



BRIEFING PAPER

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Fire Safety Bill [Bill 121 of 2019-21]

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Summary

The Fire Safety Bill was introduced to amend the [Regulatory Reform \(Fire Safety\) Order 2005](#). It aims to make it clearer where responsibility for fire safety lies in buildings containing more than one home. The House of Commons will consider Lords amendments to the Bill on 27 April 2021.

This Bill is part of a series of changes to fire safety and building safety the Government is taking following the Grenfell Tower fire in 2017, with further primary and secondary legislation to follow.

Current fire safety legislation

The [Regulatory Reform \(Fire Safety\) Order 2005](#) brought together different pieces of fire legislation. It applies to all non-domestic premises, including communal areas of residential buildings with multiple homes. The Order designates those in control of premises as the responsible person for fire safety and they have a duty to undertake assessments and manage risks. The Order is enforced by Fire and Rescue Authorities.

What does the Fire Safety Bill do?

The Bill clarifies that for any building containing two or more sets of domestic premises the Order applies to the building's structure and external walls and any common parts, including the front doors of residential areas.

It also clarifies that references to external walls in the Order include "doors or windows in those walls" and "anything attached to the exterior of those walls (including balconies)." These amendments to the Order aim to increase enforcement action in these areas, particularly where remediation of aluminium composite material (ACM) cladding is not taking place.

Where does the Bill apply to?

This Bill applies to England and Wales. Separate fire safety legislation is in place in Scotland and Northern Ireland. Fire Safety is devolved in Wales, but the Bill amends the shared legislation, with the same delegated powers applying to English and Welsh Ministers.

The Bill also provides English and Welsh Ministers with a regulation-making power to amend the type of buildings the Order applies to in the future.

The Bill has been welcomed. Public and industry bodies expect more enforcement action by Fire and Rescue Authorities as a result of the Bill's clarifications, and that it will impose greater burdens on the responsible person in multi-occupancy residential buildings.

Progress of the Bill

The Bill passed [House of Commons stages](#) without amendment on 7 September 2020. [House of Lords](#) consideration of the Bill was completed on 24 November 2020 and the Bill was passed back to the Commons with [five amendments](#). One of these amendments sought to restrict the passing on of remediation costs to leaseholders, supplemented by further proposed amendments in the Commons on the same issue, known as the 'McPartland Smith' amendments. These related to ongoing concern about the [cost to leaseholders of cladding removal from high-rise residential buildings](#).

The Commons accepted two Government amendments on 24 February 2021, but not other amendments including the one relating to remediation costs. Further consideration of the Bill took place in the Lords on 17 March and the Bill was returned to the Commons

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again with amendments relating to remediation costs. The Commons disagreed with these amendments on 22 March 2021. Further amendments in the House of Lords were made in relation to remediation costs on 20 April 2021 and the Commons will consider the Bill again on 27 April 2021.

The progress of this Bill and the Building Safety Bill appear to be linked to the ongoing issue of cladding remediation costs; on 10 February 2021 the [Secretary of State announced](#) an increase in the funding available for high-rise leasehold residential buildings with unsafe cladding.

Further changes to fire safety law are expected to follow. [The Government responded to the consultation on changes to the Fire Safety Order on 17 March 2021.](#)

1. Why is the Bill needed?

1.1 What is the Fire Safety Order?

Fire legislation has been unchanged since 2005, but building safety and fire safety and been subject to a number of reviews and reports since the Grenfell Tower fire in 2017. This Bill is the first primary legislation to follow these reports, although there has been secondary legislation amending building regulations, and the Building Safety Bill is expected in this session.

The [Regulatory Reform \(Fire Safety\) Order 2005](#) (or Fire Safety Order) applies in England and Wales and:

- consolidated the wide variety of existing legislation on fire safety in non-domestic premises;
- extended its coverage so there was a single fire safety regime applying to all workplaces and other non-domestic premises, including common parts of houses in multiple occupation and blocks of flats;
- and also introduced a risk-based assessment approach to fire safety.

The two main pieces of legislation replaced were the [Fire Precautions Act 1971](#) and the [Fire Precautions \(Workplace\) Regulations 1997](#). The first required fire certification for hotels and boarding houses; and for certain workplaces. The second implemented EU legislation covering most workplaces, requiring a risk-based assessment approach to fire safety to ensure protection of employees and other people present. The priority in the Fire Safety Order is life safety over building safety.

The changes followed extensive debate and consultation. Further information can be found in the [House of Commons](#) and the [House of Lords](#) Regulatory Reform Committee reports, both published in July 2004. The changes were made by means of secondary legislation, in the form of a [regulatory reform order](#) (RRO), brought in under the [Regulatory Reform Act 2001](#).

The 2005 Order applies to all non-domestic premises, including communal areas of flats. This is defined by [article 6](#) which works by expressly excluding specific types of premises.

The Order designates those in control of premises as the responsible person for fire safety and this duty normally falls on landlords, building owners or building managers. They have a duty to ensure that a risk assessment is carried out to identify hazards and risks, and to remove and reduce these as far as possible. The responsible person then ensures a set of appropriate measures are in place to achieve fire safety (the order sets out detail on different aspects under [Part 2](#)). Government [guidance](#) sets out how fire risk can be assessed.¹ The fire risk

¹ Home Office, [Fire safety law and guidance documents for business](#) [accessed 27 April 2020]

assessment may be affected by any new issues that arise during the building's lifetime.

Ministers have a power, under [article 24](#) of the order, to make regulations on the fire precautions that must be taken under the Order.

Enforcement is dealt with by [Part 3](#) of the Order, including [article 25](#), which sets out that Fire and Rescue Authorities are the relevant authorities.

Building Regulations set out fire safety requirements in new or refurbished buildings (as set out in [Approved Document B](#)). Compliance with the fire safety order is about the ongoing management of fire risk in buildings whereas compliance with building regulations only applies at the time the work was carried out (or when approval for the work was granted).

