



Llywodraeth Cymru
Welsh Government

BUILDING SAFETY (WALES) BILL

Explanatory Memorandum
incorporating the
Regulatory Impact Assessment and
Explanatory Notes

24 February 2026

Building Safety (Wales) Bill

Explanatory Memorandum to the Building Safety (Wales) Bill

This Explanatory Memorandum has been prepared by the Local Government, Housing, Climate Change and Rural Affairs Group of the Welsh Government and is laid before Senedd Cymru.

It was originally prepared and laid in accordance with Standing Order 26.6 in July 2025, and a revised Memorandum is now laid in accordance with Standing Order 26.28.

Member's Declaration

In my view the provisions of the Building Safety (Wales) Bill, introduced by me on the 7 July 2025, would be within the legislative competence of Senedd Cymru.

Jayne Bryant MS

Cabinet Secretary for Housing and Local Government
Member of the Senedd in charge of the Bill

24 February 2026

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PART 1 – EXPLANATORY MEMORANDUM

1. Description

- 1.1. The Building Safety (Wales) Bill (“the Bill”) introduces a new building safety regime in Wales focusing on the occupation and ongoing management (“the occupation phase”) of multi-occupied residential buildings.
- 1.2. It creates three categories of multi-occupied residential buildings, determined by a building’s height and the number of storeys it contains. There are different levels of regulation depending on the building’s category, with the tallest buildings being subject to the strictest regulation.
- 1.3. Buildings within scope of the regime that are over 11 metres in height or have 5 storeys or more will be subject to both fire safety and structural safety duties and will be required to register. Buildings below 11 metres and with less than 5 storeys will be subject to only the fire safety requirements.
- 1.4. The Bill also makes provision for certain HMOs to be subject to fire safety duties.
- 1.5. The Bill recognises the importance of residents in building safety and gives residents new rights to be able to raise building safety complaints. The new regime also places certain duties on residents in relation to building safety.
- 1.6. The Bill establishes a new enforcement regime and confers new functions on designated local authorities (who will be known as building safety authorities) and fire and rescue authorities.
- 1.7. The Bill will help to address issues identified by the [Hackitt Review](#), the [Grenfell Tower Inquiry](#), and Welsh Government’s [Building Safety Expert Group](#) in the aftermath of the tragic fire at Grenfell Tower, London, in June 2017.

2. Legislative Competence

2.1 Senedd Cymru ("the Senedd") has the legislative competence to make the provisions in the Building Safety (Wales) Bill ("the Bill") pursuant to Part 4 of the Government of Wales Act 2006 ("GoWA 2006") as amended by the Wales Act 2017.

3. Purpose and intended effect of the legislation

Purpose

3.1 The overarching purpose of the Building Safety (Wales) Bill is to establish clear lines of responsibility for managing building safety risks in multi-occupied residential buildings, by creating new roles and responsibilities for those that own and manage these buildings so that there can be no doubt about where the responsibility lies. The Bill is also aimed at empowering residents by ensuring that they have a stronger voice in matters that affect their home.

3.2 The Bill focusses on the occupation phase of a multi-occupied residential building's lifecycle, but forms part of a wider programme of changes aimed at improving safety in these buildings. This includes:

- A programme of work aimed at addressing fire safety issues in buildings of 11 metres and over in the existing building stock in Wales, including the Welsh Building Safety Fund and work with developers to remediate historical defects in multi-occupied residential buildings of at least 11 metres in height or more than 5 storeys.
- Changes at the design and construction phase aimed at improving the regulation of high-risk buildings in Wales, including the registration and regulation of the building control profession.

Objectives of the Bill

3.3 The main purpose of the Bill is to improve the safety of people living in multi-occupied residential buildings in Wales. The Bill will achieve this by establishing a regime that will:

- identify those on whom statutory duties under the Bill are to be placed.
- require the registration of certain regulated buildings i.e. those at least 11 metres in height or which have at least 5 storeys with a building safety authority.
- confer new functions on the "building safety authority", which will be a local authority in each fire and rescue authority area that is designated by the Welsh Ministers as the building safety authority for that area.
- confer new functions on the "fire safety authority" in Wales, which are each fire and rescue authority for an area in Wales or a fire inspector (with regards regulation of Crown buildings).
- create duties to assess and manage fire safety risks in all in-scope buildings.
- create duties to assess and manage structural safety risks in in-scope buildings that are at least 11 metres high or which have at least 5 storeys.

- put in place new rights for residents and place duties on them in respect of all in-scope buildings.
- establish a new enforcement regime to enable enforcement action to be taken if the new duties are not met.

Fulfilling a Welsh Government commitment to legislate

3.4 Our [Programme for Government](#) (2021-2026) includes a commitment to improve building safety in Wales. To achieve this, primary legislation is required to introduce a new building safety regime covering the occupation and ongoing management of multi-occupied residential buildings.

3.5 The Bill is part of the Welsh Government's response to the Grenfell Tower fire in June 2017. It addresses issues identified in the [Hackitt Review](#), the [Grenfell Tower Inquiry](#) and by the Welsh Government's [Building Safety Expert Group](#). The policy has been developed with stakeholders and has been informed by responses to the Welsh Government's White Paper Consultation and wider research and consultation.

3.6 On 9 July 2024 in his [legislative statement](#) the then First Minister announced a building safety Bill. This Bill meets that commitment to legislate.

Why is the Bill Needed?

The Independent Review of Building Regulations and Fire Safety

3.7 The tragic fire at the Grenfell Tower in London on 14 June 2017 and subsequent investigations made it clear that changes to the system supporting the safety of buildings were needed.

3.8 The UK Government established an independent review of building regulations and fire safety with a particular focus on their application to high-rise residential buildings. The review was chaired by Dame Judith Hackitt and published its [Independent Review of Building Regulations and Fire Safety](#), commonly referred to as the Hackitt Review, in May 2018. Initial findings had implicated combustible external cladding (aluminium composite material or 'ACM') and insulation materials (polyisocyanurate and phenolic foam) in the rapid spread of the fire at Grenfell. Their manifest unsuitability had gone unchallenged, and the independent review concluded that the current overall system in England was not working effectively and needed to be overhauled.

3.9 The final report determined that the whole system of regulation whilst buildings are occupied was not fit for purpose.

3.10 In the final report of the Independent Review, [Building a Safer Future](#), Dame Hackitt emphasised the need to adopt, 'a very different regulatory

framework covering the design, construction and maintenance of high-rise residential buildings which recognises that they are complex systems where the actions of many different people can compromise the integrity of that system'. The review made several recommendations covering the occupation and maintenance of high-rise residential buildings and it is that stage of the building's lifecycle that the Bill focuses on.

3.11 The Welsh Government convened a [Building Safety Expert Group](#) in October 2018 to identify the parameters of a Welsh response to the issues raised by the Hackitt Review and to advise on the applicability of the Review to the Welsh context. This included considering priority areas for implementation and areas in which the Group considered that the Welsh Government should or should not deviate from the approach taken by the UK Government.

3.12 In its report, [A Roadmap to Safer Buildings in Wales](#), the Group recommended a detailed programme of work to be taken forward by the Welsh Government to "improve the landscape within which building regulations and fire safety measures operate in Wales in order to improve the safety of higher risk residential buildings". The Welsh Government subsequently established its Building Safety Programme.

3.13 In 2021, the Welsh Government published the Safer Buildings in Wales White Paper, which proposed a comprehensive set of reforms to the system in Wales.

3.14 As set out in the White Paper, the likelihood of a fire in any dwelling, including a flat, is relatively small, however the impact in a high-rise block, as was seen at Grenfell, can be devastating, with a high loss of life. The data also show us that fire casualties are more likely in houses in multiple occupation (HMOs), or properties converted for residential use meaning the height of a building is not the only risk factor to consider. The likelihood and impact of fire will vary depending on many factors including the complexity of the building that people live in, the materials it is made from, fire safety features in the building, how well it is managed and maintained, the number of occupants, and their behaviour.

3.15 The lessons from Grenfell have exposed the critical importance of ensuring safety is paramount throughout all aspects of a building's lifecycle. Buildings must be effectively managed to ensure that new and changing risks are identified and minimised as far as practicable. The Bill will ensure that safety considerations are monitored throughout the occupation phase of a building's lifecycle for the benefit of residents.

The current regulatory regime

3.16 There is a regime in place to identify and protect against potential risks and hazards to health and safety from any deficiencies identified in residential premises, including individual dwellings and houses in multiple occupation. Local authorities have responsibility for overseeing the regime under the Housing Act 2004 and the Housing Health and Safety Rating System (Wales) Regulations 2006 (HHSRS). Housing and Environmental Health Officers can inspect and evaluate potential risks to health and safety from any deficiencies within individual dwellings against a list of 29 hazards (including fire) and oblige building owners to take remedial action.

3.17 The Fire and Rescue Authorities oversee fire safety of the common parts of residential buildings under the Regulatory Reform (Fire Safety) Order 2005 (“FSO”) which places duties on a ‘Responsible Person’ to maintain the safety of a building and to reduce the risk of fire in relation to the internal common areas of blocks of flats (e.g. carrying out risk assessments). It applies to workplaces, public buildings and common parts of shared residential properties.

3.18 However, the Hackitt Review recommended that there should be greater clarity about who is responsible for managing the safety of buildings in occupation. We agree and believe it is appropriate to put measures in place to identify who those duty holders should be, and to place a proportionate set of duties on them to ensure that risks are managed appropriately in buildings of different heights.

The Safer Buildings in Wales White Paper

3.19 The [Safer Buildings in Wales White Paper](#) consultation opened in January 2021. It proposed a comprehensive reform of legislation, representing a significant overhaul of the existing system for building safety in Wales. It focused on legislative change across the lifecycle of multi-occupied buildings: from design, through to construction and into the occupation phase; as well as setting out aspirations for cultural change in the way that buildings are designed, built, and managed.

3.20 When it closed in April 2021, 91 responses had been received from a wide range of stakeholders including local authorities, Fire and Rescue Authorities, professional bodies, managing agents, freeholders and members of the public. These responses informed policy thinking and development. The [Welsh Government published its response to the consultation](#) on 14 December 2021.

Impacts

3.21 The Bill will introduce a regime which is proactive in ensuring that fire and structural safety risks are identified and managed in buildings of 11m+, or with five storeys or more, and that fire safety risks are identified and managed in buildings of less than 11m and in relevant HMOs. It will ensure greater accountability, with a duty holder responsible for assessing and managing these risks. For buildings of 11m+ or with five storeys or more, the requirement to register the building with the building safety authority will help to ensure that the enforcing authority, which is either a “building safety authority” or a “fire safety authority”, holds information on who is responsible for the safety of the building. This will enable action to be taken where there is a breach of duties and ensure residents can access information about who is responsible for the safety of their building.

3.22 The Bill will place more duties on those responsible for buildings of 11m+, or with five storeys or more, compared to buildings below 11m and with less than five storeys and relevant HMOs. This reflects the scale and complexity of larger buildings and ensures the regime is proportionate.

3.23 The impact of a building safety risk materialising can be catastrophic, with significant loss of life. Putting in place a duty to proactively identify risks and take steps to prevent those risks from materialising is intended to improve the safety of individuals in and around in-scope building. The Bill will also help to reduce or avoid, in some cases, the high costs associated with remediating buildings after fire or structural safety risks have materialised. Although it is not possible to prevent all fires happening in a building, the Bill aims to help to minimise the risks and to protect life and property in the event of fire.

Summary of the Bill

3.24 The new regime will establish a robust and coherent regulatory system, creating clear lines of accountability by imposing a range of statutory duties on relevant duty holders.

3.25 The Bill applies to all residential buildings that contain two or more residential units (with some exceptions), but the specific requirements that apply depend on the type of building. Buildings within scope of the new regime will be referred to as “regulated buildings”. Regulated buildings will be divided into three categories:

- “Category 1” – at least 18 metres in height or has at least 7 storeys
- “Category 2” – less than 18 metres in height and has fewer than 7 storeys, and is at least 11 metres in height or has at least 5 storeys

- “Category 3” – less than 11 metres in height and has fewer than 5 storeys

3.26 Some provisions in the Bill also apply to certain houses in multiple occupation (referred to as “relevant HMOs”).

3.27 The Bill will:

- Give designated local authorities in Wales new functions to regulate and enforce building safety duties in residential buildings (as the building safety authority).
- Confer functions onto the fire safety authorities¹ in Wales that will resemble those in the current FSO regime, but which will be geared to the types of risk typically found in residential buildings.
- Ensure that an accountable person or persons are identified who are responsible for assessing and managing fire safety risks in all in-scope buildings, and structural safety risks in category 1 and category 2 buildings.
- Where there is more than one accountable person for a building, establish a “principal accountable person”.
- Create a new duty to register category 1 and 2 buildings with the building safety authority.
- Create duties to hold key building information relating to regulated buildings.
- Create a duty for a principal accountable person, in category 1 buildings, to apply to the building safety authority for a building certificate.
- In category 1 buildings, create a duty to prepare a safety case report. The safety case report will include information about how building safety risks are being assessed and managed. It will be provided to the building safety authority when it is completed, updated and form part of a building certificate application.
- Place duties on residents and owners of residential units in category 1 and 2 buildings including not to do any act that creates a significant risk of a building safety risk materialising in relation to the building.
- Place duties on residents and owners of residential units in category 3 buildings, and occupiers of relevant HMOs, including not to do any act that creates a significant risk of a fire safety risk materialising.

¹ Principally, the three Fire and Rescue Authorities. If any buildings in scope of the Bill are Crown premises the fire safety authority will in practice be the Crown premises inspector appointed by the Welsh Ministers under s28 of the Fire and Rescue Services Act 2004.

- In category 1 buildings, place duties on a principal accountable person to provide information to residents about building safety decisions.
- In all regulated buildings, new duties will be placed on accountable persons regarding complaints about building safety related matters. This will ensure residents voices are placed at the heart of the regime.
- Create a new duty, in category 1 buildings, for a principal accountable person to establish a system for the purpose of enabling building safety occurrence recording. Under this system, accountable persons must give relevant building safety information to the building safety authority and fire safety authority.
- Create duties in which certain persons must co-operate and co-ordinate with each other on matters of building safety. For example, it will place a duty on accountable persons for regulated buildings to co-operate and co-ordinate both with each other, and with duty holders in a relevant HMO; and it will create duties for accountable persons, and responsible persons under the FSO, to co-operate and co-ordinate with each other.
- Make provision enabling accountable persons to access non-residential parts of a regulated building, including non-residential parts lying wholly or partly above or below a regulated building. For example, in a “mixed-use” building where there may be residential parts and commercial premises. An equivalent duty will apply in relation to providing access to HMO duty holders.
- Make provision in respect of ‘relevant persons’ providing information or documents to an accountable person for the building that are necessary for them to comply with their duties. It must also be reasonable for the relevant person to provide the information. An equivalent duty will apply in relation to providing information to HMO duty holders.

Detailed Provisions

3.28 The Welsh Government has committed to reform the current system of building safety so that people feel safer in their homes. The Bill is part of its wider response to the findings of the Hackitt Review, the Building Safety Expert Panel, and the Safer Buildings in Wales White Paper.

The buildings that will be included within scope of the Bill

i. Summary of the proposals

3.29 The Bill will establish a new regime in Wales focusing on the occupation phase of a building's life cycle. It will cover the regulation of building safety risks in all multi-occupied residential buildings regardless of tenure, where they contain two or more residential units.

3.30 Buildings within scope of the new regime will be referred to as 'regulated buildings'. Regulated buildings will be divided into three categories:

- Category 1 – at least 18 metres in height or has at least 7 storeys
- Category 2 – less than 18 metres in height and has fewer than 7 storeys, and is at least 11 metres in height or has at least 5 storeys
- Category 3 – less than 11 metres in height and has fewer than 5 storeys,

Only certain specified provisions will apply to houses in multiple occupation (HMOs). This is largely because, where duties in the Bill are not extended to HMOs, it is considered that there is currently sufficient regulation of HMOs, primarily by virtue of the Housing Act 2004 and the Housing (Wales) Act 2014. HMOs will be defined in the Bill and will be referred to as 'relevant HMOs'.

ii. Why the changes are needed

3.31 There are currently no statutory provisions that regulate in-scope buildings to the extent proposed in the new building safety regime. All the buildings proposed to be in-scope are currently in scope of the FSO and the Fire and Rescue Authorities ("FRAs") have the power to take certain enforcement action in relation to fire safety in those premises. However, it is widely acknowledged that the FSO does not deal properly with the sorts of risks typically found in residential buildings, or with the mitigation measures that those responsible for such buildings should take. In addition, there is also no statutory requirements to regulate structural safety in the way proposed for category 1 and 2 buildings under the Bill.

3.32 The UK Government has applied its new occupation phase regime (found in Part 4 of the Building Safety Act 2022) to "higher-risk buildings", which are defined as buildings of at least 18 metres in height, or at least 7 storeys, which contain at least 2 residential units. The Bill is not limited to only high-rise buildings and applies to the majority of buildings containing two or more residential units in order to reflect the risk factors inherent in these buildings.

3.33 There is no evidence that fires are more likely to break out in flats than in houses or other dwellings. However, flats and apartments present other risks in the event of fire. If a fire were to break out in a conventional house there will

be at least one exit leading directly outside, meaning escape and/or rescue is often straightforward. In a flat there may be a considerable distance to the exit to the outside and the route may include stairs and multiple doorways. A fire in a block of flats could also endanger the residents of all the other flats if the fire is not contained and rapidly extinguished.

3.34 Evidence gathered during policy development has demonstrated the need to ensure that the regime is able to respond to changing evidence, pressures and policy in the future, and a power to vary categories will be included within the Bill.

Enforcing Authorities

i. Summary of the proposals

3.35 The [White Paper](#) sought views on the functions and model of regulation.

3.36 The Bill provides that the building safety authority will be a designated county council or county borough council in each of the fire and rescue authority areas in Wales. Each building safety authority will be responsible for the regulation of building safety duties for buildings that are wholly or mainly within their area, including structural safety risks. The fire safety authority will be responsible for enforcing the specific fire safety measures. The fire and rescue authorities are the fire safety authority, except for Crown premises where the fire safety authority is a fire inspector appointed by the Welsh Ministers under section 28(1) of the Fire and Rescue Services Act 2004.

ii. Why the changes are needed

3.37 The Bill sets out that an enforcing authority means a building safety authority or a fire safety authority. Generally, the building safety authority will be responsible for regulating all proposed new duties under the Bill other than those specific fire safety duties, which will be enforced by the fire safety authority. The fire safety authority will have powers to enforce against some other duties where the breach relates to a breach of a fire safety duty.

3.38 The role of the enforcing authority will be to hold accountable persons, HMO duty holders, other duty holders and residents in the building to account. This includes ensuring that the accountable person is discharging their duties in relation to residents, thereby ensuring that resident voice remains at the heart of building safety.

3.39 The building safety authorities and the fire safety authorities will need to work jointly in regulating in-scope buildings, and there are many provisions throughout the Bill which require a degree of co-operation between the two. For example, this includes requirements on each enforcing authority to notify the other when enforcement action is taking place in an in-scope building. The

Bill also places a duty to cooperate on them in relation to exercise of their functions.

3.40 The decision to place these functions of regulation on designated local authorities reflects the significant level of expertise within local authorities on matters relating to housing and building control, as well as their extensive experience in engaging with residents. Fire safety authorities likewise already have significant expertise in inspecting and enforcing fire safety.

3.41 Consultation has been undertaken with local authorities to discuss the proposals, including in two series of workshops in 2023 and 2024, as well as through smaller working groups and meetings focussed on specific issues.

Delegation

3.42 The Bill makes provision confirming that where the local authority is both the building safety authority and also an accountable person for a category 1 building, they must make all reasonable efforts to arrange for delegation of their building safety functions to another building safety authority. This is to avoid a conflict of interest arising with the local authority being both a building owner/manager with duties as an accountable person and being the enforcing authority.

3.43 The Bill also provides that the Welsh Ministers may direct two or more building safety authorities to enter into a delegation arrangement.

Fees

3.44 This Bill makes provision allowing for regulations to be made by the Welsh Ministers for, and in connection with, the charging of fees by the building safety authority.

3.45 The fees that may be charged are not expected to cover the full costs of regulation. They will provide a contribution towards the cost of administering the regime. Registration of a category 1 or category 2 building is one area where fees may apply.

Reviews and Appeals

3.46 Certain decisions made by the building safety authority will carry a right of review before they can be appealed. This means the 'affected person' (which may, for example, be an accountable person or principal accountable person depending on the decision) must request a review of that decision by the building safety authority before they can make an application to the Residential Property Tribunal to appeal the decision.

3.47 Decisions of the building safety authority that must be subject to a review before they can be appealed are a decision:

- not to register a building,
- about the category of a building,
- not to revise the entry for a building in the register,
- to revise the entry for a building in the register,
- to remove a building from the register,
- to refuse an application for a building certificate.

3.48 The right to request a review helps to ensure fairness in the regime, for people that are subject to decisions of the building safety authority. The review provides an opportunity for further information to be provided to the building safety authority and may help to resolve some issues that would otherwise be appealed to the Residential Property Tribunal. The Bill provides for the Welsh Ministers to make regulations that may amend the list of reviewable decisions, by adding or removing a reviewable decision or varying the description of a decision.

Appeals

3.49 All appeals (other than appeals against a criminal conviction) will be heard by the Residential Property Tribunal. This includes appeals of decisions that have been subject to a review by the building safety authority, as well as appeals against a compliance notice or a prohibition notice issued by either enforcing authority.

3.50 Being a specialist court, the Residential Property Tribunal holds the necessary expertise and knowledge to decide on such appeal applications.

3.51 The Residential Property Tribunal will also decide on applications made directly to it, which include applications for:

- Access Orders (para 3.96 enforcement tools)
- Contravention Orders (para 4.49)
- Special Measures Orders (para 3.96 enforcement tools)
- Determination of an accountable person or principal accountable person (para 3.55)

Identifying new duty holder roles, known as the Principal Accountable Person and Accountable Person

i. Summary of the proposal

3.52 The Bill will create new duty holder roles for regulated buildings. These duty holders will have legal responsibility for assessing and managing building safety risks along with several other duties set out in more detail below.

3.53 The identification of an accountable person is crucial for ensuring there is a clear duty holder who can be held to account. Building ownership in Wales is complex and the definition has been devised to ensure that the right person is defined as the accountable person according to their obligations that have been demised under concepts in property law.

3.54 To ensure there are clear lines of accountability, we are introducing the role of a principal accountable person who will act as the lead accountable person. This will ensure that, where there are multiple accountable persons in a building, there will always be a lead accountable person. For buildings where there is only one accountable person, they will be the principal accountable person.

3.55 The intention is that, generally, where a person owns or has a repairing obligation for any of the common parts, they will be an accountable person for that part. The principal accountable person will generally be the person who owns or has a repairing obligation for the external structure of the building.

3.56 Where more than one person meets the definition of “accountable person”, whether because they jointly hold a legal estate in possession of the same common part or have a joint repairing obligation in respect of it for the purposes of certain provisions, they are treated, for certain purposes, as one accountable person.

ii. Why the changes are needed

3.57 Currently there are no statutory provisions that require those responsible for in-scope buildings to identify themselves as such to either local authorities or fire and rescue authorities. One of the Hackitt Review recommendations was also about having clear lines of accountability.

3.58 Key to the functioning of the new regime is the identification of accountable persons and the principal accountable person for a building given that most duties under the regime will be placed on them. Where there is more than one person who meets the definition, the building safety authority will have a power to make a determination as to who is the principal accountable person for the building. The Bill also enables an application to be made to the Residential Property Tribunal for a determination as to who is an

accountable person for a building and who is the principal accountable person for a building.

Establishing a register of buildings

i. Summary of the proposal

3.59 The Bill will create a duty for principal accountable persons to register category 1 and 2 buildings with the building safety authority. For new buildings, there will be an offence created of occupying the building before it is registered. This will help to ensure that it is clear who can be held accountable for managing building safety before residents occupy the building.

3.60 The proposals in the Bill will ensure that the details of the principal accountable person in those buildings are recorded on a register, along with key information about the building such as its height and the number of storeys it contains.

ii. Why the changes are needed

3.61 A recommendation of the Hackitt Review² was that during the occupation phase the regulator should “*hold a register of duty holders*”. The focus was on the register of duty holders, rather than a register of buildings, but it was implicit that some sort of record of higher risk residential buildings was envisaged. The Hackitt Review further recommended that “the name and UK contact information of [the] duty holder must be notified to the regulator and to residents and any other landlords of dwellings in the building. The contact details must be kept up to date”. In the Safer Buildings in Wales White Paper we proposed that an accountable person should have a legal duty to “register all in-scope buildings under their ownership/control”.

3.62 Accountability is at the core of the proposals. Accountability is achieved by ensuring that there is a defined duty holder responsible for building safety. A further measure to ensure accountability is through requiring the principal accountable person to identify themselves on a register. This is considered particularly important in taller, more complex, buildings where it might be more difficult to identify who, out of many possible persons, is responsible for building safety.

3.63 The register will cover the taller buildings (category 1 and 2 buildings) and will be an important tool enabling residents to have access to identify the principal accountable person for their building, and for the building safety authority to have access to important information about the building. This information will be used to help monitor compliance against statutory duties and, where appropriate, take necessary action to ensure compliance.

² Recommendation 3.6

Establishing a new fire safety regime in multi-occupied residential premises

i. Summary of the proposal

3.64 Currently, fire safety in multi-occupied residential buildings is subject to the FSO. It is proposed to establish a new fire safety regime for in scope buildings. This will use the same principals as the FSO (for example, it will be outcomes-based, relying on a risk assessment of each building rather than setting prescriptive standards for all buildings). But it will be tailored to the types of risks typically found in residential buildings, as distinct from the FSO's focus on workplace risks. This aspect of the regime will apply to all in-scope buildings.

ii. Why the changes are needed

3.65 The Welsh Government's Building safety expert group identified basic problems with the FSO, which are also reflected in the Hackitt Review. These include:

- The FSO was designed largely for workplaces, with extra duties on 'responsible persons' who are employers. It does not deal properly with the sorts of risks typically found in residential buildings, or with the mitigation measures that those responsible for such buildings should take.
- In residential buildings, such as blocks of flats, it applies only to the common areas and does not clearly address responsibility for the boundaries between, for example, flats and common areas (including front doors of flats). However, almost all the potential causes of fire in these blocks are within individual dwellings, not in the common areas.
- The identity of the Responsible Person is often not clear, for instance in mixed-use buildings (where there are multiple such persons), and/or where buildings are owned by corporations or investors based outside the UK.
- The FSO does not set out who can conduct risk assessments or the frequency with which they should be conducted.
- It is not always clear how the powers of the Fire Rescue Authorities (FRA)'s under the FSO cohere with the inspection and enforcement powers of local authorities under the Housing Act 2004.

3.66 The Building Safety Expert Group recommended that the Welsh Government should bring forward legislation to replace the FSO to provide clarity and resolve the problems identified. In response to this recommendation, the Bill will therefore provide a new regime for residential

fire safety duties and their associated enforcement and sanctions. This regime aims to offer better and more appropriate fire safety protection in residential buildings. The main changes from the FSO will be:

- A methodology for identifying, assessing and mitigating fire risks which better reflects residential contexts. For instance, this will emphasise the importance of compartmentation (the capacity of a structure to contain a fire in the room or flat where it breaks out), which is vital to fire protection in buildings like blocks of flats but is not mentioned at all in the FSO.
- A requirement to review the fire risk assessment at least annually, and to conduct a wholly new one whenever specified event's that are likely to change the level of risk occur (such as works which require building regulations approval and/or planning permission).
- A requirement that anyone conducting a fire risk assessment must be demonstrably competent to do so.

3.67 There are, however, two aspects of the FSO which the new regime will also adopt:

- The new regime will be built around a comprehensive fire risk assessment and will be flexible enough to accommodate the particular features and risks of all the buildings it covers. It should allow and require the implementation of safety measures which are appropriate to those features and risks, rather than prescribing the same measures regardless.
- Responsibility for ensuring fire safety will remain with those in charge of the building, e.g. landlords. It will not transfer to government or fire safety authorities.

Duties on accountable persons and principal accountable persons

i. Summary of the proposal

3.68 The Bill will place duties on the principal accountable person and accountable persons.

3.69 For category 1 buildings there will be duties on:

- the principal accountable person to register the building with the Building Safety Authority.
- the principal accountable person to undertake a fire risk assessment and on all accountable persons to manage fire risks.
- accountable persons to assess and manage structural safety risks.

- the principal accountable person to prepare a safety case report, give a copy of a safety case report to the building safety authority and revise a safety case report where required.
- the principal accountable person to apply to the building safety authority for a building certificate, renew a building certificate when required, and display the certificate in the building (in certain circumstances).
- the principal accountable person to establish and operate an occurrence recording system and notify certain building safety occurrences to the building safety authority.
- the accountable person to keep and maintain a record of building safety information and documents (the 'Golden Thread'), as well as obtaining that information and those documents. There will also be duties to give certain information and documents to other persons (including on change of accountable person).
- accountable persons to co-operate and co-ordinate with other duty holders when carrying out duties placed on them under the Bill or regulations made under it.
- the principal accountable person to prepare and review a residents' engagement strategy and on accountable persons to provide that strategy to residents.
- the principal accountable person to establish and operate a system for the investigation of relevant complaints which relate to a building safety risk relating to the building or the performance of an accountable person.

3.70 For category 2 buildings there will be duties on:

- the principal accountable person to register the building with the Building Safety Authority.
- the principal accountable person to undertake a fire risk assessment and on all accountable persons to manage fire risks.
- accountable persons to assess and manage structural safety risks.
- accountable persons to keep and maintain a record of building safety information and documents (the 'Golden Thread'), as well as obtaining that information and those documents. There will also be duties to give certain information and documents to other persons (including on change of accountable person).
- accountable persons to co-operate and co-ordinate with other duty holders when carrying out duties placed on them under the Bill or regulations made under it.

- accountable persons to make arrangements for the consideration of relevant complaints which relate to a building safety risk relating to the building or the performance of an accountable person.

3.71 For category 3 buildings there will be duties on:

- the principal accountable person to undertake a fire risk assessment and manage fire safety risks.
- accountable persons to keep and maintain a record of building safety information and documents (the 'Golden Thread'), as well as obtaining that information and those documents. There will also be duties to give certain information and documents to other persons (including on change of accountable person).
- accountable persons to co-operate and co-ordinate with other duty holders when carrying out duties placed on them under the Bill or regulations made under it.
- accountable persons to make arrangements for the consideration of relevant complaints which relate to a building safety risk relating to the building or the performance of an accountable person.

ii. Why the changes are needed

3.72 The suite of duties is rooted in the findings of the Hackitt Review and the evidence set out in the Safer Buildings in Wales White Paper. The duties to assess and manage fire and structural safety risks are at the heart of the new regime.

3.73 In the White Paper, we consulted on the inclusion of a duty to assess and manage both fire and structural safety risks in category 1 buildings. In the Bill the duty is to complete a fire risk assessment and a structural risk assessment, and to manage those risks, for category 1 and 2 buildings. This brings both duties to assess risks into alignment, although the detailed requirements for the fire and structural risk assessments will be different. The duty to assess and manage structural safety risks has been extended to capture category 1 and 2 buildings, where structural failure risks still have the potential to affect significant numbers of people in a single building.

3.74 In category 3 buildings, in line with the proposals in the White Paper for buildings of this height, the duty is limited to assessing and managing fire safety risks.

3.75 The nature of structural safety risks and fire safety risks can be very different. A structural safety risk would tend to emerge over a longer period whereas a fire risk may emerge suddenly, for example as a result of an escape route becoming blocked. However, some building safety issues might constitute both a fire and structural risk. For example, a wall at risk of

collapse might result in a breach of compartmentation. A risk to a resident arising from a failure of the structure might also pose a risk in terms of the firefighting response.

3.76 Since the Hackitt Review it has been widely acknowledged that keeping and maintaining up to date information on a building throughout its life cycle is critical to the effective management of its building safety risks. This is why we are creating duties in regulations to keep, maintain and share relevant information and documents about category 1, 2 and 3 buildings.

3.77 For category 1 buildings, the 'Golden Thread' will be established at the design and construction phase of a building, and we intend that through building regulations a requirement will be created to pass all this core information to the accountable person, or principal accountable person for the building when it moves to the occupation phase. In category 2 and 3 buildings, the requirement will be to hold proportionate information.

3.78 In the White Paper, we set out proposals for a Safety Case Report. This is a document, prepared by the principal accountable person, that will be used to provide evidence to the building safety authority and the fire safety authority as to how building safety risks are being identified and managed, and how other duties under the regime are being met in category 1 buildings. For example, it must include a copy of the risk assessments (both fire and structural) for the building.

3.79 Further information on the content of the Safety Case Report will be prescribed in regulations. The Safety Case Report must be kept under review, to ensure that it is an accurate record of how building safety risks are being assessed and managed. However, the Bill also establishes a requirement to submit the Safety Case report as part of a Building Certificate application every five years. This means that there will be a process in place whereby the building safety authority, working with the fire safety authority, will assess the Safety Case Report and determine whether it provides sufficient evidence that the duties placed on the principal accountable person, and any accountable persons in the building are being met.

3.80 Co-operation and co-ordination duties will exist to ensure that all people with duties for assessing and managing buildings work jointly to ensure a 'whole building' approach to managing building safety risks. This means for example that a person responsible for carrying out fire risk assessment on the commercial part of a mixed-use building under the FSO would have a duty to cooperate with the accountable person or principal accountable person for the residential part and vice versa. It would also require responsible persons to co-operate with anyone they are aware is treated as an accountable person for the building by virtue of section 36.

3.81 Where properly observed, these duties will help to reduce building safety risks in a building. However, despite best efforts, sometimes things will go wrong. The Bill will place a duty on the principal accountable person for category 1 buildings to create a system to capture any significant incidents or occurrences that would pose a significant risk to life and safety and will place a duty on accountable persons to report to the enforcing authorities. The list of occurrences that must be reported will be set in regulations. This process will help to identify any patterns of risk in category 1 buildings and will ensure that the building safety authority and fire safety authority are made aware of any significant risks in those buildings, as well as what steps are being taken to manage them.

Resident engagement

i. Summary of the proposal

3.82 The Welsh Ministers will have a power to make regulations to require an accountable person for a regulated building to give relevant information (as specified in the regulations) or a copy of a relevant document (as specified in the regulations) to relevant persons. This includes to residents of the building and owners of residential units in the building. Regulations may provide that residents can also request certain additional information. There will be a duty on the principal accountable person for an occupied category 1 building, to prepare and act in accordance with, a residents' engagement strategy. The purpose of the strategy is to promote the participation of relevant persons, i.e. residents and owners of a residential unit (e.g. flat owners), in the making of building safety decisions in relation to the building.

3.83 The strategy must contain:

- the information that will be provided to relevant persons about decisions relating to the management of building safety risks in the building
- details of what elements of the scope of what relevant persons will be consulted on
- the arrangements for seeking the views of relevant persons; and
- details of how the appropriateness of the methods used for promoting participation will be measured and reviewed.
- Copies of the residents' engagement strategy will also be required to be provided to accountable persons, residents and owners of a residential units in the building, as well as any other prescribed persons.

3.84 The Welsh Ministers will also be required to prepare and publish a strategy setting out how they will engage with residents and others in relation to the regulations and guidance made or issued under the Bill.

ii. Why the changes are needed

3.85 The White Paper made clear that residents should be at the heart of the new regime. Residents often report that they do not have opportunities to participate in making decisions about the management of safety in their buildings. The provisions within the Bill are intended to ensure residents are provided with relevant information and in the case of category 1 buildings, consulted in a proactive and meaningful way.

3.86 Various pieces of legislation currently require information to be communicated to residents and for residents to be engaged with but not to a level that would be considered sufficient. Examples of current legislation extending to resident engagement includes:

- Article 21A (inserted by section 156 of the Building Safety Act 2022) of the FSO sets out a requirement to provide information on relevant fire safety matters to residents of buildings containing two or more sets of domestic premises. There is no duty however to establish and deliver a resident engagement strategy or provide structural safety information to residents.
- Sections 1 to 3A of the Landlord and Tenant Act 1985 provides for certain information to be provided to tenants but, this does not include information on building safety.
- The Welsh Housing Quality Standard actively encourages social landlords to engage with their tenants. This includes assessing a number of elements within the standard which relate to health and safety. Health and Safety Rating System is one of these elements.
- The Code of Practice issued under section 40 of Housing (Wales) Act 2014 requires the provision of certain information to tenants, but there is no requirement to engage with them on an ongoing basis. The Code notes that “best practice” includes tenants being made aware of how to use any firefighting equipment which may be provided, and how to exit the property safely in case of fire.
- Part 3 of the Renting Homes (Wales) Act 2016 includes provisions in respect of the provision of information, but this does not include information on building safety.

3.87 The purpose of the provisions under the Bill are to ensure that residents and owners of residential units are provided a minimum level of building safety information and that residents and owners of residential units of category 1 buildings are actively involved in decisions relating to building safety. Furthermore, there will be a published strategy for promoting their participation in relation to the exercise of the Welsh Ministers’ functions under the Bill.

Complaints

i. Summary of the proposal

3.88 A key aim of the Bill is to ensure that any person can raise building safety complaints. A complaints process provides a crucial mechanism for residents, specifically, to be able to hold those responsible for their safety to account.

3.89 The Bill will place a duty on the principal accountable person in a category 1 building to establish and operate a complaints system for the investigation of relevant complaints. For category 2 and 3 buildings, the Bill will place a requirement on accountable persons to make and give effect to the arrangements for the consideration of complaints.

3.90 The intention is to allow certain persons (for example residents, principal accountable persons and accountable persons) to also escalate relevant complaints to the building safety authorities in certain circumstances. The persons and circumstances will be prescribed in regulations. This is to address a gap within the current landscape by providing a new mechanism for people to complain specifically about building safety issues to the building safety authority.

ii. Why the changes are needed

3.91 There are some existing pieces of legislation which allow a route for residents to make complaints about their property, but these are limited. Key pieces of legislation, such as the Landlord and Tenant Act 1985, the Renting Homes (Wales) Act 2016 (and secondary legislation under that Act) do not contain or make reference to a complaints procedure for residents which cover the specific issues the proposed complaints procedure under the Bill is intended to cover. Other key documents such as the Welsh Housing Quality Standard also make no reference to a complaint's procedure.

3.92 Whilst some residents can raise concerns with the relevant enforcing authorities under existing legislation on specific matters, no one clear route is available for complaints about building safety issues generally for all residents.

3.93 The Building Safety Expert Group called for Welsh Government to consider other means of escalating concerns and an appropriate route for redress by residents when internal complaints procedures have been exhausted.

3.94 The White Paper proposed placing duties on an accountable person to better engage and empower residents on building safety matters. It suggested

that these duties should include a requirement for accountable persons to provide clear channels for residents to raise concerns and make complaints.

Duties on residents and owners of residential units

i. Summary of the proposal

3.95 A core principle of the new regime is to empower residents with the knowledge, understanding and awareness of the role they play in building safety. This includes ensuring residents are provided greater assurance about the safety of their homes, that their concerns and complaints are considered and that they are supported to understand their responsibilities in keeping their building safe for themselves and their neighbours.

3.96 Under the new regime, residents will be expected to actively participate in the ongoing safety of buildings and support duty holders to manage building safety risks within the building. Duties in relation to fire safety will apply across the three categories of regulated buildings and for occupiers of relevant HMOs. Duties in relation to structural safety will apply to category 1 and category 2 buildings.

3.97 Accountable persons will have powers under the Bill to encourage residents and owners of residential units to comply with the duties placed on them. The tools available to an accountable person will include:

Warning notices – if an accountable person responsible for the part of the building in which a contravention occurred believes that an adult resident or owner of a residential unit has contravened or is contravening, one or more of their duties, they may serve a warning notice on them. The warning notice is intended to either gain compliance from the resident/owner or remedy any contravention the resident/owner may have made if informal engagement with the resident to encourage compliance fails.

A warning notice must:

- State the alleged contravention or failure.
- Describe the steps the individual should take to remedy the breach within a specified time.
- Specify actions the individual should avoid preventing further non-compliance with their duties.
- Explain the consequences of non-compliance with the requirements of the warning notice, including the possibility of the accountable person applying for a contravention order and its consequences.

Contravention orders – an accountable person will be able to apply to the Residential Property Tribunal for a contravention order if an adult resident or owner of a residential unit in a regulated building has been given a warning notice and has failed to take a step specified in the notice. An accountable person will only be able to apply to the residential property tribunal for a contravention order after a notice has been given to the building safety authority and fire safety authority setting out the intention to apply for an order. If the Residential Property Tribunal decides to make a contravention order, the order may require an adult resident or owner of a residential unit to take actions to remedy the contravention or prohibit certain acts, as specified in the order. This may include providing information or making a payment.

ii. Why the changes are needed

3.98 Various pieces of legislation currently place duties on residents. These commonly do not relate to building safety, with the focus tending to be on the relationship between landlords and tenants.

3.99 The Hackitt Review noted that the new framework for building safety should be designed to reassert the role of residents. This includes having a clear and no-risk route for redress, greater assurance about the safety of their homes and ensuring that residents understand their role and responsibilities for keeping their building safe for themselves and their neighbours. There was also an expectation that residents should actively participate in the ongoing safety of buildings. In addition to clearer resident obligations, it was also recognised that residents should be expected to support duty holders to manage risks across the whole building.

3.100 The White Paper highlighted little disagreement from stakeholders that there should be a requirement for residents to co-operate with the accountable person.

Enforcement and Sanctions

i. Summary of the proposal

3.101 The proposed approach to enforcement and sanctions was set out in the Safer Buildings in Wales White Paper. The approach will focus in the first instance on the provision of information, advice, and support by the enforcing authority, with the enforcing authority only moving to more serious sanctions where this is strictly necessary.

3.102 Enforcement tools available to the enforcing authority under the Bill are:

Compliance Notices: These can be issued where a duty under this Bill has been, is being or is likely to be contravened. A notice will require

the person to remedy or avoid the contravention, may specify the steps for doing so, and will explain the consequences of failing to comply. A compliance notice allows the enforcing authority to precisely state the act of non-compliance, the action required to remedy it, and by when the action must be taken, and requires the duty holder to achieve compliance. Breaching such a notice renders the duty holder liable to prosecution.

Urgent Action Notices: These notices have the same effect as a Compliance Notice, but the terms of the notice are not suspended pending the outcome of an appeal. This notice ensures that where there is an urgent need to remedy a breach, for example where people in or about the building are at imminent danger, action to remedy the risks are not delayed pending an appeal outcome.

Information Notices: These notices can be issued by the enforcing authority, requiring a person to give the enforcing authority specified information or documents within a specified period. The notice must specify how the information must be given, the form it must be given in, and the consequences of failing to comply.

Powers of entry (for a relevant purpose): The enforcing authority may need to inspect a building to establish whether duties under the Bill are being complied with. This could include private dwellings as building safety risks may emerge within those dwellings. For example, a problem with a balcony may create risks for those underneath the balcony. The authority must attempt to arrange access at a reasonable time with the person, but where this has not possible, or, if providing prior notice would frustrate the reason for gaining access, the authority may apply to a justice of the peace for a warrant granting an authorised officer entry. The warrant may only be granted if the justice of the peace is satisfied, on sworn information in writing from an authorised officer, that it is necessary for an authorised officer to gain entry for a relevant purpose.

Access Orders: The accountable person may require access to a residential property for certain purposes in relation to contraventions of the fire safety duties or structural safety duties, the accountable person may request access by giving the resident written notice that they need entry. If they are denied entry they may apply to the residential property tribunal for an Access Order, they must firstly inform the building safety authority and the fire safety authority for the building a notice setting out the intention to apply for an access order in respect of the relevant person and the relevant premises.

Non-residential premises access order: The accountable person may require access to non-residential parts of a regulated building or non-residential parts lying wholly or partly below or above a regulated building, where the access is required for certain specified purposes. They must first request access in writing, explaining the purpose, why entry is needed, and proposing a reasonable date and time. If access is not given, the accountable person may apply to the residential property tribunal for a non-residential premises access order.

Prohibition Notices: The fire safety authority may prohibit, or restrict, the use of an in-scope building (or part of it) where the fire safety authority considers that the use of the in-scope building involves, or is likely to involve, a fire safety risk that is so serious that use of the in-scope building should be prohibited or restricted, until such time that the risk is remedied.

Special Measures Orders: The building safety authority or the fire safety authority may apply to the residential property tribunal for a special measures order to be made where an accountable person, or principal accountable person has been guilty of a serious failure to comply with a duty under the Bill, or where they have failed to comply with a duty on two or more occasions. The Special Measures Order would put in place a special measures manager to take on duties of the accountable person, or principal accountable person (or multiple accountable persons). This is intended as a tool of last resort, that is, when all other measures have failed, and a breach must be remedied. It can only be used as a temporary measure. The Bill sets out the procedure for applying for the Special Measures Order including who must be notified.

Fixed Penalty Notices: The building safety authority may issue a Fixed Penalty Notice for certain offences (see below). A Fixed Penalty Notice is an official notice offering the accountable person the option to avoid prosecution for the offence by paying a set amount to the building safety authority. The recipient must still rectify their offence as well as pay the penalty.

3.103 The Bill also contains several offences. These are:

- a. Failing to comply with a compliance notice, prohibition notice or information notice.
- b. Occupying a category 1 or category 2 building before it has been registered with the building safety authority.
- c. Failing to notify the building safety authority of changes to registration information.

- d. Failure to give the building safety authority a 'relevant declaration', i.e. a declaration in the final three months of a five-year registration period that about the accuracy of the information and documents included in the entry for the building in the authority's register.
- e. Failure of an outgoing accountable person to give information and documents on change of accountable person.
- f. Contravening requirements of the Bill that places one or more persons at risk of significant risk of death or serious injury arising from a building safety risk.
- g. The provision of false or misleading information; where a person, who is required under this Bill, to record or keep any information, commits an offence if they include in that information any information that they know to be false in a material respect.
- h. Failing to apply for a building certificate for a category 1 building.
- i. Failing to display a building certificate and related information in a category 1 building.
- j. Failing to renew a building certificate within five years.
- k. Conducting, or offering to conduct, a fire risk assessment as a non-competent person.
- l. Failing to comply with a requirement imposed by a notice given by an authorised officer.
- m. Failure to apply to have the building removed from the register if the building is unoccupied for a total of six months or more.
- n. Intentionally obstructing an authorised officer.
- o. Impersonating an authorised officer.
- p. Failure to report relevant information about building safety risks, in accordance with regulations made by the Welsh Ministers, to the building safety authority and fire safety authority.
- q. Commissioning a fire risk assessment from a person that is not competent to undertake a fire risk assessment.

