These notes refer to the Building Safety (Wales) Act 2026 (asc 5)
which received Royal Assent on 27 April 2026

BUILDING SAFETY (WALES) ACT 2026

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes are for the Building Safety (Wales) Act 2026 which was passed by Senedd Cymru on 10 March 2026 and received Royal Assent on 27 April 2026. 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 relate to the Act as it received Royal Assent.[1] They should be read in conjunction with the Act but are not part of it.

SUMMARY AND POLICY BACKGROUND

2. The Building Safety (Wales) Act ("the Act") introduces a new building safety regime in Wales focusing on the occupation phase of a building's life cycle. It covers the regulation of building safety risks in multi-occupied residential buildings. The Act'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 terms of a Welsh response to the issues raised by the Hackitt Review and advise on 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 it 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. The Welsh Government published its response to the consultation on 14 December 2021.

6. The Building Safety (Wales) Act establishes 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.

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[1] Changes that have been made to the Act since it received Royal Assent can be identified using the "Changes to Legislation" facility at www.legislation.gov.uk/changes.

7. In summary, the Act:
   - identifies those on whom statutory duties under the Act are to be placed;
   - requires 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;
   - confers new functions on the "building safety authority", which is 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;
   - confers new functions on the "fire safety authority" in Wales, which is each fire and rescue authority for an area in Wales or a fire inspector (as regards Crown premises);
   - creates duties to assess and manage fire safety risks in all in-scope buildings;
   - creates 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;
   - puts in place new rights for residents and place duties on them in respect of all in-scope buildings;
   - establishes a new enforcement regime to enable enforcement action to be taken if the new duties are not met;
   - enables the Welsh Ministers, by regulations, to provide that the residential property tribunal may make a remediation order; and may make a remediation contribution order that would require payments to be made by a relevant body corporate or partnership to a specified person for the purposes of meetings costs incurred in remedying, or otherwise in connection with, relevant defects relating to a relevant building;
   - enables the Welsh Ministers by regulations, to make provision limiting (in some cases to nil), the requirement to pay certain service charges, and to make connected provision.

8. The Act comprises 5 Parts and 4 Schedules.

COMMENTARY ON SECTIONS
PART 1 - SAFETY OF BUILDINGS CONTAINING TWO OR MORE RESIDENTIAL UNITS
CHAPTER 1 - OVERVIEW
Section 1 - Overview of Part

9. This section gives an overview of Part 1 of the Act.

CHAPTER 2 - KEY TERMS
Regulated buildings, residential units and categories of building
Section 2 - Meaning of "regulated building"

10. This section sets out the meaning of "regulated building" for the purpose of the Act.

11. 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.

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

13. 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"

Section 3 - Meaning of "building"

14. 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.

15. Subsection (2) provides that in the case of a structure that is not attached to any other structure, that structure is 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)).

16. Subsection (3) provides for the case of structures that are attached to each other. The set of structures is 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)).

17. 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 are together a "building" at first sight. However, it is then 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.

18. 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.

19. 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 is still 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).

Section 4 - Meaning of "independent part"

20. Section 4 makes provision about the meaning of "independent part".

21. 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 Act 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 136.

22. 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).

23. 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 Act 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.

24. 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.

25. 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 is individually 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).

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

27. 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).

28. 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 Act, 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 Act would apply accordingly.

29. 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.

30. 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.

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

32. 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.

33. 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).

34. 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 Act (although there are duties imposed by the Act 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 Act. The commercial premises would not be part of that building.

35. 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 enables more unusual ownership models and designs of buildings to be accommodated, so that the duties under the Act apply appropriately.

36. 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.

Section 5 - Meaning of "residential unit"

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

38. 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.

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

40. 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.

Section 6 - Categories of regulated building

41. 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 is categorised under this section. Some duties under the Act apply only in relation to buildings that come within a particular category. This provision and any regulations made under it determine which category a regulated building comes within.

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

43. 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.

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

45. Subsection (5) defines when a mezzanine floor is to be regarded as a "storey" in respect of regulated buildings.

46. Subsection (6) provides the 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 or provide for how storeys are to be counted.

47. 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.

Section 7 - Inclusion of ancillary areas in references to regulated buildings

48. Section 7 provides that in the remainder of the Act (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.

49. "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.

50. 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).

51. As a result of this section, many of the duties in the Act (for example, the duty on the principal accountable person under section 29 to ensure the assessment of fire safety risks) 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

Section 8 - Meaning of "accountable person"

52. 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 Act. For example, accountable persons have duties to manage fire safety risks (under section 33) in relation to the parts of the building for which they are responsible. An accountable person may, for example, be an individual, a company or a public body.

53. 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.

54. 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).

55. "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.

56. "Relevant repairing obligation" in relation to a part of a regulated building is defined in section 14, as a requirement under a lease or by virtue of an enactment to repair or maintain that part.

57. 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.

58. 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.

59. 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).

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

Section 9 - Meaning of "principal accountable person"

61. The definition of a principal accountable person ensures 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 is 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.

62. In a building with only one accountable person, they are the principal accountable person.

63. 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.

64. "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).

65. 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.

Section 10 - Principal accountable person: determination by building safety authority

66. 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.

67. 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.

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

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

Section 11 - Determinations by residential property tribunal

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

71. 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.

72. 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.

73. 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.

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

74. 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).

Section 13 - Meaning of "common parts"

75. This section defines "common parts" in relation to regulated buildings for the purposes of the Act.

76. 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.

77. 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.

78. 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 itis excluded from being a common part under subsection (2)(a)(i).

Section 14 - Other definitions

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

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

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

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

Responsibility of accountable persons for parts of regulated buildings
Section 16 - Part of regulated building for which accountable person is responsible

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

83. This section provides that references in the Act 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
Section 17 - Powers to amend this Chapter

84. This section provides that the Welsh Ministers may by regulations amend sections 2, 3, 4, 6, 7, 8, 9, 13 and 14 and Schedule 1. Limitations are placed on the power to amend sections 2, 3, and 6 and Schedule 1 (see subsection (1)(a), (b), (c) and (e)).

CHAPTER 3 - REGISTRATION OF CATEGORY 1 BUILDINGS AND CATEGORY 2 BUILDINGS
Registers
Section 18 - Registers of category 1 buildings and category 2 buildings

85. 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 122 for the meaning of "building safety authority").

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

87. Having this information on a register mean that a building safety authority holds a record of who is the principal accountable person under the Act 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".

