

Statement of Policy Intent for the Building Safety (Wales) Bill

Introduction

This paper summarises the Welsh Ministers' powers and duties for making secondary legislation under the provisions of the Building Safety (Wales) Bill (the Bill), as introduced to the Senedd Cymru on 7 July 2025.

The statement explains the current policy intention as to how these powers and duties are intended to be used. The justification for the Senedd procedure selected in respect of each regulation-making power or duty is set out in table 5.1 of the Explanatory Memorandum.

In developing subordinate legislation, the Welsh Ministers will work closely with stakeholders, and regulations made under powers in the Bill will be subject to consultation where appropriate.

The Welsh Ministers have considered the use of powers in the Bill, as set out below, and are satisfied they are necessary and justified.

Overview of the Bill

The Bill contains 4 Parts and 4 Schedules.

In summary:

The overarching purpose of the Building Safety (Wales) Bill is to establish clear lines of responsibility for managing building safety risks in multi-occupied residential buildings, by creating new roles and responsibilities for those that own and manage these buildings so that there can be no doubt about where the responsibility lies. The bill is also aimed at empowering residents by ensuring that they have a stronger voice in matters that affect their home.

The Bill focusses on the occupation phase of a multi-occupied residential building's lifecycle, but forms part of a wider programme of changes aimed at improving safety in these buildings.

The main purpose of the Bill is to improve the safety of people living in multi-occupied residential buildings in Wales. The Bill will achieve this by establishing a regime that will:

- identify who is responsible for building safety in multi-occupied residential buildings.
- require those responsible for buildings of at least 11m in height or that has at least 5 storeys to register the building with a building safety authority.
- give each of the Welsh local authority's new functions as building safety authorities.
- confer new functions onto the fire safety authorities in Wales.
- create duties to assess and manage fire safety risks in all in-scope buildings.
- create duties to assess and manage structural safety risks in in-scope buildings of at least 11m in height or buildings with at least 5 storeys.
- put in place new rights for residents in all in-scope buildings.
- establish a new enforcement regime to ensure that these new duties are met.

Other documentation

This statement has been prepared in order to assist Committees during the scrutiny of the Bill. It should be read in conjunction with the following:

- the Building Safety (Wales) Bill.
- the Explanatory Notes to the Bill; and
- the Explanatory Memorandum to the Bill.

Meaning of “independent part”

| Section | Form | Description of power | Procedure |
|---------|-------------|---|-----------|
| 4(6) | Regulations | Section 4 sets out the meaning of an “independent part”. Subsection (6) provides a power for the Welsh Ministers to make regulations that may provide that, in circumstances specified in the regulations, a part of an unattached structure or set of structures is an independent part, despite the part not meeting the criteria for being an independent part (as set out in this section). | Approval |

Policy purpose and intent

Section 4 makes provision about the meaning of an “independent part”. The intention behind introducing “independent parts” is to recognise that if a part of a structure or set of structures meets certain criteria it is appropriate for it to be considered a “building” in its own right (rather than the whole of the structure or set of structures being considered a “building” and the “regulated building” test being applied to that as a whole).

The power in subsection (6) is not intended to be used unless required. The power enables the Welsh Ministers to make regulations, if necessary, to specify when a part of an unattached structure or set of structures is an “independent part” despite it not being such under this section. The Bill will apply to a broad range of building types, and it is possible that the “independent part” test may not produce the appropriate outcome for some buildings. If the need arises, this regulation making power can be used to enable more unusual ownership models and designs of buildings to be accounted for and for duties to be placed on the most appropriate people.

Meaning of “residential unit”

| Section | Form | Description of power | Procedure |
|---------|-------------|---|-----------|
| 5(5) | Regulations | Section 5 sets out the meaning of a “residential unit”. Subsection (5) provides the Welsh Ministers with a power to make regulations making provisions supplementing this section. The regulations may provide supplementary provisions as laid out in subsections (6)(a) to (c). | Approval |

Policy purpose and intent

This section sets out the meaning of a “residential unit”. This is necessary in order to be able to count the number of “residential units” in a building to determine if it is a “regulated building”.

The power in subsection (5) is not intended to be used unless required. The power enables Welsh Ministers to make regulations, if necessary, supplementing the meaning of a “residential unit”. This will ensure clarity of the law should there be any emerging cases where it is not clear if certain accommodation is or is not a “residential unit”. Regulations can be made to provide that specified living accommodation will not be regarded as “residential units” for the purposes of the regime. If necessary, they can also be used to set out how “residential units” should be counted in specific circumstances if clarity is required. Living accommodation can be diverse in nature and potentially be open to more than one interpretation and could evolve in future to the point where the meaning of a “residential unit” in section 5 may need to be further provided for or supplemented. There is a need for the legislation to be able to keep pace with changes so that it can accurately reflect and depict multi-occupied residential buildings as intended. Regulations are needed to ensure the scope and application of the law is able to continue to be aligned with the policy intent if necessary.

Subsection 6 sets out a non-exhaustive list of matters that may be included in regulations.

Categories of regulated building

| Section | Form | Description of power | Procedure |
|---------|-------------|---|-----------|
| 6 (5) | Regulations | Subsection (5) provides the Welsh Ministers with a power to make regulations making provisions to supplement this section as described in subsections (6) (a) to (c). | Approval |

Policy purpose and intent

Section 6 sets out the definition for each category of building under the Bill (category 1, 2 and 3). Subsection (5) allows the Welsh Ministers to make regulations supplementing section 6. It may be necessary to set out further details of how to measure the height of a building. Regulations made using this power in section 6(5) could be used to set out details of how to measure the height of a building (such as the specific points to measure from and to), make provision to define what a “storey” is, or provide for how storeys are to be counted. Regulations could also, if necessary, make provision for when buildings of a particular description should be treated as falling into a different category than they otherwise would. This might be due to emerging evidence identifying such buildings as being at higher or lower risk than other buildings within the category they would otherwise fall into.

This level of detail is not considered appropriate on the face of the Bill and is considered better suited to regulations. It will also provide an opportunity to consult industry further on these more technical details when the regulations are made.

This approach will ensure the regime and the intended approach of creating different duties for different “categories” of regulated buildings is able to keep pace with changes and new evidence. Regulations are needed to ensure the scope and application of the law is able to continue to be aligned with the policy intent, if necessary, in the future.

Principal accountable person: determination by building safety authority

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 10(3) | Regulations | Subsection (3) provides a power to the Welsh Ministers to make regulations about the application to the building safety authority. The Bill also sets out a non-exhaustive list of provisions that may be included in regulations in section 10(3) | Annulment |

Policy purpose and intent

Where there is more than one accountable person for a regulated building, a determination may be required as to who is the principal accountable person.

Regulations made using the power in section 10(3) would introduce a set of requirements that apply across Wales in relation to applications made to the building safety authority for the building for determining as to which one of the persons is the principal accountable person for the building. Setting 'must have' requirements in regulations will help to ensure that those applying to the building safety authority for a determination will be clear about any steps that must be taken when they submit the application. It will help to ensure a consistent approach, and fairness in terms of what is required for an application, across Wales.

Meaning of “common parts”

| Section | Form | Description of power | Procedure |
|------------------|-------------|---|-----------|
| 12 (3) & (4) (e) | Regulations | <p>Section 12(3) provides that the Welsh Ministers may make regulations to provide that, in specified circumstances, a part of the structure and exterior of a building forms part of the common parts of the building despite falling within subsection (2)(a)(i).</p> <p>Subsection 12(4)(e) provides that regulations may add to the list set out in subsections 4(a) to (d) of things that can be included in the definition of ‘structure and exterior’.</p> | Approval |

Policy purpose and intent

This section provides a definition of ‘common parts’ for the purposes of the Act. The definition of ‘common parts’ ensures accountable persons can be identified for regulated buildings.

The regulation making power in section 12(3) is not intended to be used unless required. Its purpose is to ensure that common parts can be specified if needed. Part of the structure and exterior of a building can sometimes be included in the demise of a residential unit – for example, a roof. This power could be used to specify that a roof that is demised to a residential unit, is a “common part”.

The regulation making power in subsection 12(4) is to allow the flexibility to add to the definition of “structure and exterior” in the future to ensure accountable persons can always be identified for those parts.

Power to make further provision for the purposes of sections 8 to 13

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 14 (1) | Regulations | Section 14(1) provides a power to the Welsh Ministers to make regulations which will supplement sections 8 – 13. | Approval |

Policy purpose and intent

Subsection (1) provides a power for the Welsh Ministers to make regulations which will supplement sections 8 to 13. Subsection (2) sets out a non-exhaustive list of matters that may be included in these regulations.

