

Explanatory Memorandum to the Building etc. (Amendment) (No. 2) (Wales) Regulations 2025

This Explanatory Memorandum has been prepared by Building Regulations policy officials and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Building etc. (Amendment) (No. 2) (Wales) Regulations 2025. I am satisfied that the benefits justify the likely costs.

Rebecca Evans MS
Cabinet Secretary for Economy, Energy and Planning
18 December 2025

1. Description

- 1.1. These Regulations amend the Building Regulations 2010 and other related secondary legislation in Wales to implement provisions of Part 3 of the Building Safety Act 2022. The amendments introduce new procedural requirements, clarify duties and competencies of dutyholders, establish mechanisms for enforcement and appeals in relation to building control, and provide transitional arrangements for work commenced or approved prior to the coming into force date.
- 1.2. The Regulations also make minor, unrelated amendments to the Building Regulations 2010 and consequential amendments to other statutory instruments.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

- 2.1. Further to the LJCC report in relation to the Building etc. (Amendment) (Wales) Regulations 2025 (SL(6)606)¹, we have amended the drafting to regulations 15 of these Regulations to address comments in the Technical Scrutiny points raised.

3. Legislative Background

- 3.1. These Regulations are made under powers conferred by the Building Act 1984 (the 1984 Act), as amended by the Building Safety Act 2022 (the 2022 Act). They apply specifically to Wales and are part of a suite of reforms aimed at improving building safety following the Grenfell Tower tragedy.
- 3.2. Following the Grenfell Tower tragedy, the UK Government appointed Dame Judith Hackitt to lead an independent review of building regulations and fire safety in England. In her final report, Dame Judith Hackitt outlined the need for a new approach to managing fire and structural safety risks in high-rise multi-occupied residential buildings together with fundamental changes to the way building control operates and emphasised the need to raise competence levels across the profession and industry more widely.
- 3.3. The Welsh Government's Building Safety Expert Group developed a 'Road Map to Safer Buildings in Wales' which applied the Hackitt report recommendations to Wales. These proposals were built on in the White paper: Safer Buildings in Wales, which set out how we planned to address

¹ <https://business.senedd.wales/mgIssueHistoryHome.aspx?Id=45427>

the issues in the design and construction and occupation stages. The White paper explained that changes to the design and construction regime in Wales would be brought forward through the 2022 Act.

- 3.4. The 2022 Act, which received Royal Assent in April 2022, brought forward a package of legislative changes in relation to building safety. For Wales, the 2022 Act introduces a range of legislative measures, including the creation of new design and construction protocols, mechanisms to monitor the competence of professionals within the system, and broader enhancements aimed at promoting safer building practices. It also includes targeted provisions specifically addressing higher-risk buildings (HRBs).
- 3.5. The Regulations are part of a suite of new legislation which overall is intended to raise standards and safety across the built environment while providing clarity to industry on its responsibilities and duties. In particular, the Regulations update or replace certain procedural elements of the Building Regulations 2010, introduce new duties for clients, contractors, and designers and make other amendments consequential of wider changes introduced under the 2022 Act. The Regulations are being made under the negative resolution procedure.
- 3.6. The Welsh Ministers make the Regulations under powers conferred on them by sections 1(1), 32(6), 34, 35(2) and (3), 35D(1) (2) and (3), 91ZD(1), (2) and (3), and 101A(3) and (4) of, and paragraphs 1A to 1D, 1F to 1I, 5A, 5B, 5C, 7, 8 and 10 of Schedule 1 to, the 1984 Act, and section 167(1), (2) and (3) of the 2022 Act.
- 3.7. The Regulations amend the Building Regulations 2010 which are a lengthy set of regulations setting out vital information for England and Wales on how buildings are regulated. The Building Regulations 2010 have been amended a considerable number of times by regulations that apply only to Wales and only to England and this has given rise to the existence of parallel text in places. The approach taken in these Regulations has been to try to avoid parallel text where new regulations are being inserted into the Building Regulations 2010. Where extant provisions are amended by the Regulations then we have not sought to change the position that already exists in relation to parallel text.