88. 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

Section 19 - Requirement to register category 1 buildings and category 2 buildings

89. 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 136.

90. 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 is a defence to prove that the principal accountable person had a reasonable excuse for the building being occupied but not registered. See also section 110 (fixed penalty notices).

Section 20 - Registration procedure

91. 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 125, 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

Section 21 - Duty to notify changes

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

93. 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.

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

95. 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)).

96. 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.

Section 22 - Revision of register following notification of change

97. 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).

98. 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)).

99. 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 64.

Section 23 - Revision of register without notification

100. 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.

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

102. 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)).

103. 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 64.

104. 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 64 or any appeal under section 65.

105. 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
Section 24 - Duty to give declaration about accuracy of information and documents included in register

106. 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.

107. 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.

108. 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.

109. 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.

110. 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 64 or 65.

111. 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.

112. 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)).

113. 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)). See also section 110 (fixed penalty notices).

114. 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

Section 25 - Application to remove building from register

115. 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)).

116. 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.

117. 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.

118. 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.

119. 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.

120. 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.

121. 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)).

Section 26 - Removal of building from register by building safety authority

122. 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.

123. The building safety authority has discretion as to whether to remove a building from the register.

124. 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).

125. 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.

126. 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).

127. 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)).

128. 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 63(2)). Following the outcome of a review an affected person can make an appeal to the tribunal (see section 65). 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.

129. 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

Section 27 - Meaning of "fire safety risk and "structural safety risk"

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

131. 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.

132. 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.

Section 28 - Meaning of "building safety risk"

133. 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.

134. 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.

135. 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 Act 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.

136. This provides flexibility to extend the application of Part 1 of the Act 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

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

137. 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.

138. 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.

139. 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.

140. See also the note to section 7 which explains the effect of that section (inclusion of ancillary areas) on references to a "regulated building".

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

141. The lack of a requirement for assessments to be undertake by competent persons (under the Regulatory Reform (Fire Safety) Order 2005) 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 fully supported the proposal to require that only suitably qualified and experienced fire risk assessors should undertake fire risk assessments in multi-occupied residential buildings.

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

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

144. 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.

145. 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)).

146. 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.

147. 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.

Section 31 - Timing and review of fire risk assessments

148. 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 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.

149. This section also provides the Welsh Ministers with a power to make regulations to vary the deadline by when a first fire risk assessment must be made. Such regulations could, for example, make different provision for different types of regulated buildings (see the general provision about regulations made under this Act, set out in section 135(1)(b)).

Section 32 - Further provision about fire risk assessments

150. 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.

151. Subsection (2) provides the Welsh Ministers with the power to make regulations concerning fire risk assessments, including matters to be considered, methodology and 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.

152. 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 that is a matter which a fire risk assessment must consider.

153. 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 an extended period.

Section 33 - Management of fire safety risks by accountable persons

154. 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. Regulations under section 16 will set out the parts of regulated buildings for which accountable persons are responsible.

155. 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.

156. 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.

157. 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.

158. 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.

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

160. 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.

161. 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.

162. 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.

163. 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.

164. 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.

165. 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.

166. 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 section 36 (2), (3) and (4)).

167. See also the note to section 7 which explains the effect of that section (inclusion of ancillary areas) on references to a "regulated building".

Structural safety risks in category 1 buildings and category 2 buildings
Section 34 - Assessment of structural safety risks: duties of accountable persons

168. 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.

169. 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)).

170. 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.

171. 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).

172. 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.

173. 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)).

174. 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)).

175. 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.

176. 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.

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

Section 35 - Management of structural safety risks by accountable persons

178. 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)).

179. 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.

180. 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.

181. 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.

182. 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)).

183. 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
Section 36 - Management of building safety risks by persons other than accountable persons

184. 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, are treated for some purposes of the Act as an accountable person who is responsible for the part in question.

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

186. 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").

187. 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)).

188. Persons treated as accountable persons under this section are treated as accountable persons only for the purposes of certain provisions of the Act. These provisions include section 33 (management of fire safety risks), section 48 (power of the Welsh Ministers to impose a duty to keep information and documents) and section 49 (power of the Welsh Ministers to impose a duty to give information and documents to other persons).

189. 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.

190. 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).

191. 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

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

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

193. A "safety case report" is a report containing information specified in regulations made by the Welsh Ministers (subsection (1)). This information relates 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.

194. 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.

195. More detailed information that is held about a building (such as that which may be specified in regulations made under sections 48 and 49) 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.

196. The safety case report must be prepared as soon as reasonably practicable after the latest of the events mentioned in subsection (3).

197. 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).

198. 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.

199. 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.

200. 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 risks

Section 38 - Occurrence recording system: duty of principal accountable person

201. 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)).

202. 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.

203. 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.

204. 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.

205. 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.

Section 39 - Reporting to authorities: duty of accountable person

206. 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.

207. "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)).

208. Information reported under the occurrence recording system (section 38) should assist accountable persons in complying with their reporting duties under this section.

209. 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.

210. The regulations may also make provision about how the information must be given (subsection (4)).

211. Subsection (5) provides that an accountable person commits an offence if, without reasonable excuse, they fail to comply with subsection (1).

212. 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)).

213. 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

Section 40 - Preparation and review of residents' engagement strategy by principal accountable person

214. 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.

215. 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 Act.

216. 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.

217. 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.

218. 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.

219. 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.

220. Subsection (7) requires the principal accountable person to review the residents' engagement strategy at times specified in regulations and revise it if necessary.

221. 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.

222. Subsections (9) and (10) provide 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.

Section 41 - Provision of copies of strategy by accountable persons

223. 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.

224. 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.

225. 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

Section 42 - Duty of principal accountable person to apply for building certificate

226. 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)).

227. 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.

228. 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)).

229. 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)).

230. Subsection (5) provides that it is an offence to fail, without reasonable excuse, to comply with subsections (3) or (4).

231. 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)).

232. 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. See also section 110 (fixed penalty notices).

233. 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).

Section 43 - Applications for certificates: procedure

234. This section make provision about the procedure for applying for a building certificate. An application must include:

- 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 47.

235. 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.

Section 44 - Determination of applications and issues of certificates

236. 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).

237. 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.

238. As part of its assessment (under subsection (2)) the building safety authority may inspect the building.

239. 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).

240. 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.

241. If a notice of refusal is given this must include information about the right to appeal (subsection (7)).

242. Where the building safety authority becomes aware of non-compliance with a duty, they would have the option of issuing a compliance notice under section 96.

