

Explanatory Memorandum to the Building Safety Act 2022 (Consequential Amendments) (Wales) Regulations 2026

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.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Building Safety Act 2022 (Consequential Amendments) (Wales) Regulations 2026 ("the Regulations").

Rebecca Evans MS

Cabinet Secretary for Economy, Energy and Planning

27 January 2026

1. Description

- 1.1. These Regulations amend primary and secondary legislation as a consequence of the wider implementation of provisions of Part 3 of the Building Safety Act 2022 in Wales.
- 1.2. New regulations have been made that introduce significant reform to the procedural aspects of building control, particularly for higher-risk buildings.
- 1.3. The new procedures come into effect on 1 July 2026, and these Regulations are required to ensure that other existing legislation continues to have their current effect after this date.
- 1.4. These Regulations are not intended to alter the intent or meaning of the legislation they amend.

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

- 2.1. None.

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 programme 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 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, alongside driving up competence across the profession and industry more widely.
- 3.3. Our own 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 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 contains, amongst other provisions, legislative changes to establish new design and construction processes, oversee the competence of those who operate in the system, and other improvements to support the construction of safer buildings generally, and also makes specific provision in relation to higher-risk buildings.
- 3.5. The Regulations are part of a suite of new legislation that forms a stage of the Welsh Government's implementation of the 2022 Act. Overall, the legislation is intended to drive up standards and safety across the built environment while providing clarity to industry on its responsibilities and duties.
- 3.6. The Regulations are made under the Senedd approval procedure. Welsh Ministers exercise their powers under section 167(5) of the 2022 Act which provides that any statutory instrument containing regulations under that section that amend or repeal provisions of an Act, or an Act or Measure of Senedd Cymru, must be laid in draft and approved by Senedd Cymru. Paragraph 3 of Schedule 1A to the Legislation Wales Act 2019 as amended by the Legislation (Procedure, Publication and Repeals) (Wales) Act 2025 provides that this requirement is treated as subject to the Senedd approval procedure set out in section 37C of that Act.

4. Purpose and Intended Effect of the legislation

- 4.1. These Regulations are not intended to alter the intent or meaning of the legislation they amend, but to ensure existing legislation continues to operate as it currently does once the suite of new legislation comes into force.
- 4.2. These Regulations amend existing legislation to align with provisions, in the Building Safety Act 2022 (Commencement No. 6) (Wales) Regulations 2025 and the Building etc. (Amendment) (No. 2) (Wales) Regulations 2025, that replace the existing process of depositing building work plans with a local authority with a process for applying for building control approval.
- 4.3. These regulations also amend other secondary legislation to ensure that references to local authorities align with the changes introduced under the

2022 Act, in particular the term “building control authority” defined in section 121A of the 1984 Act (as inserted by section 32 of the 2022 Act).

5. Summary of provisions – Amendments to local acts in effect in Wales

5.1. Regulations 2 and 4 to 7 amend local acts in effect in Wales. Amendments are made to remove references to deposit of plans and replace them with references to the new process of applications for building control approval.

5.2. The local acts amended are:

- The County of South Glamorgan Act 1976
- The Clwyd County Council Act 1985
- The West Glamorgan Act 1987
- The Dyfed Act 1987
- Mid Glamorgan County Council Act 1987

The Highways Act 1980

5.3. Regulation 3 amends sections 203, 219, 220 and 223 of the Highways Act 1980. Currently the Act requires that the charge must be paid when building work plans are deposited. This regulation replaces this with reference to applications for building control approval.

The Clean Air Act 1993

5.4. Regulation 8 amends section 16 of the Clean Air Act 1993. This section requires local authorities to check the height of a chimney proposed to ensure that it is tall enough so that smoke, grit, dust or gases do not become prejudicial to health or a nuisance. This regulation inserts the definition of the building control authority and makes provision for references to the depositing of plans to be read as references to an application for building control approval to reflect changes introduced by the Building Regulations Amendment Regulations.

The Regulatory Reform (Fire Safety) Order 2005

5.5. Under this Order “responsible persons” are people that have control of a building in relation to fire safety. They are routinely handed information about the completion of building work.

5.6. Existing provisions for this information under the Building Regulations 2010 are being disapplied from higher-risk building work and provision is instead being given under the new HRB Procedures Regulations that strengthens the requirements.

5.7. To ensure the Order retains its current effect, Regulation 9 adds fire safety information created for higher-risk building work under the new HRB Procedures Regulations to the list of information that outgoing responsible persons are required to pass on to a new responsible person.

The Community Infrastructure Levy Regulations 2010

5.8. Regulation 10 adds completion certificates issued under the new the Building (Higher-Risk Buildings Procedures) (Wales) Regulations 2025 to the definition of “compliance certificate”.

5.9. Currently the definition only includes completion certificates issued under the Building Regulations 2010. The amendment is to ensure that the current effect of “compliance certificate” remains the same the HRB Procedures Regulations come into force, as completion certificates will no longer be issued only under the Building Regulations 2010.

Other secondary legislation being amended

5.10. Regulations 11 and 12 amend the Building Safety Act 2022 (Commencement No. 4, Transitional and Saving Provisions) (Wales) Regulations 2024 and the Building (Restricted Activities and Functions) (Wales) Regulations 2024 respectively.

5.11. Amendments are made to replace “local authority” with “building control authority” to be consistent with section 91ZD of the Building Act 1984 (Higher-risk buildings in Wales: local authority work), inserted by the section 32(3) of the Building Safety Act 2022.

Transitional provisions

5.12. In line with the approach taken in the Building etc. (Amendment) (No. 2) (Wales) Regulations 2025 and other new building regulations, regulation 13 provides that the consequential amendments in the Regulations do not apply to plans for building work deposited with a local authority before the date these Regulations come into force.

6. Consultation

- 6.1 An 8-week public consultation was conducted between 26 March 2025 to 25 May 2025 on proposals that these Regulations are consequential to.
- 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 in the Building etc. (Amendment) (No. 2) (Wales) Regulations 2025.
- 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](#)
- 6.7 In accordance with section 14(7) of the 1984 Act, the Building Regulations Advisory Committee Wales (BRACW) were consulted during the consultation stage and subsequently in the consultation response stage regarding the proposed changes to the Building Regulations.
- 6.8 In addition, and also in accordance with section 14 of the 1984 Act, BRACW, representatives of impacted local authorities and Local Authority Building Control were separately consulted on the specific amendments being made to local acts. A 6-week consultation ran from 6 October 2025 to 17 November 2025.

6.9 No objections to the proposals that led to these Regulations were raised though minor amendments were made to the regulations as a result of responses received.

7. Regulatory Impact Assessment (RIA)

7.1. As this instrument makes amendments to update legislation that do not alter the policy (or its impact) in any significant way or how it is applied in a given situation, an RIA is not required for these Regulations. This is in line with the policy set out in the Welsh Ministers' code of practice for carrying out regulatory impact assessments for subordinate legislation.

7.2. To note, a full and joint impact assessment has been prepared for the suite of new legislation that form this stage of the Welsh Government's implementation of the 2022 Act. This joint impact assessment focused on the new provisions being introduced that are substantive change to existing policy. This can be found online as part of the [Explanatory Memorandum for the Building etc. \(Amendment\) \(No. 2\) \(Wales\) Regulations 2025](#).

Competition assessment

7.3. 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

8. Monitoring and Review

8.1. 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.

8.2. As such, an Impact Assessment of the changes to the building regulations is intended to be commissioned and reviewed in 2027 unless circumstances highlight a need for review earlier.