4. Purpose and Intended Effect of the legislation

- 4.1. The Regulations are introduced to support the implementation of Part 3 of the 2022 Act in Wales. They form part of a wider programme of reform aimed at

improving building safety, particularly in relation to higher-risk buildings, by strengthening the regulatory framework for building control.

- 4.2. The Regulations establish new duties for clients, designers, and contractors, including requirements for competence and cooperation throughout the design and construction phases. They revise and clarify procedures for building control approval, including the submission and determination of applications, and introduce new mechanisms for enforcement such as compliance notices and stop notices.
- 4.3. The Regulations also enhance fire safety compliance by strengthening provisions for the handover of fire safety information and introduce new rights of appeal to support transparency and accountability. Transitional provisions ensure that work commenced or approved prior to 1 July 2026 is appropriately managed under the existing regime.
- 4.4. The intended effect is to create a more robust, transparent, and accountable building control system in Wales, aligned with the principles of the 2022 Act, and capable of supporting safer outcomes for building users and residents.

5. Summary of Key Provisions –

Part 2 – Amendments to the Building Regulations 2010

- 5.1. Introduces the scope of amendments to the Building Regulations 2010 (the 2010 Regulations) as set out in regulations 3 to 15.

Regulation 3 – Amendments to regulation 2

- 5.2. Updates and expands definitions, including “building control approval” and “higher-risk building” to align terminology with the 2022 Act, as well as defining key terms related to dutyholder roles.

Regulation 4 – Amendments to the application of the 2010 Regulations

- 5.3. It disapplies certain procedural requirements for higher-risk buildings, which will be governed by the Building (Higher-Risk Buildings Procedures) (Wales) Regulations 2025.

Regulation 5 – Dutyholders and competence

- 5.4. Inserts a new Part 2B - Wales into the 2010 Regulations, introducing new dutyholder and competence requirements. It details the responsibilities of clients, designers, and contractors, including competence requirements and appointment procedures. The Regulations will provide accountability and clarity of roles and responsibilities of those involved in the procurement, design and undertaking of building work, and the duties which will apply to them.
- 5.5. In particular, provision is made for Domestic Clients, i.e. people for whom building work is carried out that is not in the course of or further of a business. Following substantial feedback from our consultation exercise and individual stakeholders on our proposals and the implementation of similar provisions in England we have altered our proposed approach. We have amended our policy to allow Domestic Clients, where they consider themselves to have the relevant competence, to take on certain client duties themselves.
- 5.6. This is intended to allow competent individuals to oversee building work themselves and allow flexibility for people carrying out work on their own homes and only hiring contractors for small parts of a larger project.

Regulation 6 – Deposit of plans and building control authorities

- 5.7. Regulation 6 replaces references to “deposit of plans” with “application for building control approval” in the 2010 Regulations, and updates terminology to reflect new roles. These amendments, and those made in regulation 7 detailed below, are necessary as the 2022 Act repeals section 16 of the 1984 Act (deposit of plans).
- 5.8. This regulation also makes changes to use of “local authority” and changes such references to “building control authority”. This is to account for regulations likely to be made in future under section 91ZD of the 1984 Act (Higher-risk buildings in Wales: local authority work). ‘Building control authority’ will mean the local authority of the area where the building work is being carried out, unless an alternate local authority has been designated to carry out building control functions for a specific project. This can only occur under regulations yet to be made, and then only when a local authority is carrying out its own higher-risk building work.
- 5.9. Other provisions also added to the 2010 Regulations for the sharing of information between local authorities where one has been designated as described above. Additionally, this regulation also makes provision for the

giving and receiving of certificates, notices and other information in the case of higher-risk building work.

Regulation 7 – Applications for building control approval

- 5.10. Introduces new procedures for submitting and determining applications for building control approval with full plans. This is modelled on the procedures in section 16 of the 1984 Act, with additions for the new dutyholder roles. Regulation 7 provides for appeals against decisions relating to these applications: these are necessary following the repeal of the current procedures for referring plans to the Welsh Ministers.