243. The Welsh Ministers may, by 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)).

Section 45 Duty of principal accountable person to display certificate and related information

244. 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 96(4) summarising the notice.

245. This information must be displayed together, in a conspicuous place in the building.

246. 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 96(4) summarising the notice.

247. 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).

248. 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.

249. 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. See also section 110 (fixed penalty notices).

250. 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 - ENGAGEMENT WITH RESIDENTS OF OCCUPIED CATEGORY 2 BUILDINGS

Section 46 - Category 2 buildings: residents' engagement strategies

251. This section gives the Welsh Ministers a regulation-making power to make provision about strategies for involving residents of occupied category 2 buildings in building safety decisions. The regulation making power enables the Welsh Ministers to make provisions that correspond to, or are similar to, the provision already set out in sections 40 and 41 for category 1 buildings, or to the provision that may be made by regulations under those sections.

CHAPTER 7 - INFORMATION AND COMPLAINTS

Duties to keep and provide information and documents

Section 47 - Duty to give information and documents to accountable persons

252. 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.

253. A relevant person for the purposes of this section is set out in subsection (2).

254. 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 Act 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)).

255. 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 54(4) or 55(4).

256. 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.

257. Subsection (6) provides that references to an accountable person in this section includes persons treated as an accountable person under section 36.

258. 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.

Section 48 - Duty of accountable person to keep information and documents

259. Subsection (1) places a duty on the Welsh Ministers to make regulations requiring an accountable person for a regulated building to keep relevant information or relevant documents specified in the regulations. Information and documents are "relevant" if they relate to a part of a building for which an accountable person is responsible (see subsection (6)(b)).

260. 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 that was used in the Independent Review of Building Regulations and Fire Safety Report to describe the record of safety information about the building.

261. The regulations made under subsection (1) may also include provision about, for example:
- the duration for which information or documents must be kept,
- how the information or documents must be kept, and
- the format in which they must be kept.

262. The regulations may include conditions or exceptions to these requirements (subsection (3)).

263. Subsection (4) provides that if an accountable person does not have the required information or 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)).

264. Regulations made under this section may place requirements on persons treated as accountable persons under section 36.

Section 49 - Duty of accountable person to give information and documents to other persons

265. Subsection (1) places a duty on the Welsh Ministers to make regulations about the sharing of relevant information and relevant documents by accountable persons. Information and documents are "relevant" if they relate to a part of a building for which an accountable person is responsible (see subsection (7)(a)).

266. Under subsection (2), the regulations may require an accountable person to give relevant information or relevant documents specified in the regulations to the building safety authority, the fire safety authority, other accountable persons, 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.

267. Subsection (3) 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.

268. The regulations may provide that the accountable person 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 accountable person for a document or information must be made (subsection (5)).

269. If information or 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 documents in criminal proceedings.

270. Regulations made under this section may place requirements on persons treated as accountable persons under section 36.

Section 50 - Duty to give information and documents on change of accountable person

271. 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 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).

272. An outgoing accountable person is an accountable person who has stopped being responsible for all or part of a regulated building.

273. The persons to whom the regulations may require an outgoing accountable person to give information or 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).

274. The regulations may also make provision about when, how and in which form the information or 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)).

275. 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.

276. Subsection (5) provides that it is an offence to fail, without reasonable excuse, to comply with requirements imposed by regulations made under this section.

277. 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)).

278. 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)).

279. 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.

280. 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

Section 51 - Category 1 buildings: duty of principal accountable person to operate complaints system

281. 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".

282. 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 Act 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.

283. 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.

284. 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 are required to work with the principal accountable person as part of their co-operation and co-ordination duties under section 68. Accountable persons remain responsible for putting right any issues relating to the performance of their duties under the Act or matters for which they are responsible under the Act.

285. 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.

Section 52 - Category 2 and category 3 buildings: duty of accountable persons to arrange consideration of complaints

286. 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".

287. 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 Act 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.

288. 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.

289. 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.

Section 53 - Complaints to building safety authorities

290. 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 Act 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 109).

291. 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.

292. 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 51 or 52 (as relevant).

293. Regulations under subsection (3) may include provision so that a building safety authority has a role of deciding whether complaints made under section 51 or under regulations made under section 52 are "relevant complaints".

294. 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.

295. 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 51 could allow the resident to escalate the issue to a formal complaint under the principal accountable person's complaints system operated under section 51. If the complaint is still not resolved, regulations under section 53 could allow the resident to escalate the complaint to the building safety authority for investigation.

CHAPTER 8 - DUTIES OF RESIDENTS AND OWNERS ETC. OF RESIDENTIAL UNITS

Section 54 - Regulated buildings: fire safety duties of residents etc.

296. 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 136).

297. 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.

298. 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 54(2)(a) where that action creates a significant risk of a fire safety risk materialising in relation to the building.

299. 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 54(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.

300. 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)).

Section 55 - Category 1 and category 2 buildings: structural safety duties of residents etc.

301. 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 136).

302. 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.

303. Subsection (3) provides that "common parts" in subsection (2)(a) has the meaning in section 54(3) i.e. includes balconies even if in the demise of a residential unit.

304. 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).

305. 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 55(2)(b) if it creates a significant risk of a structural safety risk materialising in relation to the building.

306. 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 55(2)(a) if it creates a significant risk of a structural safety risk materialising in relation to the building.

Section 56 - Fire resistance of residential units: duty to repair

307. 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.

308. 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.

309. 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.

Section 57 - Entry to residential units for purpose of repairs

310. This section enables a person who is subject to the duty in section 56 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.

311. 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.

312. 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.

Section 58 - Entry to residential units etc. by accountable person

313. 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.

314. 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)).

315. 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).

316. Example: An accountable person needs to inspect a flat for potential contravention of section 54(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.

317. 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 55(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.

Section 59 - Power of accountable person to give warning notice: fire and structural safety duty of residents etc.

318. 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 54 and 55. 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.

319. 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.

320. A warning notice must comply with subsection (6).

321. 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 54(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).

322. 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.

323. The Welsh Ministers may make further provisions about warning notices in regulations, including the form, content, and giving of notices (section 62).

324. Example: A resident frequently leaves their bicycle in the building's main stairwell, obstructing the fire escape route and breaching section 54(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 61).

Section 60 - Power of accountable person to give warning notice: repair of fire resistance of residential units

325. 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 56. 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.

326. The Welsh Ministers may make further provision about warning notices in regulations, including the form, content, and giving of notices (section 62).

