** Section 19 sets out the procedure for registering a category 1 or 2 building. Subsection (1) places a legal duty on building safety authorities to register a building if the principal accounting person has made an application to register under subsection (3). Subsection (3) provides that the Welsh Ministers may by regulations make provision about:

- how an application to register the building must be made;
- the form and content of an application; and
- the documents (if any) that must be included with an application.

**125.** However, although there is a legal duty on building safety authorities to register a building, there is no legal duty on the Welsh Government to make the regulations under subsection (3) under which that registration is carried out. We asked the Cabinet Secretary whether the Welsh Government had given any consideration to placing a legal duty on the Welsh Ministers to lay regulations under section 19(3). The Cabinet Secretary told us that:

*“It would be our firm intention to make regulations in relation to the registration process, because we consider it essential that a process is undertaken on a consistent basis in every case across all areas of Wales ... But I’m not altogether sure that it’s*

*essential that the power set out in 19(3) is turned into a duty. However, were it to be included as a recommendation in the committee's Stage 1 report, I would be happy to reflect on that further.”<sup>82</sup>*

## Our view

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**126.** The duty on building safety authorities to register a building under section 19(1) places an onus on the Welsh Ministers to make regulations setting out how such an application must be made.

**127.** We note the Cabinet Secretary's comments that making such regulations would be an essential part of the registration process, and that it is her “firm intention” to do so.

**128.** Nevertheless, it is conceivable that, without a duty on the Welsh Ministers to do so, section 19 of the Bill could become unworkable should a future Welsh Government fail or choose not to lay regulations. It is therefore our view that any legal duties placed on building safety authorities to register buildings should be matched by an equivalent duty on the Welsh Ministers to define how that registration could be carried out.

**Recommendation 10.** The Welsh Government should table an amendment to section 19(3) of the Bill to place a duty on the Welsh Ministers to make regulations about the process by which building safety authorities register buildings under 19(1).

## Part 1, Chapter 4 (Assessment and Management of Building Safety Risks)

**129.** Chapter 4 of Part 1 provides for the assessment and management of safety risks in relation to occupied regulated buildings. It does so by:

- placing duties on principal accountable persons to assess fire safety risks, and on accountable persons to manage those risks, which apply to all regulated buildings;
- placing duties on accountable persons to assess and manage structural safety risks, which apply only to category 1 buildings and category 2 buildings.

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<sup>82</sup> LJC Committee, 29 September 2025, RoP [114]

**130.** Section 26 within this chapter sets out the meaning of “fire safety risk” and “structural safety risk” in relation to a regulated building.

**131.** Section 27 sets out the meaning of “building safety risk”. Subsection (2) enables the Welsh Ministers, by regulations subject to the Senedd approval procedure, to modify the definition of “building safety risk” to include other risks to the safety of people in or about buildings within the scope of the Bill. The EM describes this as a “broad power”, noting that “if regulations were made this would result in potentially significant new duties.”<sup>83</sup> We asked the Cabinet Secretary whether she was satisfied that this broad power should be left to secondary legislation. She stated that:

*“So, the nature of the risks involved is obviously important, but I don’t think we should need to introduce new primary legislation to add to the definition of a building safety risk. ... Of course, any changes couldn’t be added without consultation and engagement with the enforcing authorities, and with the sector at large. So, I can’t see any circumstances in which a risk would be added without that work being done first, as it would be completely impracticable. So, any regulations proposing the addition of a new risk would be subject to the Senedd’s approval procedure, enabling enhanced Senedd scrutiny and requiring Senedd approval.”<sup>84</sup>*

**132.** Section 28 requires the principal accountable person for an occupied regulated building to ensure that the fire safety risks relating to every part of the building for which any accountable person is responsible are assessed.

