

<p><b>Title:</b> Impact Assessment on the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 and the Building Regulations etc. (Amendment) (England) Regulations 2023</p> <p><b>IA No:</b> N/A</p> <p><b>RPC Reference No:</b> N/A</p> <p><b>Lead Department or agency:</b> Department of Levelling Up, Housing and Communities</p> <p><b>Other Departments or agencies:</b> Health and Safety Executive, Home Office</p>	<b>Impact Assessment (IA)</b>
	<b>Date:</b> 20/07/2023
	<b>Stage:</b> Final
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Secondary Legislation
<p><b>Contact for enquiries:</b> Building.Safety@levellingup.gov.uk</p>	
<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> Not applicable

Cost of Preferred (or more likely) Option (in 2019 prices)			
Total Net Present Social	Business Net Present Value	Net cost to business per	Business Impact Target Status
N/A <sup>1</sup>	N/A	N/A	Non-qualifying regulatory provision

<sup>1</sup>The benefits estimated have not been included in the total assessment of net present value for this Impact Assessment. The benefits are estimated together, providing a high-level assessment for both Parts 3 and 4 of the regime, and cannot be disaggregated.

### **What is the problem under consideration? Why is government action or intervention necessary?**

Following the Grenfell Tower tragedy, the government appointed Dame Judith Hackitt to lead an Independent Review of Building Regulations and Fire Safety. She made 53 recommendations for government and industry to drive the cultural change and behaviours necessary to improve building safety. Key recommendations included changes to the way buildings are designed and constructed. Government committed to implementing Dame Judith Hackitt's reforms and in July 2021 introduced the Building Safety Bill in Parliament. The Bill received Royal Assent and became the Building Safety Act 2022 (the 2022 Act) on 28 April 2022.

Government is now making regulations to complete these reforms. In July 2022 we carried out a full public consultation on measures to be included in two sets of regulations which bring forward the recommended changes to the way buildings are designed and constructed.

This Impact Assessment relates to these two sets of regulations. These are the:

1. **The Building (Higher-Risk Building Procedures) (England) Regulations 2023** which provide the technical and administrative detail underpinning the design and construction part of the higher-risk regime. They implement a new building control regime for higher-risk buildings that provides stronger regulatory oversight and rigorous inspection before, during and on completion of building work, ensuring that building regulations compliance is considered by dutyholders at each stage of the design and construction process.
2. **The Building Regulations etc. (Amendment) (England) Regulations 2023** make wider changes to the building control regime for all buildings, to increase oversight and improve standards across the design and construction of all buildings. These regulations introduce changes to the building control process.

### **What are the policy objectives of the action or intervention and the intended effects?**

The Building Regulations etc. (Amendment) (England) Regulations and the Building (Higher-Risk Building Procedures) (England) Regulations to which this Impact Assessment relate are a key part of delivering the reforms recommended by Dame Judith Hackitt, tested, and refined, to reflect feedback from public consultation and stakeholder engagement over the past 5 years. Through both sets of regulations, the government aims to ensure building regulation is fit for purpose for higher-risk buildings and where appropriate will apply the new approaches in the 2022 Act to all building work, improving building safety across the built environment.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Without these regulations, we are unable to put in place the new higher-risk regime for the design and construction of higher-risk buildings or, where appropriate, make changes to the way other buildings are designed and built. This means the system recommended by Dame Judith Hackitt to ensure there is greater accountability and responsibility for the safety of buildings throughout their lifecycle would not be established. We have considered whether we could encourage those who build and design buildings to meet the standards of the new regime voluntarily; however, without this legislation we cannot be assured that standards would be met consistently or that there would be sufficient scope for enforcement where buildings owners fail to meet the expected standards for engagement. The government does not consider that there are viable alternatives to delivering our commitments on the comprehensive and fundamental reform of the current regulatory system for buildings.

<b>Will the policy be reviewed?</b> see monitoring and evaluation section. Year				
Is this measure likely to impact on international trade and investment?		No		
Are any of these organisations in scope?	<b>Micro Yes</b>	<b>Small Yes</b>	<b>Medium Yes</b>	<b>Large Yes</b>
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)		<b>Traded: N/A</b>	<b>Non-traded: N/A</b>	

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Minister

Lee Rowley

Date:

9<sup>th</sup> August 2023

# Summary: Analysis & Evidence

# Policy Option 1

## Description:

### FULL ECONOMIC ASSESSMENT

Price Base Year: 2019	PV Base Year: 2023	Time Period Years: 15	Net Benefit <sup>1</sup> (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
	Low	N/A		£102.2
High	N/A		£153.6	£1,830.3
Best Estimate	N/A		£127.6	£1,514.7

#### Description and scale of key monetised costs by 'main affected groups'

The costs relate to the activities associated with the Regulations made under part 3 of the 2022 Act, relating to ensuring that high-risk buildings are designed and constructed safely. They include costs to industry and costs to the regulator (who will recover some of these costs from industry via cost recovery).

The costs to industry primarily relate to the design and construction of buildings, namely as they go through the building control process. These include (but are not limited to):

- Requirements on dutyholders to ensure that all work is compliant with the Regulations.
- Going through the building control process, including building control approval application stage and completion stage.
- Ensuring safety during construction and engaging with the Regulator during construction, including an enhanced inspections schedule and change control.
- Gaining building control approval for works on existing higher-risk buildings.

#### Other key non-monetised costs by 'main affected groups'

There are no hypothesized non-monetised costs.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
	Low	N/A		N/A
High	N/A		N/A	N/A
Best Estimate	N/A		N/A	N/A

#### Description and scale of key monetised benefits by 'main affected groups'

The benefits estimated have not been included in the total assessment of net present value for this Impact Assessment, see 'Other key non-monetised benefits' section below.

<sup>1</sup> The benefits estimated have not been included in the total assessment of net present value for this Impact Assessment. The benefits are estimated together, providing a high-level assessment for both Parts 3 and 4 of the regime, and cannot be disaggregated.

**Other key non-monetised benefits by ‘main affected groups’**

The non-monetised benefits of the proposed enhanced building safety regime that we have identified include improved mental health for residents, and improved functioning of mortgage and insurance markets.

There are monetised benefits of the proposed enhanced building safety regime, however they have not been included in the total assessment of net present value for this Impact Assessment. The benefits are estimated together, providing a high-level assessment for both parts 3 and 4 of the regime, and cannot be disaggregated. The aggregated benefits are included to give a sense of scale, however the benefits cannot be compared against the costs.

We estimate the total benefit of the regime to be £1,173.3m - £5,299.4m, with a central estimate of £2,634.0m in present value terms. This equates to an estimated annual benefit of £95.6m - £416.5m, with a central estimate of £210.1m.

The primary monetised benefit is reducing the risk of fires spreading across, or within, buildings. This will reduce risks to life and health (including mental health) and avoid losses of property and other costs related to such incidents. The likelihood of systemic risks arising and requiring expenditure to mitigate, and remedy, will also be reduced. This includes the need to repair, replace or remediate damage caused by defective or otherwise unsafe construction products.

There will also be other cost savings, in part due to the avoidance of defects arising in the construction process, that will be brought about through Regulations made relating to the design and construction of higher-risk residential buildings under powers in part 3 of the Act.

<b>Key assumptions/sensitivities/risks</b>	<b>Discount</b>	See below
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The assumptions underpinning the analysis in this Impact Assessment are the best estimates available at the time of publication.

Annex A sets out the methodology and key assumptions used to estimate monetised benefits in this Impact Assessment.

- The appraisal period is 15 years for the costs, with an extended period of up to 75 years for the benefits. For the first 30 years of the appraisal period a discount rate of 3.5% has been applied to costs and non-health related benefits and 1.5% to health-related benefits. For the subsequent 45 years, a 3% and 1.29% discount rate has been applied respectively. This is in line with guidance in HM Treasury’s Green Book - Appraisal and Evaluation in Central Government.
- The benefits are accrued over the 15-year policy that could persist up to 60 years after the end of that period. See Annex A for further detail.

**BUSINESS ASSESSMENT (Option 1)**

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>Score for Business Impact Target (qualifying provisions only) £m: N/A</b>
<b>Costs:</b> N/A	<b>Benefits:</b> N/A	<b>Net:</b> N/A	

# Evidence Base

## Problem under consideration and rationale for intervention

1. Following the Grenfell Tower tragedy, the government appointed Dame Judith Hackitt to lead an Independent Review of Building Regulations and Fire Safety. In her Building a Safer Future report, Dame Judith Hackitt found that the current system for designing, and constructing high-rise residential buildings was not fit for purpose. Her report pointed to an industry that needed significant culture and regulatory change.
2. The Building a Safer Future Report also highlighted several market failures in the construction and management of safety in high-rise residential buildings. The foremost of these that relate to regulations covered by this Impact Assessment is information asymmetry. This occurs when two agents on different sides of a transaction, in this case between those who design and construct the building and residents who purchase a unit within that building, have different levels of information that could impact the incentives and outcomes of the transaction. For example, a developer could construct a building with substandard materials and to a poor quality but residents purchasing a unit within the building may not have the means to understand or be aware of this.
3. The government committed to implementing Dame Judith Hackitt's reforms and in July 2021 introduced the Building Safety Bill in Parliament. The Bill received Royal Assent and became the Building Safety Act 2022 (the 2022 Act) on 28 April 2022. Government is now implementing the reforms brought forward by the 2022 Act through a package of regulations.
4. A key part of the reforms includes a new higher-risk regime which changes the way certain buildings, known as higher-risk buildings, are designed and built. In the design and construction phase of the higher-risk regime, higher-risk buildings are defined as buildings which are at least 18 metres in height or have at least 7 storeys and have at least two residential units, as well as care homes and hospitals meeting the same height threshold. Another key part of the reforms includes broader changes to the way all buildings are designed and managed.
5. Part 3 of the 2022 Act took powers to amend the Building Act 1984 (1984 Act) and provide new building regulation requirements. Through secondary legislation, government is making regulations that will establish a new regime for the design and construction of new higher-risk buildings and building work to existing higher-risk buildings. We are also amending the current building regulations to improve the way all buildings are designed and built. This Impact Assessment covers both sets of regulations.
6. The Building (Higher-Risk Building Procedures) (England) Regulations 2023 provide the technical and administrative detail underpinning the design and construction part of the higher-risk regime. They implement a new building control regime for higher-risk buildings that provides stronger regulatory oversight and rigorous inspection before, during and on completion of building work, ensuring that building regulations compliance

is considered by dutyholders at each stage of the design and construction process. This allocation of responsibility will make it clear to industry who is in charge of each part of the construction process. The Building Safety Regulator (the Regulator) will be the building control authority for higher-risk building work and solely responsible for overseeing compliance with all applicable aspects of building regulations in higher-risk buildings.

7. The Building Regulations etc. (Amendment) (England) Regulations 2023 make wider changes to the building control regime for all buildings, to increase oversight and improve standards across the design and construction of all buildings. These regulations introduce changes to the building control process, such as regulator's notices to allow the Regulator to be the only control body for a project that contains both higher-risk and non-higher-risk building work; building control approval applications to replace the deposit of plans, so they are more closely aligned with the new higher-risk regime. They will also introduce a new, more stringent definition of commencement and provisions for building control approval to automatically lapse after three years, if the building work has not commenced, to avoid the situation where a site that has only commenced a minor amount of building work can benefit from old building control approval to build to old standards.
8. The Regulations covered in this Impact Assessment will help ensure that buildings are designed and constructed properly, including with respect to fire and structural safety. Dutyholders will have clarity on what is required to undertake their role, and the necessary systems and information in place to do so, ultimately leading to safer buildings for the residents who occupy them. Overall, the interventions will help to mitigate the risk of major fire incidents or structural failure and avoid systemic failures in the industry. The 'Benefits' section below explores this in more detail.

## **Rationale and evidence to justify the level of analysis used in the IA (proportionality approach)**

9. This Impact Assessment has been prepared regarding regulations being made under part 3 of the 2022 Act. Since the 2021 Bill Impact Assessment the Department has worked extensively with a range of interested parties including: the Health and Safety Executive (HSE), Home Office and industry stakeholders and representatives in refining and developing both the detail of policy, how it will be operationalised, and the assumptions that underpin the Impact Assessment.
10. In this Impact Assessment, it has not been possible to state the cost estimates of the proposed regime with certainty for all the new requirements. As such, a wide range of possible cost estimates have been presented for most sections. The assumptions underpinning the analysis are the best estimates available at the time of publication.
11. The cost estimates have been broken down to align with the duties and requirements set out in the Act. The different requirements of the Act are interlinked, and cost estimates attributed to one area could feasibly be argued to fall under another. The allocation of cost to a duty or requirement, however, does not impact the overall estimates.
12. Analysis presented in this Impact Assessment has drawn significantly on the experience of work carried out on high-rise buildings by PRP Architects and modelling by Adroit Economics as part of a consortium contracted by the Department. Cost estimates for the Regulator have been aligned, as far as possible, with financial and operational modelling by the HSE.
13. As part of our analysis, we have considered a counterfactual. This has been done in two ways:
  - An estimate of the costs incurred from the additional time and resources now legally specified as a requirement in the 2022 Act.
  - Discounting a proportion of developments that are already undertaking these activities, as part of their existing design and construction arrangements.
14. This approach ensures that, as far as possible and where appropriate, we have only estimated costs for additional activity resulting from the new requirements. We are aware that there are some in the sector that already undertake some of the activities that the new legislation requires, however, many are not managing their higher-risk buildings as we would expect, and this has been taken into account in the modelling.
15. The analysis assumes full compliance with the new requirements as this assumption is common practice in impact assessments. However, as these are new requirements, it is assumed that to achieve full compliance, the Regulator will need to intervene by issuing compliance notices to some dutyholders where new requirements have been contravened. The administrative cost on industry of complying with these notices to achieve full compliance has been included in the cost estimates.



16. Where we have estimated costs on a per-building basis, those costs have been based on a series of assumptions that we estimate represent the average<sup>1</sup>. Where buildings have been well managed and operated in line with current legislation, the costs of delivering the new duties and requirements will likely be lower. Conversely, if a building has been badly managed or is operating outside the current health and safety regulations, the costs will likely be higher.

## **Description of options considered**

### **Option 0 – do nothing**

17. This option means not introducing any secondary legislation under part 3 of the 2022 Act. The primary legislation in the 2022 Act would govern requirements and no further detail about the statutory requirements under part 3 of the 2022 Act would be set out in legislation. If government were to take this approach, most of the key elements about the way the design and construction part of the higher-risk regime will operate would not be included, risking an unimplementable regulatory regime for new higher-risk buildings. This would result in uncertainty about how to undertake the exact duties placed upon dutyholders and how to carry out the requirements under part 3 of the 2022 Act.

18. The absence of regulations would mean that any act of non-compliance could not be enforced against. This lack of clarity and certainty would make it difficult for the Regulator to regulate the higher-risk regime. In summary, this option would fail to carry out Dame Judith Hackitt's recommendations to improve the way buildings are designed and constructed, to which the government has committed.

### **Option 1 – introduce regulations under part 3 of the Act (preferred option)**

19. Option 1 is to set out further details under part 3 of the 2022 Act through two sets of regulations. This is the preferred option, as this will place clear legal responsibilities on those who are designing and constructing higher-risk buildings and carrying out design work and building work in higher-risk buildings, provide the Regulator with enforcement powers to deter and remedy non-compliance and make wider changes to the way all buildings are designed and built. These Regulations will implement the government's ambition for long-lasting reform for building safety.

## **Policy objective**

20. This section sets out the contents and intended outcomes of the various policy measures in the Building Regulations etc. (Amendment) (England) Regulations 2023 and the Building (Higher-Risk Building Procedures) (England) Regulations 2023.

## **Dutyholder and competence requirements**

21. The Building Regulations etc. (Amendment) (England) Regulations 2023 will amend building regulations requirements to place duties on those who procure, plan, manage and undertake building work in all buildings. The regulations set out a framework of

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<sup>1</sup> The average here is the arithmetic mean.

duties for dutyholders, to make clear who they are and impose specific duties on them. These dutyholders are the client, principal designer, designers, principal contractor and contractors.

22. Under the Regulations all dutyholders will need to ensure that there are arrangements and systems in place to plan, manage and monitor both the design work and the building work to ensure compliance with building regulations. They will be required to cooperate with other dutyholders, coordinate their work, and communicate and provide information to other dutyholders.
23. Any person undertaking design work or building work will need to have the right competence (the necessary skills, knowledge, experience and behaviours) for the work they are to undertake. When making appointments for design work or building work, those making the appointments should take all reasonable steps to ensure those they appoint are competent for the work they are to do, and those accepting the appointment should only undertake work within the limits of that competence.

#### *The client*

24. The client will need to have suitable arrangements for planning, managing and monitoring a project (including the allocation of sufficient time and other resources) so as to ensure compliance with all relevant requirements. This means appointing the right people at the right time, providing information about the project to those undertaking the design work and the building work, and making sure there is sufficient time and financial resource available so that the building work can be completed to comply with all relevant requirements.
25. When there is more than one contractor working on a project, the client will need to appoint a principal designer to be in control of the design phase of the work, and a principal contractor to be in control of the building work. If there is only one contractor that contractor must fulfil the duties of the principal contractor. If there is one contractor but more than one designer, the designers must agree in writing who will be the lead designer and notify the client of that decision.
26. Designers and contractors should be satisfied before they start either design work or building work that the client is aware of their own responsibilities.

#### *The designer*

27. Designers will need to take all reasonable steps to ensure that the building work to which the design relates, if built, would be in compliance with all relevant requirements. They will also need to provide information about the design and consider other design work which relates to their design.

#### *The principal designer*

28. The principal designer will be in control of the design phase of the project, and in addition to their duties as a designer, will need to plan, manage and monitor the design work and

coordinate the design work so that all reasonable steps are taken to ensure that the building work to which the design relates would, if built, comply with all relevant requirements.

29. They will also need to take all reasonable steps to ensure that there is cooperation between the designers and other dutyholders, that the design work is coordinated so as to comply with all relevant requirements and liaise with the principal contractor.

#### *The contractor*

30. All contractors will need to make sure that the work they undertake, or which is under their control complies with all relevant requirements. They will also need to provide information about the building work, and consider other building work which relates to their work.

#### *The principal contractor*

31. The principal contractor will be in control of the construction phase of the project, and in addition to their duties as a contractor, will need to plan, manage and monitor the building work and coordinate the building work to ensure that the building work complies with all relevant requirements.
32. They will also need to take all reasonable steps to ensure that there is cooperation between the contractors and other dutyholders, that the building work is coordinated so as to comply with all relevant requirements and liaise with the principal designer.
33. For higher-risk buildings, the client must make the appointments of the principal designer and principal contractor before the building control approval application is made.
34. Dutyholders in higher-risk buildings will need to demonstrate to the Regulator how they intend to comply with all their duties and how they will ensure that the building work to be undertaken will comply with all relevant building regulations requirements for higher-risk buildings throughout the building control approval process.
35. The principal designer and the principal contractor roles may require enhanced competence, appropriate to the particular higher-risk building work in question.
36. When conducting their assessments on competence (skills, knowledge, experience and behaviours) before appointing a person in relation to proposed higher-risk design work or building work, the dutyholder making that appointment will be required to consider the previous conduct of that person, in particular whether that person has a serious infraction which may call into question their competence for the role. A serious infraction is a significant breach of regulatory requirements in the previous five years such as the issue of a stop notice or the conviction of any offence under the Building Safety Act 2022, 1984 Act, the Regulatory Reform (Fire Safety) Order 2005 (Fire Safety Order), or the Health and Safety at Work etc Act 1974.
37. The client and other dutyholders making appointments must record the steps they took to satisfy themselves that the proposed or appointed person have the relevant

competence for the roles and evidence them as part of the building control approval application. This must include the steps taken to determine whether the person has a serious infraction, the consideration of their previous conduct, and in the event of a serious infraction, in particular any serious infraction, their reasons for appointing them nonetheless and the measures the dutyholder who made the appointment will take to mitigate the effects of the appointment.

### **The building control process for higher-risk buildings (gateways two and three)**

38. A key part of the new higher-risk regime is the introduction of hard stop gateway points during the design and construction of new higher-risk buildings. The Building (Higher Risk Building Procedures) (England) Regulations 2023 provide the procedural detail of two new gateway points: gateway two and gateway three.
39. Before building work begins on site and before lawful occupation of the building can occur, dutyholders must pass stop/go decision points by sending an application to be approved by the Regulator. At gateway two an application for building control approval must be submitted and at gateway three a completion certificate application must be submitted.

#### *Building control approval applications before work starts (gateway two)*

40. The requirement to submit an application for building control approval at gateway two replaces the building control 'deposit of plans' stage under the current regime. Full plans applications and initial notices under the current regime are expected to contain plans and other information showing all construction details and outlining how the proposed building work will comply with all applicable building regulations. Under the higher-risk regime, building control approval applications must demonstrate compliance with applicable building regulations' requirements, with an outcome focused approach to assure building safety. Building control approval applications under the higher-risk regime contain more stringent and comprehensive information requirements and new prescribed documents compared to the depositing of plans or the giving of initial notices under the current regime. The building control approval application at gateway two will be a hard stop and the application must be approved before building work can lawfully begin on site.
41. The application will need to include the contact information of principal dutyholders, a comprehensive description of the proposed work and any existing buildings and detailed plans outlining the size and position of the building and its relationship to the adjoining boundaries and the other buildings or proposed buildings within the curtilage of the building. This is broadly similar to full plans applications process that are currently submitted to local authority building control to consider.
42. In addition to the above, the building control approval application for a higher-risk building must be accompanied by new prescribed documents. These are not currently required when plans are deposited or when an initial notice is given to the local authority. The prescribed document requirements include:

1. A competence declaration confirming the client is satisfied that their appointed principal dutyholders are competent to carry out their roles. The declaration must cover the steps the client has taken to satisfy themselves of the principal dutyholders competence and consideration of their previous conduct. This includes whether the person has committed a serious infraction in the past five years.
  2. A building regulations compliance statement setting out the approach taken in designing the higher-risk building and the building standards to be applied.
  3. A fire and emergency file setting out fire and structural safety information about the proposal. The document will ensure that building safety risks are appropriately considered before construction starts and that assumptions behind the designs and how the building will be used are realistic.
  4. A construction control plan describing the strategies for planning, managing and monitoring building work to maintain building regulations compliance.
  5. A change control plan setting out how changes during construction will be considered, recorded and, if necessary, notified to the Regulator.
  6. A description of the mandatory occurrence reporting framework dutyholders will use to ensure those on the site, or in the building, can report certain fire and structural safety issues.
  7. A partial completion strategy (where the applicant proposes occupation of part of the building before completion of the higher-risk building work).
43. The prescribed documents will be maintained and updated throughout construction and will form part of the gateway three completion certificate application. The applicant will be required to provide updated prescribed documents reflecting the 'as-built' building, as well as compliance declarations from the client, principal designer and principal contractor, and a list of all the written mandatory occurrence reports submitted to the Regulator.
44. The higher-risk regime removes dutyholder choice of building control route and building control approval applications must be submitted to the Regulator and signed by the applicant. As dutyholders will be required to cooperate with each other, coordinate their work, and communicate and provide information to each other, the client can be assisted by other dutyholders such as the principal contractor and principal designer in preparing the application and may ask one of them to submit it on their behalf. Applications should be submitted electronically to the Regulator via a digital system, and this should apply to other forms of building control related correspondence. While the emphasis is placed on electronic submissions, the Regulator will have the discretion to accept applications to be submitted in a different way e.g., through paper copies.
45. The new requirements compared to the previous regime ensure more information is provided to the building control authority before building work begins. This information will demonstrate how the proposed building work will comply with building regulations' requirements and are realistic for the building in use.
46. The Regulator will have 12 weeks to determine an application for building control approval and no building work can begin until the application has been approved. The current deposit of plans stage is not a hard stop and the time limit for a local authority to

determine full plans application is five weeks extendable to eight weeks. Furthermore, there is no time limit or hard stop for the issuing of an initial notice to the local authority by a private sector approver, as this building control route operates in a different way with oversight being provided by the approved inspector rather than the local authority. The higher-risk regime removes dutyholder choice of building control route and therefore, the 12-week statutory time limit will apply to building control approval applications for the construction of higher-risk buildings.