Section 61 - Power of residential property tribunal to make contravention order

327. 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 59 and the accountable person considers that the person has failed to take a step specified in the notice (under section 59(6)(b)) or done an act specified in the notice (under section 59(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 56 has been given a warning notice in accordance with section 60 and the accountable person considers that the person has failed to carry out the repairs specified in the notice (under section 60(3)(a)). This provides a formal enforcement mechanism to ensure compliance with duties under sections 54 to 56. 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)).

328. 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 59 or section 60 and, the contravention or failure specified in the notice occurred, and it is necessary to make the order.

329. Where a warning notice has been given under section 59 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.

330. 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 (6) 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.

331. Where a warning notice has been given under section 60 a contravention order may require the person in respect of whom it is made to carry out specified repairs.

Section 62 - Regulations about warning notices

332. 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 9 - REVIEWS AND APPEALS

Section 63 - Review and appeal of certain decisions: key terms

333. Section 63 sets out the meaning of "reviewable decision" and "affected person" for the purposes of Chapter 9.

334. A "reviewable decision" is a decision of a building safety authority which is listed in subsection (2).

335. 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.

Section 64 - Review of reviewable decision

336. Section 64 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.

337. 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.

338. 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.

339. 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) (see also subsection (2)). 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.

340. 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".

Section 65 - Appeal to residential property tribunal

341. 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 64.

342. If the result of the review under section 64 was that the building safety authority varied the decision, it is the varied decision that can be appealed to the tribunal (subsection (2)).

343. 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 64(7) or (9)(b) is given. Subsection (4) gives the tribunal discretion to allow late appeals, if 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).

344. 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)).

Section 66 - Effect of review and appeal

345. 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 65 during the "appeal period".

346. Subsection (3) defines "review period", "appeal period" and "relevant authority" for the purposes of subsection (2).

CHAPTER 10 - SUPPLEMENTARY

Entry to non-residential premises

Section 67 - Entry to non-residential premises by accountable person

347. 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).

348. 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.

349. 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)).

350. 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

Section 68 - Co-operation and co-ordination: duties of accountable persons

351. 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.

352. 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 Act and regulations made under it (subsection (2)).

353. If the regulated building contains a relevant HMO (defined in Part 2, section 78), accountable persons for the building must co-operate and co-ordinate with the duty holders (defined in section 79) for the relevant HMO when carrying out their duties under the Act and regulations made under it (subsection (3) and (4)). Section 91(4) places corresponding duties to co-operate and co-ordinate on duty holders.

354. An accountable person for a category 1 building must also co-operate with any special measures manager (see section 109) for the building, for the purpose of the manager carrying out their functions under the order (subsections (5) and (6)).

355. 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)).

356. 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)).

357. This means, for example, that the accountable persons for a regulated building would be under a duty to co-cooperate 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").

358. Section 121 amends the FSO to place corresponding duties to co-operate on responsible persons.

359. 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

Section 69 - Recovery of relevant costs by principal accountable person

360. Section 69(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.

361. Subsection (2) sets out the meaning of "relevant costs" for these purposes.

Leases

Section 70 - Leases: implied terms relating to compliance with building safety duties

362. This section makes amendments to the Landlord and Tenant Act 1985 ("the 1985 Act") by inserting section 30IA into that Act.

363. 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.

364. 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 Act, and to cooperate with any person in complying with their building safety duties. "Relevant person" is defined in subsection (7) of section 30IA. In respect of tenant covenants, there is implied a covenant by the tenant to comply with any repairs access order, access order or contravention order made in respect of the tenant, or compliance notice given, to the tenant under the Act.

365. Further related provision is included in subsections (4) to (7) of section 30IA, including definitions of terms used in that section and provision about data protection.

Section 71 - Liability of tenants for costs relating to building safety

366. 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.

367. 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.

368. Section 30IC defines the meaning of "building safety measure" for the purpose of section 301B.

369. Subsection (5) of section 30IC provides a power for the Welsh Ministers to make regulations amending the meaning of "building safety measure".

Section 72 - Further provision about implied terms and liability for costs

370. 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.

371. 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.

372. "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.

373. 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.

374. 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).

375. 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 Act (management of fire safety risks by 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 Act (management of structural safety risks by accountable persons).

376. 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 109 of the Act is in force.

377. 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.

378. Section 30IF provides that the county court is the court for determining any question or issue under sections 30IA to 30IE.

379. Section 30IG provides that the court may order specific performance of certain implied terms i.e. require a person to comply with those obligations not withstanding 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)).

380. Section 30IH defines terms used in sections 30IA to 30IG.

381. Subsections (6) and (7) of section 72 make provision consequential to the other provisions inserted into the Landlord and Tenant Act 1985.

Section 73 - Costs relating to enforcement etc. excluded from variable service charge

382. 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).

Section 74 - Provision of building safety information to tenants

383. This section makes amendments to the Landlord and Tenant Act 1987 ("the 1987 Act") by inserting sections 47B and 49B into that Act.

384. 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.

385. 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.

Occupation contracts

Section 75 - Power to make provision relating to terms of occupation contracts

386. Section 75 provides a regulation making power enabling the Welsh Ministers to amend the Renting Homes (Wales) Act 2016 ("the 2016 Act"). Subsection (1)(a) sets out that these regulations may amend the 2016 Act to include a fundamental provision, applicable to all or some occupation contracts, for the purpose of enabling a landlord or contract-holder to comply with a provision of this Act or regulations made under it. Subsection (1)(b) enables the regulations to also provide that a provision of this Act or regulations made under it is a fundamental provision applicable to all or some occupation contracts.

387. Subsection (1)(c) enables the regulations to make provision about the incorporation, or incorporation with modifications, of fundamental provisions mentioned in subsections (1)(a) or (b) as fundamental terms and the variation of such fundamental terms.

388. Subsection (2) also provides that the regulations may amend section 30IA of the Landlord and Tenant Act 1985 (which was inserted by section 69 of this Act) to provide that section 30IA does not apply to any or some occupation contracts and to make consequential amendments to any enactment.

389. Subsection (3) provides that expressions used in this section that are also used in the 2016 Act have the same meaning as they have in that Act.

390. Regulations made under this section are subject to the initial procedure in section 77 and the Senedd approval procedure.

Commonholds

Section 76 - Commonholds: provision for compliance with building safety duties

391. 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 Act and costs. Section 8 of the Act provides that if a building is on commonhold land the commonhold association is the accountable person for the building.