3.104 Offences (a) to (l) above are triable either way, i.e. by the magistrates' court (summarily) or by the Crown court (on indictment). Anyone found guilty can be subject to up to two years' imprisonment or an up-to unlimited fine if convicted on indictment (although for item (g), provision of false or misleading information, a person is liable on conviction to a fine only for keeping information they know to be false, and to fine or imprisonment if they give false or misleading information to a building safety authority, a fire safety authority or any other person in purported compliance with a requirement imposed by or under this Act or regulations made under it, or to an enforcing authority or an authorised officer for the purpose of avoiding enforcement action. Offences (m) to (q) are punishable with a fine only. Fixed penalty notices may also be issued in relation to offences (b) (d) (h) and (l).

3.105 Most criminal offences within the regime are triable either way, with a maximum of up to two years' imprisonment and / or an unlimited fine. This is considered appropriate as non-compliance with those duties in this regime, including for example registration and building certificate applications, indicate a lack of accountability for building safety and may also indicate an attempt to avoid scrutiny in the way in which building safety risks are being assessed and managed. The offences are triable either way, and this provides scope for the courts to determine the appropriate scale of the penalty depending on the circumstances and nature of the breach.

3.106 There will be a right of appeal against the terms of a compliance notice, urgent action notice and prohibition notice. Appeals will be made to the Residential Property Tribunal. Allowing an appeal against these notices helps to ensure fairness. It means that if a person that is subject to a notice disagrees with the terms of that notice, they will have an opportunity to challenge it. Without this option, the person would have to either attempt to meet the terms of the notice or wait until they are prosecuted for failing to adhere to the terms of the notice, before they can argue that the terms within it were unreasonable.

ii. Why the changes are needed

3.107 Powers to enforce are essential to the effectiveness of any regulatory regime.

3.108 The series of reports on building safety have all emphasised the importance of having a robust enforcement and sanction regime that will enable regulators to hold those responsible for building safety to account. For example, the importance of robust enforcement was an issue raised in the Hackitt Review, and the [Building a Safer Future: Final Report](#) reflected that “where [enforcement] is pursued, the penalties are so small as to be an ineffective deterrent.”

3.109 Our focus is on ensuring a robust set of sanctions that will not only act as a deterrent, but that will enable the enforcing authority to take appropriate action when a breach does occur. This is also why the Bill provides for different tools for the enforcing authority to use. For example, compliance notices can be used by the enforcing authority to set out clearly what steps must be taken by the duty holder to avoid a breach of duty and potential prosecution. In other cases, a fixed penalty notice may be offered offering to allow the accountable person the option of avoiding prosecution. For other offences such as those in which there is little question as to what steps must be taken, or must have been taken, to avoid the breach, the authority will have the option to move directly to prosecution.

Recovery of costs and amendments to the Landlord and Tenant Acts etc

Recovery of costs by the principal accountable person

i. Summary of the Proposal

3.110 The Bill provides a power for the Welsh Ministers to make regulations which enable the principal accountable person for a regulated building to recover costs from accountable persons, where those costs are incurred or are to be incurred in discharging duties that fall only to the principal accountable person. An example of such costs would be the preparing and revising a safety case report.

ii. Why are the changes needed

3.111 The policy rationale is to ensure that there is no duplication of service charges costs for leaseholders.

iii. Summary of the Proposal

3.112 The Bill amends the Landlord and Tenant Act 1985, to insert implied terms into leases relating to building safety and the recovery of safety related costs. Amendments are also made to the Landlord and Tenant Act 1987 and Commonhold and Leasehold Reform Act 2022.

3.113 The amendments made a number of changes, including:

Implied Terms

3.114 Terms relating to building safety are to be implied into the lease of regulated buildings. Under these implied terms, landlords will be obliged to comply with their building safety duties, cooperate with any relevant person (accountable person or special measures manager) fulfilling like duties and comply with any special measures order. Tenants will be obliged to allow access for these purposes, i.e. not to act in a way that creates a significant risk of a building safety risk materialising and likewise to comply with any special measures order so far as it relates to them as tenants.

3.115 Further, the Bill effectively implies terms into relevant leases relating to the collection of building safety costs. Provisions enable recovery in the same way as any other service charge under any relevant lease for the costs of taking building safety measures, i.e. the costs of complying with the various building safety duties imposed under the Bill on the principal accountable person or accountable person.

Variable Service Charges

3.116 We are also proposing to allow landlords to be able to pass on the running/management costs of the new regime to the tenant through a “variable service charge”, rather than a “service charge” (as defined in section 18 of the Landlord and Tenant Act 1985). The service charge is an amount payable by a tenant as part of or in addition to rent, which is payable, directly or indirectly, for services, repairs, maintenance improvements or insurance or the landlord’s costs of management.

3.117 The Bill sets out which building safety related costs can and cannot be recovered from tenants via service charges. In seeking to protect lessees of regulated buildings, the Bill ensures certain building safety costs are ‘excluded costs’ not to be considered in determining the amount of service charge payable by a tenant under the lease.

3.118 As for the Landlord and Tenant Act 1987, the Bill requires, respectively, that where premises are contained in a regulated building, building safety information shall be contained in demands for rent and that notice shall be given to the tenant(s) containing the relevant safety information. Where the information is not provided the rent is treated as not being due.

Limitation of service charges

3.119 The Bill amends the Landlord and Tenant Act 1985 to require landlords or superior landlords, if they are an accountable person, to investigate other funding options for building safety works before claiming costs back through service charges. If other funding options are available, landlords would be required to take reasonable steps to obtain those other funding streams before passing on the costs of works via service charges to leaseholders and deduct them from costs that may be charged via service charges.

Commonhold and Leasehold Reform Act 2022

3.120 We are proposing to amend the Commonhold and Leasehold Reform Act 2022 to ensure building safety is properly considered. This includes a requirement that under a commonhold community statement, the commonhold association should comply with building safety duties, Directors of a commonhold association should annually estimate the income required to be raised from unit-holders to meet the building safety expenses of the association and require for each unit-holder to pay the percentage of the sum estimated appropriate to their unit. These requirements are applicable to all commonholds that fall within the scope of the Bill.

i. Why are the changes needed

3.121 The policy intention behind changing from a “service charge” to a “variable service charge” is to ensure that the reasonable requirements (section 19 of the Landlord and Tenant Act 1985) apply, thereby ensuring that excessive charges are not passed on to tenants. Variable service charges under the new provision are payable only to the extent that they are reasonably incurred, and where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard, and the amount payable shall be limited accordingly.

3.122 These provisions aim to protect tenants from excessive charges by ensuring that costs being passed on to leaseholders because of their building safety requirements are reasonable. The Bill outlines landlord costs that can be passed on to tenants and further provides that the amount of service charge payable is limited to costs that are reasonably incurred and only if they are incurred on the provision of services or the carrying out of work of a reasonable standard.

3.123 Under provisions to limit service charges, the intention is to bolster leaseholder protections by requiring a landlord to take reasonable steps to ascertain whether other funding streams are available before charging leaseholders for the costs of works. Landlords would need to take reasonable steps to assess whether there are any other sources of funding available, before passing costs down to leaseholders. There should be a balance of liability for funding building safety costs between leaseholders and other parties based on their particular roles and responsibilities.

3.124 Overall, the proposed amendments to primary legislation offer further statutory protection and enable tenants to rely on provision in their lease to take direct action against the landlord, rather than simply having to rely on the building safety authority to enforce. It also provides protection from rent and service charges if certain building safety duties and requirements proposed under the Bill are not met.

Reasons for not consulting on a draft Bill

3.125 There has been no formal consultation on a draft Bill. The provisions that are included in the Bill align, for the most part, with the provisions set out in the White Paper consultation.

3.126 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.

3.127 As outlined above, the White Paper consulted on the overall approach, and the general provisions included in this Bill. It has been built not only on the White Paper consultation, but extensive work undertaken as part of the Hackitt Review and the Building Safety Expert Panel.

3.128 Additional details of the operational arrangements of the new regime are proposed to be set out in secondary legislation with relevant statutory guidance where appropriate, and this will be subject to further consultation and engagement.

3.129 Given the extensive consultation undertaken on the Safer Buildings in Wales White Paper to inform the Bill development, the number of responses and ongoing engagement with key stakeholders throughout the development of the Bill, it was not considered necessary to consult on a draft Bill.

4. Consultation

Safer Buildings in Wales White Paper

4.1 The Welsh Government's White Paper consultation ran from 12 Jan 2021 to 12 April 2021. A total of 104 questions were included, and respondents were able to respond via an online survey form, a dedicated email address or by post.

4.2 The White Paper consultation set out the policy goals the programme of work intended to deliver in response to the problems found by the Hackitt Review, the Grenfell Inquiry Phase 1 report and the Welsh Government's own Building Safety Expert Group.

4.3 The White Paper sought views on the policy proposals on a new building safety regime for Wales which were covered under the following chapter headings:

- Setting out the Scope of the Building Safety Regime
- The Building Safety Regime (Design and Construction Phase)
- The Building Safety Regime (Occupation Phase)
- Residents: Roles and Responsibilities
- Raising Concerns
- Regulating the Building Safety Regime, General Requirements in Relation to Fire Safety Equipment

4.4 The proposals for the occupation phase require primary legislation to be taken through the Senedd.

Summary of Responses

4.5 The consultation received 95 completed responses. This included:

- 28 responses to the online consultation form
- 50 responses received by email which followed the format of the online consultation form
- 17 responses which gave a narrative response to the proposals, also received by email.

4.6 A consultation [summary response](#) was published in December 2021. The responses reflected a variety of perspectives and views, but were, in general, supportive of the proposals for Building Safety legislation in the White Paper.

Targeted Engagement

4.7 The Welsh Government has engaged with a broad section of stakeholders since the publication of the White Paper and throughout policy development of the Bill. This includes meetings with the following organisations:

- All local authorities in Wales
- Welsh Fire and Rescue Authorities
- Companies providing property management services
- Housing Associations
- Organisations representing people sharing protected characteristics, such as
 - Disability Wales
 - Claddag
 - Tai Pawb
 - National Autistic Society
 - RNIB Wales
 - Muscular Dystrophy
- Professional bodies including the Royal Institution of Chartered Surveyors (RICS) and the Property Institute
- Public bodies including the Health and Safety Executive (the Building Safety Regulator in England) and the Office of the Public Services Ombudsman for Wales
- Resident and leasehold organisations including the Tenant Participation Advisory Service Cymru (TPAS Cymru), the Leasehold Advisory Service (LEASE) and the Leasehold Knowledge Partnership (LKP)
- The Welsh Local Government Association
- Trade Unions

4.8 In our engagement with stakeholders we have provided overviews of the policy proposals, as well as holding more focussed discussions to seek input on specific elements of the policy.

4.9 We have also delivered two rounds of workshops to local authorities and fire and rescue authorities. The local authority and fire and rescue authority workshops, which were held in summer 2023 and autumn 2024, outlined the complete set of proposals and policy developments since the White Paper at that time, but with a particular focus on the role of local authorities and fire and rescue authorities in regulating the regime. In addition to this, there were further meetings with smaller groups of attendees, and other officers of the

local authorities, to consider specific issues such as on the enforcement and sanctions approach.

4.10 We have engaged with several resident groups and associations to ensure the voice and insights of a broad representation of leaseholders and tenants are heard and their lived experiences considered. To support the implementation of the reforms, we commissioned IFF Research to conduct research among residents from both the social and private sectors and from all tenure groups living in multi-occupied residential buildings. The key objectives were to explore residents' knowledge, understanding and behaviour towards fire safety and how they engage with their building managers, to understand the most effective ways of communicating fire safety messages to residents. An online survey of 1,562 residents of multi-occupied buildings in Wales was conducted, followed by 24 qualitative in-depth interviews, to ensure the experiences of a diverse range of residents were heard. The findings from the research reinforced the importance of placing residents at the heart of proposals to reform building safety.

Policy Development following the White Paper consultation.

The scope of the Building Safety Regime

Houses in Multiple Occupation (HMOs)

4.11 The White Paper set out proposals for the comprehensive legislative reform of building safety in all multi-occupied residential buildings in Wales, including houses in multiple occupation. The intention to include HMOs within the regime was led by the recognition that fire risk during occupation is not related to building height. The inclusion of HMOs was however met with a mixed response.

4.12 Whilst HMOs will continue to be subject to the new fire safety duties (including the fire risk assessment provisions) that are contained in the Bill, HMOs will not be subject to many of the other requirements in the Bill, including to register the premises with the building safety authority.

4.13 The White Paper cited data which demonstrated that the risk of fire casualties is greatest in HMOs and houses converted into flats, which tend to be smaller than purpose-built blocks. It showed that from 2009/2010 to 2019/2020 there were around 29 casualties per 100 fires in HMOs in Wales and 26 per 100 fires in purpose-built blocks of flats. All HMOs (other than those let under a single joint tenancy) will therefore be subject to the requirements in the Bill to manage and mitigate fire safety risks, and to undertake a fire risk assessment which reflects the typical risks of fire in residential premises.

4.14 However, HMOs are already regulated by local authorities via several existing regimes, all of which are designed to improve the management, safety and condition of HMOs for residents (and in some case also extending to other properties within the private rented sector). Some of these duties overlap with the wider building safety management duties proposed under the new building safety regime. These regimes include:

- The Management of Houses in Multiple Occupation (Wales) Regulations 2006 (made under section 234 of Housing Act 2004)
- HMO licensing (Part 2 and 3; Housing Act 2004)
- Rent Smart Wales Registration & Licensing (Housing (Wales) Act 2014)
- The Renting Homes (Fitness for Human Habitation) (Wales) Regulations 2022

4.15 Following discussions with stakeholders, it was agreed that it would not be reasonable or proportionate to subject HMOs to the registration duties of the proposed building safety regime.

Categories of Building

4.16 The White Paper also set out proposals for introducing different categories of buildings in recognition that some buildings would require different levels of building safety risk management. At that time, it was envisaged that a two-category approach would provide sufficient flexibility to achieve this, although a commitment was made to keep the approach under review.

4.17 Having further tested this approach with stakeholders during the policy development phase, the Bill introduces a three-category model to better reflect the diversity of building types that the regime will capture. The three categories in the Bill are:

- Category 1 – at least 18 metres in height or has at least 7 storeys
- Category 2 – less than 18 metres in height and has fewer than 7 storeys, and is at least 11 metres in height or has at least 5 storeys
- Category 3 – less than 11 metres in height and has fewer than 5 storeys,

4.18 All regulated buildings will be subject to the new fire safety duties (including the fire risk assessment provisions) that are contained in the Bill. The different categories will then be subject to varying duties, with the most prescriptive requirements in category 1.

4.19 In addition, the fire safety duties in the Bill will cover relevant HMOs as above, regardless of their height.

The duty holder(s)

4.20 The White Paper proposed to create a duty holder role during occupation for all buildings within the scope of the new regime. The intention was that an accountable person would be identified for all in-scope buildings and duties to assess and manage building safety risks would be placed upon them. Respondents to the consultation highlighted the complexity of building ownership and highlighted the potential for multiple persons/organisations to exist within a building, making the process of identifying who should be responsible for assessing and managing building safety risks more challenging and a concern that lines of accountability could become blurred.

4.21 The Bill introduces the role of a principal accountable person to ensure there will always be clear lines of accountability. As the lead accountable person, the principal accountable person will be required to meet their duties as an accountable person, but they will also have additional duties to meet as the principal accountable person.

4.22 The White Paper also proposed a second 'duty holder' role, a Building Safety Manager (BSM). Feedback from respondents was mixed. A number of respondents highlighted risks associated with having multiple duty holders, specifically around a lack of clarity as to where ultimate accountability would rest in the event that a building safety incident did occur. During further consultations a number of stakeholders, including leaseholder representative organisations, also raised concerns regarding potential increased leaseholder service charges to cover the salary of a BSM as well as a risk that duties assigned to the BSM gave the opportunity for the accountable person to develop a case that they had discharged their duties and walked away from some responsibilities.

4.23 Having engaged with stakeholders and listened to feedback from the sector, the BSM role was removed from our proposals. The approach we are proposing places responsibility for duties under the new regime with the principal accountable person and accountable persons.

4.24 The Bill also proposes to introduce an additional duty holder who will have limited duties to manage fire and structural safety risks and to keep and provide information to accountable persons. Whilst not an accountable person, they are to be treated as an accountable person for the purposes of those specific duties. Similar provision exists to some extent under the current FSO, although what is proposed under the Bill is a wholly new provision. Article 5(3) of the FSO currently provides that it may not only be the "responsible person" who is under duties under the FSO. Persons who have "to any extent, control of those premises" i.e. the premises covered by the FSO, are also responsible for complying with the duties under the FSO "so far as the requirement relate to matters within his control". This includes where a

person has obligations under a contract or tenancy to maintain or repair any premises, including anything in or on premises, or obligations in relation to the safety of any premises, as that person is to be treated as having control of the premises to the extent that the obligation so extends. What is proposed under the Bill will ensure that those who currently have duties under article 5(3) will continue to have equivalent duties under the new regime.

The building safety authority

4.25 The White Paper considered several options for the model of regulation. These included, a single regulator (new national, or one lead) or multiple regulators based on existing authorities, and whether there should be a regional or national approach. Responses to the consultation did not indicate a strong or majority preference for a single or multi-regulator approach for the occupation phase.

4.26 Whichever model was chosen, our view was clear that the experience and expertise within existing authorities will be crucial to effective regulation of the new regime. This means that if establishing a completely new authority for this purpose would risk duplications of effort and resources.

4.27 The Bill defines a “building safety authority” as a county council or county borough council within the area of each fire and rescue authority in Wales, which is designated by the Welsh Ministers as the building safety authority for that area. The Bill therefore proposes to place many of the new functions of regulation onto local authorities, which reflects the significant level of expertise they hold currently on matters relating to housing and building control, as well as their extensive experience in engaging with residents. These responsibilities mean that local authorities have important experience and expertise that will help to inform how the new functions of regulation should be implemented. As set out in earlier paragraphs, the “fire safety authority” in the Bill means a fire and rescue authority for an area in Wales, or the fire inspector (i.e. the Crown Premises Inspector for Crown buildings appointed under section 28(1) of the Fire and Rescue Services Act 2004) in relation to Crown premises. The fire safety authority will remain responsible for enforcement of fire safety duties. In particular, this will include enforcing the duty to assess and manage fire safety risks. The fire and rescue authorities’ considerable expertise in this area, and experience in firefighting, means that they must take on this role. Together, the building safety authority and the fire safety authority will be known as the “enforcing authority”. Each enforcing authority will be responsible for regulating the buildings that are wholly or mainly within the geographical boundary of the authority. The building safety authority and the fire safety authority will be required to work jointly, and there are many points in the regime at which intelligence is required to be shared, such as on enforcement activity. We are also working

with the enforcement authorities to look at the role of joint inspection in the regime.

4.28 Some local authorities in Wales are responsible for managing their own social housing stock and may be the accountable person for a category 1 building. Where such local authorities are also the building safety authority, the Bill places a duty on the building safety authority to make all reasonable efforts to arrange for its functions as the building safety authority to be exercised by another building safety authority. This requirement is limited to category 1 buildings due to the more extensive nature of the duties placed on the principal accountable person for a category 1 building (compared to a category 2 or 3 building).

Registration and licensing

4.29 In the White Paper, we consulted on whether all in-scope buildings should be subject to some form of registration requirement. While there was general agreement to this proposal, some respondents suggested that it might be disproportionate for smaller buildings to be required to register.

4.30 The proposals for registration in the White Paper were linked to a proposal for licensing, in which people responsible for building safety would have to be licensed to fulfil those functions.

4.31 In practice, those needing a licence were likely to be either accountable persons (usually the owner), where they chose to manage the property themselves, or appointed building safety managers. With the removal of the building safety manager role from the regime, retaining a licensing provision introduced the risk of accountable persons who could not meet licensing requirements being unable to comply with the requirements.

4.32 The register of buildings is, therefore, no longer about licensing or competence. Rather, the purpose of registration is to support accountability for building safety. It also reflects the importance for residents of being able to identify the person that is accountable for the safety of their building.

4.33 Accountability is important across the whole regime. However, in smaller, less complex buildings, residents are more likely to know who is responsible for the safety of their building. In those buildings, which will include for example, a house converted into two flats, it is more likely (when compared to larger buildings) that a resident may also be an accountable person for the building. As such, we have limited the requirement to register to buildings of at least 11 metres in height or that are 5 storeys or more.

4.34 There will still be accountable persons with duties to assess and manage building safety risks in in-scope buildings of less than 11 metres in height, or

less than 5 storeys, but they will not be identified on the register. In those buildings it will be for the enforcing authority to identify the person against whom enforcement action must be taken in the event of a breach.

Duties of Accountable Persons

4.35 The proposed duties for category 1 buildings were set out in the White Paper. The duties proposed in the Bill have remained largely the same as those set out in the White Paper, although further detail has been developed across several areas. For example, the Bill sets out some requirements for the content of the Safety Case Report. These more detailed changes largely reflect our consideration of similar developments across the border, where the UK Government and the Building Safety Regulator situated within the HSE has been further developing the requirements for building safety in higher-risk buildings in England. While there is alignment in some areas, differences reflect the different context of the regime here in Wales. We have also tested these proposals with stakeholders in Wales.

4.36 As set out elsewhere in this Explanatory Memorandum, the duty to assess and manage structural safety risks has been extended to cover category 2 buildings. While we did not propose, in the White Paper, to extend the duty to assess and manage structural safety risks to category 2 buildings, a risk of structural failure may also be a fire safety risk, and any structural risk in a multi-occupied residential building of at least 11 metres in height or 5 storeys or more is a risk to many people. However, it was not felt proportionate to apply a duty to assess and manage structural safety risks to category 3 buildings, where structural failure does not pose the same scale of risk in terms of the number of people that might be impacted by an event.

4.37 We have also introduced a duty, placed on the principal accountable person for a category 1 building, to apply to the building safety authority for a building certificate. The purpose of the building certificate application is that it introduces a process by which the building safety authority, working with the fire safety authority, will review information about how building safety risks are being assessed and managed, as well as information evidencing the extent to which other duties are being met. It applies only to category 1 buildings. Although the White Paper did not go into this level of detail on how the regulatory function would work, this is a process based on one already in place in England, which applies to higher-risk buildings (broadly defined as multi-occupied residential buildings of 18m+ or at least 7 storeys), and which itself was developed working with industry. The requirement for a principal accountable person to display the certificate, once received, will help to ensure that residents know that the building safety authority has reviewed the information provided to it about how building safety risks are being assessed and managed. This reflects the principal that accountability for building safety is at the core of the regime. These changes reflect the evolution of the policy

based on stakeholder feedback, practical considerations, and alignment with broader regulatory frameworks.

Enforcement

4.38 The White Paper considered the approach to sanctions and enforcement in the regime. Further work has been undertaken since the White Paper to develop the set of tools that should be available to the enforcing authorities.

4.39 The proposals for enforcement are based on:

- Proposals in the White Paper for tools that support enforcement and remedial action.
- A bringing together of enforcement tools available to the fire and rescue authorities in Wales currently under the FSO (i.e. enforcement and prohibition notices), to sit alongside the new tools that will be available to both the fire safety authority and the building safety authority (e.g. compliance notices, urgent action notices)³.
- Knowledge of the tools available to local authorities in dealing with buildings under the Housing Act 2004, which provides local authorities powers in relation to the Housing Health and Safety Rating System, and the Building Act 1984 that enables a local authority to take enforcement action where it considers that a building or structure is dangerous.

4.40 Both the building safety authority and the fire safety authority can take enforcement action under the Bill. To avoid a possible scenario in which different authorities are enforcing for the same breach, there are duties created for the authorities to notify each other about enforcement action being undertaken.

4.41 As we have said previously, given the seriousness of breaches in the assessing or managing of building safety risks, many of the offences under the proposals are triable either way with up to an unlimited fine or up to two years' imprisonment.

³ Prohibition notices will only be available to the fire safety authority. Other enforcement tools included in the Bill such as compliance notices and urgent action notices will be available to both the fire safety authority and building safety authority.

Investigatory powers

4.42 A series of investigatory powers are included within the Bill. While some of these powers, such as the right of entry by the fire safety authority, were considered in the White Paper, the proposals have since evolved. For example, while environmental health officers already have powers to access the internal parts of dwellings in certain circumstances, their power to do so may not be sufficiently broad to cover circumstances in which there is a breach of a building safety duty under the Bill. The investigatory powers provided under the Bill also cover matters such as requesting information and documents. These powers have been included to ensure that the enforcing authorities are able to exercise their regulatory functions effectively and fairly, and that decisions to take enforcement action or other steps to encourage compliance, are based on accurate and up-to-date information. The accountable person may apply to the Residential Property Tribunal for an access order.

Special Measures Orders

4.43 Proposals to introduce Special Measures Orders into the occupation phase regime in Wales have been developed since the White Paper was published. Special Measures Orders are a tool for the enforcing authority to use as a 'measure of last resort'. Under our proposals, the enforcing authority will make an application to the residential property tribunal for an order that would put in place a special measures manager in a category 1 building. The special measures manager can replace one or more accountable persons in the category 1 building where there has been a serious failure, or a failure on two or more occasions, by an accountable person for the building to meet a duty imposed on them under the Bill. It is a temporary measure only that might be used, for example where residents are at risk due to a breach, to ensure that the breach is remedied. We have limited the use of this tool to category 1 buildings where the failings of an accountable person may impact many residents in a single building. For example, if an accountable person was not cooperating with other duty holders in the building this could undermine the ability of other accountable persons to assess and manage building safety risks of their part. The use and effectiveness of the tool would need to be monitored carefully before any consideration is given, in future, to whether it should be extended to other buildings in the regime.

Duties on residents and owners of residential units, including enforcement

4.44 The White Paper considered the role residents should play in keeping themselves and their neighbours safe. It proposed placing several duties on residents, including a duty to co-operate with accountable persons by sharing relevant information and providing access to their homes. The White Paper also proposed a requirement on residents not to breach the compartmentation

of their property. Further work has been undertaken since then to develop an approach for the enforcement of resident duties.

4.45 Evidence gathered from extensive engagement with stakeholders and resident groups has prompted a refinement of the duties on residents and owners of residential units to safeguard against the emergence of new risk behaviours. In addition to duties to provide access to their dwelling and share information with their accountable person, the duties in the Bill now include:

- Fire safety duties which apply to all regulated buildings (category 1, category 2, category 3) and to relevant HMOs. Adult residents and owners of residential units must:
 - not do anything to the common parts of a building which could create a fire safety risk in, on, or in relation to the common parts of the building,
 - not do anything to the residential unit that would allow a fire that breaks out in it to spread beyond the unit,
 - not to remove or damage anything which is in, or forms part of, the common parts and is intended to improve the safety of people in or about the building in relation to a fire safety risk.
- Structural safety duties which apply to category 1 and 2 buildings only. Adult residents and owners of residential units must:
 - not do anything to the common parts of a building which could create a structural safety risk in, on, or in relation to the common parts of the building,
 - not do anything in, or in relation to the residential unit that creates a structural safety risk in relation to the building.

4.46 Should residents or owners of residential units breach the above duties; the intention is that informal steps should be taken by the principal accountable person or accountable person in the first instance in working with the resident to try and rectify the breach. Generally, this will involve the accountable person issuing a warning notice to a resident. If a resident fails to rectify their behavior after receipt of a warning notice, accountable persons will be able to escalate the matter by applying to the Residential Property Tribunal for a contravention order.

4.47 In practice a principal accountable person or accountable person is likely to be best placed to access a residential unit to assess or confirm a breach of a duty and would first try to gain access by agreement with the resident, although if this fails, they may need to seek an order from the Residential Property Tribunal granting access.

4.48 Enforcing authorities will also be able to issue compliance notices to residents who breach a resident duty. Our expectation is that the fire safety authority's and building safety authority's involvement in issuing compliance notices for breaches of resident duties will only be undertaken in limited circumstances, such as when the seriousness of a breach places other residents directly at risk, where an accountable person was also culpable for the same breach, or where an accountable person was unable or unwilling to take enforcement action.

5. Power to make subordinate legislation

5.1 The Bill contains provisions to make subordinate legislation and issue directions and guidance. Table 5.1 (subordinate legislation) and Table 5.2 (directions, and guidance) set out in relation to these:

- (i). the person upon whom, or the body upon which, the power is conferred.
- (ii). the form in which the power is to be exercised.
- (iii). the appropriateness of the delegated power.
- (iv). the applied procedure: that is, whether it is “Approval”, “annulment”, or “no procedure”, together with reasons why it is considered appropriate.
- (v) In line with the Legislation Wales) Act 2019. These are terms used from 1 January 2026, in accordance with Part 2A of the Legislation (Wales)Act 2019 (as amended by the Legislation (Procedure, Publication and Repeals) (Wales) Bill)

5.2 The Bill requires the Welsh Government to consult on the content of most subordinate legislation. The precise nature of consultation will be decided when the proposals have been formalised, subject to any requirements in the Bill as to who must be consulted etc.

Table 5.1: Summary of powers to make subordinate legislation in the provisions of the Building Safety (Wales) Bill

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
4 (6)	Welsh Ministers	Regulations	<p>Power to specify when a part of an unattached structure or set of structures is an “independent part” despite it not meeting the definition under this section.</p> <p>A regulation making power is considered important to enable more unusual ownership models and designs of buildings to be accounted for, including where designs develop over time (so as duties are placed on the most appropriate people). May need to be changed more frequently than would be sensible for primary legislation, likely to be technical in nature.</p>	Approval	The regulations will impact on the extent of certain duties e.g. those of the principal accountable person. The approval procedure is deemed appropriate to ensure it is subject to additional Senedd scrutiny and the Senedd’s agreement.
5 (5)	Welsh Ministers	Regulations	A power to supplement section 5 (meaning of “residential unit”).	Approval	The regulations will be supplementing primary legislation. The approval procedure is deemed

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			Regulations are likely to be technical in nature and enable more usual or new designs of buildings to be accounted for. May need to be changed more frequently than would be sensible for primary legislation, likely to be technical in nature.		appropriate to ensure it is subject to additional Senedd scrutiny and the Senedd's agreement.
6(5)	Welsh Ministers	Regulations	A power to make regulations to supplement section 6 (categories of regulated building). Regulations about height/ storeys will be detailed and technical in nature, considered best suited to be detailed in regulations. Regulations about matters detailed in subsection (6)(c) would likely be as a result of knowledge of emerging risks.	Approval	The regulations would be supplementing primary legislation. The approval procedure is deemed appropriate to ensure it is subject to additional Senedd scrutiny and the Senedd's agreement.
10(3)	Welsh Ministers	Regulations	Power to make provision about applications under section 10 (determination by	Annulment	The power is administrative in nature

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			<p>the building safety authority of principal accountable person). These regulations will be administrative in nature, with a level of detail more appropriate for regulations. In addition, as the building safety authority carries out its function, the experience it develops may indicate a need to amend aspects of the application process.</p>		<p>the annulment procedure is considered appropriate.</p>
13(3)	Welsh Ministers	Regulations	<p>Power to specify circumstances in which, a part of the structure and exterior of a building forms part of the common parts of the building even if it is demised to a residential unit. Provided flexibility for e.g. more unusual ownership models to be accounted for if this becomes necessary so as to enable duties to be placed on the most appropriate</p>	Approval	<p>The regulations would effectively be amending section 12(2)(a)(i) in specified circumstances. The approval procedure is deemed appropriate to ensure it is subject to additional Senedd scrutiny and the Senedd's agreement.</p>

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			people in respect of such models.		
13(4)(e)	Welsh Ministers	Regulations	Power to specify other parts of a building as part of the "structure and exterior". Will, for example, enable new building designs to be accounted for should the need arise.	Annulment	The regulations, if required, are likely to apply to more novel construction types and the annulment procedure is considered appropriate.
15(1)	Welsh Ministers	Regulations	Power to supplement sections 8 and 9. 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.	Approval	The regulations would be supplementing primary legislation. The approval procedure is deemed appropriate to ensure it is subject to additional Senedd scrutiny and the Senedd's agreement.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
16(1)	Welsh Ministers	Regulations	<p>Power to define the meaning of the part of a regulated building for which an accountable person is responsible.</p> <p>Regulations will be detailed in nature to account for different ownership models e.g. commonhold land.</p>	Approval	<p>The regulations will determine which parts of a building an accountable person is responsible. The approval procedure is deemed appropriate to ensure it is subject to additional Senedd scrutiny and the Senedd's agreement.</p>
17(1)	Welsh Ministers	Regulations	<p>Power to amend Schedule 1 and sections 2,3,4,6,7,8,9,12 and 13. With limitations placed on what the power can be used to do in respect of Schedule 1 and sections 2, 3 and 6.</p> <p>This regulation making power is considered important 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.</p>	Enhanced Approval	<p>The regulations would be amending primary legislation. An enhanced approval procedure is deemed appropriate to ensure it is subject to additional Senedd scrutiny and the Senedd's agreement.</p>

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			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.		
18(2)(h)	Welsh Ministers	Regulations	Power to specify additional information or documents that must be included in the register. Administrative in nature and will provide flexibility to adapt the register e.g. to account for feedback for the building safety authority during implementation etc.	Annulment	The power is administrative in nature the annulment procedure is considered appropriate.
18(3)	Welsh Ministers	Regulations	Power to make provision about the publication by a building authority of its register or of information or documents included on the register.	Annulment	The power is administrative in nature the annulment procedure is considered appropriate.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			What may be appropriate to publish may change over time, regulations will enable this flexibility.		
20(3)	Welsh Ministers	Regulations	Duty to make provision about applications to register. This is administrative in nature and the regulations are likely to be details and therefore not considered suitable to be set out on the face of the Bill. The content may need to change over time e.g. to reflect feedback during implementation or to account for developments in technology.	Annulment	The power is administrative in nature the annulment procedure is considered appropriate.
24(3)	Welsh Ministers	Regulations	Duty to make provisions about “relevant declarations”. Regulations will be administrative in nature, and it may be necessary to amend the procedure/ content in future.	Annulment	The regulations would be administrative in nature and the annulment procedure is considered appropriate.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
25(3)	Welsh Ministers	Regulations	<p>Power to make provision about application to remove a building from the register.</p> <p>These regulations will be administrative in nature. As the building safety authority carries out its functions, it will gain experience that may mean that these details will need to be reconsidered.</p>	Annulment	The power is administrative in nature the annulment procedure is considered appropriate.
28(2)	Welsh Ministers	Regulations	<p>Power to modify the definition of “building safety risk” to include a risk specified in the regulations. The risks that may be specified in the regulations are risks to the safety of people in or about a category 1 building or a category 2 building arising from any matter (other than fire and structural failure) affecting any part of the building.</p> <p>This is a wide power intended to enable the building safety</p>	Enhanced Approval	This is a broad power and if regulations were made this would result in potentially significant new duties. Therefore, the regulations will require an additional degree of scrutiny. An enhanced approval procedure is deemed appropriate to ensure it is subject to Senedd scrutiny and the Senedd’s agreement.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			regime to be amended so as to apply to new risks/ new data on risks without the need for further primary legislation.		
30(3)	Welsh Ministers	Regulations	<p>Power to specify requirements relating to the competence of fire risk assessors.</p> <p>These regulations will be technical in nature and are likely to need updating relatively frequently (to reflect changes in standards etc.).</p>	Annulment	The principle that assessors must be competent is on the face of the Bill. This power is limited to specifying details of the expertise and experience a competent person must have. Senedd approval of such technical details is not considered necessary.
32(2)	Welsh Ministers	Regulations	Power to specify additional matters relating to fire risk assessments and reviews e.g. in relation to timings, matters to be considered, methodology and information to be included. when completing an assessment or review for a regulated building etc.	Annulment	The matters will be largely technical in nature. Senedd approval of such details is not considered necessary.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			These regulations will largely be technical in nature and may need to be amended e.g. to adapt to new technologies, new data on risks etc. As such considered more appropriate to be contained in regulations than on the face of the Bill.		
32(4)	Welsh Ministers	Regulations	Power to make provision to enable the principal accountable person for a regulated building to recover “relevant costs” from the accountable persons for the building. Regulations are likely to be detailed, and as details on costs may change over time, a regulation making power is considered appropriate.	Approval	As the regulation will concern cost recovery it will require an additional degree of scrutiny. The approval procedure is deemed appropriate to ensure it is subject to additional Senedd scrutiny and the Senedd’s agreement.
33(8)	Welsh Ministers	Regulations	Power to make provisions about “reasonable steps”, specify matters/ principals to which accountable persons must have regard when	Annulment	The power is limited to largely technical fire safety matters (as well as certain administrative matters), Senedd approval of such

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			<p>managing fire safety risks, specify requirements about arrangements made and information requirements.</p> <p>As with conducting an assessment, as details of managing fire risks may change over time, these regulations made need to be changed over time. They will contain detail on technical (and administrative) matters which it is considered would be appropriate to deal with by delegated powers.</p>		<p>details is not considered necessary.</p>
34(7)	Welsh Ministers	Regulations	<p>Power to specify further matters in relation to the making of structural risk assessments, including e.g. expertise/ experience of assessor, matters to be considered, methodology, information to be included and maximum intervals.</p> <p>The regulations will be largely technical in nature, some will</p>	Annulment	<p>The power is limited to largely technical structural safety matters (as well as certain administrative matters), Senedd approval of such details is not considered necessary</p>

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			also be administrative. The regulations may need to be updated as new evidence emerges e.g. in relation to management of risks.		
35(6)	Welsh Ministers	Regulations	Power to make provisions about “reasonable steps”, specify matters/ principals to which accountable persons must have regard when managing structural safety risks, specify requirements about arrangements made and information requirements. The regulations made need to be changed over time. They will contain detail on technical (and administrative) matters which it is considered would be appropriate to deal with by delegated powers.	Annulment	The power is limited to largely technical structural safety matters (as well as certain administrative matters), Senedd approval of such details is not considered necessary.
37(1) & (8)	Welsh Ministers	Regulations	Power to specify what information the safety case report must contain and its form, provision of copies of it	Annulment	The regulation making power relates to technical and administrative matters with the annulment

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			<p>and the content of a notice under subsection (7)(b).</p> <p>The subject matter of these regulations is technical and administrative in nature. New knowledge as to risks and changes in technology may require the content of the regulations to change over time. Therefore, a regulation making power is considered appropriate.</p>		<p>procedure considered to be sufficient.</p>
38(4)	Welsh Ministers	Regulations	<p>Power to specify in regulations the requirements of the occurrence recording system for a building. These are administrative and technical requirements that will ensure a consistent approach is taken across category 1 buildings. The requirements in question may need adjusting in time, as such considered more appropriate to deal with by delegated powers.</p>	Annulment	<p>Power is limited to specifying requirements etc. of the occurrence recording system and is administrative and technical in nature with the annulment procedure considered to be sufficient.</p>

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
39(1)	Welsh Ministers	Regulations	<p>Power to specify relevant information (including circumstances and time) that must be given by an accountable person for a category 1 building, to the building safety authority and the fire safety authority. The regulations may make provision about how the information must be given.</p> <p>The content of the regulations may need to be changed over time e.g. to reflect new knowledge as to risks and feedback as the regime is implemented. These regulations will be technical and administrative in nature, it is considered to deal with by delegated powers.</p>	Annulment	Power is limited in nature i.e. to technical and administrative matters with the annulment procedure considered to be sufficient.
40(4)(e), (6)(a), (7)(a) and (8)	Welsh Ministers	Regulations	Power to specifying additional information a residents' engagement strategy must include and related matters e.g. review periods,	Annulment	The power is largely administrative in nature, with the annulment

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			<p>circumstances/ persons requiring consultation.</p> <p>The regulations will specify matters largely administrative in nature and may require updating from time to time. This level of detail is not considered suitable to be on the face of the Bill.</p>		<p>procedure considered to be sufficient.</p>
41(1)(b)(iii) and (3)	Welsh Ministers	Regulations	<p>Power to specify additional persons who must be provided with a copy of the residents' engagement strategy and how copies is to be given.</p> <p>These are administrative matters which it would be appropriate to deal with by delegated powers and will enable updating from time to time should the need arise.</p>	Annulment	<p>The power is limited to administrative matters and the annulment procedure is considered to be sufficient.</p>

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
42(9)	Welsh Ministers	Regulations	<p>Power to amend the period of time specified in subsection (4) (5year period for building certificate).</p> <p>New evidence may emerge indicating that this timeframe should be changed. The matter in question may need adjusting once the new system is established, therefore it would be sensible to deal with this by delegated powers.</p>	Approval	The regulations would be amending primary legislation. The approval procedure is deemed appropriate to ensure it is subject to additional Senedd scrutiny and the Senedd's agreement.
43(1)(b) and (d) and (2)	Welsh Ministers	Regulations	<p>Power to make provision about what information is to be included in a building certificate application including the information on the occurrence recording system operated by a principal accountable person (section 38) and reports to the authorities under section 39</p> <p>The regulations will be technical and administrative in nature and may need to be</p>	Annulment	The regulations will be technical and/ or administrative in nature and the annulment procedure is considered to be sufficient.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			changed from time to time e.g. to reflect new knowledge on risks. Considered would be appropriate to deal with by delegated powers.		
44(8)	Welsh Ministers	Regulations	Power to make further provision about building certificates and notices under section 44, including form and content of a building certificate and how the certificate is to be issued or how a notice (under subsection (5)) is to be given. The regulations will be technical and/ or administrative in nature and may need to be changed from time to time. Considered appropriate to deal with by delegated powers.	Annulment	The regulations will be technical and/ or administrative in nature and the annulment procedure is considered to be sufficient.
45(4)(a) & (b)	Welsh Ministers	Regulations	Power to specify form and information to be included in a notice under section 45(1)(b). The content of the regulations will be administrative in nature	Annulment	The power is administrative in nature the annulment procedure is considered appropriate.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			and considered appropriate to deal with by delegated powers.		
47(1)	Welsh Ministers	Regulations	<p>Duty to specify information and documents (copies) that must be kept by an accountable person, and related matters.</p> <p>The information and documents that must be kept within the “golden thread” may be required to be changed over time e.g. in the assessing and managing of building safety risks. The regulations will be technical and/or administrative in nature and considered appropriate to be dealt with by delegated powers.</p>	Annulment	The regulations will be technical and/or administrative in nature and the annulment procedure is considered to be sufficient.
48(1)	Welsh Ministers	Regulations	Power to specify information and documents (copies) that must be provided by an accountable person to persons specified in	Annulment	The power will be primarily technical and/or administrative in nature and the annulment procedure is considered to

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			<p>subsection (1) or specified in regulations (subsection (1)(f)), and related matters. The regulations can include provision about the admissibility of shared information/ documents in evidence.</p> <p>The information and documents that must be shared may change through time, regulations will provide the flexibility to ensure that information sharing requirements can be amended to reflect developments e.g. in the assessing and managing of building safety risks. the regulations will be technical and/ or administrative in nature and considered would be appropriate to deal with by delegated powers.</p>		<p>be sufficient. Provision as to admissibility of evidence in criminal proceedings is relatively common.</p>
49(2)	Welsh Ministers	Regulations	Power to specify what information an outgoing	Approval	While the regulations will be technical and

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			<p>accountable person must give and to whom, out of their successor, the building safety authority or the fire safety authority.</p> <p>The information and documents that must be provided may change through time, regulations will provide the flexibility to ensure that “handover” requirements can be amended to reflect developments e.g. in the assessing and managing of building safety risks. The regulations will be technical and/ or administrative in nature and considered would be appropriate to deal with by delegated powers.</p>		<p>administrative in nature failure to comply with the regulations, without reasonable excuse, is a criminal offence the approval procedure is considered appropriate.</p>
50(4)	Welsh Ministers	Regulations	<p>Power to make provision about the establishment and operation of a complaints system (category 1 only).</p> <p>The content of the regulations will be technical and/ or</p>	Annulment	<p>Given the technical and/ or administrative nature of the regulations the annulment procedure is considered appropriate.</p>

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			administrative in nature which it is considered would be appropriate to deal with by delegated powers.		
51(1)	Welsh Ministers	Regulations	<p>Power to require accountable persons to make and give effect to arrangement for the consideration of “relevant complaints” (category 2 and 3 buildings), including matters such as those in subsection (3).</p> <p>The content of the regulations will be technical and/ or administrative in nature which it is considered would be appropriate to deal with by delegated powers.</p>	Annulment	Given the technical and/ or administrative nature of the regulations the annulment procedure is considered appropriate.
52(3)	Welsh Ministers	Regulations	<p>Power to make provision about the complaints system to be established and operated by each building safety authority.</p> <p>The content of the regulations will be largely administrative in</p>	Annulment	Given the administrative (and potentially technical) nature of the regulations the annulment procedure is considered appropriate.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			nature, but may also be technical, considered to be appropriate to deal with by delegated powers. The regulations may need amending from time to time e.g. to reflect feedback once the regime is implemented.		
61	Welsh Ministers	Regulations	Power to make further provision in relation to warning notices. The content of the regulations will be administrative in nature, and it is considered appropriate to deal with by delegated powers.	Annulment	Given the administrative nature of the regulations the annulment procedure is considered appropriate.
62(4)	Welsh Ministers	Regulations	Power to amend list of reviewable decisions and meaning of “affected person”. During implementation and after it may be considered appropriate to amend the list or those that can request a review, this power will enable	Approval	The regulations would be amending primary legislation. The approval procedure is deemed appropriate to ensure it is subject to this additional level of Senedd scrutiny and the Senedd’s agreement.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			this flexibility without the need for further primary legislation.		
63(2)	Welsh Ministers	Regulations	Duty to make provision about reviews and under subsection (11)(a) to specify the meaning of “relevant period” for the purposes of subsection (7) and (9). The content of the regulations will be administrative in nature, and it is considered appropriate to deal with through delegated powers.	Annulment	Given the administrative nature of the regulations the annulment procedure is considered appropriate.
65(2)	Welsh Ministers	Regulations	Power to make provision about the effect of decisions during review and appeal periods. The content of the regulations is likely to be detailed in nature so as to account for the likely scenarios, so as to ensure fair treatment. A regulation making power is considered appropriate given the level of detail.	Annulment	Given the administrative nature of the regulations the annulment procedure is considered appropriate

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
68(1)	Welsh Ministers	Regulations	This power to make regulations to deal with the ability of the principal accountable person to recover costs from other person treated as an accountable person for a regulated building	Approval	The approval procedure is deemed appropriate to ensure the regulations are subject to additional Senedd scrutiny and the Senedd's agreement.
70(new section 30IC (5) of the Landlord and Tenant Act 1985)	Welsh Minister	Regulations	Section 30IC (5) of the Landlord and Tenant Act 1985 ("the 1985 Act") provides a power for the Welsh Ministers to make regulations that may amend the meaning of "building safety measure". 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.	Approval	The regulations would be amending primary legislation. The approval procedure is deemed appropriate to ensure it is subject to additional Senedd scrutiny and the Senedd's agreement.
71(new section 20DA (2)(c))	Welsh Ministers	Regulations	It may become necessary to prescribe steps relating to other funding, to account for	Annulment	Given the technical and/ or administrative nature of the regulations the