There will be some areas of a building that no accountable person has a legal estate in possession of and no accountable person has repairing obligations in respect of, for example areas in the demise of a residential unit let out under a long lease as long leases generally provide for the leaseholder to have repairing obligations in respect of the demised property. The power could be used, for example, when no common parts can be identified in a house split horizontally into 2 residential units owned by leaseholders because all parts of the building are demised to leaseholders. The power could be used to specify that in these scenarios a shared stairwell inside the house is a common part (thereby enabling accountable persons to be identified for the building). Without this regulation making power there is a risk that accountable persons for these buildings cannot be identified.

The power could also be used, for example, to make regulations about “accountable persons” and “principal accountable persons” for a regulated building which is not on commonhold land or has no common parts of a description as specified in regulations.

Part of regulated building for which accountable person is responsible

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 15(1) | Regulations | Section 15 (1) provides the Welsh Ministers with a power to make regulations to provide the meaning of the part of a regulated building in which an accountable person is responsible for. | Approval |

Policy purpose and intent

Section 15 (1) provides the Welsh Ministers with a power to make regulations to provide the meaning of the part of a regulated building in which an accountable person is responsible for. These regulations will provide clarity to accountable persons about the areas that fall under their remit for the purposes of fulfilling their duties. This is an administrative matter and not suitable to be set out on the face of the Bill. For example, the Welsh Ministers may provide in the regulations that the part of the building which an accountable person is responsible, could be the whole building.

Power to amend sections 2 to 14

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 16 (1) | Regulations | Section 16(1) provides the Welsh Ministers with a power to make regulations which can amend sections 2 to 14 and Schedule 1. | Approval |

Policy purpose and intent

Sections 2 to 14 set out the definitions for the key terms used to underpin the regime, including for example, the meaning of a building, and the meaning of an accountable person.

It may be necessary for any of these definitions to be amended in the future in order for the regime to keep pace with, and continue to meet, the policy intention of regulating building safety in all multi-occupied residential buildings.

Schedule 1 sets out a list of buildings that are excluded from being regulated buildings. This power will provide flexibility in the future to enable the list of “excluded buildings” to be amended should the need arise. Given the wide range of ways in which buildings are used and that usage/design may change in the future, it enables regulations to be made to ensure that the policy intent is fully met and that future changes in use can be accounted for, in relation to which buildings are in-scope of the Bill.

The powers in section 16 are not intended to be used unless required.

Registers of category 1 buildings and category 2 buildings

| Section | Form | Description of power | Procedure |
|------------------|-------------|---|-----------|
| 17(2)(h) and (3) | Regulations | Section 17(2)(h) provides the Welsh Ministers with a power to specify additional information that must be included in the register. Section 17(3) also provides Welsh Ministers to publish the register or other information. | Annulment |

Policy purpose and intent

Section 17 requires a building safety authority to keep a register of category 1 and category 2 buildings for buildings which it is the building safety authority. The register will hold important information about the building, including details of who is responsible for building safety in the building (as listed in subsection (2)). In future, there may be other information that needs to be added to the register. For example, if there are changes made to supplement the meaning of 'regulated building' under section 2, additional information may be required for the building safety authority to determine whether to register the building. As building safety authorities carry out their functions, they may identify a need for other information to be provided at registration to support effective regulation. For example, it may be helpful to require information to be provided about beneficial ownership chains, to help improve enforcement. Or it may be helpful for the building safety authority to have access to floor plans to assist with determining how a building should be registered. Any regulations made under subsection (3) will provide flexibility, where necessary, to add to the registration requirements based on experience from implementation of the regime and to keep the register up to date with certain other changes made in regulations under the Bill.

The policy intention is that some information held on the register will be published, and we intend to consult on the question of which information on the register this requirement should apply to.

If new information is added under section 17, this regulation making power will enable the Welsh Ministers to determine whether that additional information should be published.

Registration procedure

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 19(3) | Regulations | Section 19(3) provides the Welsh Ministers with a power to make regulations about how an application to register the building must be made, the form it must take and the information the application must contain, and any documentation if any must be included with an application. | Annulment |

Policy purpose and intent

The policy intention is to enable the Welsh Ministers to make regulations about how a registration application must be made. This will help to provide clarity about what a principal accountable person must do to submit a compliant registration application. These regulations could indicate when an application must be made, the information the application must contain and any documents that must be included with an application.

It is considered appropriate that this information should be contained in regulations. This is because the information that needs to be included in the application to register may change because of changes made to other aspects of the building safety regime. As described in the section above in relation to the policy purpose and intent of registers of category 1 buildings (17(2)(h)), it may be identified that other information is required to be held on the register. For example, on beneficial ownership chains, where use of this regulation-making power may be necessary to require particular documents that must be included with an application. It is our intention to explore the use of this power to help ensure the correct information is gathered, to support the building safety authority to regulate effectively.

Additionally, there may be learning taken from implementation of registration, such as about how applications are made, that may indicate that changes are required to ensure the registration process works effectively.

Duty to notify changes

| Section | Form | Description of power | Procedure |
|-----------|-------------|---|-----------|
| 20 (1)(b) | Regulations | Section 20(1)(b) provides the Welsh Ministers with a regulation making power to require the principal accountable person to notify the building safety authority of any changes to registration information specified in regulations. | Annulment |

Policy purpose and intent

There is certain information held on the register that if it changes, the principal accountable person must notify the building safety authority of the change. Section 17(2) lists the registration information and includes a regulation-making power for the Welsh Ministers in section 17(2)(h) to make provision for any other information or documents.

Section 20(1)(a) lists the information held on the register that must be notified to the building safety authority by the principal accountable person if it changes, however, if the Welsh Ministers use the power in section 17(2)(h) to make provision for additional registration information, the regulation-making power in this section (20(1)(b)) may make provision requiring that new information to also be notified should it change.

The power in section 20 allows for the Welsh Ministers to include in regulations whether changes in the information required for registration (section 17) should also be required to be notified if it should change (section 20) and provides flexibility for any future changes to provisions that may be required.

Duty to give declaration about accuracy of information and documents included in register

| Section | Form | Description of power | Procedure |
|---------|-------------|---|-----------|
| 23(3) | Regulations | Section 23(3) provides the Welsh Ministers with a power to make regulations setting out what the content of the declaration must include and how the declaration must be given. | Annulment |

Policy purpose and intent

Section 23 provides that every five years, the principal accountable person must give the building safety authority a declaration about the accuracy of the information, and documents, included in the entry for the building in the authority's register.

The policy intent is to enable the Welsh Ministers to make regulations about the form and content of the declaration and how it must be given. For example, whether it may be submitted by email. This will help to provide clarity about what a principal accountable person must do to make a declaration. Additionally, there may be learning taken from implementation of the regime, that may indicate that changes are required to ensure that this process operates effectively.

Application to remove building from register

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 24(3) | Regulations | Section 24(3) provides the Welsh Ministers with a power to make regulations regarding how the application to remove a building from the register is to be made, including the form and content and anything else which needs to be included in an accountable application. | Annulment |

Policy purpose and intent

The policy intent is to provide sufficient flexibility for the Welsh Ministers to amend how an application to remove a building from the register must be made. For example, this might include what information must be included in the application, how an application must be made etc. This will help to provide clarity and a degree of consistency in the application process for removing a building from the register. Additionally, there may be learning taken from implementation of the regime, that may indicate that changes are required to ensure that this process operates effectively.

Meaning of “building safety risk”

| Section | Form | Description of power | Procedure |
|---------|-------------|---|-----------|
| 27(2) | Regulations | Section 27(2) provides a power for the Welsh Ministers to make regulations to modify the definition of “building safety risk” to include a risk specified in the regulations. The Bill also sets out a non-exhaustive list of matters that may be specified in regulations. | Approval |

Policy purpose and intent

In future, new evidence may emerge that there are risks other than fire and structural safety risks that, if not assessed and managed, may result in a risk to the safety of people in or about a regulated building. For example, this could be a risk arising from climate change such as flooding. For category 3 buildings, evidence may emerge about structural safety risks that indicates that it is necessary to add structural safety to the definition of a building safety risk. This regulation making power provides flexibility for these risks to be added to the definition of building safety risk.

A tailored approach to the assessing and managing of the risk, that reflects the nature of the new risk, may be required. It may not be appropriate to apply all duties that currently apply to fire safety risks and structural safety risks, in the same way, to that new risk.