**133.** Section 29 provides that a fire risk assessment must only be made by an individual or body who meets the definition of “competent person” in its subsection (2). In accordance with its subsection (3), the Welsh Ministers may, by regulations subject to the Senedd annulment procedure, specify requirements that an individual or body must satisfy to be regarded as having sufficient expertise or experience for this purpose. Subsequent correspondence from the Cabinet Secretary asserts that:

*“The requirement that fire risk assessors must be competent is on the face of the Bill and will be directly enforceable without needing any regulations under section 29(3). Such regulations*

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<sup>83</sup> EM, page 55

<sup>84</sup> LJC Committee, 29 September 2025, RoP [116-117]

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*cannot change that requirement. They will merely set out details of how assessors can demonstrate competence, for instance by holding specified academic or vocational qualifications, being members of relevant professional institutions, or their employers being accredited by a suitable corporate quality assurance scheme... We believe the level of detail involved here, the lack of any Henry VIII power and the likely need to amend the regulations frequently, mean that the Senedd annulment procedure is appropriate.”<sup>85</sup>*

**134.** Section 33 requires accountable persons for occupied category 1 buildings and category 2 buildings to ensure that the structural safety risks relating to the part of the building for which they are responsible are assessed. In accordance with its subsection (7), the Welsh Ministers may, by regulations subject to the Senedd annulment procedure:

- specify requirements that an individual or body must satisfy to be regarded as having sufficient expertise or experience for the purpose of making a structural risk assessment (including requirements for particular qualifications or for accreditation by, or membership of, a particular body);
- specify matters that must be considered as part of an assessment;
- make provision about the methodology that must be used in making an assessment;
- specify information that must be included in the written record of an assessment;
- specify a maximum interval that an accountable person may allow to elapse between assessments.

**135.** The Cabinet Secretary argues that “the level of detail involved here, the lack of any “Henry VIII” power and the potential need to amend any future regulations frequently, mean that the Senedd annulment procedure is appropriate.”<sup>86</sup>

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<sup>85</sup> Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025

<sup>86</sup> Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025

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## Our view

**136.** The meaning of “building safety risk” is critical to the scope of the Bill. The EM acknowledges as such, by noting the “potentially significant new duties” that could be created were the definition to be amended.

**137.** We note the Cabinet Secretary’s comments about the duty to consult that accompanies the regulation-making powers in section 27(2) set out in sub-section (7). We also note the arguments set out in the Cabinet Secretary’s letter (Annex 1) about the need to respond promptly to emerging evidence about new risks, such as the risks arising from flooding.

**138.** We agree that some degree of flexibility is required for the Welsh Government to respond to emerging risks. However, we do not believe that the Senedd approval procedure is a sufficient safeguard for powers to change critical definitions that could potentially have material impacts on the scope of the Bill, irrespective of the Welsh Government’s duty to consult under section 27(7).

**Recommendation 11.** The Welsh Government should table an amendment to section 27 of the Bill to subject the powers in sub-section (2) to an enhanced approval procedure, which retains the Welsh Government’s requirement to consult on the regulations, and also provides the Senedd with the opportunity to scrutinise draft regulations and an explanatory document before being approved by the Senedd.

## Part 4 (Supplementary and General)

**139.** Section 98 provides that the Welsh Ministers may issue or approve guidance to assist any persons in complying with their duties under the Bill or regulations made under it.

**140.** Under subsection (2), the Welsh Ministers *must* issue or approve guidance relating to principal accountable persons and HMO landlords, for certain duties relating to the assessment of fire safety risks. However, other guidance issued under subsection (1) is not compulsory. Stakeholders have stressed the need for clear operational guidance to ensure that the Bill achieves its intended outcomes.<sup>87</sup> We therefore asked the Cabinet Secretary why certain guidance in

<sup>87</sup> Local Government and Housing Committee, [Written evidence, BSWB 04 – Swansea Council](#); Local Government and Housing Committee, [Written evidence, BSWB 21 – Openreach](#); Local Government and Housing Committee, [Written evidence, BSWB 24 – Propertymark](#); Local Government and Housing Committee, [Written evidence, BSWB 07 – South Wales Fire Rescue Service](#)

relation to fire safety risks was the only mandatory guidance in the Bill. She explained that:

*“... some principal accountable persons and landlords could struggle to discharge their duties properly without it [the compulsory fire safety guidance] ... The same is not true of other guidance under the Bill, and, therefore, there wouldn't be any point in requiring the issue of guidance for which there is no demand. We have, therefore, adopted the conventional approach of conferring discretionary power to issue guidance where it would be helpful. But I do want to be clear that it is our intention to issue guidance to support all those with duties under the regime, including giving examples, where appropriate.”<sup>88</sup>*

**141.** However, an official accompanying the Cabinet Secretary told us:

*“I can't speak to whether there's an issue with other guidance under the Bill, and whether we might equally say that principal accountable persons, et cetera, would struggle without guidance. Maybe that's something we take away and reflect on. I'm thinking, for instance, of structural safety and things like that.”<sup>89</sup>*

**142.** We wrote to ask the Cabinet Secretary whether the guidance issued under subsections (1) or (2) should be subject to the draft annulment procedure. In her response, she responds that:

*“Guidance under section 98 is not law; it aims to support accountable persons and others to discharge their duties under the Bill. Much of the guidance under section 98(2) will be unavoidably technical, and it will need frequent amendment to deal with changes in technology, building design, forms of tenure or recognised good practice. We consider that the duty to consult, before issuing or approving guidance, in section 98 is appropriate and sufficient. It would be unusual for any Senedd procedure to apply to material like this, and no such procedure is necessary or appropriate here.”*

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<sup>88</sup> LJC Committee, 29 September 2025, RoP [119]

<sup>89</sup> LJC Committee, 29 September 2025, RoP [120]



**143.** The letter goes on to state that the Welsh Government intends to consult with stakeholders on the development of guidance after consultation on the content of regulations, when the Welsh Government will “be clearer about the areas where guidance is needed and what it needs to cover”.<sup>90</sup>

## **Our view**

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**144.** We note the Cabinet Secretary’s views about the nature of the guidance to be issued under section 98. We understand that, as drafted, the guidance will not have legal status, and may need to be updated regularly to take into account changes in technology, building design and construction practices, and other technical matters.

**145.** We remain concerned that whilst the Welsh Government is required to issue guidance for principal accountable persons in relation to fire safety risks, they are not obliged to issue guidance in other areas. The Cabinet Secretary asserted that while “some principal accountable persons and landlords could struggle to discharge their duties properly without it [the compulsory fire safety guidance] ... The same is not true of other guidance under the Bill”.

**146.** These comments were made in the context of concerns raised by a series of stakeholders in their responses to the public consultation on the Bill about the importance of clear operational guidance to ensure that the Bill achieves its intended outcomes.

**147.** The information that we have received does not convince us that the Cabinet Secretary has given full consideration to whether other guidance aside from that specified in section 98(2) will be necessary for those with duties under the Bill to discharge those duties effectively. The Welsh Government must provide clear assurances that it has done so, and that it will keep the matter under review as the Bill continues along its legislative journey.

**Recommendation 12.** The Welsh Government should confirm that a full and robust assessment has been made of the guidance that duty holders will require to discharge their duties in the Bill effectively, in consultation with relevant persons and anticipated duty holders, and that this assessment has concluded that only guidance relating to fire safety risks should be mandatory as specified in section 98(2).

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<sup>90</sup> Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025

**Recommendation 13.** The Welsh Government should keep under review throughout the scrutiny process whether additional guidance should be made mandatory in the Bill to reflect changes made to the Bill and/or any changes to how the Bill will be implemented (for example, how local authorities work together to discharge their duties as building safety authorities).