47. On receipt of a building control approval application, the Regulator will consider the information working with the personnel appointed on the multi-disciplinary team, consult statutory consultees and determine the application. For buildings where the Fire Safety Order applies, there is a requirement under the current regime to consult fire and rescue services on plans for building work. Similar requirements under Building Regulations 2010 (2010 Regulations) exist for building control bodies to consult the relevant sewerage undertaker on relevant requirements related to building over sewers. The higher-risk regime builds on these requirements and will continue to ensure that the aforementioned parties are consulted before the determination of a building control approval application. The Regulator must wait at least 15 working days before determining an application once the statutory consultees have been consulted.
48. The extended period of 12 weeks reflects the additional information the Regulator must assess. While the time limit is extended, 12 weeks is not the expected response time from the Regulator in all cases and will depend on the complexity of the proposed building work and the quality of the application. The higher-risk regime is based on close engagement with the Regulator, including the encouragement of pre-application meetings between dutyholders and the Regulator, in order to make the gateways procedures as seamless as possible.

#### *Staged approach to building control approval applications (gateway two)*

49. For most building work applications, we expect the applicant to endeavour to provide all the information required upfront before building work commences. However, there may be some scenarios where it is legitimate that some information is initially unavailable.
50. In these scenarios, the Regulator will be able to allow a 'staged approach' to building control approval for construction, where it is satisfied that all the information cannot be provided upfront but that the proposed building work will comply with all applicable building regulations requirements. Information being provided in a staggered manner is a feature of the current regime and is often necessary for complex builds that are constructed over many years. The new regime has greater focus on the provision of comprehensive information and plans before building work begins, so there will be an expectation that a 'staged approach' is used less frequently, particularly once the industry has adapted to the new requirements. Nonetheless, there will be legitimate reasons information cannot be provided upfront and, therefore, the regime facilitates this approach.

51. Where a staged approach is proposed, dutyholders must still provide a comprehensive building control approval application with plans and all prescribed documents, as well as a staged work statement providing a detailed description of the proposed stages of the work, including an estimate of the time when each stage of the work will commence. This will enable the Regulator to assess the building work holistically when determining the application. The difference with the staged approach, is that the plans included in the building control approval application need to show how the work up to the specified stage would comply with all applicable building regulations requirements. The building regulations compliance statement needs to set out the design principles and building standards to be applied to the work up to that specified stage. The detailed plans and building regulations compliance statement covering work up to the specified stage must, however, be accompanied by outline plans for the whole building. This is to ensure that dutyholders take a holistic approach to building work and consider how compliance with building regulations' requirements will be achieved. It will also ensure that the Regulator does not have to consider each stage of building work in isolation. The Regulator will have 12 weeks to consider each staged application.
52. Where a staged approach is sought, we expect the applicant to set out in the initial application the proposed stages/points at which they will provide the Regulator with the information not included in their first application.
53. A staged approach will still represent a 'hard stop' but will be managed through 'hard stops in stages' which are bespoke to the specific higher-risk building project. Building control approval will be strictly limited to the approved detailed plans and stages of work the Regulator has approved. It will be an offence to proceed with building work beyond a specified stage and the Regulator will have enforcement powers to deal with such a breach.

*Completion certificate applications when work is completed (gateway three)*

54. The requirement to submit a completion certificate application at gateway three replaces the current completion certificate and final certificate stage.
55. Currently when building work is complete, the relevant building control body undertakes a final inspection, including assessment of relevant information related to the as-built building, to ensure work complies with all applicable building regulations' requirements before issuing a completion certificate (in the case of local authority building control) or final certificate (in the case of private sector approvers). Immediately prior to occupation, and as part of this completion process, the relevant fire safety information is handed over (as required under Regulation 38 of the 2010 Regulations) to the person who will be responsible for the occupied building and ensuring the management and minimisation of fire risks under the Fire Safety Order.
56. On completion of building work under the higher-risk regime, applicants will be required to submit a completion certificate application to the Regulator with updated plans and prescribed documents. This will also form part of the golden thread of information that must be handed over to the building owner to help them manage building safety risks

when the building is in use. This will build on the existing regime by putting in place additional requirements on dutyholders to demonstrate that building work complies with all applicable building regulations. The completion certificate application stage will increase regulatory oversight by introducing a more thorough assessment of as-built building work and ensures any changes that occurred during construction are reflected in the final plans, information and prescribed documents submitted to the Regulator for approval.

57. The completion certificate application will need to include the contact information of the principal dutyholders, a comprehensive description of the building work (as-built), including plans, a statement signed by the client confirming that to the best of their knowledge the work complies with all relevant building regulations requirements and a statement signed by the client and relevant person confirming that the golden thread of information has been handed over and received.
58. In addition, the higher-risk regime goes beyond current requirements at the completion stage by requiring accompanying prescribed documents and notices that are updated. These requirements include:
- a. A notice confirming the date the work was complete
  - b. A construction control plan
  - c. A change control plan
  - d. The mandatory occurrence reporting plan
  - e. The building regulations compliance statement
  - f. A fire and emergency file
  - g. A copy of the updated change control log
  - h. A compliance declaration for the work signed by each principal dutyholder confirming they fulfilled their duties
59. A completion certificate application must be submitted to the Regulator in writing and signed by the applicant. Applications should be submitted electronically to the Regulator via a digital system, and this should apply to other forms of building control related correspondence. While the emphasis is placed on electronic submissions the Regulator will have the discretion to accept applications to be submitted in a different way e.g., through paper copies.
60. Under the current regime, an application for a completion certificate to the local authority must be determined within an eight-week period. Furthermore, there are no strict time limits with regard to the issuing of a final certificate by a private sector approved inspector as this regime operates in a different manner. Occupation can currently lawfully occur, at risk, before a certificate has been received.
61. Under the higher-risk regime, the statutory time limit the Regulator must determine a completion certificate application is eight weeks. Gateway three represents another 'hard-stop' during the design and construction process for higher-risk buildings as provided for in section 76 of the 2022 Act. It is a criminal offence to occupy a new residential unit in a higher-risk building or part of a higher-risk building before a completion certificate has been granted for that building or part of a higher-risk building.



This approach ensures the higher-risk regime is in line with Dame Judith Hackitt's recommendation that dutyholders satisfy a set of robust criteria to move onto the occupation stage, creating incentives for coherent design and risk management strategies, robust record-keeping and stable change control processes.

62. Once a completion certificate application is received, the Regulator must assess the application, carry out a final inspection and if satisfied, issue a completion certificate. In addition, the higher-risk regime is putting in place a statutory consultation process at gateway three with the fire and rescue service and sewerage undertaker. This is not required under the current regime and provides an opportunity for the aforementioned consultees to consider the fire safety and drainage provisions of the as-built building. It further supports the move into the new in-occupation regime for higher-risk buildings and the management of building safety risks. The Regulator must wait at least 15 working days before determining an application once the statutory consultees have been consulted.
63. While a hard stop is being instigated, the determination of the completion certificate application is to be considered a dynamic gateway process where information can be shared with the Regulator prior to the completion of works to ensure that the determination of the application can happen as seamlessly as possible. This approach should reduce the determination time and support dutyholders in moving to the occupation phase. Similarly, to gateway two, the time it takes the Regulator to determine an application will depend on the complexity of the building work, the quality of the application and the level of engagement with the Regulator throughout the project.

#### *Partial completion*

64. Some dutyholders may intend to complete their higher-risk building in phases. This is where completed parts of a newly constructed building are intended to be occupied while building work is carried out in other parts of the building. Partial completion happens regularly for high-rise residential buildings as it supports greater flexibility regarding project delivery and project finances.
65. The government will continue to allow the partial completion of a higher-risk building, but there will be additional requirements that will need to be met by dutyholders to ensure any buildings are safe to occupy. The Regulator will be able to permit partial completion on a case-by-case basis where it is satisfied that the specific safeguards have been met. This will ensure that even where a building is completed and occupied in phases, the hard stop recommended by Dame Judith Hackitt will still apply.
66. Where a dutyholder intends to complete a higher-risk building in phases, a partial completion strategy must be provided in the building control approval application before building work commences, to compel dutyholders to think ahead to the safety of residents in the occupied building right from the design stage. The partial completion strategy must explain the proposals adopted in the design stage for the completion and occupation of each part of the proposed building. This is to ensure compliance with building regulations as well as the assumptions, measures, strategies and policies it is

proposed the building owner may need to adopt to manage and maintain safety once the building is occupied.

67. The information required as part of a completion certificate application is also required when partial completion is sought, in relation to the proposed completed parts of the higher-risk building. Dutyholders must consider the building holistically and provide the full suite of prescribed documents and information submitted at the completion certificate application stage, as well as ensure golden thread information has been handed over to the relevant person. Furthermore, the applicant is required to demonstrate how the design and construction of the building supports its safe use, including while building work continues while other parts are occupied. The prescribed documents and other information must demonstrate there are adequate building safety measures in place including those associated with appropriate compartmentations between the complete and incomplete areas of the higher-risk building and appropriate ventilation in the completed parts of the buildings as well as evacuation routes.
68. The requirements for partial completion are far more robust compared with requirements under the current regime. While there is flexibility for projects to continue to complete in this manner, the increased requirements may result in this option being utilised less frequently, or in different ways, than under the current regime. For example, the current approach of completing projects flat by flat is unlikely to meet the new requirements for higher risk building work.

### **During construction (between gateways 2 and 3)**

#### *Change control*

69. The government is introducing a robust statutory change control process for higher-risk building work that dutyholders must follow if they intend to deviate from their approved building control approval application. All changes during construction must be recorded, evaluated and evidenced to show that they comply with all applicable building regulations requirements. Major changes will need Regulator approval before work to implement them can be started. Notifiable changes must be sent to the Regulator before they can be implemented. Change control is a new process compared to the current regime and is necessary to ensure there is stronger regulatory oversight during the construction phase.
70. The change control plan should include the strategies, policies and procedures the client has adopted to ensure any controlled change takes place in accordance with change control requirements, and to log each controlled change in accordance with record-keeping requirements (a change control log).
71. Controlled changes are any changes to the plans and documentation and information approved at gateway two. During construction the principal contractor must maintain a change control log. The change control log must record the change, give an explanation of how the change will meet building regulation requirements, and outline any advice taken from others.

72. A subset of the controlled changes is known as notifiable changes. In addition to being recorded in the change control log, a notification containing the information which is to be recorded and updated versions of plans and documents must be sent to the Regulator. A notifiable change cannot be implemented until it is recorded, and a notification sent.
73. A second subset of controlled changes is known as major changes. In addition to being recorded in the change control log, a change control application containing the relevant information and updated versions of plans and documents must be sent to the Regulator. The Regulator must follow the same process when considering the change control application as when a building control approval application is considered at gateway two. The Regulator must provide a response within 6 weeks of receiving the application or within a longer time period as agreed with the person who submitted the application. A major change cannot be implemented until it is recorded, and the change control application approved by the Regulator.
74. Building on the current requirements in the Fire Safety Order and 2010 Regulations, the Regulator must consult the fire and rescue authority and sewerage undertakers in relation to change control applications. In the former, the consultation must take place where Part B of Schedule 1 to the 2010 Regulations (fire safety requirements) imposes requirements in relation to the work to which the controlled change relates. In the latter, a consultation must take place where Paragraph H4 of Schedule 1 to the 2010 Regulations (building over sewers requirements) imposes requirements in relation to the work to which the controlled change relates. The Regulator must wait at least 10 working days before determining an application once the statutory consultees have been consulted.
75. The Regulator can require, by notice, that a controlled change follows the process outlined above for “major” and “notifiable” changes. This enables them to consider the information recorded or notified in relation to a “controlled change” and, if they deem it of appropriate risk, apply a more stringent change control process.

### **Building work in existing higher-risk buildings**

76. As with the requirements for the design and construction of a new higher-risk building, the new regime introduces a new process for the carrying out of building work in an existing higher-risk building, depending on the type of work being carried out.
77. A number of types of building work in existing buildings are carried out by certified installers either through a competent person or third-party accreditation scheme. These schemes give consumers a choice of who will undertake the work, while ensuring that the relevant requirements of the building regulations are met. Scheme work will continue to operate in higher-risk buildings, under the supervision of the Regulator. Installers will be required to provide the relevant certificates to the Regulator once work has been completed. As such we expect no material difference in terms of time or costs will come as a result of the new regime.

78. Where building work in an existing higher-risk building is not going to be carried out under a third-party certification or competent person scheme, the applicant will be required to submit a building control approval application to the Regulator. It is vital that the building control process for building work in existing buildings is as rigorous as the process for creating new higher-risk buildings and the Regulator's approval will be needed before the work can begin.
79. Building work in an existing building can vary in terms of the scale of the proposed work and impact on the building's current state. As such, under the new regime, building work in an existing building will fall into one of two categories, with differing application requirements, depending on the nature of the work. Certain information, such as dutyholder details, information about the existing building, and a description of the proposed work, will be required for all applications.
80. Where the proposed work is larger in scale and/or considered to have a greater impact on the building, known as category A work, the application requires greater detail and must be accompanied by prescribed documents, as is the case for a building control approval application at gateway two.
81. Category A work includes any work that increases or decreases the height or width of a higher-risk building; any work that changes the number of floors, including the addition or removal of mezzanine or gallery floor; work which changes the number of flats or residential units; work which changes the number or width of staircases or other escape routes; work on external walls, with the exception of work specified in regulation 7(3) of the 2010 Regulations; work which changes the building layout; work that changes either the passive or active fire safety measures in the building; and any other work effecting the common parts.
82. All other work is considered Category B and a building control approval application is also required. In addition to the standard information required for all applications, an applicant seeking to undertake Category B work may submit any further information they deem necessary to support the application and the Regulator may request the submission of one or more of the prescribed documents, if necessary.
83. With regard to building work in an existing higher-risk building the statutory time limit imposed on the Regulator to determine a building control approval application is eight weeks. This is reduced compared to the 12 weeks for building control approval applications to reflect that building work in an existing higher-risk building can often be relatively minor work compared to the construction of a new-build higher-risk building. Eight weeks is proportionate for this type of building work, applications for Category B work may be determined in reduced time, but the time it takes for an application to be determined will also be dependent on the quality of the information submitted.
84. Building work in an existing higher-risk building must also apply for a completion certificate application and the Regulator has a statutory time limit of 8 weeks to determine the application.

## **Regularisation**

85. Regularisation is the process of retrospectively applying to certify that unauthorised, notifiable building work complies with the relevant building regulation requirements. The existing regularisation process will be followed if unauthorised building work takes place in higher-risk building, with the Regulator receiving the regularisation application instead of the local authority. The person responsible for the area where the unauthorised building work has taken place would submit a regularisation application to the Regulator. The Regulator can request additional information if needed. The Regulator can accept the application, specifying that no further work is required to comply with the relevant functional requirements of the building regulations. Alternatively, the Regulator could reject the regularisation application if further building work is required. Finally, the Regulator could choose to not make a determination on whether building work complies with the building regulations; for example, if work is covered up and the Regulator determines it would be disproportionate to require it to be revealed.
86. If further notifiable building work is required to ensure the building complies with the relevant functional requirements, then the dutyholders will need to comply with the procedures for undertaking building work in an existing higher-risk building.

## **Golden thread**

87. The higher-risk regime includes new requirements around the management of information during the design and construction of higher-risk buildings – this is known as the golden thread of information.
88. Throughout the design and construction of higher-risk buildings, dutyholders will be required to maintain a golden thread of information to enable the right people at the right time to have the right information to support compliance with all applicable building regulations, including those relating to building safety. Managing the golden thread of information is a key requirement to ensure that people can trust that the information is accurate and up to date and can access and share this information as required.
89. Dutyholders will be required to store certain information and documents electronically as golden thread information throughout the design and construction of new higher-risk buildings and when building work is happening in existing higher-risk buildings. Different information and documents are required at each stage of the design and construction process.
90. When building control approval is granted but before construction work begins for a new higher-risk building, the client must put in place an electronic facility for storing the golden thread information. The client must maintain this electronic facility or ensure that someone else maintains it on their behalf. The client must also ensure that the principal designer and principal contractor have access to the facility and can maintain and update the golden thread information.

91. When building control approval is granted but before construction work begins for a new higher-risk building, the client must ensure that the following information is stored electronically in the golden thread of information:
1. a copy of the fire statement;
  2. a copy of the plans and each of the other documents included in the building control approval application which has been approved by the Regulator; and
  3. all the evidence recorded, pursuant to the construction control plan, to show compliance with the applicable requirements of the building regulations.
92. When building control approval is granted but before construction work begins for building work in an existing higher-risk building, the client must ensure that the following information is stored electronically in the golden thread of information:
1. A copy of the plans and each of the other documents for the work which are approved by the Regulator; and,
  2. all the evidence recorded, pursuant to the construction control plan, to show compliance with the applicable requirements of the building regulations.
93. The client must also update the golden thread information to store certain documents and information throughout the construction process. The client must ensure these documents or information are added to the golden thread information as soon as practicable after the document/updated information is provided, approved or produced. One example of this is information associated with change control requirements in the golden thread, where the client must ensure that any changes are recorded in the golden thread of information. Similarly, when a mandatory occurrence report is submitted to the Regulator the client must also store a copy of the report electronically in the golden thread of information. The client must ensure this is done as soon as practicable after the report is submitted.
94. As set out above the golden thread information must be held electronically and to certain standards. This will ensure that the golden thread information can be shared and accessed by multiple people working on a building. The golden thread information be:
1. kept in an electronic format;
  2. kept in a format that is capable of being transferred electronically to other persons without the information, documents and data being lost or corrupted;
  3. accurate and up to date;
  4. available in a readable format which is intelligible to the intended readers of the data, and any key needed to understand the data is provided with the data;
  5. is made available as soon as reasonably practicable following a request from a principal designer (or sole or lead designer) or principal contractor (or sole contractor) to enable them to comply with their requirements under the building regulations,
  6. secure from unauthorised access;
  7. is only changed in accordance with procedures which record the person who made the change and the date of that change; and
  8. As far as is reasonably practicable uses language, terminology and definitions which are consistent.

95. There are also specific requirements around the handover of golden thread information. Higher-risk buildings to which part four of the 2022 Act will apply (multi-occupied high-rise residential buildings) will have a principal accountable person who will be required to meet numerous duties during the occupation phase to ensure resident safety. It is important that they have key information from the design and construction phase which will enable them to do this. For higher-risk buildings that are in scope of the design and construction regime but are not in scope of the occupation regime (for instance, in-scope hospitals and care home), the Fire Safety Order and the Housing Act 2004 will continue to regulate how standards are enforced to manage the overall safety of residents. These buildings will have a Responsible Person.
96. For both buildings in scope of the new regime to which part four of the 2022 Act will apply, and for buildings that are only in scope of the design and construction regime, the client must handover:
1. The information required to be submitted to the Regulator in a completion certificate application (the prescribed documents);
  2. the relevant information/evidence required to support the prescribed documents;
  3. completion certificate issued by the Regulator under the building regulations; and
  4. any further information that is relevant to the ongoing safety of the building and is not covered by the material above – this could include documents/information required to be submitted to the Regulator at building control approval stage, and information required through the statutory change control process during the construction phase.
97. For buildings that are only in scope of the design and construction regime the client must extract the fire safety information and hand it to the Responsible Person as standalone information.
98. The client and the principal accountable person or responsible person (the relevant person) must co-sign a statement confirming that a copy of the design and construction golden thread information was provided, and they have received that information.

### **Mandatory occurrence reporting**

99. The Building (Higher Risk Building Procedures) Regulations 2023 bring forward new requirements for principal designers and contractors to set up a mandatory occurrence reporting regime during the design and construction of new higher-risk buildings, or during building work in existing higher-risk buildings. This places duties on the principal designer and the principal contractor after the building control approval application stage:
1. To establish and operate an effective mandatory occurrence reporting system to enable those undertaking design work or building work to report safety occurrences to the dutyholder(s); and
  2. to report safety occurrences to the Regulator in a required manner.
100. Under the regulations there is a duty on the client to ensure they take all reasonable steps to satisfy themselves that the principal contractor and principal designer appointed

can fulfil the mandatory occurrence reporting requirements and have a mandatory occurrence reporting system in place.

101. The principal dutyholders must also take reasonable steps to ensure each reporting person is provided with adequate instruction and information on the system established and the incidents or situations that must be reported by the reporting person throughout the system. In addition, the principal contractor and principal designer must ensure that an appropriate frequency of inspections of higher-risk building work for safety occurrences throughout the construction phase.
102. When a dutyholder becomes aware of a safety occurrence, they must notify the Regulator of the safety occurrence without undue delay and provide the Regulator with a written report containing required information within 10 calendar days of becoming aware of the occurrence.
103. If a dutyholder contravenes this requirement, they will have a defence if they believe another dutyholder has already notified the Regulator, or they have already provided the Regulator with a written report.

### **Transitional arrangements for the higher-risk regime**

104. When the Building (Higher Risk Building Procedures) Regulations 2023 come into force on 1st October 2023, transitional arrangements will determine the rules and procedures that in-scope building work will need to follow if they have already notified a building control body of their plans (“in-flight building work”). This should provide clarity and reduce the risk of developers being impacted by changes to requirements part way through the design and construction process.
105. For transitional arrangements to apply to higher-risk building work, two conditions must be met:
  1. An initial notice must have been given to a local authority (and not be rejected), or full plans must have been deposited with a local authority (and not be rejected) before the day the new regime comes into force (1<sup>st</sup> October 2023).
  2. The higher-risk building work must be “sufficiently progressed” within six months of the new regime coming into force (6th April 2024).
106. For the construction of a new higher-risk building, “sufficiently progressed” means the placement of permanent foundations has started and concrete has been poured into trench, pad or raft foundations or piles have started to be placed. For work to an existing higher-risk building or a material change of use, “sufficiently progressed” means that the work has started on site.
107. If the two above conditions are met, those carrying out the work would not be subject to the higher-risk regime for that individual in-scope building. They would instead continue under their existing building control body. Where building work fails to meet the first condition, the work is subject to the higher-risk regime immediately on 1<sup>st</sup> October 2023 and will be overseen by the Regulator. Where the first condition is met, but the



second condition has not, the building work will transfer to the jurisdiction of the Regulator. The route of transfer and the higher-risk regime requirements applied will differ dependent on whether the building work was previously overseen by the local authority or private sector building control.