The approach will depend on the evidence that emerges about that risk. For example, if flooding were to be added to the definition of a building safety risk, this may require a unique approach to be taken to the assessment of flood risk which could reflect an industry standard if one has been introduced. Therefore, when a new risk is introduced, consideration will have to be given as to what the requirements are for assessing and managing that risk, and which other (if any) duties of the Act will apply to the new risk. The regulations may also make provision conferring functions for the regulation of that risk, onto any devolved Welsh Authority.

The Welsh Ministers must consult with each building safety authority, and each fire safety authority, but if functions were being conferred on to another devolved Welsh authority, the Welsh Ministers may consider it appropriate to consult with that authority as well.

Requirement for fire risk assessment to be made by competent person

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 29 (3) | Regulations | Section 29(3) provides a power for the Welsh Ministers to make regulations which will specify requirements that an individual or body must satisfy to be regarded as having sufficient expertise or experience for that purpose. | Annulment |

Policy purpose and intent

Section 29 requires that any person conducting a fire risk assessment must be competent to do so. The importance of competence in carrying out this safety-critical task is obvious, and the Grenfell Tower Public Inquiry recommended making this a mandatory requirement. This regulation-making power will allow the Welsh Ministers to stipulate exactly what “competent” means – the qualifications, experience or other form of validation that an individual or a company will need to acquire to show that they are competent. That will provide assurance to principal accountable persons, residents and others that the chosen fire risk assessor can undertake the task to an appropriate standard.

Currently, there are many potentially relevant qualifications and certification schemes in fire risk assessment and related disciplines available from a range of academic, professional and private sector bodies. Some, such as academic qualifications and membership of relevant professional bodies, are available for individuals; while others, such as certification and accreditation schemes, are available for corporate entities which employ fire risk assessors. These are all available across the UK, so we are working with the UK and other devolved governments, and with those bodies, to develop an agreed UK-wide framework and set of standards for all of these routes to competence. Once that work is complete, we intend to make regulations under this section requiring fire risk assessors to hold a specified means of demonstrating competence.

Further provision about fire risk assessments

| Section | Form | Description of power | Procedure |
|---------|-------------|---|-----------|
| 31(2) | Regulations | Section 31(2) provides a power for the Welsh Ministers to make regulations to make provision about the time periods for making and reviewing fire risk assessments and other specifications. | Annulment |
| 31(4) | Regulations | Section 31(4) allows the Welsh Ministers, by regulations, to make provision for and in connection with enabling the principal accountable person for a regulated building to recover relevant costs from any other person who is an accountable person for the building or is treated as an accountable person by virtue of section 35. | Approval |

Policy purpose and intent

The Bill requires all principal accountable persons to conduct a fire risk assessment for each in-scope building, and to review and update it regularly. Section 31 allows the Welsh Ministers to make regulations setting out in more detail how a fire risk assessment must be conducted.

As a minimum, such regulations are likely to be made so as to require a fire risk assessment to address the types of risks commonly found in residential buildings. The 2021 [White Paper](#) described these as “risk elements” and grouped them under the outcomes which are now set out in section 35(2) of the Bill. For instance, the risk of arsonists gaining entry to the premises is a risk element under the “fire prevention” outcome, and the risk of people being unable to use an obstructed or unlit stairwell to evacuate the building is a risk element under the “escape” outcome. All of these are very likely to be relevant for most if not all multi-occupied residential buildings, so the regulations are likely to require all fire risk assessments to consider them and to identify appropriate mitigation measures.

Regulations under this section may also require fire risk assessments to include basic details such as the date of the assessment, the person conducting it, and the recommended time for implementing mitigation measures.

These regulations will be important in assisting principal accountable persons and accountable persons to comply with their fire safety duties, so we will aim to make them before those duties are brought into force.

Management of fire safety risks by accountable persons

| Section | Form | Description of power | Procedure |
|---------|-------------|---|-----------|
| 32(8) | Regulations | Section 32(8) provides the Welsh Ministers with a power to make regulations which will specify principles in accordance with which an accountable person must act when taking steps under this section. The Bill also sets out a list of steps that may be included in regulations. | Annulment |

Policy purpose and intent

Section 32 requires accountable persons to take steps to manage and mitigate fire risks in their buildings. It complements the principal accountable persons duty in section 31 to conduct a fire risk assessment but operates on a continual basis. So if an accountable person becomes aware of a risk, whether through the fire risk assessment or otherwise, they must take reasonable steps to mitigate it. Regulations under this section are thus likely to make similar provision to those in section 31, by setting out the “risk elements” which an accountable person must have regard.

Regulations under this section may also stipulate “reasonable steps” which the accountable person must take in given circumstances. However, these will very often vary between buildings based on their condition and occupancy, and we do not propose to attempt to set that out comprehensively in regulations. We may, though, make regulations addressing some of the commoner defects which will almost always need prompt attention (such as broken fire doors).

These regulations will be important in assisting principal accountable persons and accountable persons to comply with their fire safety duties, so we will aim to make them before those duties are brought into force.

Assessment of structural safety risks: duties of accountable persons

| Section | Form | Description of power | Procedure |
|---------|-------------|---|-----------|
| 33(7) | Regulations | Section 33(7) provides Welsh Ministers with a power to make regulations to make provision or specify the things listed in subsection (7). Section 33(8) stipulates that the Welsh Ministers must consult the people or bodies listed in subsection (8). | Annulment |

Policy purpose and intent

Section 33 places a duty on accountable persons of an occupied category 1 building or category 2 building to conduct a structural risk assessment relating to the part of the building for which the person is responsible. An individual or body making a structural risk assessment for a part of a building must have sufficient expertise or experience to assess the structural safety risks in that part (section 33(3)(a)).

Subsection (7)(a) enables the Welsh Ministers to specify requirements that an individual or body must satisfy to be regarded as having sufficient skills or experience for the purpose of subsection (3)(a). It is not currently the policy intent to prescribe qualification requirements under section (7)(a). At the current time, there is no evidence to suggest that this is necessary. The policy position is that a person with sufficient skills and experience may undertake the structural risk assessment.

However, evidence may emerge in future, demonstrating that it is necessary to introduce a requirement for a specific qualification to be held by the person undertaking the structural risk assessment. This regulation making power provides the flexibility needed for this to happen.

The Welsh Ministers may also specify matters that must be considered as part of an assessment and make provision about the methodology that must be used. For example, this could include a requirement to describe how the structural risk assessment was carried out, who was involved in the assessment, the findings and recommendations, and list any recommended actions following the structural risk assessment.

The Welsh Ministers may specify information that must be included in the written record of an assessment which will help to provide to the building safety authority a degree of consistency in the way a structural risk assessment is undertaken.

Section 33(5) sets out when structural risk assessments must be carried out Section 33(7)(e) allows the Welsh Ministers to specify, in regulations, a maximum interval that an accountable person may allow to elapse between assessments and this specific period may change depending on evidence that emerges about structural risks.

Management of structural safety risks by accountable persons

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 34(6) | Regulations | Section 34(6) provides a power to the Welsh Ministers to make regulations regarding provisions about what are reasonable steps for the purposes of this section. | Annulment |

Policy purpose and intent

Section 34(1) provides that an accountable person, where a category 1 building or category 2 building is occupied, must take all reasonable steps to prevent a structural safety risk from materialising in relation to the part of the building for which they are the accountable person and must take all reasonable steps to reduce the severity of any incident arising from such a risk materialising in relation to that part.

Section 34(6) provides a power for the Welsh Ministers to make provision about what are reasonable steps for the purposes of this section. In general, what might be considered a reasonable step is likely to reflect the individual circumstances of the building (or part of the building) along with the risk that has been identified. However, in future new evidence may emerge indicating the importance of taking specific steps to properly manage a particular type of structural safety risk regardless of the individual circumstances of the building. This could be, for example, a particular type of survey or a specific approach to remediating a type of risk. Or, as the regime beds in, it may emerge that unnecessary 'gold plating' of steps is taking place, which is increasing costs to leaseholders, and so greater prescription may be necessary as to the requirement for managing a particular type of risk.

Under subsection (6)(b) and (c), the Welsh Ministers may specify matters to which an accountable person must have regard, or principles in accordance with which accountable persons must act, when determining the steps to take under this section, and allows the Welsh Ministers to specify requirements with which arrangement under this section must comply. For example, this could include a particular approach to managing change when dealing with structural safety risks, or it could establish principles for managing risks such as 'address, reduce, mitigate and control'.

The Welsh Ministers may also specify information that must be included in the written record of arrangements made, or steps taken, under this section. In time, it may emerge that the enforcing authority needs evidence of specific arrangements or steps, which may or may not be recorded on a routine basis by all accountable persons, or it may be that greater consistency is needed in the way that the records are created to enable

effective enforcement. This power provides the flexibility to bring certainty as to what the requirements are for the written record, should it become necessary.