## Annex 1: Regulation-making powers to amend primary legislation in the Building Safety (Wales) Bill as set out by the Cabinet Secretary for Housing and Local Government in correspondence

**Quoted from: Letter from the Cabinet Secretary for Housing and Local Government, 30 October 2025**

Power	Why the power is necessary, reasonable & proportionate
<b>Section 16(1) (power to amend sections 2 to 14)</b>	<p>This regulation making power is necessary to enable the Bill to be amended to respond to evidence of new and emerging risks and to ensure that the regime can be adapted to respond to such risks. It will also enable amendments to be made e.g. to account for new ownership models or building design. This power to amend Schedule 1 will provide flexibility to enable the list of “excluded buildings” to be amended should the need arise.</p> <p>There is a duty to consult each building safety authority, each fire safety authority and such other persons as the Welsh Ministers consider appropriate. Therefore, an appropriate consultation will be taken before making regulations. The regulations are also subject to the Senedd approval procedure which will allow additional Senedd scrutiny. The regulations do not amend any of the duties in the Bill. Rather, they are intended to make minor changes to clarify key terms in the Bill, or to take into account new ownership models etc. The regulation making power is therefore considered to be reasonable and proportionate.</p>
<b>Section 27(2) (to modify the definition of “building safety risk”)</b>	<p>The Bill is aimed at ensuring that building safety risks are properly assessed and managed. How the risks are assessed and managed, that is, the duties we place on the principle accountable person and accountable persons, and the enforcement of those duties are at the core of this Bill. The Bill is intended to ensure the safety of people in or about regulated buildings by making sure that someone is held accountable for that.</p> <p>The regulation making power is necessary as new evidence may emerge that there are risks other than fire and structural safety risks that, if not assessed and managed, may result in a risk to the safety of people in or about a regulated building.</p>

Power	Why the power is necessary, reasonable & proportionate
	<p>For example, this could be a risk arising from climate change such as flooding.</p> <p>The regulations may also make provision conferring functions for the regulation of that risk, onto any devolved Welsh Authority.</p> <p>Similarly to the power in section 16, there is a duty to consult prior to making any regulations. The regulations are also subject to the Senedd approval procedure which will allow Senedd scrutiny.</p>
<p><b>Section 41(9)</b> <b>(amend the period of time when a further building certificate application must be made – to change from 5 years).</b></p>	<p>The regulation-making power is necessary to allow flexibility to decrease or increase the five-year period depending on any emerging evidence about building safety risks.</p> <p>The regulation-making power is reasonable and proportionate because new evidence may emerge indicating that this timeframe should be changed. The scope of the regulation making power is limited to only adjusting the time period.</p>
<p><b>Section 56(4)</b> <b>(amend list of “reviewable decisions” and meaning of “affected person”)</b></p>	<p>This regulation making power is necessary to provide flexibility to add decisions of the building safety authority that must be subject to a review before an appeal, or to remove them. The policy intent of this section is to reduce the burden on the tribunal, but it may be the case that some decisions are in fact better left to the tribunal and that requiring them to be reviewed first achieves only delaying a final decision. The regulation making power provides flexibility to make amendments to this process based on experiences at implementation.</p> <p>To ensure that those impacted by a decision can request a review of a reviewable decision, and to ensure that the definition of an affected person captures the right people, the regulation making power also provides flexibility to amend the definition of an affected person should that need to be broadened, based on evidence gathered at implementation. The regulation-making power is reasonable and proportionate as it allows for minor amendments to be made to ensure that the review process works as intended, and that people who are affected by decisions may bring a review. It is deemed appropriate for this type of amendments to be made via regulations.</p>
<p><b>Section 62</b> <b>(new section 30IC of</b></p>	<p>The regulation making power in this section is necessary in order to allow the Welsh Ministers to amend the definition of a building safety measure, should it appear in future that the</p>

