

Building Safety Act 2022 — What It Means for Leaseholders

A guide to the new building safety regime and leaseholder protections

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INTRODUCTION

The Building Safety Act 2022 is the most significant piece of building safety legislation in a generation. Enacted in response to the Grenfell Tower tragedy and Dame Judith Hackitt's independent review of building regulations and fire safety, the Act fundamentally changes how residential buildings — particularly taller buildings — are designed, constructed, managed and occupied.

This guide explains the key provisions of the Act, what they mean for leaseholders living in affected buildings, and what the new duties mean for those responsible for managing residential blocks.

KEY AREAS COVERED BY THE ACT

- A new regulatory regime for higher-risk buildings (HRBs) — 18m+ or 7+ storeys with 2+ residential units
- The appointment of Accountable Persons and Principal Accountable Persons
- New duties to assess and manage building safety risks
- The Safety Case Report and Golden Thread of information
- Residents' engagement and the Building Assessment Certificate
- Protection for leaseholders from historical building safety remediation costs
- New rights for leaseholders to raise and escalate safety concerns

Higher-Risk Buildings — The New Regime

WHAT IS A HIGHER-RISK BUILDING?

A higher-risk building (HRB) is defined as a building that is at least 18 metres in height (or has at least 7 storeys) and contains at least two residential units. The threshold was chosen to reflect the increased risk posed by taller buildings in the event of fire and structural failure.

If your building meets this definition, it is subject to a significantly more demanding regulatory regime than lower-risk buildings, overseen by the Building Safety Regulator (BSR) — a new body established within the Health and Safety Executive.

THE ACCOUNTABLE PERSON

Every higher-risk building must have at least one Accountable Person (AP). The AP is the person or organisation that holds a legal obligation (under a lease or otherwise) to repair and maintain the building's common parts. In most residential blocks this will be the freeholder, RMC or RTM company.

Where there is more than one AP for a building, one must be designated as the Principal Accountable Person (PAP). The PAP has additional duties including:

- Registering the building with the Building Safety Regulator
- Applying for a Building Assessment Certificate
- Preparing and maintaining the Safety Case Report
- Establishing and maintaining the Golden Thread of information
- Implementing a Residents Engagement Strategy

Key Duties for Building Owners and Managers

Duty	Who it applies to	Timescale
Register the building with the BSR	Principal Accountable Person	Buildings already occupied — should be registered. New buildings before occupation
Prepare a Safety Case Report	Principal Accountable Person	Ongoing — must be kept up to date
Establish the Golden Thread	Principal Accountable Person	Ongoing — all building information must be stored and maintained digitally
Apply for a Building Assessment Certificate	Principal Accountable Person	When requested by the BSR
Implement a Residents Engagement Strategy	Principal Accountable Person	Ongoing
Assess and manage building safety risks	All Accountable Persons	Ongoing
Report structural or fire safety risks	All Accountable Persons	Immediately on becoming aware

Leaseholder Protections — Building Safety Costs

ONE OF THE MOST IMPORTANT PROVISIONS FOR LEASEHOLDERS

The Act introduces significant protections for qualifying leaseholders against being charged through the service charge for historical building safety defects — including cladding remediation and other fire safety works arising from historical failures.

WHO IS A QUALIFYING LEASEHOLDER?

A qualifying leaseholder is a leaseholder who, on 14 February 2022:

- Held a long lease of a dwelling in a relevant building (11m+ or 5+ storeys with 2+ dwellings)
- Occupied the dwelling as their only or principal home, OR owned no more than three dwellings in the UK in total

WHAT COSTS ARE LEASEHOLDERS PROTECTED FROM?

Cost type	Protection
Cladding remediation	Qualifying leaseholders pay nothing — costs fall on the landlord/developer
Non-cladding building safety defects	Qualifying leaseholders are protected up to a cap based on property value (£15,000 outside London, £50,000 in London)
Building safety service charges	Landlords with net worth over £2m per building, or developers/original builders, must fund costs themselves
Legal and professional costs	Cannot be passed to leaseholders in connection with building safety obligations

New Leaseholder Rights

RIGHT TO RAISE SAFETY CONCERNS

The Act gives leaseholders and residents new rights to raise building safety concerns. These include:

- The right to raise safety concerns directly with the Accountable Person
- The right to escalate unresolved concerns to the Building Safety Regulator
- Protection from retaliation — leaseholders cannot be penalised for raising safety concerns
- The right to request information held in the Golden Thread
- The right to participate in the Residents Engagement Strategy

THE BUILDING SAFETY CHARGE

For higher-risk buildings, building safety costs must be demanded through a separate 'building safety charge' rather than the general service charge. This ensures transparency and makes it easier for leaseholders to understand and challenge building safety expenditure specifically.

NEW HOMES — DEVELOPER ACCOUNTABILITY

For new buildings, the Act creates new duties on developers and contractors, extends the limitation period for claims against developers to 30 years for dwellings, and introduces the New Homes Ombudsman scheme. Purchasers of new homes have enhanced rights to seek redress for building defects.

What This Means in Practice

FOR LEASEHOLDERS IN BUILDINGS UNDER 18M

The full HRB regime does not apply to buildings below 18 metres or with fewer than 7 storeys. However, the leaseholder cost protections and the Fire Safety Act 2021 requirements do apply to all multi-occupied residential buildings with two or more sets of domestic premises. Responsible persons for all such buildings must:

- Carry out and maintain a current fire risk assessment
 - Provide fire safety information to residents
 - Carry out checks on communal fire doors (quarterly for flat entrance doors in buildings over 11m)
 - Ensure fire safety instructions are provided to all residents
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FOR LEASEHOLDERS IN BUILDINGS OF 18M+

- Check whether your building is registered with the Building Safety Regulator
 - Ask your managing agent or freeholder who the Principal Accountable Person is
 - Request a copy of the Residents Engagement Strategy
 - Understand your rights regarding historical building safety costs
 - Report any building safety concerns to the Accountable Person — and escalate to the BSR if unresolved
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HOW BERGASON CAN HELP

Bergason Property Services Limited manages Building Safety Act compliance for all buildings under our management. For higher-risk buildings we coordinate registration, Safety Case preparation, Golden Thread establishment and resident engagement. Contact us for a compliance review of your building.

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