Preparation and revision of safety case report by principal accountable person

| Section | Form | Description of power | Procedure |
|----------------|-------------|--|------------------|
| 36 (1) & (8) | Regulations | Subsection (8) makes allows the Welsh Ministers to make regulations which make further provision about the content of a safety case report or a notice under subsection (7)(b), about the form of a report or notice and about how a copy of a report or notice must be given. | Annulment |

Policy purpose and intent

Section 36(1) requires the principal accountable person for an occupied category 1 building to prepare a report (a safety case report) containing information specified in regulations made by the Welsh Ministers relating to the matters set out in subsection (1)(a) to (d) . The policy intention is that the regulations will specify the information that must be included in a safety case report. While the principle is established in the Bill that the report will contain information about the fire risk assessment for the building, the structural risks assessment for each part of the building, and the steps that have been taken to manage fire and structural safety risks, flexibility will be needed to determine, based on experience of implementation of the regime, how much and what type of information must be provided on these matters. It is important that the right amount of information is gathered, to enable the building safety authority to determine whether to issue a building certificate. This may mean that the full risk assessments must be included, or it may be that only a part of the risk assessments, or a summary, is needed. These regulations will provide flexibility to determine what information is requirement based on the increasing experience of the building safety authority, and learning taken from the sector on implementation.

The Welsh Ministers will also be able to prescribe how the report is submitted to the building safety authorities and make other provisions about how a copy of the safety case report or notice must be given.

Occurrence recording system: duty of principal accountable person

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 37(4) | Regulations | Section 37(4) provides a power for the Welsh Ministers to make regulations which will detail the requirements to be imposed within an occurrence recording system that must be complied with. The Bill also sets out a list of requirements that may be included in regulations. | Annulment |

Policy purpose and intent

Section 37(1) requires the principal accountable person for an occupied category 1 building to establish and operate an occurrence recording system for the purpose of enabling the accountable person for the building to comply with section 38.

Subsection (4) requires the occurrence recording system to comply with any requirements imposed by regulations made by the Welsh Ministers. Subsection (5) sets out a non-exhaustive list of what those regulations may contain.

Regulations made under this subsection (4) may impose requirements on principal accountable persons about occurrence recording systems. This could include what type of incidents or situations may be recorded. For example, these could be explicit about specific types of incidents, such as any incident of falling debris from a building, or the requirement may be more general, such as any incident which gives rise to a significant risk of death or injury. This will provide clarity to both principal accountable persons and people who may report incidents as to what incidents must be captured. The requirements may need to change over time, depending on any patterns of risk that emerge, and on experience from implementation. For example, the requirement may be considered too broad, or too narrow, and amendments may need to be made to the regulations to reflect this. The power to impose requirements about the assessment of information received, and the review of occurrence reporting systems, will enable changes to be made to the requirement based on good practice in the sector.

Reporting to authorities: duty of accountable person

| Section | Form | Description of power | Procedure |
|---------|-------------|---|-----------|
| 38 (1) | Regulations | Section 38(1) requires an accountable person for an occupied category 1 building to give relevant building safety information to the building safety authority for the building and the fire safety authority for the building. This information must be given in accordance with regulations made by the Welsh Ministers. Subsection (3) sets out that the regulations must, in particular, specify the relevant building safety information that must be given, the circumstances in which it must be given and the time by which it must be given. | Annulment |

Policy purpose and intent

Regulations made under section 38(1) will set out the relevant building safety information that must be given to the building safety authority for the building and the fire safety authority for the building, the circumstances in which the information must be given, and the time by which it must be given.

This will allow the Welsh Ministers to set out the occurrence recording requirements, which can reflect changing patterns of risk. For example, the regulations are likely to set out what information must be given to the building safety authority for the building and the fire safety authority for the building, such as a summary of an occurrence recording received by the principal accountable person under section 37, or a summary of an occurrence. The regulations must also set out when the information must be given, for example 10 days after the principal accountable person has been made aware of an incident or situation under the occurrence recording system under section 37. The information, circumstance and time frame will be subject to consultation. Subsection (4) sets out that regulations may also make provision about how the information must be given, for example this could be in electronic format.

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

| Section | Form | Description of power | Procedure |
|----------------------------------|-------------|---|-----------|
| 39(4)(e), (6)(a), (7)(a) and (8) | Regulations | Section 39 provides a number of regulation making powers for Welsh Ministers in relation to the residents' engagement strategy. | Annulment |

Policy purpose and intent

Section 39 requires the principal accountable person for an occupied category 1 building to prepare a strategy for promoting the participation of relevant persons in the making of building safety decisions in relation to the building (a residents' engagement strategy) and act in accordance with the strategy. There are a number of powers to make regulations in section 39, namely in subsections (4)(e), (6)(a), (7)(a) and (8).

Regulations made under subsection (4)(e) may specify what information a residents' engagement strategy for a building must include in addition to the content listed in subsections (4)(a) to (d). Regulations could, for example, make provisions to keep records of reviews of the strategy or to set out in writing how consultations will be conducted.

Regulations made under subsection (6)(a) may specify when the principal accountable person must review the residents' engagement strategy. Regulations may state, for example, that the residents' engagement strategy must be reviewed annually, after significant alterations to the building are made or after an occurrence report is submitted.

Regulations made under subsection (7)(a) may set out the circumstances within which the principal accountable person must consult relevant persons, and any other persons specified in the regulations, about the strategy. The inclusion of a regulation making power to prescribe when consultation needs to have taken place ensures flexibility and that the most effective and appropriate time to engage with relevant persons is adopted, based on the specific circumstances of a building. For example, it may be the case that a new category 1 building has limited residents and consultation on it once prepared would be impractical due to there being owners but few residents to consult with. In such circumstances a staged consultation approach may be most reasonable. For existing category 1 buildings that are already occupied, consultation immediately after the residents' engagement strategy has been prepared may be more appropriate.

Regulations made under subsection (8)(a) may make provisions about the preparation, review or revision of the residents' engagement strategy where there is more than one accountable person for the building. Regulations may provide details on how the principal accountable person and accountable persons should co-operate to ensure the resident's engagement strategy functions effectively.

Regulations made under subsection (8)(b) may set out how consultations under section 39 are conducted. For example, the regulations could require appropriate and reasonable methods for consulting residents, for example digital, postal or in-person events. Regulations under subsection (8)(b) may also state the reasonable steps that accountable persons must take to ensure that any relevant person likely to be affected by the matter to which the consultation relates is aware of the consultation.

Provision of copies of strategy by accountable persons

| Section | Form | Description of power | Procedure |
|-----------------------|-------------|---|-----------|
| 40(1)(b)(iii) and (3) | Regulations | Section 40(1)(b)(iii) provides a power for the Welsh Ministers to make regulations which will further specify who the accountable person must provide a copy of the residents' engagement strategy to (in addition to those set out in subsection (1)(b)(i) and (ii). Section 40(3) provides a power for the Welsh Ministers to make provision about how a copy of a residents' engagement strategy is to be given. | Annulment |

Policy purpose and intent

Section 40 requires the principal accountable person to provide copies of the residents' engagement strategy to every other accountable person (if there is more than one accountable person for the building) and for each accountable person to provide copies to adult residents of the part of the building for which the accountable person is responsible, each owner of a residential unit in that part of the building and any other person specified in regulations made by the Welsh Ministers. This is to ensure any other interested persons are also provided with a copy of the residents' engagement strategy. For example, regulations may set out that copies must be provided to any responsible persons under the Regulatory Reform (Fire Safety) Order 2005 in a mixed-use building or contractors working in the building.

Subsection (3) provides a power for the Welsh Ministers to make provision about how a copy of the residents' engagement strategy is to be given. For example, regulations may set out that copies of the strategy must be provided in both digital and physical formats. We intend to work with key stakeholders in the development of these regulations.

Duty of principal accountable person to apply for building certificate

| Section | Form | Description of power | Procedure |
|---------|-------------|---|-----------|
| 41(9) | Regulations | Section 41(9) provides the Welsh Ministers with a power to make regulations to amend the period of time specified in subsection (4) | Approval |

Policy purpose and intent

Section 41(4) places a duty on the principal accountable person to apply for a further building certificate within five years, where a building safety authority has issued a building certificate in relation to a building to which section 41 applies. The five years begins with the day on which the most recent certificate was issued.

The regulation making power in section 41(8) allows the Welsh Ministers to amend the time period for the renewal application of a building certificate in subsection (4). This is to allow flexibility to decrease or increase the five-year period depending on any emerging evidence about building safety risks.