Following the Grenfell Fire on 14 June 2017 (see section 1.2 below), the roles and responsibilities of the responsible person, the coverage of the Order, and the enforcement of the Order have come under scrutiny.

Other pieces of legislation are relevant to fire safety and these are set out in the [explanatory notes](#) (para 11):

- Housing (Health and Safety Rating System) Regulations 2005 (Part 1 of the Housing Act 2005 gives local authorities powers to deal with hazards, including fire hazards, in dwellings and the Regulations provides further details of this regime);
- Management of Houses in Multiple Occupation (England) Regulations 2006 (which includes a duty on landlords of HMOs to take safety measures);
- Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (which places duties on landlords to ensure smoke detectors are installed in domestic premises being let);
- Gas Safety (Installation and Use) Regulations 1998 (which includes provisions on fire safety of gas appliances, including checks by landlords);
- Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (which includes a duty on all private landlords in relation to safety of electrical installations);
- Building Regulations 2010 (including as applied by the Building (Approved Inspectors etc) Regulations 2010) – provide the requirements which must be achieved when undertaking building works, including designing and constructing buildings so they inhibit the spread of fire within a building and adequately resist the spread of fire over the walls of the building.

1.2 Grenfell fire

On 14 June 2017 a fire broke out at Grenfell Tower, a 24 storey residential housing block in North Kensington, London. 72 people died as a result of the fire.

The tower, which provided social housing, contained 129 flats. The block was owned by the Royal Borough of Kensington and Chelsea but management of the block was the responsibility of the Kensington and Chelsea Tenant Management Organisation.

The fire appeared to spread rapidly up the building; the current [Public Inquiry](#) reported that “there was compelling evidence that the external walls of the building failed to comply with Requirement B4(1) of Schedule 1 to the Building Regulations 2010, in that they did not adequately resist the spread of fire having regard to the height, use and position of the building”.²

Further background to the fire is provided in the Library briefing: [Grenfell Tower Fire: Background](#).

1.3 Building Safety Programme

Following the Grenfell Tower fire, the Government set up a [Building Safety Programme](#) under the then Department for Communities and Local Government.

The Government appointed an expert panel, chaired by Sir Ken Knight, to advise the Government on immediate measures needed to ensure building safety and to help identify buildings of concern. On the issue of cladding, the independent panel advised the Government to undertake identification screening of residential buildings over 18 metres tall to identify the type of aluminium composite material (ACM) used in external wall cladding. Testing was undertaken by the [Buildings Research Establishment](#) (BRE).

The Government has recently published [consolidated advice for building owners](#) (20 January 2020) using and updating the advice notes published by the expert panel since 2017.³ The new set of guidance covers issues such the general approach building owners should be taking with regard to fire risk (including those under 18m), as well as specific advice on ACM cladding, High Pressure Laminate (HPL) panels, balconies and fire doors.

As a result of the guidance and previous advice notes, remediation work is required on hundreds of high-rise residential buildings with ACM cladding. The progress and funding of these have been high profile issues and are covered in the Library briefing: [Leasehold high-rise flats: who pays for fire safety work?](#)

On 20 January 2020 the Secretary of State for Housing, Communities and Local Government, Robert Jenrick, [made an oral statement to the House](#) on building safety, highlighting the role the Bill will play in supporting enforcement of remediation work by clarifying the coverage of the Fire Safety Order, as there are concerns not all remediation work is taking place:⁴

² [Grenfell Tower Inquiry: Phase 1 Report Overview](#), 30 October 2019, para 2.16

³ [Building safety advice for building owners, including fire doors](#) [accessed 27 April 2020]

⁴ [HC Deb 20 Jan 2020 c24](#)

...Sixthly, while I welcome recent progress, remediation of unsafe ACM cladding, especially in the private sector, is still far too slow. This absolutely cannot continue, particularly when funding is now being provided by the taxpayer. Although all unsafe ACM cladding now has mitigation safety measures in place where required, I do not underestimate the concern of residents living in buildings where remediation has not even started.

The latest data show that, out of 92 buildings in scope, 82 applications have been made to the private sector ACM cladding remediation fund, and that the 10 for which applications have not been made have exceptional circumstances, which I have reviewed. However, an application to the fund is not an end in itself; that can never be sufficient. Construction work to remediate these buildings should be proceeding as quickly as possible. We will therefore be appointing an independent construction expert to review remediation timescales and identify what can be done to increase the pace in the private sector.

Inaction must have consequences. From next month, I will name those responsible for buildings where remediation has not started and remove them from the public list only when it has. My Department will be working with the relevant local authorities to drive enforcement where necessary. The Home Secretary will deliver the fire safety Bill and associated regulatory changes in order to enable delivery of the recommendations of the Grenfell inquiry phase 1 report. The proposed Bill will place beyond doubt that external wall systems, including cladding and the fire doors to individual flats in multi-occupied residential blocks, fall within the scope of the Regulatory Reform (Fire Safety) Order 2005. These changes will affirm the ability to enforce locally against building owners who have not remediated unsafe ACM buildings. Building owners and developers who have not already taken action must do so now. Further delay is not acceptable.

In response to the statement the then Shadow Secretary of State for Housing, John Healey, questioned the speed of progress by the Government with regard to building safety changes following the Grenfell Fire and Hackitt Review.⁵

1.4 Hackitt Review

Following the Grenfell Tower fire, the Government asked Dame Judith Hackitt, a former Chair of the UK Health and Safety Executive, to lead a review of building regulations and fire safety which would make recommendations to ensure a robust regulatory regime in the future and make residents feel safe in the buildings they live in. The Library briefing paper [Building Regulations and Safety: Review and Reforms](#) provides an overview of proposals and changes to the end of 2019 including the interim and final Hackitt report, the Government's implementation plan, the related Committee report as well as changes to Approved Document B and the Cladding Ban.

The interim Hackitt report, published in December 2017, highlighted concerns around the complexity of relevant regulations, roles and

⁵ [HC Deb 20 Jan 2020 c25](#)

responsibilities, and enforcement.⁶ A [shorter summary of the report is available](#).

