



Building Safety Act new rules – will you be caught?

The Building Safety Act and a range of other safety-related regulations were introduced in the wake of the Grenfell Tower fire. The obvious focus is high-rise residential buildings, but the new rules actually have a wider reach. Some of the changes affect purely commercial buildings; others apply only to buildings which include some residential elements. If you are buying or developing a mixed-use property with residential units as part of it, you should pay particular attention to the new rules. The building safety regime is complex and still evolving, so talk to your solicitor for detailed advice.

‘Commercial property developers and investors cannot ignore the new building safety regime,’ warns [Paul Gorman](#), a solicitor in the commercial property team with Ingram Winter Green ‘Contrary to what you might think, it applies to almost all buildings in some way, not just to large residential blocks, and there are criminal penalties for those who do not comply.’

[Paul](#) highlights some of the key areas to watch out for.

Medium and high-rise buildings

The new building safety regime is primarily focused on identifying and managing building safety risks, which are broadly defined as risks to the safety of people in or around a building as a result of fire or structural failure. The Building Safety Act affects different types of buildings in England in different ways. The key distinction is governed by the height of the building:

- *‘higher risk’ buildings* – the most stringent rules apply to buildings which are at least 18 metres high or have at least seven storeys and contain at least two residential units. There are extensive obligations which apply from the design phase, through construction and then once the building is occupied. These are overseen by the newly created Building Safety Regulator, which has already been heavily criticised for long delays in processing applications for approval of

works. If you are developing or buying a 'higher risk' building, you must get detailed advice from your solicitor.

- *'relevant' buildings* – any building that contains at least two residential units and is at least 11 metres high or has at least five storeys is also affected by parts of the Building Safety Act, which defines them as 'relevant buildings'. In particular, they are subject to restrictions on recovering the cost of remedying historic safety defects from tenants.

Defective premises and time limits for claims.

All dwellings are subject to the Defective Premises Act 1972, which gives homeowners the right to claim against developers and contractors if their house or flat is 'not fit for habitation'. At present a claim must be made within six years of work being carried out.

The Building Safety Act extends the time limit for bringing these claims to 15 years for work carried out on or after 28 April 2022, and retrospectively to 30 years for work carried out before then, so it is important to keep your documentation in good order in case you find yourself involved in a claim.

Complying with building regulations

Building regulation consent is usually required for extensions and alterations as well as new build developments. All buildings, even those used only for commercial purposes, are now subject to a new duty to comply with building regulations.

If you are appointing designers and contractors to carry out this type of work, the Dutyholder Regulations impose obligations on them, and on you as the client. These broadly require all dutyholders to ensure that the works comply with building regulations and that anyone appointed in connection with the works is competent.

Fire risk assessments

All buildings which include a workplace are covered by the 2005 Fire Safety Order, which sets out requirements for fire risk assessments. The rules apply not only to the relevant employers, but also to landlords with obligations to repair and maintain the premises, all of whom will be 'responsible persons'.

These rules have been amended and strengthened by the Building Safety Act and now require risk assessments to be recorded in full, together with the name of any individual or organisation who carried out the risk assessment and anyone nominated to assist with fire-fighting and detection. If a building covered by the Fire Safety Order also contains two or more residential units, there is a new duty to provide relevant fire safety information to residents.

From April 2026, there will also be new requirements to identify vulnerable residents in higher risk buildings and some relevant buildings, and to produce person-centred fire risk assessments and evacuation plans.

Alterations to commercial units in mixed-use buildings

If you are the landlord of a mixed-use building, you may need to remind your tenants that the building safety regime could apply to any fit out or alteration works they want to carry out. This is especially important for commercial tenants in mixed-use higher risk buildings, who may not realise that they must submit details of the work to the Building Safety Regulator and get consent before starting. In theory, that consent should be given within eight weeks, but the much longer delays which many applicants have experienced could cause practical problems for you and your tenants. For example, if you have entered into an agreement for lease which sets a deadline for the tenant completing fit out works, a delay in getting the necessary approval might prevent the tenant finishing (or even starting) the work in time. That could mean a delay in the tenant occupying and paying rent and could leave you needing to renegotiate or possibly find a new tenant.

Building Safety Levy

Something to bear in mind for the future is the Building Safety Levy which will come into force in autumn 2026. This is intended to be a levy by local authorities on new residential development, so it could bite on new mixed-use buildings. The details are still being worked out and we expect that there will be an exemption for small developments (the current suggestion is those creating fewer than 10 units) but if you think the levy may affect you, ask your solicitor to keep you up to date as more details emerge.

How we can help

Building safety is hugely important but the new rules are complicated and are undoubtedly causing long delays in development of buildings which include residential units. Our commercial property lawyers are here to help you understand your obligations and avoid penalties and delays.

For further information, please contact [Paul Gorman](#) in the commercial property team on 020 7845 7400 or email paulgorman@iwg.co.uk. Ingram Winter Green has offices in London.

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