Regulation 8 – Consultation on applications for building control

- 5.11. Requires local authorities to consult fire safety enforcing authorities before approving applications for buildings subject to the Regulatory Reform (Fire Safety) Order 2005 (Fire Safety Order). This largely replicates existing provisions previously in article 45 of the Fire Safety Order, but expands those provisions to include material alterations to buildings.

Regulation 9 – Starting on site and commencement of work

- 5.12. Revises the notice requirements in regulation 16 for starting work and introduces a new notification when work should be considered as ‘commenced’.
- 5.13. It also provides for the local authority to reject the ‘commenced’ work notice and a right of appeal against a rejection.
- 5.14. The 2022 Act amended the 1984 Act to provide for building control approval to automatically lapse three years after it is granted if work to individual buildings is not commenced. This change will mean that, where work has not commenced within the three-year time limit, the building control approval for each building included in the original approval will automatically lapse, even if work on the remainder of the site has commenced.

Regulation 10 – Fire safety information

- 5.15. Strengthens requirements for providing fire safety information and introduces a duty for the responsible person to acknowledge receipt and confirm that the information is sufficient to enable them to understand and operate the building.

Regulation 11 – Other appeals

- 5.16. Establishes new rights of appeal and clarifies procedures for appealing decisions related to building control under the 1984 Act. These new rights of appeal are required because of the introduction of new decisions such as the ability of a local authority to refuse an application for building control approval, an initial notice or an amendment notice on the grounds that all or part of the work to which the application or notice relates is higher-risk building work.

Regulation 12 – Commencement of section 33 of the Building Act 1984

- 5.17. Omits regulations 45 and 46 of the 2010 Regulations, and references to them, in line with the commencement of section 33 of the 1984 Act (Tests for conformity with building regulations).

Regulation 13 – Amendments to regulation 20

- 5.18. Introduces an obligation for the client to disclose to the person carrying out the work when the work relates to a higher-risk building.

Regulation 14 – Enforcement provisions

- 5.19. Makes amendments to the 2010 Regulations to support the strengthening of the enforcement provisions set out in the 1984 Act. This includes provision for the content of the new compliance notices and stop notices, and the appeals process when contesting such notices.

Regulation 15 – Other miscellaneous amendments

- 5.20. Makes further minor technical and consequential amendments to the 2010 Regulations. Regulation 15 also makes minor amendments to regulations 44ZAA (particulars of connection to public electronic communications network) and 44C (interpretation of Part 9A and of Part R of Schedule 1) to provide clarity in relation to the requirements for developers providing public electronic communications networks.

Part 3 – Amendments to Other Secondary Legislation

- 5.21. This part introduces amendments to other regulations which are consequential on the changes made in this instrument and the wider implementation of the 2022 Act.

Regulation 16 – Amendments to the Building (Local Authority Charges) Regulations 2010

- 5.22. Updates references within the Building (Local Authority Charges) Regulations 2010 to make provision in relation to the repeal of deposit of plans in Wales and its replacement with applications for building control approval.
- 5.23. This regulation also adds new chargeable functions for local authorities in relation to new HRB processes such as dealing with changes to approved plans and documents, and applications for completion certificates and partial completion certificates.

Regulation 17 – Amendments to the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024

- 5.24. Aligns procedures and forms with the new building control framework, particularly new provisions in relation to dutyholders and commencement of work. Changes include notices, forms, and cancellation processes.

Regulation 18 – Amendments to the Building (Restricted Activities and Functions) (Wales) Regulations 2024

- 5.25. Expands the list of restricted functions in regulation 3 of the Building (Restricted Activities and Functions) (Wales) Regulations 2024 to include new activities such as issuing compliance and stop notices, and determining staged approvals and change control applications for higher-risk building work.

Part 4 – Transitional, Supplementary and Saving Provisions

Regulation 19 – Transitional provisions for the Building Regulations 2010

- 5.26. Preserves the application of the Building Regulations 2010, as they stood before the amendments made by these Regulations, for work started or approved before 1 July 2026.