Applications for certificates: procedure

| Section | Form | Proposal | Procedure |
|--------------------------------|-------------|---|-----------|
| 42(1)(b), (1)(d) and (2) | Regulations | <p>Section 42(1) and (2) sets out what the principal accountable person who applies for a building certificate must include with the application. Subsection (1)(b) and (d) state that this includes information specified in regulations made by the Welsh Ministers about the occurrence recording system under section 38 and information specified in regulations about what each accountable person for the building has done to comply with the duties imposed on them under section 46.</p> <p>Subsection (2) sets out that the Welsh Ministers may, by regulations, make further provision about applications for building certificates. Subsection (3) sets out a non-exhaustive list of matters that may be included in regulations under subsection (2).</p> | Annulment |

Policy purpose and intent

Section 42(1) sets out what a principal accountable person who applies for a building certificate in relation to a category 1 building must include with the application. This includes information specified in regulations made by the Welsh Ministers about the occurrence recording system operated by the principal accountable person under section 38 and information specified in regulations made by the Welsh Ministers about what each accountable person for the building has done to comply with the duties imposed on them under section 46.

Regulations under subsection (1)(b) will set out which information about the occurrence recording system must be included with the building certificate application. This could include for example information about how many reports have been submitted, the date on which the system was established, or a requirement to describe how information about making a report to the system is shared with residents and other people. for example a statement that the duties have been complied with.

Regulations made under subsection (2) may include provision about:

- (a) how an application must be made.
- (b) the form and content of an application.
- (c) anything else that must be included with an application (in addition to the information and documents mentioned in subsection (1));
- (d) circumstances in which an application may be withdrawn or treated as withdrawn.
- (e) how an application may be withdrawn.

These are mainly administrative matters that will help to provide clarity for principal accountable persons as to the process and requirements relating to building certificate applications and how they may be withdrawn or treated as withdrawn. These requirements may need to be amended from time to time based on learning from implementation.

Determination of applications and issue of certificates

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 43(8) | Regulations | Section 43(8) provides a power for Welsh Ministers to make further regulations about building certificates and notices, which includes the form and content of a certificate or notice and how a certificate or notice is to be given. | Annulment |

Policy purpose and intent

The regulation-making power in section 43(8) allows the Welsh Ministers to make provision on the form and content of both the building certificate and notice, and how either is given. For example, this could include a requirement for all certificates to contain the address of the building, the name of the principal accountable persons and any accountable persons, and date of issue of the certificate. The policy aim is to support a consistent approach to delivery being taken by building safety authorities in Wales. The requirements may need to be amended from time to time. For example, based on feedback from residents, changes might include amendments to ensure the information on the building certificate is clear and accessible to residents.

Duty of principal accountable person to display certificate and related information

| Section | Form | Description of power | Procedure |
|---------|-------------|---|-----------|
| 44(4) | Regulations | Section 44 requires a principal accountable person for a category 1 building to display a building certificate and a notice. Subsection (4) provides a power for Welsh Minister to make regulations to specify the form a notice must take and specify information a notice must contain. | Annulment |

Policy purpose and intent

Section 44 requires a principal accountable person for a category 1 building to display a building certificate and a notice. Subsection (4) provides a power for Welsh Ministers to make regulations to specify the form a notice must take and specify information a notice must contain.

The policy intention for the regulation making power under subsection (4) is to help ensure consistency and accessibility of information being displayed to residents. Regulations made under this section will make provision about the form of a notice, which is largely an administrative matter, and the information that must be displayed about the accountable person (and any special measures manager if applicable). It is anticipated that the notice may include information such as contact details for the accountable persons for the building and the part of the building for which they are accountable.

Duty of accountable person to keep information and documents

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 45 (1) | Regulations | Section 45(1) provides a power for the Welsh Ministers to make regulations which require an accountable person for a regulated building to keep relevant information and copies of specified documents. The relevant information and specified documents will be set out in regulations. Subsection (2) sets out a non-exhaustive list of matters that may be included in regulations. | Annulment |

Policy purpose and intent

The regulation-making power in section 45 is intended to support a consistent approach to the storing of information and documents which is critical to the ongoing safety of buildings. Without this information it becomes difficult for those managing the building to know the history of the building.

The power may be used to require the accountable person to keep a variety of different types of information or documentation relating to the duties under this Bill including, for example, requirements to keep certain information about resident complaints or a requirement to hold certain information about safety systems in the building. While the regulations may not be exhaustive in terms of identifying all the information that must be held for an accountable person to meet their duties under the Bill, they would put beyond doubt certain information that must be kept, and for how long. The types of documentation that might be specified, and how it must be held could change depending on evidence from enforcement activity and on changes in technology or industry standards.

It is the policy intention to consult on the relevant information that must be kept and the requirements that will be imposed through using regulation-making power. The regulations may provide for the Welsh Ministers to require, if necessary, that the information is kept up to date.

Duty of accountable person to give information and documents to other persons

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 46(1) | Regulations | Section 46(1) provides a power for the Welsh Ministers to make regulations to require an accountable person for a regulated building to provide relevant information or provide copies of specified documents to the persons listed in section 46(1)(a) to (e), as well as any other person specified in regulations. Subsection (2) sets out a non-exhaustive list of matters that may be included in regulations. | Annulment |

Policy purpose and intent

The purpose of these regulations is to ensure that important information and documents about building safety is shared with different persons.

For example, this could include a requirement for principal accountable persons or accountable persons to provide information to the building safety authority about important safety features in the building, or other key building information. This information may, for example, be information that must be provided routinely, to help demonstrate to the building safety authority that the principal accountable person and any accountable persons in the building are properly assessing and managing building safety risks. Or it could be information that will help the authorities to respond to a building safety incident in the building. Some of this information may be held alongside the information that is on the register for the building. The information that is important for the authority to hold may change through time and so the regulation making power provides flexibility for the requirements to be amended, as well as clarity as to what must be provided, and when.

Regulations made under section 46 may be used to ensure information provided to residents is in an appropriate form and tailored to the resident demographics of the building. For example, regulations may require accountable persons to provide information in a form which allows the recipients to understand the content and aims of the information or document given, including explanations of technical language used, or with plain English summaries of complex or technical provisions. These regulations may also provide for what documents should be provided to residents. Further policy development is required to confirm the exact information to be provided to residents. We intend to work with key stakeholders in the development of these regulations.

Duty to give information and documents on change of accountable person

| Section | Form | Proposal | Procedure |
|---------|-------------|--|-----------|
| 47 (2) | Regulations | Section 47(2) provides a power for the Welsh Ministers to make regulations to require an outgoing accountable person for a regulated building to give relevant information to a successor, the building safety authority or the fire safety authority. Subsection (3) sets out a non-exhaustive list of matters that may be included in regulations. | Approval |

Policy purpose and intent

The regulation making power in this section is intended to support a consistent approach to the giving of information by an outgoing accountable person to an incoming accountable person. This will include information that is important for accountable persons to know the history of the building and to be able to properly assess and manage building safety risks and comply with their duties as the incoming accountable person.

The information and documents that could be included may, for example, include risk assessments for the building, floorplans, information gathered during the design and construction of the building and other information about building safety risks. Anything that is specified in the regulations will provide clarity as to what information must be provided, by when it should be provided and how.

Category 1 buildings: Duty of principal accountable person to operate complaints system

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 48 (4) | Regulations | Section 48(1) requires a principal accountable person for an occupier category 1 building to establish and operate a system for the investigation of relevant complaints. Subsection (4) provides a power for the Welsh Ministers to make regulations about the establishment and operation of a complaints system under section 48. Subsection (5) sets out a non-exhaustive list of matters that may be included in regulations. | Annulment |

Policy purpose and intent

Section 48 places a duty on the principal accountable person for an occupied category 1 building to establish and operate a system for the investigation of relevant complaints and includes a regulation making power for the Welsh Ministers to make regulations about the establishment and operation of the complaints system.

This regulation making power is intended to provide a clear process for handling and investigating relevant complaints, ensuring all complaints are handled consistently and transparently. The regulations may outline, for example, the process for making complaints, the period in which an accountable person must consider and resolve the complaint and the publication of information about the complaints system.

In addition, the regulations could include how a complainant can make comments on findings during an investigation by the principal accountable person, how the complaints policy should be advertised and promoted, who can make a complaint and how an accountable person should respond to the complaint.

The specific requirements of the complaints system may change over time; therefore, including an exhaustive list on the face of the Bill would not be practical. The regulation making power is required to ensure the complaints process is clear, fit for purpose and tailored to the demographic of the residents in the building.