108. Separately by 6<sup>th</sup> April 2024, the building control profession will become a registered profession. All private sector building control bodies, formerly approved inspectors, will need to join the register overseen by the Regulator and become registered building control approver. Similarly, all building control inspectors will have to register with the Regulator and meet competence standards to perform building control functions. For ‘in-flight’ building work subject to an initial notice, the approved inspector overseeing the project must have registered by day one of the new registered building control approver regime (6<sup>th</sup> April 2024) for the project to continue to benefit from the transitional arrangements and continue under private sector building control. Furthermore, an initial notice may be cancelled at any point after 1<sup>st</sup> October 2023. Where an initial notice is cancelled after 1<sup>st</sup> October, the in-scope building work is subject to the higher-risk building regime and must be overseen by the Regulator. The requirements of the higher-risk regime that will apply in these cases will depend on whether the work covered by a cancelled or lapsed initial notice has “sufficiently progressed” or not.
109. On the basis of the above conditions of the transitional arrangements, we consider there to be six routes an ‘in-flight building’ may follow:
1. **Route 1 – Failure to give an initial notice or deposit plans to local authority by 1<sup>st</sup> October 2023:** An initial notice has not been given to a local authority or full plans have not been deposited with a local authority in respect of the in-scope building work before 1st October 2023 – the building work is subject to the full higher-risk regime.
  2. **Route 2 – Higher-risk building work has ‘sufficiently progressed’ and, if work is under an initial notice the approved inspector has registered as a registered building control approver:** The developer, and registered building control approver (formerly approved inspector), have met all the relevant criteria under the transitional provisions. As a result, the work will not be subject to the higher-risk regime and will continue to be supervised by their existing building control body under the previous building control regime.
  3. **Route 3 – Higher-risk building work overseen by the local authority fails to ‘sufficiently progress’ work:** The developer has deposited full plans with a local authority before 1<sup>st</sup> October 2023, but the building work fails to sufficiently progress the work. The building work is subject to the higher-risk regime and transfers to the Regulator. The client will not be required to submit an application for building control approval but must send the Regulator the original full plans application and other relevant information related to the work already undertaken to the Regulator within four weeks of 6<sup>th</sup> April 2024. Apart from the regulations covering the application for building control approval, the proposed requirements of the higher-risk regime will be imposed but with some modifications. The dutyholder and competence regulations, functional requirements, reviews and appeals, enforcement and commencement notice requirements will apply in full. The statutory change control process during construction will apply, but changes will be in relation to the original

full plans application. Mandatory occurrence reporting requirements will apply, but dutyholders will have 10 days of the transfer to the Regulator to establish their mandatory occurrence reporting system. Golden thread requirements will apply, but the client will have 45 days from the transfer to establish the electronic facility (or before a completion certificate application is submitted). On completion of building work, a completion certificate application must be submitted, excluding some prescribed documents e.g., construction control plan, and approved before lawful occupation can take place.

4. **Route 4 – Higher-risk building work subject to an initial notice fails to ‘sufficiently progress’ work or the initial notice ceases before work is ‘sufficiently progressed’:** As soon as an initial notice ceases to be in force, the Regulator is the building control authority for the work. Within ten working days of an initial notice ceasing to be in force, the person carrying out the work must notify the Regulator that they are carrying out higher-risk building work. Before any work can continue on site, the client for the project must also submit an application for building control approval. This application must meet all the relevant requirements under the higher-risk regime, as well as provide sufficient plans of the work already carried out on site to show whether any part of the work contravenes building regulations. On receipt of the application, the Regulator will validate the application to ensure it satisfies the information requirements. If the application is valid, the building work may continue ‘at risk’ following all applicable regulations (excluding change control requirements). The client must comply with any notice in writing from the Regulator requiring them to lay open, test, sample or pull down building work completed on site that prevents the Regulator from ascertaining whether the work contravenes any requirement in building regulations. Any plans certificates or final certificates issued to parts of the building work will have no effect (these are documents issued by approved inspectors) and all building work is subject to enforcement from the Regulator should non-compliance be identified. Any work completed on site will be reviewed and assessed by the Regulator, the Regulator may utilise requirements when approving an application to make sure non-compliant building work is remediated. The building work will be subject to all the requirements of the higher-risk regime and will receive a completion certificate from the Regulator when it is satisfied the as-built building work is compliant with all applicable building regulations.
5. **Route 5 – Higher-risk building work has ‘sufficiently progressed’ but the approved inspector fails to register as a registered building control approver or the initial notice ceases for any other reason:** As soon as an initial notice ceases to be in force, the Regulator is the building control authority for the work. This may be because the approved inspector does not register as a building control approver by 6<sup>th</sup> April 2024, or the initial notice is cancelled for any other reason after the work has ‘sufficiently progressed’. Within ten working days of an initial notice ceasing to be in force, the person carrying out the work must notify the Regulator that they are carrying out higher-risk building work. Before any work can continue on site, the client for the project must submit an application for building control approval. This application must meet all the relevant requirements under the higher-risk regime (excluding all prescribed documents apart from the competence declaration) as well as provide sufficient plans of the work already carried out on

site. On receipt of the application, the Regulator will validate the application to ensure it satisfies the information requirements. If the application is valid, the building work may continue 'at risk' following all applicable regulations (excluding change control requirements). The client must comply with any notice in writing from the Regulator requiring them to lay open, test, sample or pull down building work completed on site that prevents the Regulator from ascertaining whether the work contravenes any requirement in building regulations. Any plans certificates will have no effect, but final certificates will protect dutyholders from enforcement from the Regulator. Any work completed on site will be reviewed and assessed by the Regulator, and the Regulator may utilise requirements when approving an application to make sure non-compliant building work is remediated. If building work has sufficiently progressed, we do not intend to apply all the requirements of the higher-risk regime. The gateway application requirements (excluding prescribed documents), enforcement powers of the Regulator, dutyholder and competence regulations and all regulations related to reviews, appeals and non-determinations procedures will apply. All other requirements will not apply.

6. **Route 6 – Building control approval lapses before work has commenced or the initial notice or full plans are rejected by a local authority after 1<sup>st</sup> October 2023:** Where building control approval lapses (under section 32 or 52(5) of the Building Act 1984) or the initial notice or full plans are rejected, the building work is subject to the higher-risk regime in full.

## **Enforcement and Appeals**

110. Dame Judith Hackitt found that those responsible for the safety of buildings were not sufficiently deterred from failing to comply with their responsibilities due inadequate regulatory oversight and enforcement tools. Where enforcement is necessary, it is often not pursued. Where it is pursued, the penalties are so small as to be an ineffective deterrent.
111. The 2022 Act strengthens regulators powers to enforce building regulations. Enforcement across the new regime, by the Regulator and local authorities, uses a three-stage approach. The first stage is informal engagement to encourage good practice; the second stage is intervention in the form of compliance notices; and the final stage ends with prosecution in the criminal courts, potentially resulting in imprisonment for those deliberately flouting the rules.
112. The government is giving regulators stronger enforcement powers, to make sure those responsible for non-compliance are held accountable and provide a strong deterrent against non-compliant action. This includes strengthening enforcement measures for all buildings, as well as ensuring the Regulator has appropriate powers to enforce against non-compliance in higher-risk buildings. The Regulations set out further detail around the procedural and administrative requirements of compliance and stop notices.

113. The 2022 Act also made amendments to the appeals routes and procedures for all building work. As part of the higher-risk regime, a specialist unit within the First-tier Tribunal has been set up to deal with building safety matters.

#### *Compliance and stop notices*

114. The Regulator and local authorities will be able to issue compliance and stop notices where building regulations are breached. Compliance notices will require remedial action by a set date and stop notices will require work to be stopped altogether until remedial action has been taken.

115. The information to be included on compliance and stop notices, includes but is not limited to, date of issue, name/description of recipient, description of the work where the breach has occurred, the provision of the building regulations which was contravened, and details of the contravention. This is to ensure that where notices are issued, they are served with the correct information and to the relevant individuals. Stop notices can also be issued where work on a new or existing higher-risk building has started without building control approval and where a major change has been carried out without building control approval.

116. Interested parties should be notified where notices are issued. These can include: the client, the principal or sole contractor and the principal or sole designer, the local authority where the regulator is the building control authority, or, if there is a contravention of the Fire Safety Order, the relevant enforcing authority. Additionally, where the building is owned by a registered social housing provider, the Regulator of Social Housing must be notified.

117. To simplify legal proceedings for the Regulator and local building control authority, the recipient and the First-tier Tribunal, the Regulator or local building control authority can withdraw compliance and stop notices at any time at their discretion. Building control authorities can extend and amend notices at any time, except where an appeal is pending. This is to avoid notices being amended or extended whilst tribunal proceedings are in progress.

#### *Enforcement of non-higher-risk building work*

118. Local authorities can issue compliance and stop notices against non-compliant work. Compliance notices will require work to be corrected by a certain date, and stop notices will require non-compliant work to be stopped until the non-compliant action has been addressed. Failure to comply with either notice will be a criminal offence, with a maximum penalty of up to two years in prison and an unlimited fine.

#### *Internal reviews and appeals*

119. As part of the new regime, the tribunal service is setting up a specialist unit within the property chamber of the First-tier Tribunal. This will deal only with building safety matters. We want to align the appeals procedure for all building regulations appeals so

that they sit with the Tribunal. That is why we are moving appeals from the magistrates' court to the Tribunal.

120. For building control decisions on higher-risk buildings (and other buildings in relation to which the Regulator is the building control authority), the Building Safety Act 2022 envisages appeal routes will follow a two-stage process. First, an internal review by the Regulator. This appeal route will be available where the Regulator makes a decision in relation to building control matters, including an application for building control approval, change control, and completion certificates. Where parties are still unhappy with the outcome of the Regulator's review, the Tribunal will handle escalated appeals. This procedure also applies to building control profession decisions and appeals, except disciplinary matters which go directly to the tribunal.

#### *Building control decisions*

121. For building control decisions by local authorities, the 2022 Act transfers the route of appeal under the 1984 Act from the magistrates' court to the Tribunal. There is no internal review process by the Regulator for non-higher-risk buildings; applicants unhappy with a building control decision will appeal directly to the Tribunal.

#### *Scope decisions*

122. The Regulations provide the procedural and administrative detail for a new appeals route to determine whether, or not, building work is higher-risk building work. The appeals route will apply where a local authority refuses to consider an application for building control approval, an initial notice or an amendment notice on the grounds that the work is, or includes, higher-risk building work. If this happens, the developer can appeal this refusal the Secretary of State or a person appointed on behalf of the Secretary of State on the grounds that they think the building work is not higher-risk building work.

#### *Non determination appeals*

123. As set out above, the higher-risk regime introduces hard stop decision points for prescribed applications through the new gateways procedure. There are statutory timescales in which the Regulator should decide applications, although the Regulator can agree extensions with the applicant. If the Regulator does not reach a decision within the statutory timescales, and an extension has not been agreed or has ended without a decision being given, applicants will be eligible to make a non-determinations application to the Secretary of State.

### **Hospitals and Care homes**

124. When building work is being carried out, the higher-risk regime will apply to hospitals and care homes which meet the 18 metre or seven storey height threshold, whether this is a new building or work in an existing building. The full requirements of the higher-risk regime in design and construction set out above will apply to hospitals and care homes.

## Wider changes to Building Regulations

125. In addition to setting up the higher-risk regime for higher-risk buildings, government is also introducing several wider legislative changes to building regulations as it is important that there is robust oversight for all building work, to improve standards and ensure safety throughout the built environment. These changes will align parts of the application process more closely with the type of information needed for higher-risk buildings, while also making responsibilities and required duties clearer. New policies being introduced include regulator's notices, which will be used where a project comprises both higher-risk buildings and non-higher-risk buildings. This will allow developers to use the Regulator as the single building control body for both higher-risk and non-higher-risk building work on the same project, simplifying the building control process. We are also introducing a new definition of commencement for existing and new buildings, to bring clarity and support enforcement, together with an automatic lapse of building control approval after three years, from when the building control approval was granted, for projects that do not meet the definition of commencement. If the dutyholder cannot demonstrate a project has met the definition of commencement within three years from the date the building control approval was granted, they will have to apply for building control approval again and comply with the building regulations in place at that time. This will ensure that projects where a significant part of the building work has not been commenced will not be able to be built to old standards. The regulations also strengthen the fire safety information handover for buildings where the Fire Safety Order applies, to make the process safer and more efficient and set out transitional arrangements for the procedural requirements for non-higher risk building work.

### *Regulator's notices*

126. Where a project comprises both higher-risk building work and non-higher-risk building work, developers will, by default have two building control bodies, the Regulator, and a local authority or a registered building control approver (formerly approved inspector) for non-higher-risk building work. Under this provision developers, should they wish to and in agreement with the Regulator, will be able to apply to have the Regulator act as their sole building control body overseeing all building work within that project. They will not be able to apply for the local authority or registered building control approver (currently known as an approved inspector) to oversee higher-risk building work.

127. A regulator's notice must be in writing and must include:

1. The name, address, telephone number and (if available) email address of the client for the project to which the notice relates;
2. a statement that the notice is a regulator's notice under section 91ZB of the 1984 Act;
3. the location of the proposed building work to which the regulator's notice is to apply;
4. a description of the proposed building work to which the regulator's notice is to apply, including a statement explaining how that work is connected to higher-risk work and the location on the site of that higher-risk building work;
5. a statement giving the date it is proposed the building work will start and how long it is proposed to take to complete;
6. a plan to a scale of not less than 1:1250 showing—

- i. the size and position of the building, or the building as extended, and its relationship to adjoining boundaries;
  - ii. the boundaries of the curtilage of the building, or the building as extended, and the size, position and use of every other building or proposed building within that curtilage;
  - iii. the width and position of any street on or within the boundaries of the curtilage of the building or the building as extended;
7. a declaration, signed by the client and signed by an employee of the regulator who is authorised to do so, confirming—
- i. the client and the regulator consent to the giving of the notice;
  - ii. the proposed building work to which the notice relates includes no higher-risk building work;
  - iii. the proposed building work falls within the requirements of regulation 19A (regulator’s notices: description of work and connection).
  - iv. they understand the proposed building work is to be subject to the procedural requirements of these Regulations.

128. Local authorities can only reject a regulator's notice within five working days if:
- 1. the conditions in regulation 19A (regulator’s notices: description of work and connection) are not satisfied in relation to the work specified in the notice;
  - 2. the work specified in the notice is not within the area of the local authority;
  - 3. an application for building control approval, an initial notice or a public body’s notice has been given in relation to the work (or any part of it);
  - 4. the notice does not comply with the requirements of regulation 19B (regulator’s notices: content of notices).

129. Rejections for a regulator's notice can be appealed, but only within 21 days of the rejection notice being issued.

*New procedures for building control approval applications for non-higher-risk buildings*

130. To maintain consistency with the minimum requirements for higher-risk buildings, the current requirement for deposit of plans will be replaced with an application for building control approval. An application for building control approval with full plans must be made in writing and signed by the person making the application. The application will include basic details, such as name and address, as well as current and proposed details of the building, and plans showing the process being proposed.

*Definition of commencement*

131. Currently, the definition of commencement is not sufficiently clear and allows for very minor works on site to count as the site being commenced. We want to ensure dutyholders demonstrate that sufficient work has been carried out to retain their building control approval and prevent them beginning minor tasks to claim they have “commenced” and then building to meet old standards many years later.

*Definition of commencement - non-higher-risk buildings*

132. Where building work consists of the construction of a non-higher-risk building, or the horizontal extension of a non-higher-risk building, work is to be regarded as commenced when the sub-surface structure of the building or the extension including all foundations, any basement level (if any) and the structure of ground floor level is completed.

*Definition of Commencement - higher-risk buildings*

133. Where the work consists of the construction of a higher-risk building, work is to be regarded as commenced in relation to that building, or the first stage of building work for that building, when the foundations supporting the building and the structure of the lowest floor level of that building (but not the other buildings or structures to be supported by those foundations) are completed.

*Definition of Commencement – other building work*

134. Where the work consists of any other building work, work is to be regarded as commenced when at least 15% of the work specified in the approved plans for the building work is completed.

*Lapse of approval*

135. The regulations provide for building control approval to automatically lapse after three years from the date the building control approval was granted, where projects have not met the definition of commencement. If the dutyholder cannot demonstrate a project has commenced according to the definition within three years from the date the building control approval was granted, they will have to apply for building control approval again and comply with the building regulations in place at that time. This replaces the current system where the lapse was not automatic and required local authorities to notify and enforce. This will reduce the workload for local authorities and give developers more certainty about when the approval will lapse, while ensuring buildings are built to current standards.

*Transitional Provisions (non-higher-risk buildings)*

136. There will be transitional arrangements for non-higher-risk buildings, after plans have been accepted that building work must start on site. If an application has not been submitted or work has not started on site within 6 months, a new building control approval application must be made, and the new procedures and requirements will apply.

*Extending scope of Regulation 38 of the 2010 Regulations to cover all building work considered material alteration*

137. Work carried out under competent persons and other third-party scheme arrangements will require competent person scheme installers to pass on information set out in Regulation 38 to the Responsible Person. This must be done within 30 days of the installation being completed. This is only where work has implications for compliance with the requirements of Part B 2010 Regulations.



138. For other non-higher-risk building work, the person carrying out the works must notify the local authority on its completion, or prior to occupation (whichever is earliest), that they have sent the regulation 38 information to the Responsible Person.
139. This will strengthen fire safety information handover, to make the process more robust, for buildings where the Fire Safety Order applies. This will include handing over the information earlier in the process, gaining confirmation from the person who receives the information that it is sufficient to enable them to understand, operate and maintain the building, and giving notice to the relevant authority that the transfer of information has taken place.

*Revoking Article 45 of the Fire Safety Order and consolidating consultation requirements with Fire and Rescue Authorities in the 2010 Regulations*

140. As provided for in the 2022 Act, we are revoking Article 45 of the Fire Safety Order and amending regulation 15 in the 2010 Regulations to set out consultation requirements between building control authorities (including the Regulator when overseeing a regulator's notice), and Fire and Rescue Authorities on non-higher-risk building work to which the Fire Safety Order applies, or will apply, on completion.
141. In separate commencement regulations the Department intends to commence section 33 (testing) of the 1984 Act. Once section 33 is commenced Article 45 of the Fire Safety Order and the 2010 Regulations are no longer needed.
142. We are providing for new consultation requirements which will apply when erecting, extending or make any structural alteration to a building to which the Fire Safety Order applies, or will apply, after completion of the work, or when changing the use of a building to which the Fire Safety Order applies, or will apply, after the change of use. Where this applies the relevant building control authority must consult the enforcing authority before determining the application for building control approval with full plans given to the relevant authority.

**Summary and preferred option with description of implementation plan**

143. We are implementing these reforms through secondary legislation.
144. The requirements provided for by the Building (Higher-Risk Building Procedures) Regulations 2023 and the Building Regulation etc. (Amendment) (England) Regulations 2023 will come into force on 1 October 2023, and the Regulator will be responsible for the ongoing operation and enforcement of the new requirements. These regulations have been developed following extensive engagement with industry, pre-legislative scrutiny, scrutiny during the passage of the 2022 Act and two public consultations: one on the policy and proposals for the Building Safety Act 2022 and more recently on the policy and proposals for the Regulations. Our continued engagement with industry and affected stakeholders will ensure that the statutory duties can be complied with as soon as the regime comes into effect in October 2023.

145. There will be specific transitional arrangements for certain buildings which have already submitted an initial notice and started the design and construction process. These are outlined in the policy section of this document above.

## Monetised and non-monetised costs and benefits

### Total costs and benefits

146. Table 1 below presents the total estimated costs of part 3 of the 2022 Act. These estimated costs represent the ‘first-order’ costs. These figures are an estimation of the total that is initially incurred by industry or the Regulator over the 15-year appraisal period. The Regulator intends to operate a cost recovery model and will pass the majority of its costs on to industry (see the ‘Costs to the regulator’ section below for more detail). The costs to the Regulator included in the table below are gross costs, before cost recovery has been factored in.

147. We have not included the benefits in this table, as the benefits are estimated for the regime in its entirety, covering both the regulations being made under part 3 of the 2022 Act (considered in this Impact Assessment) and the Regulations being made under part 4 of the 2022 Act (covered in a separate Impact Assessment). The benefits cannot be disaggregated between Parts 3 and 4, and we have not included them in the total assessment of net present value (NPV) for this Impact Assessment. For a full assessment of the NPV across Parts 3 and 4, including the benefits, see table 31 below.

**Table 1:** Total costs and benefits

	Total costs and benefits (NPV) (£m)		
	Low	Central	High
Costs to industry	£619.9	£907.0	£1,220.0
Costs to the Regulator <sup>2</sup>	£605.7	£607.7	£610.3
Benefits	See table 26	See table 26	See table 26
<b>Total</b>	<b>£1,225.6</b>	<b>£1,514.7</b>	<b>£1,830.3</b>

### General Assumptions

148. While many of the individual (policy) areas in the following sections will have their own assumptions (set out below for those areas) there are some broad assumptions that affect cost estimates for most, if not all, of the new regime.

#### *Building Numbers*

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<sup>2</sup> Regulator costs have been presented for a central scenario only for higher risk buildings. This is to maintain consistency with the internal business case. These figures are informed by HSE analysis. Costs to the regulator also include costs to local authorities for changes to enforcement and appeals related to non-higher risk building work. These costs are estimated to be £3.3m to £7.9m with a central estimate of £5.4m in NPV terms.

149. The Department's published figures on the number of high-rise residential buildings estimate that as of April 2020 there were 12,500<sup>3</sup> buildings which are at least 18 metres in height in England. Using this figure as a base, we combined planning data and Office for Budget Responsibility (OBR) housing stock projections<sup>4</sup> to estimate the number of new buildings being completed each year (and, therefore, the estimated stock of buildings at least 18 metres). The number of new building completions is held constant after 2030, due to the uncertainty of projecting past this point. Table 2 below presents the building stock estimates. We estimate that, on average, there will be 430 new buildings completed per year over the appraisal period (15 years). Both industry and Regulator cost sections use the same building number assumptions.

150. We have used two and a half years as our estimate for the average amount of time it takes for a building of at least 18 metres to go through the design and construction process. We estimate the number of buildings that begin work each year (and, therefore, will go through the new building control regime for higher-risk buildings) by taking our estimates of building completions and counting back by two and a half years (to account for the build time). These new building starts are used to estimate the number of buildings at each gateway stage, and therefore the costs to industry of going through the building control process. New building start estimates<sup>5</sup> can be found in table 3 below.

**Table 2: Building Stock Estimates**

Year	2020	2021	2022	2023	2024	2025	2026	2027	2028
Building Stock	12,500 <sup>6</sup>	12,900	13,300	13,800	14,200	14,600	15,000	15,300	15,700
Year	2029	2030	2031	2032	2033	2034	2035	2036	2037
Building Stock	16,200	16,600	17,100	17,500	18,000	18,400	18,900	19,400	19,800

**Table 1: New building start estimates**

Year	2023	2024	2025	2026	2027	2028	2029	2030
New building starts <sup>7</sup>	360	380	420	440	450	460	460	460
Year	2031	2032	2033	2034	2035	2036	2037	
New building starts	460	460	460	460	460	460	460	

<sup>3</sup>Building Safety Programme Monthly Data Release England: February 2023  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1143191/Building\\_Safety\\_Data\\_Release\\_February\\_2023.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1143191/Building_Safety_Data_Release_February_2023.pdf)

<sup>4</sup> OBR Economic and fiscal outlook – November 2022 <https://obr.uk/efo/economic-and-fiscal-outlook-november-2022/>

<sup>5</sup> The new building start estimates are based on current understanding and expectations. The actual number may be different in practice, and we have not assumed any potential behavioural shifts in response to the regulations, such as industry building several storeys/metres lower to avoid the regime.

<sup>6</sup> Figures in this table are rounded to the nearest hundred

<sup>7</sup> Figures in this table are rounded to the nearest ten

## *Regulator Cost Recovery*

151. The costs presented in the industry section below are the cost estimates for industry to comply with the Regulations. They do not include any additional fees or charges that will be levied by the Regulator (cost recovery) and represent the costs that fall initially on industry. The Regulator intends to operate at a 90% cost recovery rate across activities related to managing building safety in higher-risk buildings from 2024/25 onwards. The cost recovery rate for the operational Regulator across all areas of delivery is 75% across the period 23/24 to 29/30. The Regulator will pass these operating costs on to industry via fees and charges. This Impact Assessment has not assessed the specifics of those fees and charges.

## *Price year, present value year and appraisal period*

152. All the costs and benefits presented in the following analysis are in real terms, and in 2019 prices. The base year for the PV (present value) calculations is 2023 (the beginning of the appraisal period), and a discount rate of 3.5% has been applied (except for some specific benefits, as mentioned below).