392. 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 Act, or regulations made under it (in relation to, each commonly held unit and the common parts).

393. 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 109 of the Act).

Regulations under sections 17, 28(2) and 75

Section 77 - Regulations under sections 17, 28(2) and 75: initial procedure

394. This section requires an initial procedure to be applied to regulations under sections 17, 28(2) or 75. 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.

395. 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.

396. If the Welsh Ministers then lay a draft statutory instrument containing regulations under sections 17, 28(2) or 75 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.

397. Subsection (5) provides for certain exceptions to the initial procedure.

PART 2 - FIRE SAFETY IN CERTAIN HOUSES IN MULTIPLE OCCUPATION

Key terms

Section 78 - Meaning of "relevant HMO"

398. This section sets out the meaning of references in this Act 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.

399. 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.

400. 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 Act relating to regulated buildings.

401. Subsection (8) provides a power for the Welsh Ministers to make regulations to amend this section except subsection (1).

Section 79 - Meaning of "landlord" and "duty holders" for relevant HMO

402. This section sets out the meaning of references in this Act to the "landlord" and "duty holders" in relation to a relevant HMO.

Section 80 - Meaning of "fire safety risk" in relation to relevant HMO

403. 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 Act (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

Section 81 - Assessment of fire safety risks: duties of landlord

404. This section requires the landlord of a relevant HMO to ensure that a "HMO fire risk assessment" is made in accordance with sections 82 to 84. It does so in terms which are substantively the same as those in section 29 covering regulated buildings.

Section 82 - Requirement for HMO fire risk assessment to be made by competent person

405. 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.

Section 83 - Timing and review of HMO fire risk assessments

406. 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.

Section 84 - Further provision about HMO fire risk assessments

407. 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.

Section 85 - Management of fire safety risks by duty holders

408. 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

Section 86 - Requirement to give information and documents to duty holder

409. 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.

410. A relevant person for the purposes of this section is set out in subsection (2).

411. 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 Act 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)).

412. 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 88(4).

413. 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.

414. Subsection (6) provides that references to an accountable person in this section includes persons treated as an accountable person under section 36.

Section 87 - Requirement for duty holder to give information and documents to other persons

415. 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 of documents must be given, and the format in which they must be given. "Relevant" is defined in subsection (6).

416. 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 Act 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.).

417. The regulations may provide that the duty holder is required to provide some or all the information of 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)).

418. If information of 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

Section 88 - Occupiers' duties relating to fire safety risks and provision of information

419. 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.

420. 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.

421. 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 80).

422. 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).

423. As a result of section 78(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.

Section 89 - Entry by duty holders for purposes of assessing and managing fire safety risks

424. 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.

425. 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

Section 90 - Entry to non-residential premises by duty holder

426. 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), in relation to enabling access to non-residential premises that are above or below a relevant HMO, where certain criteria are satisfied.

427. 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).

428. 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.

429. 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

Section 91 - Co-operation and co-ordination by duty holders

430. 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 Act and regulations made under it.

431. 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 Act and regulations made under it.

432. A special measures order is an order made under section 109 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)).

433. 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 function" for the purposes of subsections (7) and (8) is defined in subsection (9).

434. 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)).

Section 92 - Power to apply this Part to mobile homes

435. 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 Act. 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.

436. 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.

Section 93 - Interpretation

437. This section defines terms that are used in this part of the Act.

PART 3 - ENFORCEMENT AND INVESTIGATORY POWERS

Enforcing authorities

Section 94 - Enforcement functions of fire safety authorities and building safety authorities

438. 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 Act (and regulations made under it) and what requirements under the Regulatory Reform (Fire Safety) Order 2005, 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.

439. Subsection (4) defines "enforcing authority" for the purposes of the Act, and this term is used in many places in the Act. For example, under section 96 an "enforcing authority" can give a compliance notice in certain circumstances, so reference to section 94 will need to be made so as to determine who the "enforcing authority" is.

Powers of enforcing authorities to give notices

Section 95 - Power of enforcing authority to give information notice

440. 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 101 (subject to the defence detailed in section 101(2)), see also section 101(4)).

441. 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 Act or regulations made under it.

442. 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)).

Section 96 - Power of enforcing authority to give compliance notice

443. 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.

444. A compliance notice must require the person to do, within a specified time, one or more of the things set out in subsection (2).

445. 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.

446. 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)).

447. Section 97(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.

448. Failure to comply with a compliance notice is an offence under section 101 (subject to the defence detailed in section 101(2)), see also section 101(4).

Section 97 - Appeal against compliance notice

449. 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.

450. 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)).

Section 98 - Power of fire safety authority to give prohibition notice

451. 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)).

452. 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) is met. Subsection (5) makes provision for prohibition notices to take effect as soon as given in certain circumstances. Section 98 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.

453. 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.

454. Contravention of a prohibition or restriction in a prohibition notice and failing to comply with subsection (6) are offences under section 101 (subject to the defence detailed in section 101(2)), see also section 101(4).

Section 99 - Appeal against prohibition notice

455. 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).

456. 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.

457. 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.

458. Subsection (7) provides a regulation making power for Welsh Ministers to amend the list of those who can appeal a prohibition notice.

Section 100 - Notices: supplementary

459. 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.

Section 101 - Notices: offences

460. 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 98(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.

461. 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)).

462. 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.

463. 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)).

464. 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

Section 102 - Authorised officers and meaning of "relevant purpose"

465. 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 103 to 105. This section makes provision in respect of "authorised officers".

466. 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.

467. Subsection (5) means that the authorised officer must, if asked when seeking to exercise a function of the officer, produce evidence of the authorisation.

468. 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 103(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 103(1)(b) are satisfied).

Section 103 - Power to enter premises not being used as a residential unit

469. 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.

470. 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.

471. 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 Act), but only where a warrant to do so has been issued by a justice of the peace under subsection (3).

Section 104 - Power to enter premises being used as a residential unit

472. 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.

473. 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).

474. 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.

475. 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 105. It can also specify when, or how often, entry may take place.

Section 105 - Powers of entry: supplementary

476. 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 104(3)(b)(i).

477. 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.

Section 106 - Authorised officers: offences

478. 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)).

479. 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

Section 107 - Contravention giving rise to risk of death or serious injury

480. 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 Act 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.

481. 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 Act 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.

482. It is a defence to the offences under this section that the person took all reasonable steps to avoid committing the offence (subsection (7)).

483. The purpose of this section is to make provision, for the most serious breaches of requirements under the Act 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 96 requiring the accountable person or duty holder to take certain steps).