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
of the 1985 Act)			new evidence obtained during implementation and subsequently.		annulment procedure is considered appropriate.
71(new section 20DB (3) of the 1985 Act)	Welsh Ministers	Regulations	It may be necessary to amend the meaning to account for information obtained during implementation and subsequently.	Annulment	Given the technical and/ or administrative nature of the regulations the annulment procedure is considered appropriate.
72(new section 20FA (5) of the 1985 Act)	Welsh Ministers	Regulations	New section 20FA of the 1985 Act provides a power for Welsh Ministers to amend effectively to amend the definition of “excluded costs” It may be necessary to amend subsection (3) to react to information received e.g. during or post implementation. A regulation making power will enable this flexibility and given the detailed nature of the likely amendments is considered appropriate to deal with by delegated powers.	Approval	The regulations would be amending primary legislation. The draft approval procedure is deemed appropriate to ensure it is subject to additional Senedd scrutiny and the Senedd’s agreement.
73(3) (new section 49B)	Welsh Ministers	Regulations	New section 49B (5)(e) of the 1987 Act provides a power for	Annulment	The regulations are of a technical and

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
(5)(e) of the Landlord and Tenant Act 1987)			<p>Welsh Ministers to make regulations that can prescribe other information as “relevant building safety information”.</p> <p>This will enable regulations to be made during or post implementation should the need arise. and the regulations will be technical and/ or administrative in nature, and it is considered appropriate to deal with by delegated powers.</p>		<p>administrative in nature therefore the annulment procedure is deemed appropriate.</p>
76 (3)(d)	Welsh Ministers	Regulations	<p>Power to specify that certain premises do not constitute a relevant HMO.</p> <p>This 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 exclusions this provision this power enables ongoing flexibility i.e. for certain</p>	Annulment	<p>Power is limited to excluding premises from the meaning of “relevant HMO” from the scope of the Bill. Senedd approval of this detail is not considered necessary.</p>

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			premises not to be capture within the definition.		
76(8)	Welsh Ministers	Regulations	A power to amend this section, with the exception of subsection (1) and (8). it may be necessary to amend this section if there becomes a requirement to change or expand the meaning of 'relevant HMO' for the Bill in line with changes outside of this regime. This power provides the flexibility going forward.	Approval	The regulations would be amending primary legislation. Senedd approval is deemed appropriate to ensure it is subject to additional Senedd scrutiny and agreement.
80(3)	Welsh Ministers	Regulations	Power to specify requirements relating to the competence of fire risk assessors. These regulations will be technical in nature and are likely to need updating relatively frequently (to reflect changes in standards etc.).	Annulment	The principle that assessors must be competent is on the face of the Bill. This power is limited to specifying details of the expertise and experience a competent person must have. Senedd approval of such technical details is not considered necessary.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
82(2)	Welsh Minister	Regulations	Power to specify additional matters relating to fire risk assessments and reviews e.g. in relation to timings, matters to be considered, methodology and information to be included. when completing an assessment or review for a relevant HMO. These regulations will largely be technical in nature and may need to be amended e.g. to adapt to new technologies, new data on risks etc. As such considered more appropriate to be contained in regulations than on the face of the Bill.	Annulment	The matters will be largely technical in nature. Senedd approval of such details is not considered necessary.
82(4)	Welsh Ministers	Regulations	Power to make provision to enable landlords for relevant HMOs to recover costs from duty holders. Regulations are likely to be detailed, and as details on costs may change over time, a regulation making	Approval	As the regulation will concern cost recovery it will require an additional degree of scrutiny. Senedd approval is therefore deemed appropriate and subject to

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			power is considered appropriate.		additional Senedd scrutiny and agreement.
83(8)	Welsh Ministers	Regulations	<p>Power to make provisions about “reasonable steps”, specify matters/ principals to which duty holders must have regard when managing fire safety risks, specify requirements about arrangements made and information requirements.</p> <p>As with conducting an assessment, as details of managing fire risks may change over time, these regulations made need to be changed over time. They will contain detail on technical (and administrative) matters which it is considered would be appropriate to deal with by delegated powers.</p>	Annulment	The power is limited to largely technical fire safety matters (as well as certain administrative matters), Senedd approval of such details is not considered necessary.
85(1)	Welsh Ministers	Regulations	Power makes provision requiring duty holders to give information and documents	Annulment	The regulations will be technical and/or administrative in nature

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			<p>(copies) to other persons, and related matters.</p> <p>The regulations will be technical and/or administrative in nature and considered appropriate to be dealt with by delegated powers.</p>		<p>and the annulment procedure is considered to be sufficient.</p>
90 (1)	Welsh Ministers	Regulations	<p>Power to specify circumstances in which certain mobile homes are to be treated as a relevant HMO for the purposes of this Act and to make related provision (subsection (2)).</p> <p>The regulations would be detailed in nature and may need to be amended to reflect development in design of accommodation etc. Some of the detail in the regulations may be technical. Considered appropriate to be dealt with by delegated powers.</p>	Annulment	<p>The power is limited to specifying when a mobile home is to be considered as a relevant HMO for the purpose of this Act. Senedd approval is not considered necessary.</p>

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
94(5)(c) and (6)(c)	Welsh Ministers	Regulations	<p>Power to specify other persons who the building safety authority and fire safety authority (as relevant) must inform when issuing a compliance notice.</p> <p>This regulation making power provides flexibility to extend the list if, in time, it emerges that there are other authorities or persons that need to be informed when a compliance notice is issued therefore this is appropriate to be dealt with by delegated powers.</p>	Annulment	Power is limited to specifying other persons the enforcing authorities must inform if they issue a compliance notice. This regulation making power relates to a matter of detail in how the regime is administered.
96(9)(c)	Welsh Ministers	Regulations	<p>Power to specify other persons the fire safety authority must notify when they issue a prohibition notice.</p> <p>This regulation making power provides flexibility to extend the list if, in time, it emerges that there are other authorities or persons that need to be informed when a prohibition notice is issued This is an</p>	Annulment	This power is limited to specifying additional persons who must be informed when a prohibition notice is issued. This regulation making power relates to a matter of detail in how the regime is administered.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			administrative matter which is appropriate to be dealt with by delegated powers.		
97(7)	Welsh Ministers	Regulations	Power to amend the list of persons who can appeal against a prohibition notice. These regulations may be needed in light of future wider policy or legislative change, including new information obtain during implementation and subsequently.	Approval	The regulations would be amending primary legislation. The approval procedure is deemed appropriate to ensure it is subject to additional Senedd scrutiny and the Senedd's agreement.
98(1)	Welsh Ministers	Regulations	Power to make further provision about information notices, compliance notices and prohibition notices including relating to keeping a register of notices These regulation making powers will support a consistent approach to be taken to these matters across Wales. The regulations will be primarily administrative in nature, considered	Annulment	The power is administrative in nature the annulment procedure is considered appropriate.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			appropriate to deal with by delegated powers.		
107(5)	Welsh Ministers	Regulations	<p>Power to specify requirements that an individual or body must satisfy to be regarded as having sufficient expertise or experience to be a special measures manager (including requirements for particular qualifications or for accreditation by, or membership of, a particular organisation).</p> <p>The regulation will be technical in nature, considered appropriate to be dealt with by delegated powers. The regulations may need to change from time to time e.g. to reflect changes in standards etc.</p>	Annulment	This power is limited to specifying details of the expertise and experience a special measures manager must have. Senedd approval of such technical details is not considered necessary.
108(3) & (8)	Welsh Ministers	Regulations	Powers to specify the amount payable under a fixed penalty notice and to make provision	Annulment	As the powers are administrative in nature the annulment procedure is considered appropriate.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			about the withdrawal of fixed penalty notices.		
113(1)	Welsh Ministers	Regulations	Duty to designate a local authority in each fire and rescue authority area to act as the building safety authority for that area and connected power to make further provision in connection with that duty.	Annulment	The duty to make regulations is tightly constrained by the requirement to designate a building safety authority in each fire and rescue authority area.
116(1)	Welsh Ministers	Regulations	Power to make provision for and in connection with the charging of fees by a building safety authority. Regulations are likely to be detailed in nature and largely administrative. They may need to change relatively frequently, and it is not considered appropriate to include this information on the face of the Bill.	Annulment	The power is administrative in nature the annulment procedure is considered appropriate.
127(3)	Welsh Ministers	Regulations	Power to making regulations about meaning of being a “resident” of a residential unit.	Annulment	The annulment procedure is considered appropriate

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			Enables flexibility if it becomes apparent that additional clarity is needed. A regulation making power is considered appropriate to ensure this clarify can be provided if considered necessary in the future.		given the nature of the regulations.
128(3)	Welsh Ministers	Regulations	Power to make provisions that are (a) incidental or supplementary to, or consequential on any provision of, the Bill, (b) make transitional or saving provisions in connection with any provision of the Bill. Will enable regulations to be made to make changes over time, to ensure that this Bill works together with other laws.	Annulment except where they amend or repeal primary legislation in which case approval	The approval procedure is deemed appropriate where primary legislation is being amended to ensure it is subject to additional Senedd scrutiny and the Senedd's agreement. Otherwise the annulment procedure is considered appropriate due to the nature of the regulations e.g. consequential.
129	Welsh Ministers	Order	Bringing provisions into force. It is appropriate to commence provisions by order as it will be necessary to ensure that	No procedure	Orders will relate to the commencement of specified provisions of the Bill.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			implementation arrangements are in place before the relevant sections come into force.		
Schedule 2 Paragraph 5(2)	Welsh Ministers	Regulations	<p>Power to make provision about notices under this part, including the form and content of a notice under this part, and how the notice must be given. Regulations will ensure a consistent approach is taken to the issuing of notices.</p> <p>The regulations will be administrative in nature and considered appropriate to be dealt with by delegated powers.</p>	Annulment	Power is limited to administrative matters, as such the annulment procedure is considered appropriate.
Schedule 2 Paragraph 17(6)	Welsh Ministers	Regulations	<p>Power to make provision about notices under this paragraph, including the form and content of a notice and how the notice must be given. Regulations will ensure a consistent approach is taken to the issuing of notices.</p>	Annulment	Power is limited to administrative matters, as such the annulment procedure is considered appropriate.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			The regulations will be administrative in nature and considered appropriate to be dealt with by delegated powers.		
Schedule 2 Paragraph 21(3)	Welsh Ministers	Regulations	Power to amend the meaning of “interested person” for the purposes of the Schedule i.e. to amend paragraph 21. This regulation making power will enable flexibility should it become apparent e.g. during implementation, that the definition should be amended.	Approval	The regulations would be amending primary legislation. The approval procedure is deemed appropriate to ensure it is subject to additional Senedd scrutiny and the Senedd’s agreement.

Table 5.2: Summary of powers to make directions and Guidance in the provisions of Building Safety (Wales) Bill

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
102(1)	Welsh Ministers	Directions	The Welsh Ministers may direct two building safety authorities to make arrangements for one of them to exercise any of the function of the other.	No Procedure	Directions will be technical in nature and largely deal with process and be specific to the authorities.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
111(1)	Welsh Ministers	Guidance	The Welsh Ministers must issue or approve guidance to assist any persons in complying with duties imposed on them by this Act or regulations made under it.	No Procedure	Guidance under the Act will probably need to change relatively frequently to incorporate changes to technology, knowledge or practice.
111(2)	Welsh Ministers	Guidance	The Welsh Ministers must ensure guidance is issued or approved that assists principal accountable persons in complying with the duties imposed on them by sections 29 to 32 and regulations made under them (assessment of fire safety risks) and to assist landlords of relevant HMOs in comply with duties imposed on them under section 79 to 82 and regulations made under them (assessment of fire safety risks).	No Procedure	As with section 98(1), this guidance is likely to be subject to relatively frequent changed. However, it would be hard for principal accountable persons to comply consistently with their duties without such guidance, so a duty on the Welsh Ministers to issue it (rather than a discretionary power) is considered appropriate.

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Regulatory Impact Assessment (RIA) summary

6.1 A Regulatory Impact Assessment has been completed for the Bill, and it follows below.

6.2 There are no specific provisions in the Bill which charge expenditure on the Welsh Consolidated Fund.

Table A

6.3 The following table presents a summary of the costs and benefits for the Bill as a whole. The table has been designed to present the information required under Standing Order 26.6 (viii) and (ix).

Building Safety (Wales) Bill		
Preferred option: Legislate to introduce a new regime in Wales focusing on the occupation phase of a building's life cycle		
Stage: Introduction	Appraisal period: 2027-28 - 2036-37	Price base year: 2023-24
Total Cost Total: £169.41m Present value: £148.23m	Total Benefits Total: £102.74m Present value: £62.60m	Net Present Value (NPV): -£82.31m

Administrative cost

Costs: Total administrative costs are estimated at £35.82m (£31.09m in present value (PV) terms), broken down as follows:

- £25.51m to the Welsh Government (PV £22.03m),
- £7.72m to local authorities (as building safety authorities) (PV £6.84m), and
- £2.60m to fire and rescue authorities (as fire safety authorities) (PV £2.21m).

The majority of the costs are revenue time costs but with £2.11m capital costs for local authorities to purchase and maintain an IT system. This estimate of capital costs is uncertain. While an IT system is not a requirement of the Bill, it seems likely that some IT costs will be incurred to enable building safety authorities to keep a register.

Transition costs include familiarisation and implementation costs, estimated at £1.26m for building safety authorities and fire safety authorities.

Other transition costs include £0.44m for building safety authorities to establish registers and £0.54m for the Welsh Government to prepare guidance and secondary legislation.

Transitional: £2.24m	Recurrent: £33.58m	Total: £35.82m	PV: £31.09m
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Cost-savings:

No administrative cost savings have been identified.

Transitional: £	Recurrent: £	Total: £	PV: £
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Net administrative cost: £35.82m

Compliance costs

Total compliance costs for industry are estimated at £133.59m (PV £117.14m). This comprises £13.50m of capital costs and £120.08m of revenue costs.

Transition costs are estimated at £27.60m (PV £26.78m), comprising time to become familiar with the requirements, to prepare fire risk assessments, to collate building information, to prepare building safety information and establish a complaints system.

Recurrent costs are estimated at £105.99m (PV £90.36m) and include reviewing fire risk assessments, preparing and maintaining safety case reports, maintaining the golden thread database, occurrence recording and reporting, preparing contravention orders and providing safety information to residents.

Transitional: £27.60m	Recurrent: £105.99m	Total: £133.59m	PV: £117.14m
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Other costs

No other costs have been identified.

Transitional: £	Recurrent: £	Total: £	PV: £
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Unquantified costs and disbenefits

The activities envisaged under the proposed regime in accordance with the provisions of the Bill are quantifiable and have been estimated for the purpose of this RIA.

Although the Bill requires accountable persons to take all reasonable steps, including carrying out works, to manage building safety risks, the estimates do not include the cost of undertaking such works. The management of fire safety risk is already a requirement under the Fire Safety Order 2005. Any costs incurred in managing building safety risks could lead to the avoidance of much greater costs were the risk to materialise. Potential costs of doing so would vary so greatly between buildings as to make any estimate worthless.

Benefits

The new building safety regime is intended to contribute to the following outcomes for in-scope multi-occupied residential buildings:

- Fire prevention: The risk of fire breaking out in the building should be as low as possible.
- Fire protection: If a fire does break out, it should be contained where it originates, without spreading to other flats, the exterior of the building or to a common area.
- Escape: All people who are in immediate danger from fire should be able to leave the premises swiftly and safely.
- Firefighting: Any fire that does break out should be extinguished as quickly and safely as possible.
- Reduced/avoided structural incidents, such as partial collapse of buildings or elements falling from a building (such as parts of cladding, windows or balconies).

These are expected to deliver the following benefits:

- Health and well-being benefits
 - Reduced numbers of fire ignitions and reduced spread of fire.
 - Reduced number of structural incidents.
 - Resulting in avoided fatalities and injuries, associated reduced mental health and wider well-being impacts on affected residents and the wider community.
- Non health benefits
 - Reduced property damage and other associated losses.
 - Improved confidence that buildings are safe resulting in reduced insurance and mortgage costs.
 - Reduced firefighting costs (time and materials).
 - Avoided environmental contamination from the use of firefighting materials
 - Reduced enforcement costs for fire and rescue authorities.

Benefits have been monetised where possible. It has not been possible to monetise all benefits, however and these are noted below.

Value of monetised benefits

- The avoided injuries, fatalities and property damage are estimated to be worth £62.6m in present value terms.

Non monetised benefits

- The reduction in mental health costs for residents in buildings in scope as a result of feeling safer in their own homes is noted as significant, but it has not been possible to monetise this.
- The measures in the Bill are also expected to result in increased confidence that buildings are safe, resulting potentially in reduced insurance and mortgage costs. It may also lead to increased investment in the buildings, benefiting the residents.

Total: £102.74m	PV: £62.60m
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Key evidence, assumptions and uncertainties

This assessment builds on an [Impact Assessment undertaken by the UK Government for the Building Safety Bill 2022](#), and an [Economic Impact Assessment](#) published alongside our 2021 White Paper, [Safer Buildings in Wales](#). The estimates of costs and benefits rely on high-level or provisional working assumptions about the precise nature of the regime in operation. These assumptions are subject to uncertainties which consequently affect the estimated costs and benefits. During the detailed planning of implementation and the development of the regulations that will sit under the primary legislation, these assumptions will be refined. Ordnance Survey products have been used to estimate the numbers of regulated buildings in Wales, by height. These estimates are also uncertain and may change as further validation is undertaken.

7. Options

7.1 This chapter outlines the options which have been evaluated for reform of legislation covering the occupation and management of multi-occupied residential buildings in Wales. Reform is intended to improve the safety of people in or about these buildings.

7.2 In developing these options we have considered issues identified by the [Hackitt Review](#), the [Grenfell Tower Inquiry](#), and Welsh Government's [Building Safety Expert Group](#). The options build on those presented in our White Paper, [Safer Buildings in Wales](#). Legal issues have been considered including legislative competence and human rights.

7.3 The following options have been identified and explored:

- **Option 1: Business as usual** (the counterfactual);
- **Option 2: Do minimum:** Legislate to introduce a new regime in Wales focusing on the occupation phase of a building's life cycle. The regime would cover the regulation of building safety risks in multi-occupied residential buildings of at least 18m. Multi-occupied residential buildings under 18m and certain Houses in Multiple Occupation (HMOs) would be subject to the fire safety duties, including resident fire safety duties, but would be excluded from scope of the other provisions in the regime.
- **Option 3: Preferred option (the Bill):** Legislate to introduce a new regime in Wales focusing on the occupation phase of a building's life cycle. It would cover the regulation of building safety risks in multi-occupied residential buildings. There would be three categories of building in scope of the regime as outlined below. Certain Houses in Multiple Occupation (HMOs) would be subject to the fire safety duties but would be excluded from scope of the other provisions in the regime.

In option 3, the categories of regulated building (in addition to HMOs) would be:

- Category 1: Multi-occupied residential buildings of at least 18m in height or at least 7 storeys.
- Category 2: Multi-occupied residential buildings of less than 18m in height and fewer than 7 storeys and at least 11m in height or at least 5 storeys. These buildings would be subject to requirements relating to fire and structural safety but with fewer administrative requirements than apply to category 1 buildings.
- Category 3: Multi-occupied residential buildings of less than 11m in height and fewer than 5 storeys. These buildings would be subject to fire safety requirements and some other duties. This category will not be subject to registration with the building safety authority.

Option 1 – Business as usual

- 7.4 The tragic fire at the Grenfell Tower in London on 14 June 2017, and subsequent investigations, made clear the need to make improvements to the building safety system.
- 7.5 The Final Report of Welsh Government’s [Building Safety Expert Group](#) made a compelling case for strategic change, concluding that the building safety system was not working effectively and needed to be overhauled. The report identified a clear need for significant legislation to deliver a new regulatory system.
- 7.6 As set out in [Safer Buildings in Wales](#), fire safety in blocks of flats is currently governed by the Regulatory Reform (Fire Safety) Order 2005 – commonly known as the FSO⁴. This requires the “responsible person” for the building (normally the landlord or managing agent) to conduct and act on a fire risk assessment and gives fire and rescue authorities powers to inspect and enforce compliance.
- 7.7 However, there are fundamental problems with how the FSO applies to residential buildings. It was designed for workplaces and many of its provisions are based on that: they concern staff training, fire drills and other matters that are not relevant to a residential property. We moved to correct the most serious of failings of the FSO, by working closely with the Home Office on its Fire Safety Act 2021. This extended the coverage of the FSO to include the external walls and all parts of the internal structure, including fire doors. We also worked with the Home Office and National Fire Chiefs Council on guidance for responsible persons about the Act⁵.
- 7.8 We believe the FSO remains an effective means of ensuring and regulating fire safety in workplaces. But in our White Paper, we set out why we believe a new and different regime is needed to ensure fire safety in residential buildings.
- 7.9 Maintaining business as usual would undermine the outcomes of the [Hackitt Review](#), the [Grenfell Tower Inquiry](#), Welsh Government’s [Building Safety Expert Group](#) and our White Paper consultation. Therefore, it is not a viable, long-term option.

Option 2 – Do minimum

- 7.10 Our White Paper acknowledged that building safety risks are not limited to high rise buildings alone. Therefore, with safety as our guiding principle, we proposed to include all multi-occupied residential buildings in the regime, regardless of building type or tenure, for the benefit of residents across Wales.

⁵ [Fire Safety Act 2021 WWW.GOV.WALES](#)

- 7.11 Our White Paper also set out proposals for introducing different categories of buildings in recognition that some buildings would require different levels of building safety risk management. At that time, it was envisaged that a two-category approach would provide sufficient flexibility to achieve this, although a commitment was made to keep the approach under review.
- 7.12 The rate of fire casualties is greater in HMOs and properties converted into flats than in a large purpose-built block⁶. But the number of people potentially exposed to risk in the event of fire is likely to be greater in large residential buildings. Fires in high-rise buildings are also more challenging to fight and to escape from.
- 7.13 In option 2, to mitigate the potentially higher impact of structural safety risks in taller buildings, we propose that accountable persons for regulated buildings at least 18 metres in height would be subject to a range of duties. These are the same duties which would apply to the accountable persons for buildings at least 18 metres in height (category 1 buildings) in option 3 (the Bill). These duties are set out in paragraph 3.69 of the Explanatory Memorandum.
- 7.14 For buildings less than 18 metres in height, including relevant HMOs, we propose that the minimum requirement during occupation would be for accountable persons to take all reasonable measures to reduce the risk of fire. These would be informed by a robust fire risk assessment conducted by a competent person. The purpose of the assessment would be to identify and evaluate the risks of fire in a given building, and to determine what action could and should be taken to avoid or mitigate those risks.
- 7.15 To apply a lower standard of regulation to the properties most likely to experience fire casualties would not be acceptable.

Option 3 – The preferred option (the Bill)

- 7.16 In option 3, as in option 2, we proposed to include all multi-occupied residential buildings in our regime, regardless of building type or tenure, for the benefit of residents across Wales.
- 7.17 As in option 2, the accountable persons for buildings at least 18m would be subject to the most comprehensive requirements.
- 7.18 Unlike option 2, as well as fire risk assessments, accountable persons for regulated buildings less than 18 metres in height would be subject to additional proportionate requirements, as set out in paragraphs 3.70 –

⁶ [Safer Buildings in Wales: A consultation](#)

3.71 of the Explanatory Memorandum. These would provide residents of buildings less than 18 metres in height with greater protections including:

In buildings at least 11 metres in height but less than 18 metres:

- Registration of the building.
- Provision of building safety information to residents.
- Arrangements for the consideration of complaints made by residents about building safety risks.

In buildings below 11metres:

- Provision of building safety information to residents.
- Arrangements for the consideration of complaints made by residents about fire safety risks.

7.19 The landlords of relevant HMOs would be subject to the same fire safety duties as in option 2.

8. Costs and benefits

Objectives of the cost benefit analysis

- 8.1 The new building safety regime is intended to improve the safety of multi-occupied residential buildings in Wales, from purpose built high rise residential blocks to converted houses providing two or more residential units.
- 8.2 Certain Houses in Multiple Occupation (HMOs) will be subject to the fire safety duties but will be excluded from scope of the other duties in the regime.

Costs assessment objectives

- 8.3 The analysis estimates the costs (for buildings in scope) over and above the current situation (the counterfactual), of complying with the range of additional requirements proposed under the policy options.
- 8.4 Costs are estimated to:
- The regulator – this includes Welsh Government, local authorities in their role as building safety authorities and fire and rescue authorities in their role as fire safety authorities.
 - Industry – this includes all principal accountable persons and accountable persons, including social landlords and local authority building owners, as well as the landlords of relevant HMOs.

Benefits assessment objectives

- 8.5 The new building safety regime is intended to contribute to the following outcomes in all multi-occupied residential buildings:
- (i) Fire prevention: The risk of fire breaking out in the building should be as low as possible.
 - (ii) Fire protection: If a fire does break out, it should be contained where it originates, without spreading to other flats, the exterior of the building or to a common area.
 - (iii) Escape: All people who are in immediate danger from fire should be able to leave the premises swiftly and safely.
 - (iv) Firefighting: Any fire that does break out should be extinguished as quickly and safely as possible.
- 8.6 Additionally, in category 1 and category 2 buildings, the new building safety regime is intended to contribute to the risk of structural safety incidents being as low as possible.

- 8.7 The occupation phase regime focuses on occupied buildings in scope (i.e. after the building is constructed and is occupied). This analysis therefore only assesses the benefits attributable to occupation phase measures.

Overall methodology and sources

- 8.8 The analysis draws in large part on the methodology, data sources and assumptions used in the analysis for the UK Government's Building Safety Act 2022 (hereinafter referred to as the England analysis). However, this analysis also reflects the differences in policy in Wales and draws on data reflecting the specific conditions and circumstances in Wales. The analysis builds on the [Economic Impact Assessment](#) published alongside our White Paper [Safer Buildings in Wales](#).
- 8.9 The estimates of costs and benefits rely on high-level or provisional working assumptions about the precise nature of the regime in operation. We have attempted to validate our assumptions in collaboration with industry, UK Government, the Health and Safety Executive, Community Housing Cymru, Welsh local authorities, the Welsh Local Government Association and Welsh fire and rescue authorities. Nonetheless, our assumptions are subject to uncertainties. For instance, our assumptions about the risks associated with particular building archetypes, potential losses and the costs associated with certain requirements of the new regime are inherently uncertain. The degree of uncertainty varies from one assumption to another, but the overall effect is to create uncertainty into our estimates of costs and benefits.
- 8.10 These assumptions will be refined, and may change, during the detailed planning of implementation and the development of the detail to be contained in the regulations that will sit under the primary legislation. Future regulations will be supported by further assessments of impact and by the development of operational policy and guidance. Consequently, it is not always possible to state the costs of the proposed regime with certainty.
- 8.11 Ordnance Survey (OS) products have been used to estimate the numbers of regulated buildings in Wales, by height. Further validation of these data is being conducted. Changes to the estimated numbers of category 1, 2 or 3 buildings could affect the estimated costs and benefits of the Bill.
- 8.12 Published sources⁷ have been used for the numbers of HMOs in Wales.
- 8.13 The assessments are based on HM Treasury Green Book principles.

⁷ Stats Wales [Houses in multiple occupation by local authority area](#)
[Number of households in houses in multiple occupation \(HMO\) by accommodation type - Office for National Statistics](#)

Approach and methodology in further detail

Buildings in scope

- 8.14 The Bill focusses on buildings in occupation (buildings under construction are regulated by the Building Act 1984).
- 8.15 All multi-occupied residential buildings in Wales are in scope, from 18m+ high rise residential buildings to a two-storey maisonette/converted house. HMOs will be subject to the fire safety duties but will be excluded from scope of the other duties in the regime.

Two new policy options are considered

- 8.16 The analysis assesses the costs and benefits of two new policy options, over and above the counterfactual: see para 7.3:

Types of additional requirement considered

- 8.17 The additional requirements proposed under the policy options include:
- Preparation of the fire safety position: This involves developing a comprehensive fire safety strategy, identifying potential fire hazards, and ensuring that fire safety systems are in place. This requirement is for all categories of buildings and HMOs.
 - Preparation of safety cases: This includes risk assessments, safety measures, and emergency response plans. This requirement is for category 1 and category 2 buildings
 - Creation of the golden thread: This involves maintaining accurate and up-to-date information about the building's design, construction, and maintenance. This requirement is for category 1 and category 2 buildings
 - Creation of the key dataset: This involves compiling essential data about the building, including its structural integrity, safety systems, and occupancy details. This requirement is for category 1 and category 2 buildings
 - Occurrence recording and reporting: This involves documenting and reporting any safety incidents to the relevant authorities. This requirement is for category 1 and category 2 buildings
 - Engaging residents: This involves communicating with residents about safety measures, emergency procedures, and their responsibilities. This requirement is for all categories of buildings and HMOs.

- Providing systems to receive building safety complaints: This involves setting up mechanisms for residents and occupants to report safety concerns or issues. This requirement is for all categories of buildings and HMOs.
- Duties on residents: This involves outlining the responsibilities of residents in maintaining building safety, such as not obstructing fire exits and reporting hazards. This requirement is for all categories of buildings and HMOs.
- Sanctions and enforcement: This involves implementing measures to enforce safety regulations and penalise non-compliance. This requirement is for all categories of buildings and HMOs.
- Building registration: This involves registering the building with the relevant building safety authorities to ensure compliance with safety regulations. This requirement is for category 1 and category 2 buildings.
- Building Certificate: This involves obtaining a certificate that verifies the building's compliance with safety regulations. This requirement is for category 1 and category 2 buildings.
- Familiarisation costs: This involves the costs associated with familiarising building occupants with safety measures and emergency procedures. This requirement is for all categories of buildings and HMOs.

Cost modelling approach and methodology

Types of cost taken into account

8.18 The principal costs of compliance with the proposed policy that are assessed are:

- Additional time (costs) required to undertake tasks, and
- Any costs of purchasing goods or services.

8.19 Costs are divided into those that fall on industry and on the regulator.

Methodology used to estimate the costs of each policy option

8.20 A three-stage methodology has been used:

- Identifying/estimating the time and materials costs, per building type, to comply with the requirements of each policy option, broken down by who the costs fall on.
- Estimating the total number of buildings that will be in scope, each year of the 10-year policy appraisal period.

- Multiplying the costs per building by the number of buildings in scope.

Building archetypes

8.21 In reality, there are many different types and sizes of buildings, with a myriad of differing features and specifications. In order to model the costs of compliance with each policy option, it was essential to simplify the number and types of buildings to a small number of typical 'archetypes' that can be taken to represent the majority of buildings.

8.22 We have chosen the following archetypes as typical of the buildings in scope of the new regime:

- 18m+ buildings containing 2 or more residential units.
- 11-18m buildings containing 2 or more residential units.
- Large blocks of flats under 11m with more than 25 residential units.
- Small blocks of flats under 11m with between 6 and 25 residential units.
- Other buildings under 11m containing flats including converted houses and flats over shops (between 2 and 5 residential units).
- Sheltered accommodation.
- Student accommodation; and
- Relevant HMOs.

8.23 By estimating the number of buildings of each archetype and calculating the costs and benefits associated with each, we were able to build up an estimate of the overall costs of the Bill.

Method used to calculate the costs

8.24 The analysis commenced by estimating the costs for 18m+ buildings. This was relatively straightforward as the majority of the costs had already been identified for the England Building Safety Bill, and a review of dwelling numbers per building confirmed that the typical 18m+ residential buildings in Wales are very similar to those in England.

8.25 The policy in England is limited to 18m+ buildings, and therefore no costing work had been done for those under 18m.

8.26 The approach adopted in this analysis to estimate the costs for other multi-dwelling buildings was to start with the 18m+ building costs and adjust these to reflect any differences with under 18m buildings.

8.27 The anticipated activities, time allowance and other costs for 18m+ buildings were then revised to reflect differences between the proposed activities in Wales and those identified in the England Building Safety Bill. These were revised through a series of discussions, review of legislation,

and workshops with policy leads to ensure the analysis reflected the proposals in Wales.

8.28 Much of the analysis is based on estimating the time required to undertake the additional activities set out in the Bill. To place a value on this time requirement, the analysis takes the following approach:

- Industry time costs have been valued using an average of employment costs (valuing internal staff time) and typical industry charge out rates (valuing external staff time). A general assumption across the development and design industry is that 50% of resourcing will be inhouse staff and 50% will be outsourced external staff time.
- For salary costs, the analysis uses the Annual Survey of Hours and Earnings (ASHE) occupation level data published by the Office for National Statistics (ONS). These data are then aligned with roles that are expected to undertake the various activities set out in the Bill. A 20.6% uplift is then added to account for non-wage employment costs (such as pensions). The uplift percentage is based on Labour Force Survey data⁸.

⁸ [Labour costs and labour income, UK - Office for National Statistics](#)

Table 8.1: Hourly rates used to calculate industry time costs				
Dutyholder	Occupation	2023 Salary + oncosts	2023 Hourly Rates (Blended)	SOC code
Building Owner	Principal Accountable Person / Accountable Person	£34.29	£89.07	1122
Building Owner	Safety Manager	£42.96	£66.09	
Building Owner	Legal Advice	£34.29	£89.07	
Building Owner	Health and Safety Expert	£27.38	£66.09	
Building Owner	Fire Risk Assessor	£24.50	£63.87	
Building Owner	Building Manager	£35.32	£45.82	
Building Owner	Administrator	£18.77	£32.10	
Client	Project manager	£34.29	£89.07	1122
Client	Architect	£32.65	£66.33	2431
Principal Contractor	Project Manager	£34.29	£89.07	1122
Principal Contractor	Contractors	£28.60	£53.84	2436
Principal Contractor	Site Manager	£28.60	£55.07	2436

- Regulator⁹ time costs have been valued using employment costs based on average salaries provided by WG and regulators in England, including the 20.6% uplift for non-wage employment costs and adding 65% to account for other non-employment costs such as admin support, HR, marketing, travel, etc.

⁹ The regulator costs include costs incurred by the building safety authority (BSA), fire safety authority (FSA) and local planning authority (LPA)

Table 8.2 Hourly rates – Regulator time costs			
Dutyholder	Occupation	2023 Salary + oncosts	2023 Hourly Rates (+65% for non-employment costs)
BSA	Lead Regulator / Project Manager	£57.50	£94.87
BSA	Building Control Expert	£40.88	£67.45
BSA	Fire Engineer	£45.39	£74.89
BSA	Structural Engineer	£45.39	£74.89
BSA	Admin	£18.76	£30.95
FSA	Fire inspection Staff Watch Manager	£39.10	£64.51
FSA	Fire inspection staff Station Manager	£53.71	£88.63
Local Planning Authority	Planning Officer	£31.14	£51.39

8.29 All time costs are based on 7.5 hour per day and 220 working days per year.

Calculations used to estimate building numbers

8.30 Building numbers were estimated using Ordnance Survey (OS) data. The average number of dwellings per building was based on typical building designs and data from OS, and the annual increase in building numbers was based on an analysis of recent trends in new build flats. The data was analysed to best fit to the reference building types used in this analysis as follows:

Table 8.3 Number of buildings and dwellings, and annual change			
Dutyholder	Number of buildings	Number of dwellings per building	Annual change in number of buildings
18m+ buildings containing 2 or more residential units	180	56	2.3%
11-18m buildings containing 2 or more residential units	449	40	2.0%
Large blocks of flats under 11m	62	40	2.0%
Small blocks of flats under 11m	6,094	9	0.7%
Other buildings under 11m containing flats including converted houses and flats over shops	44,657	2	0.1%
Sheltered accommodation	375	9	3.0%
Student accommodation	17	30	4.0%
Relevant HMOs	19,587	1	0.0%

Calculations used to estimate the costs for each building type

8.31 The following sequence of calculations was used to estimate the costs for each building type:

- Identification of the nature and type of activities that needs to be undertaken, per building, to comply with policy;
- Identification of the amount of time required, and by whom;
- Monetisation of the time required by applying appropriate hourly rates;
- Identification of any specific expenditure/costs.

8.32 The following sequence of calculations is used to scale up the costs:

- Identifying the number of buildings in scope in Wales;
- Estimating the number of buildings to which the proposed policy is assumed to apply;
- Estimating the counterfactual;
- Deducting the counterfactual from the buildings in scope;
- Multiplying the remainder by the cost per building.

Source of assumptions used to estimate costs

- 8.33 The assumptions used to estimate the time and cost for industry, stakeholders and regulators to undertake the proposed activities are derived from a range of sources. All of the assumptions used in the estimates are recorded in an Assumptions Register provided in the Cost Model Report, which is published on the Senedd website Building Safety (Wales) Bill.
- 8.34 The quality of the sources are scored using a RAG (Red, Amber, Green) rating system to provide an indication of the quality of the assumption.
- Green rated assumptions are the highest quality, and are either sourced from published data or directly reflect the requirements of the policy;
 - Amber rated assumptions are based on unpublished data or the consultants' directly relevant industry experience;
 - Red rated assumptions are based on the consultants' judgement.
- 8.35 All assumptions have been reviewed and tested with a number of policy leads.

Fire Safety Position Assumptions

- 8.36 The analysis assumes that all principal accountable persons across category 1, 2 and 3 buildings (including HMOs) will commission a new Fire Risk Assessment within the first year of the policy;
- 8.37 All principal accountable persons will assess the competency of the fire risk assessor. It is assumed that an online register will be available to help with this:
- The analysis assumes that flat inspections will also be undertaken in a small proportion of buildings to support new fire risk assessments, 10% of Category 1 buildings, Category 2 buildings and large Category 3 buildings, and 5% of small Category 3 blocks of flats;
 - All principal accountable persons will review their Fire Risk Assessments annually.
- 8.38 The counterfactual assumes that 90% of 18m+ buildings, 33% of large blocks of flats (including all 11-18m buildings) and 20% of other smaller buildings are commissioning new/updated Fire Risk Assessments each year.

Safety Cases Assumptions

- 8.39 The analysis assumes that only Category 1 buildings will be required to prepare a safety case. The analysis assumes that:

- 20% of buildings have a safety case prepared each year over the first 5 years of the policy. This involves the principal accountable person preparing a safety case evidence base and a safety case report;
- 1 in 5 (20%) of safety cases will require a building survey to support the preparation of the safety case;
- 3% of buildings will require a new safety case report each year because of a change of the principal accountable person;
- The Building Safety Authority (BSA) provides support to the principal accountable person to help prepare 10% of the first safety cases prepared for individual buildings;
- Once a safety case is prepared there will be an annual cost to the principal accountable person to keep it up to date, reflecting any changes to the building during the year;
- 5 years after the initial safety case is prepared, it is assumed that all buildings will commission a building survey and prepare an updated safety case report.

Golden Thread

8.40 Regarding the nature and type of information that needs to be stored, the analysis assumes that the requirements differ between category 1 and other types of multi-dwelling buildings:

- For category 1 buildings, the Golden Thread requires the digital storage of digital plans, the safety case, fire risk assessment, resident engagement strategy, and all other relevant documents;
- For other types of multi-dwelling buildings, the Golden Thread requirement is for digital storage of only the fire risk assessment, any complaints made to or about the principal accountable person, and any floorplans that are available.

8.41 Regarding the types of data that will need to be prepared and associated storage costs, the analysis assumes that for category 1 buildings, the analysis assumes that:

- 90% of category 1 buildings will need to procure a data storage system for the Golden Thread which includes an annual fee;
- 50% of category 1 buildings will need to prepare up to date 2D building plans to include in the Golden Thread;
- 75% of category 1 buildings will need to add fire and structure details to existing building plans;
- 15% of category 1 buildings will need to update their building plans each year as a result of changes to the building;

8.42 For all buildings in scope, the analysis assumes:

- All buildings will need to maintain the Golden Thread and QA the data within the golden thread;
- 1% of buildings will have a change in principal accountable person, and that the Golden Thread must be transferred between the existing and the new principal accountable person.

Building Registration

8.43 The analysis assumes that the requirement to register a building applies to Category 1 and Category 2 buildings:

- It is assumed that building safety authorities spend an average of £10,000 each in Year 1 to establish a database for storing building registration information and spend 0.5 days per month maintaining the database;
- building safety authorities then request registration information from all principal accountable persons phased over 5 years;
- All accountable persons spend time assembling and submitting the registration information in Years 1 to 5;
- building safety authorities then review the registration information for all buildings and inform the principal accountable person that the building is registered;
- All principal accountable persons submit re-reregistration information after 5 years (in Year 6).

8.44 The analysis assumes that to register a building:

- The accountable person will input key building information into a template;
- That 10% of buildings undergo works each year that require the building information to be updated.

Occurrence reporting

8.45 The analysis assumes that the requirements only apply to category 1 buildings, and that:

- 25% of these buildings have an incident that needs to be reported each year (either failure of safety critical components or structural decay);
- A further 8% of buildings have an incident during refurbishment works that needs to be reported (assuming 10% of buildings are refurbished per annum and 76% of these have an incident that needs to be reported);
- On average, it is assumed that it takes the principal accountable person 1.5 hours to report an incident and 0.5 hours for the regulator to log and analyse the report.

Residents' responsibilities

8.46 The proposed policy requires the residents' compliance with duties under the building safety regime, and that the policy introduces the provision for principal accountable persons/accountable persons of all buildings in scope to be able to issue contravention notices to residents if issues cannot be resolved informally.

8.47 Regarding the number and nature of incidents, the analysis assumes

- For category 1 buildings, 5 contravention notices per building per annum will be issued – based on typical incidents, such as blocking escape routes or propping open fire doors;
- For other large buildings under 18m (flats and student accommodation), it is assumed that there are between 2 and 3 contravention notices per annum;
- For other small buildings under 11m (flats and sheltered housing), it is assumed that 75% will issue a contravention notice per annum;
- For converted houses and flats, it is assumed that 15% will issue a contravention notice each year;
- It is assumed that it takes an average of 1 hour to prepare and issue a notice.

Resident Engagement

8.48 The requirement applies to all multi dwelling buildings. The analysis assumes that:

- All regulated buildings are required to prepare safety information for residents and respond to requests for building safety information;
- All category 1 buildings are required to prepare a residents' engagement strategy and hold meetings to disseminate building safety information;
- 10% of category 1 buildings are assumed to hold additional meetings to cover safety information during any refurbishment each year;

Residents' Complaints

8.49 The analysis assumes that all regulated buildings (Categories 1, 2 and 3) are required to establish internal complaints procedures. Many buildings will already receive complaints, but the analysis assumes that as a result of establishing a complaints procedure that there will be additional building safety complaints received by principal accountable persons. The number of additional complaints received by the principal accountable person are as follows:

- 18m+ blocks of flats: 5 additional complaints per annum;

- Large blocks of flats under 18m: 3.6 additional complaints per annum;
- Student accommodation under 18m: 2.7 additional complaints per annum;
- Small blocks of flats and sheltered housing: 0.8 additional complaints per annum;
- 18% of converted houses/flats above retail spaces submit a complaint per annum.

8.50 It is assumed that 15% of complaints are not resolved by the principal accountable person but are escalated to the regulator.

8.51 The assumed number of additional complaints received directly by the Regulator is:

- 1 complaint per annum in all buildings over 18m;
- 1 complaint in 70% of large blocks of flats per annum;
- 1 complaint in 50% of student accommodations per annum;
- 1 complaint in 20% of small blocks of flats and sheltered housing per annum;
- 1 complaint in 2% of converted houses/flats over shops per annum.

Enforcement

8.52 The analysis assumes that enforcement costs will apply to all buildings in scope.

Number and level of incidents

8.53 Incidents are categorised as minor, medium or major. It is assumed that:

- 15% of Category 1 buildings have a minor incident per annum;
- 10% have a medium incident per annum;
- 5% have a major incident per annum;
- For Category 2 and Category 3 buildings, it is assumed that the number of incidents is proportionate to the number of flats in the building compared with the equivalent category 1 building;
- For converted houses/flats over shops, it is assumed that only minor incidents will occur (none will be subject to a medium or major incident).

Issuing a notice

8.54 It is assumed that:

- 80% of major incidents attract an informal notice – assumed to be a letter requiring the issue is addressed;

- 70% of medium incidents attract an informal notice – assumed to be a letter requiring the issue is addressed;
- and 60% of minor incidents attract an informal notice – assumed to be a letter requiring the issue is addressed;

Formal notices

8.55 It is assumed that:

- For Category 1 buildings:
 - 30% of buildings are issued with a compliance notice;
 - 5% of buildings are issued with an urgent action notice;
 - 10% of buildings are issued with an information notice;
 - 10% of buildings are issued with a fixed penalty notice;
 - 3% of buildings are subject to legal proceedings.
- For Category 2 and Category 3 buildings:
 - 10% of medium/major incidents that receive an informal notice also get a formal notice – assumed to be a compliance/fixed penalty notice from the regulator with a threat of legal action;
 - 10% of major and 2% of medium incidents that receive a formal notice then attract legal action – assumed to involve legal proceedings;
 - 10% of major incidents that commence legal proceedings result in prosecution.

Building Certificate

8.56 The analysis assumes the requirement to apply for a Building Certificate applies to Category 1 buildings:

- 20% of buildings are requested to submit information for a Building Certificate per annum;
- Principal accountable persons submit safety a case report, resident engagement strategy, details of the complaints system and occurrence reporting;
- the building safety authority reviews the information submitted by the Principal accountable person;
- the building safety authority coordinates with fire safety authority and inspects the building as part of producing the Building Certificate;
- the building safety authority issues a Building Certificate

Tribunals

8.57 The estimated costs include the training and recruitment of panel members and the administration costs for the coordinating the panel.

8.58 The assumed costs of tribunal cases, including appeals against fixed penalty notices and other sanctions.

Other Costs

8.59 The analysis assesses a number of other generic costs of the policy such as:

- Welsh Government to prepare a handbook to inform residents of the building safety policy;
- Welsh Government to prepare guidance for principal accountable persons when handling complaints;
- Welsh Government to prepare guidance for building registrations;
- Regulators to develop and maintain an IT system for receiving and storing building registration and building certificate information (for Option 2 a database is only required for building safety authorities that have an 18m+ building in their area, all building safety authorities will require a database for Option 3).

8.60 Further detail of the cost modelling approach and methodology can be found in the Cost Model Report which is published on the Senedd website Building Safety (Wales) Bill.

Benefit modelling approach and methodology

Types of benefit taken into account

Benefits that have been monetised

8.61 Benefits that have been monetised are:

- Avoided fatalities and injuries as a result of (i) reduced fires (and the spread of these) in common areas and (ii) reduced fires (and the spread of these) that start in a residential unit.
- Avoided mental health/well-being impacts on those that would have been directly and indirectly affected by avoided fires/fire spread (but not the mental health/well-being benefits to residents of all multi occupied residential buildings as a result of feeling safer in their homes).
- Avoided non-health impacts including property damage, personal possessions loss, displacement, and other service costs.