153. The appraisal period for the costs is 15 years.

154. The benefit estimates have been calculated over a 75-year appraisal period. This includes benefits experienced in the 15-year policy appraisal period (equal to that used to estimate costs) and benefits that may persist over the lifespan of a building, assumed to be 60 years. This is to best capture all the benefits and reflects the Green Book guidance on 'persistence' of benefits. For example, benefits associated with residents' engagement are likely to last the 15-year policy period (or for a brief period thereafter), while improvements in the construction quality of new buildings will likely last the lifespan of the building. For the first 30 years of the appraisal period, a discount rate of 3.5% has been applied to costs and non-health related benefits and 1.5% to health-related benefits. For the subsequent 45 years, 3% and 1.29% discount rates have been applied respectively. This is in line with guidance in HM Treasury's Green Book<sup>8</sup>.

## **Costs to Industry**

### *Total Cost to Industry*

155. Table 4 below presents the total cost to industry. The costs in the table have been presented in both equivalent annual cost (EAC) and net present value (NPV) terms.

**Table 4:** Total industry costs, annual and net present value<sup>9</sup>

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<sup>8</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/685903/The\\_Green\\_Book.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/685903/The_Green_Book.pdf)

<sup>9</sup> Figures may not sum due to rounding

	Annual cost (EAC) (£m)		
	Low	Central	High
Dutyholder roles and responsibilities	£18.4	£23.1	£27.9
Gateways (new buildings)	£17.0	£28.3	£39.7
Building work in existing higher-risk buildings (refurbishments)	£7.5	£12.5	£17.4
Golden Thread	£2.7	£4.4	£6.6
Mandatory Occurrence Reporting	£0.1	£0.1	£0.1
Enforcement	£0.5	£0.6	£0.8
Appeals	£0.3	£0.7	£1.2
Hospitals	£0.4	£0.5	£0.6
Transitional provisions	£3.0	£3.0	£3.0
Wider changes to building regulations	£0.01	£0.01	£0.02
General familiarisation <sup>10</sup>	£1.7	£3.4	£5.1
<b>Total</b>	<b>£51.4</b>	<b>£76.7</b>	<b>£102.3</b>
	<b>Total cost over appraisal period (NPV) (£m)</b>		
	<b>Low</b>	<b>Central</b>	<b>High</b>
Dutyholder roles and responsibilities	£218.8	£275.4	£332.1
Gateways	£202.1	£337.8	£473.6
Building work in existing higher-risk buildings (refurbishments)	£89.1	£148.4	£207.8
Golden Thread	£38.6	£46.1	£78.2
Mandatory Occurrence Reporting	£0.8	£1.1	£1.3

<sup>10</sup> This is to account for familiarisation that falls outside of any specific policy areas

Enforcement	£6.2	£7.7	£9.2
Appeals	£3.8	£8.5	£14.4
Hospitals	£4.5	£5.6	£6.8
Transitional provisions	£35.6	£35.6	£35.6
Wider changes to building regulations	£0.01	£0.02	£0.03
General familiarisation	£20.3	£40.5	£60.8
<b>Total</b>	<b>£619.9</b>	<b>£907.0</b>	<b>£1,222.0</b>

## General Industry Assumptions

156. In addition to the general assumptions set out above, there are a few assumptions that affect cost estimates for all the industry costs, but not costs related to the Regulator.

### *Wage rates*

157. A substantial portion of the resource burden on industry arises from the time required for the appropriate people to conduct the activities needed to meet the requirements of the regulations. As such, many of our estimates include the cost of individuals' time to conduct these activities. Estimates of wage rates for industry have been calculated using a combination of data from two sources. The first of these is wage rates for comparable roles (to those specified in the regulations, accountable person(s), etc.) gathered from the Annual Survey of Hours and Earnings (ASHE). The second is a call out rate for specific roles, obtained by external consultants from speaking to industry directly. The data from these two sources are combined to form a blended wage estimate. Wage costs are assumed to grow in line with inflation, so stay constant in real terms.

### *Section specific assumptions*

158. Assumptions in the industry costs section have been developed with extensive expert input from external consultants with industry experience.

### *Familiarisation*

159. Industry will need to ensure that they are familiar with the higher-risk regime, including the requirements and expectations of dutyholders, interactions with the Regulator and any guidance or published policy documents. The number of estimated persons that work on residential buildings at least 18 metres in height was derived from a series of assumptions including the total number of employees in specific

occupations<sup>11</sup>, estimated numbers working in construction, the number working on ADB<sup>12</sup> (approved document B) related work, as well as consultant assumptions on what proportion of these would be exposed to work in buildings at least 18 metres in height.

160. Exactly how individual dutyholders familiarise themselves may vary in practice, however, for the purposes of this assessment we have assumed it will fall into three broad areas: awareness raising within a firm, external events/training days and the costs of specific training. Table 5 below presents the total estimated cost of familiarisation. We assume the entire cost of familiarisation will fall in the first year<sup>13</sup> of the appraisal period (2023).

161. The changes introduced through the 2022 Act are part of the government’s wider programme of reform, which includes amending the Fire Safety Order, to ensure a disaster like the one at Grenfell tower is not repeated. To meet the requirements of this holistic package of changes, and in line with Dame Judith Hackitt’s challenge not to wait for legislation before taking action, industry has been preparing and adapting in advance. While the cross-government reforms are interconnected, our estimates only consider the costs of familiarisation with the 2022 Act.

**Table 5:** Breakdown of familiarisation costs to industry<sup>1415</sup>

	Cost (NPV) (£m)		
	Low	Central	High
Recruitment and training new staff	£1.6	£3.2	£4.8
Awareness raising within firm	£9.9	£19.8	£29.8
External events/training days	£2.9	£5.8	£8.7
Specific training	£17.5	£35.0	£52.5
<b>Total</b>	<b>£31.9</b>	<b>£63.8</b>	<b>£95.7</b>

162. The estimated recruitment costs presented above are the cost to developers of recruiting the additional staff required to ensure the principal designer and principal contractor roles can be filled. Dutyholder responsibilities create additional tasks and some of these will be completed by staff already in post, however, we expect the

<sup>11</sup> Taken from annual population survey and census data

<sup>12</sup> <https://www.gov.uk/government/publications/fire-safety-approved-document-b>

<sup>13</sup> With the exception of some recruitment costs, see below.

<sup>14</sup> Half of the costs of familiarisation for golden thread are captured in the part 4 Impact Assessment. (golden thread is split across parts 3 and 4, so its familiarisation is split between both Impact Assessments).

<sup>15</sup> Figures may not sum due to rounding



additional time taken to complete the tasks associated with the principal designer and principal contractor roles mean developers are likely to need to recruit new staff. New recruits will need to complete some training to work in the role. We expect these costs to be incurred in the first four years of the appraisal period.

163. We have split awareness raising within a firm into general familiarity and specific duties and requirements as set out in the 2022 Act and Regulations. General familiarity is required by all relevant occupations that would be affected by the regulations introduced under the 2022 Act, ranging from the clear cut (accountable persons, principal designer etc.) to the less obvious (housing officers, health and safety). We assume that nearly every relevant individual will spend, on average, 2 hours<sup>16</sup> familiarising themselves with the general changes to building safety requirements. For the specific obligations, we have made assumptions about the occupations that would need to ensure they are aware of the regulatory requirements relating to that area. This Impact Assessment only considers familiarisation costs for general requirements and the areas that relate to part 3, the design and construction stage of the regime<sup>17</sup>.

164. External events/training days are events where external expertise will be brought in (or individuals will attend training events at an external venue) to provide more detail on specific areas of the regime. We have assumed only a subset of person(s) from occupations relevant to the duties and requirements introduced by the 2022 Act and regulations will attend these events, and that these events will last either half a day or one day.

165. The fourth and final element of familiarisation is the cost of specific training individuals in certain roles will need to undertake. Although external events and training days will provide an overview of the areas comprising the regime, specific training will be needed to equip individuals with the knowledge and capabilities required to meet the specific requirements and duties in those areas. This training is likely to be bespoke/tailored, for example, how to progress through the building control process for the higher-risk regime.

166. The familiarisation cost for specific sections of the regime (where relevant) is presented in the relevant sections below (gateways, golden thread). When summing up total costs in table 4, these costs have been included in the totals of the policy area they relate to. General familiarisation costs in table 4 exclude these costs.

## **Dutyholder roles and responsibilities**

167. We estimate that over the 15-year appraisal period, the total cost to industry of dutyholder roles and responsibilities will be between £218.8m and £332.1m, with a central estimate of £275.4m, in present value (PV) terms. This equates to equivalent annual cost (EAC) of between £18.4m and £27.9m over the appraisal period. Table 6 below presents the cost estimates dutyholder roles and responsibilities.

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<sup>16</sup> The exceptions are 'Estate agents and Valuers' and 'Other professionals', who are estimated to spend an hour each.

<sup>17</sup> An assessment of the part 4 (in-occupation) familiarisation costs can be found in the part 4 Impact Assessment.

**Table 6:** Breakdown of dutyholder roles and responsibilities costs to industry<sup>18</sup>

	Cost (EAC) (£m)		
	Low	Central	High
All buildings	£8.5	£10.7	£12.8
Higher-risk buildings only	£8.7	£10.9	£13.0
Familiarisation	£1.1	£1.6	£2.0
<b>Total</b>	<b>£18.4</b>	<b>£23.1</b>	<b>£27.9</b>

168. In this section dutyholder roles and responsibilities have been split into additional tasks which need to be completed during the design and construction of all buildings and additional requirements during the design and construction of higher-risk buildings only.

### All buildings

169. This subsection refers to additional checks which must be completed to meet the dutyholder responsibilities during the design and construction of all buildings. However, only the costs of completing these checks during the design and construction of non-higher-risk building work are presented here. The cost of completing these checks during the design and construction of higher risk buildings is captured in the building control process for higher-risk buildings section below.

170. We estimate the total cost of dutyholder responsibilities during the design and construction of non-higher-risk buildings to be between £112.6m and £168.9m, with a central estimate of £140.8m, in PV terms over a 15-year appraisal period. This is equivalent to a cost of between £9.4m and £14.2m, per annum on an EAC basis.

**Table 7:** Breakdown of dutyholder roles and responsibilities costs to industry (All buildings)<sup>19</sup>

	Cost (EAC) (£m)		
	Low	Central	High
Additional checks	£8.5	£10.7	£12.8

<sup>18</sup> Figures may not sum due to rounding

<sup>19</sup> Figures may not sum due to rounding.

Familiarisation	£0.9	£1.1	£1.4
<b>Total</b>	<b>£9.4</b>	<b>£11.8</b>	<b>£14.2</b>

171. The costs presented above include the costs of familiarising with the new requirements, and transitional costs including amending scopes of services and contracts and having systems in place so that their work can be delivered in accordance with building regulations. We estimate these costs to be between £10.9m and £16.3m with a central estimate of £14.6m present value terms (£0.9m - £1.4m on an EAC basis).

172. Costs that arise annually because of the dutyholder requirements will result from the named dutyholders (principal designers, principal contractors, designers, contractors, and clients) completing additional checks of work to ensure that all work complies with building regulations.

173. We assume that approximately 43,000 development projects<sup>20</sup> per year will require additional time for competency checks to be completed. This is a comparison with what we believe currently happens in the sector where we assume that the checks which are set out in part 3 of the 2022 Act are already completed on some building projects.

174. We estimate that the new requirements will lead to dutyholders spending a total of 3.5 additional hours per development project completing additional checks on average. This time is broken down across the different dutyholders below.

175. The client must check the competency of those they appoint to ensure they have the right competence (skills, knowledge, experience, and behaviours) to do the work. Clients will need to challenge the systems and processes of those they appoint to ensure they can demonstrate compliance with all relevant requirements. We assume this will, on average, take an additional 2hrs per affected project.

176. The principal designer must collect information from designers which demonstrates their work complies with all relevant requirements. We assume this will, on average, take 0.5hrs per project. We assume it will take 0.25hrs for designers to provide this information.

177. The principal contractor must interpret plans and decide how to demonstrate they comply with all relevant requirements. We assume this will, on average, take 0.5hrs per project. We also assume it will take, on average, 0.25hrs per project for contractors to provide information showing that work complies with all relevant requirements.

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<sup>20</sup> This is a comparison with the counterfactual where we believe these checks are already carried out on a proportion of projects. The estimate is based on a breakdown by building type, for example, we estimate that 40% of single dwellings will require additional time to complete the checks and 80% of retail premises will require this additional time.

178. All the above time estimates are estimated averages and vary based on the type of project. For example, we have assumed extra time per dutyholder for more complex projects such as a block of flats, and less time for simpler projects such as single dwellings.

## Higher-risk buildings

179. We estimate that over the 15-year appraisal period, the total cost to industry of dutyholder roles and responsibilities for higher-risk buildings will be between £106.2m and £163.1m, with a central estimate of £134.7m, in present value (PV) terms. This equates to equivalent annual cost (EAC) of between £8.9m and £13.7m over the appraisal period. Table 8 presents these cost estimates below.

**Table 8:** Breakdown of dutyholder roles and responsibilities costs to industry (higher-risk buildings)<sup>21</sup>

	Cost (EAC) (£m)		
	Low	Central	High
Competency checks (new builds)	£3.4	£4.2	£5.0
Competency checks (building work on existing higher-risk buildings)	£4.5	£5.6	£6.8
Building handover (new builds)	£0.3	£0.4	£0.5
Building handover (building work on existing higher-risk buildings)	£0.5	£0.6	£0.7
Familiarisation	£0.2	£0.4	£0.6
<b>Total</b>	<b>£8.9</b>	<b>£11.3</b>	<b>£13.7</b>

180. During new higher risk building projects and building work in existing higher risk buildings the client, designer, principal designer and principal contractor and contractor

<sup>21</sup> Sum of individual costs and total may not match because figures have been rounded.

will incur costs because of the time required for the client to assess the competency of the other dutyholders. The estimated additional time per development project of carrying out these competency checks is set out in table 9 below.

**Table 9:** Additional time per development team

	Number of days			
	Client	Designer	Principal designer	Principal contractor
New builds (Year 1)	12.7	8.6	4	8.3
New builds (Year 2)	2.1	1.8	0.3	0
Building work in existing higher-risk buildings	12.7	8.6	4	8.3

181. Table 9 above presents the time, on average, we assume that each development team will spend undergoing and completing competency checks. Once employed, we assume that each development team will, on average, oversee 2 development projects. The number of days presented is a weighted average between the time taken for experienced, inexperienced and arm's length design teams. We expect the time taken to complete the tasks required will vary between the different design team structures.

182. The estimated additional time per dutyholder presented in table 9 and described below is based on how we expect industry to implement the dutyholder responsibilities, however, the process set out is not mandatory. The client could follow a different process to assess the competency of the dutyholders they appoint, providing the requirements are met. For example, we have assumed that the client will interview other dutyholders before appointing them to the role and designers will assemble an annual pack of information, although these are not a requirement of the regulations. We have assumed that the time estimates provided represent a reasonable estimate of the additional time required per development project, even if a different process is followed.

183. Additional tasks for the client include assessing the competency of designers, principal designers, and principal contractors, including whether those they intend to appoint have had a serious infraction within the previous 5 years, whether this brings into question their competence for the work they are to undertake, and if mitigations are needed. Establishing this will involve corresponding with those they intend to appoint and considering their suitability for the role.

184. We expect designers to prepare an initial submission and attend an interview to demonstrate their competence to the client. Following this, we expect the designer will assemble a pack of information annually, which demonstrates their continued competency to perform the role.

185. We expect that principal designers will prepare an initial submission and may attend an interview to demonstrate their competence to the client. This will allow them to join the competency framework which the client has in place. We expect the principal designer will assemble a pack of information, annually, which demonstrates their continued competency.
186. We expect principal contractors to spend time corresponding with the client before attending an interview. They will also need to perform a detailed review of the specification for the job.
187. There will be further costs in the handover of buildings at the end of the construction phase. We estimate this will take 1 additional day (7.5 hours) of accountable person/ Responsible Person (where needed), and one other staff member's time. This is time that is additional to the time taken to complete the handover of buildings presently.
188. At the end of the construction phase, the client is expected to pass-on ownership of the building to a new dutyholder. For residential buildings this will be an accountable person(s). The handover stage involves the client transferring the datasets and information required as part of their duties under part 3 of the Act. This information and datasets will be transferred to the accountable person or Responsible Person who will be responsible for managing the building during the occupation phase.

## Familiarisation

189. We have assumed a one-off familiarisation cost to industry that can be associated with dutyholder requirements during higher-risk building work, estimated to be between £2.6m and £7.7m with a central estimate of £5.1m in present value terms (£0.2m - £0.6m on an EAC basis). This cost is assumed to be incurred in year 1 and covers raising awareness within firms of the policy change and employees attending external events to become familiar with the new policy.

## The building control process for higher-risk buildings

190. We estimate that over the 15-year appraisal period, the total cost to industry of the building control process for new higher-risk buildings will be between £202.1m and £473.6m, with a central estimate of £337.8m, in present value (PV) terms. This equates to equivalent annual cost (EAC) of between £17.0m and £39.7m over the appraisal period. Table 10 below presents the cost estimates for the gateways process.

**Table 10:** Estimated total cost of the building control process for new higher-risk buildings

Annual Cost (EAC) (£m)		
Low	Central	High

Gateway two	£5.4	£8.9	£12.5
Gateways two – three (during construction)	£9.3	£15.5	£21.7
Gateway three	£2.0	£3.4	£4.7
Familiarisation	£0.3	£0.5	£0.8
<b>Total</b>	<b>£17.0</b>	<b>£28.3</b>	<b>£39.7</b>

## Familiarisation

191. We have assumed a one-off familiarisation cost to industry that can be associated with gateways, estimated to be between £3.1m and £9.2m with a central estimate of £6.1m in present value terms (£0.3m - £0.8m on an EAC basis). This cost is assumed to be incurred in year 1 and covers raising awareness within firms of the policy change and employees attending external events to become familiar with the new policy.

192. The building control approval application stage at gateway two and the completion certificate application stage at gateway three represent hard stops, and impose different requirements that industry must fulfil before they are able to progress. The building control process for higher-risk buildings (gateways two and three) section above provides more detail on the specifics of what developers will be required to provide. The following sections go into detail on the cost estimates for each of the gateways, and table 11 below presents a time estimate (in hours) for an average building to progress through the building control process. These estimated figures represent an average building, and the time it takes may vary substantially between buildings. The time and cost estimates are for the additional time to meet the requirements of the higher-risk regime, and do not include the time and cost that is incurred under the current regime.

**Table 11:** Estimated time to progress through building control process (gateways)

	Time taken (hours)		
	Low	Central	High
Pre-application meeting <sup>22</sup>	9	15	21
Building control approval application stage at gateway two	188	313	439

<sup>22</sup> The pre-application hours here are included as indicative timings should a dutyholder wish to utilise it. Costs for pre-application meetings have not been included in the total cost estimates.

Change control between gateways two – three (during construction)	513	856	1,198
Completion certificate application stage at gateway three	98	164	230
<b>Total</b>	<b>809</b>	<b>1,348</b>	<b>1,888</b>

### **Pre-application meeting/gateway one – two**

193. Early advice may benefit dutyholders that are required to go through the higher-risk building control process. The Regulator will be able to provide discretionary advice prior to the submission of a building control approval application at gateway two submissions at the request of dutyholders. Pre-application meetings are not a mandatory requirement and, as such, have not been included in the cost estimates for this Impact Assessment. They will, however, be heavily encouraged and we expect substantial uptake by industry, particularly in the formative years of the new regime.

194. If a developer decides to conduct a pre-application meeting, it would mean a meeting between the principal designer of the project, representatives from the Regulator, local building control and Fire and Rescue Services. We have assumed that it will take between 1.2 days (9 hours) and 2.8 days (21 hours), with a central estimate of 2 days (15 hours) of the principal designer’s time to attend the meeting and complete subsequent correspondence. We estimate that it will cost the developer £1,100 (the time cost from attending the meetings).

### **Applications for building control approval – “gateway two”**

195. We estimate that over the 15-year appraisal period, the total cost to industry of the building control approval application stage at gateway two will be between £63.8m and £149m, with a central estimate of £106.4m, in present value (PV) terms. This equates to equivalent annual cost (EAC) of between £5.4m and £12.5m over the appraisal period.

196. The requirement to submit an application for building control approval at gateway two replaces the building control ‘deposit of plans’ stage under the current regime, and the time and effort costed here is additional to what is currently required. The analysis assumes that it will take an estimated 42 days (313 hours) (including a full review of plans) to prepare the application and prescribed documents for submission and submit information at gateway two. This is inclusive of 15 hours to prepare a description of the partial completion strategy, if desired; should this not be required, the time to prepare the application will be 40 days (298 hours).

197. Where a staged approach to submitting a building control approval application at gateway two is proposed, dutyholders must still provide a comprehensive application with plans and all prescribed documents, as well as a staged work statement providing a detailed description of the proposed stages of the work if appropriate. The detailed plans and the building regulations compliance statement included in the application need only show how the work up to the specified stage would comply with all building



regulation requirements but must be accompanied by outline plans for the whole building. We expect that the staged approach will only be a feasible option for complex developments. For the purposes of this analysis, we have assumed that all dutyholders will submit a full plans application before construction begins.

### **During construction (in between gateways two and three)**

198. We estimate that during construction, gateways' requirements will cost Industry between £111.1m and £259.2m, with a central estimate of £185.2m, in PV terms over the 15-year appraisal period and between £9.3m and £21.7m, on an EAC basis. This cost includes both site inspections and the change control process.

199. We assume that there will be additional<sup>23</sup> site inspections throughout the construction phase. We estimate that the principal designer (site inspector) will spend 1 day a week undertaking site inspections (780 hours per building on average), on top of the 2.5 days a week of inspections they already do. This is to provide assurance that the work of the principal contractor and any sub-contractors is compliant, and that construction is following the agreed plans.

### **Change control**

200. During the construction phase, dutyholders will be required to comply with the change control process by either i) making a change control application and waiting for building control approval if the change is major ii) notifying the Regulator if the change is notifiable before making the change or iii) for changes which are not major or notifiable, recording them in the change control log before making the change. The Regulator does not need to be notified of these 'recorded' changes.

201. The change control plan is a prescribed document to be shared with the Regulator at gateway two – this is expected to take 6 hours of industry time to prepare and is included in the time estimates in paragraph 195.

202. Due to the nature of the types of changes in each category, we estimate that there will be, on average, 4 major changes, 4 notifiable changes and 17.5 recorded changes per building. We have assumed that 1 notifiable change would be considered to be major by the Regulator, and our analysis includes that change in the number of major changes per building.

203. For major changes, a change control application in writing to the Regulator is expected to take 8 hours of industry time per change, so on average 32 hours per building.

204. Where the Regulator has made a decision on a change control application for a major change, we estimate it will take, on average, 2.5 hours for industry to review the response and respond where necessary.

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<sup>23</sup> Additional to what happens under the current regime

205. We estimate that the time taken for industry to submit a notification of a notifiable change to be shorter than for a major change, taking 4 hours per change, so on average 16 hours per building.

206. We expect that 40% of notifiable works will be responded to by the Regulator. In these cases, we expect the Regulator to request more information. When they do, we expect that industry will use 2.5 hours per change to respond and, on average, 5 hours per building.

207. The change control log should be created before construction begins – this is expected to take 1 hour of industry time per building and should occur between gateways two and three. All three types of change then also require record-keeping in the change control log, which is expected to take 0.5 hours per change in all instances.

### **Completion certificate applications – “gateway three”**

208. We estimate that over the 15-year appraisal period, the total cost to industry of gateway three will be between £24.1m and £56.1m, with a central estimate of £40.1m, in present value (PV) terms. This equates to equivalent annual cost (EAC) of between £2.0m and £4.7m over the appraisal period.