Regulation 20 – Transitional provisions for the 2024 Approvers Regulations

- 5.27. Allows forms submitted before 1 July 2026 to be processed in line with the requirements as they stood at the time of the application.

Regulation 21 – Transitional provisions for plans deposited before 1 July 2026

5.28. Maintains the validity of plans deposited under the 1984 Act prior to the coming into force date, subject to certain conditions.

Regulation 22 – Transitional and savings provisions for the lapse of building control approval

5.29. Provides that sections 32, 50(8) and 52(5) of the 1984 Act continue to apply to plans and notices submitted before 1 July 2026.

Schedule 1 – forms

5.30. Substitutes certain existing forms, and inserts new form 6(W) in Schedule 1 to the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024. The changes include:

- Form 1(W): The initial notice now includes a statement setting out when the proposed work will reach the point where it is regarded as commenced, or would otherwise need building control oversight.
- Form 2(W): The amendment notice now includes a statement setting out when the proposed work will reach the point where it is regarded as commenced, or would otherwise need building control oversight.
- Form 4(W): The combined initial notice and plans certificate now includes a statement setting out when the proposed work will reach the point where it is regarded as commenced, or would otherwise need building control oversight.
- Form 5(W): The final certificate now includes a statement that the approver has received a statement from the client and one from, or regarding, each principal contractor and principal designer, in relation to the work.
- Form 6(W): Notice of invalid notice or certificate is a new form relating to regulation 6(A) of the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024 which permits local authorities to notify applicants that they will not process a purported notice or certificate on the grounds that the form is invalid for specific reasons. This gives local authorities a formal route to address the matter.
- Additionally, some references across several forms have been amended to reflect changes made, and additional notes have been added to some forms, for example, to include the definition of higher-risk building work.

6. Consultation

- 6.1 A full public consultation was conducted between 26 March 2025 and 25 May 2025 on proposals that have informed these Regulations.
- 6.2 The consultation document detailed the Welsh Government's proposed continued implementation of the Building Safety Act 2022 and focused on procedural reform for building control, introducing new duties and requirements for the key decision makers in building projects and giving local authorities new enforcement powers.
- 6.3 The public consultation was drawn to the attention of a wide audience of key stakeholders such as Registered Building Control Approvers, Local Authority Building Control Bodies and professional bodies such as Chartered Association of Building Engineers (CABE), Royal Institute of Chartered Surveyors (RICS), and the Chartered Institute of Building (CIOB).
- 6.4 In addition, to improve the consultation process key stakeholders from a variety of backgrounds in the sector were invited to pre-consultation workshop sessions to inform policy development.
- 6.5 The consultation responses informed the development of the Regulations and ensured alignment with the broader building safety framework. Some significant changes were made to consultation proposals as a result of the consultation exercise such as provisions for Domestic Clients detailed above.
- 6.6 The consultation documents and a summary of the responses are available at: [New building control regime for higher-risk buildings and wider changes to the building regulations in Wales | GOV.WALES](https://gov.wales/new-building-control-regime-higher-risk-buildings-wider-changes-building-regulations-wales)
- 6.7 In addition, and in accordance with section 14(7) of the Building Act 1984, the Building Regulations Advisory Committee for Wales (BRACW) were consulted during the consultation stage and subsequently in the consultation response stage regarding the proposed changes to the Building Regulations. They raised no objections to the changes.

7. Regulatory Impact Assessment (RIA)

- 7.1. The new building safety regime is intended to improve the safety of building work in Wales, including new high rise residential buildings in Wales, building work in existing high rise residential buildings in Wales and improved oversight of other building work.
- 7.2. The design and construction phase regime will focus on the construction of new buildings and building works undertaken in existing buildings. Improvements to building safety during the occupation of buildings not undergoing building works is subject to the occupation phase new building safety regime. This analysis is only of the costs and benefits attributed to the Welsh design and construction phase regime (i.e. benefits attributed to the design and construction phase (not the occupation phase)).
- 7.3. 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 different 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 the White Paper [Safer Buildings in Wales](#).