8.62 The benefits analysis specifically accounts for the following categories of health and non-health impacts:

- Health Impacts
 - Fatalities – residents
 - Serious Injuries – residents
 - Slight Injuries – residents
 - Injuries - rescue services
 - Mental health - depression – residents/non-residents
 - Mental health – screening costs
 - Mental health - treatment – residents
 - Mental health - treatment – non-residents
- Non-Health Impacts
 - Lost personal possessions
 - Temporary accommodation
 - Residents’ meetings
 - Demolition of building
 - Rebuilding /renovating cost
 - Legal fees
 - Specialist recovery
 - Experts’ investigation
 - Lost rent from commercial space

8.63 In addition, the assessment estimates the costs of structural incidents that could be avoided by the policy.

Method used to quantify the benefits that have been monetised

8.64 The steps, assumptions and evidence used in the analysis are as follows:

Step 1: Categorising buildings in scope – the new building safety regime is intended to improve the safety of existing multi-occupied residential buildings in Wales, from purpose built high rise residential buildings to converted houses containing two or more residential units. For the purposes of the analysis, buildings in scope have been categorised by height/size as follows. First buildings were divided into four broad groups:

- (i) category 1 buildings – at least 18 metres in height or at least 7 storeys,
- (ii) category 2 buildings – less than 18 metres in height and fewer than 7 storeys and at least 11 metres or at least 5 storeys,
- (iii) category 3 buildings – less than 11 metres in height and fewer than 5 storeys,

- (iv) relevant HMOs.

By far the largest number of buildings fall under the category 3 definition, and for the purpose of the analysis, these were subdivided, again based on height/size into the following 3 subcategories:

- large block of flats (with more than 25 flats).
- small block of flats (with 6 to 25 flats).
- converted houses (with 2 to 5 flats).

Differentiating by height and size was important because these have an impact on the number of people and dwellings that could be directly affected by a fire.

Step 2: Identifying common types of fire incident – the measures proposed under the new regime are designed to reduce fire ignitions in residential units and in common areas and for those fires that do start, to prevent the spread of either type of fire in buildings in scope (externally and/or within the building).

- = Fires that spread will tend to result in the biggest cost/losses, so a major focus of the analysis is on calculating the value of avoided fire spread.
- = Fires that start in residential units but are contained in the room of origin or the residential unit and fires that start in common areas (such as corridors, bin stores and lobbies), but that don't spread to another floor, will be more numerous but the cost/loss associated with each will be less than those that spread.
- Clearly, within these, there are/will be many different types of fire ignition and spread incident but for the purposes of the analysis it was important to identify a small number of types of fire ignition and fire spread incidents that can be taken to represent the majority of fire incidents. This is an essential simplification required to enable the analysis. Identifying types of fire ignition and fire spread incidents to focus the analysis on also needs to take account of the sources of available data and data limitations.
- Regarding identifying and monetising types of fire spread to focus the analysis on - the analysis adopts the fire spread types used in the England analysis and adds more types to reflect the wider range of buildings in scope in the Welsh regime. The analysis then uses the same basis for monetising these as in the England analysis (using HMT green book methodology for monetising avoided health impacts such as avoided injuries and fatalities, avoided property costs such as damage to buildings and possessions and avoided wider costs such as rehousing costs)
 - = The regime in England focuses only on buildings of 18m and above, whereas the Welsh regime will capture all multi-occupied residential buildings regardless of height. Hence, this analysis adds some additional fire-spread incident types reflecting lower height/smaller buildings.
 - = The fire spread incident types adopted in this analysis therefore are:

- = Major incidents – which apply to large category 1 and 2 buildings where the fire affects the whole building and there are a large number of casualties.
 - = Medium incidents – which apply to all buildings (including category 3 buildings and HMOs) where the fire affects the whole building, but where there are a limited number of casualties; and
 - = Minor incidents – which apply to all buildings where the fire spreads beyond the room of origin but is limited to 1 or 2 floors.
- Regarding identifying and monetising fire types that start but don't spread the analysis relies on the Welsh Fire Statistics¹⁰ categories used to report number and cost of fires and in addition on the Home Office's 'cost of fire report'.
 - Regarding fire ignitions in residential units – data is only available on the number of fire ignitions contained in the room of origin (not the residential unit of origin). The analysis therefore cannot distinguish between the number of fires that spread from the room of origin but are contained within the residential unit and fires that spread beyond the residential unit to one floor or more. The analysis therefore assumes an average cost for fires that spread beyond the room of origin and are contained on one floor. The cost of these fires is based on the analysis undertaken in England which estimates the costs of fires that spread beyond the flat of origin and are contained on one floor. This may over-estimate the cost of some of the fires avoided however as a proportion that are reported in the Welsh fire statistics to spread beyond the room of origin, will be contained within the residential unit. The limitations in the statistics allow no other modelling option though. However, it is expected that the provisions in the Bill will mainly result in improvements that will reduce the spread of fires. The analysis therefore assumes that fires that spread beyond the room of origin are captured within the minor incident fire spread type noted above.
 - Regarding fire ignitions in common areas – data is available on the number of ignitions and also on the number of fires that do/don't spread beyond the floor of origin, hence it is possible to model these. Those that spread beyond the floor of origin are assumed to be captured by the major/medium and minor incident types above. Those that don't spread are added as a fourth and final fire type category to the above.

Step 3: Estimating the extent and scale of casualties and other losses associated with each type of fire incident

- Regarding a major fire incident in a large multi-occupied residential building, this analysis adopts the same assumptions about the extent of damage and nature of casualties associated with different types of incidents identified in the England analysis. Unpublished research by Adroit Economics Ltd shows that the design of multi-occupied residential buildings in Wales is similar to

¹⁰ Stats Wales [Fire incidents](#)

those in England and moreover, that similar cladding and other construction defects, giving rise to the potential for rapid fire spread, are also found in buildings in Wales, hence it is assumed that similar types of fire spread could occur in Wales. The England analysis identified a full list of the types of losses associated with a major fire spread incident through reviewing a number of recent fire-spread incidents in multi-occupied residential buildings along with drawing on findings from the Grenfell Inquiry, as they emerged. As with the England analysis, this analysis then assumes that only a proportion of the casualties are likely to occur in future fire spread incidents, because of changed Fire and Rescue Service strategy and changed residents' evacuation behaviours. The size of the proportion of losses is then further adjusted to reflect the size of the building (and number of flats) and the extent of fire spread.

- The table below outlines the estimated scale of losses for an incident comparable to Grenfell Tower.

Table 8.4: Scale of Loss for an Accident Comparable to Grenfell Tower

Table 8.4: Scale of Loss for an Accident Comparable to Grenfell Tower		
		Grenfell Tower Economic Costs
Type of impact	Type of unit	number of units
Health Impacts		
Fatalities – residents	number of persons	72
Serious Injuries – residents	number of persons	20
Slight Injuries – residents	number of persons	42
Injuries - rescue services	number of emergency personnel	114
Mental health - treatment – residents	number of residents	231
Mental health - op – screening	number of non-residents - family, friends, neighbours	11,000
Mental health - treatment – other	number of non-residents - family, friends, neighbours	3,630
Mental health - wellbeing - avoiding depression	number of non-residents - family, friends, neighbours	3,630
Non-Health Impacts		
Demolition of building	number of buildings	1
Rebuilding cost	number of flats	120

Lost personal possessions	number of flats	120
Specialist recovery	number of flats	120
Temporary accommodation	number of residents	231
Lost rent from commercial space	number of weeks	48
Experts' investigation	average cost of investigation	1
Legal fees	average cost of investigation	1
Residents' meetings	number of meetings	10

Consistent with the approach taken in the England analysis, this assessment assumes that only a proportion of impacts is likely to occur in future fire spread incidents, due to changes in Fire and Rescue Service strategies and evolving resident evacuation behaviours. This proportion is further adjusted based on building size, including the number of flats, and the extent of fire spread. The table below outlines the assumed proportion of Grenfell Tower losses applicable to each fire incident type within Category 1 buildings -- those measuring over 18m height.

Table 8.5: Assumptions regarding proportion of Grenfell Tower losses to occur in each type of fire spread incident for category 1 buildings

Type of impact	Major incident - with fatalities	Major incident - with reduced fatalities	Medium incident - with casualties	Medium incident - without casualties	Minor incident - 2 floors	Minor incident - 1 floor
Health Impacts						
Fatalities – residents	25%	5%	*	0%	*	*
Serious Injuries – residents	25%	25%	*	0%	*	*
Slight Injuries – residents	25%	25%	*	0%	*	*
injuries - rescue services	25%	25%	5%	0%	0%	0%
mental health - treatment – residents	50%	25%	5%	0%	0%	0%
mental health - op - screening	50%	25%	5%	0%	0%	0%
mental health - treatment - other	50%	25%	5%	0%	0%	0%
mental health - wellbeing - avoiding depression	50%	25%	5%	0%	0%	0%
Non-Health Impacts						
Demolition of building	100%	100%	0%	0%	0%	0%

rebuilding cost	50%	50%	10%	10%	1%	0.5%
lost personal possessions	50%	50%	10%	10%	1%	0.5%
specialist recovery	50%	50%	10%	10%	1%	0.5%
temporary accommodation	50%	50%	10%	10%	1%	0.5%
lost rent from commercial space	50%	50%	10%	10%	1%	0.5%
experts' investigation	50%	50%	10%	10%	1%	0.5%
legal fees	50%	50%	10%	10%	1%	0.5%
residents' meetings	50%	50%	10%	10%	1%	0.5%

- Regarding medium, minor fire incidents and fires in common areas in all multi-occupied residential buildings and HMOs, this analysis also draws on the incident level fire statistics for Wales which provide data on the number of casualties associated with different types of fires. The extent of damage is estimated in the analysis based on the size of the building (and number of flats) and on the extent of fire spread.

Step 4: Monetising the losses – again, this analysis draws on work undertaken for the England analysis, which drew on a combination of published statistics; evidence from the Grenfell Tower fire, coupled with research and analysis of a number of recent major fires. The analysis also draws on other metrics such as the average cost of a fire and the cost to rebuild. The economic cost per unit values applied to each impact type are presented in the following table and are gathered from the Department for Transport (DfT) TAG Databook, case studies, and consultants' industry expertise.

Table 8.6: Unit Values used in the Analysis for Each Type of Impact

Type of impact	Type of unit	Economic cost per unit
Health Impacts		
Fatalities – residents	per person	£2,650,033
Serious Injuries – residents	per person	£294,835
Slight Injuries – residents	per person	£22,652
Injuries - rescue services	per person	£98,849
Mental health - treatment – residents	per person	£11,000
Mental health - op – screening - family, friends, neighbours	per person	£200
Mental health - treatment - family, friends, neighbours	per person	£6,000
Mental health - wellbeing - avoiding depression – residents, family, friends, neighbours	per person	£60,000
Non-Health Impacts		
Demolition of building	per building	£800,000
Rebuilding cost	per flat	£300,000
Lost personal possessions	per flat	£25,000
Specialist recovery	per flat	£2,000
Temporary accommodation	per resident	£1,200

Lost rent from commercial space	per week	£15,000
Experts' investigation	per building	£250,000
Legal fees	per building	£1,000,000
Residents' meetings	per meetings	£1,250

The economic costs of each type of fire incidents for the buildings in scope (e.g., Cat 1 buildings) are estimated by assigning economic cost per unit for each type of impact to the proportion of Grenfell Tower type incident losses assumed to occur for the building categories. For example, the economic costs of fatalities (residents) for a fire type (e.g., major incident with multiple fatalities) are estimated as follows: unit values of fatalities as shown in Table 8.6 (£2,650,033) * % of Grenfell Tower losses of Table 8.5 (25%) * number of fatalities of Table 8.4 (72) = £47m, and this provides the first entry of the following table which presents the estimated losses for each fire incident type within Category 1 buildings in Wales.

Table 8.7: Economic Costs of Fire Incidents for Category 1 Buildings							
Type of impact	Major incident - with multiple fatalities	Major incident - with reduced fatalities	Medium incident - with fatalities	Medium incident - without fatalities	Minor incident - 2 floors	Minor incident - 1 floor	Fires in common areas
Health Impacts							
Fatalities - residents	£47,700,599	£9,540,120	£441,672	£0	£82,814	£82,814	£ -
Serious Injuries - residents	£1,474,174	£1,474,174	£147,417	£0	£59,888	£59,888	£22,593
Slight Injuries - residents	£237,843	£237,843	£11,326	£0	£4,601	£4,601	£1,736

Injuries - rescue services	£2,817,183	£2,817,183	£563,437	£0	£0	£0	£ -
Mental health - treatment - residents	£1,270,500	£635,250	£127,050	£0	£0	£0	£ -
Mental health - op - screening	£1,100,000	£550,000	£110,000	£0	£0	£0	£ -
Mental health - treatment - other	£10,890,000	£5,445,000	£1,089,000	£0	£0	£0	£ -
Mental health - wellbeing - avoiding depression	£108,900,000	£54,450,000	£10,890,000	£25,200	£25,200	£ 25,200	£25,200
Total Health Costs, £m	£174m	£75m	£13m	£0.03m	£0.2m	£ 0.2m	£0.05m
Non-Health Impacts							
Demolition of building	£800,000	£800,000	£0	£0	£0	£0	
Rebuilding cost	£18,000,000	£18,000,000	£3,600,000	£3,600,000	£360,000	£180,000	£22,100
Lost personal possessions	£1,500,000	£1,500,000	£300,000	£300,000	£30,000	£15,000	
Specialist recovery	£120,000	£120,000	£24,000	£24,000	£2,400	£1,200	
Temporary accommodation	£138,600	£138,600	£27,720	£27,720	£2,772	£1,386	

Lost rent from commercial space	£360,000	£360,000	£72,000	£72,000	£7,200	£3,600	
Experts' investigation	£125,000	£125,000	£25,000	£25,000	£2,500	£1,250	
Legal fees	£500,000	£500,000	£100,000	£100,000	£10,000	£5,000	
Residents' meetings	£6,250	£6,250	£1,250	£1,250	£125	£63	£63
Total non-health costs, £m	£21.5m	£21.5m	£4.1m	£4.1m	£0.4m	£0.2m	£0.02m

Step 5: Scaling up – the final step in the analysis is to estimate the number of such incidents (and associated value of loss) across Wales, in buildings in scope, over the 10-year period, without and with the new building safety regime. This stage involves estimating the baseline probability of fire incidents, assessing potential risk reductions over time through remediation under the baseline scenario, and additional risk mitigation through the policy measures. The outcome is a reduction in fire incidents attributed to the policy, along with the monetised value of those avoided incidents. The activities and assumptions underpinning both the counterfactual and policy scenarios are outlined below:

Without the Bill (Counterfactual) -- The annual probability of each fire incident type occurring across building categories in Wales is estimated using baseline figures from the England analysis, adjusted for Welsh proportion of the stock of buildings and fire statistics (pre-counterfactual scenario). Over the 10-year appraisal period, these probabilities are expected to decline due to increased remediation of at-risk buildings, improved building management, and enhanced resident engagement—particularly reducing the risk of fire spread in taller buildings (counterfactual scenario). Adjustments are made to reflect the varying relevance of remediations across building heights.

With the Bill (Policy Regime) -- The analysis anticipates a further reduction in fire spread risks through measures under the new regime. It assumes that principal accountable persons will proactively assess buildings and collaborate with residents to address identified issues. The Bill is expected to have the greatest impact on mitigating major fire incidents in Category 1 buildings, with more modest risk reductions in smaller buildings and less severe fire types, and adjustments are made to reflect this variation.

Illustrative calculations sequence for category 1 buildings at step 5 (Scaling up)

This section outlines a worked example demonstrating the methodology used to estimate the benefits—both in terms of reduced fire incidents and their associated economic value—attributable to the Building Safety Bill, beyond those expected under the counterfactual scenario. The example focuses on Category 1 buildings, with similar calculations applied to other building categories.

Estimating baseline fire incident probabilities (pre-counterfactual)

Baseline fire risks are assessed using historical data for the pre-policy (counterfactual) scenario. Major fire incident risks are adapted from England analyses and adjusted to reflect conditions in Wales. Medium and minor fire risks are derived from Welsh fire statistics covering the five-year period from 2018 to 2023.

Table 8.8: Estimated Risk of Fires - pre counterfactual (Baseline) - (% probability of fire occurring each year - historic data)											
		2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
	Incidents per annum	yr1	yr2	yr3	yr4	yr5	yr6	yr7	yr8	yr9	yr10
Major incident 25% fatalities	0.00030	0.0003	0.0003	0.0003	0.0003	0.0003	0.0003	0.0003	0.0003	0.0003	0.0003
Major incident (whole building loss)	0.00192	0.0019	0.0019	0.0019	0.0019	0.0019	0.0019	0.0019	0.0019	0.0019	0.0019
Medium incident (casualties)	0.20000	0.2000	0.2000	0.2000	0.2000	0.2000	0.2000	0.2000	0.2000	0.2000	0.2000
Medium incident (no casualties)	0.27000	0.2700	0.2700	0.2700	0.2700	0.2700	0.2700	0.2700	0.2700	0.2700	0.2700
Minor incident (2 floors)	0.07000	0.0700	0.0700	0.0700	0.0700	0.0700	0.0700	0.0700	0.0700	0.0700	0.0700
Minor incident (1 floor)	0.96000	0.9600	0.9600	0.9600	0.9600	0.9600	0.9600	0.9600	0.9600	0.9600	0.9600
Fires in common areas	5.38000	5.3800	5.3800	5.3800	5.3800	5.3800	5.3800	5.3800	5.3800	5.3800	5.3800

Risk reduction for remediation efforts under the counterfactual scenario

An improvement in fire safety is expected even without the implementation of the Bill, driven by a proportion of remediated buildings, better building management, fire evacuation practices, and residents' engagement. These efforts are particularly effective in reducing the risk of severe fire spread in taller buildings, with more limited impact on lower-rise structures. A risk reduction adjustment factor is applied to account for this variation.

Table 8.9: The anticipated improvement to fire safety without the Bill, based on the increasing proportion of buildings that are remediated (changes to the baseline counterfactual)

	yr1	yr2	yr3	yr4	yr5	yr6	yr7	yr8	yr9	yr10	
risk reduction	10%	20%	30%	40%	50%	55%	60%	65%	70%	70%	
relative risk of fire spread due to defect remediation compared to baseline fire statistics	90%	80%	70%	60%	50%	45%	40%	35%	30%	30%	
Gross impacts net of counterfactual											
	risk reduction adjustment factor	yr1	yr2	yr3	yr4	yr5	yr6	yr7	yr8	yr9	yr10
Major incident 25% fatalities	100%	0.0003	0.0002	0.0002	0.0002	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001
Major incident (whole building loss)	100%	0.0017	0.0015	0.0013	0.0011	0.0010	0.0009	0.0008	0.0007	0.0006	0.0006
Medium incident (casualties)	100%	0.1800	0.1601	0.1397	0.1194	0.0990	0.0900	0.0800	0.0700	0.0600	0.0603

Medium incident (no casualties)	100%	0.2430	0.2161	0.1886	0.1612	0.1337	0.1215	0.1080	0.0945	0.0810	0.0814
Minor incident (2 floors)	30%	0.0679	0.0658	0.0637	0.0615	0.0594	0.0585	0.0574	0.0564	0.0553	0.0553
Minor incident (1 floor)	10%	0.9504	0.9408	0.9311	0.9213	0.9115	0.9072	0.9024	0.8976	0.8928	0.8929
Fires in common areas	10%	5.3262	5.2727	5.2179	5.1631	5.1084	5.0841	5.0572	5.0303	5.0034	5.0041

Additional risk reductions under the policy regime

Further reductions in fire risk are attributed directly to the implementation of the Building Safety Bill, reflecting the enhanced safety measures it introduces.

Table 8.10 - Assumptions on Further Risk Reduction for the Building Safety Bill											
		yr1	yr2	yr3	yr4	yr5	yr6	yr7	yr8	yr9	yr10
Further risk reduction attributable to the Building Safety Bill		2%	5%	10%	15%	20%	30%	40%	50%	60%	75%
Risk reduction adjustment factor		yr1	yr2	yr3	yr4	yr5	yr6	yr7	yr8	yr9	yr10
Major incident 25% fatalities	100%	2%	5%	10%	15%	20%	30%	40%	50%	60%	75%
Major incident - minor fatalities	100%	2%	5%	10%	15%	20%	30%	40%	50%	60%	75%
Medium incident (casualties)	75%	2%	4%	8%	11%	15%	23%	30%	38%	45%	56%
Medium incident (no casualties)	50%	1%	3%	5%	8%	10%	15%	20%	25%	30%	38%
Minor incident (2 floors)	50%	1%	3%	5%	8%	10%	15%	20%	25%	30%	38%
Minor incident (1 floor)	25%	1%	1%	3%	4%	5%	8%	10%	13%	15%	19%
Fires in common areas	50%	1%	3%	5%	8%	10%	15%	20%	25%	30%	38%

Estimating the reduction in fire incidents

The reduction in fire incidents is calculated by applying the risk reduction percentages (as shown in Table 8.10) to the counterfactual probabilities of fire incidents (Table 8.9).

Table 8.11 - Resulting Reduced Number of Incidents for the Building Safety Bill

	yr1	yr2	yr3	yr4	yr5	yr6	yr7	yr8	yr9	yr10
Major incident 25% fatalities	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0001	0.0001	0.0001
Major incident - minor fatalities	0.0000	0.0001	0.0001	0.0002	0.0002	0.0003	0.0003	0.0003	0.0003	0.0004
Medium incident (casualties)	0.0027	0.0060	0.0105	0.0134	0.0149	0.0203	0.0240	0.0263	0.0270	0.0339
Medium incident (no casualties)	0.0024	0.0054	0.0094	0.0121	0.0134	0.0182	0.0216	0.0236	0.0243	0.0305
Minor incident (2 floors)	0.0007	0.0016	0.0032	0.0046	0.0059	0.0088	0.0115	0.0141	0.0166	0.0207
Minor incident (1 floor)	0.0048	0.0118	0.0233	0.0345	0.0456	0.0680	0.0902	0.1122	0.1339	0.1674
Fires in common areas	0.0533	0.1318	0.2609	0.3872	0.5108	0.7626	1.0114	1.2576	1.5010	1.8765

Estimating the monetised value of avoided accidents

To quantify the economic benefits or avoided costs, the cost per fire incident type is applied to the estimated reduction in incidents, yielding the total monetised value of avoided fires under the policy regime.

Table 8.12 - Monetised Value (£) of avoided incidents											
Health Impacts	cost per incident	yr1	yr2	yr3	yr4	yr5	yr6	yr7	yr8	yr9	yr10
Major incident 25% fatalities	174,390,000	927	2,062	3,600	4,613	5,101	6,955	8,243	9,016	9,273	11,642
Major incident - minor fatalities	75,150,000	2,597	5,776	10,082	12,920	14,289	19,481	23,088	25,253	25,975	32,609
Medium incident (casualties)	13,430,000	36,261	80,629	140,753	180,370	199,481	271,958	322,320	352,538	362,610	455,231
Medium incident (no casualties)	30,000	73	162	283	363	401	547	648	709	729	915
Minor incident (2 floors)	180,000	122	296	573	831	1,069	1,578	2,066	2,536	2,986	3,735
Minor incident (1 floor)	180,000	855	2,117	4,190	6,219	8,204	12,247	16,243	20,196	24,106	30,136
Fires in common areas	50,000	2,663	6,591	13,045	19,362	25,542	38,131	50,572	62,879	75,051	93,827
Total (non- discounted)		40,836	97,633	159,480	205,315	228,546	312,765	372,609	410,247	425,678	534,268

PV (Discounted value)		£0	£35,753	£77,147	£130,504	£161,077	£193,089	£255,042	£295,212	£314,525	£373,363
Non-Health Impacts											
Major incident 25% fatalities	21,550,000	115	255	445	570	630	859	1,019	1,114	1,146	1,439
Major incident - minor fatalities	21,550,000	745	1,656	2,891	3,705	4,098	5,586	6,621	7,242	7,448	9,351
Medium incident (casualties)	4,150,000	11,205	24,915	43,494	55,736	61,642	84,038	99,600	108,938	112,050	140,671
Medium incident (no casualties)	4,150,000	10,085	22,424	39,145	50,162	55,478	75,634	89,640	98,044	100,845	126,604
Minor incident (2 floors)	410,000	278	675	1,305	1,892	2,435	3,595	4,707	5,776	6,802	8,507
Minor incident (1 floor)	210,000	998	2,470	4,888	7,255	9,571	14,288	18,950	23,562	28,123	35,159
Fires in common areas	20,000	1,065	2,636	5,218	7,745	10,217	15,252	20,229	25,152	30,020	37,531
Total (non-discounted)		24,490	55,031	97,386	127,066	144,070	199,252	240,765	269,826	286,435	359,260
PV (Discounted value)		24,490	53,170	90,911	114,606	125,549	167,765	195,863	212,081	217,522	263,600
Total Discounted Benefits (cumulative)	19,683,620										

8.65 Similar steps were used to estimate the discounted avoided costs of structural incidents at £136K.

8.66 The same categories of building were used, although the duties to manage structural safety only extend to category 1 and category 2 buildings.

8.67 Types of structural incidents that could be avoided by the policy were identified:

- Major structural incidents – e.g. partial building collapse; and
- Medium structural incidents – e.g. elements falling from a building, such as parts of cladding, windows, balconies etc.

8.68 An estimate was made of the likelihood of an incident:

- Major incidents - Partial building collapse – literature review identified one incident in the last 10 years affecting buildings containing flats. As a result, we are assuming one incident occurring every 10 years across buildings in scope.
- Medium incidents – Elements falling from building – literature review identified 3 incidents in the last 10 years affecting buildings containing flats. As a result, we are assuming one incident every 3 years across the buildings in scope.

8.69 An estimate was made of the cost of an incident:

- Major structural incident costed at £400,000 per flat within buildings:
- for > 18m buildings this equates to £22.4m.
- for 11-18m this equates to £16m.
- for small blocks of flats it equates to £3.6m; and
- for converted buildings it equates to £0.8m per building.
- Medium structural incident costed at 10% of a major incident.

8.70 Scaling up:

- Category 1 – assume risk reduction of 80% as a result of policy.
- Category 2 – assume 40% risk reduction as a result of policy.

8.71 Further detail of the benefit modelling approach and methodology can be found in the Benefits Report which is published on the Senedd website Building Safety (Wales) Bill.

Non-monetised benefits

8.72 A number of identified types of benefits have however not been monetised, because of lack of sufficient evidence to allow reliable estimates or because it was not considered proportionate to carry out the analysis. It may be possible to monetise some or all of these at a future date, when sufficient evidence is available.

- Making residents feel safer in their homes – a significant non-monetised benefit of the new regime is expected to be the improved well-being of residents of multi-occupied dwellings as a result of a reduced fear of the risk of fires spreading within their buildings (irrespective of whether a fire happens in their building or not). This would mitigate negative mental health and well-being impacts arising from any existing uncertainty or concerns as to the safety of people’s homes. This could be achieved by the cumulative impact of mandating a proactive approach to building safety, the provision of information to residents to help develop more transparent and collaborative relationships over building safety, and a more effective system of handling complaints, whereby residents have an increased confidence that issues are raised and resolved faster. Similarly, the introduction of building safety authorities, would give further confidence to residents that dedicated action is being taken to ensure that the fire and structural safety risks in their homes are minimised. At this point, it has not been possible to obtain a sufficiently accurate estimate regarding the extent to which people value feeling safer in their own homes as a result of the proposed regime. Gathering evidence to do so, for example through a stated preference study, would be challenging and costly. Para 8.54 provides an estimate of the level of improvement required to make the policy cost neutral (switching value).
- Providing greater confidence to mortgage and insurance providers that in-scope buildings represent adequate collateral for loans – the new regime is also expected to improve the functioning of the mortgage and insurance markets by allowing lenders to borrow against flats that they are currently unable to, thus increasing the availability and value of these products to leaseholders and residents. Similarly, the new regime should help reduce the tendency for insurers to ask for higher premiums for building insurance because of the difficulties insurers face in differentiating between safe and unsafe buildings. Evidence on building insurance costs has however been mixed to date – whilst there is evidence that insurance rates have increased when risks are identified; also that the process of remediation work is seen as introducing additional short-term risks, but evidence is less clear that upon remediation, rates reduce. The increase in confidence may also help to encourage further investment in the buildings, generating additional benefits for residents.
- Reduced firefighting costs (time and materials): Fewer fires would result in lower costs for Fire and Rescue Services responding to them. Time saved would not be a cashable benefit for wholetime crews, but it would

for retained firefighters (most of whom are paid only for the time that they respond to incidents). The minimum initial response to any dwelling fire would normally be 2 vehicles crewed by 10 firefighters at a salary cost of around £200 per hour in total. Larger or more serious incidents naturally mean a greater deployment of resources. (The response to the fire at Grenfell Tower involved over 60 vehicles at its peak). All avoided fires would result in avoided costs for fuel, firefighting materials, and wear and tear on vehicles and equipment.

- **Avoided environmental contamination:** Related to the avoided use of firefighting materials, above, would be avoided environmental contamination and related health hazards.
- **Reduced enforcement costs for Fire and Rescue Authorities:** Two factors may be expected to contribute. The requirement for fire risk assessors to be competent should yield a higher standard of assessments, which will in turn facilitate effective inspection. And for buildings at least 11 metres in height, the register will clearly indicate who is accountable for building safety thus avoiding the difficulties that can currently occur in identifying the responsible person.
- **The non-monetised benefits of occurrence recording and reporting** include increasing awareness and shared knowledge of building safety concerns and providing building safety authorities with an informed intelligence picture of the safety issues within the sector.

Approach and methodology – other details

Appraisal period

8.73 The following appraisal periods are used in the analysis:

- Costs – a 10-year policy appraisal period is modelled
- Benefits – a 70-year appraisal period is used

8.74 The 10-year appraisal period for costs is long enough for the new regime to achieve a steady state. However, recurrent costs will continue to be incurred after the end of the 10-year appraisal period.

8.75 The 70-year appraisal period used to assess benefits captures those benefits that accrue during the 10-year policy appraisal period (equal to that used to estimate costs) and benefits that may persist over the lifespan of a building, assumed to be 60 years. This is to best capture all the benefits and reflects the Green Book guidance on ‘persistence’ of benefits.

8.76 It is likely to take 10-15 years before all of the improvements to building safety are actioned following safety cases. Therefore, we expect the benefits of reduced impact of fires and structural damage to be experienced between years 14/15 and years 19/20. Following that we expect benefits to reduce but with longer lasting benefits on building safety continuing to be realised throughout the life of the building.

Start year and price year

8.77 The analysis uses a start year of 2027-28 and a price year of 2023-24.

Phase-in and transition

8.78 18m+ buildings in Year 1 and other buildings in Year 2.

8.79 This is our working assumption for the purpose of this analysis. Further implementation planning will be undertaken, co-designed with partners.

Variance from the central estimate

8.80 Uncertainty in our assumptions means that it is not always possible to state the costs and benefits of the proposed regime with certainty.

Limitations of the Assessment

8.81 The benefits analysis conducted by Adroit Economics evaluates the Building Safety Bill as a complete set of measures. Due to limited supporting evidence and data constraints, it is challenging to isolate and

attribute specific benefits to individual policy components—for instance, there is insufficient supporting evidence to quantify the fire risk reduction resulting solely from increased resident engagement or golden thread information. However, this comprehensive approach could be useful in shaping the design and focus of the post-implementation review, particularly when more context-specific data will be available for England and Wales.

- 8.82 It is further important to note that the cost and benefit estimates are based on provisional assumptions regarding the operational characteristics of the proposed regime. These assumptions have been reviewed and refined in consultation with key stakeholders, including representatives from industry, the UK Government, the Health and Safety Executive, Community Housing Cymru, Welsh local authorities, the Welsh Local Government Association, and Welsh fire and rescue authorities. Despite these efforts, a degree of uncertainty remains. Specifically, assumptions related to fire risk profiles for the buildings in scope, % of risk reductions over years, risk adjustments for fire and building types, and potential loss estimates are inherently uncertain. While the extent of uncertainty varies across individual assumptions, it collectively contributes to variability in the overall cost-benefit estimates.

Results – costs, benefits and net benefits (central estimate)

Summary

8.83 All of the costs and benefits in this analysis have been presented net of the counterfactual (option 1). Therefore, the costs of not taking forward the measure in this Bill, i.e. the consequences in relation to residents' safety and building management in continuing with business as usual, have not been monetised in the analysis. Unless otherwise stated, all costs and benefits are presented in present value terms and rounded to the nearest £10,000. Some of the totals may not sum due to this rounding. HM Treasury's standard discount rate of 3.5% has been used to discount all costs and benefits, with the exception of health-related benefits which have been discounted by 1.5%. This is in line with HM Treasury Green Book guidance.

8.84 We have considered the counterfactual in two ways:

- For a proportion of buildings, activities that will be new requirements under the Bill are already being undertaken, and so the total cost has been discounted by this proportion.
- We have only considered the costs incurred from the additional time and resources required to perform new requirements of the Bill.

8.85 This approach ensures that, as far as possible and where appropriate, we are only costing the new requirements of the regime. We are also only costing additional time, meaning that we are not counting time for activities that are already being done. This, therefore, means that we have not explicitly costed all the counterfactuals (as only additional time to undertake new burdens has been considered for some elements).

8.86 Table 8.13 shows the monetised benefits, costs and net benefits of options 2 and 3 over and above the counterfactual:

- Option 2 will generate a negative net benefit figure – minus £87.97m
- Option 3 will generate a negative net benefit figure – minus £85.63m

8.87 The monetised benefits are notably less than the costs for both policy options. As noted however, it has not been possible to monetise all of the benefits. If it had been possible to monetise all of the benefits, the benefits may have equalled or been greater than the costs.

	Option 2	Option 3
Monetised Benefits	£55.00	£62.60
Costs	£142.97	£148.23
Net Benefits	-£87.97	-£85.63

Results – further detail

8.88 Table 8.14 shows the present value of the costs for both policy options over the ten-year appraisal period:

- Option 2 will cost £142.97m
- Option 3 will cost £148.23m

Table 8.14: Costs PV (£m)		
	Option 2	Option 3
storeys+7	£29.36	£29.36
4-6 storey	£5.75	£8.05
under 4 storey	£72.31	£73.40
HMO	£10.43	£10.43
Other costs (not building specific)	£25.12	£26.99
Total	£142.97	£148.23

8.89 Table 8.15 shows where costs for the Bill (option3) fall over the 10 year appraisal period. These figures have not been discounted. Further information about costs can be found at Annex 5 and in the accompanying Cost Model Report.

Table 8.15: Undiscounted Costs (£m, 2023 prices)										
	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	2033-34	2034-35	2035-36	2036-37
Industry	5.95	36.30	12.31	12.09	12.00	11.22	11.33	10.71	10.80	10.89
BSA	1.91	0.70	0.70	0.68	0.67	0.63	0.63	0.59	0.60	0.60
FSA	0.12	0.27	0.28	0.28	0.28	0.27	0.28	0.27	0.27	0.28
Welsh Government	3.04	2.50	2.50	2.50	2.50	2.50	2.50	2.50	2.50	2.50

Note: the analysis presented in Table 8.15 includes estimated costs of £1.2m expected to be incurred by local authorities to prepare for the introduction of the new regime. For the purpose of the appraisal, these costs have been included in the 2027-28 figures.

Costs in relation to the specific policy requirements of the Bill

8.90 Table 8.16 shows an estimate of present value costs of option 3 over 10 years for industry and each of the authorities, against each of the specific policy requirements of the Bill. The costs have been estimated using the approach and assumptions set out above.

Table 8.16: 10yr NPV (£m) 2023 Prices					
	Industry	Local Authorities	Fire and Rescue Authorities	Welsh Government	Total
Fire Safety Measures	£37.208	£0.000	£0.000	£0.000	£37.208
Safety Case	£4.183	£0.005	£0.008	£0.000	£4.196
Golden Thread	£15.822	£0.000	£0.000	£0.000	£15.822
Building Registration Information	£0.404	£0.000	£0.000	£0.000	£0.404
Occurrence Recording and Reporting	£0.064	£0.066	£0.023	£0.035	£0.188
Duties on Residents	£9.418	£0.000	£0.000	£0.000	£9.418
Engaging Residents	£23.006	£0.000	£0.000	£0.000	£23.006
Providing systems to receive building safety complaints	£22.233	£1.262	£0.302	£0.000	£23.797
Sanctions and Enforcement	£3.270	£1.211	£1.200	£21.515	£27.096
Building Registration	£0.079	£2.347	£0.000	£0.485	£2.912
Building Certificate	£0.155	£0.713	£0.664	£0.000	£1.532
Familiarisation and implementation	£1.296	£1.240	£0.017	£0.000	£2.552
	£117.138	£6.844	£2.214	£22.034	£148.230

Administrative costs for authorities in relation to specific activities

- 8.91 The present value cost to local authorities is estimated at £6.84m over 10 years. Building registration (£2.35m) represents 34% of costs to local authorities, handling building safety complaints (£1.26m), undertaking enforcement activity (£1.21m) and familiarisation and implementation (£1.24m) each representing 18% of costs. Building certification (£0.71m) represents 10% of costs to local authorities.
- 8.92 The present value cost to fire and rescue authorities is estimated at £2.21m over 10 years. Undertaking enforcement activity (£1.20m) represents 54% of costs to fire and rescue authorities, building certification (£0.66m) represents 30% of costs and handling building safety complaints (£0.30m) represents 14% of costs.

Administrative costs for the Welsh Government in relation to specific activities

- 8.93 In present value, costs for Welsh Government are discounted from £25.51m to £22.03m. Table 1 includes a breakdown of the present value costs for Welsh Government.
- 8.94 Sanction and Enforcement accounts for £21.515m or 98% of the total. This is the estimated cost of the new regime to the Residential Property Tribunal (RPT). The estimate is uncertain, being based on assumptions about the number of cases which the RPT may be asked to consider. Officials are working with the Welsh Tribunals Unit and the RPT to fully understand additional resource implications. If the Bill is passed, we will keep these costs under review throughout the phased implementation period. This will be a recurring cost to Welsh Government.
- 8.95 Other costs for Welsh Government include £0.485m for the development of secondary legislation and guidance. This will be a transitional cost to Welsh Government.
- 8.96 The Bill will provide a power for the Welsh Ministers to make regulations for, and in connection with, the charging of fees by building safety authorities for exercising their functions under the Bill or regulations made under it, and also for doing anything that is calculated to facilitate, or is conducive or incidental to, the exercise of any of those functions. Fee income may be used

to offset some costs to local authorities. Fees charged to accountable persons would not increase the total cost of the Bill but would change the proportion of the cost borne by industry rather than building safety authorities. No estimate of fees has been made yet. The regulations that will set the fees will be developed following engagement with key partners and will be consulted upon. The costs for industry and building safety authorities shown in the analysis assume no fees.

- 8.97 Undiscounted costs to industry total £134m over 10 years. These costs would be shared between the large number of people and entities (of various types) accountable for the safety of buildings under the new regime. Entities include, for example, SMEs, large companies, incorporated charities, registered social landlords and local authorities. We are not aware of any evidence from England that the building safety regime there is negatively affecting industry (although there are notable differences between the regime in England and that proposed for Wales).
- 8.98 Tables 8.17a and 8.17b show the estimated average annual cost per building for the Bill (option 3) broken down by detailed building type. Some or all of these costs (with the exception of enforcement costs) will be passed onto leaseholders or residents. Table 8.18 shows the estimated average annual cost per flat for the Bill (option 3) broken down by detailed building type.

Table 8.17a Estimated average annual cost per building for policy option 3 broken down by detailed building type (£)						
Option 3		18+_non-LA owned	18+_LA owned	Purpose Built Flats - 11-18m	Purpose Built Flats - large (<11m)	Purpose Built Flats - small
All multi-occupied residential buildings at least 18m subject to category 1 duties; multi-occupied residential buildings between 11-18m subject to category 2 duties; multi-occupied residential building below 11m subject to category 3 duties; relevant HMO subject to the fire safety provisions only	Industry	15,447	16,198	1,783	1,245	451
	BSA	1,155	1,171	67	43	10
	FSA	512	517	61	61	14
	Welsh Gov					

Table 8.17b Estimated average annual cost per building for the Bill (option 3) broken down by detailed building type (£)				
Option3	Converted Houses / Flats over shops (2-5 flats)	Sheltered accommodation	Student accommodation	HMO
Industry	114	456	1,045	62
BSA	2	9	31	-
FSA	1	13	42	0
Welsh Gov				

Table 8.18 Estimated average annual cost per flat for the Bill (option3) broken down by detailed building type (£)										
Option 3		18m+_n on-LA owned	18m+_L A owned	Purpos e Built Flats - 11-18m	Purpos e Built Flats - large (<11m)	Purpos e Built Flats - small	Convert ed Houses / Flats over shops (2-5 flats)	Shelter ed accom modatio n	student accom modatio n	HMO
All multi-occupied residential buildings at least 18m subject to category 1 duties; multi-occupied residential buildings between 11-18m subject to category 2 duties; multi-occupied residential building below 11m subject to category 3 duties; relevant HMO subject to the fire safety provisions only	Industry	276	289	45	31	50	57	51	35	62
	BSA	21	21	2	1	1	1	1	1	-
	FSA	9	9	2	2	2	0	1	1	0
	Welsh Gov									

8.99 Table 8.19 shows the present value of the monetised benefits of both policy options, broken down by building category:

- Option 2 will generate £55.00m
- Option 3 will generate £62.60m

Table 8.19: Benefits PV (£m)		
	Option 2	Option 3
7 storeys+	£19.82	£19.82
4-6 storey	£3.23	£6.81
under 4 storey	£30.31	£34.33
HMO	£1.65	£1.65
	£55.00	£62.60

8.100 Further information about benefits can be found at Annex 5 and in the accompanying Benefits Model Report.

8.101 Table 8.20 shows the total net cost (the costs minus the benefits)

Table 8.20: Net Costs PV (£m)		
	Option 2	Option 3
7 storeys+	£9.54	£9.54
4-6 storey	£2.52	£1.24
under 4 storey	£42.01	£39.07
HMO	£8.78	£8.78
Other costs	£25.12	£26.99
Total net costs	£87.97	£85.63

8.102 On the basis of this assessment, neither policy option is expected to be cost neutral. There is a clear gap between costs and monetised benefits.

8.103 Table 8.21 shows the additional annual benefit required per option, per resident to breakeven (to be cost neutral).

Table 8.21: Additional annual non-monetised benefit required per resident to breakeven		
	Option 2	Option 3
7 storeys+	£73	£73
4-6 storey	£11	£5
under 4 storey	£20	£18
HMO	£13	£13
	£28	£27

8.104 These figures do not tell the whole story, however. It has not been possible to monetise some of the benefits, particularly the wider reduced anxiety and increased well-being of residents knowing that their buildings are safe. If it had been possible to monetise these, the additional benefit would have gone some way toward narrowing the benefit gap.

8.105 It can be instructive to consider how great the monetised value of this benefit would need to be for the benefits of the policy to equal its costs (i.e., to achieve a NPV of zero). This can be done by calculating a switching value representing the required valuation of this benefit per resident of in-scope buildings. Table 8.21 shows that the switching value for the Bill (option 3) would be £27 per resident per year.

8.106 In practice, the reassurance benefit would be unlikely to be experienced equally across the population of residents. Some residents would experience no or only a small benefit (for example, because they already feel safe in their home, or because they do not believe the Bill and consequent actions will make their households safer). This would mean that other residents would need to experience greater reassurance for these averages to be achieved.

8.107 To put the switching value in context, Department for Transport's TAG data book¹¹ values the human cost of a slight casualty at £15,606 (2023-24 prices and values), which is substantially higher than the £27 calculated for the Bill. This is based on a stated preference study and reflects the willingness of an individual to pay to avoid the pain, grief and suffering of a slight accident to the casualty, their relatives and friends.

8.108 Moreover, one of the objectives of the Bill, alongside other measures, is to ensure that another catastrophic disaster similar to the Grenfell Tower fire, never happens again. The full financial cost of the Grenfell Tower fire is estimated to be over £1 billion¹². Since the chain of failures that led to the Grenfell fire involved repeated non-compliance with the law as it then stood, it may be impossible to legislate the risk out of existence entirely. Nonetheless, the avoided cost of reducing the likelihood of this happening

¹¹ [TAG data book - GOV.UK](#)

¹² [Cost of Grenfell Tower disaster soars to nearly £1.2bn | Grenfell Tower fire | The Guardian](#)

again is significantly greater than the policy cost. But because of the protocols governing the methods of a Green Book compliant cost benefit analysis, it has not been fully possible to attribute £1 billion of benefits to the policy options:

- Firstly, because a proportion of the avoided costs need to be attributed to some of the other measures over and above those in the Bill, such as changed Fire and Rescue Service evacuation policy, and to interim measures such as waking watch and removal of flammable cladding.
- Secondly, even without the Bill and other measures, the probability of a Grenfell type incident occurring in Wales in the near future is small, hence the likelihood of a similar incident occurring in the policy appraisal period under the counterfactual is small, meaning that only a proportion of the benefit of avoiding such an incident can be taken into account in the benefit analysis. Such is the nature of probability methodology. But even though the probability of a similar event happening in the policy appraisal period is small, it could do, and if it did happen because of the absence of the Bill and other measures, then all of the £1 billion could have been avoided because of the Bill.

8.109 Therefore, when considering the costs and benefits of the Bill, it is suggested that two approaches are used:

- The first of which is the Green Book compliant cost benefit analysis approach set out in this document, which shows a monetised benefits gap, but one which may be significantly reduced if it had been possible to monetise those benefits it was not possible to monetise.
- and to balance against this, an approach that says that the current risk of an incident similar to the Grenfell Tower fire, although small, is still higher than is tolerable. The priority is to undertake measures (irrespective of the cost) that will reduce the risk, as far as reasonably possible, to a level that will prevent such an incident from happening again, because if it did, the loss/cost would more than outweigh the costs of the Bill.

Results: further details

8.110 Further breakdown of the policy costs and benefits can be found at Annex 5.

Preferred Option

8.111 Our preferred option is option 3 (the Bill) because of the additional benefits it provides to residents. Although the cost of option 3 is greater than that of option 2, the net benefit of option 3 is marginally better, and these benefits are not considered fully reflective of the benefits in reality.

9. Impact Assessments

9.1 A full Integrated Impact Assessment (IIA) has been undertaken, which covers all provisions in the Bill. A summary of the impacts is outlined below, and the specific impact assessments will be published as appropriate.

