

# BUILDING SAFETY ACT 2022: WHAT YOU NEED TO KNOW

## STEP 1 ARE YOU BUILDING OR DO YOU OWN OR OCCUPY A HIGHER-RISK BUILDING UNDER THE BSA 2022?

### ▶ DURING DESIGN AND CONSTRUCTION

When constructed will be:

- At least 18m in height or at least 7 storeys tall; and
- Contains at least 2 residential units or is a care home or is a hospital.

Excluding: secure residential institutions, hotels, military barracks and accommodation for military forces.

### ▶ DURING OCCUPATION

- At least 18m in height or at least 7 storeys tall; and
- Contains at least 2 residential units.

Excluding: care homes, hospitals, hotels, secure residential institutions, military barracks and accommodation for military forces.

## STEP 2 REGISTER YOUR BUILDING WITH THE BUILDING SAFETY REGULATOR (“BSR”)

All existing higher-risk buildings must be registered before the **30 September 2023** deadline. Buildings completed from 1 October 2023 onwards must be registered before they can be occupied. Failure to register is a criminal offence. See Step 3 for who should register.

## STEP 3 COMPLY WITH NEW OBLIGATIONS UNDER THE ACT ▶ DURING DESIGN AND CONSTRUCTION

### New Gateway Regime

At each stage, development cannot commence until the Gateways are passed:

#### 1. Gateway One: Planning

- Submit fire statement with planning application.

#### 2. Gateway Two: Construction

- Submit building control application.

#### 3. Gateway Three: Occupation

- Apply for Completion Certificate.

### Dutyholders Regime

- Dutyholders for each building include the client, designers and contractors.
- Dutyholders should be identified and their competence should be verified.
- Responsible for complying with legal obligations under the Act.

### The “Golden Thread” of Information

Dutyholders should develop and record all information relating to the building, identified building safety risks and compliance with regulations. Information should be:

- Stored digitally.
- Shared among and contributed to by all dutyholders.
- Accurate and up-to-date.
- Passed on to successors (including the accountable person once occupied).

## STEP 3 COMPLY WITH NEW OBLIGATIONS UNDER THE ACT ▶ DURING OCCUPATION

### A. Identify the Accountable Persons

At least one accountable person must be identified for each building who is responsible for assessing and managing building safety risks and the “golden thread” of information. This will be either:

- The person who owns the legal estate in possession of the common parts (e.g. freehold owner or landlord with repairing obligations); or
- The person who has a relevant repairing obligation in relation to any parts of the common parts (e.g. management company).

One **Principal Accountable Person** (“PAP”) must also be identified for each building. This will be:

- The accountable person if there is only one; or
- The person who either owns or is legally obliged to repair the structure and exterior of the building.

### B. Comply with Reporting Requirements

- The PAP is responsible for preparing a Safety Case Report for the building containing details of the assessment of building safety risks and risk-management steps taken.
- Comply with “mandatory occurrence” reporting requirements to the BSR introduced in secondary legislation.

### C. Apply for a Building Assessment Certificate

- PAP must apply for a building assessment certificate within 28 days of the request from the BSR. Note: this will likely be phased in over time.

## OTHER CHANGES

### Remedy of Historical Safety Defects: New Leaseholder Protections

- Leaseholder protections severely restrict landlord’s ability to pass remediation costs for historical safety defects to the tenant.
- Most remediation costs will be borne by building owner and/or developer for historical issues.
- Act potentially sees “through the corporate veil”, and persons associated with the developer or building owner may be liable.

### New Court Orders

- Remediation Order: requiring landlord to rectify defects.
- Remediation Contribution Order: requiring entity to contribute remediation costs.
- Building Liability Orders: extending liability to persons associated with an originally liable party.

### Extensions to the Defective Premises Act (DPA) 1972

- Limitation period for claims under the DPA 1972 extended to either 15 years (for works completed post-28 June 2022) or 30 years (work completed pre-28 June 2022).
- Liability extended to work done on already-existing dwellings, not just the development and construction of new buildings.

## KEY CONTACTS



**Gregory J. Barden**  
London  
+44.20.7039.5130  
gbarden@jonesday.com



**John J. Crowley**  
London  
+44.20.7039.5778  
jcrowley@jonesday.com



**James Pickavance**  
London  
+44.20.7039.5492  
jpickavance@jonesday.com



**Julian Bailey**  
London  
+44.20.7039.5460  
julianbailey@jonesday.com



**Annabel Treadgold**  
London  
+44.20.7039.5214  
atreadgold@jonesday.com