209. Once the construction stage has been completed, a building can move on to completion (gateway three). The requirement to submit a completion certificate application at gateway three replaces the current completion certificate and final certificate stage, and the time and effort costed here is additional to what is currently required. We estimate that a completion certificate application and the activities at gateway three will require an average of 22 days (164 hours) of industry time. The time taken at the completion certificate application stage at gateway three includes (but is not limited to) the preparation of prescribed documents, review and submission of those documents, and time for final inspections.

### **Partial completion**

210. Partial completion will be permitted for higher-risk buildings and phases of occupation will be project specific but must never come at the expense of resident safety. The Regulator will be able to permit partial completion in higher-risk building on a case-by-case basis, when it is satisfied that specific safeguards have been met. Where partial completion is sought, a partial completion certificate application must be submitted when work on the relevant part or parts of the building is complete. The application will need to include updated plans and prescribed documents reflecting the as-built building work. Under the higher-risk regime, we expect partial completion to be considered a viable option for complex higher-risk buildings, such as where there are multiple towers are built on one shared podium.

211. Based on an analysis of planning data we estimate that 6% of all higher-risk buildings being constructed will be multiple towers on one shared podium. Podiums with

multiple towers have an average of three towers. The towers are likely to be constructed one by one, and the developer may wish to utilise partial completion. We assume that in all instances of multiple towers on one podium, the developer wishes to make use of a partial completion strategy. Therefore, we assume that 4% of all towers ( $\frac{2}{3}$  of the 6%, representing towers two and three) will be towers constructed on podiums after the first tower on that podium has been completed.

212. We assume that the building control process for additional towers on a shared podium to be largely similar to the first tower, but with some time savings. These reductions feed into the summary costs for gateways.

### **Cost estimates for the risk of additional time needed to meet 'gateway' requirements**

213. In discussions with stakeholders, many have raised concerns about the additional time needed to meet the requirements of the gateways process prior to construction commencing as the higher-risk regime will introduce new requirements for dutyholders to meet and a 'hard stop' where building work cannot legally commence without approval from the Regulator. We expect stakeholders to factor the additional requirements into their development planning and use the time between the approval of their planning application at gateway one and the submission of their building control approval application at gateway two, to be ready to meet these new requirements in a quick and efficient manner.

214. Nonetheless, we expect that for higher-risk building work under the new gateways process, dutyholders may expend additional time when collating the necessary information and putting in place sufficient processes in order to meet the new requirements. This additional time is more likely to be needed when completing an application building control approval application at gateway two, particularly in the formative years of the higher-risk regime when dutyholders are beginning to recalibrate their working practices to accommodate for the new requirements. This additional time may create knock-on impacts in terms of the time it takes to complete the entire schedule of works for these projects, which will come at a cost to dutyholders. We expect that this could cost around £150 per flat per week. This results in a per building delay cost of around £10,000 per week. However, this figure may increase should additional time be required on completion of building work that delays the selling and occupation of the building.

215. The requirements of the higher-risk regime should, however, mean dutyholders get things right earlier in the design and construction phase, which should reduce additional time and costs at later stages, including the need to correct non-compliant or defective work. The Regulator will also have statutory time-limits to determine the applications required at gateway two and gateway three, with the ability to agree extensions if needed.

216. These illustrative costings remain uncertain, and it is not yet clear how many projects might experience delays. We have therefore not included an estimate for delays in our summary of total costs to industry.

## Building work in existing higher-risk buildings

217. We estimate that over the 15-year appraisal period, duties linked to building work in existing higher-risk buildings (refurbishments) will cost industry between £89.1m and £207.8m, with a central estimate of £148.4m, in PV terms over the 15-year appraisal period and between £7.5m and £17.4m, on an EAC basis.

**Table 12:** Estimated total cost of building control approval for building work in existing higher-risk buildings

	Annual Cost (EAC) (£m)		
	Low	Central	High
Pre-application meeting	-	-	-
Building control approval application for work in an existing higher-risk building	£3.7	£6.1	£8.6
During construction	£1.5	£2.5	£3.5
Completion certificate application	£2.3	£3.8	£5.3
<b>Total</b>	<b>£7.5</b>	<b>£12.5</b>	<b>£17.4</b>

218. Under the higher-risk regime, there will be three main approaches to building work in existing higher-risk buildings: those works carried out under a third-party certification scheme, works carried out under the competent person scheme (CPS) and the building control application route. The latter category requires a building control approval application to the Regulator and splits building work into Category A and Category B, dependent on the nature of the work. Category A requires a more extensive approach to the process, with the submission of prescribed documents similar to a gateway two application, whereas Category B requires a lighter touch approach in terms of the documents which accompany an application. Category B is a catch all category for any work that does not fall under Category A and does not require the prescribed documents (unless the Regulator asks for them), however, compliance with all relevant building regulation requirements will need to be demonstrated.

219. We assume that 4% of existing buildings will undertake building work which requires an application to the Regulator (an average of 670 works per year over the appraisal period).

220. Those building works in Category A always require full plans, a competence declaration, a construction control plan, a building regulations compliance statement, a fire and emergency file, a change control plan, a mandatory occurrence reporting plan, a partial completion strategy (if applicable) as part of the application. Once building work is complete, a completion certificate application is required, however, as work in an existing building may be undertaken while the building remains occupied, unlike work to create a new higher-risk building, a completion certificate application won't act as a hard stop in the same way.

221. The table below presents the time estimates to progress through building control approval for work in an existing higher-risk building. There is no pre-application meeting assumed for refurbishments. In the central scenario the analysis assumes that this type of building work will require 20 days (153 hours) of industry time for the building control application, 11 days (86 hours) during the building work, and 15 days (113 hours) for a completion certificate application. The difference in time for new buildings and building work in existing buildings is driven by a substantial gap between the inspection time required during construction.

**Table 13:** Estimated time to progress through building control approval for building work in existing higher-risk buildings

	Time taken (hours)		
	Low	Central	High
Pre-application meeting	-	-	-
Building control approval application for work in an existing higher-risk building	92	153	214
During construction	51	86	120
Completion certificate application	68	113	158
<b>Total</b>	<b>211</b>	<b>351</b>	<b>492</b>

222. Building works in Category B require none of the prescribed documents, but the applicant must demonstrate the proposed work will comply with all relevant requirements of the building regulations. We expect that the only types of work that will fall outside of Category A (and therefore in Category B) are certain instances of roof work (where it is not being done as part of wider Category A work). We estimate this to be roughly 3% of the higher-risk building stock per year. What is required to be submitted to the Regulator for Category B works is very similar to that required under the current regime and, therefore, we have not estimated any additional time or cost for Category B works.
223. Building work in existing buildings covered by the competent person scheme will also require that the Regulator is notified on completion of the building work. We have assumed an average of 8.5 works of this type per building per annum. Under the current regime, the installer must give the occupier a certificate and notify the local authority of completion; we have, therefore, not included additional time in the analysis for industry to notify the Regulator.
224. Building work in existing buildings covered by a third-party certification scheme will require the scheme operator to notify the work to the Regulator. This is already required under the current regime and, therefore, we have not modelled any additional time for building work covered by a third-party scheme.

**Regularisation**

225. Regularisation refers to the process of certifying building works that have been carried out without building control approval. The process enables the submission of a retrospective application relating to the previously unauthorised works.
226. Under part 3 of the 2022 Act the owner of the property will need to apply for a regularisation certificate through the Regulator instead of applying through the local authority as is the current process. Following the changes, we expect industry will follow a similar procedure and have, therefore, not assumed any additional costs due to the changes being brought in.

**Golden Thread**

227. We estimate that over the 15-year appraisal period, the total cost of the golden thread to industry will be between £38.6m and £78.2m, with a central estimate of £46.1m, in present value (PV) terms. This equates to equivalent annual cost (EAC) of between £2.7m and £6.6m over the appraisal period. The breakdown of golden thread costs to industry can be found in Table 14 below. The costs in the table below are for both new buildings and work on existing higher-risk buildings.

**Table 14:** Breakdown of golden thread costs to industry<sup>24</sup>

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<sup>24</sup> Figures may not sum due to rounding

	Annual Cost (EAC) (£m)		
	Low	Central	High
COBie setup (including co-ordinating, managing and handling data received from suppliers and contractors)	£1.2	£1.8	£2.5
Software, training and data entry	£1.3	£2.4	£3.8
Familiarisation costs <sup>25</sup>	£0.1	£0.2	£0.3
<b>Total</b>	<b>£2.7</b>	<b>£4.4</b>	<b>£6.6</b>

228. The costs in the following section only relate to buildings whilst they are under construction. Golden thread costs that arise during the in-occupation stage have been considered in a separate, part 4 Impact Assessment.

## Familiarisation

229. We also assume a one-off familiarisation cost to industry associated with the golden thread of information, estimated to be between £1.3m and £3.9m with a central estimate of £2.6m in present value terms (£0.1m - £0.3m on an EAC basis). This cost is assumed to be incurred in year 1 and covers raising awareness within firms of the policy change and employees attending external events to become familiar with the new policy.

## New builds

230. We assume that firms that already comply with Building Information Modelling level 1 standards, by using a Common Data Environment and complete COBie files, will not incur any additional costs (due to the expectation that they already meet proposed standards). We estimate that firms that do not currently meet these standards will face additional costs for digitalising information, estimated to be £5,000 - £7,000 per affected building. This includes (but is not limited to) setting up a COBie file, setting up some form of shared information storage and management system, coordinating, managing and

<sup>25</sup> Half of the costs of familiarisation for golden thread are captured in the part 4 Impact Assessment.

handling data received from contractors/suppliers, software costs, and training to use the appropriate software.

231. Whilst this method will not be employed by all building owners, we have assumed it represents an average of what building owners will use to create and track their golden thread information. In practice, any functional system can be used if it is digital, information is being tracked and information can be securely and efficiently accessed, shared and stored,

232. We have also modelled the cost for dutyholders on all new higher-risk projects to fill out a COBie file during construction for handover at project completion. This method will allow dutyholders in the occupation stage to access “as built” information on their buildings using their choice of software. We estimate this will cost £4,000 - £8,000 per building, due to the time taken for data entry. Again, while this method of information exchange will not be employed by all building owners, we have assumed it represents a useful estimate for costs, as COBie is a recognised method of transferring information.

### **Building work in existing higher-risk buildings (refurbishments)**

233. The requirements for carrying out category A work in an existing higher-risk building are comparable to those for new higher-risk buildings. We assume, as a minimum, BIM level 1 standards will have to be used, and documents required for building control approval applications and completion certificate applications will have to be digitalised, including building data being in a COBie format for handover. As with new higher-risk buildings, there will not be additional costs for projects which already use a Common Data Environment and fill out a COBie file. However, projects not yet meeting this standard will incur an estimated additional cost for complying of £5,000 - £8,000. The costs differ from new buildings because refurbishments are typically shorter projects and, therefore, have lower software license costs and require less data entry.

234. Again, in practice although any functional system can be used, we have assumed this represents an average of what building owners will use for their golden thread information during a refurbishment project.

### **Mandatory Occurrence Reporting**

235. We estimate that over the 15-year appraisal period, the total cost to industry of mandatory occurrence reporting (MOR) during the design and construction phases will be between £0.8m and £1.3m, with a central estimate of £1.1m, in present value (PV) terms. This equates to equivalent annual cost (EAC) of between £0.07m and £0.1m over the appraisal period. These costs are broken down in table 15 below.

**Table 15:** Breakdown of mandatory occurrence reporting (MOR) costs<sup>26</sup>

<b>Annual Cost (EAC) (£m)</b>
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<sup>26</sup> Figures may not sum due to rounding



	Low	Central	High
MOR – New buildings	£0.05	£0.06	£0.07
MOR – Building work in existing higher-risk buildings	£0.03	£0.03	£0.04
<b>Total</b>	<b>£0.1</b>	<b>£0.1</b>	<b>£0.1</b>

236. Mandatory occurrence reporting or “near miss reporting” is common in other sectors including the Civil Aviation Authority. There are no specific familiarisation costs for this requirement, as familiarising with the requirements is captured in the general familiarisation costs.

237. In the analysis mandatory occurrence reporting is broken down into reporting of safety occurrences during new build higher-risk building projects, work on existing higher-risk buildings (that goes through building control) and existing buildings (in-occupation). This Impact Assessment focuses on part 3 (design and construction)<sup>27</sup> and, therefore, will only consider mandatory occurrence reporting for new buildings and work on existing higher-risk buildings during the design and construction stages.

238. The analysis assumes that there will be an average<sup>28</sup> of approximately 850 instances of reporting per annum for new build constructions, and around 500 for building work in existing higher-risk buildings.

239. The reports can be made for a number of reasons and by any relevant person on the site of the building. Table 16 below presents our assumptions on the proportion of buildings that we expect to encounter each type of report, and how many reports we expect them to receive per annum. These assumptions drive the total number of instances reported per annum.

**Table 16: Incidence of mandatory occurrence reports**

	Proportion of buildings where issues reported annum	Number of reports per building annum <sup>29</sup>
<b>Design</b>		

<sup>27</sup> The impacts of mandatory reporting for existing buildings has been covered in a separate, 4 Impact Assessment

<sup>28</sup> Average over the 15-year appraisal period

<sup>29</sup> The figures in this column are the number of reports for a building where an issue is reported. For the first row, it is one report per annum in the 15% of buildings that make reports.

Design issues not identified by the design risk management process	15%	1
<b>Product Specification and Installation</b>		
Misleading or inaccurate product literature in respect of fire and structural safety	3%	1
Substandard products delivered to site with fire and structural safety implications	3%	2
Unreported major change from classified product (not reported under Change Control)	5%	2
<b>Construction</b>		
Inadequate installation of products and materials relating to fire and structural safety.	15%	2
Installation of materials with inadequate fire or structural performance	8%	1.5
Inadequate or unsafe means of horizontal or vertical escape	1%	1
Construction of unstable masonry walls	1%	1

240. The analysis assumes that instances are dealt with through a single report that will take on average 0.5hrs of a dutyholder's time to report to the lead dutyholder and then 1 hour of the lead dutyholder's time to report to the Regulator.

### Transitional provisions (higher-risk buildings)

241. Prior to the introduction of the higher-risk regime in October 2023, there will be building projects that have already deposited their full plans or given an initial notice to the local authority and started the design and construction process. These building projects will be eligible for transitional arrangements which will allow certain development projects to continue under local authority building control or private sector building control. These projects have not been included within the original assessment of the part 3 higher-risk regime. This has instead been estimated below.

242. The analysis below estimates the amount of higher-risk building projects that will enter each of the individual routes laid out in paragraph 108 above, split between the six different routes that take place.

243. Some higher-risk building work will fail to deposit their plans or given their initial notice to the local authority before 1<sup>st</sup> October 2023. These projects will be ineligible for the transitional arrangements (Route 1). Around 2,800 higher-risk buildings<sup>30</sup> (c.1200 new builds, c.1600 building works on existing higher-risk buildings) are expected to have either deposited their full plans with or given their initial notice to a local authority across October 2020/21 to October 2023/24, split equally between local authority building control and approved inspectors. 85% of which are expected to meet the definition of "sufficiently progressed" (Route 2), and 15% failing to meet it. This is based on the

<sup>30</sup> This estimate is based on our estimates of expected starts across 2020/21 to 2023/24.

expectation that the majority of new builds will be able to meet the “sufficiently progressed” definition, even if they were to start shortly before 1<sup>st</sup> October 2023. The only likely exception is for particularly large or complex buildings. All building work in an existing higher-risk building is expected to be “sufficiently progressed” as the requirement is to start on site. As a result, we expect c.180 new builds to not be “sufficiently progressed” within six months of the higher-risk regime coming into force. These projects are covered in Routes 3 and 4. Furthermore, for some building work building control approval may lapse before work has commenced or the initial notice or full plans submitted to the local authority may be rejected after 1st October 2023. These projects will not be eligible for the transitional arrangements and will be subject to the higher-risk regime immediately (Route 6).

244. In addition, around 20% of building projects assigned to approved inspectors are expected to not meet the conditions of the transitional arrangements due to their initial notice ceasing to be in force. This may be due to their approved inspector not registering as a registered building control approver by 6<sup>th</sup> April 2024 or because their initial notice is cancelled for any other reason. These projects would fall under Route 5. This case results in 101 additional new builds and 158 building works in existing higher-risk buildings being affected by Route 5.

245. As a result of the transitional arrangements and how they have accommodated for building work being previously overseen by local authority building control and private sector building control, it is expected that a total of 280 new builds and 158 existing works will transfer to the jurisdiction of the Regulator. Therefore, in total, 437 buildings are affected. These figures are derived from our own estimates of the buildings stock and new building starts, combined with HSE estimates on the local authority and approved inspector split and initial notice cancellations.

246. Table 17 **Error! Reference source not found.** shows the number of buildings in each route by new build and building work in existing higher-risk buildings.

**Table 17:** Number of buildings going through individual routes

	<b>New Builds</b>	<b>Building Work in Existing Higher Risk Buildings - Total Cost</b>	<b>Total Building Projects</b>
Total number of buildings in scope of transitional arrangements	<b>1190</b>	<b>1575</b>	<b>2765</b>
Route 1 – Failure to give an initial notice or deposit plans to local authority by 1 <sup>st</sup> October 2023	N/A	N/A	N/A

Route 2 – Higher-risk building work has “sufficiently progressed” and, if work is under an initial notice the approved inspector has registered as a building control approver	1011	1575	2586
Route 3 – Higher-risk building work overseen by the local authority fails to “sufficiently progress” work	89	0	89
Route 4 – Higher-risk building work subject to an initial notice fails to “sufficiently progress” work or the initial notice ceases before work is “sufficiently progressed”	89	0	89
Route 5 – Higher-risk building work has “sufficiently progressed” but the approved inspector fails to register as a Registered Building Control Approver or initial notice ceases for any other reason	101	158	259
Route 6 – Building control approval lapses before work has commenced or the initial notice or full plans are rejected by a local authority after 1 <sup>st</sup> October 2023	N/A	N/A	N/A
<b>Total buildings transitioning to new/hybrid higher-risk regime</b>	<b>280</b>	<b>158</b>	<b>437</b>

*Note that Route 5 is a proportion of Route 2, hence summing routes 1-6 will not total up to the total number of buildings in scope of transitional arrangements in the first row.*

#### *Additional time required for transferred higher-risk building work to meet new requirements*

247. Under Route 4, an initial notice will cease to have effect before work has "sufficiently progressed". A valid building control approval application must be submitted to the Regulator to enable work to continue. It is expected that most projects will prepare for the transfer should their initial notice be at risk of ceasing. Nonetheless, some time will likely be required to prepare and submit their building control approval application. Furthermore, some time may be expended in updating processes and procedures to comply with new requirements. We estimate these delays to be around 6 weeks.

248. Under Route 3, a project overseen by the local authority will transfer to the Regulator but will not need to submit a building control approval application. The full plans application approved by the local authority will retain its status and will be sent to the Regulator. However, dutyholders will need to comply with many of the new requirements of the higher-risk regime, but in relation to their original full plans application. As a result, some time may be expended in preparing documentation and updating processes and procedures to meet new requirements, such as the change control regulations. We estimate these delays to be around 4 weeks.

249. Under Route 5, an initial notice will cease to have effect after work has "sufficiently progressed". A valid building control approval application will be required to enable work to continue. However, the application requirements are far more limited compared to Route 4 and many of the “during construction” requirements of the regime are disappled

for this work. As a result, the expected delays are likely to be less. We estimate these delays to be around 3 weeks.

### Costs of each route

250. For new builds falling under Route 4, the expected cost of the higher-risk building regime for design and construction is £157,000.

251. Under Route 3, new builds will not need to apply for building control approval to continue work, this modified regime will therefore cost around £114,000.

252. Under Route 5, new builds and building work in existing higher-risk buildings that have “sufficiently progressed” but have had their initial notice cancelled will need to complete an inspection schedule which may differ to that under their previous approved inspector’s. This is expected to cost around £84,000 for a new build, and £19,000 for building work in existing higher-risk buildings.

253. Based on this, the total cost for those going through Route 3 is £10.2m, Route 4 is £14.0m, and Route 5 is £11.5m (comprising of £8.5m from new builds, £3.0m from building work in existing higher risk buildings) respectively. Overall, the total cost is an additional £35.6m.

**Table 18:** Cost of each route per project

	Per new build cost	Building Work in Existing Higher Risk Buildings Cost
Route 3 – Higher-risk building work overseen by the local authority fails to “sufficiently progress” work	£114,000	£0
Route 4 – Higher-risk building work subject to an initial notice fails to “sufficiently progress” work or the initial notice ceases before work is “sufficiently progressed”	£157,000	£0
Route 5 – Higher-risk building work has “sufficiently progressed” but the approved inspector fails to register as a Registered Building Control Approver or initial notice ceases for any other reason	£84,000	£19,000

**Table 19: Total cost of each route**

	New Build Total Cost	Building Work in Existing Higher Risk Buildings Total Cost
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Route 3 – Higher-risk building work overseen by the local authority fails to “sufficiently progress” work	£10.2m	£0.0m
Route 4 – Higher-risk building work subject to an initial notice fails to “sufficiently progress” work or the initial notice ceases before work is “sufficiently progressed”	£14.0m	£0.0m
Route 5 – Higher-risk building work has “sufficiently progressed” but the approved inspector fails to register as a Registered Building Control Approver or initial notice ceases for any other reason	£8.5m	£3.0m
<b>Total cost of all routes</b>	<b>£32.7m</b>	<b>£3.0m</b>
<b>Overall total across all project types</b>	<b>£35.6m</b>	

### *Risks and assumptions*

254. These estimates are representative of a highest estimates scenario of how many in-scope buildings may fail to meet the conditions of the transitional arrangements and will transfer to the Regulator. It is possible that some in-scope building work projects may have started building work prior to 2020/21, and may not be 'sufficiently progressed' by 6<sup>th</sup> April 2024 although we expect this to be rare. As a result, there may be some building work unaccounted for, but this number is expected to be very low. The dutyholders of transferred building work, which is subject to the higher-risk regime, and must meet the new requirements that are applied to ensure building work complies with all applicable building regulations.

### **Enforcement and appeals**

255. This analysis assumes full compliance with the new regime. However, we assume that achieving full compliance will require intervention from the regulator in the form of compliance notices. This section estimates the administration costs of complying with these notices. This section does not include the costs of action to address the requirements of the notice as the cost to comply with the duties has already been captured in the relevant sections of the Impact Assessment. We have estimated the cost to industry of compliance notices that may be served over the 15-year appraisal period will be between £6.2m and £9.2m, with a central estimate of £7.7m, in present value (PV) terms. This equates to equivalent annual cost (EAC) of between £0.5m and £0.8m over the appraisal period.

**Table 20:** Breakdown of enforcement costs to industry<sup>31</sup>

<b>Cost (EAC) (£m)</b>		
<b>Low</b>	<b>Central</b>	<b>High</b>

<sup>31</sup> Figures may not sum due to rounding

New builds	£0.4	£0.4	£0.5
Building work in existing higher-risk buildings	£0.2	£0.2	£0.2
<b>Total</b>	<b>£0.5</b>	<b>£0.6</b>	<b>£0.8</b>

256. The costs presented in table 20 cover enforcement related to work on higher risk buildings. As part of its enforcement powers the Regulator can issue compliance notices, stop notices, and pursue criminal prosecution where building regulations are contravened. Table 20 only presents the administrative costs related to compliance notices such as corresponding with the regulator and does not include any costs related to stop notices or prosecutions. There are also changes to enforcement of work related to the design and construction of non-higher risk buildings, but we do not expect these changes to create any additional costs for industry.

257. Compliance notices can be issued with respect to new builds and existing higher-risk buildings undergoing building work, where building regulations are breached. This means there will be approximately 1700 buildings within scope of possible enforcement by the Regulator each year where there is non-compliance. We assume that 20% of higher-risk building work will not meet all the requirements and have used this number as a proxy for the number of compliance notices issued. We, therefore, estimate there will be around 340 compliance notices, on average, issued per year by the Regulator. As this is a result of regulatory non-compliance, the cost associated with complying which has already been covered in the assessment for each duty it is not costed in the total as an additional cost.