The final report of the review, published in May 2018, did not seek to repeat the issues identified in the interim report, but set out a new regulatory framework initially focussed on multi-occupancy higher risk residential buildings (HRRBs) that are 10 storeys or more in height (although the review makes clear where the recommendations should have wider application).⁷

Building Safety Bill

On 18 December 2018, the Government made a written statement providing a building safety update and announced the publication of an implementation plan which took forward key parts of the Hackitt Review.⁸ Since the publication of the implementation plan a number of consultations have been held and the [December 2019 Queen's Speech](#) set out that a Building Safety Bill would be brought forward. On 20 January the Government announced that the new Building Safety Regulator within the Health and Safety Executive, would be established in shadow form immediately.⁹ On 2 April the Government published its response to the 'Building a Safer Future' consultation which would inform the future legislation.¹⁰ The Fire Safety Bill deals with specific fire safety issues while the Building Safety Bill will tackle wider issues, but work in both areas is closely related. The Building Safety Bill is intended to put in place new and enhanced regulatory regimes for building safety and construction products, and ensure residents have a stronger voice in the system.¹¹ The Draft Building Safety Bill was published on 20 July 2020 and further information is given in a [Library briefing](#).

Defining 'common parts' of shared buildings

Concerns with existing legislation were raised by the Hackitt Review. For example, the Interim Report (December 2017) noted that the definition of 'Common parts' of shared buildings could be an issue, and that there were conflicts with other legislation and powers. It notes that:

The Fire Safety Order is primarily designed for non-domestic premises and, as such, applies only to the "common parts" of a residential building; for example, common staircases, corridors and the external doors to each flat.

"Common parts" are outlined in article 2 of the Regulatory Reform (Fire Safety) Order 2005 (Fire Safety Order) in relation to domestic premises, that is, parts of the building "used in common" by the occupants of more than one dwelling. Under the Fire Safety Order, common parts do not include any aspects of

⁶ For more information see [Independent Review of Building Regulations and Fire Safety: interim report](#), 18 December 2017

⁷ [Independent Review of Building Regulations and Fire Safety: final report](#), 17 May 2018, p12

⁸ Also MHCLG Press Release "[Brokenshire introduces tougher regulatory system for building safety](#)", 18 December 2018

⁹ .gov Press Release, [New measures to improve building safety standards](#), 20 January 2020

¹⁰ MHCLG, [Government update on building safety](#), 2 April 2020

¹¹ [Queen's Speech December 2019, Background Briefing Notes](#)

fire safety within flats or on the outside of a building, such as cladding.¹²

1.5 Public Inquiry

On 15 June 2017 the then Prime Minister, Theresa May, announced a public inquiry into the Grenfell fire. On 17 June the Prime Minister confirmed that the “public inquiry will report back to me personally. As Prime Minister, I will be responsible for implementing its findings.”¹³

The [phase 1 report](#) was published on 30 October 2019. In terms of a summary of the report the best source is the [executive summary from the public inquiry](#) which provides an overview of events at Grenfell when the fire occurred, the report’s conclusions and recommendations.

A series of recommendations are made; the report states these should be read in full. It notes:¹⁴

Chapter 33 does not lend itself to being summarised. It should be read in full, because it sets out my recommendations in detail and explains the basis on which they are being made (or in some cases why certain recommendations are not being made). In summary, however, I make recommendations for change in relation to the following matters:

- a. The information made available to fire and rescue services about the materials and methods of construction used in the external walls of high-rise residential buildings.
- b. The arrangements made by the LFB [London Fire Brigade] to discharge its duties under section 7(2)(d) of the Fire and Rescue Services Act 2004.
- c. The availability of plans of high-rise residential buildings to local fire and rescue services and the provision of premises information boxes in high-rise residential buildings.
- d. The regular inspection and testing of lifts designed for use by firefighters.
- e. Communication between the LFB control room and the incident commander.
- f. The way in which fire and rescue services handle emergency calls.
- g. The LFB’s command and control procedures and use of resources, in particular the capture of information from crews returning from deployments and the sharing of information between the LFB control room, the incident commander and the bridgehead.
- h. The communication equipment available to the LFB for use by crews deployed in firefighting and rescue operations in high-rise buildings.
- i. The evacuation of high-rise residential buildings, including the provision of equipment enabling firefighters to send an evacuation signal to the whole or a selected part of the building.

¹² [Independent Review of Building Regulations and Fire Safety: interim report](#), 18 December 2017, p70-71

¹³ Prime Minister’s Office, “[Grenfell Tower: Statement from the Prime Minister](#)”, 17 June 2017

¹⁴ [Grenfell Tower Inquiry: Phase 1 Report Overview](#), 30 October 2019

- j. The provision of fire safety information to residents of high-rise residential buildings and the marking of floor levels in lobbies and staircase landings.
- k. The inspection of fire doors and self-closing devices.
- l. Aspects of co-operation between the emergency services.

The recommendations included legislative requirements around the responsibilities of building owners and managers providing information to emergency services, collecting information on the building or maintaining specific services such as lifts.

The Government has indicated a number of these fire safety recommendations requiring legislation will be taken forward using secondary legislation (see section 1.7).

1.6 Call for evidence

In June 2019 the Government launched a ['call for evidence' on the Fire Safety Order in England](#). This ran concurrently with the Government's [consultation on building safety](#). The [document](#) set out who the consultation was aimed at and why it was being run:

It is targeted at those who have statutory responsibilities under the Fire Safety Order or are otherwise affected by it. This includes enforcing authorities under the Fire Safety Order (Fire and Rescue Services, Fire and Rescue Authorities, Local Government, Health and Safety Executive, the Crown Premises Fire Inspection Group etc), as well as those responsible for the safety of buildings covered by the Fire Safety Order and those working within them.