9.2 In addition to the Health Impact Assessment Screening, specific assessments were undertaken to understand the impact of the Bill on the following areas:

- Children's Rights.
- Welsh Language.
- Equality.
- Rural Proofing.
- Data Protection.
- Biodiversity.
- The Socio-economic Duty.
- Justice.

Children's Rights

9.3 The Rights of Children and Young Persons (Wales) Measure 2011 requires Welsh Ministers to have due regard to the United Nations Convention on the Rights of the Child.

9.4 By improving regulation, the Bill aims to create safer living environments by reducing fire and structural risks, benefiting all residents, including children.

9.5 Households with children are much less likely to live in buildings in-scope of the Bill than in all dwellings. Fire casualty data for Wales shows that the proportion of fire casualties who are children is much lower than the proportion of children in the population. Therefore, children will not be disproportionately impacted by the Bill.

9.6 Improved resident engagement and a complaints process are intended to ensure that residents' concerns are heard and addressed, contributing to their psychological and emotional well-being. The Bill aims to promote a sense of safety, which is crucial for the mental health of children and young people.

9.7 Although children are not directly involved in the engagement strategy, parents and guardians can engage them in safety discussions, instilling a sense of responsibility and highlighting the importance of safety measures. This approach can empower children to act responsibly and maintain their safety.

9.8 The most significant negative impact on children will be the cost of the new regime for their families. These costs could potentially have the greatest

impact on those least able to pay. Poverty rates vary for different family types. Households with children tend to have higher poverty rates because there are more people in the household relative to its potential income. Children living in private or social rented accommodation, those in workless households, single parent households and Black and Asian children are all more likely to be in poverty.

9.9 Overall, the Building Safety Bill aims to enhance the safety and well-being of all residents, including children, but it may also present financial challenges for some families with children. The Bill emphasizes compliance, accountability, and collaboration to create safer living environments.

Welsh Language

9.10 The Bill will have no effect on the Welsh language or on the ability of people to use Welsh.

9.11 Welsh speakers are less prevalent in households living in buildings covered by the Bill compared to all households. For example, only 8% of households in flats, maisonettes, and apartments have all adults speaking Welsh, compared to 10% in all dwellings.

9.12 About 14% of the population lives in mainly Welsh-speaking local authorities. Category 1 buildings are less common in mainly Welsh-speaking areas (4%). Category 2 and category 3 buildings are more evenly distributed, with 9% and 12% respectively in Welsh-speaking areas.

9.13 Public sector bodies affected by the Bill are subject to Welsh Language Standards (WLS), promoting the use of Welsh in their duties. This includes local authorities and fire and rescue authorities. These standards will apply to their duties under the Bill in the same way as other duties.

Equality

9.14 The Equality Impact Assessment sets out the impact on people with protected characteristics as described in the Equality Act 2010.

9.15 While the Bill aims to improve safety for all residents in multi-occupied residential buildings, those at greatest risk from fires are likely to benefit more significantly. These include older people, some disabled people and single parent families.

9.16 There will be costs associated with the new regime which may be passed on to residents. These are likely to have a greater impact on groups at highest risk of poverty, including:

- Some older households, particularly:
 - Older people who rent their homes, privately or through the social sector
 - Older Black and Asian people

- Older single women
- Young households
- Households with children, particularly:
 - Single parent households
 - Households with 3 or more children
 - Black or Asian households with children
 - Households with children living in rented homes
- Disabled households, particularly those who:
 - Live in households with both disabled adults and children, or
 - Have long-term, limiting mental impairments
- Black, Asian or minority ethnic households
- Low-income households

Rural Proofing

9.17 The new regime is expected to benefit residents of multi-occupied buildings throughout Wales, regardless of whether they live in urban or rural areas. Local authorities and fire rescue services have been consulted, and they have not identified any significant differences in impact based on rurality. The Bill is designed to have minimal impact on service users, workers, or consumers in rural areas and does not rely on infrastructure such as good road or rail connections, fast broadband, or mobile connectivity.

9.18 Multi-occupied residential buildings are less common in rural regions, and thus the impact of the Bill on these areas is likely to be less. About a third of the population lives in rural local authorities. By comparison, only 5% of category 1 buildings, 15% of category 2 buildings and less than a third (23-30%) of HMOs are found in rural local authorities. Although the location of category 3 buildings aligns more closely with the population distribution of Wales.

9.19 The Bill does not affect agriculture or related activities, so no Sustainable Land Management (SLM) Impact Assessment is necessary.

9.20 In summary, the Bill is intended to enhance the safety of multi-occupied residential buildings across Wales without causing significant adverse effects on rural communities.

Data Protection

- 9.21 The Welsh Government will not be a controller for personal data processed in relation to the Bill. Rather, building safety authorities, fire safety authorities, the Residential Property Tribunal, principal accountable persons, and duty holders under the Bill will be the data controllers for the processing of personal data when carrying out their functions and duties.
- 9.22 Various provisions within the Bill will require the processing of personal data, including the registration of buildings, operation of occurrence recording systems, establishment of complaints systems, and compliance with requests for information. Personal data such as names, contact details, and addresses will be processed to ensure accountability and enable enforcement actions.
- 9.23 The processing of personal data under the Bill is justified, necessary, and proportionate to achieve the Bill's objectives while complying with data protection laws.

Biodiversity

- 9.24 This assessment is guided by the objectives of the Nature Recovery Action Plan for Wales, which aims to reverse the decline of biodiversity. The assessment considers both direct and indirect impacts on biodiversity, emphasizing the importance of proactively seeking opportunities to maintain and enhance biodiversity.
- 9.25 The Bill will have no impact on biodiversity.

Socio-Economic Duty Assessment

- 9.26 The assessment considers how the Bill contributes to inequalities of outcome due to socio-economic disadvantage.
- 9.27 Compared to the whole population, households living in flats, maisonettes, and apartments are more likely to be single-person households, older, disabled, Black, Asian, or minority ethnic, economically inactive, and in material deprivation.
- 9.28 Residents of HMOs are more likely to be young, economically inactive, Black, Asian, or minority ethnic.
- 9.29 The new regime aims to benefit all residents, including those most at risk, such as older people, disabled people, and single-parent households. However, there will be costs associated with the regime, which may disproportionately impact groups at highest risk of poverty.
- 9.30 Housing costs are a major factor in determining whether people are pulled into poverty. The cost of the new regime may exacerbate financial

pressures for low-income households, particularly those who rent their homes. The groups most likely to be affected by the increased costs include:

- Some older households: Particularly older people who rent their homes, older Black and Asian people, and older single women.
- Young households
- Households with children: Particularly single-parent households, those with three or more children, Black or Asian households with children and households with children living in rented homes
- Disabled households: particularly, households with both disabled adults and children, or those with long-term, limiting mental impairments.
- Black, Asian, or minority ethnic households
- Low-income households: Households with low incomes are less likely to have savings to use as a safety net, making them more vulnerable to financial pressures.

9.31 Overall, while the new regime will bring additional costs that may disproportionately impact low-income households, it also aims to improve the safety and well-being of residents, particularly those most at risk.

Justice

9.32 We have considered the impacts of the Bill on the justice system. The Welsh Government submitted a completed Justice System Impact Identification Form to the Ministry of Justice, which identified a medium potential impact on the justice system. The Lady Chief Justice's Department has also been consulted of the anticipated impact the Bill will have on the justice system.

9.33 The Bill will give local authorities in Wales new functions to regulate and enforce building safety duties in residential buildings (as the building safety authority).

9.34 The Bill will impose additional duties on local authorities (as building safety authorities), fire and rescue authorities (as fire safety authorities), landlords, tenants, owners, leaseholders, and freeholders. It will also place duties on residents and owners of residential units within in-scope multi-occupied residential buildings to not do any act in a way that creates a significant risk of a building safety risk materialising in relation to the building.

9.35 Building safety authorities and fire safety authorities will be able to make applications to the residential property tribunal under specific circumstances and to prosecute certain breaches under the Bill via the courts. A new enforcement regime is proposed to ensure and encourage compliance with the new building safety regime. This includes:

- Civil Enforcement Powers: including power to issue compliance notices and urgent action notices for specific contraventions. Building

safety authorities and fire safety authorities will be able to require information and documents from principal accountable persons and accountable persons and to access and inspect buildings. Fire safety authorities will also be able to issue prohibition notices.

- **Enforcement Powers for Building Safety Management:** Building safety authorities and fire safety authorities will have the power to take enforcement action against principal accountable persons, accountable persons and residents who fail to comply with their duties.

9.36 Accountable persons will be able to issue warning notices to residents where they think there is a contravention of a resident duty. Accountable persons can then apply to the residential property tribunal for a contravention order in certain circumstances. Accountable persons and HMO duty holders can also apply to the residential property tribunal for an access order in certain circumstances.

9.37 It is expected that the vast majority of principal accountable persons, accountable persons and residents will fully and willingly comply with the requirements of the new regime. The policy emphasises exhausting non-sanction routes to compliance, such as raising awareness of responsibilities, promoting cultural change, and education, before pursuing civil sanctions or criminal prosecutions. This approach aims to address non-compliance before it impacts the justice system. Buildings under 18 metres in height, which make up the majority of buildings within the scope of the Bill, will be subject to a fewer duties.

9.38 Data on enforcement activity under the Regulatory Reform (Fire Safety) Order 2005 indicates a relatively low number of enforcement actions in Wales¹³. For example, in the three years from 2020-2023, there were a total of 116 enforcement notices, 17 prohibition notices and one prosecution.

9.39 The introduction of specific offences, such as the use of unqualified fire risk assessors, is intended to act as a deterrent rather than leading to an increased number of prosecutions.

9.40 When assessing the potential impact of Building Safety Act 2022 in England for buildings 18 metres and higher, UK Government officials concluded that there would be minimal impact on the justice system. Buildings at least 18 metres in height are much less prevalent in Wales than in England. But since the new regime in Wales will apply to a larger range of buildings, it is possible that this will result in more cases being referred, initially, to the residential property tribunal. Our estimates of both the caseload and the unit cost of a case are uncertain and we will attempt to improve the expectation of high compliance and the use of supportive routes to compliance should help to mitigate the impact.

¹³ Stats Wales [Audit activity by audit outcome and financial year](#)

High-Level Health Impact Screening

- 9.41 The Health Impact Assessment (HIA) screening was based on guidance issued by Public Health Wales and aimed to identify potential health impacts of the new building safety regime.
- 9.42 The Bill is intended to improve safety for people in or around multi-occupied residential buildings. The greatest impact will be on residents. Compared to the whole population, residents of in-scope buildings are more likely to be single person households, single older person households, disabled, Black, Asian, or minority ethnic, economically inactive, or in material deprivation.
- 9.43 Death or injury from residential building safety incidents are extremely rare. In 2023-24, there was only 1 fatal casualty from fires in flats or HMOs and 13 casualties in houses or bungalows in Wales, compared to 98 deaths from road traffic collisions. Despite the rarity, the impact of such incidents can be devastating.
- 9.44 The Bill is expected to have a positive impact on living and environmental conditions, particularly housing safety. The new regulatory system will clarify accountability for assessing and managing building safety risks in in-scope buildings. It will also encourage dialogue, communication, and engagement with residents on building safety matters. This should enable residents to be safer and feel safer in their homes.
- 9.45 The Bill is anticipated to have a moderate positive impact on mental well-being. It aims to provide reassurance to residents by reducing risks to their safety and homes. This reduction in risk and the perception of risk is expected to mitigate negative mental health impacts.
- 9.46 The Bill is expected to have a moderate positive impact on social and community influences on health. By improving the safety of multi-occupied residential buildings, the Bill aims to reduce the likelihood of residents having to relocate due to building safety incidents. This helps maintain social support systems and community cohesion.
- 9.47 In summary, the Bill is intended to improve the safety of multi-occupied residential buildings, benefiting all residents, especially those at greatest risk from building safety incidents. However, the costs associated with the new regime will have the greatest impact on those at highest risk of poverty.

Competition Assessment

- 9.48 The filter assessment shows that the Bill is unlikely to have a significant detrimental effect on competition in Wales or the competitiveness of Welsh firms.
- 9.49 We do not have accurate data on the ownership of buildings, but no entity is thought to have a 10% market share of all in-scope buildings. The ownership of buildings at least 18m in height is concentrated in a smaller number of entities than that of other in scope buildings. For those buildings, it is possible that Cardiff Council has a 10% market share, but no entity is thought to have a 20% market share. The ownership of regulated buildings below 11m and HMOs is thought to be widely distributed.
- 9.50 The costs associated with the Bill will be higher for buildings at least 18m in height. But the Bill is unlikely to affect the market structure, even for these buildings. The requirements of the new regime are deliberately proportionate and therefore manageable for the accountable persons for all regulated buildings and the landlords of HMOs. We should expect that some or all of the costs (with the exception of enforcement costs) will be passed onto leaseholders or residents. As well as aggregated costs, the RIA includes estimated average costs per building and per flat.
- 9.51 Costs associated with the Bill would fall equally on both new and existing suppliers. The Bill would not lead to higher ongoing costs for new suppliers that existing suppliers do not have to meet.
- 9.52 The sector is not characterised by rapid technological change, although the requirements to manage information, particularly for buildings at least 18m, may encourage greater use of technology.
- 9.53 The Bill does places restriction on quality, for example by requiring fire risk assessors to be competent, because this is necessary to achieve the objectives.

10. Affordability Assessment

- 10.1 While the regulatory impact assessment assesses social value and includes cultural, social and environmental impacts alongside economic costs and benefits, this affordability assessment is a purely financial assessment. As such, only cash costs and cash-releasing benefits are included. Any environmental, social, cultural and wider economic costs and benefits identified in the Bill regulatory impact assessment have been removed from this affordability assessment. Opportunity costs have also been removed.
- 10.2 The affordability assessment considers the same time period as the regulatory impact assessment, 2027-28 to 2036-37 and has been conducted by Welsh Government to determine whether the Bill is affordable for the organisation.
- 10.3 The cash costs in this assessment have been adjusted to reflect anticipated inflation during the appraisal period. This adjustment has been made on the basis of the GDP deflator projections included in the Office for Budget Responsibility (OBR) Economic and Fiscal Outlook which was published in March 2024¹⁴. The OBR's projections extended only to 2029-30. Since the forecasts flatten out at around 1.9% towards the end of the OBR's forecast period, this rate has been assumed to hold for the remainder of our appraisal period. Although inflation is now relatively stable, there remains a degree of uncertainty as to its future path. The Welsh Government will continue to monitor the impact of inflation on the financial costs of the Bill.

¹⁴ [Economic and fiscal outlook – March 2025 - Office for Budget Responsibility](#)

Local Authorities

10.4. The estimated financial costs attributed to local authorities to discharge the duties of the building safety authorities under the Bill are summarised in Table 10.1.

Table 10.1. Estimated cost to local authorities (£m)

	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	2033-34	2034-35	2035-36	2036-37
Total costs (2023 Prices)	1.91	0.70	0.70	0.68	0.67	0.63	0.63	0.59	0.60	0.60
Employment Costs (nominal prices)	1.50	0.33	0.34	0.33	0.33	0.30	0.31	0.29	0.30	0.31
Non Employment Costs (nominal prices)	0.69	0.51	0.53	0.53	0.53	0.52	0.53	0.52	0.54	0.55
proportion of employment costs additional	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
Total adjusted for inflation	2.19	0.84	0.87	0.86	0.86	0.83	0.85	0.81	0.83	0.86

Note: Local authorities are estimated to incur a total of £1.20m of expenditure preparing for the introduction of the duties in the years 2025-26 and 2026-27. This cost has been include in the 2027-28 figures in the table above.

Fire and Rescue Authorities

10.5. The estimated financial costs attributed to fire and rescue authorities to discharge the duties of the fire safety authorities under the Bill are summarised in Table 10.2.

Table 10.2. Estimated cost to fire and rescue authorities (£m)

	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	2033-34	2034-35	2035-36	2036-37
Total costs (2023 Prices)	0.10	0.27	0.28	0.28	0.28	0.27	0.28	0.27	0.27	0.28
Employment Costs (nominal prices)	0.07	0.19	0.20	0.20	0.20	0.20	0.21	0.21	0.21	0.22
Non Employment Costs (nominal prices)	0.05	0.12	0.13	0.13	0.13	0.13	0.14	0.14	0.14	0.14
proportion of employment costs additional	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Total adjusted for inflation	0.05	0.12	0.13	0.13	0.13	0.13	0.14	0.14	0.14	0.14

Welsh Government

10.6. The estimated financial costs attributed to the Welsh Government to implement the Bill are summarised in Table 10.3.

Table 10.3. Estimated cost to Welsh Government (£m)

	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	2033-34	2034-35	2035-36	2036-37
Total costs (2023 Prices)	3.04	2.50	2.50	2.50	2.50	2.50	2.50	2.50	2.50	3.04
Employment Costs (nominal prices)	3.40	2.85	2.90	2.95	3.01	3.07	3.12	3.18	3.24	3.40
Non Employment Costs (nominal prices)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
proportion of employment costs additional	84%	100%	100%	100%	100%	100%	100%	100%	100%	84%
Total adjusted for inflation	2.86	2.85	2.90	2.95	3.01	3.07	3.12	3.18	3.24	2.86

Summary

10.7. The total estimated financial cost associated with the Bill across all these bodies is estimated to be £41.54 million over ten years. This cost is affordable from Welsh Government budgets.

11. Post implementation review

11.1 An evaluation of the Building Safety (Wales) Act will begin approximately three years after the new regime begins to come into effect, which will be approximately four years after Royal Assent. This would allow for:

- all category 1 buildings to have been registered,
- principal accountable persons for category 1 buildings to have applied for and been granted a building certificate,
- residents' engagement strategies to have been developed and implemented for category 1 buildings,
- roll out of the building safety regime to category 2 and 3 buildings and HMOs to be underway if not complete.

11.2 The evaluation approach will be determined following Royal Assent. The initial evaluation should consider.

- The process of implementing the Building Safety (Wales) Act, including perspectives of relevant stakeholders,
- The progress made towards implementing the building safety regime,
- Initial impacts of the legislation on building safety, including the costs and benefits, and perspectives of relevant stakeholders.

11.3 A phased approach to evaluation will be considered to understand the longer-term impacts of the legislation on building safety, including an assessment of the costs and benefits. Actual costs will be reported from the earliest stages of the evaluation. The 10 year policy appraisal period will be complete in 2036-37. Once data from this period is available it should be possible to complete the evaluation.

11.4 The benefits of the new regime are estimates of avoided losses and so cannot be measured directly. Therefore, although a 70 year appraisal period is used for benefits, there is no need to continue the appraisal for this length of time.

ANNEX 1 - Explanatory Notes

THE BUILDING SAFETY (WALES) BILL

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes are for the Building Safety (Wales) Bill, which was introduced into Senedd Cymru on 7 July 2025. They have been prepared by the Local Government and Housing Group of the Welsh Government to assist the reader of the Act. The Explanatory Notes should be read in conjunction with the Act but are not part of it.

SUMMARY AND POLICY BACKGROUND

2. The Building Safety (Wales) Bill (“the Bill”) introduces a new building safety regime in Wales focusing on the occupation phase of a building’s life cycle. It will cover the regulation of building safety risks in multi-occupied residential buildings. The Bill’s provisions will help to address issues identified by the [Hackitt Review](#), the [Grenfell Tower Inquiry](#), and Welsh Government’s [Building Safety Expert Group](#) in the aftermath of the tragic fire at Grenfell Tower, London, in June 2017.
3. Primary legislation is required to introduce a comprehensive new building safety regime that could be applied across all multi-occupied residential buildings.
4. The Welsh Government convened a [Building Safety Expert Group](#) in October 2018 to identify the parameters of a Welsh response to the issues raised by the Hackitt Review and provide an advised steer regarding the applicability of the Review to the Welsh context. This included areas that a Welsh response could strengthen or develop further and areas for particular priority in terms of implementation. The Group also highlighted areas where they considered that the Welsh Government should not deviate from the approach taken by the UK Government and where both governments should work in partnership.
5. The [Safer Buildings in Wales White Paper](#) consultation opened in January 2021. It proposed a comprehensive reform of legislation, representing a significant overhaul of the existing system for building safety in Wales. [Welsh Government published its response to the consultation](#) on 14 December 2021

6. The Building Safety (Wales) Bill will be the vehicle for primary legislative provisions to establish a new regime for the occupation and ongoing management of multi-occupied residential buildings arising from the legislative reform workstream of the Building Safety Programme.
7. In summary, the Bill will:
 - identify those on whom statutory duties under the Bill are to be placed.
 - require the registration of certain regulated buildings i.e. those at least 11 metres in height or which have at least 5 storeys with a building safety authority.
 - confer new functions on the “building safety authority” i.e. each of the local authorities in Wales.
 - confer new functions on the “fire safety authority” in Wales.
 - create duties to assess and manage fire safety risks in all in-scope buildings.
 - create duties to assess and manage structural safety risks in in-scope buildings that are at least 11 metres in height or which have at least 5 storeys.
 - put in place new rights for residents and place duties on them in respect of all in-scope buildings.
 - establish a new enforcement regime to enable enforcement action to be taken if the new duties are not met.
8. The Bill comprises 4 Parts and 4 Schedules.

Part 1

Safety of Buildings containing two or more residential units

Chapter 1

1 Overview of Part

This section gives an overview of Part 1 of the Bill.

Chapter 2

Key Terms

Regulated buildings, residential units and categories of building

2 Meaning of “regulated building”

This section sets out the meaning of “regulated building” for the purpose of the Bill.

Subsection (1) sets out that a “regulated building” must contain at least two residential units and that the building must be wholly or mainly in Wales.

Subsection (2) provides that buildings of a description in Schedule 1 are excluded from the definition of “regulated building”.

Subsection (3) signposts readers to other provisions (sections 3 to 7) which define key terms relevant to the meaning of “regulated building”. These key terms include:

- “building”
- “independent part”
- “residential unit”
- “category 1 building”, “category 2 building” and “category 3 building”
- “ancillary area”

3 Meaning of “building”

Section 3 sets out the meaning of “building” for the purposes of section 2. The purpose of this section is to identify the parameters of the “building” that needs to be considered when deciding whether that building meets the criteria for being a “regulated building”. If that building does meet the criteria for being a “regulated building” it will subsequently be categorised under section 6 into one of three categories.

Subsection (2) provides that in the case of a structure that is not attached to any other structure, that structure will be a “building” for the purposes of section 2. However, this is subject to whether the structure contains any independent parts. If the structure contains any independent parts, each independent part is a “building” for the purposes of section 2 (subsections (4) and (5)).

Subsection (3) provides for the case of structures that are attached to each other. The set of structures will be a “building” for the purposes of section 2, including parts that attach them to each other. However, this is subject to whether the set of structures contains any independent parts. If the set contains any independent parts, each independent part is a “building” for the purposes of section 2 (subsections (4) and (5)).

For example, in the case of a complex development of structures spanning a large area, so long as the structures are attached, the structures and the constructions attaching them will together be a “building” at first sight. However, it will then be necessary to consider the set of structures to decide if any parts of it meet the criteria for being an independent part. The criteria for being an independent part are set out in section 4.

It is possible for a structure or a set of structures to have more than one “building” within it for the purposes of section 2.

Subsection (6) sets out the meaning of “structure” for the purposes of this section i.e. a roofed construction with walls. A construction with walls and a roof will still be a “structure” even if it includes parts that do not have a roof or walls (for example, a walkway that does not have a roof).

4 Meaning of “independent part”

Section 4 makes provision about the meaning of “independent part”.

If a part of a structure or set of structures is an “independent part” (“Part A”) then that part is a “building” for the purposes of section 2 (see section 3(5)). If Part A meets the criteria for being a regulated building, then, depending on what category of building it is, the relevant duties under the Bill will apply in respect of it. For example, if Part A is a category 1 or category 2 building, the principal accountable person commits an offence if Part A is “occupied” but not registered (section 19). “Occupied” is defined in section 127.

The intention behind the independent part test is to recognise that if a part of a structure or set of structures meets certain criteria it is appropriate for it to be considered a “building” in its own right (rather than the whole of the structure or set of structures being considered a “building” and the “regulated building” test being applied to that whole).

The “independent part” criteria look at whether a part has access to other parts of the structure (or set of structures) and whether it overhangs other parts that are residential. If an independent part, then meets the criteria for being a “regulated building”, most of the duties under the Bill will apply by reference to the parameters of that independent part and any ancillary areas that it may have (see section 7). An example is the duty under section 29 for the principal accountable person for an “occupied” regulated building to ensure that there is an assessment of the fire safety risks relating to that building.

The criteria for being an independent part are set out in subsection (1). There are two elements to the criteria (paragraphs (a) and (b)) and both elements must be met.

Paragraph (a) requires the part being considered to have no “access” to another part of the structure (or set of structures, if it is part of a set of structures). If there is “access” from one area of a structure to another then neither of those areas will individually be capable of being an “independent part” (unless the “access” is disregarded under subsection (7) e.g. if it is intended to be for emergency use only).

Paragraph (b) requires the part being considered to constitute a vertical division of the structure or set.

Subsection (2) sets out the meaning of vertical division. It provides that for the part being considered to constitute a “vertical division” that part must divide the structure (or set of structures) from the top to the bottom, and the line/ lines of the division must not deviate from a vertical plane. However, this is subject to subsection (3).

The effect of the vertical division element of the independent part criteria is to prevent a part of a structure that contains a residential unit and that overhangs a part of a structure containing another residential unit, from constituting a separate

building under the Bill, even where the two parts have no access to each other. One of the reasons for this is to recognise that if fire spreads it is most likely to spread upwards. Therefore, for example, in the scenario described here the overhanging part and the underhanging part would be considered a single building and risk assessment duties under the Bill would apply accordingly.

Subsection (3) provides that when applying the “vertical division” test to a part, the existence of any other parts of the structure (or set of structures) that meet the criteria in that subsection are to be disregarded so that they do not prevent the vertical division test from being met.

If one was trying to visualise the effect of subsection (3), one could visualise the potential independent part (“Part A”) of a structure as being shaded in a particular colour, and the part that meets the criteria in subsection (3) (“Part B”) being shaded in the same colour, so that the two parts together form a block of one colour. The two parts would together form a block of one colour that divides the structure from top to bottom along a vertical plane. Part A would be an independent part, provided it also met the criteria in subsection (1)(a) – no access to any other part of the structure.

Subsection (4) defines “non-residential part” for the purposes of subsection (3).

An example to consider is a scenario in which there are two blocks of flats above a commercial premises, no part of either block overhangs the other block, and they do not share access with each other or with the commercial premises. The effect of subsection (3) would be that the existence of the commercial premises would not prevent each block from constituting a vertical division of the structure. Assuming that each block has an entrance area (e.g. stairwell or access to lifts) that runs adjacent to (but does not share access with or have access to) the commercial premises at the ground floor level, then there will inevitably be some deviation in the line of the vertical division as between the commercial premises and the block above. However, thinking of the scenario in visual terms, the effect of subsection (3) is to shade the part of the commercial area that is under each block in the same colour as the block so that each block is treated as if it divided the structure from top to bottom along a vertical plane. In such a scenario each block of flats would be an “independent part” and therefore a “building” for the purposes of section 2.

Subsection (5) makes provision for cases where a part of a building would meet the vertical division test but for the fact that the part cannot constitute a “vertical division” of the structure because the part makes up the whole width of the structure. For example, where there is a single block of flats above commercial premises the block of flats is still capable of being an “independent part” (and therefore a “building”) separate from the commercial part below (so long as it does not share access with or have access to the commercial part). The reason for this provision is to achieve a result in this type of scenario that is consistent with the result in the scenario described above (two blocks of flats above commercial premises).

In the scenario of two blocks of flats, each block of flats emerges from the independent part test as a separate independent part, and therefore, “building”. The commercial premises is not part of either “building” under the Bill (although there are duties imposed by the Bill that would relate to the commercial premises). Subsection (5) is for the purpose of achieving a consistent result in the scenario of a single block of flats above commercial premises (with which the block does not share access, and to which it does not have access) – the block of flats would emerge from the independent part test as an independent part and therefore “building” under the Bill. The commercial premises would not be part of that building.

Subsection (6) enables the Welsh Ministers to make regulations to specify that, in particular circumstances, a part of an unattached structure or set of structures is an “independent part,” despite it not being such under this section. This will enable more unusual ownership models and designs of buildings to be accommodated, so that the duties under the Bill will apply appropriately.

Subsection (7) defines “access” as being a doorway, archway or similar opening. Such accesses intended for exceptional use (such as emergency use) or use for the purposes of maintenance are not included.

5 Meaning of “residential unit”

Section 5 makes provision about the meaning of “residential unit” for the purposes of the Bill. In order to be a “regulated building” a building must contain at least two residential units (section 2(1)).

Subsection (6) provides that, in particular, regulations under subsection (5) may be used to exclude buildings or parts of buildings that might otherwise be captured by the definition. Regulations can also make provision about the meaning of “unit of living accommodation” and how residential units are to be counted. An example of this may be where two “residential units” have some level of interdependency on each other and the regulations could provide that they are to be counted as one residential unit.

These regulation making powers will ensure that, for example, issues arising from new or more unusual living accommodation models can be specifically provided for if it becomes necessary.

The Welsh Ministers must consult each building safety authority, each fire safety authority and any other persons they consider appropriate before making regulations under this section.

6 Categories of regulated building

This section sets out how the three different categories of “regulated buildings” are defined. When a building has been identified as a “regulated building” via sections

2 and 3 (and 4 if relevant) it will be categorised under this section. Some duties under the Bill apply only in relation to buildings that come within a particular category. This provision and any regulations made under it will determine which category a regulated building comes within.

Category 1 buildings are at least 18 metres in height or have at least 7 storeys.

Category 2 buildings are 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 i.e. they are not a category 1 building.

Category 3 buildings are less than 11 metres in height and have fewer than 5 storeys.

Subsection (5) provides Welsh Ministers with a power to make regulations to supplement this section. For example, regulations may set out details of how to measure the height of a building, make provision to define “storey” or provide for how storeys are to be counted.

Regulations may also be used to make provision for when buildings of a particular description should be treated as falling into a different category than they otherwise would. This might be due to evidence identifying such buildings being at higher or lower risk than other buildings within the category they would otherwise fall into.

7 Inclusion of ancillary areas in references to regulated buildings

Section 7 provides that in the remainder of the Bill (i.e., not in sections 2 to 7 or Schedule 1), any reference to a regulated building includes any “ancillary area” that is not actually part of the “building” that has been identified via sections 2 and 3 (including section 4 if relevant) and categorised via section 6.

“Ancillary area” means rooms, outbuildings, garages, car parks, yards, gardens or other areas, that are provided for the use, benefit or enjoyment of residents of the building.

Subsection (3) provides that if an ancillary area is (a) also for the use, benefit or enjoyment of other persons who are not residents, or (b) is only for the use, benefit or enjoyment of the residents of a particular residential unit or units in the building, it is still an ancillary area under subsection (2).

As a result of this section, many of the duties in the Bill (for example, the duty on the principal accountable person under section 28 to ensure the assessment of fire safety risks) will apply in relation to both the building that has been identified via sections 2 and 3 and categorised via section 6, and any ancillary areas relating to that building.

Accountable persons, principal accountable persons and common parts

8 Meaning of “accountable person”

Section 8 sets out who is an “accountable person” for a regulated building. These are persons on whom key statutory duties are placed under the Bill. For example, accountable persons will have duties to manage fire safety risks (under section 33) in relation to the parts of the building for which they are responsible.

Subsection (2) provides that a person is an accountable person for a regulated building if –

- a. they hold a legal estate (e.g. freehold or leasehold) in possession in the common parts of the building or any part of them, or
- b. they do not hold a legal estate in any part of the building, but they are under a “relevant repairing obligation” in relation to the common parts of the building or any part of them.

When considering whether a person holds a legal estate in possession in the common parts of the building or any part of them, “in possession” does not include the receipt of rents and profits or the right to receive rents and profits (see section 14).

“Common parts” in relation to a regulated building is defined in section 13. Broadly speaking, the “common parts” are the structure and exterior of the building (except as mentioned in section 13(2)(a)) and other parts of the building that are provided for the use, benefit or enjoyment of the residents of more than one residential unit.

“Relevant repairing obligation” in relation to a part of a regulated building is defined in section 14. Broadly speaking, this means a requirement under a lease or by virtue of an enactment to repair or maintain that part.

Subsection (2)(a) is subject to subsection (3). This provides that a person, described as the “estate owner”, who holds a legal estate in possession in the common parts of the building or any part of them is not an accountable person under subsection (2)(a) if either of the circumstances in subsection (3)(a) or (b) apply. For example, where all of the repairing obligations of the estate owner in relation to the relevant common parts are functions of an RTM company. “RTM company” is defined in section 14.

Subsections (4) and (5) apply when a tenant holds a legal estate in possession in the common parts of the building or any part of them (referred to as the “relevant common parts”) and a landlord under the lease is under a relevant repairing obligation in relation to those common parts. This could arise where, for example, the relevant common parts are demised under a lease or a chain of leases.

The effect of subsections (4) and (5) are that, in those scenarios, it is the landlord, or superior landlord, that is under the relevant repairing obligation in relation to

the relevant common parts that is treated as holding the legal estate in possession in them for the purpose of determining who is the accountable person (instead of the tenant that holds the legal estate in possession in those common parts).

Subsection (6) provides that where a building is on commonhold land, the commonhold association will be the accountable person for the building.

9 Meaning of “principal accountable person”

The definition of a principal accountable person will ensure that in buildings with more than one accountable person, there is a lead accountable person, the principal accountable person, on whom certain duties under the regime are placed. The principal accountable person will be required to comply with certain duties that apply to, or in relation to, the entire regulated building. These duties include, for example, applying for registration of category 1 and category 2 buildings, ensuring a fire risk assessment is undertaken for a regulated building and preparing the safety case report for category 1 buildings.

In a building with only one accountable person, they will be the principal accountable person.

Where there are two or more accountable persons for the building, subsection (3) provides that the principal accountable person for a building with more than one accountable person is the accountable person who –

- a. holds a legal estate in possession in the external structure of the building, or
- b. falls within section 8(2)(b) because of a relevant repairing obligation in relation to the external structure of the building.

“External structure” is defined in subsection (4) as meaning the building’s foundations, external walls and roof. This is subject to the exceptions mentioned in subsection (4)(a) and (b).

Subsection (3) is subject to any determinations made by the building safety authority or residential property tribunal as to who is the principal accountable person under sections 10 and 11.

10 Principal accountable person: determination by building safety authority

This section enables the building safety authority to determine who the principal accountable person is for a regulated building if there is more than one accountable person that meets the definition of principal accountable person in section 9(3), and different accountable persons fall within section 9(3) in respect of different parts of the external structure of the building. The accountable persons that fall within subsection (1)(b) of section 10 may jointly apply to the building safety authority for a determination as to which one of them is the principal accountable person for the building (subsection (2)). As an example, Person A is an accountable person that falls within section 9(3) because it holds a legal estate in possession in the foundations of the building. Person B is an accountable person that falls within

section 9(3) because it holds a legal estate in possession in the external walls and roof of the building. Under subsection (2), Person A and Person B may jointly apply to the building safety authority for a determination as to which one of them is the principal accountable person for the building.

However, under subsection (4), an application to the building safety authority cannot be made if an application to a residential property tribunal for a determination under section 11(1)(b) as to who is the principal accountable person for the building –

- a. has been finally determined, or
- b. has been made but not finally determined or withdrawn.

Subsection (3) enables the Welsh Ministers to make regulations about applications under subsection (2) (and related matters).

Subsection (4) makes provision for circumstances in which this section does not apply.

11 Determinations by residential property tribunal

The purpose of this section is to enable applications to be made to a residential property tribunal for determinations about various matters.

Subsection (1) enables a person mentioned in subsection (3) (referred to in this section as an “interested person”) to apply to the tribunal for a determination of –

- a. the person or persons who are accountable persons for the regulated building,
- b. the person who is the principal accountable person for the building,
- c. the part of the building for which any accountable person for the building is responsible.

If an application is made under subsection (1)(b) for a determination of who is the principal accountable person for the building and it appears to the tribunal that more than one accountable person falls within section 9(3), subsection (2) provides that the principal accountable person is such one of those accountable persons as the tribunal considers appropriate.

Under subsection (4), any person can make an application to the tribunal for a determination that the person is not an accountable person for the building, or that the person is not the principal accountable person for the building.

12 Application of sections 9 and 11 in cases of joint ownership etc.

This section makes provision for situations where two or more persons meet the definition of “accountable person” because they jointly hold a legal estate in possession of the same common parts, because they are jointly subject to a requirement under a lease to repair or maintain the same common parts or because

they are jointly subject to a requirement by virtue of an enactment to repair or maintain the same common parts. In such cases, they are to be treated as one accountable person for the purposes of:

- determination of the principal accountable person under section 9(2) and (3); and
- determination of responsibility for parts of the building under section 11(1)(c).

13 Meaning of “common parts”

This section defines “common parts” in relation to regulated buildings for the purposes of the Bill.

The “common parts” of a regulated building mean the “structure and exterior” of the building, subject to the exceptions in subsection (2)(a). Subsection (4) sets out what is meant by the “structure and exterior” of a building. References to a part of a building in section 13(4) include any fixture that forms part of it, e.g. an integrated fire detection/alarm system or an integrated fire sprinkler system.

Subsection (2)(b) provides that “common parts” also means any other part of the building (that is not a part of the structure or exterior) that is provided for the use, benefit or enjoyment of the residents of more than one residential unit. Examples of parts of the building that are “common parts” under subsection (2)(b) include unenclosed parts of the regulated building such as lawns, gardens or surface car parks (that are not part of the structure and exterior) that are provided for the use, benefit or enjoyment of the residents of more than one residential unit.

Subsection (3) provides a power for the Welsh Ministers to make regulations to provide that, in specified circumstances, a part of the structure and exterior of a building forms part of the common parts of the building even if it is excluded from being a common part under subsection (2)(a)(i).

14 Other definitions

This section sets out the definitions of key terms used in this Chapter.

15 Power to make further provision for the purposes of sections 8 and 9

This section gives the Welsh Ministers a power to make further provision, by regulations, for the purposes of sections 8 and 9.

Subsection (2) gives examples of the provision that may be made in such regulations.

Responsibility of accountable persons for parts of regulated buildings

16 Part of regulated building for which accountable person is responsible

Many of the duties imposed on an accountable person by the Bill are defined by reference to the part of the regulated building for which the accountable person is responsible.

This section provides that references in the Bill to the part of the building for which an accountable person is responsible have the meaning given by regulations made by the Welsh Ministers.

General

17 Power to amend sections 2 to 15

This section provides that the Welsh Ministers may by regulations amend sections 2 to 15 and Schedule 1. Limitations are placed on what the power can be used to do in respect of and to amend sections 2, 3, and 6 and Schedule 1 (see subsections (1)(a), (b), (c) and (e)).

Chapter 3

Registration of Category 1 Buildings and Category 2 Buildings

Registers

18 Registers of category 1 and category 2 buildings

This section requires a building safety authority to keep a register of category 1 and category 2 buildings for which it is the building safety authority (see section 113 for the meaning of “building safety authority”).

The information and documents that must be included in a register is listed in subsection (2).

Having this information on a register will mean that a building safety authority will hold a record of who is the principal accountable person under the Bill for category 1 and 2 buildings, along with other important information about the building such as its address and height. Section 9 sets out the meaning of “principal accountable person”.

Subsection (3) provides a power for the Welsh Ministers to make regulations about the publication by a building safety authority of its register, or of certain information or documents held on its register.

Requirement to register and registration procedure

19 Requirement to register category 1 buildings and category 2 buildings

The purpose of this section is to ensure that category 1 and category 2 buildings are registered with the building safety authority before they are “occupied”. The meaning of “occupied” is given in section 127.

The principal accountable person for a category 1 or category 2 building commits an offence if the building is “occupied” but not registered. The offence is triable either way. It’s a defence to prove that the principal accountable person had a reasonable excuse for the building being occupied but not registered.

20 Registration procedure

This section sets out the procedure for registering a category 1 or 2 building. The principal accountable person must make an application to register the building that complies with the requirements set out in regulations made by the Welsh Ministers under subsection (3). If the principal accountable person does not pay any application fee required by regulations made under section 116, the building safety authority must not register the building, even if the application complies with the requirements set out in regulations made by the Welsh Ministers under subsection (3).

Notification of changes and revision of register

21 Duty to notify changes

This section is intended to ensure that information held on the register is kept up to date.

Subsection (1) places a duty on the principal accountable person of a registered building to notify the building safety authority if there are any changes to the address of the building, its height, number of storeys or changes to the name, address or telephone number of the principal accountable person. Other changes that must also be notified to the building safety authority can be specified in regulations made by the Welsh Ministers. The principal accountable person for a category 1 or category 2 building must inform the building safety authority before the end of 14 days beginning with when it first knows, or ought reasonably to know, of the change.

Subsection (2) provides that it is an offence for failing to comply with subsection (1), without reasonable excuse.

If a person is found guilty of an offence under subsection (2) in a magistrates’ court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 12 months (which is the “applicable limit” set out in section 224(1A) (b) of the Sentencing Code, contained in the Sentencing Act 2020 (c. 17)).

If a person is found guilty of an offence under subsection (2) in the Crown court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 2 years.

22 Revision of register following notification of change

This section describes what the building safety authority must do when a principal accountable person of a registered category 1 or category 2 building notifies the building safety authority of a change to the address of the building, its height, number of storeys or a change in the name, address or telephone number of the principal accountable person under section 21(1)(a). It also sets out what the authority must do if it is notified by the principal accountable person of any other change under section 21(1)(b).

The building safety authority must decide whether to revise the building's entry in the register and must inform the principal accountable person of its decision within 21 days beginning with the day after the day on which the authority is notified of the change (subsections (2) and (3)).

Subsections (4) and (5) provide for what must be included in the notice given under subsection (3), depending on whether the entry is revised or not. If the authority decides not to revise the entry for the building in the register, the notice must include information about the right of review under section 63.

23 Revision of register without notification

This section applies where the building safety authority becomes aware, other than being notified by the principal accountable person under section 21, that information or a document, included in an entry for a building in its register is inaccurate.

The building safety authority must decide whether or not to revise the building's entry in the register (subsection (2)).

If the building safety authority decides to revise the register, it must notify the principal accountable person within 21 days, beginning with the day after the day on which it became aware of the inaccuracy (subsection (3)).

Subsection (4) provides for what must be included in a notice given under subsection (3), including the date on which the revision will take effect. If the authority decides to revise the entry for the building in the register, the principal accountable person can request a review of that decision under section 63.

Subsection (5) makes provision about the circumstances in which a decision to revise the register under subsection (2) cannot take effect, to allow for any review under section 63 or any appeal under section 64.

Where subsection (5) ceases to prevent a revision to the register from taking effect, subsection (6) provides that the building safety authority must, if the date specified under subsection (4)(b) has already passed, set a new date for the revision to take effect unless a review or appeal has determined the date.

Declaration about accuracy of information and documents in register

24 Duty to give declaration about accuracy of information and documents included in register

The purpose of this section is to require a periodic review by the principal accountable person of the accuracy of information and documents included in a building's entry in the register.

Subsections (1) and (2) provide that the principal accountable person must give the building safety authority a "relevant declaration", about the accuracy of the information and documents included in the entry for the building in the register. A "relevant declaration" must be given within the "confirmation period". This is defined in subsection (12) as the last three months leading up to the five-year anniversary of the date of registration, and the last three months of every subsequent five-year period.

Subsection (3) places a duty on the Welsh Ministers to make regulations about how the declaration must be given and about its form and content.

Subsection (4) provides that the duty to give a declaration within the confirmation period under subsection (1) does not apply where the building safety authority has given the principal accountable person notice of a decision to remove the building from the register under section 26(6), and the date on which the decision takes effect has not yet been reached or the decision has not yet taken effect because of a suspension under section 26(9) pending a review or appeal under sections 63 or 64.

If a suspension of the decision to remove the building from the register pending a review or appeal ceases to apply due to the decision being cancelled or quashed on review or appeal during the last 14 days of the confirmation period, or after the end of the confirmation period, then subsections (5) and (6) provide that the principal accountable person must give a relevant declaration. It must do so before the end of 14 days beginning with the day after the day on which the decision to remove the building from the register is cancelled or quashed.

The building safety authority must notify the principal accountable person in writing that it has received the declaration within 21 days beginning with the day after the day on which the declaration is given (subsection (7)).

Subsection (8) provides that it is an offence to fail, without reasonable excuse, to comply with the duty imposed by subsection (1) or (6) (as applicable). If found guilty of the offence under subsection (8) the person is liable to a fine or imprisonment, or both (subsection (9)).

Subsection (10) provides that a further offence is committed if, after conviction, the person continues to fail to give a declaration. If found guilty of the further offence the person is liable to a fine for each day on which the failure continues (subsection (11)).

Removal of building from register

25 Application to remove building from register

In order that the register remains accurate, a principal accountable person must apply to have the building removed from the register if it believes, or ought reasonably to believe, that:

- the building is no longer a category 1 or 2 building, or
- the building is not occupied and the total period for which it is not occupied will be at least 6 months (subsection (1)).

For example, if work to a registered building meant that the residents had to vacate the building leaving it not occupied for only four months, the principal accountable person would not need to apply to have the building removed from the register.

If planned work, when it commences, is expected to take six months or longer, the principal accountable person must apply to have the building removed from the register.

However, if the work that was originally only expected to take four months overran, and the principal accountable person now believes, or ought reasonably to believe, that the building would now not be occupied for a further three months (i.e. a total of seven months), this means that the building will not be occupied for a total of six months or longer from the date on which it first became unoccupied. The principal accountable person must apply to the building safety authority to remove the building from the register. The timeframe for doing this is within 14 days of believing (or when they ought reasonably to have formed this belief) that the building would be expected to be unoccupied for a total of six months or longer. Subsection (2) provides for the timeframe for when an application under subsection (1) must be made.

Subsection (3) provides the Welsh Ministers with a power to make regulations about how an application to remove a building from the register must be made, including its form, content, and any additional required information.

Subsection (4) provides that it is an offence to fail, without reasonable excuse, to comply with the duty imposed by subsection (2). This offence would be tried in a magistrates' court. If a person is found guilty of the offence the court may impose a fine. There is no maximum limit on the amount of the fine.

Subsection (5) provides that a further offence is committed if, after conviction, subsection (2) continues not to be complied with. If found guilty of the further offence the person is liable to a fine for each day on which the failure continues (subsection (6)).

26 Removal of building from register by building safety authority

Subsection (1) provides that the building safety authority can remove a building from its register if it is satisfied that the building is:

- neither a category 1 building nor a category 2 building, or
- not occupied and the total period for which it is not occupied will be at least six months.

The building safety authority will have discretion as to whether to remove a building from the register.