### Internal reviews and appeals

258. We estimate that over the 15-year appraisal period, the total cost to industry of reviews and appeals will be between £3.8m and £14.4m, with a central estimate of £8.5m, in present value (PV) terms. This equates to equivalent annual cost (EAC) of between £0.3m and £1.2m over the appraisal period.

**Table 21:** Breakdown of costs to industry of internal reviews and appeals

	Cost (EAC) (£m)		
	Low	Central	High
Building control and building control professions decisions	£0.1	£0.3	£0.5
Appeals of compliance notices	£0.2	£0.4	£0.7

<b>Total</b>	<b>£0.3</b>	<b>£0.7</b>	<b>£1.2</b>
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259. Decisions which are eligible for internal review are related to building control applications and building control profession applications. If these decisions are still in dispute following internal review, they can be appealed to the First-Tier Tribunal. Industry can also appeal to the First-Tier Tribunal if they want to challenge being issued compliance or stop notices.

### **Internal reviews of building control decisions**

260. If the relevant dutyholder wants to challenge an eligible building control decision made by the Regulator they can apply for an internal review of the decision. Eligible decisions include:

- a. Building control applications for new higher risk buildings and building control applications for work in existing higher risk buildings
- b. Change control applications
- c. Completion and partial completion certificate applications
- d. Regularisation certificate applications
- e. A refusal by the Regulator to vary a requirement under regulation 10

261. As part of the internal review and appeal process the dutyholder will need to prepare and submit evidence to the Regulator. The amount of time we expect this to take depends on the decision being reviewed.

262. If the dutyholder disagrees with a decision to reject a building control application, then they must resubmit all relevant documents along with an explanation of why the application should be accepted. We estimate this process will take 14.25 hours on average.

263. For reviews of decisions related to change control applications we assume it will take 7.75 hours to prepare and submit evidence for an internal review.

264. For reviews of a decision to refuse to issue completion or partial completion certificates the dutyholder will need to submit evidence showing that the building meets requirements. This is likely to involve an on-site visit. We assume this will take 17.75 hours to prepare and submit this evidence for internal review.

### **Internal reviews of building control profession applications**

265. Companies which currently operate as approved inspectors must register as building control approvers. Individuals providing more specialist building control services will also need to register as registered building inspectors. Applicants can appeal these decisions if they disagree with the outcome. The Regulator can reject applications or can attach conditions to registration, such as an individual can only work as a registered building inspector on non-higher risk building work. These decisions will be eligible for internal review and appeal if still in dispute.



266. We estimate that an average of 7 decisions per year relating to regulation of the building control profession will go to internal review. The person requesting an internal review will need to gather and submit the evidence supporting their appeal. We estimate this will take an average of 7.75 hours per review.

## **Appeals**

267. If a decision is still in dispute following internal review, then the decision can be appealed to the First Tier Tribunal. We estimate that 10% of decisions will be appealed following internal review and that all appeals to the First Tier Tribunal will require legal input.

268. The dutyholder submitting the appeal will need to prepare and submit evidence for the appeal. We estimate that preparing and submitting an appeal to the First Tier Tribunal will take 150% of the time of an internal review.

269. The time estimates presented are estimated averages and actual times will depend on individual circumstances. For example, industry may request an internal review because of a mistake with their application which is easily rectified. In this scenario, the time required to prepare and submit an appeal would be considerably lower than the times presented above.

## **Scope Decisions**

270. If a local authority determines that building work is considered higher-risk building work as the building meets the criteria to be considered a higher-risk building but the dutyholder disagrees, then they can appeal that decision. At this point the dutyholder will need to resubmit the documents previously submitted as part of their building control application to a person appointed on behalf of the Secretary of State who will make a determination. We estimate this will take 1.5 hours per application.

## **Non-determinations**

271. The Regulator is required to determine applications on eligible decisions within specified timeframes depending on the application type. Relevant applications are for building control approval, staged applications, building work in an existing higher-risk building, change control, completion certificates and partial completion certificates. If there is no determination in the required timescale, then the applicant can make a non-determinations application to the Secretary of State.

272. To make a non-determinations application the dutyholder must resubmit all documents submitted as part of the original application. Construction work cannot proceed while the application is being determined.

273. We have not monetised the costs of non-determinations because we expect applications to be very rare, and because it is not possible to estimate the length that a

determination may take, and therefore the length of time before construction can commence if approval is given.

## Appeals of compliance notices

274. The dutyholder can appeal to the First Tier Tribunal if they dispute being issued compliance and stop notices on eligible grounds. This option is available for notices issued to higher risk and non-higher risk building work.
275. We assume that 10% of compliance notices issued to higher risk buildings will be appealed to the First Tier Tribunal. Therefore, we estimate there to be an average of 34 appeals of compliance notices per year. We assume it will take 7.5 hours for the dutyholder to gather and submit evidence for these appeals.
276. We assume that 5% of compliance notices issued to non-higher risk buildings will be appealed to the First Tier Tribunal. We estimate there to be an average of 445 appeals of compliance notices per year. We assume it will take 7.5 hours for the dutyholder to gather and submit evidence for these appeals.

## Hospitals and Care Homes

277. Hospitals and care homes of at least 18m metres or more in height (or 7 or more storeys) are in scope of the part 3 regulations. Department analysis<sup>32</sup> estimates that there are 274 buildings on hospitals sites<sup>33</sup> that are over 18 metres in height.
278. The Department of Health and Social Care has confirmed that 40 hospitals are to be built by 2030<sup>34</sup>. Combining this estimate with the proportion of hospital buildings over 18m, we estimate that there will be 2.6 hospitals with buildings over 18m built over the appraisal period.
279. The rate for work on existing hospitals over 18m is the same as for residential buildings (4%), and we estimate there will be an average of 11 instances of these types of work on hospital buildings over 18m per year.
280. We estimate that the additional cost of going through the design and construction process for hospitals under the new higher-risk regime will be the same as residential buildings. We estimate that over the 15-year appraisal period, the total cost to industry for hospital construction and work on existing hospital buildings in scope will be between £4.5m and £6.8m, with a central estimate of £5.6m, in present value (PV) terms. This equates to equivalent annual cost (EAC) of between £0.4m and £0.6m over the appraisal period.
281. The Department estimates that over 98% of care homes are below 11 metres in height, with the remaining at 11 metres and above. Based on limited data coverage, the

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<sup>32</sup> <https://www.gov.uk/government/publications/building-safety-programme-estimates-of-hospital-and-residential-crown-buildings-in-england/building-safety-programme-estimates-of-hospital-and-residential-crown-buildings-in-england>

<sup>33</sup> An individually reported hospital site is defined as an NHS site of either over 500m<sup>2</sup> or with over 10 inpatient beds.

<sup>34</sup> <https://www.gov.uk/government/news/pm-confirms-37-billion-for-40-hospitals-in-biggest-hospital-building-programme-in-a-generation>

Department estimate a maximum of 10 care homes are at least 18 metres. Due to the very low figure of care homes over 18 metres and the nature of the buildings, we estimate that 0 new care homes of at least 18 metres will be built during the appraisal period.

## Wider Changes to Building Regulations

### Regulators Notices

#### *Costs per Regulator Notice*

282. Where a project comprises both higher-risk building work and non-higher-risk building work, developers will, by default, have two building control bodies: the Regulator, for higher-risk building work, and a local authority or a registered building control approver (formerly approved inspector) for non-higher-risk building work. Dutyholders can, however, in agreement with the Regulator, apply to have the Regulator as their sole building control body to oversee all the building work within that project. We expect that many dutyholders are likely to choose this route, as they will be able to better manage the advice provided to the Regulator during the development of their buildings. As such, in analysing the costs and benefits, we have assumed 100% of dutyholders opting to take this option.

283. The number of building projects expected to be eligible is around 35 per year. This is based on a sample of 79 planning applications finding 14% of projects involving both non-higher-risk building work and higher-risk building work on the same site. This proportion has been scaled to account for the number of mixed non-higher-risk building and higher-risk building projects coming in year on year (approximately 250).

284. We expect that a project manager will spend around 45 minutes on average to prepare a regulator's notice, depending on the files sent alongside it. As such, this should cost around £60 per regulator's notice in wage costs for a project manager, therefore, around £20,000 overall across the 15-year appraisal period and around £1,700 in equivalent annual net cost. The sensitivity analysis of  $\pm 50\%$  in costs suggests this cost could vary between £10,000 and £30,000.

#### *Familiarisation*

285. Familiarisation with the regulator's notices is expected to take around 0.25 hours and there are around 41,660 developers in England as of April 2023<sup>35</sup>. Only developers who do work on higher-risk buildings would be in the scope of the policy related to regulator's notices, which is estimated to be around 15% of all developers. From discussions with industry consultants, the average hourly rate for developer administrative work is estimated to be £50. As such, familiarisation should cost around £12.50 per higher-risk building developer, with a total familiarisation cost of around £156,000. A sensitivity analysis of  $\pm 50\%$  suggests this cost could vary between £78,000 and £234,000.

#### *Overall Regulator's Notices*

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<sup>35</sup> Source: Nomis UK Business Counts 2022 - SIC Code 41.10. Accessed in April 2023.

286. Overall, the total present cost of regulator's notices to industry is expected to be around £176,000, varying from £88,000 in a low scenario and £264,000 in a high scenario. The EANDC is expected to be around £15,000, varying between £8,000 and £23,000.

### **Lapse of approval**

287. No additional costs are expected from the automatic lapse of approval. There is unlikely to be a significant change for local authorities transitioning from manual to automatic lapse of approval.

### **Definition of Commencement (non-higher-risk-buildings and higher-risk-buildings)**

288. In theory, developers should face no additional costs because of this definitional change. Only those firms that would have otherwise attempted to circumvent the new requirements could potentially see higher costs compared to the counterfactual. A more detailed discussion can be found in the non-monetised benefits section and in **Annex C**.

### **Extending scope of Regulation 38 to cover all building work considered material alteration**

289. The cost of this policy is expected to be limited and has not been estimated. Information from Regulation 38 is expected to be on hand for CPS installers and providing this to the Responsible Person should result in limited additional cost.

### **Revoking Article 45 of the Fire Safety Order and consolidating consultation requirements with Fire and Rescue Authorities in building regulations**

290. It is anticipated that Local Authority Building Control will already consult Fire Safety Officers to ensure that developments comply with building regulations, this change will solely ensure regulations are consistent with requirements for approved inspectors / registered building control approvers. There are therefore no additional costs estimated for this change.

### **Transitional provisions (non-higher risk buildings)**

291. No additional costs or benefits are expected for non-higher-risk buildings. Given the transitional period will be six months, the definition of commencement is expected to be achievable for buildings currently going through planning and for those who have already started work on site.

292. Repercussions from not meeting the transitional period are expected to have limited costs, with slightly greater dutyholder responsibilities and additional basic information required at building control application stage (see wider changes to building regulations section). The costs of these have not been monetised for proportionality and because, per the rationale above, the transition period should be achievable for buildings currently in train.

## Costs to the Regulator

### Total Cost to the Regulator

293. The regulatory functions of the Regulator are in the process of being switched on, with, for example, principal accountable persons being able to register their higher-risk buildings with the Regulator from April 2023. As such, the HSE have refined their operational costs as part of their full business case development. This is reflected below in setting out the costs to the Regulator for delivering the new regime.

294. Table 22 below presents the total cost to the Regulator. The costs in the table have been presented in both equivalent annual cost (EAC) and net present value (NPV) terms.

**Table 22:** Total cost to the regulator

	<b>Annual Cost (EAC) (£m)</b>
Special Investigations Teams	£1.1
Higher-risk buildings: Building Control	£49.0
Operations support – higher-risk building	£0.4
<b>Total</b>	<b>£50.5</b>
	<b>Total Cost (NPV) (£m)</b>
Special Investigations Teams	£13.4
Higher-risk buildings: Building Control	£584.3
Operations support – higher-risk buildings	£4.7
<b>Total</b>	<b>£602.4</b>

295. The analysis and costs in this section have been provided to the Department by the HSE, as they are delivering the Regulator as set out in the 2022 Act. We have worked extensively with them to ensure that any assumptions, and by extension estimates, are to the best of our knowledge, the most accurate reflection of the impact of the regulations.

296. The analysis in this section utilises the same assumptions asset out in the ‘General Assumptions’ section set out above.

- 297. Regulator costs include a 10% optimism bias.
- 298. Regulator costs are variable until 2030, and from this point onwards have been held constant, equal to the value of the costs in 2030 for all remaining years in the appraisal period.
- 299. Regulator costs have been presented for a central scenario only. This is to maintain consistency with the internal business case. These figures are informed by HSE analysis.
- 300. The costs presented in this section are the total costs for both resource and capital spend, however non-FTE (full time equivalent) resource costs and capital costs have been apportioned across the functions based on an allocation. To see this in more detail, please go to annex B. The discussion here only focuses on the FTE elements.
- 301. The subsections under Regulator costs will not align with those in the industry costs section as they were developed independently, although in parallel, by HSE and the requirements on the Regulator, and the related activities, will be different to those for industry. The total quantum of these costs, however, aligns with the scope of what is covered by the costs to industry.
- 302. The Regulator intends to operate at a 90% cost recovery rate across activities relating to the regulation of higher-risk buildings from 24/25 onwards<sup>36</sup>. The cost recovery rate for the operational Regulator across all areas of delivery is 75% across the period 23/24 to 29/30, as it will pass on the majority of its costs to industry via fees and charges. The specifics of those fees and charges are being assessed separately in an Impact Assessment on fees and charges.

*Specialist investigations teams*

303. The specialist investigations team’s (SIT) element of the Regulator costs is for teams within the Regulator to investigate dutyholders that are not complying with their duties under part 3 of the Act. The costs for these teams are split into two areas, as shown in table 23 below. Mandatory occurrence reporting<sup>37</sup> covers investigations triggered via the mandatory occurrence reporting process, and building control covers all other investigations relating to part 3 duties under the Act.

**Total 23:** Cost breakdown for Specialist Investigations Teams

	<b>Annual Cost (EAC) (£m)</b>
Mandatory Occurrence Reporting	£0.4

<sup>36</sup> Cost recovery rates for the three cost areas are as follows: special investigations teams - 70% in 23/24, 90% from 24/25 onwards, Higher-risk Buildings: In occupation – 90% cost recovery from go live in April 2024, operations support – Higher-risk building – 47% in 23/24, 90% from 24/25 onwards.

<sup>37</sup> The mandatory occurrence investigations FTE are split equally between Part 3 and 4, and the part 4 element has been assessed in a separate Impact Assessment.

Building Control	£0.8
<b>Total</b>	<b>£1.1<sup>38</sup></b>

### *Building Control*

304. The building control element of Regulator costs refers to the FTE to conduct all the required activities and engagement under part 3 of the 2022 Act. These costs are split into three areas (assessment, build and completion), with table 24 below demonstrating the breakdown.

**Table 24:** Cost breakdown for Building Control

	Annual Cost (EAC) (£m)
Assessment	£12.2
Build	£29.2
Completion	£7.6
<b>Total</b>	<b>£49.0<sup>39</sup></b>

305. The following section sets out the activity that will be undertaken for a building going through the building control process for higher-risk buildings. The Regulator will have to conduct these activities for every higher-risk building for which it is the building control authority.

### *Assessment*

306. One element of assessment is application management. This is the time the Regulator needs to manage and assess the application once it has been submitted. This includes time for regulatory leads and case officers to check and ensure that all documentation and data is present, and potentially request further information from the applicant.

307. We have included time for the management of resources under ‘assessment’. The Regulator’s operational support will commission multi-disciplinary team (MDT) members from Local Authorities, Fire and Rescue service and from a private sector framework contract (if specialist and additional resources are required that the public sector may be unable to provide).

308. The last element of assessment is for the MDT to review the application. They will undertake a building control assessment, tracking and managing any issues and actions against the application. The case officer will request (and receive) the statutory

<sup>38</sup> Figures may not sum due to rounding

<sup>39</sup> Figures may not sum due to rounding

consultations and feed these into the building control assessments. We have also allocated time at this stage for the applicant to draw up an inspection schedule. We have also allocated time for the regulatory decision to be made, with input from the MDT team, and communicated to the dutyholder.

### *Build*

309. Once the dutyholder notifies the Regulator they are commencing work, the MDT team will be mobilised and will provide inspections as per the agreed inspection schedule. Unscheduled inspections may be performed as and when they are required. Inspections will continue throughout the entirety of the build. The Regulator may also have to review change control applications, submitted by the dutyholder as part of the change control process.

### *Completion*

310. The Regulator will need to assess the completion application, and then also undertake a final inspection schedule of the finished build. The Regulator will work with the dutyholder to address any compliance issues, which may involve issuing a compliance notice. The MDT team will undertake a final building control assessment, and then the Regulator will make its final decision, with input from the MDT team. Lastly, a case officer will perform the administrative project closedown activities, including formally standing down the MDT team.

### *Operations support – building control*

311. This cost area includes the administration and support that will be needed to assist the Regulator in conducting its functions under part 3 of the Act.

## **Costs to local authorities**

312. Local authorities will incur additional costs due to changes to enforcement and the appeals and reviews process for non-higher risk buildings. These are summarised in table 25 below.

**Table 25:** Total costs to local authorities

	<b>Cost (EAC) (£m)<sup>40</sup></b>		
	<b>Low</b>	<b>Central</b>	<b>High</b>
Changes to enforcement	£0.1	£0.2	£0.2
Changes to appeals	£0.1	£0.3	£0.4

<sup>40</sup> Figures may not sum due to rounding



<b>Total</b>	<b>£0.3</b>	<b>£0.4</b>	<b>£0.7</b>
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### *Changes to the enforcement process*

313. We estimate that over the 15-year appraisal period, the total cost to local authorities of changes to the enforcement process for non-higher risk buildings will be between £1.8m and £2.7m, with a central estimate of £2.2m, in present value (PV) terms. This equates to equivalent annual cost (EAC) of between £0.1m and £0.2m over the appraisal period.
314. Local authorities will incur costs because of changes to the enforcement process. Local authorities will be able to issue compliance and stop notices in response to a contravention of building regulations. This process will complement the current non-compliance prosecution and section 36 notice options and is likely to replace the use of informal enforcement mechanisms.
315. Local authorities will need to update their enforcement notice templates to reflect the new notices and incorporate these into back-office systems. We assume this will take 2 hours per local authority in England. Local authority staff will also need to undergo training to familiarise themselves with the new process. We assume, on average, this will require 4 staff members to undergo 3 hours of internal training per local authority.
316. Local authorities will be required to issue an individual notice for each breach of building regulations, as opposed to issuing a single informal warning letter for all the contraventions on the site, as occurs in some cases now. Local authorities will then need to share notices with other relevant agencies such as the Fire and Rescue Service. We estimate that completing these additional tasks will take an average of 10 minutes of staff time per notice issued.

### *Changes to the appeals process*

317. We estimate that over the 15-year appraisal period, the total cost to local authorities of changes to the reviews and appeals process for non-higher-risk buildings will be between £1.5m and £5.3m, with a central estimate of £3.1m, in present value (PV) terms. This equates to equivalent annual cost (EAC) of between £0.1m and £0.4m over the appraisal period.
318. As part of changes to reviews and appeals 2 local authority staff will need to review appeals of compliance and stop notices issued to non-higher-risk buildings. We estimate there will be an average of 445 appeals of compliance notices per year in our central scenario. We assume that each appeal will take up 5 hours of a local authority legal officers time and 5 hours of a local authority building control officer's time.

## **Benefits**

319. This analysis has estimated the benefits of all measures in the 2022 Act. It has not been possible to identify the benefits realised by parts 3 and 4 separately. This Impact

Assessment, therefore, presents the total benefits of the wider regime even though some of these will be the result of improved building management practices which result from measures brought in under part 4 of the Act.

## Total Benefits

320. The monetised benefits in this section cover higher-risk buildings only.

321. We estimate that the proposals would yield equivalent annual benefits (EAB) of £95.6m - £416.5m per annum in monetised benefits. This is broken down in Table 26 below.

**Table 26:** Buildings of at least 18 metres benefits

	Annual Benefit (£m) <sup>41</sup>		
	Low	Central	High
Reducing the risk of fire incidents	£47.6	£140.8	£325.9
Avoided cost of resolving systemic issues	£10.9	£16.4	£21.9
Indirect benefits to the construction industry	£34.4	£49.2	£63.9
Reducing the risk of structural issues	£2.6	£3.7	£4.9
<b>Total</b>	<b>£95.6</b>	<b>£210.1</b>	<b>£416.5</b>

322. Some benefits have not been monetised because of the absence of a sufficiently robust evidence base, while for others it was not considered proportionate to monetise benefits. Non monetised benefits are discussed below.

323. The benefit estimates set out here have been calculated over a 75-year appraisal period. This includes benefits experienced in the 15-year policy appraisal period (equal to that used to estimate costs) and benefits that may persist over the lifespan of a building, assumed to be 60 years. This is to best capture all the benefits and reflects the Green Book guidance on 'persistence' of benefits. For example, benefits associated with residents' engagement are likely to last the 15-year policy period, however, improvements in the construction quality of new buildings will likely last the lifespan of the building.

<sup>41</sup> Figures may not sum due to rounding.

324. A more detailed description of the methodology used to estimate overall monetised benefits and the monetised benefits of the individual sections below is set out in Annex A.

*Reducing the risk of fire incidents (£47.6m - £325.9m)*

325. The 2022 Act proposals are expected to reduce the risk of fires spreading across multiple dwellings within a higher-risk building (referred to here as fire incidents), and to reduce the risk of major fires (the proposals are not expected to have a material impact on the number of fire ignitions). This will be achieved through stronger oversight, clearer accountability for, and stronger duties on, those responsible for the safety of higher-risk buildings throughout design, construction, and occupation, stronger enforcement and sanctions to deter and rectify noncompliance, and a stronger voice for residents.

326. This analysis has split the benefits of reduced fire risks into health and non-health benefits. These benefits are summarised in table 27 below.

**Table 27:** Annual benefit from reduced fire risk (£m)<sup>42</sup>

	Annual Benefit (£m)		
	Low	Central	High
Health benefits	£21.1	£79.5	£206.0
Non-health benefits	£26.5	£61.3	£119.9
<b>Total</b>	£47.6	£140.8	£325.9

327. The 2022 Act proposals are expected to further reduce the risk of fire incidents in higher-risk buildings and consequently the risk of fatalities and injuries to residents. We also expect there to be reductions in negative impacts on the mental health of residents involved in such incidents, their family members, and others.

328. There are non-health benefits related to reducing the risk of fire and structural incidents. One non-health benefit measures avoided loss/damage of personal belongings and property loss from avoided higher-risk buildings related incidents. Examples include, avoided rebuilding and demolition costs for fire damaged buildings or structural failure incidents, avoided costs from losing possessions in a fire incident or structural failure, and hotel and other support costs for displaced residents.

329. Benefits are also realised from avoided legal costs. Reducing fire risks and structural failure mean there will be fewer legal proceedings, therefore, costs such as lawyers' fees and court costs will be avoided.

<sup>42</sup> Health and non-health benefits may not sum to total because figures have been rounded.

330. Estimates of the scale of these benefits take account of the projected residual risk of such incidents in the absence of the 2022 Act proposals (but after the measures already taken, some of which are discussed above), the extent to which the proposals will reduce this risk, and the expected harm caused by such incidents. While the uncertainty around each of these factors makes any monetised estimates of the scale of benefits highly uncertain, we have established an indicative range of £47.6m - £325.9m annual benefit.

331. Substantially reducing the risk of fire incidents, or structural failure, in buildings in scope is also likely to have the important additional benefit (not monetised in this Impact Assessment) of reassuring residents and making them feel safer in their homes. This is further discussed in the section on non-monetised benefits below.