Executive Summary

- 7.4. The analysis estimates the cost to the Welsh Government, the local authorities in their role as building control bodies, to the Fire and Rescue authorities in their role as fire safety authorities, and to industry (to clients, principal designers, principal contractors, other designers and contractors) of complying with the range of additional requirements (for buildings in scope), over and above the current situation (the counterfactual), proposed under the policy option assessed in the analysis.

Buildings in scope

- 7.5. The proposals are about buildings that are being constructed or are undergoing building works.
- 7.6. Buildings in scope are divided into the following categories:
- Higher Risk Buildings (HRBs) – these are defined as residential buildings of height over 18m (or 7 storeys or more) containing 1 or more residential units; and including hospitals with overnight care, care homes or children's homes;
 - Non-High Risk Buildings - other domestic and non-domestic buildings.

Policies considered

7.7. The analysis assesses the costs of one policy option, over and above the counterfactual:

- Option 1: Business as usual (the counterfactual);
- Option 2: New building control regime for higher-risk buildings and dutyholder requirements for other building works.

Types of additional requirements considered

7.8. The additional requirements proposed under the policy options for higher risk buildings include:

- Gateways;
- Dutyholder requirements;
- Residents engagement
- Creation of the golden thread;
- Mandatory reporting;
- Sanctions and enforcement;
- Familiarisation costs.

7.9. The additional requirements proposed under the policy options for non-higher risk buildings include:

- Dutyholder requirements;
- Familiarisation costs.

Types of cost taken into account

7.10. 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.

7.11. Costs are divided into those that fall on:

- Industry and on;
- The Welsh Government, the local authorities in their role as building control bodies, to the Fire and Rescue authorities in their role as fire safety authorities.

Appraisal period etc

7.12. 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, reflecting the life of a building.

Start year and price year

7.13. The analysis uses a start year of 2027 and a price year of 2023².

Phase in and transition

7.14. Assume all buildings are in scope from Year 1.

Three scenarios are calculated

7.15. Three scenarios are calculated, a central estimate, a high and a low, to reflect the level of uncertainty regarding some of the assumptions used in the analysis.

Results

7.16. Table 1 shows the total costs of the policy option over 10 years.

Table 1: Total 10 Year Costs PV (£million)				
		Low	Mid	high
Higher Risk Buildings - Policy Costs				
Industry	Transition	£0.14m	£0.28m	£0.41m
Regulator	Transition	£0.01m	£0.03m	£0.05m
Industry	Annual	£4.75m	£7.27m	£9.84m
Regulator	Annual	£0.90m	£1.36m	£1.84m
Non-Higher Risk Building - Policy Costs				
Industry	Transition	£5.50m	£6.87m	£8.25m
Industry	Annual	£73.13m	£91.41m	£109.70m
Total Costs		£84.42m	£107.22m	£130.08m

Cost Results – further detail

7.17. The tables below provide future breakdowns of the costs results,

Estimated 10yr PV costs for Proposed Options (£m)

7.18. Table 2 and 3 show the estimated 10yr PV costs for proposed options for each policy area for Higher Risk Buildings and Non-Higher Risk buildings.

Table 2: Estimated 10yr PV costs for Higher Risk Buildings (£m)			
	Low	Mid	High
Gateways	£3.33m	£5.57m	£7.81m
Mandatory Reporting	£0.03m	£0.04m	£0.05m
Dutyholder Requirements	£0.91m	£1.17m	£1.43m
Golden Thread	£0.20m	£0.44m	£0.65m
Sanctions	£0.67m	£0.83m	£1.00m
Residents Engagement	£0.32m	£0.45m	£0.68m

² Economic Appraisals do not take account of inflation, hence a price year is selected, on which all prices used in the analysis are based

Appeals	£0.02m	£0.04m	£0.08m
Refurbishment	£0.31m	£0.38m	£0.44m
Total	£5.79m	£8.93m	£12.14m