Subsection (2) provides that before it removes a building from the register, the building safety authority must notify the principal accountable person (unless the proposed removal is following an application under section 25(2) and any other accountable persons for the building of its intention to remove the building. Subsection (3) provides for what must be included in a notice given under subsection (2).

Those given the notice will then have a "specified period" (which must be at least 14 days) in which they can make representations to the building safety authority about its proposal to remove the building from the register. For example, if they disagree with the proposal this provides an opportunity for them to explain why they disagree.

The building safety authority must have regard to any such representations made in accordance with the notice given under subsection (2) in deciding whether to remove the building from the register (subsection 5). Once the building safety authority has made a decision it must then notify each accountable person of its decision as to whether to remove the building from the register (subsection 6).

Subsections (7) and (8) make provision about what must be included in a notice of a decision to remove a building from the register (depending on whether the decision to remove the building from the register is following an application by the principal accountable person under section 25(2)).

A decision to remove a building from the register (other than where that decision was made pursuant to an application under section 25(2) is a reviewable decision

(see section 62(2)). Following the outcome of a review an affected person can make an appeal to the tribunal (see section 64). As such subsection (9) makes provision about the circumstances in which a decision to remove a building from the register cannot take effect, so as to enable the decision to be subject to review and appeal prior to the removal taking effect.

Where subsection (9) no longer applies, subsection (10) provides that the building safety authority must, if the date specified in the notice given under subsection (8) has already passed, set a future date for the removal to take effect, unless the date has been determined as a result of the review or appeal.

Chapter 4

Assessment and Management of Building Safety Risks

Key terms

27 Meaning of “fire safety risk and “structural safety risk”

This section sets out the meaning of “fire safety risk and “structural safety risk” in relation to a regulated building.

A “fire safety risk” is a risk to the safety of people in or about the building arising from the outbreak of fire in the building or the spread of fire in, to or from any part of the building.

A “structural safety risk” is a risk to the safety of people in or about the building arising from structural failure affecting any part of the building.

28 Meaning of “building safety risk”

This section sets out meaning of ‘building safety risk’. In relation to category 1 and category 2 buildings the term means both a “fire safety risk” and a “structural safety risk”. In relation to category 3 buildings the term means a “fire safety risk”.

Subsection (2) provides a power for the Welsh Ministers to make regulations that modify the definition of “building safety risk” to include other risks to the safety of people in or about in-scope buildings. In relation to a category 1 or 2 building, that will be a risk that is not a fire or structural safety risk. In relation to category 3 buildings, that may include a structural safety risk.

Subsection (4) provides that any regulations must set out how the new risk must be assessed and managed when a building to which the regulations apply is “occupied”. The regulations may specify that any provision under this Bill that applies in relation to fire safety risks or structural safety risks applies in relation to the new risk or make provision corresponding to any such provisions (subsection

(5)). For example, the regulations may place new duties on residents and owners of residential units.

This provides flexibility to extend the application of Part 1 of the Bill in the future to reflect emerging risks to the safety of people in or about regulated buildings. For example, this might be a risk arising from a particular consequence of climate change.

Fire safety risks in regulated buildings

29 Assessment of fire safety risks: duties of principal accountable person

This section 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. Welsh Ministers’ regulations under section 16 will set out the parts of regulated buildings for which accountable persons are responsible.

Subsection (4) provides that a fire risk assessment must be suitable and sufficient to enable accountable persons (or any other persons treated as accountable persons under section 36) to comply with their duties to manage the fire safety risks under section 33.

Further requirements relating to fire risk assessments are contained in sections 30 to 32. The purpose of these provisions, taken together, is to ensure that the assessment is comprehensive and rigorous, including reflecting the types of fire risk which typically exist in residential properties.

See also the note to section 27 which explains the effect of section 7 (inclusion of ancillary areas) on references to a “regulated building”.

30 Requirement for fire risk assessment to be made by competent person

The lack of a requirement for assessments to be undertaken by competent persons (under the Regulatory Reform (Fire Safety) Order 2005 this was found to be a major flaw following the Grenfell Tower fire, and the Grenfell Tower Public Inquiry has recommended that all fire risk assessors should be competent. The Welsh Government’s Safer Buildings in Wales consultation proposed to rectify that. The majority of those who provided a view on competent fire risk assessors were fully supportive of the proposal to require that only suitably qualified and experienced fire risk assessors should undertake fire risk assessments in multi-occupied residential buildings.

Subsection (3) provides the Welsh Ministers with a power to make regulations specifying requirements that an individual or body must satisfy in order to be regarded as a “competent person”. The requirements may include having particular qualifications, memberships or accreditations.

For example, regulations could require an individual to hold particular qualifications in fire safety or to be a member of an appropriate professional body such as the Institution of Fire Engineers. As another example, regulation could require companies that employ fire risk assessors to be accredited under a particular recognised scheme.

Subsection (5) provides that a person who makes a fire risk assessment under section 29 who is not a “competent person” commits an offence. If the principal accountable person knew, or ought reasonably to have known, that the person was not a “competent person” they also commit an offence.

If a person is found guilty of an offence under subsection (5) in a magistrates’ court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 12 months (which is the “applicable limit” set out in section 224(1A) (b) of the Sentencing Code, contained in the Sentencing Act 2020 (c. 17)).

If a person is found guilty of an offence under subsection (5) in the Crown court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 2 years.

A person who offers to carry out a fire risk assessment, when they are not a “competent person” commits an offence (subsection (7)). This offence would be tried in a magistrates’ court. If a person is found guilty of the offence the court may impose a fine (subsection (8)). There is no maximum limit on the amount of the fine.

31 Timing and review of fire risk assessments

This section sets out timings and frequencies in respect of new assessments and review of assessments, including circumstances when a further assessment must be completed:

- The first fire risk assessment must be made within 6 months of a regulated building becoming “occupied”, or within 6 months of section 31 coming into force (whichever is later). This is, though, subject to paragraph 1 of Schedule 4 for buildings that already have a risk assessment under the Regulatory Reform (Fire Safety) Order 2005 (subject to certain conditions),
- The principal accountable person must ensure that the current fire risk assessment is reviewed at least once in every 12-month period that follows after the date when the assessment was made. However, the principal accountable person must ensure that a further assessment is made if any of the circumstances in subsections (2) and (4) apply.

32 Further provision about fire risk assessments

This section requires the principal accountable person for a regulated building to ensure that the findings of every fire risk assessment and review relating to the building are recorded in writing. The principal accountable person must also ensure that a copy of each assessment is given to every other accountable person and to any other person who is treated as an accountable person under section 36.

Subsection (2) provides the Welsh Ministers with the power to make regulations concerning fire risk assessments, including specific matters to be considered, methodology and specific information to be included. The Welsh Government intends to make such regulations to expand on the “fire safety outcomes” in section 33(2) so as to create a detailed framework for assessing fire risks. This is likely to entail specifying risk elements for each outcome, as suggested in the Safer Buildings in Wales consultation.

For example, one matter that may increase the likelihood of fire breaking out in a building is whether there is a buildup of combustible fuel (like rubbish or junk mail) in the common parts of the building. The regulations could specify that it is a matter which a fire risk assessment must consider.

Subsection (2) also provides Welsh Ministers with a power to make regulations about how to calculate the periods for making and reviewing fire risk assessments in cases where a regulated building is not “occupied” for a period of time.

Subsection (4) provides the Welsh Ministers with a power to make regulations to enable a principal accountable person to recover “relevant costs” from any other accountable person for the building or from a person treated as an accountable person under section 36.

Subsection (5) sets out the meaning of “relevant costs” for these purposes.

33 Management of fire safety risks by accountable persons

This section sets out the responsibilities of an accountable person for an “occupied” regulated building, and of any other person treated as an accountable person under section 36 with regards to the management of fire safety risks relating to the parts of the building for which the person is responsible. Welsh Ministers’ regulations under section 16 will set out the parts of regulated buildings for which accountable persons are responsible.

The accountable person must take all reasonable steps to prevent a fire risk materialising in relation to the person’s part of the building and to reduce the severity of any incident that results from such a risk materialising.

In particular, the person must take all reasonable steps for:

- minimising the likelihood a fire will break out in that part,
- minimising the likelihood that if a fire does break out in or near that part, it will spread in, to or from that part,

- ensuring people who are at risk from fire in that part can escape quickly and safely,
- ensuring any fire in that part can be fought promptly and effectively.

The aim is to ensure the safety of anyone in or about the building in relation to fire risks even if a fire does happen.

The steps that an accountable person would need to take would be likely to be in response to fire risks identified by the fire risk assessment for the building, which is the responsibility of the principal accountable person, as set out in section 29, and to which an accountable person must have regard (subsection (4)). However, the accountable person must still take the steps set out in subsections (1) and (2) with or without a full, up to date fire risk assessment for the building. So if a fire risk becomes apparent sometime after the fire risk assessment has been completed, it must be addressed; the accountable person cannot wait until a further fire risk assessment is completed.

The steps may include carrying out works (subsection (3)). The steps must be taken promptly (subsection (5)).

As well as requiring action to address fire risks, this section (subsection (6)) also requires accountable persons to make arrangements to plan, organise, control, monitor and review steps taken by them under this section, and to give effect to those arrangements.

Subsection (7) requires accountable persons to make a written record of the steps taken by them, and of arrangements made by them, under this section.

Subsection (8) provides Welsh Ministers with regulation making powers to make certain further provision about the requirements placed on accountable persons under this section. The regulations could, for example, specify what are 'reasonable steps' with regards to managing fire safety risks. The regulations may specify matters to which accountable persons must have regard, or principles they must act in accordance with, in determining what steps to take, and the taking of those steps, under this section.

The Safer Buildings in Wales White Paper set out some possible matters or "risk elements" with examples of "steps" which could be taken. The Welsh Government intends to set out matters such as these in regulations under this section, which will be subject to further consultation.

Regulations could specify requirements with which any arrangements an accountable person makes to manage fire safety risks would have to comply. This could, for example, be used where it is considered a specific requirement may be needed, for example around the inspection of fire doors or the maintenance of firefighting lifts.

The regulations may also specify information that must be included in a written record of arrangement made, or steps taken, under this section. This could be used to ensure an accountable person in capturing the necessary information to ensure a full, useful written record is created to, again, assist them and others in managing fire risks and provide proof of compliance with this section.

Subsection (9) provides that references to an accountable person in this section include those treated as accountable under section 36, so the duties in this section apply to those persons too (subject to the limitations in sections 36 (2), (3) and (4)).

See also the note to section 27 which explains the effect of section 7 (inclusion of ancillary areas) on references to a “regulated building”.

Structural safety risks in category 1 buildings and category 2 buildings

34 Assessment of structural safety risks: duties of accountable persons

This section 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. Welsh Ministers’ regulations under section 16 will set out the parts of regulated buildings for which accountable persons are responsible.

A structural risk assessment must be suitable and sufficient to enable the accountable person, and those treated as an accountable person under section 36 to comply with their duties under section 35 (subsection (3)(b)).

Assessments must be conducted by individuals or bodies with sufficient expertise or experience that enable them to assess the structural safety risks in relation to the part of the building for which the accountable person is responsible (subsection (3)(a)). The assessment may, for example, identify issues which need further investigation by a qualified person, such as a surveyor or structural engineer.

The person making the structural risk assessment is not required to hold a particular qualification or accreditation, unless the Welsh Ministers make regulations about such matters under subsection (7).

An accountable person must ensure their first assessment is carried out as soon as possible after the latest of the following events (subsection (4)):

- the building becomes occupied,
- the person becomes an accountable person for the building, or
- section 34 comes into force.

Further assessments must be done regularly and as soon as possible if the accountable person has reason to suspect that the current assessment is no longer suitable and sufficient to enable the accountable person to comply with their duties under section 35 (subsection (5)(a) and (b)).

The building safety authority for the building may also direct an accountable person to undertake a further structural risk assessment. For example, it might do this if it believes that the current structural risk assessment is not suitable and sufficient (subsection (5)(c)).

Subsection (6) requires that the findings of the assessment must be recorded in writing and that a copy of each assessment is given to the principal accountable person for the building.

Subsection (7) provides Welsh Ministers with a power to make regulations about various matters, including:

- requirements in relation to sufficient expertise or experience of assessors,
- qualifications or accreditation requirements for assessors,
- matters to be considered in assessments,
- methodology for the assessments,
- information to be included in the written record required by subsection (6), and
- maximum intervals between assessments.

See also the note to section 27 which explains the effect of section 7 (inclusion of ancillary areas) on references to a “category 1 building” or a “category 2 building”.

35 Management of structural safety risks by accountable persons

Subsection (1) places a duty on each accountable person for an “occupied” category 1 or category 2 building to take all reasonable steps to prevent structural safety risks from materialising in relation to the part of the building for which the person is responsible and to reduce the severity of any incidents that results from such a risk materialising. The steps may include carrying out works (subsection (2)). The steps must be taken promptly (subsection (3)).

As well as requiring action to address structural safety risks, this section (subsection (4)) also requires accountable persons to make arrangements to plan, organise, control, monitor and review steps taken by them under this section, and to give effect to those arrangements.

Subsection (5) requires accountable persons to make a written record of the steps taken by them, and of arrangements made by them, under this section.

Subsection (6) provides Welsh Ministers with regulation making powers to make certain further provision about the requirements placed on accountable persons under this section. The regulations could, for example, specify what are ‘reasonable steps’ with regards to managing structural safety risks. The regulations may specify matters to which accountable persons must have regard, or principles

they must act in accordance with, in determining what steps to take, and the taking of those steps, under this section.

Subsection (8) provides that references to an accountable person in this section include those treated as accountable under section 36 so the duties in this section apply to those persons too (subject to the limitations in section 36 (2), (3) and (4)).

For example, if an accountable person, as part of a structural risk assessment, identified that some balcony fixings in the part of the building for which the person is responsible could be at risk of failure, the person would be under a duty to take reasonable steps to prevent the risk materialising. The steps must be taken promptly.

Management of building safety risks by other persons

36 Management of building safety risks by persons other than accountable persons

This section provides that persons (other than actual accountable persons) who have contractual obligations (other than under a lease) to provide services relating to the repair, maintenance or building safety of certain parts of a regulated building, will be treated for some purposes of the Bill as an accountable person who is responsible for the part in question.

The section also provides that other persons who have a degree of control over certain parts of a regulated building will be treated for some purposes of the Bill as an accountable person who is responsible for the part in question.

The certain parts of a regulated building referred to in the preceding two paragraphs are those parts for which an actual accountable person is responsible, and which are common parts (or would be common parts but for the fact that they are included in the demise of a residential unit) (see section 13 for the meaning of “common parts”).

However, persons are treated as accountable persons only in relation to matters that are within scope of their contractual obligations (if they fall within subsection (2)) or only in relation to matters that are within their control (if they fall within subsection (3)).

Persons treated as accountable persons under this section are treated as accountable persons only for the purposes of certain provisions of the Bill. These provisions include section 33 (management of fire safety risks), section 47 (power of the Welsh Ministers to impose a duty to keep information and documents) and section 48 (power of the Welsh Ministers to impose a duty to give information and documents to other persons).

This means, for example, that a contractor undertaking work to repair a lift that was part of a regulated building's common parts would be under the duties set out in section 33 (management of fire safety risks) in relation to the lift, but only in relation to the work that they are undertaking.

A person who is treated as an accountable person for a part of a regulated building is additional to the person who is the accountable person responsible for that part (see section 8; Welsh Ministers regulations under section 16 will set out the parts of regulated buildings for which accountable persons are responsible).

Subsection (4) prevents a person being treated under subsection (3) as an accountable person for a part of a building that is intended to improve the safety of people in or about the building in relation to a building safety risk (such as an integrated fire alarm system). It applies if the person's only "control" over that part results from them being a resident or owner of a residential unit.

Chapter 5

Duties Applying Only to Occupied Category 1 Buildings

Safety case reports

37 Preparation and revision of safety case report by principal accountable person

Subsection (1) places a duty on a principal accountable person for an occupied category 1 building to prepare a "safety case report".

A "safety case report" is a report containing information specified in regulations made by the Welsh Ministers (subsection (1)). This information will relate to the current fire and structural risk assessments that have been made for the building, as well as steps taken to manage the risks identified.

The purpose of the safety case report is to demonstrate that fire safety risks relating to the building have been assessed in accordance with sections 29 and 32 and any regulations made under those sections. Another purpose is to demonstrate that structural safety risks relating to the building have been assessed in accordance with section 34 and any regulations made under that section. Its further purpose is to demonstrate that all reasonable steps have been taken to:

- prevent fire and structural safety risks from materialising in relation to the building, and to
- reduce the severity of any incident resulting from such a risk.

More detailed information that is held about a building (such as that which may be specified in regulations made under sections 47 and 48) may be relevant to, or be required by regulations to be included in, a safety case report. For example, this might be information about tests that have been carried out on components of the

building, details of the building's construction, or other information that is held about the building.

The safety case report must be prepared as soon as reasonably practicable after the latest of the events mentioned in subsection (3).

As soon as possible after preparing the safety case report, the principal accountable person must give a copy to the building safety authority for the building (subsection (4)). A copy of the current safety case report must also be submitted as part of a building certificate application to the building safety authority under section 43(1)(a).

The safety case report should provide an accurate source of information about how fire and structural safety risks relating to the building are being assessed and managed. The principal accountable person must keep the report under review and revise it if necessary to ensure that it is up to date (subsection (5)). Subsection (6) provides that the principal accountable person must revise the safety case report, in accordance with any direction made by the building safety authority for the building.

Subsection (7) provides that the principal accountable person must give a copy of any revised report to the building safety authority, along with a notice summarising the revisions in the report. This will ensure that the building safety authority has the most up-to-date version of the safety case report.

Regulations under subsection (8) can make provision in addition to that made under subsection (1) about the content of a safety case report, as well as a notice given under subsection (7)(b). They can also make provision about the form and giving of reports or notices under this section.

Recording and reporting in relation to building safety risk

38 Occurrence recording system: duty of principal accountable person

Subsection (1) places a duty on the principal accountable person for an occupied category 1 building to establish and operate an occurrence recording system for the purpose of enabling accountable persons to comply with their duties under section 39. This system will be used to gather and hold information about incidents or situations that result from, give rise to or are otherwise connected with building safety risks relating to the building and giving that information to accountable persons (subsection (2)).

The occurrence recording system will enable residents, and other people connected with the building, to report building safety incidents relating to fire or structural safety. It will not be mandatory for residents to submit these reports, but the system will enable reports that are submitted to be captured and held in one place.

The type of incidents that an occurrence recording system will capture might include, for example early or unexpected decay of structural components, structural failure due to extreme weather conditions, or defects of active/passive fire protection.

Subsection (3) provides that the occurrence recording system must be established and start to operate as soon as possible after the latest of the events set out in that subsection.

An occurrence recording system must comply with any requirements imposed by the Welsh Ministers under regulations made under subsection (4). Subsection (5) gives examples of what the requirements may include e.g. the incidents or situations about which information is to be received, who can report information, and how information is to be received, recorded and assessed.

39 Reporting to authorities: duty of accountable person

Subsection (1) places a duty on an accountable person for an occupied category 1 building to give “relevant building safety information” to the building safety authority and the fire safety authority. The information must be given in accordance with regulations made under this subsection.

“Relevant building safety information” means information about building safety risks relating to the part of the building for which the accountable person is responsible (subsection (2)).

Information reported under the occurrence recording system (section 38) should assist accountable persons in complying with their reporting duties under this section.

Subsection (3) requires regulations under subsection (1) to specify the relevant building safety information that must be given, the circumstances in which it must be given and the time by which it must be given. For example, this could relate to a particular type of fire or structural safety incident that has occurred.

The regulations may also make provision about how the information must be given (subsection (4)).

Subsection (5) provides that an accountable person commits an offence if, without reasonable excuse, they fail to comply with subsection (1).

If a person is found guilty of an offence under subsection (5) in a magistrates’ court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 12 months (which is the “applicable limit” set out in section 224(1A) (b) of the Sentencing Code, contained in the Sentencing Act 2020 (c. 17)).

Subsection (7) makes provision about the admissibility of information submitted to the building safety authority and the fire safety authority under this section i.e. it is not admissible in evidence in criminal proceedings against the person submitting the information except in specific circumstances.

Residents' engagement strategies

40 Preparation and review of residents' engagement strategy by principal accountable person

Section 40 places a duty on the principal accountable person for an occupied category 1 building, to prepare and act in accordance with, a residents' engagement strategy. The purpose of the strategy is to promote the participation of relevant persons, i.e. adult residents and owners of a residential unit (e.g. flat owners), in the making of building safety decisions in relation to the building.

A "building safety decision" means a decision by an accountable person about the management of the building made in connection with the performance of their duties under the Bill.

An example of a building safety decision could be if a fire risk assessment identifies a fire risk connected to the external cladding of the building, the principal accountable person would be required, under section 33 (management of fire safety risks), to take all reasonable steps to prevent a fire safety risk materialising and reduce the severity of any incident resulting from such a risk materialising. This might involve replacing the external cladding with an alternative material, for example. The principal accountable person would in that scenario, be required to promote the participation of relevant persons in the making of any building safety decisions around replacing the external cladding. This could include the timescales of the works, the times of day in which the work would be undertaken, how disruption to residents' lives could be minimised and which contractors and materials should be used on the project.

Subsection (4) requires the strategy to contain:

- the information that will be provided to relevant persons about building safety decisions,
- the aspects of those decisions that the relevant persons will be consulted about,
- the arrangements for seeking the views of relevant persons, and
- details of how the appropriateness of the methods used for promoting participation will be measured and reviewed.

Subsection (5) provides that the residents' engagement strategy must be prepared as soon as possible after the latest of the events set out in that subsection.

Subsection (6) places a duty on the principal accountable person, when preparing the residents' engagement strategy, to consult relevant persons and any other

persons specified in regulations, about the proposed contents of the strategy, and to take into account any representations made in response to the consultation.

Subsection (7) requires the principal accountable person to review the residents' engagement strategy at times specified in regulations and revise it if necessary.

Subsection (8) provides that the principal accountable person must, in the circumstances specified in regulations, consult relevant persons and any other persons specified in regulations about proposed revisions to the strategy. Subsection (8) also provides that the principal accountable person must take any representations made in response to that consultation into account.

Subsection (9) and (10) provides that the Welsh Ministers may make regulations about the preparation, review or revision of the residents' engagement strategy for a building where there is more than one accountable person for the building, and about the carrying out of consultations under section 39 or regulations made under it.

41 Provision of copies of strategy by accountable persons

Section 41 places a duty on the principal accountable person to give a copy of the residents' engagement strategy to every other accountable person for the building where there is more than one accountable person. This must be done as soon as possible after the strategy is prepared or revised under section 40.

Under subsection (1)(b), each accountable person for the building must give a copy of the residents' engagement strategy to each adult resident and owner of a residential unit in the part of the building for which the accountable person is responsible, as well as any other persons specified in regulations. This must be done as soon as possible after the strategy is prepared or revised under section 40.

However, the accountable person is not required to give a copy of the strategy to a resident under subsection (1)(b) if the accountable person is not aware of the resident but has taken all reasonable steps to identify adult residents of the part of the building for which the person is responsible (subsection (2)).

Building certificates

42 Duty of principal accountable person to apply for building certificate

A building safety authority may direct the principal accountable person for a registered and occupied category 1 building to apply for a building certificate (subsection (2)). The principal accountable person must apply for a building certificate within the 28 days beginning with the day after the day on which the direction is given (subsection (3)).

The information and documents that must be provided to the building safety authority as part of the application for a building certificate is provided for in section 43 (1) and includes information that will be specified in regulations.

The principal accountable person for the building must apply to the building safety authority for a further building certificate within five years, beginning with the day on which the most recent building certificate was issued (whether the building safety authority directs the principal accountable person to do so, or not) (subsection (4)).

The Welsh Ministers may, through regulations, either extend or shorten the period within which an application for a further building certificate under subsection (4) must be made (subsection (9)).

Subsection (5) provides that it is an offence to fail, without reasonable excuse, to comply with subsections (3) or (4).

If a person is found guilty of an offence under subsection (5) in a magistrates' court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 12 months (which is the "applicable limit" set out in section 224(1A) (b) of the Sentencing Code, contained in the Sentencing Act 2020 (c. 17)).

If a person is found guilty of an offence under subsection (5) in the Crown court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 2 years.

Subsection (7) provides that a further offence is committed if, after conviction, subsection (3) or (4) (as applicable) continue not to be complied with. If found guilty of the further offence the person is liable to a fine for each day on which the failure continues (8).

43 Applications for certificates: procedure

This section make provision about the procedure for applying for a building certificate. An application will be required to included:

- a copy of the current safety case report,
- information specified in regulations about the occurrence recording system,
- a copy of the resident engagement strategy, and
- information specified in regulations on what each accountable person has done to meet their duties to provide information to others under section 46.

Subsection (2) provides that the Welsh Ministers may, in regulations, make further provision about applications for building certificates. Subsection (3) gives examples of the types of provision that can be included in the regulations e.g. how it is made and the form in which it must be given.

44 Determination of applications and issues of certificates

This section applies where the principal accountable person for a category 1 building makes an application for a building certificate under section 42 (3) or (4).

Once the principal accountable person has applied for a building certificate, the building safety authority must assess whether the “relevant duties” (defined in subsection (6)) are being complied with.

As part of its assessment (under subsection (2)) the building safety authority may inspect the building.

The building safety authority must issue a building certificate for the building if it is satisfied that all the relevant duties are being complied with (subsection 3).

If the building safety authority is not satisfied that all of the relevant duties are being complied with, it must refuse the application and give the principal accountable person notice of the refusal (subsection (4)). However, this is subject to subsection (5). When determining the application, if the building safety authority considers that a relevant duty is not being complied with, but it considers that the matter can be remedied promptly, it can issue a notice to the principal accountable person. The notice must contain a brief description of the failure and specify a period for remedying it. If the failure is remedied within that period, the authority may issue a building certificate.

If a notice of refusal is given this must include information about the right to appeal (subsection (7)).

Where the building safety authority becomes aware of non-compliance with a duty, they would have the option of issuing a compliance notice section 94.

The Welsh Ministers may, in regulations, make further provision about building certificates or notices, and this may include, for example the form, content, and the way in which they are to be given (subsections (8) and (9)).

45 Duty of principal accountable person to display certificate and related information

Subsection (1) places a duty on the principal accountable person for a category 1 building to which section 42 applies to display:

- a copy of the building’s most recent building certificate,
- a notice that complies with subsection (4) about the accountable persons for the building and any special measure manager for the building, and
- if there is a relevant compliance notice (defined in subsection (9)), as copy of the statement under section 94(4) summarising the notice.

This information must be displayed together, in a conspicuous place in the building.

Subsections (2) and (3) provide that, if a special measures order is in force, the principal accountable person must ensure that no building certificate is displayed in the building. Instead, for the period during which the special measures order is in force, the following information must be displayed:

- a notice that complies with subsection (4), about the accountable persons for the building and any special measures manager for the building, and
- if there is a relevant compliance notice (defined in subsection (9)) that was given to an accountable person to whom the special measures order does not apply, a copy of the statement under section 94(4) summarising the notice.

Subsection (5) provides that it is an offence for the principal accountable person, without reasonable excuse, to fail to comply with subsections (1) or (3).

If a person is found guilty of an offence under subsection (5) in the Crown court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 2 years.

If a person is found guilty of an offence under subsection (5) in the Crown court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 2 years.

Subsection (7) provides that a further offence is committed if, after conviction, subsection (1) or (3) (as applicable) continue not to be complied with. If found guilty of the further offence the person is liable to a fine for each day on which the failure continues (subsection (8)).

Chapter 6

Information and Complaints

Duties to keep and provide information and documents

46 Duty to give information and documents to accountable persons

This section places a duty on relevant persons to give information or a document to an accountable person where the criteria in subsection (3) are satisfied.

A relevant person for the purposes of this section is set out in subsection (2).

Subsection (3)(a) provides that the information or document requested by an accountable person must be necessary for them to be able to comply with a

requirement under the Bill or regulations made under it. Subsection (3)(b) provides that a request under this section must be in writing and details what a written request must contain. For the duty in subsection (1) to apply, it must be reasonable for the relevant person to give the information or document to the accountable person (subsection (3)(c)).

Subsection (3)(d) means that the accountable person cannot request information under subsection (1) if the accountable person can request the same information from the relevant person under the information sharing duties placed on residents and owners by sections 53(4) or 54(4).

A disclosure of information or a document under this section will not breach any obligation of confidence owed by the person making the disclosure, or any other restriction on the disclosure of information or a document; but by virtue of section 183A of the Data Protection Act 2018 it will be subject to the requirements of data protection legislation relating to the processing of personal data.

Subsection (6) provides that references to an accountable person in this section includes persons treated as an accountable person under section 36.

Example: A freeholder, who for the building is not identified as an accountable person or principal accountable person, possesses the original design plans and fire strategy for the building. The head lessee, who is identified as the principal accountable person, needs to assess these documents as part of their requirements to prepare a safety case report. Under this section the head lessee can request the relevant documents from the freeholder where the criteria in subsection (3) are satisfied. Where there is a breach of the duty in subsection (1) enforcement action can be taken under Part 3.

47 Duty of accountable person to keep information and documents

Subsection (1) provides a power for the Welsh Ministers to make regulations requiring an accountable person for a regulated building to keep particular information or copies of particular documents relating to the part of the building for which the accountable person is responsible (subsection (6) defines “relevant”).

The purpose of this provision is to help ensure that accountable persons have access to the information they need to assess and manage building safety risks in a building. This will include important safety information that will form part of a “golden thread” of information about the building. In relation to building safety the term “golden thread” is a term used that was used in the Independent Review of Building Regulations and Fire Safety Report to describe the record of safety information about the building.

The regulations made under subsection (1) may also include provision about, for example:

- the duration for which information or copies of documents must be kept,
- how the information or documents must be kept, and
- the format in which they must be kept.

The regulations may include conditions or exceptions to these requirements (subsection (3)).

Subsection (4) provides that if an accountable person does not have the required information or a copy of a required document, they must obtain them unless it is not practicable to do so. The accountable person must also ensure, so far as possible, that the information is accurate and kept up to date (subsection (5)).

Regulations made under this section may place requirements on persons treated as accountable persons under section 36.

48 Duty of accountable person to give information and documents to other persons

Subsection (1) provides a power for the Welsh Ministers to make regulations requiring an accountable person for a regulated building to give particular information or copies of particular documents, relating to the part of the building for which the accountable person is responsible, to certain other persons. “Relevant” is defined in subsection (6).

The people that accountable persons may be required to give information to might include: the building safety authority, the fire safety authority, residents, owners of residential units in the building, or any other person specified in the regulations. For example, the regulations could require copies of the risk assessments for the building to be shared with certain people in certain circumstances.

Subsection (2) provides that the regulations may specify when and how the information or copies of documents must be given, and the format in which they must be given.

The regulations may provide that the accountable person is required to provide some or all the information or copies of documents only if it has been requested. The regulations may specify how requests to the accountable person for a copy of a document or information must be made (subsection (4)).

If information or copies of documents are required by the regulations to be provided to a building safety authority or a fire safety authority, the regulations may also make provision about the admissibility of that information or those copies in criminal proceedings.

Regulations made under this section may place requirements on persons treated as accountable persons under section 36.

49 Duty to give information and documents on change of accountable person

This section provides the Welsh Ministers with a power to make regulations requiring an outgoing accountable person for a regulated building to give specified information or copies of specified documents relating to the part of the building for which the outgoing accountable person was responsible, to specified persons. “Relevant” is defined in subsection (9).

An outgoing accountable person is an accountable person who has stopped being responsible for all or part of a regulated building.

The persons to whom the regulations may require an outgoing accountable person to give information or copies of documents are a “successor” (defined in subsection (1)(b)), the building safety authority for the building and the fire safety authority for the building. “Successor” means a person who, immediately after an outgoing accountable person stop being responsible for all or part of a regulated buildings, takes over responsibility, as an accountable person, for all or that part of the building (depending on what the outgoing accountable person was responsible for).

The regulations may also make provision about when, how and in which form the information or copies of documents must be given. They may make the requirements they contain subject to conditions, and they may provide for exceptions from those requirements (subsections (3) and (4)).

The purpose of this provision is to help to ensure that the incoming accountable person has a complete and accurate record of information about the part of the building for which they have become responsible, which may include historical documents, that will help them to assess and manage the building safety risks and comply with their duties.

Subsection (5) provides that it is an offence to fail, without reasonable excuse, to comply with requirements imposed by regulations made under this section.

If a person is found guilty of an offence under subsection (5) in a magistrates’ court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 12 months (which is the “applicable limit” set out in section 224(1A) (b) of the Sentencing Code; the Sentencing Code is contained in the Sentencing Act 2020 (c. 17)).

If a person is found guilty of an offence under subsection (5) in the Crown court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 2 years (subsection (6)).

Subsection (7) provides that a further offence is committed if, after having been convicted of failing to comply with a requirement of the regulations, a person continues to fail to comply with that requirement.

An offence under subsection (7) would be tried in a magistrates' court. If found guilty of the further offence the person may be fined for each day on which the failure continues (subsection (8)). The standard scale of fines is set out in section 122 of the Sentencing Act 2020.

Complaints

50 Category 1 buildings: duty of principal accountable person to operate complaints system

This section requires the principal accountable person for an "occupied" category 1 building to establish and operate a system for the investigation of "relevant complaints".

A "relevant complaint" is defined in subsection (2) as a complaint that relates to a building safety risk as (defined in section 27) relating to the building or to the performance by an accountable person for the building of any duty under the Bill or regulations made under it. In relation to a category 1 building, "building safety risk" means a fire safety risk or a structural safety risk.

The purpose of this provision is to ensure that residents and others can raise complaints if the complaint is 'relevant'. The provision aims to create a formal mechanism for residents to voice their relevant complaints and to ensure that these complaints are investigated and addressed promptly. This requirement is crucial to fostering a culture of accountability and transparency in building safety management.

Subsection (4) provides the Welsh Ministers with a power to make provision about the establishment and operation of a complaints system, such as, but not limited to, providing who can make a complaint, how a complaint can be made, the way in which a complaint must be considered, and enabling or requiring a complaint to be referred to the building safety authority for the building. Though the requirement for establishing and operating the complaints system sits with the principal accountable person, in buildings for which there are multiple accountable persons, those accountable persons will be required to work with the principal accountable person as part of their co-operation and co-ordination duties under section 67. Accountable persons will remain responsible for putting right any issues relating to the performance of their duties under the Bill or matters for which they are responsible under the Bill.

Example: A resident in a category 1 building notices that the fire exits are frequently blocked by construction materials left by contractors. The resident raises this concern informally with the principal accountable person, but no action is taken. Under this section, the resident could escalate this concern into a formal

complaint through the established complaints system. The principal accountable person could be required by the regulations to investigate the complaint, take necessary actions to address the issue if the complaint is upheld and provide a timely response to the resident. The intention is to ensure that building safety issues are promptly addressed, and residents' complaints are dealt with appropriately.

51 Category 2 and category 3 buildings: duty of accountable persons to arrange consideration of complaints

Subsection (1) provides that regulations may be made by the Welsh Ministers to require accountable persons for occupied category 2 buildings and occupied category 3 buildings to make and give effect to arrangements for the consideration of “relevant complaints”.

A “relevant complaint” is defined in subsection (2) as a complaint that relates to a building safety risk (as defined in section 28) relating to the building, or to the performance by an accountable person for the building of any duty under the Bill or regulations made under it. In relation to a category 3 building, “building safety risk” means only a fire safety risk. In relation to a category 2 building, “building safety risk” means a fire safety risk or a structural safety risk.

Regulations made under this section may in particular, make the provision set out in subsection (3). The intention would be to enable residents in category 2 and category 3 buildings to voice their complaints and to ensure that they are investigated and addressed promptly.

Example: A resident of a category 2 building notices a self-door closer on a fire door in a communal area is not working, thereby creating a fire safety risk. After the resident raises the issue informally several times to their accountable person the resident feels their accountable person is ignoring the issue. Regulations made under this section could allow the resident to raise the issue as a formal complaint. The regulations may require the accountable person to consider the complaint within a certain period.

52 Complaints to building safety authorities

Subsection (1) requires each building safety authority to establish and operate a complaints system for the investigation of “relevant complaints” made or referred to it. “Relevant complaint” is defined in subsection (2), as a complaint that relates to a building safety risk relating to a regulated building (as defined in section 28), the performance by an accountable person for the building of any duty under the Bill or regulations made under it, or the performance by a special measures manager for a category 1 building of any function conferred on the manager by a special measures order (see section 107).

Subsection (3) provides a power for the Welsh Ministers to make regulations about the establishment and operation of complaints systems, with subsection (4) giving examples of the type of provision that may be included in the regulations.

While the intention is to make regulations that will allow individuals to make complaints directly to a building safety authority, it is expected that they will first use the complaints arrangements made under section 50 or 51 (as relevant).

Regulations under subsection (3) may include provision so that a building safety authority has a role of deciding whether complaints made under section 48 or under regulations made under section 51 are “relevant complaints”.

The purpose of this section is to ensure that complainants have a clear route to escalate complaints if they feel they have not been adequately addressed by a principal accountable person and/or accountable person.

Example: A resident in a category 1 building notices a crack in the building's structure and raises an informal concern with the principal accountable person. If the principal accountable person does not address the concern adequately, regulations made under section 50 could allow the resident to escalate the issue to a formal complaint under the principal accountable person's complaints system operated under section 50. If the complaint is still not resolved, regulations under section 52 could allow the resident to escalate the complaint to the building safety authority for investigation.

Chapter 7

Duties of residents and owners of residential units

53 Regulated buildings: fire safety duties of residents etc.

This section applies to adult residents of a residential unit and the owners of residential units, where those units are in an occupied regulated building (“occupied” and “owner” are defined in section 127).

Subsection (2)(a) provides that such persons must not do any act in, on or in relation to, any of the common parts of the building that creates a significant risk of a fire safety risk materialising in relation to the building. Subsection (2)(b) provides that such persons must not do any act in, on or in relation to their residential unit that creates a significant risk, or significantly increases any existing risk that, if fire breaks out in their residential unit, the fire will spread from the unit. Subsection (2)(c) provides that such persons, must not, without a reasonable excuse, remove, damage, or interfere with the functioning of anything that is in, or forms part of any of the common parts of the building and is intended to improve the safety of people in or about the building in relation to a fire safety risk.

Example: A resident stores combustible materials in a common part, charges an electric bike in a common part or has a barbeque on a balcony (a balcony is a common part, even if included in a demise of a residential unit – see subsection (3)). These would be a breach of section 53(2)(a) where that action creates a significant risk of a fire safety risk materialising in relation to the building.

Example: A resident installs a non-fire resistant flat front door or drills a hole between their residential unit and another without proper fire-stopping. These would be a breach of section 53(2)(b) where that action creates a significant risk or significantly increases any existing risk that, if fire breaks out in their residential unit, the fire will spread from the unit.

Those to whom this section applies must also comply with certain requests for information made by the principal accountable person and certain accountable persons, where that information is necessary to enable compliance with certain duties (related to the assessment and management of fire safety risks) (subsection (4)).

54 Category 1 and category 2 buildings: structural safety duties of residents etc.

This section applies to adult residents of a residential unit in an occupied category 1 building or an occupied category 2 building, and owners of a residential unit in an occupied category 1 building or an occupied category 2 building (“occupied” and “owner” are defined in section 127).

Subsection (2) provides that adult residents and owners of residential units must not:

- in, on or in relation to, any of the common parts of the building, do any act that creates a significant risk of a structural safety risk materialising in relation to the building
- in, or in relation to the residential unit, do any act that creates a significant risk of a structural safety risk materialising in relation to the building.

Subsection (3) provides that “common parts” in subsection (2)(a) has the meaning in section 51(3) i.e. includes balconies even if in the demise of a residential unit.

Subsection (4) requires those to whom this section applies to comply with certain requests for information i.e. where the information is necessary for the accountable person (or person who is treated as an accountable person because of section 36) to comply with certain duties (related to the assessment and management of structural safety risks).

Example: A resident undertakes renovation works to their flat and removes a load-bearing internal wall without complying with the Building Regulations 2010. This action could jeopardise the building's structural integrity. This would be a breach

of section 54(2)(b) if it creates a significant risk of a structural safety risk materialising in relation to the building.

Example: A resident installs a hot tub on the balcony of their flat. The weight of the hot tub, when filled with water and occupied, exceeds the load-bearing capacity of the balcony. This would be a breach of section 54(2)(a) if it creates a significant risk of a structural safety risk materialising in relation to the building.

55 Fire resistance of residential units: duty to repair

This section provides that if a person that falls within subsection (5) is aware of damage to a part of a residential unit in an occupied regulated building that gives rise to a significant risk, or significantly increases any existing risk, of fire spread from that unit, they must ensure the damage is repaired.

A person falls within subsection (5) if they are subject to a requirement under a lease or by virtue of an enactment (other than this section) to repair or maintain the part of the residential unit, or if there is no such person in relation to the part of the residential unit, they are the owner of the unit.

Example: a substantial water leak from a residential unit causes damage to the floor of one unit and the ceiling of the separate unit below. Where the persons within scope of this section are aware of the damage they will be under a duty, under this section, to repair it. This duty is on the person who has repairing obligations (within subsection (5)(a)) for each part (i.e., in respect of the floor of one and the ceiling of the other), or if there are no such persons, the owner of each residential unit.

56 Entry to residential units for purpose of repairs

This section enables a person who is subject to the duty in section 55 to apply to the residential property tribunal for a repairs access order where all the criteria in subsection (1) are met, and subsection (4) is complied with. This includes a requirement that before an application is made a request has been made for access that complies with subsection (2) and that access has not been given.

A repairs access order is an order that requires a “relevant person” to allow certain persons to enter the residential unit to carry out the repairs detailed in the notice requesting access.

Where an application is made, the residential property tribunal can make a repairs access order where it is satisfied that the criteria in subsection (6) are met.

57 Entry to residential units etc. by accountable person

This section enables an accountable person for an occupied regulated building to apply to a residential property tribunal for an access order where all the criteria in subsection (1) are met, and subsection (5) is complied with.

The purposes for which access can be requested are in subsection (2). The tribunal may make an access order if satisfied that it is necessary to do so for the purpose set out in the request (subsection (7)).

An access order is an order that requires a “relevant person” to allow entry to certain persons to “relevant premises” at a reasonable time, it can also include additional matters (subsection (6)). Key terms used in this section are defined in subsection (9).

Example: An accountable person needs to inspect a flat for potential contravention of section 53(2)(c) having received reports of tampering with an integrated smoke detector within a residential unit, which is part of a system installed throughout the building for the benefit of all residents. The resident is initially uncooperative and refuses entry. The accountable person then makes a further request, that complies with subsection (3). If the resident continues not to give entry to the unit, the accountable person can apply to the residential property tribunal for an access order.

Example: An accountable person becomes aware that a resident has undertaken extensive renovation works to their flat, including structural changes, and suspects a breach of the duty in section 54(2)(b). The accountable person also needs to carry out a further structural safety assessment under section 34. If, following a request that is compliant with subsection (3), entry continues not to be given the accountable person may apply to the tribunal for an access order.

58 Power of accountable person to give warning notice: fire and structural safety duty of residents etc.

This section enables accountable persons and principal accountable persons to give warning notices if they consider that an adult resident or owner of a residential unit has contravened or is contravening, one or more of their duties under sections 53 and 54. Subsections (1) to (5) make provision as to who can be given, who can give and the circumstances in which, warning notices can be given.

The warning notice is intended to either avoid the repetition or continuation of contraventions by a resident/owner or remedy any contravention a resident/owner may already have made.

A warning notice must comply with subsection (6).

Subsection (7) sets out when a warning notice can include, as a reasonable step under subsection (6)(b), the payment of a sum. For example, if an adult resident or owner removes or damages any fire safety equipment intended to improve the

safety of people in or about the building (in contravention of section 53(2)(c)) the notice may include as a reasonable step the payment of a sum where subsection (7)(a) is met. The sum that can be specified is limited by subsection (7)(b).

Subsection (8) requires the accountable person serving the notice to inform any other accountable person for the building as soon as reasonably practicable. The requirement to notify other accountable persons is intended to avoid the issuing of more than one notice for the same breach i.e. so that both an accountable person and a principal accountable person do not serve notices for the same breach.

The Welsh Ministers may make further provisions about warning notices in regulations, including the form, content, and giving of notices (section 61 [*Regulations about warning Notices*]).

Example: A resident frequently leaves their bicycle in the building's main stairwell, obstructing the fire escape route and breaching section 53(2)(a). Despite informal engagement from the accountable person, the resident continues the behaviour. The accountable person for the stairwell can issue a warning notice to the resident. The notice must specify the alleged contravention (blocking the fire escape route), the reasonable steps the accountable person considers the person should take (removing the bicycle) and the time period for doing so. The notice could also state that the person must not in the future leave the bicycle in the stairwell (subsection (6)(c)). The notice must set out the consequences of non-compliance (potential application for a contravention order and the effect of such an order). If the resident does not comply then an accountable person may be able to apply for a contravention order (section 60).

59 Power of accountable person to give warning notice: repair of fire resistance of residential units

This section enables accountable persons and principal accountable persons to give warning notices if they consider that there has been a breach of the duty in section 55 [*Fire resistance of residential units: duty to repair*]. Subsections (3) and (4) make provision as to what information the notice must contain and require that any other accountable person in the building must be informed, as soon as reasonably practicable, that the notice has been given.

The Welsh Ministers may make further provision about warning notices in regulations, including the form, content, and giving of notices (section 61).

60 Power of residential property tribunal to make contravention order

This section enables an accountable person to apply to the residential property tribunal for a contravention order if an adult resident or owner of a residential unit in a regulated building has been given a warning notice in accordance with section 58 and the accountable person considers that the person has failed to take a step specified in the notice (under section 58(6)(b)) or done an act specified in the notice

(under section 58(6)(c)). This section also enables an accountable person to apply to the residential property tribunal for a contravention order if someone with a duty under section 55 [*Fire resistance of residential units: duty to repair*] has been given a warning notice in accordance with section 59 [*Power of accountable person to give warning notice: repair of fire resistance of residential units*] and the accountable person considers that the person has failed to carry out the repairs specified in the notice (under section 59 [*Power of accountable person to give warning notice: repair of fire resistance of residential units*] (3)(a)). This provides a formal enforcement mechanism to ensure compliance with residents' duties under sections 58 and section 55 [*Fire resistance of residential units: duty to repair*]. An accountable person can only apply to the residential property tribunal for a contravention order after a notice has been given to the building safety authority and fire safety authority setting out the intention to apply for an order (subsection (2)).

The residential property tribunal may make a contravention order if it is satisfied that the person has been given a warning notice in accordance with section 58 or section 59 [*Power of accountable person to give warning notice: repair of fire resistance of residential units*], and, the contravention or failure specified in the notice occurred, and it is necessary to make the order.

