

## **RECENT BUILDING SAFETY DEVELOPMENTS: DEFINING HIGHER RISK BUILDINGS AND NEW FIRE SAFETY RULES**

The turn of the year brings two significant developments for the evolving building safety regime in England.

### **DEFINING 'HIGHER RISK BUILDINGS'**

In December 2022, DLUHC responded to its consultation on refining the definition of Higher Risk Buildings (HRBs) for the new Building Safety Act regime (HRB Regime). The response has, in particular, given some clarity on exclusions from the definition. It has also laid before Parliament legislation to implement the details.

The concept of HRB has already been partially defined in the Building Safety Act: i.e. a building that is both:

- at least 18m high, or with at least 7 storeys, and also
- contains at least 2 residential units. The concept of residential units is widely drawn, so for example, it will include student accommodation.

The Response / draft regulations confirm the following additional key points:

- Hospitals and care homes will be included within the design / construction elements of the HRB Regime, but not the occupational elements;
- Hotels (and other temporary leisure establishments) will not be subject to the HRB regime at all;
- From the perspective of measuring a building to determine whether it is a HRB, height will be measured from the lowest above-ground point of the building (e.g. where the building is on a hill), and will ignore (1) any level that only contains plant and equipment; and (2) any gallery level that is less than half the floor area of the largest above ground floor level of the building;
- More broadly, rooms that contain plant and equipment within an HRB will be regulated under the HRB regime; and
- Where a complex building has one or more independently accessed (but physically connected) sections, one section (A) can be regulated under the HRB Regime as a separate building (i.e. separately from the other sections) where A has no direct access to another section that has residential units (but this would only apply for the occupational phase of the regime).

The finalised regulation is intended to come into force on 6 April 2023. In its June 2022 consultation on the occupational phase of the HRB regime, DLUHC,

confirmed its intention to open the register for HRBs on 6 April 2023, and to require Accountable Persons to register all existing HRBs by October 2023 (noting that failure to do so will be a criminal offence). Building owners and occupiers should therefore consider now whether their building will be an HRB and, in particular, who will have the responsibility as Accountable Person/s for registration.

[Link](#) to the DLUHC Response.

## **THE FIRE SAFETY (ENGLAND) REGULATIONS 2022**

Even before the new HRB Regime imposes enhanced duties on those managing buildings as Accountable Persons, additional fire safety-related obligations are to be imposed imminently on *Responsible Persons* by The Fire Safety (England) Regulations 2022 in relation to multi-occupied residential buildings. The provisions extend current fire safety precautions and, broadly speaking, will require Responsible Persons for the relevant premises to do the following as from 23 January 2023:

*High-rise residential buildings over 18 metres high or with 7 or more storeys:*

- Install a secure information box within the premises, containing contact details of the Responsible Person and certain occupiers, and relevant plans;
- Prepare a record of the design of external walls and the level of risk identified under the fire risk assessment, provide this to the local fire and rescue authority (LFRA), and keep it up-to-date;
- Prepare plans of lifts and fire-fighting equipment and various other safety-related details, provide them to the LFRA and keep them up-to-date;
- Carry out monthly routine checks of lifts and essential fire-fighting equipment; where faults cannot be rectified within 24 hours, they must be reported to the LFRA;
- Install wayfinding signage within the property;

*Residential buildings over 11 metres in height:*

- Check communal fire doors quarterly, and flat entrance doors annually;

*All residential buildings containing at least two domestic premises*

- Provide relevant fire safety information to residents including in relation to evacuation routes and fire doors.

Complying with these regulations has the potential for significant cost to be incurred, in particular if relevant equipment is found to be out-of-date, or otherwise requires replacement or major repair. If Responsible Persons have not already considered the requirements of these regulations, they should do so urgently. Further guidance on the various duties under these new regulations is available on the Home Office [website](#).

[Link](#) to The Fire Safety (England) Regulations 2022.

## CONTACTS



**Adam Hedley**  
Partner

**T** +20 7006 3381  
**E** adam.hedley  
@cliffordchance.com



**Nigel Howorth**  
Partner

**T** +20 7006 4076  
**E** nigel.howorth  
@cliffordchance.com



**Katie Kempthorne**  
Senior Associate

**T** +20 7006 3143  
**E** katie.kempthorne  
@cliffordchance.com



**Michael Coxall**  
Knowledge Director

**T** +20 7006 4315  
**E** michael.coxall  
@cliffordchance.com

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

[www.cliffordchance.com](http://www.cliffordchance.com)

Clifford Chance, 10 Upper Bank Street,  
London, E14 5JJ

© Clifford Chance 2023

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571

Registered office: 10 Upper Bank Street,  
London, E14 5JJ

We use the word 'partner' to refer to a member of Clifford Chance LLP, or an employee or consultant with equivalent standing and qualifications

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to [nomorecontact@cliffordchance.com](mailto:nomorecontact@cliffordchance.com) or by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ

Abu Dhabi • Amsterdam • Barcelona • Beijing • Brussels • Bucharest • Casablanca • Delhi • Dubai • Düsseldorf • Frankfurt • Hong Kong • Istanbul • London • Luxembourg • Madrid • Milan • Munich • Newcastle • New York • Paris • Perth • Prague • Rome • São Paulo • Shanghai • Singapore • Sydney • Tokyo • Warsaw • Washington, D.C.

Clifford Chance has a co-operation agreement with Abuhimed Alsheikh Alhagbani Law Firm in Riyadh.

Clifford Chance has a best friends relationship with Redcliffe Partners in Ukraine.

#10250035973.