Category 2 and Category 3 buildings: duty of accountable persons to arrange consideration of complaints

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 49 (1) | Regulations | Section 49(1) provides a power for the Welsh Ministers to make regulations regarding a complaints system to be operated by accountable persons of Category 2 and Category 3 buildings. Subsection (3) sets out a non-exhaustive list of matters that may be included in regulations. | Annulment |

Policy purpose and intent

This section provides a power for the Welsh Ministers to make regulations regarding the arrangements for the consideration of complaints by accountable persons in occupied category 2 or occupied category 3 buildings.

Subsection (3) sets out a non-exhaustive list of matters that may be included in regulations such as arrangements where there is more than one accountable person for a building and the timeframe within which complaints should be considered.

The regulation-making power is deemed appropriate due to the need for different types of arrangements (or potentially none) for various types of buildings in category 2 and category 3. For category 2 buildings, the regulations may require arrangements similar to those for category 1 buildings. In contrast, category 3 buildings, which include much smaller buildings, may have lesser requirements, such as requiring the accountable person to share their telephone number or email to allow residents to make complaints. These regulations therefore are likely to be tailored to accommodate the diverse types of buildings across category 2 and category 3.

The specific requirements of the complaints system may change over time; therefore, including an exhaustive list on the face of the Bill would not be practical. The regulation making power is required to ensure the complaints process is clear, fit for purpose and tailored to the building type and its resident demographics.

Complaints to building safety authorities

| Section | Form | Description of power | Procedure |
|---------|-------------|---|-----------|
| 50 (3) | Regulations | Section 50(3) provides a power for the Welsh Ministers to make regulations regarding the establishment and operation of a complaints system operated by building safety authorities. Subsection (4) also sets out a non-exhaustive list of matters that may be included in regulations. | Annulment |

Policy purpose and intent

The policy intent is to provide for a consistent approach to how a complaint to the building safety authority can be made. For example, the regulations could set out that the resident must first refer complaints to their principal accountable person before referring it to the building safety authority, and any exceptions to that requirement. Or they may put in place a timeframe within which the authority must consider and deal with a complaint, to make it clear what the expectations are of building safety authorities and so that residents or persons referring complaints to the authority will know what to expect. The regulations may prescribe that persons other than residents in the building can refer a complaint to the authority.

Power of accountable person to give warning notice

| Section | Form | Description of power | Procedure |
|---------|-------------|---|-----------|
| 54 (10) | Regulations | Section 54(10) provides a power to the Welsh Ministers to make regulations about further provision about warning notices, including provision about, the form and content of a notice and how a notice must be given. | Annulment |

Policy purpose and intent

Section 54 allows the principal accountable person to issue a warning notice to residents and owners of residential units when those persons are not complying with their duties specified in sections 51 – 53. Section 54(10) provides the Welsh Ministers with a power to make regulations to provide further provisions in relation to warning notices.

The regulations may make provisions about details of what may be specified in a warning notice and what steps should be taken when issuing a notice. Regulations may require warning notices to include the name and the address of the person that is believed to have breached the duty, the name and contact details of the accountable person giving the notice, a description of the action which has been breached, and the steps to be taken to remedy the breach.

Further policy development is required to confirm the exact information which regulations may require a warning notice to contain. We intend to work with key stakeholders in the development of these regulations. As this is a new regime this approach is intended to allow assessment of this provision to be undertaken and for provisions to be amended as needed to ensure the regime functions appropriately.

Review and appeal of certain decisions: key terms

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 56 (4) | Regulations | Section 56(4) provides the Welsh Ministers with a power to make regulations to amend the list of reviewable decisions in subsection (2) by adding a decision of a building safety authority, removing a decision or varying the description of a decision and also amend the meaning of “affected person”. | Approval |

Policy purpose and intent

Section 56 sets out the meaning of key terms relating to reviews and appeals of building safety authority decisions and includes a regulation making power for the Welsh Ministers to amend the decisions listed in subsection (2) or to vary the description of an ‘affected person’.

This regulation making power is intended to provide flexibility to add decisions of the building safety authority that must be subject to a review before an appeal, or to remove them. The policy intent of this section is to reduce the burden on the tribunal, but it may be the case that some decisions are in fact better left to the tribunal and that requiring them to be reviewed first achieves only delaying a final decision. The regulation making power will provide flexibility to make amendments to this process based on experiences at implementation. To ensure that those impacted by a decision can request a review of a reviewable decision, and to ensure that the definition of an affected person captures the right people, the regulation making power also provides flexibility to amend the definition of an affected person should that need to be broadened, based on evidence gathered at implementation.

However, we do not intend to use this power unless evidence emerges, based on experience at implementation, that changes need to be made.

Review of reviewable decision

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 57 (2) | Regulations | Section 57(2) provides the Welsh Ministers with a power to make regulations about how an affected person may request a reviewable decision as in subsection (1). Subsection (2) also sets out a non-exhaustive list of matters that may be included in regulations. Section 57(11) also allows the Welsh Ministers to specify in regulations the “relevant period” for the purposes of section 57. | Annulment |

Policy purpose and intent

Section 57 sets out how an affected person may request a review of a reviewable decision by giving notice to the building safety authority.

Section 57(2) provides the Welsh Ministers with a regulation-making power to make provision about: how a notice of a request for a review must be given; the form and content of the notice; any documents that must be included; and the deadline for giving a notice. For example, this could include a requirement that the notice must include the decision and the date of the decision, and a copy of the notice issued by the authority. Section 57(11) allows the Welsh Ministers to set a “relevant period” for the purposes of section 57.

The purpose of this regulation making power is to provide for a consistent approach to these matters across Wales and to provide clarity about what information is needed from an affected person in seeking a review of a reviewable decision.

Effect of review and appeal

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 59 (2) | Regulations | Section 59(2) provides a power for the Welsh Ministers to make regulations about reviews and review periods, reviewable decisions and provisions about the effect of an appeal | Approval |

Policy purpose and intent

Where decisions are added to the list of reviewable decisions under section 56, this regulation-making power provides for the Welsh Ministers to make provision as to what should happen to that decision while the review or appeal of that decision, is underway. For example, the regulations might say that the building safety authority must not take steps to enact that decision until the review or appeal period has passed. However, until and unless reviewable decisions are added under section 56, there are no plans to use this power.

Liability of tenants for costs relating to building safety

| Section | Form | Description of power | Procedure |
|---------|-------------|---|-----------|
| 62 | Regulations | Section 62 of the Bill inserts new section 30IC into the Landlord and Tenant Act 1985. New section 30IC (5) provides a power for the Welsh Ministers to make regulations to amend the definition of a “building safety measure” by adding, removing or modifying subsections (2), (3) or (4). | Approval |

Policy purpose and intent

The regulation making power in this section is intended to allow the Welsh Ministers to amend the definition of a building safety measure, should it appear that the definition should be amended. This is to ensure that the liability for building safety costs is passed down correctly.

However, we do not intend to use this power unless evidence emerges, based on experience at implementation, that changes need to be made.

Costs relating to enforcement etc. excluded from variable service charge

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 64 | Regulations | Section 64 of the Bill inserts new section 20FA into the Landlord and Tenant Act 1985. New section 20FA provides a power for the Welsh Ministers to amend the definition of “excluded costs” in subsection (3) to add, remove or modify a description of costs incurred or to be incurred by or on behalf of a relevant person in connection with the Building Safety (Wales) Act 2026 or regulations made under it. | Approval |

Policy purpose and intent

New section 20FA sets the “excluded costs” which cannot be taken into account in determining the amount of any variable service charge payable by a tenant under the lease. The “excluded costs” are defined in subsection (3) and relate to enforcement action taken against a relevant purpose, legal costs incurred or to be incurred by or on behalf of a relevant person in connection with management order proceedings relating to the building, costs that a management order provides are to be met by any person other than a relevant person or the tenant under the lease and costs incurred or to be incurred by or on behalf of a relevant person by reason of any negligence, breach of contract or unlawful act on the part of that relevant person or a person acting on their behalf.

The regulation making power in subsection (5) allows the Welsh Ministers to amend the definition of “excluded costs” in subsection (3) by adding, removing or modifying a description of excluded costs.

The regulation making power in subsection (5) is intended to allow the Welsh Ministers to amend the definition of a “excluded costs” should it appear that the definition should be amended. This is to ensure that the liability for building safety costs is passed down correctly.

However, we do not intend to use this power unless evidence emerges, based on experience at implementation, that changes need to be made.