484. 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)).

485. 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.

486. 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)).

487. 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.

488. 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 Act and that is subject to the same punishment as an offence under subsection (1) or (2).

Section 108 - False and misleading information

489. 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 Act, 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.

490. Subsection (1) provides that it is an offence for a person who has a duty under this Act (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.

491. 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.

492. 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.

493. 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)).

494. 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
Section 109 - Appointment of special measures manager for category 1 building

495. 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)).

496. A special measures order may be made only if the residential property tribunal is satisfied of the matters in subsection (4).

497. Schedule 2 makes further provision in respect of special measures orders.

498. 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
Section 110 - Power of building safety authority to give fixed penalty notices

499. 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).

500. 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).

501. 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.

502. The information that must be included in the notice is listed in subsection (7).

503. Subsection (8) provides the Welsh Ministers with a power to make regulations about the withdrawal of fixed penalty notices.

Crown Application

Section 111 - Application of this Part to the Crown

504. This section limits the extent to which Part 3 of the Act applies to the Crown and to Crown premises (defined in section 136). 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.

505. 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 109) may not appoint a special measure manager to carry out functions of the Crown as an accountable person.

PART 4 - REMEDIATION OF CERTAIN DEFECTS

Section 112 - Meaning of "relevant building"

506. This section defines a "relevant building" for the purposes of Part 4. A "relevant building" means a category 1 or category 2 building as defined in section 6; but does not include ancillary areas (as defined in section 7) or any building that falls into subsection (1)(b).

507. Subsection (2) provides the Welsh Ministers with a regulation making power allowing them to specify that a category 1 building or a category 2 building is not a relevant building if the freehold estate in the building is leaseholder owned.

Section 113 - Meaning of "relevant defect"

508. Subsection (1) of this section defines the meaning of "relevant defect" for the purposes of sections 114 – 116 and "relevant step" for the purposes of sections 114 and 116.

509. A "relevant defect" is a defect that arises as a result of anything done or not done during the course of work to construct or convert a building or works commissioned by a landlord or management company, in the period beginning with 28 June 1992 and ending with 20 February 2026 ("the relevant period") (or after the relevant period if the works are to remedy a relevant defect) and that creates, or significantly increase, a building safety risk in a relevant building. A "relevant step" is a step that has as its purpose preventing or reducing harm arising from a relevant defect.

510. Subsection (2) defines, for the purposes of this section the meaning of, amongst other things, "building safety risk", "the relevant period" and "relevant works". A "building safety risk" is a risk to the safety of people in or about the building arising from (a) the spread of fire, or (b) the collapse of the building or any part of it.

Section 114 - Remediation Orders

511. Subsection (1) requires the Welsh Ministers to provide in regulations that a residential property tribunal may make a "remediation order" on the application of an interested person and to make further connected provision.

512. Subsection (2) sets out that a remediation order is an order requiring a relevant landlord or management company, within a specified timescale to (a) remedy specified relevant defects in a specified relevant building and/or (b) take specified relevant steps in relation to a specified relevant defect in a specified relevant building.

513. Under subsection (3) an "interested person" includes a building safety authority, a fire safety authority and a person with a legal or equitable interest in the relevant building or any part of it (for example, a leaseholder). Additional people can be specified in regulations as an interested person.

514. Subsection (4) requires the Welsh Ministers to lay a draft of the regulations under subsection (1) before Senedd Cymru within nine months of this Act receiving Royal Assent.

Section 115 - Remediation Contribution orders

515. Subsection (1) requires the Welsh Ministers to provide in regulations that a residential property tribunal may make a "remediation contribution order" on the application of an interested person and to make further connected provision.

516. Subsection (2) sets out that a remediation contribution order is an order requiring a relevant body corporate or partnership to make payments to a specified person for the purpose of meeting remediation costs.

517. Subsection (5) defines "relevant body corporate or partnership" as a body corporate or partnership that is a landlord under a lease of the relevant building or any part of it, a person who was such a landlord at the beginning of 20 February 2026, a developer in relation to the relevant building, or a person associated with any of these persons.

518. Subsections (3) and (6) provide for regulations to make other provision about the content of remediation contribution orders and other matters connected with such orders.

519. Subsection (7) requires the Welsh Ministers to lay a draft of the regulations under subsection (1) before Senedd Cymru within nine months of this Act receiving Royal Assent.

Section 116 - Remediation costs under qualifying leases etc.

520. Subsection (1) enables the Welsh Ministers to make regulations that, amongst other things, prohibit or restrict the service charge payable in respect of a relevant measure under any lease in certain circumstances or under a qualifying lease (see section 117) in other specified circumstances. Subsection (4) defines "relevant measure" as a measure taken to remedy a relevant defect, or a relevant step taken in relation to a relevant defect.

521. Subsections (2) and (3) provide additional detail about what regulations under this section can include.

Section 117 - Meaning of "qualifying lease"

522. Subsection (1) provides that a lease is a "qualifying lease" if it was granted before the beginning of 20 February 2026, if it is a long lease of a single dwelling in a relevant building, if the tenant under the lease is liable to pay a service charge, and on 20 February 2026:

i. the dwelling was a relevant tenant's only or principal home,
ii. they did not own any other dwelling in the United Kingdom, or
iii. they owned no more than two dwellings in the United Kingdom apart from their interest under the lease.

523. Regulations under this section may make other provision in relation to the meaning of "qualifying lease", including provision for certain leases to be treated as a qualifying lease.

Section 118 - Reports on progress under the Welsh building safety programme

524. This section places a duty on the Welsh Ministers to report on the progress of developer self-remediation under agreement with the Welsh Ministers and on work funded by the Welsh Building Safety Fund. A report must be published and laid before Senedd Cymru each year until such works have been completed.

PART 5 - SUPPLEMENTARY AND GENERAL

Promotion of participation in relation to the exercise of Welsh Ministers' functions etc.

Section 119 - Welsh Ministers' strategy for promoting participation in relation to the exercise of their functions etc.

525. 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 Act or regulations made under it.

526. "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.

527. The Welsh Ministers must publish and keep the strategy under review.

528. Subsection (5) provides that the Welsh Minsters 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

Section 120 - Issue or approval of guidance by the Welsh Ministers

529. This section requires Welsh Ministers to issue or approve guidance to assist any persons in complying with their duties under the Act or regulations made under it (subsection (1)).