The views invited below will help to update the evidence base on how the Fire Safety Order is complied with and enforced, help us identify and assess any changes that may be needed and how they may best be achieved. We will use the evidence gathered to inform our next steps, to ensure the high and proportionate standards of fire safety in all buildings covered by the Fire Safety Order.

The document set out trends on fire safety since the Order came into force:

The Fire Safety Order came into force in 2006. It has been implemented during a period which has seen a long-term downward trend in the number of fires and fire related fatalities. Since 2010/11 the number of building fires attended by fire and rescue services has fallen from around 65,000 to around 48,500 in the year ending December 2018, a decline of 25 per cent. The number of fire-related fatalities fell by 21 per cent (from 273 to 216) and the number of casualties requiring hospital treatment fell by 30 per cent (from 4,123 to 2,902) over the same time period.

The call for evidence sought views on:

- The scope and objectives of the Fire Safety Order;
- The overlapping regulatory frameworks currently in place (such as with the Housing Health and Safety Rating System (HHSRS));
- Dealing with the responsibilities for mixed use buildings greater than 18m in height;

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- The roles and responsibilities under the Act, and experience of them, including that of the responsible person, competent person and enforcing authorities;
- Whether the Fire Safety Order provides sufficient fire safety arrangements for 'higher risk workplace buildings' in occupation by comparison with the reforms proposed in the (building safety) consultation for multi-occupied residential buildings of 18 metres or more in height.

The Government published the [summary of responses](#) to the consultation on 19 March 2020. It reported that:

We received 264 valid responses to the Call for Evidence covering a wide range of sectors and interest in fire safety. Most respondents agreed that the scope and objectives of the Fire Safety Order remain appropriate for all regulated premises, that it should retain its focus on protecting lives over property, and that it should continue to provide a framework for a risk based and proportionate approach to regulating fire safety. However, the responses to the Call for Evidence have highlighted that there are areas which need further consideration, notably:

- a. The self-identification of the Responsible Person and the assurance that they understand and hold the competence to carry out their fire safety duties;
- b. The need to update current guidance which supports the legislation for Responsible Persons and enforcing authorities, including whether it is accessible for the broad range of persons covered by the Order;
- c. The overlap of legislation, specifically the Housing Act 2004 and Fire Safety Order, that exists in multi-occupied residential buildings;
- d. The effectiveness of current provisions for enforcement under the Fire Safety Order; and
- e. The sharing of fire safety information between individual Responsible Persons, and between the Responsible Persons and other relevant personnel involved in the fire safety of the building, for example authorities and Relevant Persons.

Following the call for evidence, the Government stated a consultation would be held in Spring 2020 on proposals for next steps, and whether additional changes to the Fire Safety Order are needed. This Bill does not contain changes related to the consultation. Announcing the Fire Safety Bill, the Government set out how this call for evidence related to it:¹⁵

To accompany the introduction of the bill, the Home Office is also announcing today the publication of the summary of responses received to the Fire Safety Order 2005 (FSO) call for evidence.

The call for evidence invited views on the application of the FSO and sought to identify any changes that might be needed and how they could be best achieved.

While respondents identified some areas where the FSO could be amended to provide greater clarity, most respondents agreed that the scope and objectives of the FSO remain appropriate for all

¹⁵ Gov.uk, [Fire Safety Bill](#), 19 March 2020

regulated premises, that it should retain its focus on protecting lives over property, and that it should continue to provide a framework for a risk-based and proportionate approach to regulating fire safety. A consultation will be held later in the year on proposals and next steps.

1.7 Consultation on the Fire Safety Order

On 20 July 2020 [the consultation on changes to the Fire Safety Order](#) was launched. This was after the introduction of the Fire Safety Bill and Committee stage of the Bill in the Commons. As noted above, the changes in the consultation are intended to be separate to those in the Bill.

The changes proposed in the consultation have three purposes, to:

- strengthen the *Regulatory Reform (Fire Safety) Order 2005* and improve compliance;
- implement the Grenfell Tower Inquiry Phase 1 Report recommendations that require a change in law to place new requirements on building owners or managers of multi-occupied residential buildings, mostly high-rise buildings;
- strengthen the regulatory framework for how building control bodies consult with Fire and Rescue Authorities and the handover of fire safety information.

The consultation closed on 12 October 2020. A [Government response to the consultation](#) was published on 17 March 2021.

1.8 What Government says about the Bill

In the Queen's Speech in December 2019 the Government announced that it intended to introduce a Building Safety Bill in the session that would "Put in place new and enhanced regulatory regimes for building safety and construction products, and ensure residents have a stronger voice in the system."¹⁶ A Fire Safety Bill was also announced that would "Implement the relevant legislative recommendations of the Grenfell Tower Public Inquiry Phase 1 Report" and "Put beyond doubt that the Fire Safety Order will require building owners and managers of multi-occupied residential premises of any height to fully consider and mitigate the risks of any external wall systems and fire doors."¹⁷ The [Government's background briefing notes](#) provide more detail.

On the day the Fire Safety Bill was published a Government news story provided further detail on the areas of the Grenfell Tower Inquiry that subsequently come forward:¹⁸

The bill will provide a foundation for secondary legislation to take forward recommendations from the Grenfell Tower Inquiry phase one report, which stated that building owners and managers of high-rise and multi-occupied residential buildings should be responsible for a number of areas including:

¹⁶ [Queen's Speech December 2019, Background Briefing Notes](#)

¹⁷ Ibid.

¹⁸ .Gov, [Fire Safety Bill](#), 19 March 2020

- regular inspections of lifts and the reporting of results to the local fire and rescue services
- ensuring evacuation plans are reviewed and regularly updated and personal evacuation plans are in place for residents whose ability to evacuate may be compromised
- ensuring fire safety instructions are provided to residents in a form that they can reasonably be expected to understand
- ensuring individual flat entrance doors, where the external walls of the building have unsafe cladding, comply with current standards

The bill will also give the Secretary of State for Housing, Communities and Local Government the powers to amend the list of qualifying premises that fall within the scope of the Fire Safety Order by way of secondary legislation, enabling the government to respond quickly to developments in the design and construction of buildings.