Provision of building safety information to tenants

| Section | Form | Description of power | Procedure |
|---------|-------------|---|-----------|
| 65 | Regulations | Section 65 of the Bill inserts new section 49B into the Landlord and Tenant Act 1987. New section 49B (5)(e) provides a power for the Welsh Ministers to make regulations that will prescribe other relevant building safety information for the purposes of section 49B. | Approval |

Policy purpose and intent

Section 49B provides that in certain circumstances the landlord must give the tenant a notice containing the relevant building safety information. “Building safety information” is defined in section 49B (5). Section 49B(5)(e) allows the Welsh Ministers to prescribe in regulations further information which may be included as “building safety information” to be provided to the tenant.

The regulation making power in subsection (5) is intended to allow the Welsh Ministers to supplement the definition of a “building safety information” in regulations should it appear, that further information should be given.

However, we do not intend to use this power unless evidence emerges, based on experience at implementation, that changes need to be made.

Meaning of “relevant HMO”

| Section | Form | Description of power | Procedure |
|--------------|-------------|---|-----------|
| 67 (3)(d) | Regulations | Subsection (3)(d) provides the Welsh Ministers with a power to specify the description of an HMO which is not a “relevant HMO” for the purposes of the Bill | Annulment |
| 67 (8) | Regulations | Section 67(8) allows the Welsh Ministers to amend section 67 (meaning of "relevant HMO"), apart from subsection (1) (which sets out that this section sets out the meaning of a relevant HMO) and subsection (8) which is the regulation making power.) | Approval |

Policy purpose and intent

The power in subsection (3)(d) is intended only to remove from the definition of “HMO” types of premises which are inadvertently caught by it; and the power in subsection (8) allows the definition to be extended if, for instance, new forms of tenure or occupancy emerge. Both deal with currently unforeseen circumstances, and there are no plans to use either power at present.

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

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 71 (3) | Regulations | Section 71 (3) provides a power for the Welsh Ministers to make regulations to specify requirements that an individual or body must satisfy to be regarded as having sufficient expertise or experience for that purpose (including requirements for particular qualifications or for accreditation by, or membership of, a particular organisation). Before making regulations under subsection (3), subsection (4) provides that the Welsh Ministers must consult each fire safety authority in Wales and such other persons as they consider appropriate. | Annulment |

Policy purpose and intent

This is in essence the same provision for HMOs as section 29 is for buildings in categories 1-3, and our intentions are the same as for that section.

Further provision about HMO fire risk assessments

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 73 (2) | Regulations | <p>Section 73(2) provides a power for Welsh Ministers to make regulations which:</p> <p>(a) make provision about the calculation of the periods for making and reviewing HMO fire risk assessments where there is a gap in the occupation of a building, or part of a building, as a relevant HMO.</p> <p>(b) specify matters that must be considered as part of an HMO fire risk assessment or review.</p> <p>(c) make provision about the methodology that must be used in making or reviewing an assessment.</p> <p>(d) specify information that must be included in the written record of an assessment or review.</p> | Annulment |
| 73(4) | | <p>Section 73(4) provides a power for the Welsh Ministers to make regulations for and in connection with enabling the landlord of a relevant HMO to recover relevant costs from any other person who is a duty holder for the relevant HMO.</p> | Approval |

Policy purpose and intent

This is in essence the same provision for HMOs as in section 31 is for buildings in categories 1-3, and our intentions are the same as for that section.

Management of fire safety risks by duty holders

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 74 (8) | Regulations | Subsection (8) allows the Welsh Ministers to make provision, in regulations, about what reasonable steps are for the purposes of section 74 (management of fire safety risks by responsible persons) as well as specify matters to which a duty holder must have regard, or principles in accordance with which a duty holder must act, when determining the steps to take under this section or taking the steps; specify requirements with which arrangements under this section must comply and specify information that must be included in a written record of arrangements made, or steps taken, under this section. | Annulment |

Policy purpose and intent

This is in essence the same provision for HMOs as section 32 is for buildings in categories 1-3, and our intentions are the same as for that section.

Requirement for duty holder to give information and documents to other persons

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 75 (1) | Regulations | Section 75(1) provides a power for the Welsh Ministers to make regulations in relation to duty holders giving relevant information and relevant documents to other persons. Subsections (2) to (5) set out a non-exhaustive list of matters that may be included in regulations. | Annulment |

Policy purpose and intent

This is in essence the same provision for HMOs as section 46 is for buildings in categories 1-3, and our intentions are the same as for that section.

Power to apply this Part to mobile homes

| Section | Form | Proposal | Procedure |
|---------|-------------|---|-----------|
| 79 (1) | Regulations | Section 79(1) provides a power for the Welsh Ministers to make regulations to specified when a mobile home is to be treated as a relevant HMO for the purposes of this Act. | Annulment |

Policy purpose and intent

Mobile homes are not, in law, HMOs – and tend not to be used as such. If that changed, and it became commonplace for mobile homes to be occupied in the same way as HMOs, then we could make regulations to bring them within scope of the Bill. However, until and unless that happens, there are no plans to use this power.

Power of enforcing authority to give compliance notice

| Section | Form | Description of power | Procedure |
|---------------------------|-------------|---|-----------|
| 83 (5) (c) & 83(6) (c) | Regulations | Sections 83(5)(c) and 83(6)(c) provide a power for the Welsh Ministers to make regulations which may specify other persons who the building safety authority and fire safety authority (respectively) must inform when they issue a compliance notice in relation to a regulated building. This regulation making power is also extended to relevant HMOs in subsection (6)(c). | Annulment |

Policy purpose and intent

The purpose of these powers is to extend the requirement to inform others when an enforcing authority issues a compliance notice. That could be necessary if, for instance, amendments were made to the definition of building safety risk, or if a new entity which had an interest in regulating building safety were created. However, until and unless something like that happens, there are no plans to use this power.

Power of fire safety authority to give prohibition notice

| Section | Form | Description of power | Procedure |
|------------|-------------|---|-----------|
| 85 (9) (c) | Regulations | Section 85(9)(c) provides a power for Welsh Ministers to make regulations which may specify other persons the fire safety authority must notify when they issue a prohibition notice. | Annulment |

Policy purpose and intent

The purpose of these powers is to extend the requirement to inform others when a fire safety authority issues a prohibition notice. That could be necessary if, for instance, a new entity which had an interest in regulating building safety were created, or if such an interest arose out of a new form of housing tenure. However, until and unless something like that happens, there are no plans to use this power.

Appeal against prohibition notice

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 86 (7) | Regulations | Subsection (7) provides a power to the Welsh Ministers to make regulations which may amend the list of persons who can appeal a prohibition notice (in subsection (2)) by means as listed in subsection (7)(a)-(c) (i.e. adding a person to the list, removing a person or varying the description of a person). | Approval |

Policy purpose and intent

Section 86(2) lists who may appeal against a prohibition notice. The purpose of the power in section 86(7) is to amend that list. That could be necessary if, for instance, a new entity which had an interest in regulating building safety were created, or if such an interest arose out of a new form of housing tenure. However, until and unless something like that happens, there are no plans to use this power.

Notices: supplementary

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 87 (1) | Regulations | Section 87(1) provides a power for the Welsh Ministers to make regulations which may make further provision in relation to information notices, compliance notices and prohibition notices. Subsection (2) also sets out a non-exhaustive list of matters that may be included in regulations. | Annulment |

Policy purpose and intent

The regulation-making power in this section is intended to support a consistent approach to the use of notices across Wales, and to allow the Welsh Ministers to make further provision based on experience of implementation. For example, this could be provision to address any challenges that may be identified from feedback when amending a compliance notice or extending the period specified in the compliance notice. However, until and unless that happens, there are no plans to use this power.

The regulation-making power in this section may also provide for the information that an enforcing authority may include in a register regarding compliance notices, or that a fire safety authority may include in a register about prohibition notices. The policy intention is to use this regulation-making power to make provision about how the information from notices may be included in a register and published, to help inform residents and the public about enforcement action taking place in a regulated building and to support enforcing authorities in publicising the work they do to improve building safety. This may include, for example, information of the type that is currently published by the fire and rescue authorities under the Environment and Safety Information Act 1988.

Contravention giving rise to risk of death or serious injury

| Section | Form | Description of power | Procedure |
|-----------|-------------|---|-----------|
| 94 (3)(b) | Regulations | Subsection (3)(b) provides Welsh Ministers with a power to make regulations to specify an exception to the offence of contravention giving rise to risk of death or serious injury. | Annulment |

Policy purpose and intent

Section 94(3)(b) provides the regulation-making power to the Welsh Ministers to make regulations as to contraventions that would not be in scope of the offence giving rise to risk of death or serious injury.

Section 94 provides that an accountable person commits an offence if they contravene a requirement that places one or more people in or about the regulated building at significant risk of death or serious injury that arises from a building safety risk. The penalty on conviction, may be up to 2 years in prison, a fine, or both.