*Avoided costs of resolving systemic issues (£10.9m - £21.9m)*

**Table 28:** Benefit from avoided costs of resolving systemic issues

	Annual Benefit (£m)		
	Low	Central	High
Avoided costs of resolving systemic issues	£10.9	£16.4	£21.9

332. There are wider costs associated with weaknesses in the current regime, where construction does not meet the necessary requirements and so buildings require subsequent and urgent remediation (which may or may not be triggered by an incident involving a specific building). An example of this is the remediation of unsafe Aluminium Composite Material cladding on multi-occupied residential buildings over 18 metres, following the Grenfell Tower fire and the emergence of other concerns requiring remediation during investigation. This has involved costs for remediation, waking watch fees, and related investigative/legal costs.

333. There is a risk that a similar systemic crisis could emerge in future and necessitate a similar response. The 2022 Act proposals are expected to reduce the risk of this happening and, therefore, to reduce the risk that such associated costs are incurred. An estimate has been made of the annual benefit from avoided costs of resolving systemic issues of around £10.9m - £21.9m.

*Indirect benefits to the construction industry (£34.5m - £64m)*

334. The 2022 Act proposals are likely to lead to the reduction of some costs to the construction industry and others (the expected costs to industry are set out in the industry costs section of this Impact Assessment). In total, these benefits are expected to be worth £34.5m - £63.9m per year.

**Table 29:** Indirect benefits to the construction industry

	Annual Benefit (£m)		
	Low	Central	High
Indirect benefits to the construction industry	£34.5	£49.2	£63.9

335. We expect the overall package of additional checking and information-gathering to lead to a reduction in re-work costs relating to defects identified during, and at the end of, the construction period, as well as fewer latent defects identified during building occupation.

336. The new information requirements help to reduce costs from future invasive surveys and for general asset management. There will also be time saving benefits from the checking of products during design and construction and safety case preparation.

*Reducing the risk of structural issues (£2.6m - £4.9m)*

337. Finally, there are expected to be some reductions in costs related to structural incidents in buildings.

**Table 30:** Benefit from reducing the risk of structural issues

	Annual Benefit (£m)		
	Low	Central	High
Reducing the risk of structural issues	£2.6	£3.7	£4.9

338. These cost reductions relate to fewer structural failure incidents such as balconies falling, windows falling out and collapsed buildings. Although the risk of these incidents happening is low, the measures included in the 2022 Act are expected to further reduce the probability of these events happening.

**Non-monetised benefits**

339. There are a range of benefits which we have not monetised, either because there is a lack of robust data and evidence available or because it was not considered proportionate to carry out this analysis. The non-monetised benefits of the proposals that we have identified are benefits for residents' mental health and wellbeing, improved functioning of mortgage and insurance markets, and greater transparency in construction.

*Mental health and wellbeing benefits*

340. A significant benefit is reassurance to residents that risks to their safety, and that of their homes, have been reduced. This will help to mitigate negative impacts on mental health and wellbeing of residents of higher-risk buildings, arising from any existing uncertainty or concerns as to the safety of their homes. This is likely to be achieved by the cumulative impact of safety cases mandating a proactive approach to building safety, the provision of information to residents to help develop more transparent and collaborative relationships regarding managing their building safely, and a more effective system of handling complaints, where residents have an increased confidence that issues can be easily and effectively raised and resolved. Similarly, the new Regulator, will give further confidence to residents that dedicated action is being taken to ensure that the fire and structural safety risks in their buildings are being effectively minimised and managed on an ongoing basis. Improvements in residents' mental health and wellbeing may translate into higher productivity in the labour market and improve the educational attainment of the children living in these buildings.

#### *Better functioning mortgage and insurance markets*

341. The mortgage market for flats in higher-risk buildings experienced a market failure due to a lack of information on the materials in the external walls and leaseholders having to pay to fix any issues identified. The leaseholder protections under Part 5 of the Act, alongside government and developer funding for remediation, are helping to open up the market by addressing these issues and major mortgage lenders committed to lend more freely on mid and high-rise buildings with building safety issues from January 2023.

342. The new regulatory regime for higher-risk buildings with more stringent oversight during the design and construction of higher-risk buildings, and the establishment of the new Regulator as the sole building control authority for higher-risk buildings with strong enforcement powers, will improve confidence that higher-risk buildings are being designed and constructed to meet building regulations in place when the building control application is approved. This support should further increase the confidence of mortgage providers, further improving the functioning of mortgage markets and therefore availability and value of products to leaseholders and prospective buyers. This will give residents greater freedom to sell and re-mortgage their homes when they would like to.

343. Research drawing on in-depth interviews with 32 leaseholders affected by the building safety crisis across the country highlighted adverse impacts on their ability to plan and control their own lives, particularly when it came to life stage transitions such as family planning, moving to a larger home, moving for work or to facilitate caring relationships. Enabling individuals to mortgage and sell their homes or use their housing equity as and when they wish to can generate personal welfare benefits and improve quality of life.

344. These welfare improvements may also translate into higher productivity in the labour market. There could also be benefits for educational attainment of children if the resulting move reduces overcrowding in the home and/or relocates a family closer to more suitable schools. Similar benefits could accrue to those buying the homes. In addition, we can expect improvements in labour mobility and therefore economic

efficiency from people being more able to supply work where it is needed. However, more general economic conditions, and regional variation in these, are likely more important in explaining mobility.

345. The existence of unsafe cladding has also led to a decline in the availability and affordability of insurance cover for buildings with combustible cladding. Evidence gathered by the Financial Conduct Authority (FCA) suggests that insurance premiums across buildings with identified flammable cladding increased by 187% between 2016 and 2021, going from £26,300 in 2016 to £75,600 in 2021<sup>43</sup>.

346. Furthermore, of a sample of 17 insurers, representing most of the multi-occupancy building insurance market, 10 responded as having reduced their appetite to underwrite high risk buildings. Reductions in availability of cover and increases in insurance premiums both have negative impacts on leaseholders.

347. Insurers have low appetite to provide cover for the built environment because of low confidence in being able to differentiate between buildings with good and poor construction. The provisions in the 2022 Act should play a part in improving insurer confidence, which will improve the availability and affordability of cover for leaseholders.

#### *Greater transparency in construction*

348. Design and construction workers are likely to benefit from a more transparent operating environment as a result of clear and more consistent accountability through identified dutyholders during the design and construction of higher-risk buildings.

349. Clear and more consistent accountability through the identification of principal designers, principal contractors and the mandating of specific duties under part 3 of the Act, and through these Regulations, will provide assurance that higher-risk buildings will be effectively managed with regard to building safety risks over their lifecycle.

#### *Non-monetised benefits for regulator's notices*

350. The new higher-risk building regime means that the Regulator must be the building control authority for all higher-risk building work. The Regulator will not act as the building control authority for non-higher-risk building work. Some developments are likely to comprise higher-risk and non-higher-risk buildings. So that the dutyholder does not have to seek approval from two building control authorities, regulator's notices will be introduced alongside the higher-risk building regime. This will improve outcomes, as dutyholders will have the option to seek agreement from the Regulator to act as the sole building control authority in these circumstances. This means they can provide one set of information for the whole development to one body and avoid receiving feedback from two building control authorities. Government has implemented similar schemes (such as

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<sup>43</sup> Financial Conduct Authority – Report on insurance for multi-occupancy buildings: <https://www.fca.org.uk/publications/corporate-documents/report-insurance-multi-occupancy-buildings>

Primary Authority) to ensure that there is only one enforcing authority providing advice to businesses in the past, which has led to significant cost savings<sup>44</sup>.

#### *Non-monetised benefits for lapse of approval*

351. No additional benefits have been monetised from the automatic lapse of approval. There may be a cost saving towards local authorities who manually enforced lapse of approval, but this has not been estimated as this is expected to be a rare occurrence under the counterfactual and is unlikely to be significant.

#### *Non-monetised benefits for definition of commencement*

352. The policy intent behind the new commencement definition infers that the effectiveness of all future building regulations will be higher compared to the current building regulations. In the context of the rest of the policy outlined in this Impact Assessment, the benefit of this change arises from the additional number of buildings meeting current building regulations, including the additional oversight for higher-risk buildings.

353. Due to the complexity of estimating how many developers would avoid regulations under the counterfactual scenario, the benefit of this change has been left non-monetised.

354. To assess the potential benefits of a new definition of commencement, we conducted a survey in March 2023. The aim of the survey was to investigate whether there is any evidence to suggest that developers will attempt to circumvent the new building regulations about to come into force, by doing the minimal amount of work required under the transitional arrangements, so that the new regulations do not apply to them. The survey results showed that there is some evidence to suggest that this behaviour exists, hence supporting the rationale for redefining the definition of commencement.

355. The results of the survey are discussed in greater detail in **Annex C**.

## **Summary assessment of parts 3 and 4**

356. It has not been possible to compare the overall costs and benefits for the part 3 regulations and part 4 regulations Impact Assessments against the benefits because the benefits are estimated for the new regime in its entirety. This following section combines the cost estimates from the part 3 regulations Impact Assessment and part 4 regulations

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<sup>44</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/609990/2015-pa-evaluation-quantitative-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/609990/2015-pa-evaluation-quantitative-report.pdf)

Primary Authority is a similar scheme, allowing businesses that work within multiple local authority areas to only have a single local authority (named Primary Authority) to speak to. This prevented conflicting advice and unreasonable enforcement across different local authority areas. In 2014/15, businesses self reported benefits of Primary Authority from £8 to £2m, with a median of around £4,400 per business. Given building development is high in cost, the benefit of Regulator's notice to developers could be much greater.



Impact Assessment against the benefits of the regime, for an overall assessment of net present value (NPV).

357. Table 31 below presents the estimated NPV for the new higher-risk regime. A detailed view of the aggregated benefits of the regime can be seen in the benefits section above.

**Table 31:** Total costs and benefits

	<b>Total costs and benefits (NPV) (£m)</b>		
	<b>Low</b>	<b>Central</b>	<b>High</b>
Costs to industry (part 3)	£619.9	£907.0	£1,220.0
Costs to industry (part 4)	£1,235.7	£1,823.8	£2,913.1
Costs to the regulator (part 3) <sup>45</sup>	£605.7	£607.7	£610.3
Costs to the regulator (part 4)	£356.0	£356.0	£356.0
<b>Total Costs</b>	<b>£2,814.0</b>	<b>£3,689.2</b>	<b>£5,091.5</b>
Benefits (covers both parts 3 and 4)	£1,173.3	£2,634.0	£5,299.4
	<b>Total NPV (Benefits – costs) (£m)</b>		
	<b>Low NPV (Low benefits, high costs)</b>	<b>Central</b>	<b>High NPV (High benefits, low costs)</b>
<b>Total</b>	<b>-£3,926.1</b>	<b>-£1,060.5</b>	<b>£2,482.2</b>

358. The costs in table 31 above represent the ‘first-order’ costs. These figures are an estimation of the total that is initially incurred by industry or the Regulator over the 15-year appraisal period. Industry costs for some building safety measures in occupied higher-risk buildings can be passed on to leaseholders. This is assessed in the part 4 regulations Impact Assessment. The costs to the Regulator included in the table above are gross costs, before cost recovery has been factored in. The Regulator intends to operate a cost recovery model (see the ‘Costs to the Regulator’ section above for more detail) and will pass the majority of its costs on to industry, and industry will in turn pass some of these costs on to leaseholders. Remediation costs related to fixing historical defects cannot be passed on.

### *Switching analysis*

<sup>45</sup> These costs include the estimated costs to local authorities of changes to the enforcement and appeals process for non-higher risk buildings. These are estimated to be between £3.3m and £7.9m with a central estimate of £5.4m in NPV terms.

359. We have undertaken switching analysis to consider how large the value of non-monetised benefits would need to be for the benefits of the policy to equal costs (to achieve a NPV of zero). This is done by calculating a switching value representing the required benefit per resident of in-scope buildings.

360. Table 32 below presents the estimates of additional benefit required per resident to equal costs (over the 15-year appraisal period). To put these values in context, DfT’s TAG data book values the human cost of a slight casualty at £13,918 (in 2020 prices and values), which is substantially higher than the switching values calculated here. This is based on a stated preference study and reflects the willingness of an individual to pay to avoid the pain, grief and suffering of a slight accident to the casualty, their relatives and friends.

**Table 32:** Additional benefit per resident required for total benefits to equal costs (over the 15-year policy period)

	Annual Benefit (£)	Present Value (£)
<b>Low (high NPV)</b>	*	*
<b>Central</b>	40	580
<b>High (low NPV)</b>	160	2,100

*\*High estimate of NPV is positive, so no switching analysis conducted.*

**Impact on small and micro businesses**

361. Outside of public sector bodies, the majority of the impact of the requirements of part 3 of the Building Safety Act will fall on bodies including:

1. Developers, designers, contractors and others involved in the commissioning, design, construction and maintenance of buildings in scope, and building owners and;
2. Registered building control approvers, formerly known as approved inspectors.

362. For the majority of these groups, the impacted bodies will be companies of a size sufficient to take on the defined roles in relation to higher-risk buildings, and the majority of the activities resulting from the new regime will be undertaken by such bodies. There will also be an impact on individuals, however, including building control professionals and designers and contractors who are operating as self-employed sub-contractors. These individuals may face a comparatively higher burden in meeting and demonstrating compliance with the required competence standards.

363. Compliance with part 3 duties is key to delivering safety in the design and construction of higher-risk buildings. Any exemptions for individuals, or for small and microbusinesses, would involve an unacceptable compromise regarding the safe design and construction of these higher-risk buildings. Such groups must be able to demonstrate compliance with the duties under part 3 of the Act, not least to avoid creating loopholes

where unscrupulous companies might look to sub-contract to abrogate their own responsibilities to ensure that the part 3 duties are met.

364. The wider dutyholder requirements are likely to have a proportionately larger impact on smaller businesses. These requirements relate to non-higher-risk buildings and a larger proportion of these will be constructed by smaller construction firms. However, compliance with the wider dutyholder requirements is key to delivering safety in the design and construction of non-higher-risk buildings. For the same reasons stated above we are not exempting small and microbusinesses from these requirements.

## **Wider impacts (consider the impacts of your proposals)**

### **Innovation – no significant impact**

365. It is unlikely that the majority of the measures will have a significant impact on innovation. Building work must comply with relevant requirements of the building regulations and those involved in the design and construction of higher risk buildings must ensure they meet these requirements. As set out by Dame Judith Hackitt, outcomes-based regimes offer opportunities for innovation and this is best achieved when industry wants to improve, using safe new technologies, products and materials to deliver the outcomes required by regulations. Furthermore, other elements, such as the golden thread requirements, may drive improvements in the way in which information is held and updated during development projects.

### **Housing Supply – scheme viability not materially impacted**

366. The changes introduced under the part 3 regulations will result in additional costs being placed on developers during design and construction, particularly of higher-risk buildings. Additional costs on developers can have an impact on housing supply if they are sufficiently large, slimming profit margins or land values and potentially shutting off development if a project becomes unviable. Our analysis finds that the regulations are likely to have little to no impact on overall housing supply.

367. The Department worked with external consultants to estimate the potential impact on housing supply from the introduction of the regulations under part 3 of the 2022 Act. This analysis focused on a steady state scenario, once there are no longer any transitional issues faced by industry acquainting themselves with the new regime. We have added an additional developmental cost to reflect the part 3 regulations to each building. This cost is derived from the analysis that supports the 'industry costs' section above, and is assumed to be the same across all buildings.

368. We used a bespoke viability model to appraise the impacts, testing three different typologies (sizes) of buildings across five locations, each representing a different type of area. These included London (high value location supporting very high-rise development), Manchester (regeneration area that delivers high-rise development) Reading (non-city location which included some high-rise development), and two others.

369. We assumed that the level of developer profit is close to the minimum level required to fund and deliver the development. Any reduction in profit would, therefore, require the development to consider mitigating actions to restore viability. There are several routes a developer could consider. These include:
- a. Absorbing minor impacts – where costs are very small a developer may simply reduce its return
  - b. Reduce affordable housing – the additional costs incurred could impact on the maximum viable level of affordable homes. Developers may therefore seek to reduce affordable housing contribution
  - c. Increasing sale prices of homes – generally assumed not to be possible as sale prices are assumed to be maximised
  - d. Reducing the cost of land acquisition – maybe possible to a limited extent but will need to ensure that the value remains at or above that which other non-residential users are able to pay. The viability of this option may also vary based on development typology.
370. If none of these options were viable, then there is a possibility that some sites may be rendered unviable, resulting in a decrease in housing supply. We conducted the analysis by observing potential responses using the routes mentioned above across the 5 locations and different typologies. These results were grouped into three categories (London, 31+ storey city, and regional cities) then scaled up across the country. The results indicated that in all cases housing supply was not likely to be impacted.
371. However, this was on the assumption that the proportion of housing units being delivered as affordable housing could be reduced to avoid sites stalling, with an estimated 150 affordable homes needing to be converted to market homes per annum to offset the additional costs. It should be noted that our analysis assumed that reduced affordable housing was the first step developers would take, but in practice in some cases affordable housing will be of too great an importance locally to be reduced, so other routes to ensure viability will need to be sought.
372. In addition to the base case a sensitivity was tested whereby the regulations lead to the development taking place over a longer period. We assumed an average programme extension of 4 weeks (at application for building control approval – ‘gateway 2’ stage), resulting in £41,000 of additional costs related to developing and preparing the relevant information and evidence to submit to the Regulator as part of the application for building control approval. Under this scenario the number of affordable homes required to convert to market homes increased to 215, and a small number of schemes could reach the threshold for homes at risk of stalling, with roughly 470 homes per annum at risk, unless developers chose other routes to ensure viability. We assessed that programme extensions at later stages in the development process were likely to be significantly more costly to developers and so, were they to occur, estimated housing supply impacts would be larger. We would expect developers to consider and plan for meeting the new building control approval process in its entirety at an early stage in their Programme, and to build an effective and on-going relationship with the Regulator to ensure as smooth as possible approval for their development at all stages. Further, the

more stringent oversight during design and construction, will ensure safer, better quality buildings, without systemic defects, thereby increasing the longevity of new buildings and reducing the risk of further costs being required to maintain housing supply.

373. We have not conducted any analysis on the potential housing supply impacts of the transitional provisions (see 'transitional provisions' section above) but estimate there will be little to no impact on long-term housing supply. The cost and time impact per building from the transitional provisions ranges from below the base case to slightly above the sensitivity used in the housing supply analysis (the sensitivity here being the 4-week programme extension at 'gateway 2' stage costing £41,000 in addition to the base case). Due to this, we anticipate no material impact on long-term housing supply.

## **A summary of the potential trade implications of measures**

374. It is unlikely that the measures introduced through the Building Regulations etc. (Amendment) (England) Regulations 2023 and the Building (Higher Risk Building Procedures) Regulations 2023 will have any trade implications. If there is any impact it is most likely to be an increase in the import and export of construction services such as design and building safety consultancy services as individuals and companies will be required to design, construct and manage projects to a high standard, evidencing their decisions, in particular with regard to how they are meeting English building regulations. However, there is very limited direct evidence on this area and, therefore, it is not possible to make a judgement with any degree of confidence. If there are any impacts, we expect them to be minimal.

## **Monitoring and Evaluation**

375. These new requirements and processes will be monitored by the Regulator, which will be operating and enforcing the new regime under these regulations. The Regulator has developed an evaluation strategy to assess the effectiveness of the elements of the new regulatory regime it will deliver. This will be delivered in collaboration with Government so that it is possible to generate robust evidence on the impact of these specific measures, within the new, wide reaching, regulatory framework brought in by the Act.

376. DLUHC, on behalf of Government, will be leading a programme of evaluation activities, covering the Regulator, the National Regulator of Construction Products and its own renewed role as steward and sponsor of the new regulatory framework brought in by the 2022 Act. Work is underway to agree the final approach to evaluation. The following is an outline of the intended approach, but our plans will need to be approved by internal research, policy and ministerial sign off processes before the final plan is confirmed.

377. In collaboration, the three organisations – DLUHC, the Regulator and the new Regulator of Construction Products, will deliver focused evaluation activities, covering process, impact and value for money. Each will be responsible for developing monitoring

and evaluation plans for the elements of the Act they are delivering, but these projects will be pooled, using theory-based methodologies, so that individual elements, such as the new regime for higher-risk buildings, can be understood both in isolation and embedded within a wider, interrelated system of measures all targeting improvements in the safety of buildings for those that use them.

378. In addition to ongoing monitoring, under section 162 of the 2022 Act, the Secretary of State must appoint an independent person to carry out a review of the regulatory system every five years. The purpose of the review is to consider the effectiveness of the overall regulatory system – that is the new system established through the 2022 Act and these regulations, and the existing legislative framework – and review the implementation of the relevant parts of that system by the Regulator, to make recommendations for improving both the regime and the Regulator. The Secretary of State will be required to publish the report.

379. The impacts from this specific intervention are unlikely to materialise for some time, due to the long times associated with residential housing developments, so evaluation teams will first focus on embedding sound monitoring activities and completing a process evaluation prior to the independent review reference above. These activities should help to support the work of the independent reviewer.

## **Annex A: Benefits estimates methodology**

### **Appraisal period and discount rates**

1. The benefit estimates set out here have been calculated over a 75-year appraisal period. This includes benefits experienced in the 15-year policy appraisal period (equal to that used to estimate costs) and benefits that may persist over the lifespan of a building, assumed to be 60 years. This is to best capture all the benefits and reflects the Green Book guidance on 'persistence' of benefits. For example, benefits associated with residents' engagement are likely to last the 15-year policy period (or for a brief period thereafter), while improvements in the construction quality of new buildings will likely last the lifespan of the building.
2. For the first 30 years of the appraisal period, a discount rate of 3.5% has been applied to costs and non-health related benefits and 1.5% to health-related benefits. For the subsequent 45 years, 3% and 1.29% discount rates have been applied respectively. This is in line with guidance in HM Treasury's Green Book – Appraisal and Evaluation in Central Government<sup>46</sup>.

### **Monetised benefits from buildings above 18m in height**

#### **Reducing the risk of fire incidents**

3. It is expected that the Building Safety Act proposals will reduce the risk of fire spreading within and across higher-risk buildings and therefore the human and material costs of such fires. This section sets out the methodology used to estimate the scale of this benefit.
4. In essence, this analysis rests on estimates of the risk of fire incidents in the counterfactual, the expected cost of such incidents, and the extent to which the Building Safety Act 2022 proposals will mitigate this. This can be summarised as follows:
5. Expected avoided costs of fire incidents of type  $i$  in year  $j$  = (I) Expected frequency of fire incidents of type  $i$  in year  $j$  in the counterfactual \* (II) Expected cost per fire incident of type  $i$  in year  $j$  \* (III) Expected percentage reduction in fire incidents of type  $i$  in year  $j$  caused by the activity of the Regulator.
6. The results are summed across types to calculate the annual impact, then discounted and summed over time to give the present value benefit over the appraisal period.

#### **Expected frequency of fire incidents in the counterfactual**

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<sup>46</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/685903/The\\_Green\\_Book.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/685903/The_Green_Book.pdf)

7. We examined published statistics<sup>47</sup> and a series of case studies to understand the historical frequency of fires of varying severities in in-scope buildings. Through a combination of statistical analysis<sup>48</sup> and judgment, we then made initial high, medium and low estimates of the frequency with which fires of a range of severities would be expected to occur in the absence of the Building Safety Act proposals.
8. The historical evidence we referred to is unlikely to fully capture the impact of recent developments in this area, including policy measures already taken that have the effect of reducing the risk of fire in in-scope buildings. The impact of each of these measures on the risk of fires has been considered and a judgment made of the aggregate impact of these measures on the expected frequency of fires. This judgment was then applied to the frequency estimates based on the historical data discussed above to derive high, medium, and low estimates of the frequency with which fires of varying severities would be likely to occur if the Building Safety Act proposals were not introduced.
9. This analysis does not account for any future trends in the frequency of fire ignitions. The frequency of fire ignitions could, for example, be affected by changes in the quality and safety of household appliances used in flats, but it was not considered proportionate to model the profile of this technological change.