Announcing the Bill, the Government also highlighted other areas of action:¹⁹

Alongside today's bill, a number of actions are being taken across government to improve building and fire safety including:

- the announcement by the Secretary of State for Housing, Communities and Local Government on 20 January 2020 of a new Building Safety Regulator
- introduction of the Ministry of Housing, Communities and Local Government's Building Safety Bill, which will provide clearer accountability and stronger duties on those responsible for high rise buildings
- £1 billion of grant funding to tackle unsafe cladding systems on high-rise residential buildings over 18 metres in both the private and social sectors
- a new Building Safety Bill to bring about further changes to building safety
- the relaunch of the government's Fire Kills campaign

1.9 Territorial Extent

The Bill applies in England and Wales. Fire safety is generally a devolved matter, with specific legislation in place in Scotland and Northern Ireland. The Bill provides for changes to the Fire Safety Order to apply in Wales. The Welsh Government intend to support a legislative consent motion in relation to these provisions.²⁰

The Explanatory Notes also state that they expect the Bill to require a money resolution as there will be additional public expenditure in respect of fire and rescue authorities carrying out audits under the Fire Safety Order, which will be wider in scope.²¹

¹⁹ Ibid.

²⁰ [Fire Safety Bill Explanatory Notes](#), para 16

²¹ [Ibid.](#), para 32

2. The Bill

The [Fire Safety Bill](#) (HC Bill 121) received its first reading in the House of Commons on 19 March 2020. The Government published [Explanatory Notes](#) to the Bill.

2.1 Clause 1

The intention of the clause is to clarify the buildings, and parts of those buildings, the Fire Safety Order applies to. **Clause 1** amends article 6 of the *Regulatory Reform (Fire Safety) Order 2005*, which deals with exceptions of premises to the order. The order has a general exception to domestic premises, but this clause adds a clarification that for any building containing two or more sets of domestic premises this exception does not apply to “the building’s structure and external walls and any common parts” and “all doors between the domestic premises and common parts”. It also clarifies that external walls in the order include “doors or windows in those walls” and “anything attached to the exterior of those walls (including balconies).”

The explanatory notes state that:

These are important clarifications for ensuring that owners or managers (who are usually the ‘responsible persons’ for multi-occupied residential buildings) include an assessment of risk related to fire and fire spread in respect of these parts of the relevant premises. As a result, such persons will be under a duty to take general fire precautions to ensure the premises are safe to those lawfully there.²²

The notes go on to add that:

The amendments also affirm that fire and rescue authorities can take enforcement action against responsible persons if they have failed to comply with their duties under the Fire Safety Order in relation to these parts of such premises.²³

2.2 Clause 2

Clause 2 provides for a delegated power for Ministers in England and Wales to make regulations amending the Fire Safety Order. These regulations can change or clarify the types of premises falling within its scope, and make related consequential amendments. The explanatory notes state that “This will ensure, for example, that any new types of premises can be brought into the scope of the Fire Safety Order relatively quickly, thereby improving fire safety.”²⁴

The power applies to English Ministers in England and Welsh Ministers in Wales. The amendments can include transitional or saving provisions, and the Bill requires consultation with “anyone who the relevant authority considers appropriate”. The regulations will require the [affirmative procedure](#).

²² [Fire Safety Bill Explanatory Notes](#), para 21

²³ *Ibid.*

²⁴ [Ibid.](#), para 23

2.3 Clause 3

Clause 3 deals with territorial extent and commencement. The Act extends and applies to England and Wales. Clause 1 will be brought into force by secondary legislation by the relevant Minister in England or Wales. Clause 2 comes into force two months after Royal Assent.

2.4 Comment before Second Reading

The Fire Safety Bill has been broadly welcomed by public and industry bodies, with greater enforcement action expected as result of the Bill, although responses have noted the additional burden and cost to building owners.

Gary Strong from the Royal Institute of Chartered Surveyors said that the Bill "...is a welcome move that will give further clarity to leaseholders and building owners."²⁵ The Local Government Association also welcomed the Bill, saying that it was "an important step in the right direction," but Lord Porter, Local Government Association building safety spokesman said that the Bill:

...needs to be backed up by further effective powers and sanctions, which we have been promised in the forthcoming Building Safety Bill, and sufficient funding to carry out the necessary inspections and enforcement activity.²⁶

Chair of the National Fire Chief's Council (NFCC) Roy Wilsher welcomed the introduction of the Bill but asked for additional supportive measures and to see more detail of the intended secondary legislation:

We look forward to seeing additional supportive measures to assist fire and rescue services, identify different types of cladding and take appropriate measures.

We now need to see the detail of the secondary legislation, which will take forward recommendations from the Grenfell Tower Inquiry Phase 1 report. NFCC is looking forward to engaging with the Home Office at the earliest opportunity, as this is where the nuanced details will sit. It is essential this achieves positive fire safety outcomes.²⁷

Andrew Mellor, at Architectural Firm PRP, published a short article on the Bill²⁸, noting that:

Overall, the bill will help to ensure that buildings and those who live in them are safer. However, for those who own or manage residential buildings, the requirements will impact further on costs and resource allocation for investigating buildings and ensuring compliance. Added to that, with so many existing residential buildings in England and Wales, the question remains how the industry will be able to undertake the volume of assessments required given the current shortage of fire safety experts.