Section 94(3)(b) provides that the Welsh Ministers may make provision through regulations to exclude some requirements from the scope of this section. There is no expectation for use of this power immediately, only that it provides flexibility to amend provisions should learning from implementation suggest that it is necessary.

Appointment of special measures manager for category 1 building

| Section | Form | Description of power | Procedure |
|---------|-------------|---|-----------|
| 96 (5) | Regulations | Subsection (5) provides the Welsh Ministers with a power to make regulations that may specify requirements of an individual or body must satisfy to show that they have sufficient expertise or experience for the purpose of a special measures manager (including requirements for particular qualifications or for accreditation by, or membership of, a particular organisation). | Annulment |

Policy purpose and intent

There is not currently an accepted industry wide qualification or competency standard available to provide the tribunal with the assurance that a special measures manager proposed by the building safety authority is competent to be appointed by the tribunal to the role.

However, as there may be developments in future relating to competency standards, this power provides the Welsh Ministers with a power to specify a requirement that an individual or body must meet to be regarded as having sufficient expertise or experience to be appointed as a special measures manager in future, if necessary.

Fees for exercise of functions by building safety authorities

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 103 (1) | Regulations | Section 103(1) provides a power for the Welsh Ministers to make regulations which make provision for and in connection with the charging of fees by building safety authorities for: (a) exercising any of their functions under this Act or regulations made under it. (b) doing anything that is calculated to facilitate, or is conducive or incidental to, the exercise of any of those functions. | Annulment |

Policy purpose and intent

This regulation making power allows the Welsh Ministers to make provision about the fees a building safety authority may charge for exercising its functions, which may include provisions on: circumstances for which fees may be charged, when a fee is payable, who is liable to pay the fee, how it is to be paid, how the fee is recovered and any waivers or reductions in the fee.

Regulations may also make provision for the amount, either by prescribing a set amount or by providing for how the amount may be determined.

The fees charged under the regime will need to change from time to time to reflect changes in inflation or other factors, and as more is learned about the costs of implementing the regime through time. The power in this section is intended to provide flexibility to meet the future needs of delivering the Act.

We anticipate consulting on a fee scheme so that it is in place when the duties commence. Costs must be fair and reasonable, and it is a requirement of this section that the Welsh Ministers must consult each building safety authority and other persons the Welsh Ministers consider appropriate (that may, for example, include industry representatives).

Interpretation

| Section | Form | Description of power | Procedure |
|---------|-------------|--|-----------|
| 111 (3) | Regulations | Section 111 (3) provides Welsh Ministers with a power to make regulations about the meaning of being a “resident” of a residential unit. | Annulment |

Policy purpose and intent

This section defines key terms in the Bill, including the definition of “resident”. Subsection (3) provides the Welsh Ministers with the regulation making power regarding the meaning of “resident” of a residential unit.

To maintain flexibility for future developments, the definition of “resident” may be expanded to align with policy objectives, for example, in a situation where case law would interpret “residents” as referring solely to tenants.

This regulation making power is not intended to be used unless required.

Consequential and transitional provision etc.

| Section | Form | Description of power | Procedure |
|---------|-------------|--|---|
| 112 (3) | Regulations | Section 112 (3) provides a power to Welsh Minister to make regulation to make provisions that are (a) incidental or supplementary to, or consequential on any provision of, this Act, (b) make transitional or saving provisions in connection with any provision of this Act. Subsection (4) provides that regulations under section (3) may amend, repeal or revoke any enactment (including any provision of this Act). | Annulment, except where they amend or repeal primary legislation in which case Approval |

Policy purpose and intent

Regulations under this section may amend, repeal or revoke any enactment (including any provision contained in this Bill), where those amendments are incidental or supplementary or consequential on any provision of this Bill. Where amendments under this subsection amend or repeal any provision of primary legislation, they are subject to the Senedd Approval procedure. The intent is to enable regulations to be made to make amendments over time, to ensure that this Bill works together with other laws.

Schedule 2

| Section | Form | Description of power | Procedure |
|---------------------------------|-------------|---|-----------|
| Schedule 2 Paragraph 5(2) | Regulations | Paragraph 5(2) provides the Welsh Ministers with a power to make regulations about notices under this part about the form of the notice of a decision on whether or not to apply for a Special Measures Order and how the notice must be given. | Annulment |

Policy purpose and intent

Part 1 of Schedule 2 makes provision about the procedure a building safety authority or fire safety authority must follow before applying for a special measures order.

Paragraph 5(2) provides for a regulation making power to prescribe the form of a notice and how a notice is given under this Part. The notices are notices that the authority proposes to apply for a special measures order and its decision on whether to apply.

The contents of a notice of the proposal to apply for an order are included in paragraph 2(2), and in relation to a notice confirming the outcome of the decision the contents are to be found in paragraph 3(3). We do not intend to use these powers to make further provision at this time, but the regulation making power provides flexibility should changes be necessary, based on learning from implementation.

The regulation making power also enables the Welsh Ministers to make provision about how a notice must be given (paragraph 5(2)(b)). We do not currently anticipate using this power as provision is also made under section 106 of the Bill. However, this regulation making power will provide the flexibility to make specific provision in relation to notices given in relation to special measures orders, should evidence emerge in future that indicates that this is necessary.

| Section | Form | Description of power | Procedure |
|-----------------------------------|-------------|---|-----------|
| Schedule 2 Paragraph 17 (6) | Regulations | Paragraph 17(6) provides the Welsh Ministers with a power to make regulations about notices under this part about the form the notice and how the notice must be given. | Annulment |

Policy purpose and intent

Part 3 of Schedule 2 makes provision about the review, variation and revocation of special measures orders. Paragraph 17 provides the procedure before the authority applies to vary a special measures order and Paragraph 17(6) gives the power that the Welsh Ministers may by regulations make provision about the form of a notice and how a notice is given under this Part.

The contents of a notice under this part are set out in paragraph (2) and (4). We do not intend to use these powers to make further provision at this time, but the regulation making power provides flexibility should changes be necessary, based on learning from implementation. It is envisaged that any regulations made under this Part will support delivery of a consistent approach across Wales and help provide clarity on the requirement.

The regulation making power also enables the Welsh Ministers to make provision about how a notice must be given (paragraph 17(6)(b)). We do not currently anticipate using this power as sufficient provision is made under section 106 of the Bill. However, this regulation making power will provide the flexibility to make specific provision in relation to notices given in relation to special measures orders, should evidence emerge in future indicating that this is necessary.

It is envisaged that any regulations made under this Part will support delivery of a consistent approach across Wales and help provide clarity on the requirement.

| Section | Form | Description of power | Procedure |
|----------------------------------|-------------|--|-----------|
| Schedule 2 Paragraph 21(3) | Regulations | Paragraph 21(3) provides Welsh Ministers with a power to amend the paragraph to change the meaning of “interested person”. | Approval |

Policy purpose and intent

The meaning of ‘interested person’ is defined in paragraph 21 and we do not think further provision needs to be made at this time. This regulation making power provides flexibility should there be a need to amend this list in future. For example, if the meaning of building safety risk is modified using powers in section 27(2), then there may be other persons that have a that may have an interest in the management of that type of risk, that would need to be added to this list.

Guidance

Issue or approval of Guidance by the Welsh Ministers

Section 98 provides a power to Welsh Ministers to issue or approve guidance to assist any persons in complying with duties imposed on them by this Act or regulations made under it.

Subsection (2) places a duty on the Welsh Ministers to issue or approve guidance which will assist principal accountable persons for regulated buildings in complying with the duties imposed on them by sections 28 and 29 (assessment of fire safety risks) and regulations made under them. They must also issue guidance to assist landlords of relevant HMOs in complying with the duties imposed on them by sections 70 and 71 (assessment of fire safety risks) and regulations made under them.

Subsection 3 provides Welsh Ministers with a power to issue or approve a revised version of any guidance issued or approved by them under this section, withdraw any guidance issued by them, or approval given by them, under this section (but if the guidance was issued or approved under subsection (2), they must issue or approve further guidance under that subsection).

Subsection 4 places a duty on Welsh Ministers to ensure that guidance issued or approved by them under this section is published.

Subsection 6 places a duty on Welsh Ministers to consult each building safety authority, each fire safety authority and other persons they consider appropriate before they issue or approve such guidance.

None of the guidance issued under these provisions has the force of law, although evidence of compliance or non-compliance with it is admissible in proceedings under section 98(5). This means that a person charged with an offence under the Bill can argue in their defence that they complied with relevant guidance, while the prosecution can argue that they did not.