### **Impact of fire incidents**

10. Through case studies and industry knowledge, and considering developments following the Grenfell tragedy (e.g. the introduction of waking watch in some higher-risk buildings and changes to FRS policies regarding evacuation), high, medium and low estimates have been made of the expected impact of fires of varying severities in in-scope buildings.
11. Impacts considered include casualties and fatalities (valued using DfT TAG figures<sup>49</sup>), mental health impacts, property loss, demolition, and operational costs.
12. Combining the estimated frequency of fire incidents in the counterfactual with the estimated impact of each type of incident gives an estimate of the expected impact of fires over the appraisal period in the absence of the Building Safety Act 2022 proposals.
13. Potential future changes which could affect the impact of fire incidents, such as emergency services' response to fires, changing demographics of residents of in-scope buildings, and changes in the ability to treat the physical and mental harm caused by fires, have not been modelled.

### **Effectiveness of the Regulator in preventing fire incidents**

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<sup>47</sup> <https://www.gov.uk/government/collections/fire-statistics>

<sup>48</sup> Modelling the occurrence of larger scale (and less frequent) fire incidents as a Poisson process

<sup>49</sup> £2.0m per fatality and £60k per casualty on average (calculated using a weighted average between 80% minor injuries and 20% major injuries) (2019 prices)



14. It is then necessary to make an assumption on the extent to which the Building Safety Act 2022 proposals will reduce the risk of fire incidents in in-scope buildings (and how this would vary over time). In the absence of data relevant to these specific circumstances, judgments were made as to reasonable high, medium, and low estimates of risk reduction. Feeding into this judgement were estimates of the rate of new buildings and work on existing higher-risk buildings that will be subject to the Building Safety Act 2022 proposals (and so the proportion of the total building stock that these will make up), and the anticipated profile of building assessment certificate applications and subsequent remediation works in the existing stock. It is further assumed that the Regulator will have a lesser impact on the frequency of less severe fires, as a proportion of these are more likely to be caused by factors that cannot be effectively addressed by a regulator.
15. As discussed above, this Impact Assessment estimates benefits that will arise from a 15-year policy period as a result of safer buildings. Some of the benefits are expected to persist over the life of a building (typically 60 years) and as a result, a proportion of the benefits are anticipated to persist (for example, benefits resulting from improved build quality will persist for the lifespan of the relevant building). Conversely, for various reasons one would expect that the impact of the actions of the Regulator during the policy period on the frequency of fires is likely to decline as the end of the appraisal nears (that is, the quality of engagement with residents and the safety benefits resulting from this may decline over time if it was no longer mandated).
16. However, given that the regulatory regime introduced by the Act has a number of interconnected aspects, the effects of which might be expected to persist for different periods of time, it is disproportionate to attempt to quantitatively separate out the effect of each of these aspects on the evolution of the expected frequency of fires over the appraisal period. Therefore, assumptions as to the rate at which the impact of the Regulator on the expected frequency of fires will decline over the appraisal period have been based on judgment, having regard to the range of aspects of the functions of the Regulator and the profile of the building stock over time.

## **Conclusion**

17. As set out above, these estimates of the benefits of the Building Safety Act 2022 proposals in reducing the risk of fires are subject to a great deal of uncertainty. They rely on several assumptions, some of which are driven in whole or in part by judgment. It is hoped, however, that the suggested range of benefits, £47.6m - £325.9m per annum, can provide some insight into the likely scale of the impact of the Building Safety Act proposals in this area.

## **Avoided costs of resolving systemic issues**

18. The use of unsafe building products or practices in the construction and refurbishment of buildings can make them unsafe and subject to risk. In some cases, this can occur across a wide portfolio of buildings (when poor practice is systemic), and when identified, the issues need to be addressed through

remediation, incurring potentially substantial costs (cost of putting in place interim protection measures, cost of investigation, cost of remediation works etc.). These costs are in addition to the costs incurred if these products or practices result in a fire or structural incident. For example, the installation of unsafe Aluminium Composite Material cladding on buildings has, in addition to the human and wider costs caused by fires, led to significant expenditure required to mitigate the risk posed by such cladding (for example, waking watch) and ultimately to remove and replace the cladding.

19. It is expected that the Building Safety Act 2022 proposals will reduce the probability that unsafe products or practices are used in buildings constructed or refurbished during the policy period. This would mean that costs of mitigating or remediating the systemic use of such products or practices would be avoided, representing a benefit to society.
20. It is assumed that this benefit will only apply in respect of new higher-risk buildings and buildings undergoing major refurbishments (the Regulator cannot retrospectively prevent past systemic poor construction in the existing stock, although it can identify and help to mitigate the risks posed by them).
21. We cannot know the exact nature and scale of future potential systemic issues, therefore in this assessment we have assumed a future issue would be similar in terms of number of buildings affected and scale of cost to that of the unsafe Aluminium Composite Material cladding issue (i.e. affecting 490 buildings, which equates to 3.3% of the stock, at an average cost of £3.2m per building<sup>50</sup>). Therefore, it is assumed that 5% of new buildings or those undergoing major refurbishments would be subject to issues that would later (over the next twenty years) require mitigation and remediation (it should be noted this approach of making an estimate based on a single historical example is subject to significant uncertainty).
22. It is not certain that the Building Safety Act 2022 proposals will prevent, at the time of construction or refurbishment, all future potential systemic issues. For example, problems with certain materials or construction processes, currently deemed compliant, may only be identified after buildings start failing. Reflecting this, it is assumed that the Building Safety Act 2022 proposals would reduce the risk of such issues arising in new buildings or buildings subject to major refurbishment during the policy period by 60%. This is based on a judgement. Due to the lack of evidence to support a specific range or confidence interval on this estimate of risk reduction, sensitivities of +/- 30%, applied to the mid-point estimate of the benefit value, have been tested. This same approach was taken with respect to the benefits discussed in the following sections.
23. The methodology and assumptions set out above, inform our suggested benefit of £11.3m - £22.6m per annum of reducing the cost of resolving systemic issues.

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<sup>50</sup> The estimated cost per building was based on industry knowledge and a set of three case studies.

## Indirect benefits to the construction industry

24. The additional scrutiny of plans and construction works due to the Building Safety Act 2022 is expected to result in reduced defects both during and at the end of construction and reduced latent defects identified during occupation. This will result in the avoidance of costs incurred to remedy such defects. Following the introduction of the proposed regime, reducing defects that are typically identified and resolved during construction is assumed to have an average cost saving of £37,500<sup>51</sup> per new building whilst reducing defects identified at the end of construction is assumed to have an average cost saving of £40,000 per new building. Avoiding latent defects identified during occupation are expected to lead to a cost saving of £500,000 in rework costs per building.

25. Other indirect benefits to the construction industry are estimated to arise from:

- The requirement to provide more information upfront and seek approval from the Regulator prior to work beginning pre-approval at the building control application stage (gateway two) is expected to reduce construction rework costs. The requirement to have approval for works before they commence is expected to avoid instances where products or systems that are not approved are installed or delivered to site and subsequently have to be replaced. This is assumed to apply to 15% of new buildings with an average saving of £80,000.
- The requirement for a digital record at gateway three has the potential to reduce asset management and invasive survey costs. An accurate record of building layouts and installed systems products is expected to facilitate more efficient asset management, with 37.5 hours per annum per new building assumed to be saved in asset management time, while one invasive survey per new building is assumed to be avoided every five years, at an average cost of £5,000 per survey.

26. Estimating the sum of the total indirect benefits to the construction industry and building owners, suggests an annual benefit in the range of £34.5m-£64.0m.

## Reducing the risk of structural issues

27. Safety cases should help to prevent structural issues which may cause falling windows and balconies and collapsing buildings from occurring.

28. Safety cases combined with other aspects of the Regulator's operations will improve early identification of faulty balconies and windows. This will enable the cost-effective replacement of such features before an incident occurs. The total cost per each avoided incident is estimated to be £3m and our analysis has assumed 80% of the risk of such an incident will be mitigated by safety cases. This leads to an average replacement cost per building following an incident of £2.4m. Given the exceptional nature of such an incident, this is assumed to apply to 0.002% of the building stock each year with an average annual saving in the range of £1.0m-£1.8m.

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<sup>51</sup> These figures are based on subsidiary assumptions as to the number of such defects that would be expected in the counterfactual, what each one would be expected to cost, and how many would be avoided as a result of the Building Safety Bill proposals. These assumptions are in turn based on a combination of case studies and judgment.

29. Similarly, safety cases combined with other aspects of the Regulator 's operations are likely to identify wider structural issues within buildings enabling these to be addressed before a major incident occurs, such as a full or partial building collapse. The total cost per each avoided incident is estimated to be £14.3m and our analysis has assumed 80% of the risk of such an incident will be mitigated by safety cases. This leads to a saving per building of £11.4m. The avoidance of such major incidents is assumed to apply to 0.001% of the building stock each year, giving an expected annual cost saving across the building stock in the range of £1.6m-£3.1m.
30. Estimating the sum of the total benefits of reducing the risk of structural issues suggests an annual benefit in the range of £2.6m-£4.9m.

## **Annex B: Non-FTE and capital regulator cost allocation**

1. The costs to the Regulator in the main body of the Impact Assessment include operational resource costs and capital costs that are not simply FTE. These are apportioned across all functions of the regulator based on a series of allocations.
2. Operational resource costs that are not FTE include elements such as additional IS/IT costs, science and research support and communications and stakeholder engagement (this list is not exhaustive). For these areas, the total spend was apportioned across all regulatory functions based on FTE split. For example, if the higher-risk buildings in-occupation function of the Regulator utilised 15% of total FTE coverage, it would be allocated 15% of the operational resource costs.
3. The only deviation from this breakdown is for legal costs/fees. These are only split across the special investigations teams functions, which include the three set out in table 23, and an additional one for the building control function (which relates to part 3).
4. The capital costs are split by three separate allocations: BETA, IT hardware and other (capitalised research and evaluation). BETA relates to the BETA build of the digital services that support the regulator. The BETA breakdown was mapped to the Regulator's functions and allocated based on the original BETA split. IT hardware is split similarly to operational resource cost, based on FTE apportionment across all the Regulator's functions. Lastly capitalised research and evaluation is apportioned based on assumptions about what the research will be supporting, and for which Regulator function the work is commissioned.

## Annex C: Definition of Commencement Survey

### Background

1. The focus of the survey was changes that had occurred to the Approved Documents (AD), the Government's published guidance detailing ways to meet building regulations. Although the content of an Approved Document is not binding by itself, they are often used to assess whether a property complies with the current building regulations and hence are closely followed by property developers.
2. The first set of changes the survey focused on were those announced to Approved Document B (AD B as a shorthand) on 26 May 2020. AD B covers fire safety matters within and around buildings, with the primary change introduced being a requirement to install sprinklers in buildings 11 metres in height or above.
3. The second set of changes focused on were those announced on 15 December 2021 to Approved Documents F and L, as well as the publication of Approved Documents O and S (referred to collectively as ADs F, L, O and S). These four Approved Documents set standards for several different areas: Approved Document F sets out standards for ventilation, with the new changes requiring for the installation of CO<sub>2</sub> monitors in offices and high-risk rooms; Approved Document L sets out standards for energy performance of new and existing buildings, with the changes calling for a greater reduction of a carbon emissions and introducing a new performance metric; Approved Document O set out a new standards for overheating in new residential buildings, including classifying buildings as having moderate or high overheating risk depending on the area in England in which they are located; and Approved Document S set out new standards for infrastructure for charging electric vehicles, including guidelines on installing charge points and cable routes in both residential and non-residential buildings.
4. These two sets of building regulation changes were chosen for the survey due to their broad scope, affecting a wide range of buildings and in the case of ADs F, L, O and S a wide range of areas. This ensured that the changes the survey focused on would be those that would have materially affected property developers and hence created incentives to try to circumvent these changes. As both of these changes occurred relatively recently, this also provided assurance that the survey results would be valid when used for a qualitative assessment of the benefits of the proposed policy.
5. AD B and ADs F, L, O and S officially entered into force on 26 November 2022 and 15 June 2022, respectively. A six-month transitional arrangement was thus in place between the dates of both regulations being announced and them coming into force. A key provision set out under both arrangements was that the building regulation amendments that underlay the Approved Documents did not apply in relation to building work where a relevant building control application was submitted with a local authority before the date the regulations came into force, provided that the building work had only commenced by that date. Such building control application included a building notice, a full plans application, or an initial notice.
6. A new set of building regulations being introduced may decrease the expected profitability of a build site through increased costs related to complying with the regulation. This may

incentivise property developers to seek out low-cost options of retaining potential profitability, including achieving building control approval and commencing the work. The commencement guidance means that developers are able to undertake a relatively minimum amount of building work to constitute a building development having commenced<sup>52</sup> and are then able to leave the build site unfinished, but available to develop under the regulations in place at the time they secured building control approval.

7. If developers opt to act in this way it will mean that more new-builds, and in particular higher-risk buildings, than anticipated would not be required to meet the new requirements as set out in the Building Regulations etc. (Amendment) (England) Regulations 2023 and the Building (Higher Risk Building Procedures) Regulations 2023 and will not benefit from the changes they prescribe. If this sort of non-compliant behaviour was common, it would be possible to detect it by looking for a sudden change in the number of building control applications being deposited just before, and just after, the date a building regulation amendment came into force.

### **Survey design and methodology**

8. The survey was commissioned in March 2023. This was sent to all Local Authority Building Control (LABC) teams in England, with 52 LABC teams providing responses by the time the survey closed in April 2023. The responses of 3 LABC teams had to be excluded due to the data provided being incomplete or not filled in accurately, meaning that the final sample size of the survey was 49.
9. The survey focused on a narrow period of time around the regulation deadline, including some time after the deadline had passed. Specifically, the survey asked each LABC team to submit the number of building notices, full plans applications, initial notices and commencement notices that were sent to them on a per-week basis over a period of 5 working weeks before and 5 working week after the deadline dates for changes to AD B and ADs F, L, O and S being published. This granular approach was chosen to minimise the chance that changes seen in the number of applications was due to other factors besides the deadline. One such time interval will be referred to as the ‘regulation year’ as a shorthand.
10. In addition, the survey asked for the building application information in another year, for the times of the year corresponding to those collected for the two regulation years. This year, called the ‘control year’, was chosen as one where no major changes to building regulations took place. The trend in building application number in the control year could then be used as the baseline, against which a corresponding regulation year could be compared. By choosing the same time of the year in the control year to compare to the regulatory year, the impact of seasonal variation in building application numbers could also be mitigated.
11. The time interval corresponding to AD B coming into force was, therefore, 22<sup>nd</sup> October 2020 to 25<sup>th</sup> November 2020 and 27<sup>th</sup> November 2020 to 31<sup>st</sup> December 2020. For the Approved Documents F, L, O and S, the corresponding time interval was 11<sup>th</sup> May 2022 to 14<sup>th</sup> June 2022 and 16<sup>th</sup> June 2022 to 20<sup>th</sup> July 2022. It should be noted that for both time

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<sup>52</sup> For Approved Documents F, L, O and S, for example, some activities listed as constituting commencement of work were excavation for strip or trench foundations, digging out and preparing the ground for raft foundations, boring for piles or pile driving, and conducting drainage work.

intervals, the exact day the respective regulations came into force were excluded from the survey to allow for a more straightforward comparison between the control and regulatory years. The control year was 2014. Thus, the control time period for AD B is 22<sup>nd</sup> October 2014 to 31<sup>st</sup> December 2014, while the control time period for ADs F, L, O and S is 11<sup>th</sup> May 2014 to 20<sup>th</sup> July 2014.

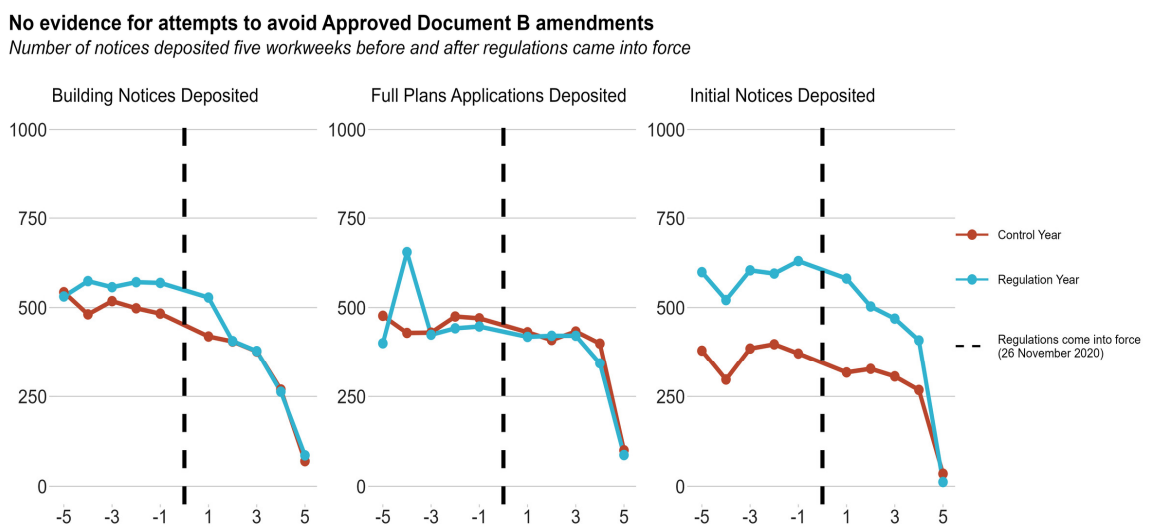
## Analysis of Results

12. The results of this survey are presented in Figure 1 and Figure 2 below.

13. Figure 1 depicts the change in building application numbers over 5 weeks before and after the changes to Approved Document B came into force, as well as the numbers for the corresponding period in the control year. Figure 1 does not show any clear evidence of non-compliant behaviour by developers, with a similar level of building control applications before and after the deadline. The only notable exception is a large spike seen in full plans applications 4 working weeks before the deadline, between 29<sup>th</sup> October and 4<sup>th</sup> November 2020. This is however wholly driven by the results from a single local authority, which makes it uncertain whether it is related to the changes in the Approved Document. Following the deadline, the numbers across all application types in both the regulation and control years trend down towards zero, either gradually for building notices or abruptly for full plans applications and initial notices. This can be explained by the 5<sup>th</sup> week after the deadline falling between 25<sup>th</sup> December and 31<sup>st</sup> December 2020, the middle of the Christmas holiday period.

14. The number of building notices and full plans applications in the regulation year are very similar in level to those in the control year, whereas the average level of initial notices deposited in the regulation year is significantly higher compared to the control year.

**Figure 1. Survey results for Approved Document B**

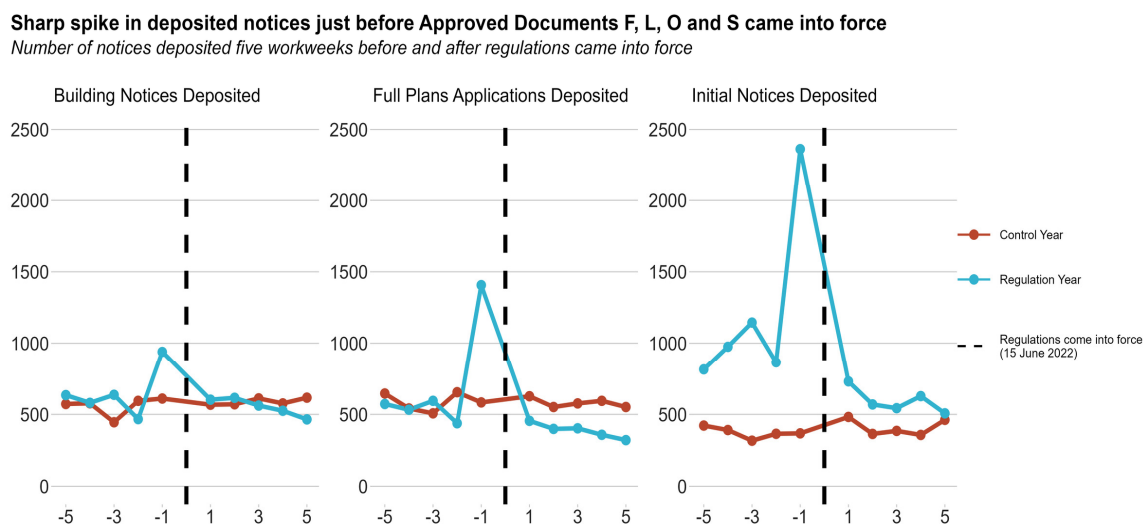


15. Figure 2 depicts the change in building application numbers over 5 weeks before and after Approved Documents F, L, O and S came into force, as well as the numbers for the corresponding period in the control year. A clear spike in the number of every type of building control application can be seen in the week just before the deadline, shown in the



graph as week -1 and corresponding to between 8 June and 14 June 2022. Furthermore, in the case of building notices and full plans applications, the trend in applications is flat and follows that of the control year closely for all periods except for the week before the deadline. In the case of initial notices, a clear upward trend can be seen over time as the deadline approach, with the number of notices deposited falling sharply down in the weeks after.

**Figure 2. Survey results for Approved Documents F, L, O and S**



16. The results of the survey corroborate the assumption that developers likely attempt to circumvent incoming building regulations. This can be mostly clearly seen in the changes in initial notices deposited in Figure 2. The lack of evidence for attempting to circumvent incoming building regulations during the AD B transition period may be explained by the fact that the changes being proposed only applied to a small subsection of new buildings and were different in their nature to those in ADs F, L, O and S.

17. Initial notices are meant to inform local authorities that an approved inspector is fulfilling the role of building control at a site. Since using approved inspectors means that no formal approval to start work is required, and since initial notices do not carry a defined period of validity, they are a much more flexible option for developers wanting to start the building site as close to the deadline as possible. As such, it can be expected that they would be preferred by developers wishing to avoid following new regulations, and that, therefore, they would be used much more.

**Implications for non-monetised benefits**

18. Several different factors should be considered to understand the effectiveness of a change in definition of commencement of work in preventing the circumvention of future building regulations.

19. Firstly, the length of the transition period is important when assessing the ability of developers to circumvent incoming building regulations. Shorter transition periods provide less time to organise works on a site that would qualify as commencement, and it is,

therefore, likely that fewer developers would be able to avoid having to comply with the new building regulations. Since the two building regulation changes surveyed both had a transition period of six months, the extent to which the length of a transition period affects the magnitude of this issue could not be assessed.

20. Secondly, the type of regulatory change is likely to make a difference in terms of incentivising developers trying to avoid new building regulations. Wider and deeper reforms to a building regulation would be more likely to provide a greater incentive compared to comparatively minor changes. Comparing the two building regulations that were included in the survey, the data for Approved Document B provided no clear indication of attempts to avoid changes, while the data for Approved Documents F, L, O and S showed some evidence of this.
21. Thirdly, other aspects of the transitional provisions for a new building regulation may play as important of a role in how many buildings are able to continue abiding by older regulations. For example, the transitional provisions for changes to Approved Documents F, L, O and S were different compared to previous building provisions because only individual buildings for which work has commenced, and not the building sites as a whole, could take advantage of them. This might have led to a lower number of buildings being able to avoid newer building regulations. At the same time, this change in transitional provisions may also provide an alternative explanation to the spike in building control applications seen in Figure 2, with this just been the result of developers submitting applications on a per-building and not per-site basis. This would artificially inflate the total volume of applications deposited but not necessarily reflect an increase in the actual number of buildings built.
22. Ultimately, the survey results imply that there is some evidence to suggest property developers attempt to avoid having changes to building regulations from applying to their building work, and therefore supports the rationale for redefining the definition of commencement.