The article also raises a number of points about the Bill, such as that the new definition of what falls within the scope of the Order would have

²⁵ [RICS statement: Response to Fire Safety Bill](#), 20 March 2020

²⁶ [LGA responds to Fire Safety Bill](#), 19 March 2020

²⁷ National Fire Chiefs Council, [NFCC: pleased to see new Fire Safety Bill announced](#), 19 March 2020

²⁸ PRP, [New fire safety bill: what does it mean?](#), 20 March 2020

resource and process implications relating to all multi-occupancy buildings, that the risk assessment process is as yet unknown, that windows have been included and more information is needed on what will be assessed here, and further questions are raised about the use of the secondary legislation provided for. Others also highlighted that the Bill “closes a legal loophole” on coverage of the Fire Safety Order around common parts of the building with Laura White of legal firm Pinsent Masons noting that the Bill was an insight into the future of fire safety legislation and enforcement, and that it expected “further legislation to provide clarity on identifying the responsible persons and also a stronger sanctions and enforcement regime for those who breach it.”²⁹

The publication of the Bill was [noted by *Inside Housing*](#) (a weekly trade publication covering the UK's social housing sector). A more recent article by them on 20 April 2020 commented that despite Coronavirus, fire safety still appeared to be a priority of the Government as shown by the [Government's announcements on building safety on 2 April](#). However, it highlighted various issues outstanding relating to fire safety, such as knowing the size of the cladding problems beyond high rise buildings, and how these buildings under 18m with ACM cladding would be supported for remediation, as well as related problems with valuations in the mortgage market and a forthcoming decision on combustible cladding below 18m (and above 11m).³⁰

²⁹ Pinsent Masons, [UK Fire Safety Bill for residential buildings gets first reading](#), 23 March 2020

³⁰ Inside Housing, [What did we learn from the recent government announcements on fire safety?](#), 20 April 2020 [registration required]

3. House of Commons Stages

3.1 Second Reading

Second reading of the Bill took place on 29 April 2020. The Minister for Security, James Brokenshire, introduced the Bill and set out a background, covering the response of the Government to the Grenfell Tower fire. He explained the intentions of the Bill:³¹

The Grenfell Tower inquiry's phase 1 report found compelling evidence that the external walls of the tower were not compliant with building regulations. In January this year, the independent expert advisory panel on building safety set up by the Government shortly after the Grenfell fire published its consolidated advice. That includes advice on measures that building owners should take to review ACM and other cladding systems to assess and assure their fire safety and the potential risks to residents of the spread of external fire.

We have established that there are differing interpretations of the provisions in the order as to whether external walls and, to a lesser extent, individual flat entrance doors in multi-occupied residential buildings are in scope of the order. For that reason, we submit that the Bill is a clarification of the fire safety order. It will apply to all multi-occupied residential buildings regulated by the order. The current ambiguity is leading to inconsistency in operational practice. That is unhelpful at best and, at worst, it means that the full identification and management of fire safety risks is compromised, which can put the lives of people at risk.

[...]

The Bill will therefore ensure that, when the responsible person makes a suitable and sufficient assessment of the risks, it takes account of the structure, external walls, balconies and flat entrance doors in complying with the fire safety order, and allows enforcement action to be taken confidently by fire and rescue authorities. That will complement existing powers that local authorities have under the Housing Act 2004.

He added:

The Bill will give the Secretary of State a regulation-making power to amend or clarify the list of premises that fall within scope of the fire safety order. That will enable us to respond quickly to any further developments in the design and construction of buildings and our understanding of the combustibility and fire risk of construction products.

The Minister noted the Bill would have consequences for the responsible person of relevant buildings:

I am aware that the provisions of the Bill will require potentially significant numbers of responsible persons to review and update their fire risk assessments. For many, that will require specialist knowledge and the expertise of the fire risk assessor. We are working with representatives of the sector to understand the particular challenges in delivery. That will inform our approach to the implementation of the Bill, while maintaining a clear and consistent approach to fire risk assessments. In any event, and in

³¹ [HC Deb 29 April 2020 c345-9](#)

line with the independent expert advisory panel's consolidated advice, I would none the less encourage those with responsibilities to carry out a fire risk assessment under the order as a matter of good practice and to consider flat entrance doors and external wall systems as part of their fire risk assessment for multi-occupied residential blocks as soon as possible, if they have not already done so.

The Minister explained that further, wider, secondary legislation on the Fire Safety Order was to follow, as well as the Building Safety Bill. He concluded:

The Fire Safety Bill complements all the actions that we have taken to date. It demonstrates that we are applying the lessons from the Grenfell tragedy and will continue to do everything within our power to ensure the safety of people in their homes. While legislation alone can never provide all the answers, I believe that it will make a significant and lasting contribution to the safety of residents. It will provide a catalyst to drive the culture change that is needed within our building and construction sector to put safety and security at the forefront and provide responsibility and accountability where people fall short. Above all, it will help to provide the legal foundations to ensure that such a tragedy can never happen again. I commend the Bill to the House.

The opposition supported the Bill but urged the Government "to go further and faster on fire safety so that there are no more Grenfell Tower tragedies and people are kept safe and secure in their own homes." Speaking for Labour, Nick Thomas-Symonds criticised the (slow, in their view) speed at which changes to fire safety were being taken forward by the Government as well as the capacity for the required inspections to be carried out by the inspectors currently available. He noted that:³²

Labour will look to improve the Bill during its passage through Parliament. I urge the Government to have an open mind in the short Committee stage they have allocated and to give reassurance on a timetable for the measures they intend to take

During the debate the Bill was welcomed, but some members raised concerns over the time taken to implement changes after Grenfell and the extent of the changes in the Bill, the number of fire safety engineers available, a lack of accreditation for fire risk assessment work, whether Fire and Rescue Services had the capacity and funding to increase enforcement, the responsibilities of leaseholders and freeholders under the legislation, enforcement, and issues around remediation work and funding.

3.2 Committee Stage

The Committee met twice on Thursday 25 June to consider the Bill. In the first session it took evidence from the National Fire Chiefs Council, The Fire Sector Federation, the L&Q Group, the Fire Brigades Union and the Royal Institute of British Architects. The second session considered the Bill and amendments.

³² [HC Deb 29 April 2020 c349-352](#)

The Committee received written evidence from the:

- [Fire Brigades Union](#)
- [Institution of Engineering and Technology \('IET'\)](#)
- [Fire Sector Federation](#)
- [National Fire Chiefs Council \(NFCC\)](#)
- [British Property Federation](#)
- [Greater Manchester Fire and Rescue Service](#)
- [National Housing Federation](#)

The Bill passed Committee Stage without amendment. Three new clauses were negated on division.