Power	Why the power is necessary, reasonable & proportionate
<b>LTA1985 – meaning of building safety measure) – can amend subsections (2), (3) or (4) to amend “building safety measure”.</b>	<p>definition should be amended. It may be necessary to amend the meaning of building safety measure to account e.g. for new information obtained during implementation and subsequently. A regulation making power will enable this flexibility.</p> <p>The regulation making power is reasonable and proportionate as it is limited to adding, removing or modifying the definition of a building safety measure. The amendments are likely to be minor and technical in nature and it is therefore considered appropriate for these changes to be made by secondary legislation.</p>
<b>Section 64 (new section 20FA of LTA1985 – limitation of variable service charges: excluded costs for regulated buildings). Can amend the definition of “excluded costs” in new section 20FA.</b>	<p>The regulation making power in subsection (5) allows the Welsh Ministers to amend the definition of “excluded costs” in subsection (3) by adding, removing or modifying a description of excluded costs. The regulation making power in subsection (5) is necessary to allow the Welsh Ministers to amend the definition of “excluded costs” should it appear that the definition should be amended. This is to ensure that the liability for building safety costs is passed down correctly. Similarly to the regulation making power in section 30IC above, it may be necessary to amend the meaning of “excluded costs” to account e.g. for new information obtained during implementation and subsequently. A regulation making power will enable this flexibility.</p> <p>The regulation making power is reasonable and proportionate as it is limited to adding, removing or modifying the definition of “excluded costs”. The amendments are likely to be minor and technical in nature, and it is therefore considered appropriate for these changes to be made by secondary legislation.</p>
<b>Section 67(8) (meaning of relevant HMO) power in section 68(8) to amend this section.</b>	<p>The power in subsection (3)(d) is necessary if it becomes apparent in future that premises are being inadvertently caught by the definition of “relevant HMO”. The regulation making power allows the definition to be amended but cannot make amendments to subsections (1) and (8). It is also necessary, for example, because the power in subsection (8) allows the definition to be extended if, for instance, new forms of tenure or occupancy emerge. The power is therefore to deal with currently unforeseen circumstances, and there are no plans to use the power at present.</p> <p>The power is reasonable and proportionate because it is important to ensure that multi-occupied premises which are not intended to be “relevant HMOs” are not inadvertently caught by the definition. Whilst subsection (3) already contains</p>

Power	Why the power is necessary, reasonable & proportionate
	<p>exclusions, this power enables ongoing flexibility i.e. for certain premises not to be capture [sic] within the definition. The amendments are likely to be minor and technical in nature, and it is therefore considered appropriate for these changes to be made by secondary legislation.</p>
<p><b>Section 86(7) (appeal against prohibition notice) power in section 86(7) to amend who can appeal against a prohibition notice.</b></p>	<p>The regulation making power in section 86(7) is necessary in order to amend the list of persons in subsection (2). An example of when this may be necessary is, for instance, where a new entity which had an interest in regulating building safety were created, or if such an interest arose out of a new form of housing tenure. These regulations may be needed in light of future wider policy or legislative change, including new information obtained during implementation and subsequently. This regulation making power provides flexibility should there be a need to amend this list in future. For example, if the meaning of building safety risk is modified using powers in section 27(2), then there may be other persons that have an interest in the management of that type of risk, that would need to be added to this list.</p> <p>The amendments are likely to be technical in nature, and it is therefore considered reasonable and appropriate for these changes to be made by secondary legislation.</p>
<p><b>Section 112(3) (consequential and transitional provision)</b></p>	<p>This regulation making power is necessary to ensure that consequential amendments to other legislation and transitional provisions can be made to ensure that the Bill works together with other laws. Although the main amendments to primary legislation have been made on the face of the Bill itself, during implementation it may emerge that further consequential amendments are required. It is deemed reasonable and proportionate that consequential amendments are made via secondary legislation.</p>
<p><b>Paragraph 21(3) of Schedule 2 (Welsh Ministers can amend paragraph 24 to change the meaning of “interested person”- who is someone who must, for example, be</b></p>	<p>This regulation making power is necessary to provide flexibility should there be a need to amend this list in future. For example, if the meaning of building safety risk is modified using powers in section 27(2), then there may be other persons that have an interest in the management of that type of risk, that would need to be added to this list.</p> <p>The amendments are likely to be technical in nature, and it is therefore considered reasonable and appropriate for these changes to be made by secondary legislation.</p>

Power	Why the power is necessary, reasonable & proportionate
<b>given certain information about Special Measures Orders)</b>	