530. Subsection (2) places a duty on the Welsh Ministers, to issue or approve guidance to assist principal accountable persons (in respect of regulated buildings) and landlords (in respect of relevant HMOs), in complying with the duties imposed upon them to assess fire safety risks.

531. Guidance issued or approved by the Welsh Ministers under this section must be published (subsection (4)). Subsection (5) makes provision about proceedings in which it is alleged that a person has failed to comply with a duty imposed by the Act or by regulations made under it. In such proceedings proof of compliance with relevant guidance published under this section may be relied on as tending to establish that there has been no such failure. Proof of a failure to comply with relevant guidance published under this section may be relied on as tending to establish that a person has failed to comply with a duty.

532. The Welsh Ministers must consult each county council and county borough council in Wales, each fire safety authority and any other persons they consider appropriate before they issue or approve guidance under this section.

Section 121 - Co-operation and information: duties of responsible persons under Fire Safety Order

533. This section makes amendments to the Regulatory Reform (Fire Safety) Order 2005 (the "FSO").

534. Article 22C requires "responsible persons" for premises under the FSO, to co-operate with any accountable persons and duty holders under the Act. 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 Act) and at least one responsible person for the shop (under the FSO).

535. 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 Act.

536. This provision requires responsible persons, if they become aware of any person treated as an accountable person under section 36 of the Act, to co-operate with that person for the purpose of them carrying out their duties under the Act.

537. There are reciprocal duties in sections 68(11) and 91(11) of the Act, placed on accountable persons (including those treated as accountable persons under section 36) and duty holders (respectively), to co-operate with responsible persons.

538. This section also inserts articles 22D and 22E into the FSO, these articles make provision about the giving of information by responsible persons to accountable persons and duty holders (respectively).

539. Enforcement provisions under the FSO do not apply to breaches of articles 22C to 22E, as these will be enforced under section 94 of the Act (subsections (5) - (8)).

540. 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

Section 122 - Building safety authorities

541. Subsection (1) defines a "building safety authority" for the purposes of this Act to mean a county council or county borough council for an area in Wales designated as such by the Welsh Ministers in regulations.

542. 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.

543. 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.

544. 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".

545. 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.

Section 123 - Delegation of functions where building safety authority is accountable person for category 1 building

546. 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.

Section 124 - Power to direct building safety authorities to arrange for delegation of functions

547. 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.

Section 125 Fees for exercise of functions by building safety authorities

548. 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 Act (or under regulations made under the Act), 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

Section 126 - Fire safety authorities

549. 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.

550. There are three fire and rescue authorities in Wales, with areas comprising combinations of local authority areas.

551. However, if a regulated building or relevant HMO consists entirely of Crown premises, section 126(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 136 as premises owned, or occupied for any purpose, by the Crown; in practice this is likely to mean premises owned or occupied by the Welsh or UK Governments. This broadly reflects the current position under the Regulatory Reform (Fire Safety) Order 2005 ("the FSO").

552. Almost all Crown premises in Wales are not in scope of the Act, either because they do not contain two or more residential units or because they are expressly excluded by Schedule 1 (e.g. prisons) and remain entirely in scope of the FSO.

553. Section 126(3) and (4) provide, for regulated buildings and relevant HMOs (respectively), that ancillary areas such as gardens (as defined in sections 7 and 78) 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
Section 127 - Issue of guidance by the Welsh Ministers about the exercise of functions

554. This section places a duty on the Welsh Ministers to issue guidance about the exercise of functions under the Act or regulations made under it by a building safety authority and a fire safety authority.

555. Building safety authorities and fire safety authorities must have regard to guidance issued by the Welsh Ministers under this section.

556. 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.

Section 128 - Co-operation between building safety authorities and fire safety authorities

557. Where a building safety authority and a fire safety authority have functions under the Act, 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.

558. Subsection (3) provides that guidance issued under section 127 may include guidance about how the authorities are to comply with their duty to cooperate under this section.

Section 129 - Sharing of information

559. This section provides that a county council or county borough council in Wales or a fire safety authority may disclose information it holds, to a building safety authority or fire safety authority for the purposes of a function under this Act, or regulations made under it, of either authority.

560. 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

Section 130 - Criminal liability of senior officers of bodies

561. This section provides that where a corporate body, partnership or unincorporated association commits an offence under this Act, 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

Section 131 - Giving notices and other documents

562. This section provides for how notices or other documents are to be given to a person under any provision of the Act 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.

Section 132 - Giving documents to a person whose name is unknown

563. 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 131.

General

Section 133 - Pre-commencement consultation

564. This section enables consultation requirements under the Act 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 Act receives Royal Assent (section 138(1)(c)).

Section 134 - Regulations requiring provision of information: confidentiality and data protection

565. This section enables regulations under sections 39, 49, 50 and 87 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).

Section 135 - Regulations under this Act: supplementary and procedural provisions

566. This section makes general provision about regulations made under the Act. 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)).

Section 136 - Interpretation

567. This section defines certain terms used in the Act. Subsection (3) includes a regulation making power in respect of the meaning of being a "resident" of a residential unit.

Section 137 - Consequential and transitional provision etc.

568. Schedules 3 and 4 are introduced by subsections (1) and (2).

569. 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 Act, and to make transitional or saving provision. Regulations under subsection (3) may amend, repeal or revoke any enactment (including any provision contained in this Act). Where amendments under subsection (3) amend or repeal any provision of primary legislation, they are subject to the Senedd approval procedure (section 135(6)).

Section 138 - Coming into force

570. This section makes provision about when the provisions of the Act come into force.

Section 139 - Progress reports on bringing this Act into force

571. This section places a duty on the Welsh Ministers to report on the progress in bringing the Act into force. A report must be published and laid before Senedd Cymru at specified intervals until the Act is fully in force.

Section 140 - Short title

572. Section 140 sets out the short title of the Act, by which it may be known and referred. Either the Welsh or the English language title of the Act may be used, including as a citation in other enactments.

Schedule 1 - Buildings that are excluded from being regulated buildings

573. This Schedule lists buildings that are excluded from being regulated buildings and thus not covered by the Act.

Schedule 2 - Special measures orders

Part 1 - Procedure before applying for special measures order

Introductory

574. 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 2.

Notice that authority proposes to apply for special measures order

575. 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.

Notice of authority's decision whether to apply for order

576. 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).

Requirement to include financial management proposal with notice of proposal or decision

577. 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)).

Further provision about giving notices under this Part

578. 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 - Further provision about effect and implementation of special measures order

Functions to be carried out by special measures manager

579. 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).