Table 3: Estimated 10yr PV costs for Non-Higher Risk Buildings (£m)

	Low	Mid	High
Dutyholder Requirements and Familiarisation Costs	£78.63m	£98.29m	£117.94m
Total	£78.63m	£98.29m	£117.94m

Table 4: Regulator 10 Year Costs PV (£million)

	Low	Mid	high
Higher Risk Buildings - Regulator			
Building Control Bodies (BCB)	£0.65m	£1.01m	£1.37m
Fire and Rescue Authority (FRA)	£0.19m	£0.30m	£0.40m
Local Planning Authority (EHO)	£0.02m	£0.03m	£0.04m
Environmental Health Officers (EHO)	£0.04m	£0.06m	£0.08m
Welsh Government (WG)	£0.01m	£0.01m	£0.03m
Total	£0.90m	£1.40m	£1.92m

Benefits

7.19. The policy proposals will introduce changes to the design and construction for HRBs and other building works that will result in:

- Stronger oversight of building work;
- Increased duties and clearer accountability for those designing and constructing buildings, and
- Stronger enforcement against non-compliant works

7.20. The benefits of these changes are expected to include:

- Safer buildings that will reduce the risk of fire spread and structural incidents;
- Reducing the risk of another systemic issue occurring, of a similar magnitude to the defective external cladding issue, thus avoiding the cost of resolving the issue e.g. remediation;
- Encouraging greater oversight of building works will also have benefits for the construction industry and building owners in terms of improved quality of construction.

Monetised benefits - HRBs

7.21. The analysis estimates that 80 higher risk building will be built or refurbished in Wales under the new regime during the 10 year policy period:

- The analysis estimates the value of rework costs that could be avoided as a result of both safety changes and increased oversight during construction of

these. Together the proposals are estimated to achieve savings from **avoided rework costs of £1.08m over the 10 year policy period**;

- Also, on the assumption that the policy helps avoid the occurrence of a similar scale systemic building material issue, to that of defective ACM cladding, the cost savings will be substantial. 3% of buildings in England had defective ACM cladding installed. If it is assumed that the policy will reduce the risk of a similar scale defective building material being used in Wales in the future by, for example, 50%, then the avoided remediation costs in Wales would be in the region of **£2.89m**.

Switching Values – Non-HRBs

- 7.22. The proposed changes for building work on all other building types are expected to result in additional time being spent ensuring compliance with building regulations and the adoption of improved working practices that could help reduce rework, latent defects, intrusive surveys. The research has not found sufficient evidence available to say what proportion of this is attributable to these proposals. Therefore a ‘switching value’ approach has been used. This approach calculates the value of avoided rework costs that would have to be achieved for the policy to be cost neutral (i.e. for the value of benefits to equal the policy costs).
- 7.23. Based on the estimated annual value of construction activity used in the analysis (£2.4bn) and the estimated proportion of costs that comprise errors (5% to 21%), the analysis estimates that the policy will need to reduce the total amount of waste and errors on construction projects by between 2.2% and 9.3% for the benefits of the proposals to exceed the costs over a 10 year appraisal period.

Non-monetised benefits

- 7.24. The proposals covering design and construction complement the proposals introduced to improve safety within occupied buildings. Reducing the risk of fire spread and structural incidents will reduce the impact of these in terms of casualties, property damage and mental health impacts. In addition, the reduced risk will reassure residents and make them feel safer in their homes.

8. Competition assessment

- 8.1. We have carried out the filter test for the Competition assessment, there are no changes being made through these regulations that are likely to be any detrimental effects on competition.

9. Monitoring and Review

- 9.1. The 2022 Act included a statutory requirement on the Secretary of State to appoint an independent person to carry out a review of the regulatory system every 5 years, the first reviewer is to be appointed within five years of Royal Assent, although the same statutory requirement was not applied to Wales it is recommended that the Welsh Ministers adopt a similar approach.
- 9.2. As such, we intend to commission an Impact Assessment of the changes to the building control profession in 2027 unless circumstances highlight a need for review earlier.