At the start of the second sitting, where the Bill was considered line by line, concern was raised over the time allocated to consider the Bill (two sittings) and the complexity of the issues raised by the Bill and the evidence presented in the morning session.³³ However, in the end, the second sitting did not use the full three hours, finishing after two hours 16 minutes.

Premises

Amendment 1 (considered alongside amendment 2) sought to provide clarity on the coverage of the Fire Safety Order by amending Clause 1. Amendment 1 was put forward by Andy Slaughter (Lab) and aimed to apply the Order at penetrations that pass from a dwelling through a fire rated wall or floor into a common space. Amendment 2 was put forward by Sarah Jones (Lab), Shadow Home Office Minister, and sought to clarify that the Order applied to 'all other parts of the building'. During the debate Sarah Jones set out the support of the opposition for the Bill, noting:³⁴

...Although clearly we wish that things had gone faster and that we had been able to do more, we support the Bill and want to make it the best that it can be. On Second Reading there was agreement across the House on what needs to be done to fix some of the problems with the legislation. Amendment 2 relates to one of those problems, which has been raised by many of the organisations that have submitted written evidence.

She went on to outline the problem the amendments were aimed at:³⁵

...In the past, "common parts" has been used to refer to entrance halls, corridors or stairways in a block of flats, but it does not necessarily cover areas such as lift motor rooms, service risers, roof voids and other potentially high-risk areas, as well as fire safety facilities that are inside individual dwellings but used in common for the protection of the entire premises, such as sprinklers and detection systems.

This is not a new issue. Following the Lakanal House fire, the coroner recommended that there be clear guidance on the definition of "common parts" in buildings containing multiple domestic premises. Dame Judith Hackitt has also recommended

³³ [PBC Deb 25 June 2020 c29](#)

³⁴ [PBC Deb 25 June 2020 c33](#)

³⁵ [PBC Deb 25 June 2020 c34](#)

that the assignment of responsibilities in blocks of flats be clarified.

Kit Malthouse, the Minister for Crime and Policing, replied for the Government. He assured the Committee that the Government intended to publish guidance to support application of the Bill. He felt amendment 1 meant the Order started to extend into private homes, while on amendment 2 noted:³⁶

...As I have said, the order specifically excludes domestic premises. The Bill does not change the definition of domestic premises, and we seek to state expressly that external walls and flat entrance doors, which it could be argued are parts of domestic premises and are therefore excluded, are indeed in scope. The Government have not included a proposition to the effect that the fire safety order applies to all other parts of the building, as we believe that to be unnecessary, and it could cast doubt on article 6(2). The Government therefore resist the amendment.

Following challenge he added:

...we are concerned that the definitions in the amendments might have a narrowing effect. Detailed guidance offering definitions will come out as a consequence of the Bill, and obviously we will work with partners to ensure that we get that guidance right.

Amendment 1 was withdrawn.

Power to make amendments

Clause 2 of the Bill provides a delegated power to change or clarify the types of premises falling within its scope, and make related consequential amendments. Amendments 3-5 were put forward by the opposition and sought to provide delegated powers to amend specific articles in the Fire Safety Order to account for outcomes from the Grenfell Tower Public Inquiry and to ensure alignment with other regulations, including the forthcoming Building Safety Bill. Sarah Jones (Lab) set out that this could allow amendments to reflect 'emerging evidence or events' in the future citing examples from the London Fire Brigade:³⁷

...One was a legal mechanism for improvements to or replacement of the front doors of flats. Others were the installation of additional fire detection and warning systems, the retrospective fitting of fire safety measures in a building, and the adjustment or clarification of what an enforcing authority might need to be notified about.

Sarah Jones also queried how the Order would align in the future with the roles outlined under the future Building Safety Bill such as the Accountable Person and Building Safety Manager. The Minister did not agree the amendment was desired, stating that this was 'a short and technical Bill' and that providing such delegated powers were not 'appropriate', and that a delegated power to make regulations on precautions existed (article 24). He also set out future steps expected under fire and building safety:³⁸

³⁶ [PBC Deb 25 June 2020 c36-8](#)

³⁷ [PBC Deb 25 June 2020 c40](#)

³⁸ [PBC Deb 25 June 2020 c42](#)

The Government will shortly publish the second of our fire and building safety Bills, the building safety Bill. Alongside this, there will be pre-legislative scrutiny: we will publish a fire safety consultation, which will set out our proposals for strengthening the fire safety order and improving compliance on all regulated premises, leading to greater competence and accountability.

We will also implement the recommendations of the Grenfell Tower inquiry's phase 1 report, which calls for new requirements to be established in law to ensure the protection of residents in multi-occupied residential high-rise buildings, with some proposals applying to multi-occupied residential buildings of any height.

[...]

Subject to the outcome of the consultation, our intention is to deliver, where possible, the Grenfell inquiry recommendations through secondary legislation under the fire safety order. Where an amendment to the order is required through primary legislation, we intend to do that in the building safety Bill. That Bill will also cover the consequential amendments that will be required to the fire safety order to ensure that the Bill, when enacted, and the order align and interact with each other. We will ensure that the legal frameworks and supporting guidance provide clarity for those operating in this area, and bring about the outcomes sought across the fire and building safety landscape.

The hon. Member for Croydon Central mentioned having a single point of responsibility, and that is very much on our minds. Intensive work is going on between the Home Office and the Ministry of Housing, Communities and Local Government, and with the wider sector, to ensure that there is no confusion as to who is the responsible individual.

The amendment was withdrawn.