Where a warning notice has been given under section 58 a contravention order may require the person to take specific steps (including the provision of information and payments of a sum) and/ or prohibit the person from doing a specified act.

Example: Despite receiving a warning notice from the accountable person, a resident continues to leave their bicycle in the building's main stairwell, obstructing the fire escape route. The accountable person applies for a contravention order to the residential property tribunal. The tribunal may make a contravention order if it is satisfied subsection (5) is met. The contravention order could, for example, require the resident to remove the bicycle and prohibit the resident from obstructing the fire escape route in the future.

Where a warning notice has been given under section 59 [*Power of accountable person to give warning notice: repair of fire resistance of residential units*] a contravention order may require the person in respect of whom it is made to carry out specified repairs.

61 Regulations about warning notices

This section provides that Welsh Ministers may make regulations about the form and content of warning notices and how they must be given to the recipient.

Chapter 8 Reviews and Appeals

62 Review and appeal of certain decisions: key terms

Section 62 sets out the meaning of “reviewable decision” and an “affected person” for the purposes of Chapter 8.

A “reviewable decision” is a decision of a building safety authority which is listed in subsection (2).

Subsection (3) provides the meaning of “affected person”. In relation to some decisions, that will be the accountable person for the building (or a person who would be an accountable person if the building were a category 1 building or a category 2 building), and for other decisions that will be the principal accountable person.

63 Review of a reviewable decision

Section 63 allows an affected person to request a review of a reviewable decision. The purpose of the review process is, broadly speaking, to enable affected persons to challenge decisions and provide them with the opportunity to make representations and provide (subject to subsection (5)) further information to the building safety authority. Ultimately this process should reduce the number of applications made to the tribunal.

Subsection (2) places a duty on the Welsh Ministers to make regulations making provision about how a notice of a request for a review must be given, the form and content of a notice and the deadline for giving a notice.

Under subsection (3), regulations under subsection (2) may also make provision about documents to be included with a notice of a request for a review and provision for the building safety authority to extend the deadline for giving a notice.

Subsection (4) places a duty on a building safety authority to review a decision where requested to do so, if the request complies with the requirements of subsection (1). Subsections (5) and (6) make provision as to the nature and extent of a review and the consideration of any representations, information or documents given by the affected person. Subsection (7) sets out the decisions a building safety authority can make on conclusion of a review.

Subsections (8) to (9) set out what a building safety authority must do once a review has concluded. Regulations under subsection (12) will specify the “relevant period”, before the end of which, the outcome must be notified to all affected persons, although the “relevant period” can be changed by agreement in writing between the authority and the affected person who requested the review (subsection (12)(b)). Subsections (10) and (11) make provision in respect of cases where a building safety authority has not notified the affected person who requested the review of the outcome of the review within the “relevant period”.

64 Appeal to the residential property tribunal

The purpose of this section is to enable an affected person to appeal to the residential property tribunal against a reviewable decision if they are dissatisfied with the outcome of a review of that decision under section 63.

If the result of the review under section 63 was that the building safety authority varied the decision, it is the varied decision that can be appealed to the tribunal (subsection (2)).

Subsection (3) provides for the timeframes in which an appeal must be made. An affected person must appeal to the tribunal before the end of 28 days beginning with the day after the day on which the notice under section 63(7) or (9)(b) is given. Subsection (4) gives the tribunal discretion to allow late appeals, if it is satisfied that there is a good reason for the failure to appeal before the end of the 28 days (and for any delay in applying for permission to appeal out of time).

Subsection (5) provides for the grounds of appeal available to the affected person. Subsection (6) provides that evidence that was not available to the building safety authority when it made its decision, or when it reviewed its decision, may be considered by the tribunal. The tribunal may uphold, vary or quash the decision that the building safety authority has made (subsection (7)).

65 Effect of a review and appeal

This section provides the Welsh Ministers with a regulation making power to make provision about certain matters related to reviews and appeals e.g. the suspension of the effect of a reviewable decision during the “review period” and the effect of an appeal under section 64 during the “appeal period”.

Subsection (3) defines “review period”, “appeal period” and “relevant authority” for the purposes of subsection (2).

Chapter 9

Supplementary

Entry to non-residential premises

66 Entry to non-residential premises by accountable person

This section makes provision for an accountable person to apply to a residential property tribunal for a non-residential premises access order in certain circumstances. These are that the accountable person has requested entry to the non-residential premises, the request is made for a purpose mentioned in subsection (2) and entry to the premises is not given. The request must also comply with the requirements in subsection (3). The non-residential premises to which this

section applies are referred to in the section as “relevant premises”. This term is defined in subsection (8).

A non-residential premises access order is an order that requires the person who has control over entry to the relevant premises to allow the accountable person to enter the premises at a reasonable time for the purpose set out in the request.

The tribunal may make a non-residential premises access order if it is satisfied that it is necessary to do so for the purpose set out in the request (subsection (6)).

Example: A commercial car park that falls within the definition of “relevant premises” in subsection (8) lies beneath a regulated building. To complete a structural assessment of the building, the accountable person needs to inspect supporting columns and beams located within the car park. If access to the car park is not given following a request that complies with this section, the accountable person can apply to the tribunal for a non-residential premises access order.

Co-operation and Co-ordination

67 Co-operation and co-ordination: duties of accountable persons

This section aims to ensure that the people with key responsibilities for the safety of regulated buildings are cooperating and coordinating with each other to help ensure the overall safety of the building.

All accountable persons for a regulated building must, so far as possible, co-operate and co-ordinate with each other when carrying out their duties under the Bill and regulations made under it (subsection (2)).

If the regulated building contains a relevant HMO (defined in Part 2, section 76), accountable persons for the building must co-operate and co-ordinate with the duty holders (defined in section 77) for the relevant HMO when carrying out their duties under the Bill and regulations made under it (subsection (3) and (4)). Section 89 (4) places corresponding duties to co-operate and co-ordinate on duty holders.

An accountable person for a category 1 building must also co-operate with any special measures manager (see section 107) for the building, for the purpose of the manager carrying out their functions under the order (subsections (5) and (6)).

If a manager has been appointed under an order under section 24 of the Landlord and Tenant Act 1987 to carry out “building safety functions” in relation to a regulated building, the accountable persons for the building must cooperate with the manager for the purpose of the manager carrying out their functions under the order (subsections (7) and (8); “building safety function” is defined in subsection (9)).

An accountable person for a regulated building must also co-operate with “responsible persons” under the Regulatory Reform (Fire Safety) Order 2005, where that responsible person is responsible for premises that form part of the regulated building, or that are in the same structure or set of structures as the regulated building and lie (wholly or partly) above or below the building (subsections (10) and (11)).

This means, for example, that the accountable persons for a regulated building would be under a duty to co-operate with the responsible person for a shop that was below the building (see explanatory notes to section 3 and 4 which set out the meaning of “building”), for the purposes of the responsible person carrying out their duties under the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/ 1541) (“the FSO”).

Section 112 amends the FSO to place corresponding duties to co-operate on responsible persons.

Subsection (12) provides that references to an accountable person in this section includes persons treated as an accountable person under section 36.

Recovery of relevant costs by principal accountable person

68 Recovery of relevant costs by principal accountable person

Section 68(1) provides a power for the Welsh Ministers to make regulations to enable the principal accountable person for a regulated building to recover relevant costs from any other person who is an accountable person for the building or who is treated as an accountable person for the building by virtue of section 36.

Subsection (2) sets out the meaning of “relevant costs” for these purposes.

Leases

69 Leases: implied terms relating to compliance with building safety duties

This section makes amendments to the Landlord and Tenant Act 1985 (“the 1985 Act”) by inserting section 30IA into that Act.

Written leases set out obligations on the part of the landlord, and on the part of the tenant. Where the lease is an occupation contract the Renting Homes (Wales) Act 2016 requires certain terms to be included in the lease in respect of repair and fitness for human habitation and a landlord’s ability to access a dwelling (subject to some specific exceptions e.g. for leases of seven years or more) (see sections 91 to 99 of the 2016 Act). Section 11 of “the 1985 Act” does not apply to occupation contracts in Wales but continues to apply to leases of a term of less than seven years which are not occupation contracts.

This section amends the 1985 Act to provide implied terms (covenants) in relation to building safety. These apply to all leases of dwellings in regulated buildings in Wales.

Under these implied terms, each “relevant person” (e.g. a landlord) covenants with the tenant to comply with their building safety duties if they are an accountable person under the Bill, and to cooperate with any person in complying with their building safety duties. “Relevant person” is defined in subsection (8) of section 30IA. In respect of tenant covenants, there is implied a covenant by the tenant to allow access to the premises to certain persons and, where they are a resident of the building, to comply with the resident’s duties under sections 53 to 57 of the Bill.

Further related provision is included in subsections (4) to (8) of section 30IA, including provision as to notice requirements in respect of entry to premises, definitions of terms used in that section and data protection in respect of disclosure requirements.

70 Liability of tenants for costs relating to building safety

This section makes amendments to the Landlord and Tenant Act 1985 Act by inserting sections 30IB and 30IC into that Act. Section 30IB applies to a “relevant lease” i.e. a lease which is not an occupation contract:

- that is granted for a term certain of 7 years or more, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture; and
- under which the tenant is liable to pay a variable service charge.

It provides for such leases that the costs of taking a “building safety measure” are recoverable under the service charge. Subsection (4) sets out that legal and other professional fees, fees payable to the building safety authority and management costs incurred in connection with the taking of a building safety measure are recoverable.

Section 30IC defines the meaning of “building safety measure” for the purpose of section 30IB.

Subsection (5) of section 30IA provides a power for the Welsh Ministers to make regulations amending the meaning of “building safety measure”.

71 Further provision about implied terms and liability for costs

This section makes amendments to the Landlord and Tenant Act 1985, including by inserting section 20DA and 20DB and sections 30ID to 30IH into that Act.

Section 20DA applies in relation to a lease to which section 30IB applies. Section 20DA(2) requires a relevant person to take reasonable steps to ascertain whether any grant is payable in respect of building safety works or whether any monies may be obtained from a third party in connection with the undertaking of building safety works and, if so, to obtain the grant or monies from the third party. It also requires a relevant person to take prescribed steps relating to any other prescribed kind of funding.

“Relevant person” is defined in subsection (10) and means the landlord, if the landlord is an accountable person for the building or otherwise any superior landlord who is an accountable person for the building.

Subsection (3) clarifies that the reference to “obtaining money from a third party” includes obtaining monies under a policy of insurance, under a guarantee or indemnity or pursuant to a claim made against a developer, a person involved in the design of the building or of works to the building, or a person involved in the carrying out of works in relation to the building.

Subsection (4) requires that, where any funding of a kind mentioned in subsection (2) is obtained, the amount of the funding is to be deducted from the building safety costs (and the amount of any variable service charge is to be reduced accordingly).

Section 20DB defines the meaning of “building safety works” for the purposes of section 20DA. In relation to a regulated building, “building safety works” means works as referred to in section 33(3) of the Bill (management of fire safety risks by an accountable persons). In relation to a category 1 or category 2 building, “building safety works” means works as referred to in section 35(2) of the Bill (management of structural safety risks by an accountable persons).

Section 30ID makes provision about covenants where a manager under section 24 of the Landlord and Tenant Act 1986 is carrying out any building safety duties of an accountable person for a regulated building and where a special measures order under section 107 of the Bill is in force.

Section 30IE provides that covenants or agreements purporting to exclude or limit the obligations of the landlord and tenant under certain provisions detailed in that section are void.

Section 30IF provides that the county court is the court for determining any question or issue under sections 30IA to 30IE.

Section 30IG provides that the court may order specific performance of certain implied terms i.e. require a person to comply with those obligations notwithstanding any rule that would otherwise restrict the remedy. The order can also apply to parts of the building which are not parts leased to the tenant (save in relation to breaches of the covenant in section 30IA(3)(a)).

Section 30IH defined terms used in sections 30IA to 30IG.

Subsections (6) and (7) of section 71 make provision consequential to the other provisions inserted into the Landlord and Tenant Act 1985.

72 Costs relating to enforcement etc. excluded from variable service charge

This section makes amendments to the Landlord and Tenant Act 1985 by inserting section 20FA into that Act. Section 20FA limits the costs that can be recovered as a service charge as a result of section 30IB, by providing that “excluded costs” are not to be taken into account in determining the amount of any variable service charge. “Excluded costs” are defined in section 20FA (3).

73 Provision of building safety information to tenants

This section makes amendments to the Landlord and Tenant Act 1987 (“the 1987 Act”) by inserting sections 47B and 49B into that Act.

Section 47B provides for “relevant building safety information” to be contained in demands for rent etc., where Part 6 of the 1987 Act applies to those premises, and they are or include a dwelling in a regulated building. “Relevant building safety information” is defined in section 49B. It also makes provision for where there is failure to give such information.

Section 49B provides that the landlord of premises to which Part 6 of the 1987 Act applies must, where those premises are or include a dwelling in a regulated building, give the tenant a notice containing “relevant building safety information”. It also makes provision for where there is failure to give such notice.

Commonholds

74 Commonholds: provision for compliance with building safety duties

This section amends the Commonhold and Leasehold Reform Act 2002 (“the 2002 Act”) so as to account for the new duties of commonhold associations under the Bill and costs. Section 8 of the Bill provides that if a building is on commonhold land the commonhold association is the accountable person for the building.

The amendments to sections 14 and 26 of the 2002 Act require a commonhold community statement, where the commonhold includes all or part of a regulated building, to make provision requiring the commonhold association to comply with its duties under the Bill, or regulations made under it (in relation to, each commonly held unit and the common parts).

This section also makes provision (by amending section 38A of the 2002 Act) requiring the community statement to include that the directors of a commonhold association must make an annual estimate of the income required to be raised from unit-holders to meet the building safety expenses of the association (“building safety expenses of the association”), and require each unit-holder to pay the percentage of the sum estimated which is allocated to their unit. “Building safety expenses of the association” is defined in new subsection (4) of section 38A, including provision for where a special measures manager has been appointed (section 107 of the Bill).

Regulations under sections 17 and 28(2)

75 Regulations under sections 17 and 28(2): initial procedure

This section requires an initial procedure to be applied to regulations under sections 17 or 28(2). Before a draft Welsh statutory instrument containing regulations under those sections can be laid before the Senedd in accordance with section 126(4), the Welsh Ministers must lay the required documents before the Senedd and a period of 60 days beginning with the day on which those documents were laid must expire.

The ‘required documents’, as set out in subsection (2), are a proposed draft of the regulations and a statement setting out the detail of the consultation conducted under section 17(3) or 28(7) (as applicable) together with an explanation of why the Welsh Ministers consider that the regulations are necessary.

If the Welsh Ministers then lay a draft statutory instrument containing regulations under sections 17 or 28(2) before the Senedd, they must include with that draft (under subsection (4)) a statement giving details of any representations they received during the 60-day period, and any differences between the proposed draft of the regulations and the regulations in the draft Welsh statutory instrument.

Subsection (5) provides for certain exceptions to the initial procedure.

Part 2

Fire Safety in Certain Houses in Multiple Occupation

Key Terms

76 Meaning of “relevant HMO”

This section sets out the meaning of references in this Bill to a “relevant HMO”. This includes all HMOs wholly or mainly in Wales other than that which subsection (3) excludes. Those exclusions cover houses containing more than one

dwelling unit (e.g. two or more flats), houses occupied by people who share the same rights to the whole property (e.g. where a group of people occupy a whole house under a single joint tenancy), houses occupied by an owner, leaseholder or tenant and no more than two lodgers, and houses under the control or management of a Police and Crime Commissioner. Subsection (3) also allows the Welsh Ministers to make regulations excluding other types of properties from being relevant HMOs.

Subsection (5) provides that a relevant HMO includes other areas and structures like gardens, garages and sheds which are available for the residents' use. Where a relevant HMO is part of another building it also includes the structure and exterior of the building adjoining the HMO, and any common areas of the building for the use of the residents of the HMO.

It is possible that a relevant HMO may be part of a regulated building – for instance, if one or more flats in a block is occupied as an HMO. In that case, subsection (6) provides that the HMO does not include the common parts of the building, as they are covered by the provisions in the Bill relating to regulated buildings.

Subsection (8) provides a power for the Welsh Ministers to make regulations to amend this section except subsection (1).

77 Meaning of “landlord” and “duty holders” for relevant HMO

This section sets out the meaning of references in this Bill to the “landlord” and “duty holders” in relation to a relevant HMO.

78 Meaning of “fire safety risk” in relation to relevant HMO

This section sets out the meaning of “fire safety risk” in relation to “relevant HMOs”. It is very similar to the definition for the rest of the Bill (i.e. for “regulated buildings”) but is required given that there are separate provisions in relation to relevant HMOs.

Assessment and management of fire safety risks in relevant HMOs

79 Assessment of fire safety risks: duties of landlord

This section requires the landlord of a relevant HMO to ensure that a “HMO fire risk assessment” is made in accordance with sections 80 to 82. It does so in terms which are substantively the same as those in section 29 covering regulated buildings.

80 Requirement for HMO fire risk assessment to be made by competent person

This section sets out that anyone who makes a fire risk assessment for a relevant HMO must be competent to do so. It does so in terms which are substantively the same as those in section 30 covering regulated buildings.

81 Timing and review of HMO fire risk assessments

This section sets out when and how often a fire risk assessment for a relevant HMO must be made or reviewed. It does so in terms which are substantively the same as those in section 31 covering regulated buildings.

82 Further provision about HMO fire risk assessments

This section makes further provisions about how a fire risk assessment for a regulated HMO must be made and recorded. It does so in terms which are substantively the same as those in section 32 covering regulated buildings.

83 Management of fire safety risks by duty holders

This section sets out the responsibilities for duty holders of a relevant HMO for fire safety in a relevant HMO. It does so in terms which are substantively the same as those in section 33 covering regulated buildings.

Provision of information and documents relating to relevant HMOs

84 Requirement to give information and documents to duty holder

This section places a duty on relevant persons to give information or a document to a duty holder for a relevant HMO where the criteria in subsection (3) are satisfied.

A relevant person for the purposes of this section is set out in subsection (2).

Subsection (3)(a) provides that the information or document requested by a duty holder must be necessary for them to be able to comply with a requirement under the Bill or regulations made under it. Subsection (3)(b) provides that a request under this section must be in writing and details what a written request must contain. For the duty in subsection (1) to apply, it must be reasonable for the relevant person to give the information or document to the duty holder (subsection (3)).

Subsection (3)(d) means that the duty holder cannot request information under subsection (1) if the duty holder can request the same information from the relevant person under the information sharing duties placed on occupiers of relevant HMOs by section 86(4).

A disclosure of information or a document under this section will not breach any obligation of confidence owed by the person making the disclosure, or any other restriction on the disclosure of information or a document; but by virtue of section 183A of the Data Protection Act 2018 it will be subject to the requirements of data protection legislation relating to the processing of personal data.

Subsection (6) provides that references to an accountable person in this section includes persons treated as an accountable person under section 36.

85 Requirement for duty holder to give information and documents to other persons

Subsection (1) provides a power for the Welsh Ministers to make regulations requiring a duty holder for a relevant HMOs to give particular “relevant” information or particular “relevant” documents to certain persons. The regulations can require the information or documents to be provided to the fire safety authority, the occupiers of the HMO, and any other person specified in the regulations. Subsection (2) provides that the regulations may specify when and how the information or documents must be given, and the format in which they must be given. “Relevant” is defined in subsection (6).

This power could be used to ensure that information on the fire safety provisions and risks within the relevant HMO were being communicated to the people that need to know the information. In particular the people who live in the HMO need to be aware of any fire safety risks identified and the mitigations that are in place to allow them to make safe decisions and feel secure in their home. The fire safety authority who enforces the fire safety provisions within the Bill also needs to be aware of major fire risks on the premises and the mitigations (if any) in place to reduce the risks (i.e. smoke alarms, sprinklers etc.).

The regulations may provide that the duty holder is required to provide some or all the information or documents only if it has been requested. The regulations may specify how requests to the duty holder for a document or information must be made (subsection (4)).

If information or documents are required by the regulations to be provided to a fire safety authority, the regulations may also make provision about the admissibility of that information in criminal proceedings.

Duties of occupiers of relevant HMOs

86 Occupiers’ duties relating to fire safety risks and provision of information

Subsection (2) applies to an occupier of a relevant HMO who is aged 18 or over, where the HMO is not contained in a regulated building.

Subsection (2)(a) provides that an occupier must not in, on or in relation to the relevant HMO do any act that creates a significant risk or significantly increases any existing risk that, if fire breaks out in the HMO, the fire will spread from the HMO. For example, wedging fire doors open for long periods of time or improperly storing combustible materials can all cause a fire to spread from the HMO.

Subsection (2)(b) provides that an occupier, must not, without a reasonable excuse, remove, damage, or interfere with the functioning of anything that is in, or forms part of the relevant HMO and is intended to improve the safety of people in or about the relevant HMO in relation to a fire safety risk (defined in section 78).

Subsection (4) applies to an occupier of a relevant HMO who is aged 18 or over, whether or not the HMO is in a regulated building. This subsection requires an occupier to comply with certain requests for information i.e. those that meet the criteria in subsection (4)(a) or (b) i.e. made by certain persons and where the information is necessary to enable that person to comply with certain duties (related to the assessment and management of fire safety risks).

As a result of section 76(5), the references to a relevant HMO in this section include other areas, such as outbuildings and car parks provided for the occupiers of the relevant HMO.

87 Entry by duty holders for purposes of assessing and managing fire safety risks

A duty holder for a relevant HMO may need access to a specified part of the HMO to be able to comply with certain duties i.e. their duties in respect of HMO fire risk assessments (where they are the landlord) and their duties in respect of the management of the fire safety risks. Subsection (3) sets out what must be included in a request for access for it to comply with this section i.e. it must be in writing, setting out the purpose, explain why entry to the specified part is needed, request entry on a date and time that is reasonable and give at least 48 hours' notice.

Should access to the specified part not be given (and all the other criteria in subsection (1) are complied with, and subsection (5) is complied with) then the duty holder may apply to the residential property tribunal for an HMO access order. The tribunal may make an HMO access order if it is satisfied it is necessary to do so for the purposes set out in the request. If made, the order will require the occupier of the specified part to allow the duty holder to enter the specified part of the HMO at a reasonable time for the purpose set out in the request and may if necessary for that purpose authorise certain other actions (subsection (6)(b)). See also subsection (8) for requirements as to timings. Before applying to the residential property tribunal, the duty holder must notify the fire safety authority in writing of their intentions and the notice must contain certain information (subsection (5)).

Entry to non-residential premises

88 Entry to non-residential premises by duty holder

This section makes provision for a duty holder for a relevant HMO to apply to a residential property tribunal for a non-residential premises access order in certain circumstances. These are that the duty holder has requested entry to the non-residential premises, the request is made for a purpose mentioned in subsection (2) and entry to the premises is not given. The request must also comply with the requirements in subsection (3). relation to enabling access to non-residential premises that are above or below a relevant HMO, where certain criteria are satisfied.

The non-residential premises to which this section applies are referred to in the section as “relevant premises”. This term is defined in subsection (8).

A non-residential premises access order is an order that requires the person who has control over entry to the relevant premises to allow the duty holder to enter the premises at a reasonable time for the purpose set out in the request.

The tribunal may make a non-residential premises access order if it is satisfied that it is necessary to do so for the purpose set out in the request (subsection (6))

General

89 Co-operation and co-ordination by duty holders

Subsections (1) and (2) provide that if there is more than one duty holder for a relevant HMO, they must, so far as possible, co-operate and co-ordinate with each other when carrying out their duties under this Bill and regulations made under it.

Subsections (3) and (4) provide that where a person is a duty holder for a relevant HMO contained in a regulated building, they must, so far as possible, co-operate and co-ordinate with each accountable person for that building when carrying out their duties under the Bill and regulations made under it.

A special measures order is an order made under section 107 appointing a person to be a special measures manager for the building, to carry out the building safety functions of one or more accountable persons for the building. If a special measures order is in force for a category 1 building, a duty holder must co-operate with the special measures manager appointed by the order for the purposes of the manager carrying out their functions under the order (subsections (5) and (6)).

If an order under section 24 of the Landlord and Tenant Act 1987 (c.31) is in force which appoints a manager to carry out any building safety functions in relation to the regulated building or any part of it, the duty holder must co-operate with the

manager for the purposes of the manager carrying out their “building safety functions” under the order (subsections (7) and (8)). Building safety functions are any function relating to a building safety risk.

A duty holder must co-operate with each responsible person for the purposes of each responsible person carrying out their duties under the Regulatory Reform (Fire Safety) Order 2005, (subsections (10) and (11)).

90 Power to apply this Part to mobile homes

This section enables the Welsh Ministers to make regulations to specify circumstances in which certain mobile homes i.e. those occupied for residential purposes by persons who do not form a single household, are to be treated as though they are relevant HMOs for the purposes of the Bill. The regulations may provide that in relation to such mobile homes, any provision or regulations made under it do not apply or apply with specified modifications (subsection (2)). In this section “mobile home” has the meaning given by section 60 of the Mobile Homes (Wales) Act 2013.

Regulations under this section could not provide that mobile homes that are only occupied temporarily for leisure purposes (whether by their owners, or by people renting them from an owner) must be treated as relevant HMOs.

91 Interpretation

This section defines terms that are used in this part of the Bill.

Part 3

Enforcement And Investigatory Powers

Enforcing authorities

92 Enforcement functions of fire safety authorities and building safety authorities

The purpose of this section is to place enforcement functions on fire safety authorities and building safety authorities, and to identify what requirements under this Bill (and regulations made under it) and what requirements under the Regulatory Reform (Fire Safety) Order 2005, in each “enforcing authority” has the function of enforcing. Certain defects in a category 1 or category 2 building may result in both a fire safety risk and a structural safety risk, for example a crack in a load-bearing wall. In such a case it is possible that both authorities would take enforcement action.

Subsection (4) defines “enforcing authority” for the purposes of the Bill, and this term is used in many places in the Bill. For example, under section 94 an “enforcing authority” can give a compliance notice in certain circumstances, so reference to section 92 will need to be made so as to determine who the “enforcing authority” is.

Powers of enforcing authorities to give notices

93 Power of enforcing authority to give information notice

The purpose of this section is to enable requests for information to be made by an enforcing authority in certain circumstances, with there being consequences should a person fail to comply with such requests. Failure to comply with an information notice is an offence under section 99 (subject to the defence detailed in section 99(2)), see also section 99(4)).

Subsection (1) provides that an enforcing authority may give an information notice to any person for the purposes of investigating compliance with any requirement that they have the function of enforcing, or exercising any other function of the authority under the Bill or regulations made under it.

The remainder of the section makes provision in respect of information notices, including limitations on what may be required to be provided (subsection (4)), that it must include an explanation as to the consequences of failing to comply with a notice (subsection (5)(a)) and provision about the admissibility in evidence of information provided under this section (subsection (7)).

94 Power of enforcing authority to give compliance notice

This section enables an enforcing authority to give a compliance notice to any person it considers has contravened, is contravening or is likely to contravene, a requirement that the authority has the function of enforcing.

A compliance notice must require the person to do, within a specified time, one or more of the things set out in subsection (2).

Subsection (3) provides that the enforcing authority may state that the notice is an “urgent action notice”, if it considers that a contravention has placed or will place people in or about the regulated building or relevant HMO in imminent danger.

Subsection (4) provides that, at the same time as giving a compliance notice, the enforcing authority must give the person a statement that summarises the requirements of the notice, explains the consequences of failing to comply and informs the recipient of their right to appeal. Where a compliance notice is given certain others must be informed (subsections (5) and (6)).

Section 95(5) and (6) make provision as to the effect of an appeal against a compliance notice and a compliance notice that is an urgent action notice.

Failure to comply with a compliance notice is an offence under section 99 (subject to the defence detailed in section 99(2)), see also section 99(4).

95 Appeal against compliance notice

The purpose of this section is to enable a person to whom a compliance notice has been given to appeal, to the residential property tribunal, against the notice. The section includes related provisions, including in relation to time limits for bringing an appeal, the grounds of appeal and what the tribunal may decide.

Subsections (5) and (6) provide for the effect of an appeal on a compliance notice. Unless the notice is an urgent action notice, the compliance notice will have no effect pending the final determination or withdrawal of the appeal and the period for complying with the notice is extended in accordance with subsection (5)(b). If the compliance notice is an urgent action notice, the effect of that notice is not suspended in the event of an appeal to the residential property tribunal, unless the tribunal issues a direction stating otherwise (see subsection (6)).

96 Power of fire safety authority to give prohibition notice

This section enables a fire safety authority to issue a prohibition notice in respect of a regulated building or a relevant HMO where it considers that the use of the building or HMO involves, or is likely to involve, a fire safety risk that is so serious that use of the building or HMO should be prohibited or restricted. Subsection (2) provides that a prohibition notice can be given to an accountable person, or a person treated as an accountable person under section 36 (for a regulated building) or a duty holder (for a relevant HMO). This section includes other provision related to prohibition notices e.g. what must be included in the notice and requirements in relation to informing others (subsections (8) and (9)).

Prohibition notices can currently be issued under article 31 of the FSO. They are the most stringent measure available to an enforcing authority, for use only where the threshold in subsection (1) of the Bill is met. Subsection (5) makes provision for prohibition notices to take effect as soon as given in certain circumstances. Section 85 makes similar provision to that in the FSO, but it also sets out additional matters e.g. steps that must be taken under subsection (6) by the recipient.

Given the potential impact of a notice on the building and its residents, subsection (6) requires the recipient to take all reasonable steps to ensure occupiers of the building or HMO are informed of any prohibition or restriction in the notice and take all reasonable steps to ensure use of the building or HMO is prevented or restricted as per the requirements of the notice. Subsection (7) makes provision in relation to the displaying of a copy of the notice in a conspicuous place at each entrance to the building or relevant HMO. This is important to ensure all those

affected are aware of the notice including any prohibitions and restrictions within it, and the matters giving rise to the risks.

Contravention of a prohibition or restriction in a prohibition notice and failing to comply with subsection (6) are offences under section 99 (subject to the defence detailed in section 99(2)), see also section 99(4).

97 Appeal against prohibition notice

This section enables certain persons to appeal to a residential property tribunal against a prohibition notice. The persons who can appeal are set out in subsection (2) and include accountable persons, residents in and owners of residential units (in respect of regulated buildings) and duty holders and occupiers (in respect of relevant HMOs). An appeal may be made on one or more of the grounds in subsection (4).

Unlike a compliance notice (other than an urgent action notice), a prohibition notice is not automatically suspended pending an appeal, although the tribunal can direct this (subsection (5)). This is because the risk threshold for a prohibition notice is greater, and it would not be appropriate to expose people, including residents, to that level of risk while an appeal is heard.

Subsection (6) provides that, in determining an appeal, the tribunal may:

- uphold the notice,
- vary the notice e.g. to change the area of the building to which prohibitions apply or vary restrictions on use, or
- quash the notice.

Subsection (7) provides a regulation making power for Welsh Ministers to amend the list of those who can appeal a prohibition notice.

98 Notices: supplementary

This section provides a power for the Welsh Ministers to make regulations to make further provisions about information notices, compliance notices and prohibition notices. Subsections (2) to (5) give examples of the provisions that may be included in such regulations.

99 Notices: offences

This section makes it an offence for a person to fail to comply with an information notice, or compliance notice given to them. It also makes it an offence for a person to contravene a prohibition or restriction in a prohibition notice, and to fail to comply with section 96(6) (steps to be taken by the recipient of a prohibition notice). Subsection (2) provides that it is a defence for a person to prove that the person has a reasonable excuse for the failure or contravention.

If a person is found guilty of an offence under subsection (1) in a magistrates' court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 12 months (which is the "applicable limit" set out in section 224(1A) (b) of the Sentencing Code, contained in the Sentencing Act 2020 (c. 17)).

If a person is found guilty of an offence under subsection (1) in the Crown court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 2 years.

A person who has been convicted of an offence under subsection (1), commits a further offence if the failure or contravention continues after the conviction (subsection (4)).

An offence under subsection (4) would be tried in a magistrates' court. If found guilty of the further offence the person may be fined for each day on which the contravention continues (subsection (5)). The standard scale of fines is set out in section 122 of the Sentencing Act 2020.

Functions of authorised officers

100 Authorised officers and meaning of "relevant purpose"

Some functions of the building safety authority or fire safety authority can only be exercised by an officer that has been provided with the authority to carry out that function (an "authorised officer"), see sections 101 to section 103. This section makes provision in respect of "authorised officers".

Provision is made for the way in which an authorisation must be given (subsections (1) and (3)) and how it may be varied or revoked (subsection (4)). Subsection (2) provides an enforcing authority may only authorise a person to exercise functions that it considers the person suitably qualified to exercise.

Subsection (5) means that the authorised officer must, if asked when seeking to exercise a function of the officer, produce evidence of the authorisation.

Subsection (6) defines key term for the purpose of Part 3, including "relevant purpose" in relation to an authorised officer. This term is then used in various provisions in Part 3 e.g. under section 101(1) an authorised officer may enter premises not being used as a residential unit where they consider it necessary to enter for a "relevant purpose" (and the criteria in section 101(1)(b) are satisfied).

101 Power to enter premises not being used as a residential unit

This section gives an "authorised officer" power to enter premises that are not being used as a residential unit where certain criteria are met. It also makes related

provision, including about entry using force and when a justice of the peace can issue a warrant.

When investigating compliance with a requirement, an authorised officer may need to enter premises that is not being used as a residential unit. For example, there may be documentation or other evidence in that premises that the officer may need to access, or it may be that the authorised officer requires access to the premises to determine whether duties to assess and manage building safety risks are being complied.

Subsection (2) provides that the authorised officer may enter by force if the officer considers it necessary for a relevant purpose (which might be, to investigate compliance with a requirement under this Bill), but only where a warrant to do so has been issued by a justice of the peace under subsection (3).

102 Power to enter premises being used as a residential unit

When investigating compliance with a requirement, an authorised officer may need to enter a residential unit. For example, the officer may need to enter the unit to investigate whether duties to assess and manage building safety risks are being complied or whether the duties on residents are being complied with.

This section provides a power for an authorised officer to enter premises being used as a residential unit where the officer considers it necessary for a relevant purpose, and a warrant authorising entry has been issued by a justice of the peace under subsection (2).

Subsection (2) provides for the circumstances in which a warrant of entry may be issued to an authorised officer by a justice of the peace. This ensures that consideration will be given as to the need for entry, and e.g. whether appropriate steps have been taken by the authorised officer to gain entry without a warrant.

Subsection (3) provides that a warrant issued under subsection (2) authorises an officer to enter the premises specified in the warrant. The warrant may, if the justice of the peace considers it necessary, authorise the officer to enter the premises by force (if necessary), or to exercise any of the functions under section 103. It can also specify when, or how often, entry may take place.

103 Powers of entry: supplementary

This section applies where an authorised officer is exercising powers of entry to premises not being used as a residential unit. It also applies where an authorised officer is exercising powers of entry to a residential unit but only to the extent specified in the warrant – see section 102(3)(b)(i).

Subsection (2) provides for a list of things that the authorised officer may do when exercising those powers. This includes, for example, that they can take samples of anything, take photographs of anything, or make recordings.

104 Authorised officers: offences

Subsection (1) makes it an offence if, with intent to deceive, a person impersonates an authorised officer (subsection (1)). Subsection (3) makes it an offence if a person intentionally obstructs an authorised officer exercising, or seeking to exercise, any function under Part 3 (subsection (3)).

A person guilty of either offence will be liable on summary conviction to a fine. There is no maximum limit on the amount of the fine.

Offences

105 Contravention giving rise to risk of death or serious injury

Subsection (1) provides that it is an offence for an accountable person for a regulated building (or a person treated as an accountable person because of section 36) to contravene a requirement imposed on them by the Bill or regulations made under it, where that contravention places one or more persons in or about the building at a significant risk of death or serious injury arising from a building safety risk.

Subsection (2) provides that it is an offence for a duty holder for a relevant HMO to contravene a requirement imposed on them by the Bill or regulations made under it, where that contravention places one or more persons in or about the relevant HMO at a significant risk of death or serious injury arising from a fire safety risk.

It is a defence to the offences under this section that the person took all reasonable steps to avoid committing the offence (subsection (7)).

The purpose of this section is to make provision, for the most serious breaches of requirements under the Bill by accountable persons and duty holders, for the enforcement authority to be able to move directly to prosecution for the breach (as opposed to the authority first serving a compliance notice under section 94 requiring the accountable person or duty holder to take certain steps).

If a person is found guilty of an offence under subsection (1) or (2) in a magistrates' court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 12 months (which is the "applicable limit" set out in section 224(1A) (b) of the Sentencing Code; the Sentencing Code is contained in the Sentencing Act 2020 (c. 17)).

If a person is found guilty of an offence under subsection (1) or (2) in the Crown court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 2 years.

A person who has been convicted of an offence under subsection (1) or (2) commits a further offence if they continue to contravene the requirement in question (subsection (5))

An offence under subsection (5) would be tried in a magistrates' court. If found guilty of the further offence the person may be fined for each day on which the contravention continues (subsection (6)). The standard scale of fines is set out in section 122 of the Sentencing Act 2020.

The effect of subsection (3) is that the offences under subsections (1) and (2) do not apply to anything that constitutes an offence under any other provision of this Bill and that is subject to the same punishment as an offence under subsection (1) or (2).

106 False and misleading information

The purpose of this section is to require that information that is either held or shared with the enforcement authorities in relation to requirements under this Bill, must not be false or misleading and to require that a person responsible for the information is not reckless as to whether it is false or misleading. Accurate information is important in the assessment and management of building safety risks.

Subsection (1) provides that it is an offence for a person who has a duty under this Bill (or under regulations made under it) to record or keep information, to include in that information any information that the person knows to be false in a material aspect.

An offence under subsection (1) may be tried in a magistrates' court or the Crown court. The court may impose a fine. There is no maximum limit on the amount of the fine.

Subsection (3) provides that a person commits an offence if the person gives false or misleading information in any of the circumstances mentioned in subsection (4), and the person either knows that the information is false or misleading or is reckless as to whether it is false or misleading.

If a person is found guilty of an offence under subsection (3) in a magistrates' court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 12 months (which is the "applicable limit" set out in section 224(1A) (b) of the Sentencing Code, contained in the Sentencing Act 2020 (c. 17)).

If a person is found guilty of an offence under subsection (3) in the Crown court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 2 years.

Special measures in relation to category 1 buildings

107 Appointment of special measures manager for category 1 building

This section makes provision in respect of the appointment of a special measures manager in respect of a category 1 building, to carry out the building safety functions of one or more accountable persons for the building. It provides for:

- the circumstances in which an order may be made (subsection (4)),
- any requirements that an individual or body must satisfy to be appointed as a special measures manager, to be specified in regulations made by the Welsh Ministers (subsection (5));
- the order to make provision about the arrangements for funding the exercise of functions by the special measures manager (other than in relation to a building that is on commonhold land), including any payments the accountable person must make in connection with costs incurred, or to be incurred, by the manager (subsections (6), (7) and (8));
- the order to be able to provide for any other matter relating to the exercise of the functions of the special measures manager, or any other incidental or ancillary matter (subsection (9)).

A special measures order may be made only if the residential property tribunal is satisfied of the matters in subsection (4).

Schedule 2 makes further provision in respect of special measures orders.

The order may also appoint the special measures manager to carry out any function as a receiver in relation to commonhold building safety income relating to the building (subsection (3)).

Power of building safety authority to give fixed penalty notices

108 Power of building safety authority to give fixed penalty notices

Subsection (1) provides the building safety authority for a category 1 or 2 building with a power to give a fixed penalty notice to the principal accountable person for the building if the authority considers that the person has committed an offence under the provisions mentioned in subsection (1)(a) or (1)(b).

Subsection (2) provides the building safety authority for a category 1 building to which section 42 applies (duty to apply for building certificate) with a power to

give a fixed penalty notice to the principal accountable person for the building if the authority considers that the person has committed an offence under the provisions mentioned in subsection (2)(a) or (b).

A fixed penalty notice is a notice offering the person the opportunity to discharge any liability to conviction for the offence by paying the building safety authority an amount specified in regulations made by the Welsh Ministers. Subsection (4) prohibits proceedings for the offence to which the notice relates from being brought before the end of the period of 28 days beginning with the day after the day on which the person is given the notice. If payment is made in accordance with the terms of the notice, subsection (6) prohibits proceedings for the offence from being brought.

The information that must be included in the notice is listed in subsection (7). Subsection (8) provides the Welsh Ministers with a power to make regulations about the withdrawal of fixed penalty notices.

Crown Application

109 Application of this Part to the Crown

This section limits the extent to which Part 3 of the Bill applies to the Crown and to Crown premises (defined in section 127). In particular, it provides that neither a fire safety authority nor a building safety authority may give an information notice or a compliance notice to the Crown. A prohibition notice may not be given to the Crown or any other person in relation to Crown premises, and does not bind the Crown.

It also provides that powers of entry which can be exercised by authorised officers in relation to regulated buildings and relevant HMOs do not apply in relation to Crown premises. Additionally, a special measures order (see section 107) may not appoint a special measure manager to carry out functions of the Crown as an accountable person.

Part 4

Supplementary and General

Promotion of participation in relation to the exercise of Welsh Ministers' functions etc.

110 Welsh Ministers' strategy for promoting participation in relation to the exercise of their functions etc.

Subsection (1) requires the Welsh Ministers to prepare a strategy for promoting the participation of relevant persons in relation to the exercise by the Welsh Ministers of their functions under the Bill or regulations made under it.

“Relevant persons” are defined in subsection (7) as including the residents of regulated buildings who are aged 18 or over, owners of residential units in regulated buildings and occupiers of relevant HMOs who are aged 18 or over.

The Welsh Ministers must publish and keep the strategy under review.

Subsection (5) provides that the Welsh Ministers may revise the strategy if they consider it appropriate to do so. Subsection (6) provides that in deciding whether to revise the strategy, the Welsh Ministers must have regard to any representations they receive about its content.

Guidance and co-operation

111 Issue or approval of guidance by the Welsh Ministers

This section places a duty on the Welsh Ministers to issue guidance about the exercise of functions under the Bill or regulations made under it by a building safety authority and a fire safety authority.

Building safety authorities and fire safety authorities must have regard to guidance issued by the Welsh Ministers under this section.

Before issuing guidance under this section, subsection (3) requires the Welsh Ministers to consult with each building safety authority, each fire safety authority and such other persons they consider appropriate.

112 Co-operation: duties of responsible persons under Fire Safety Order

This section makes amendments to the Regulatory Reform (Fire Safety) Order 2005 (the “Fire Safety Order”).

Article 22C requires “responsible persons” for premises under the Fire Safety Order, to co-operate with any accountable persons and duty holders under the Bill. This duty applies where they are responsible for parts of the same building. For example, where a building is comprised of two flats that share an entrance and a shop below the flats, there will be at least one accountable person for the residential parts (under the Bill) and at least one responsible person for the shop (under the Fire Safety Order).

This provision requires responsible persons to take such steps as are reasonably practicable to establish whether there are accountable persons or duty holders in respect of the building of which the responsible person’s premises form part. If there are, the responsible person must co-operate with those persons for the purpose of the persons carrying out their duties under the Bill.

This provision requires responsible persons, if they become aware of any person treated as an accountable person under section 36 of the Bill, to co-operate with that person for the purpose of them carrying out their duties under the Bill.

There are reciprocal duties in sections 67(11) and 89(11) of the Bill, placed on accountable persons (including those treated as accountable persons under section 36) and duty holders (respectively), to co-operate with responsible persons.

Enforcement provisions under the Regulatory Reform (Fire Safety) Order 2005 do not apply to breaches of articles 22C to 22E, as these will be enforced under section 92 of the Bill.

The amendment to the heading of article 22B is not substantive but makes clear from the heading that article 22B does not apply in relation to Wales. Subsection (4) makes provision consequential to that in subsection (2).

Building safety authorities

113 Building safety authorities

Subsection (1) defines a “building safety authority” for the purposes of this Bill to mean a county council or county borough council for an area in Wales designated as such by the Welsh Ministers in regulations.

Under subsection (2) those regulations must designate one county council or county borough council in each fire and rescue authority area as the building safety authority for that area.

Subsection (3) list those with whom Welsh Ministers must consult prior to making the regulations specified in subsection (1), while subsection (4) provides for those regulations to make further provisions in connection with the exercise of functions by a building safety authority.

Subsection (6) provides for ancillary areas to be ignored when determining whether a regulated building is wholly or mainly in a building safety authority’s area. For example, if a building is in the area of a building safety authority but has a large garden extending across the boundary into a different building safety authority’s area, it would be taken as being in the former. The garden surrounding a regulated building would be ignored for the purposes of determining in whose area a building is “wholly or mainly situated”.

Subsection (7) provides that the functions of a council as a building safety authority are not to be the responsibility of an executive of the council under executive arrangements. This provision will, for example, enable a council to rely on section 101 of the Local Government Act 1972 when arranging for the discharge of their building safety functions.

114 Delegation of functions where building safety authority is accountable person for category 1 building

This section makes provision in respect of scenarios where a county council or country borough council is both the building safety authority and an accountable person for a category 1 building.

115 Power to direct building safety authorities to arrange for delegation of functions

This section provides that the Welsh Ministers may direct two or more building safety authorities to arrange for one of those authorities to exercise any of the building safety authority functions of the other authority or authorities. It includes additional provisions related to such a direction.

116 Fees for exercise of functions by building safety authorities

This section enables the Welsh Ministers to make provision for and in connection with the charging of fees by building safety authorities for carrying out their functions under the Bill (or under regulations made under the Bill), and for doing things that are incidental etc. to the carrying out of those functions. An example of a function for which regulations may make provision for a fee to be charged is registration (see section 20).

Fire safety authorities

117 Fire safety authorities

This section defines “fire safety authority”, which will generally be the fire and rescue authority in whose area the regulated building or relevant HMO is wholly or mainly situated.

There are three fire and rescue authorities in Wales, with areas comprising combinations of local authority areas.

However, if a regulated building or relevant HMO consists entirely of Crown premises, section 117(2)(b) provides that the fire safety authority is a “fire inspector” i.e. an inspector or assistant inspector appointed under section 28 of the Fire and Rescue Services Act 2004. “Crown premises” is defined in section 127 as premises owned, or occupied for any purpose, by the Crown. This broadly reflects the current position under the Fire Safety Order.

Notably, most Crown premises in Wales will not be in-scope of the Bill, either because they are not residential or because they will be expressly excluded and remain entirely in scope of the Fire Safety Order e.g. prisons.

Section 117 (3) and (4) provide, for regulated buildings and relevant HMOs (respectively), that ancillary areas such as gardens (as defined in sections 7 and 76) are disregarded in determining which fire and rescue authority area the building falls within. For example, if a building is in the area of South Wales Fire and Rescue Authority but has a large garden extending across the boundary into Mid and West Wales Fire and Rescue Authority, it would be taken as being in the former.