Effect of special measures order on compliance notices

580. 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.

Effect of special measures order on relevant contracts

581. 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.

582. 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)).

Effect of special measures order on legal proceedings

583. 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)).

Reimbursement of damages paid by special measures manager

584. 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.

Payments received by special measures manager to be held on trust

585. 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.

Power of tribunal to give further directions

586. 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).

Change in accountable person

587. 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 criteria in sub-paragraph (4) are met).

Part 3 - Review, variation and revocation of special measures order
Duration of special measures order

588. This paragraph is self- explanatory.

Authority to keep certain matters under review

589. 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)).

Variation or revocation of special measures order

590. 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)).

Procedure before authority applies to vary special measures order

591. 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.

Directions where special measures order is varied or revoked

592. 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).

593. A copy of the reconciliation account must be given to the authority that applied for the order and to each relevant accountable person (sub-paragraph (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 - Supplementary

Notifications relating to special measures order

594. 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.

Power of tribunal to amend order under section 24 of the Landlord and Tenant Act 1987

595. 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.

596. A manager appointed under section 24 of that Act is often known as a "section 24 manager".

597. 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).

Meaning of "interested person"

598. This paragraph is self-explanatory.

Schedule 3 - Minor and consequential amendments

599. Paragraph 1 amends the Health and Safety at Work Act 1974 ("the 1974 Act") by inserting section 51B. Section 51B complements, in relation to occupied regulated buildings and relevant HMOs, provision made by article 47(1) of the Regulatory Reform (Fire Safety) Order 2005 ("FSO").

600. Article 47(1) of the FSO disapplies provisions of the 1974 Act, and provisions made under that Act, insofar as those provisions relate to matters in relation to which requirements are or could be imposed by 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 because article 9 of the FSO requires the employer to carry out a fire risk assessment.

601. To the extent that the FSO continues to apply to regulated buildings and relevant HMOs (see paragraph 10 of Schedule 3 to this Act), article 47 will continue to disapply provision made by or under the 1974 Act.

602. Section 51B will continue to disapply, in relation to regulated buildings and relevant HMOs, provisions of the 1974 Act insofar as they relate to any matter in relation to which requirements were or could have been imposed by or under the FSO as the FSO had effect just before it was partially disapplied by paragraph 10 of Schedule 3 to this Act. Therefore, the existing disapplication of the 1974 Act and provisions made under it will be maintained in relation to regulated buildings and relevant HMOs.

603. 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.

604. Paragraphs 6 and 7 of this Schedule amend sections 2 and 4 of the Fire and Rescue Services Act 2004 in the light of the definition of building safety authority set out in section 122 of the Act and in particular the reference in section 122(8) to the area of a fire and rescue authority in Wales being interpreted in accordance with Part 1 of the Fire and Rescue Services Act 2004. This would allow the current effect of section 122 to be retained should changes be made to the areas of fire and rescue authorities by orders made under the Fire and Rescue Services Act 2004.

605. Paragraph 8 of this Schedule amends section 18B (8) of the Fire and Rescue Services Act 2004 to prevent a fire and rescue authority from charging for exercising its functions as an enforcing authority under the Act.

606. Paragraphs 9 to 12 of this Schedule amend the FSO to avoid unnecessary duplication between the FSO and the Act. Paragraph 10 inserts new article 7A into the FSO. Article 7A (1) provides that, except where paragraph (4) or (5) applies, the main provisions of the FSO that impose duties on responsible persons do not apply to occupied regulated buildings or relevant HMOs.

607. Paragraph (4) makes provision for the continued application of the FSO to the extent that the premises are a workplace, or that work is otherwise taking place there (for instance, by self-employed people). While most of the buildings covered by the Act are not normally workplaces, some of them are (e.g. if a caretaker or concierge is employed on the premises), and any of them could temporarily have work undertaken in them, for example 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 work-related risks will remain covered by the FSO.

608. For example, assume that a caretaker works in the common parts of a block of flats. Those common parts are their workplace. While the Act applies to the block as a whole and its residents, the work of the caretaker including, for example, any flammable substances used during their work remain governed by the FSO. Their employer still has 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 Act 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). Where premises are not a workplace, but work is taking place in, on or to the premises, the FSO will continue to apply to that extent.

609. Paragraph (3) of new article 7A disapplies articles 37 and 38 of the FSO from buildings in scope of the Act except where paragraph (5) applies. 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 32, 33, 84 and 85 of the Act.

610. The FSO continues to apply to premises, such as commercial premises, within an occupied regulated building for which no accountable person is responsible under regulations made under section 16 of the Act (paragraph (5)). Such commercial areas include offices or shops that are within an occupied regulated building (as opposed to being, for example, non-residential parts (see section 4) above or below a regulated building).

611. Paragraph 11 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 Act similar requirements may be made, for example under section 49 (duty of accountable person to give information and documents to other persons).

612. Paragraph 12 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 Act. This requirement is likely to be particularly relevant, for example, in mixed use buildings such as those with flats above shops or other commercial premises.

Schedule 4 - Fire Safety Order: Transitional and saving provisions

613. 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.

614. 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 Act to ensure that a fire risk assessment is made.

615. Before the Act 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 Act, they should still adequately identify significant fire risks. To enable a transition from one regime to another, paragraphs 1(1) and (2) provide that a risk assessment under the FSO serves as a fire risk assessment under the Act 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.

616. 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.

617. Where a FSO risk assessment serves as a fire risk assessment under the Act, 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 Act 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.

618. 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.

619. Paragraph 1(5) confers a regulation making power on the Welsh Ministers to amend paragraph 1 of Schedule 4 to vary the deadline for making a fire risk assessments for a regulated building. This could, for example, be used to provide for different deadlines for different types of regulated building.

620. Paragraph 2 makes equivalent provision in respect of relevant HMOs.

621. 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 Act 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 those premises.

RECORD OF PROCEEDINGS IN SENEDD CYMRU

622. The following table sets out the dates for each stage of the Act's passage through the Senedd. The Record of Proceedings and further information on the passage of this Act can be found on the Senedd website at:
https://business.senedd.wales/mgIssueHistoryHome.aspx?IId=46141

Stage	**Date**
Introduced	07 July 2025
Stage 1 - Debate	09 December 2025
Stage 2 Scrutiny Committee – consideration of amendments	29 January 2026
Stage 3 Plenary - consideration of amendments	03 March 2026
Stage 4 Approved by the Senedd	10 March 2026
Royal Assent	27 April 2026