Exercise of functions by building safety authorities and fire safety authorities

118 Issue of guidance by the Welsh Ministers about the exercise of functions

This section places a duty on the Welsh Ministers to issue guidance about the exercise of functions under the Bill or regulations made under it by a building safety authority and a fire safety authority.

Building safety authorities and fire safety authorities must have regard to guidance issued by the Welsh Ministers under this section.

Before issuing guidance under this section, subsection (3) requires the Welsh Ministers to consult with each building safety authority, each fire safety authority and such other persons they consider appropriate.

119 Co-operation between building safety authorities and fire safety authorities

Where a building safety authority and a fire safety authority have functions under the Bill, or regulations made under it, in relation to the same regulated building or regulated buildings, subsection (1) provides that they must cooperate, so far as possible, in the exercise of those functions.

Subsection (3) provides that guidance issued under section 118 may include guidance about how the authorities are to comply with their duty to cooperate under this section.

120 Sharing of information

This section provides that a building safety authority or a fire safety authority may disclose information it holds in connection with a function under this Bill, or regulations made under it, to another building safety authority or another fire safety authority for the purposes of a function under this Bill, or regulations made under it, of either authority.

A disclosure of information under this section will not breach any obligation of confidence owed by the authority making the disclosure, or any other restriction on the disclosure of information; but by virtue of section 183A of the Data Protection Act 2018 it will be subject to the requirements of data protection legislation relating to the processing of personal data.

Offences

121 Criminal liability of senior officers of bodies

This section provides that where a corporate body, partnership or unincorporated association commits an offence under this Bill, then in certain circumstances certain “senior officers” or persons purporting to act as such, may also be guilty of committing the offence.

Giving notices and other documents

122 Giving notices and other documents

This section provides for how notices or other documents are to be given to a person under any provision of the Bill or regulations made under it. It includes provision about, for example, the manner in which documents can be given (including to corporate bodies etc.) and when they are treated as being given.

123 Giving documents to a person whose name is unknown

This section makes provision for how notices or other documents are to be given if the name of the person is unknown. It applies in addition to section 122.

General

124 Pre-commencement consultation

This section enables consultation requirements under the Bill to be satisfied by consultation that has been undertaken before the consultation requirement itself comes into force. This section comes into force on the day after the day on which this Bill receives Royal Assent (section 129(1)(c)).

125 Regulations requiring provision of information: confidentiality and data protection

This section enables regulations under sections 39, 48, 49 and 85 to impose duties to share information that override obligations of confidentiality. By virtue of section 183A of the Data Protection Act 2018, a duty imposed by the regulations will not override a requirement of data protection legislation relating to the processing of personal data (but will be taken into account for certain purposes under that legislation)

126 Regulations under this Act: supplementary and procedural provisions

Section 126 makes general provision about regulations made under this Bill. It also sets out in subsections (5) and (6) which regulations are subject to the Senedd approval procedure. All other regulations are subject to the Senedd annulment procedure (subsection (7)).

127 Interpretation

This section defines certain terms used in the Bill. Subsection (3) includes a regulation making power in respect of the meaning of being a “resident” of a residential unit.

128 Consequential and transitional provision etc.

Schedules 3 and 4 are introduced by subsections (1) and (2).

Subsection (3) confers upon the Welsh Ministers a regulation-making power which may be used to make provision that is incidental or supplementary to, or consequential on, any provision of the Bill, and to make transitional or saving provision. Regulations under subsection (3) may amend, repeal or revoke any enactment (including any provision contained in this Bill). Where amendments under subsection (3) amend or repeal any provision of primary legislation, they are subject to the Senedd approval procedure (section 126(6)).

129 Coming into force

This section makes provision about when the provisions of the Bill come into force.

130 Short title

Section 130 sets out the short title of the Bill, by which it may be known and referred. Either the Welsh or the English language title of the Bill may be used, including as a citation in other enactments.

The short title is the Building Safety (Wales) Act 2026.

Schedule 1

Buildings that are excluded from being regulated buildings

This Schedule lists buildings that are not regulated buildings and thus not covered by the Bill.

Schedule 2

Special measures orders

Part 1

1. Introductory

This paragraph provides that before a building safety authority, or a fire safety authority, for a category 1 building apply for a special measure order they must obtain the agreement of the other. The authority making the application for the order must also have complied with the requirements of Part 1 of Schedule [1].

2. Notice that authority proposes to apply for special measures order

This paragraph provides for every other person who is an “interested person” (defined in paragraph 21 of this Schedule) in relation to the building to be notified by the authority of the authority’s proposal to apply for a special measures order (sub-paragraph (1)). What must be contained in the notice is specified in sub-paragraph (2). The notice requirement will give an opportunity for an “interested person” to make representations in response to the notice.

3. Notice of authority's decision whether to apply for order

This paragraph requires the authority, after the period in which interested persons may make representations to the notice given under paragraph 2 has passed, to decide whether to make the application for an order and to give notice of its decision to every other interested person (sub-paragraph (2)). What must be contained in the notice is set out in sub-paragraph (3).

4. Requirement to include financial management proposal with notice of proposal or decision

This paragraph makes provision for when a financial management proposal must be included with the notices to interested persons given under paragraphs 2 and 3. It also makes provision as to what a financial management proposal must include (sub-paragraph (3)).

5. Further provision about giving notices under this Part

There may be cases in which the building safety authority or the fire safety authority, that is issuing a notice or financial management proposal under paragraphs 2 and 3, is not aware of an interested person. This paragraph places a caveat on the duties in paragraphs 2 and 3, so as for them not to require notices and financial management proposals to be given to an interested person if the authority is not aware of the person and have taken all reasonable steps to identify the persons in relation the building.

Part 2

6. Functions to be carried out by special measures manager

This paragraph makes provision in relation to the building safety functions of an accountable person where a special measures order is in force i.e. that those functions are to be treated as the functions of the special measures manager appointed by the order (and may not be exercised by the accountable person (subject to sub-paragraph (3))). Sub-paragraph (3) makes different provision in respect of certain functions (relating to applications and appeals to a tribunal).

7. Effect of special measures order on compliance notices

This paragraph makes provision in relation to the effect of an order on a compliance notice where the order is made in relation to the building safety functions of the accountable person subject to the compliance notice i.e. the compliance notice will cease to have effect. This is because the accountable person is no longer able to exercise their building safety functions and so they will be unable to comply with the notice once the order is made. However, the accountable person would still be liable for a failure to comply with the terms of a compliance notice where that failure occurred before the order was made (sub-paragraph (7)).

8. Effect of special measures order on relevant contracts

In carrying out their building safety functions an accountable person may have entered into contract with others. For example, they could have entered into a contract with a construction firm to remediate a building safety risk in the building.

When a special measures order is in place and it provides for the building safety functions of an accountable person to be carried out by a special measures manager, this paragraph enables the special measures manager to effectively take the place of the accountable person (subject to notice being given under sub-paragraph (2)(a)). This paragraph only applies to “relevant contracts” and a “relevant right and liability” (defined in sub-paragraphs (3) and (4)).

9. Effect of special measures order on legal proceedings

In some cases, when a special measures order is made, there may be legal proceedings that are already underway against the accountable person (whose functions are now those of the special measures manager). The purpose of this paragraph is to provide for the special measures manager to bring, continue or defend a “relevant cause of action” (this term is defined in sub-paragraph (3)).

10. Reimbursement of damages paid by special measures manager

This paragraph makes provision for an accountable person to be liable to reimburse the special measures manager in the scenarios detailed in this paragraph e.g. where the manager is subject to liability to pay damages due to the accountable person doing, or failing to do something, prior to the manager’s appointment.

11. Payments received by special measures manager to be held on trust

This paragraph provides for the way in which any payments, that under a special measures order must be made by an accountable person to the special measures manager for the building, must be held (sub-paragraphs (2) and (3)). The funds are to be held on trust to meet costs that the special measures manager incurs in connection with the exercise of their management functions, and subject to this on trust for the relevant accountable person or persons. Subsection (4) provides for how the accountable person or persons is to be treated in terms of their entitlement to any remaining funds.

12. Power of tribunal to give further directions

This paragraph provides for a residential property tribunal, where a special measures order is in force, to direct a special measures manager for the building (or any other person) with respect to any matter relating to the exercise of the manager’s functions and any incidental or ancillary matter. The persons who can apply for such a direction are listed in sub-paragraph (3).

13. Change in accountable person

This paragraph provides that, if an accountable person for a building (to whose building safety functions a special measures order applies) ceases to be the accountable person then the order ceases to apply to that person. If an accountable person only ceases to be an accountable person for part of a building, then this only applies in respect of that part for which they are no longer responsible. Sub-paragraph (6) makes provision about such a person's liability under the order before the "relevant time". The order will apply to the accountable person's successor (sub-paragraph (5), where sub-paragraph (4) applies).

Part 3

14. Duration of special measures order

This paragraph is self-explanatory.

15. Authority to keep certain matters under review

This paragraph provides for the building safety authority or fire safety authority (whichever authority applied for the special measures order) to keep under review certain matters in relation to the functioning of a special measures order (sub-paragraph (2)). A review must take place at least every 12 months and if, on review, the authority considers that a term of the order should be varied, it must apply for a variation under paragraph 16, subject to the provisions in that paragraph (sub-paragraph (3)).

16. Variation or revocation of special measures order

This paragraph makes provision in respect of the varying and revocation of special measures orders. This includes provision for who may apply to the residential property tribunal for a special measures order to be varied or revoked and restrictions (sub-paragraphs (1) and (4)), steps that must be taken before the application is made (sub-paragraphs (2) and (3)), and the matters to which the tribunal must have regard in considering whether to vary or revoke an order (sub-paragraph (5)), but this is subject to sub-paragraph (6)).

17. Procedure before authority applies to vary special measures order

The purpose of this paragraph is to ensure that interested persons, who are notified in relation to an application for a special measures order, are also notified about an application to vary or revoke a special measures order. This is intended to ensure that interested persons are kept up to date about who is responsible for building safety duties in the building, and that they are given an opportunity to make representations about the proposed variation of the order to the relevant authority.

18. Directions where special measures order is varied or revoked

This paragraph makes provision in relation to where a special measures order is varied or revoked. Where an order is revoked or varied the tribunal may give directions to any person (sub-paragraph (1)). Where an order is revoked, the

tribunal must direct the special measures manager to prepare a reconciliation account. “Reconciliation account” is defined in sub-paragraph (4).

A copy of the reconciliation account must be given to the authority that applied for the order and to each relevant accountable person (subsection (2)). These provisions are intended to ensure transparency and completeness in relation to the handling of financial matters while the special measures order was in place.

Part 4

19. Notifications relating to special measures order

This paragraph provides for the building safety authority or the fire safety authority (on whose application the order was made) to take all reasonable steps to notify interested persons about the making, variation or revocation of an order.

20. Power of tribunal to amend order under section 24 of the Landlord and Tenant Act 1987

Section 24 of the Landlord and Tenant Act 1987 gives the residential property tribunal the power, following an application by tenants of a building, to appoint a manager for a property in place of the landlord or the landlord’s agent.

A manager appointed under section 24 of that Act is often known as a “section 24 manager”.

This provision enables the tribunal to amend an order made under section 24 of the Landlord and Tenant Act 1987 to ensure that the functions to be carried out by virtue of that order do not include any functions that will be carried out by the special measures manager (under the special measures order).

21. Meaning of “interested person”

This paragraph is self-explanatory

Schedule 3

Minor and consequential amendments

Paragraph 1 amends the Health and Safety at Work Act 1974 (“the 1974 Act”) by inserting section 51B. Section 51B (2) restates, in relation to occupied regulated buildings and relevant HMOs, provision made by article 47(1) of the FSO to disapply provisions of the 1974 Act insofar as they relate to any matter in relation to which requirements are or could be imposed by or under the FSO.

For example, regulation 3(1) of the Management of Health and Safety at Work Regulations 1999 (made under the 1974 Act) requires employers to undertake risk assessments of workplaces. Such risk assessments do not cover fire safety matters

where for example, article 9 of the FSO requires the employer to carry out a fire risk assessment.

Section 51B(2)(a) maintains that position in respect of any requirements that continue to be imposed under the FSO, and section 51B(2)(b) makes equivalent provision in relation to those requirements of the FSO that are now provided for, in relation to occupied regulated buildings and relevant HMOs, by the Bill.

Paragraph 10 of this Schedule amends article 47 of the FSO so that it does not apply to occupied regulated building or relevant HMOs.

Paragraphs 3 to 4 of this Schedule make consequential amendments to sections 24 and 24ZA of the Landlord and Tenant Act 1987 in respect of special measures managers, to ensure that a section 24 manager cannot be appointed to exercise functions that are exercisable by a special measures manager, and to provide that a special measures manager can make an application for the appointment of a section 24 manager.

Paragraph 5 of this Schedule amends the Fire and Rescue Services Act 2004 to prevent a fire and rescue authority from charging anyone for exercising its functions as an enforcing authority under the Bill.

Paragraphs 6 to 10 of this Schedule amend the FSO to avoid duplication between the FSO and the Bill. Paragraph 7 inserts new article 7A into the FSO. And article 7A (1) provides that the main provisions of the FSO that impose duties on responsible persons do not apply to occupied regulated buildings or relevant HMOs.

However, new article 7A (2) and (3) provide that provisions of the FSO aimed at employee protections still apply to regulated buildings and relevant HMOs to the extent that they are also workplaces. While most of the buildings covered by the Bill will not normally be workplaces, some of them will be (e.g. if a caretaker or concierge is employed on the premises), and any of them could be temporarily, when contractors or tradespeople are working on the premises. Workplaces and work activities give rise to different types of fire risk and the need for different mitigation measures compared to purely residential premises, and these specific workplace risks, that are addressed by the FSO, are not covered by the Bill.

For example, assume that contractors are redecorating the common parts of a block of flats. Those common parts are, for the time being, their workplace. While the Bill will still apply to the block as a whole and its residents, the work of the contractors and the fire safety implications of it (including, for instance, the risks posed by flammable paint thinners or the obstruction of escape routes by stepladders) will be governed by the FSO to the extent that the workplace is under the control of the employer. Their employer, as the responsible person under the FSO, will still have to conduct a risk assessment and take appropriate fire safety measures under the FSO. That employer might be the principal accountable

person, in which case it should be possible to incorporate the FSO risk assessment and the Bill fire risk assessment into the same document. But where the employer is a third party, they will have to conduct their own risk assessment under the FSO to discharge their responsibilities to their staff and other “relevant persons” (defined in article 2 of the FSO).

Paragraph (4) of new article 7A disapplies articles 31, 37 and 38 of the FSO from buildings in scope of the Bill altogether. That is because none of these provisions relate to the protection of employees, and all are or can be fully replicated in the Bill or regulations made under it. Article 31 deals with prohibition notices, and equivalent provision is made in section 85 of the Bill. Articles 37 and 38 deal with firefighting on the premises and the protection of firefighters; these issues can be covered as appropriate in regulations under sections 31, 32, 73 and 74 of the Bill.

Paragraph 8 of this Schedule amends article 21A of the FSO so that it only applies to England. This article deals with the provision of information to residents of certain residential buildings. Under the Bill similar requirements may be made, for example under section 46 (duty of accountable person to give information and documents to other persons).

Paragraph 9 of this Schedule amends article 22A of the FSO. Article 22A requires an outgoing responsible person (e.g. someone who is selling their interest in a property) to provide specified information about fire safety to the incoming responsible person. The amendment provides that this includes information about the identity of any accountable persons for the building under the Bill. This requirement is likely to be relevant, for example, in mixed use buildings such as flats above shops and other commercial premises.

Schedule 4

Fire Safety Order: Transitional and saving provisions

This Schedule sets out transitional arrangements in respect of fire risk assessments conducted under the FSO. Paragraph 1 applies to regulated buildings and paragraph 2 applies to relevant HMOs; both make similar provisions as follows.

Article 9 of the FSO requires the responsible person for premises to conduct a (fire) risk assessment, and to keep it up to date. That is broadly similar to the requirements in section 29 of the Bill to ensure that a fire risk assessment is made.

Before the Bill comes into force, most if not all buildings covered by it would be covered by the FSO, so should have risk assessments in place. While those risk assessments are not identical to those required by the Bill, they should still adequately identify significant fire risks. To enable a transition from one regime to another, paragraphs 1(1) and (2) provides that a risk assessment under the FSO serves as a fire risk assessment under the Bill where:

- the principal accountable person for an occupied regulated building was, immediately before section 29 came into force, also the responsible person under the FSO for premises that include all of the “relevant parts” of the occupied regulated building, and
- the risk assessment under the FSO was made or reviewed during the six months ending with the day on which section 29 came into force.

The “relevant parts” of an occupied regulated building are the parts for which an accountable person is responsible. Section 29 requires a principal accountable person for an occupied regulated building to ensure that fire safety risks relating to those parts are assessed.

Where a FSO risk assessment serves as a fire risk assessment under the Bill, paragraph 1(3) disapplies the requirement in section 31(1) (when the first fire risk assessment for a regulated building must be made). Instead, the principal accountable person must ensure a new fire risk assessment under section 29 is made no later than 12 months after the day on which the existing assessment (under the FSO) was made or reviewed. However, subsections (2) to (4) of section 31 of the Bill will apply to the FSO assessment e.g. if any of the criteria in section 31(2) are met then a further risk assessment (under section 29) must be made.

For example, and assuming for these purposes that sections 29 and 31 come into force on 1 April 2027 (and the criteria in paragraph 1(1) are met):

- a principal accountable person for an occupied regulated building who had last conducted a risk assessment under the FSO on 1 February 2027 (i.e. 2 months before section 29 comes into force) would have until 1 February 2028 to ensure a fire risk assessment under section 29 was made (subject to subsections (2) to (4) of section 31), but
- a principal accountable person for an occupied regulated building who had last conducted a risk assessment under the FSO on 1 August 2026 (i.e. 8 months before section 29 comes into force) would be required to ensure a fire risk assessment be made no later than 6 months after section 31 comes into force, i.e. by 1 October 2027.

Paragraph 2 makes equivalent provision in respect of relevant HMOs.

Paragraph 3 of the Schedule provides that the disapplication of certain provisions of the FSO (new Article 7A of the FSO) does not apply in relation to an alteration notice, enforcement notice or prohibition notices served before paragraph 7 of Schedule 3 came into force (so those notices still have effect). For example, and assuming that paragraph 7 of Schedule 3 to the Bill comes into force on 1 April 2027, if an enforcing authority had issued a prohibition notice under the FSO on a block of flats on 1 March 2027, that prohibition notice would continue in force after 1 April 2027, even though the powers in the FSO to issue a prohibition notice would no longer apply to that regulated building.

Annex 2 - Index of Standing Order requirements

Standing order		Section	pages/ paragraphs
26.6(i)	Statement the provisions of the Bill would be within the legislative competence of the Senedd	Member's declaration	Page 1
26.6(ii)	Set out the policy objectives of the Bill	Chapter 3 - Purpose and intended effect of the legislation	Page 5 – 35
26.6(iii)	Set out whether alternative ways of achieving the policy objectives were considered and, if so, why the approach taken in the Bill was adopted	Part 2 – Regulatory Impact Assessment	Page 87 – 160
26.6(iv)	Set out the consultation, if any, which was undertaken on: <ul style="list-style-type: none"> (a) the policy objectives of the Bill and the ways of meeting them. (b) the detail of the Bill, and (c) a draft Bill, either in full or in part (and if in part, which parts) 	Chapter 4 – Consultation	Page 36 – 47
26.6(v)	Set out a summary of the outcome of that consultation, including how and why any draft Bill has been amended	Chapter 4 – Consultation	Page 36 para 4.5

Standing order		Section	pages/ paragraphs
26.6(vi)	If the Bill, or part of the Bill, was not previously published as a draft, state the reasons for that decision	Chapter 3 – Purpose and intended effect of the legislation There has been no formal consultation on a draft Bill. The provisions that are included in the Bill align, for the most part, with the provisions set out in the White Paper consultation.	Page 35 Para 3.125 – 3.129
26.6(vii)	Summarise objectively what each of the provisions of the Bill is intended to do (to the extent that it requires explanation or comment) and give other information necessary to explain the effect of the Bill	Annex 1 – Explanatory Notes	Page 161 – 241
26.6(viii)	Set out the best estimates of: (a) the gross administrative, compliance and other costs to which the provisions of the Bill would give rise. (b) the administrative savings arising from the Bill. (c) net administrative costs of the Bill's provisions. (d) the timescales over which such costs and savings would be expected to arise; and	Part 2 – Regulatory Impact Assessment	Page 87

Standing order		Section	pages/ paragraphs
	(e) on whom the costs would fall		
26.6(ix)	Any environmental and social benefits and dis-benefits arising from the Bill that cannot be quantified financially	Part 2 – Regulatory Impact Assessment	Page 151 para 9.24 – 9.31
26.6(x)	<p>Where the Bill contains any provision conferring power to make subordinate legislation, set out, in relation to each such provision:</p> <p>(a) the person upon whom, or the body upon which, the power is conferred and the form in which the power is to be exercised.</p> <p>(b) why it is considered appropriate to delegate the power; and</p> <p>(c) the Senedd procedure (if any) to which the subordinate legislation made or to be made in the exercise of the power is to be subject, and why it was considered appropriate to make it subject to that procedure (and not to make it subject to any other procedure).</p>	Chapter 5 - Power to make subordinate legislation	Page 48 - 86
26.6(xi)	Where the Bill contains any provision charging expenditure on the Welsh Consolidated Fund, incorporate a report of the Auditor General setting out his or her views on whether the charge is appropriate	Chapter 6 – Regulatory Impact Assessment summary	Page 87

Standing order	Section	pages/ paragraphs
26.6(xii)	Set out the potential impact (if any) on the justice system in England and Wales of the provisions of the Bill (a “justice impact assessment”), in accordance with section 110A of the Act.	Part 2 – Regulatory Impact Assessment Page 152 para 9.32 – 9.40
26.6B	Where provisions of the Bill are derived from existing primary legislation, whether for the purposes of amendment or consolidation, the Explanatory Memorandum must be accompanied by a table of derivations that explain clearly how the Bill relates to the existing legal framework.	Annex 3 -The requirement in Standing Order 26.6B for a Table of Derivations is not applicable to this Bill as the Bill is a standalone piece of legislation and does not derive from existing primary legislation for the purposes of amendment or consolidation.
26.6C	Where the Bill proposes to significantly amend existing primary legislation, the Explanatory Memorandum must be accompanied by a schedule setting out the wording of existing legislation amended by the Bill, and setting out clearly how that wording is amended by the Bill.	Annex 4 –The requirement is Standing Order 26.6C for a Schedule of Amendments is not applicable to this Bill as the Bill does not propose to significantly amend existing primary legislation.

Annex 3 - Table of Derivations

The requirement in Standing Order 26.6B for a Table of Derivations is not applicable to this Bill as the Bill is a standalone piece of legislation and does not derive from existing primary legislation for the purposes of amendment or consolidation.

Annex 4 - Schedule of amendments

The requirement of Standing Order 26.6C does not apply to this Bill as the Bill does not propose to significantly amend existing primary legislation. Although the Bill does make consequential amendments to the Landlord and Tenant Act 1985, the Landlord and Tenant Act 1987 and the Commonhold and Leasehold Reform Act 2002, the amendments insert new standalone provisions into those Acts, rather than amending existing provisions. The amendments are considered to be sufficiently clear and accessible to the reader and do not significantly amend those Acts.

Annex 5 – Detailed Results of the Cost Benefit Analysis

Further details – policy costs

Table A.1 to A.9 show further details of the policy costs, broken down by cost per flat, cost per building, by building types and by who the costs fall on:

- Tables A.1 shows the estimated 10yr PV costs for the proposed options, broken down by whom they fall on – the building safety authority (BSA), fire safety authority (FSA), Welsh Government
- Table A.2 shows the estimated 10yr PV costs for policy option 2, broken down by (i) whom the costs fall on and (ii) by Building Type
- Table A.3 shows the estimated 10yr PV costs for policy option 3, broken down by (i) whom the costs fall on and (ii) by building type
- Table A.4(a) and A.4(b) show the estimated 10yr PV costs for policy option 2, broken down by (i) whom the costs fall on and (ii) by detailed building type
- Table A.5(a) and A.5(b) show the estimated 10yr PV costs for policy option 3, broken down by (i) whom the costs fall on and (ii) by detailed building type
- Table A.6 shows the estimated average annual cost per flat for policy option 2 broken down by detailed building type
- Table A.7(a) and A.7(b) show the estimated average annual cost per flat for policy option 3 broken down by detailed building type
- Table A.8(a) and A.8(b) show the estimated average annual cost per building for policy option 2 broken down by detailed building type
- Table A.9 shows the estimated average annual cost per flat for policy option 2 broken down by detailed building type

Table A.1 shows the estimated 10yr PV costs for the proposed options

Table A.1: Estimated 10yr PV costs for Proposed Options (£m)						
		Industry Costs	Building safety authority Costs	Fire safety authority Costs	Welsh Government costs	Total
Counterfactual - no change	Option 1	-	-	-	-	-
All multi-occupied residential buildings at least 18m subject to category 1 duties. Multi-occupied residential building below 18m subject to fire safety provisions only.	Option 2	114.47	4.65	1.82	22.03	142.97
All multi-occupied residential buildings at least 18m subject to category 1 duties; multi-occupied residential buildings between 11-18m subject to category 2 duties; multi-occupied residential building below 11m subject to category 3 duties; relevant HMO subject to the fire safety provisions only	Option 3	117.14	6.84	2.21	22.03	148.23

Table A.2 shows the estimated 10yr PV costs for policy option 2, broken down by (i) whom the costs fall on and (ii) by building type

Table A.2: Estimated 10yr PV costs for Policy Option 2 by Building Type (£m)							
			Category 1	Fire Safety Provision Only	Fire Safety Provision Only	Fire Safety Provision Only	
	Familiarisation Costs	Other Costs (Regulator IT etc)	18m+ buildings	11-18m buildings	<11m buildings	HMO	Total
Industry	£1.27	£0.25	£26.51	£5.44	£70.59	£10.39	£114.47
BSA	£1.11	£0.43	£1.97	£0.13	£1.00	£0.00	£4.65
FSA	£0.02	£0.00	£0.87	£0.17	£0.72	£0.03	£1.82
Welsh Government	£0.00	£22.03	£0.00	£0.00	£0.00	£0.00	£22.03
Total	£2.41	£22.72	£29.36	£5.75	£72.31	£10.43	£142.97

Table A.3 shows the estimated 10yr PV costs for policy option 3, broken down by (i) whom the costs fall on and (ii) by building type.

Table A.3: Estimated 10yr PV costs for Policy Option 3 by Building Type (£m)							
			Category 1	Category 2	Category 3	Fire Safety Provision Only	
	Familiarisation Costs	Other Costs (Regulator IT etc)	18m+ buildings	11-18m buildings	<11m buildings	HMO	Total
Industry	£1.30	£0.25	£26.51	£7.51	£71.17	£10.39	£117.14
BSA	£1.24	£2.15	£1.97	£0.28	£1.20	£0.00	£6.84
FSA	£0.02	£0.00	£0.87	£0.26	£1.04	£0.03	£2.21
Welsh Government	£0.00	£22.03	£0.00	£0.00	£0.00	£0.00	£22.03
Total	£2.55	£24.44	£29.36	£8.05	£73.40	£10.43	£148.23

Table A.4(a) and A.4(b) show the estimated 10yr PV costs for policy option 2, broken down by (i) who the costs fall on and (ii) by detailed building type

Table A.4(a): Estimated 10yr PV costs for Policy Option 2 by (i) who the costs fall on and (ii) by Detailed Building Type (£)					
Option 2			Category 1 Buildings		
		Familiarisation costs	Other Costs (Regulator IT etc)	18m+_non-LA owned	18m+_LA owned
All multi-occupied residential buildings at least 18m subject to category 1 duties. Multi-occupied residential building below 18m subject to fire safety provisions only.	Industry	1,274,978	254,924	22,470,516	4,043,363
	BSA	1,114,632	426,717	1,680,058	292,328
	FSA	16,744	-	745,102	129,061
	Welsh Government		22,034,417		
	Total	2,406,354	22,716,057	24,895,676	4,464,753

Table A.4(b): Estimated 10yr PV costs for Policy Option 2 by (i) who the costs fall on and (ii) by Detailed Building Type (£)								
Option 2	Fire Safety Provisions Only							Total
	Purpose Built Flats - 11-18m	Purpose Built Flats - large (<11m)	Purpose Built Flats - small	Converted Houses / Flats over shops (2-5 flats)	Sheltered accommodation	Student accommodation	HMO	
Industry	5,442,199	786,936	23,994,423	43,989,860	1,640,526	175,824	10,393,447	114,466,996
BSA	132,139	20,148	384,561	571,718	24,036	3,759	-	4,650,096
FSA	173,269	26,836	500,112	161,132	30,334	4,773	32,881	1,820,245
Welsh Government								22,034,417
Total	5,747,606	833,920	24,879,096	44,722,710	1,694,896	184,357	10,426,328	142,971,754

Table A.5(a) and A.5(b) show the estimated 10yr PV costs for policy option 3, broken down by (i) whom the costs fall on and (ii) by detailed building type

Table A.5(a): Estimated 10yr PV costs for Policy Option 3 by (i) who the costs fall on and (ii) by Detailed Building Type (£)						
Option 3				Category 1 Buildings		Category 2 Buildings
		Transition costs	Other Costs (Regulator IT etc)	18m+_non-LA owned	18m+_LA owned	Purpose Built Flats - 11-18m
All multi-occupied residential buildings at least 18m subject to category 1 duties; multi-occupied residential buildings between 11-18m subject to category 2 duties; multi-occupied residential building below 11m subject to category 3 duties; relevant HMO subject to the fire safety provisions only	Industry	1,295,720	254,924	22,470,516	4,043,363	7,512,498
	BSA	1,239,721	2,148,254	1,680,058	292,328	283,974
	FSA	16,744	-	745,102	129,061	255,012
	Welsh Government					
	Total	2,552,185	24,437,594	24,895,676	4,464,753	8,051,484

Table A.5(b): Estimated 10yr PV costs for Policy Option 3 by (i) who the costs fall on and (ii) by Detailed Building Type (£)

Option 3	Category 3 Buildings					Fire Safety Provisions only	
	Purpose Built Flats - large (<11m)	Purpose Built Flats - small	Converted Houses / Flats over shops (2-5 flats)	Sheltered accommodation	Student accommodation	HMO	Total
Industry	809,913	24,420,176	44,087,645	1,669,517	180,389	10,393,447	117,138,108
BSA	28,244	534,295	597,254	34,243	5,367	-	6,843,739
FSA	39,549	735,518	206,353	46,371	7,299	32,881	2,213,890
Welsh Gov.							22,034,417
Total	877,706	25,689,989	44,891,252	1,750,132	193,055	10,426,328	148,230,155

Table A.6 shows the estimated average annual cost for policy option 2 broken down by detailed building type.

Table A.6: Estimated average annual cost for policy option 2 broken down by detailed building type (£)											
Option 2		Other Costs (IT etc)	18m+ buildings		Purpose Built Block of Flats - Large		Purpose Built Block of Flats - Small	Converted Houses/ Flats over shops (2-5 flats)	Other Residential Buildings		HMO
			18m+_n on-LA owned	18m+_LA owned	Purpose Built Flats - 11-18m	Purpose Built Flats - large (<11m)	Purpose Built Flats - small	Converted Houses / Flats over shops (2-5 flats)	Sheltered accomm.	student accomm.	HMO
All multi-occupied residential buildings at least 18m subject to category 1 duties. Multi-occupied residential building below 18m subject to fire safety provisions only.	Industry	29,616	2,610,517	469,739	632,249	91,423	2,787,558	5,110,532	190,588	20,426	1,207,461
	BSA	49,574	195,181	33,961	15,351	2,341	44,676	66,420	2,792	437	-
	FSA	-	86,562	14,994	20,130	3,118	58,101	18,720	3,524	555	3,820
	WG	2,559,854	-	-	-	-	-	-	-	-	-

Table A.7(a) and A.7(b) show the estimated average annual cost for policy option 3 broken down by detailed building type

Table A.7(a) Estimated average annual cost for Option 3 broken down by Detailed Building Type (£)							
Option 3		Other Costs (Regulator IT etc)	18m+ no n-LA owned	18m+ LA owned	Purpose Built Flats - 11-18m	Purpose Built Flats - large (<11m)	Purpose Built Flats - small
All multi-occupied residential buildings at least 18m subject to category 1 duties; multi-occupied residential buildings between 11-18m subject to category 2 duties; multi-occupied residential building below 11m subject to category 3 duties; relevant HMO subject to the fire safety provisions only	Industry	29,616	2,610,517	469,739	872,766	94,092	2,837,020
	BSA	249,574	195,181	33,961	32,991	3,281	62,072
	FSA	-	86,562	14,994	29,626	4,595	85,449
	WG	2,559,854	-	-	-	-	-

Table A.7(b): Estimated average annual cost for policy option 3 broken down by Detailed Building Type (£)				
	Converted Houses / Flats over shops (2-5 flats)	Sheltered accommodation	Student accommodation	HMO
Industry	5,121,892	193,957	20,957	1,207,461
BSA	69,386	3,978	624	-
FSA	23,973	5,387	848	3,820
Welsh Government	-	-	-	-

Table A.8(a) and A.8(b) show the estimated average annual cost per building for policy option 2 broken down by detailed building type

Table A.8(a) Estimated average annual cost per Building for Policy Option 2 broken down by Detailed Building Type (£)					
Option 2		18m+ buildings		Purpose Built Block of Flats - Large	
		18m+_non-LA owned	18m+_LA owned	Purpose Built Flats - 11-18m	Purpose Built Flats - large (<11m)
All multi-occupied residential buildings over 18m subject to category 1 duties. Multi-occupied residential building below 18m subject to fire safety provisions only.	Industry	15,447	16,198	1,292	1,209
	BSA	1,155	1,171	31	31
	FSA	512	517	41	41
	WG				

Table A.8(b) Estimated average annual cost per Building for policy option 2 broken down by Detailed Building Type (£)					
Option 2	Purpose Built Block of Flats - Small	Converted Houses/Flats over shops (2-5 flats)	Other Residential Buildings		HMO
	Purpose Built Flats - small	Converted Houses / Flats over shops (2-5 flats)	Sheltered accommodation	student accommodation	HMO
Industry	443	114	448	1,018	62
BSA	7	1	7	22	-
FSA	9	0	8	28	0
Welsh Government					

Table A.9 shows the estimated average annual cost per flat for policy option2 broken down by detailed building type

Table A.9 Estimated average annual cost per flat for Policy Option 2 broken down by Detailed Building Type (£)										
Option 2		18m+ buildings		Purpose Built Block of Flats - Large		Purpose Built Block of Flats - Small	Converted Houses/Flats over shops (2-5 flats)	Other Residential Buildings		HMO
		18m+_non-LA owned	18m+_LA owned	Purpose Built Flats - 11-18m	Purpose Built Flats - large (<11m)	Purpose Built Flats - small	Converted Houses / Flats over shops (2-5 flats)	Sheltered accommodation	student accommodation	HMO
All multi-occupied residential buildings at least 18m subject to category 1 duties. Multi-occupied residential building below 18m subject to fire safety provisions only.	Industry	276	289	32	30	49	57	50	34	62
	BSA	21	21	1	1	1	1	1	1	0
	FSA	9	9	1	1	1	0	1	1	0
	Welsh Gov.									

Further details - benefits

Tables A.10 to A.17 shows further details of the policy benefits calculations.

- Tables A.10 shows a summary of benefits, costs, net benefits and annual non-monetised benefits per resident required to break even
- Table A.11 shows the numbers/scale of loss associated with a Grenfell Tower type incident
- Table A.12 shows the assumptions made regarding the proportion of Grenfell Tower losses assumed to occur in each type of fire spread incident included in the model.
- Table A.13 shows the resulting estimated scale of loss assumed for each category 1 building fire spread incident type
- Table A.14 shows the resulting estimated scale of loss assumed for each large block building fire spread incident type
- Table A.15 shows the resulting estimated scale of loss assumed for each small block building fire spread incident type.
- Table A.16 shows the resulting estimated scale of loss assumed for each category 2 converted building fire spread incident type
- Table A.17 shows the total estimated economic cost of fire for each fire type and building type

Table A.10 shows a summary of benefits, costs, net benefits and annual non-monetised benefits per resident required to break even.

Table A.10: Summary of benefits, costs, net benefits and annual non-monetised benefits per resident required to break even		
	Option 2	Option 3
Benefits	£55.00m	£62.60m
Costs	£142.97m	£148.23m
Net Benefits	-£87.97m	-£85.63m
Annual non-monetised benefits per resident required to break even	£28	£27

Table A.11 shows the numbers/scale of loss associated with a Grenfell Tower type incident.

Table A.11: the numbers/scale of loss associated with a Grenfell Tower type incident		
		Grenfell Tower Economic Costs - Best estimate
Type of impact	Type of unit	number of units
Health Impacts		
Fatalities – residents	number of persons	72
Serious Injuries – residents	number of persons	20
Slight Injuries – residents	number of persons	42
injuries - rescue services	number of emergency personnel	114
mental health - treatment - residents	number of residents	231
mental health - op - screening	number of non-residents - family, friends, neighbours	11,000
mental health - treatment - other	number of non-residents - family, friends, neighbours	3,630
mental health – well-being - avoiding depression	number of non-residents - family, friends, neighbours	3,630
Non-Health Impacts		
Demolition of building	number of buildings	1
rebuilding cost	number of flats	120
lost personal possessions	number of flats	120
specialist recovery	number of flats	120
temporary accommodation	number of residents	231
lost rent from commercial space	number of weeks	48
experts' investigation	average cost of investigation	1
legal fees	average cost of investigation	1
resident's meetings	number of meetings	10

Table A.12 shows the assumptions made regarding proportion of Grenfell Tower losses assumed to occur in each type of fire spread incident included in the model.

Table A.12: Assumptions made regarding proportion of Grenfell Tower losses assumed to occur in each type of fire spread incident included in the model						
	Category 1	Category 1	Category 1	Category 1	Category 1	Category 1
Type of impact	Major incident - with fatalities	Major incident - with reduced fatalities	Medium incident - with casualties	Medium incident - without casualties	minor incident - 2 floor	minor incident - 1 floor
Health Impacts						
Fatalities – residents	25%	5%	*	0%	*	*
Serious Injuries – residents	25%	25%	*	0%	*	*
Slight Injuries – residents	25%	25%	*	0%	*	*
injuries - rescue services	25%	25%	5%	0%	0%	0%
mental health - treatment – residents	50%	25%	5%	0%	0%	0%
mental health - op - screening	50%	25%	5%	0%	0%	0%
mental health - treatment - other	50%	25%	5%	0%	0%	0%
mental health – well-being - avoiding depression	50%	25%	5%	0%	0%	0%
Non-Health Impacts						
Demolition of building	100%	100%	0%	0%	0%	0%
rebuilding cost	50%	50%	10%	10%	1%	0.5%
lost personal possessions	50%	50%	10%	10%	1%	0.5%
specialist recovery	50%	50%	10%	10%	1%	0.5%
temporary accommodation	50%	50%	10%	10%	1%	0.5%
lost rent from commercial space	50%	50%	10%	10%	1%	0.5%

experts' investigation	50%	50%	10%	10%	1%	0.5%
legal fees	50%	50%	10%	10%	1%	0.5%
resident's meetings	50%	50%	10%	10%	1%	0.5%

Table A.13 shows the resulting estimated scale of loss assumed for each Category 1 building fire spread incident type.

Table A.13: Resulting estimated scale of loss assumed for each Category 1 building fire spread incident type							
Type of impact	Major incident - with fatalities	Major incident - with reduced fatalities	Medium incident - with casualties	Medium incident - without casualties	minor incident - 2 floor	minor incident - 1 floor	Common areas
Health Impacts							
Fatalities – residents	18	4	0.17	-	0.03	0.03	-
Serious Injuries – residents	5	5	0.50	-	0.23	0.23	0.08
Slight Injuries – residents	11	11	0.50	-	0.23	0.23	0.08
injuries - rescue services	29	29	6	-	-	-	
mental health - treatment - residents	116	58	12	-	-	-	-
mental health - op - screening	5,500	2,750	550	-	-	-	
mental health - treatment - other	1,815	908	182				
mental health – well-being - avoiding depression	1,815	908	182	0.42	0.42	0.42	0.42
Non-Health Impacts							
Demolition of building	1	1	-	-	-	-	
rebuilding cost – number of flats	60	60	12	12	1	1	
lost personal possessions – number of flats	60	60	12	12	1	1	
specialist recovery – number of flats	60	60	12	12	1	1	
temporary accommodation – number of residents	116	116	23	23	2	1	
lost rent from commercial space – number of weeks	24	24	5	5	0	0	
experts' investigation	1	1	0	0	0	0	
legal fees	1	1	0	0	0	0	

Table A.14 shows the resulting estimated scale of loss assumed for each large block building fire spread incident type.

Table A.14: Resulting estimated scale of loss assumed for each Large Block building fire spread incident type							
	Major incident - with fatalities	Major incident - with reduced fatalities	Medium incident - with casualties	Medium incident - without casualties	minor incident - 2 floor	minor incident - 1 floor	Common areas
Health Impacts							
Fatalities – residents	4	2	0.17	-	0.03	0.03	-
Serious Injuries - residents	2	2	0.50	-	0.23	0.23	0.08
Slight Injuries - residents	4	4	0.50	-	0.23	0.23	0.08
injuries - rescue services	11	11	2	-	-	-	
mental health - treatment - residents	23	23	5	-	-	-	
mental health - op - screening	1,100	1,100	220	-	-	-	
mental health - treatment - other	363	363	73	-	-	-	
mental health - avoiding depression	363	363	73	0.30	0.30	0.30	0.30
Non-Health Impacts							
Demolition of building	0	0	-	-	-	-	
rebuilding cost	30	30	12	12	1	0	
lost personal possessions	30	30	12	12	1	0	
specialist recovery	30	30	12	12	1	0	
temporary accommodation	58	58	23	23	1	1	
lost rent from commercial space	12	12	5	5	0	0	
experts' investigation	0	0	0	0	0	0	
legal fees	0	0	0	0	0	0	
resident's meetings	3	3	1	1	0	0	

Table A.15 shows the resulting estimated scale of loss assumed for each small block building fire spread incident type.

Table A.15: Resulting estimated scale of loss assumed for each Small Block building fire spread incident type							
	Major incident - with fatalities	Major incident - with reduced fatalities	Medium incident - with casualties	Medium incident - without casualties	minor incident - 2 floor	minor incident - 1 floor	Common areas
Health Impacts							
Fatalities – residents	4	2	0.17	-	0.03	0.03	-
Serious Injuries - residents	2	2	0.50	-	0.23	0.23	0.08
Slight Injuries - residents	4	4	0.50	-	0.23	0.23	0.08
injuries - rescue services	6	6	1	-			
mental health - treatment - residents	12	12	2	-			
mental health - op - screening	550	550	110	-	-	-	
mental health - treatment - other	182	182	36	-	-	-	
mental health - avoiding depression	182	182	36	0.07	0.07	0.07	0.07
Non-Health Impacts							
Demolition of building	0	0	-	-	-	-	
rebuilding cost	12	12	4	4	0	0	
lost personal possessions	12	12	4	4	0	0	
specialist recovery	12	12	4	4	0	0	
temporary accommodation	23	23	7	7	1	0	
lost rent from commercial space	5	5	1	1	0	0	
experts' investigation	0	0	0	0	0	0	
legal fees	0	0	0	0	0	0	
resident's meetings	1	1	0	0	0	0	

Table A.16 shows the resulting estimated scale of loss assumed for each category 2 converted building fire spread incident type.

Table A.16: Resulting estimated scale of loss assumed for each Category 2 converted building fire spread incident type							
	Major incident - with fatalities	Major incident - with reduced fatalities	Medium incident - with casualties	Medium incident - without casualties	minor incident - 2 floor	minor incident - 1 floor	Common areas
Health Impacts							
Fatalities – residents	4	2	0.17	-	0.03	0.03	-
Serious Injuries - residents	2	2	0.50	-	0.20	0.20	0.08
Slight Injuries - residents	4	4	0.50	-	0.20	0.20	0.08
injuries - rescue services	2	2	1	-			
mental health - treatment – residents	12	12	2	-	-	-	
mental health - op - screening	-	-	-	-	-	-	
mental health - treatment - other	-	-	-	-	-	-	
mental health - avoiding depression	-	-	-	0.02	0.02	0.02	0.02
Non-Health Impacts							
Demolition of building	0	0	-	-	-	-	
rebuilding cost	2	2	2	2	0	0	
lost personal possessions	2	2	2	2	0	0	
specialist recovery	2	2	2	2	0	0	
temporary accommodation	5	5	5	5	0	0	
lost rent from commercial space	1	1	1	1	-	-	
experts' investigation	0	0	0	0	-	-	
legal fees	0	0	0	0	-	-	
resident's meetings	0	0	0	0	-	-	

Table A.17 shows the total estimated economic cost of fire for each fire type and building type.

Table A.17 shows the total estimated economic cost of fire for each fire type and building type (£)					
	Category 1 (18m+) Building Type	Under 18m - Large Building Type	Under 18m - Small Building Type	Under 18m - Converted Building Type	HMO
Health impacts					
Major incident (whole building loss)	174,390,000	35,780,000	23,000,000	10,580,000	3,120,000
Major incident (whole building loss) - reduced casualties	75,150,000	31,010,000	18,230,000	5,810,000	800,000
rapid fire spread resulting in part building loss - some casualties	13,380,000	5,710,000	3,160,000	740,000	-
internal fire spread beyond residential unit of origin to two floors	150,000	150,000	150,000	150,000	160,000
internal fire spread beyond residential unit of origin but on one floor	150,000	150,000	150,000	150,000	160,000
Fires in common areas (not spreading)	50,000	40,000	30,000	30,000	30,000
Non health impacts					
Major incident (whole building loss)	21,550,000	10,570,000	4,230,000	870,000	450,000
Major incident (whole building loss) - reduced casualties	21,550,000	10,570,000	4,230,000	870,000	450,000
Rapid fire spread resulting in part building loss - some casualties	4,150,000	4,150,000	1,240,000	830,000	410,000
Rapid fire spread resulting in part building loss - no casualties	4,150,000	4,150,000	1,240,000	830,000	410,000

Internal fire spread beyond residential unit of origin to two floors	410,000	210,000	100,000	80,000	20,000
Internal fire spread beyond residential unit of origin but on one floor	210,000	100,000	50,000	60,000	20,000
Fires in common areas (not spreading)	20,000	20,000	20,000	20,000	20,000