Commencement

The Opposition tabled amendment 6 which would bring the Act into force for all buildings at the same time, arguing that it would enable a risk-based approach to making assessments of buildings rather than taking a specific type of building at a time. The Minister acknowledged the impact of the Bill by requiring the updating of risk assessments, adding that he had established a 'task and finish group' to consider commencement:³⁹

...We acknowledge that there are capacity and capability issues, particularly in relation to assessing the risk for external walls. This is not just the Government speaking, but a number of organisations from the fire sector, local authorities and housing associations. The Government are committed to ensuring that we commence the Bill in a way that is workable across the system, while ensuring that swift action is taken to address the most significant fire safety risks.

That is why, as I mentioned this morning, we have established a task and finish group—co-chaired by the Fire Sector Federation and the National Fire Chiefs Council—that will be responsible for providing a recommendation on how the Bill should be commenced. The group will advise on the optimal way to meet the Bill's objective of improving the identification assessment of

³⁹ [PBC Deb 25 June 2020 c46](#)

fire risks in multi-occupied blocks and addressing them as soon as possible to ensure resident safety while also effectively managing any operational impact.

The Minister added the group would report by the end of September. The amendment was withdrawn.

Fire risk assessments and assessors

New Clauses 1, 2 and 7 were considered together and sought to establish a public register of fire risk assessments and assessors, and provide for the accreditation of fire risk assessors. NC1 and 2 were tabled by Daisy Cooper, speaking for the Liberal Democrats. She noted that the amendments around assessors reflected oral evidence heard in the first session around fire assessments being carried out by unqualified individuals, and to provide an indication of the training need to provide enough assessors, also noting the demands for ESW1 forms on assessor capacity. The amendments were welcomed by Labour.⁴⁰

The Minister, Kit Malthouse, sympathised with the amendments, acknowledging that further work was needed to ensure fire risk assessments were available to residents while also agreeing on the need for reform around fire assessors, setting out current Government plans:⁴¹

...New clause 2 would create a public register of fire risk assessors and require the fire risk assessors to be accredited. I agree that there is a clear need for reform concerning fire risk assessors, to improve capacity and standards. I understand the probing nature of the new clause, so it may be helpful to outline work that is ongoing in the area of fire risk assessor capacity and capability.

Some hon. Members will be aware of the industry-led competency steering group and its working group on fire risk assessors. The group will soon publish a report, including proposals for creating a register, third-party accreditation and a competency framework for fire risk assessors. The Government will consider the report's recommendations in detail.

We are working with the NFCC and the fire risk assessor sector to take forward plans for addressing the short-term and long-term capability and capacity issues within the sector. I share hon. Members' alarm at the existence of unqualified fire risk assessors; one wonders how many decades this situation has been allowed to persist unnoticed by anybody in this House or by any Government of any hue. The fire safety consultation, which will be issued shortly—I have already committed to that—will bring forward proposals on competence issues.

NC1 was withdrawn, NC2 was negated on division. NC7 was later moved by the opposition and negated on division.

The subsequent [July 2020 consultation on the Fire Safety Order](#) proposes changes to the Order to require competence of assessors.

Remediation costs

Daisy Cooper (LD) moved New Clause 3 which would restrict the owner of a building passing on the cost of remedial work in relation to the Act

⁴⁰ [PBC Deb 25 June 2020 c47-8](#)

⁴¹ [PBC Deb 25 June 2020 c51](#)

onto leaseholders or tenants. The intention of the clause was to protect leaseholders but was explained by Ms Cooper to be 'a rather blunt instrument'.⁴² Sarah Jones (Lab) agreed with the premise of the new clause but warned over the complexity of leasehold law.

The Minister, Kit Malthouse, whilst appreciating the intent of the clause, set out the ways the Government were trying to ensure costs are correctly allocated, alongside the funding provided for building safety:⁴³

...We still expect developers, investors and building owners who have the means to pay to take responsibility and cover the cost of remediation themselves without passing on the cost to leaseholders. We committed in a recent Government response to the building safety consultation to extend the ability of local authorities and the new regulators to enforce against building work that does not comply with the building regulations from two years to 10 years. Further details will be set out in the draft building safety Bill when it is published next month. The new regime in that Bill is being introduced to prevent such safety defects from occurring in the first place in new builds and to address systematically the defects in existing buildings. Moreover, as part of any funding agreement with Government, we expect building owners to pursue warranty claims and appropriate action against those responsible for putting unsafe cladding on the buildings. In doing that we are not only ensuring that buildings are made safe and that residents feel safe, and are safe, we are ensuring that the taxpayer does not pay for the work that those responsible should fund or can afford.

New Clause 3 was withdrawn.

Role of Responsible Person

New Clauses 4 and 5 were considered together and tabled by Sarah Jones (Lab). NC4 aimed to clarify the definition of the responsible person to ensure leaseholders did not hold this role unless they were part owner of the freehold. NC5, which the Member stated was a probing amendment, sought to ensure that any building that has multiple responsible persons produces a single risk assessment.

NC4, it was explained, intended to ensure clarity of responsibilities under the Bill. The Minister, Kit Malthouse, in response noted that the Bill does not change the definition of the responsible person, and that the leaseholder can be a 'duty holder' under article 5 of the order, and this may be relevant to flat entrance doors depending on the lease or tenancy agreement. He noted that:⁴⁴

Legislating for the removal of the leaseholder as a responsible person, or indeed duty holder, would undermine the principles of the order. It could leave a vacuum when it comes to responsibilities under the order, and therefore compromise fire safety. However, as part of our intention to strengthen the fire safety order, we will test further some of the relevant current provisions of the order with regards to flat entrance doors in order to support compliance, co-operation and, if necessary, enforcement actions. The NFCC has offered to support these considerations; again, the fire safety consultation is the right place

⁴² [PBC Deb 25 June 2020 c53](#)

⁴³ [PBC Deb 25 June 2020 c55](#)

⁴⁴ [PBC Deb 25 June 2020 c57-8](#)

for us to take such matters further. The Government are committed to ensuring that sufficient guidance and support is given to those regulated by the order. That is why the Home Office, working alongside our stakeholders, has established a guidance steering group that will be responsible for recommending, co-ordinating and delivering a robust and effective review of all the guidance provided under the order.

On the issue of a single risk assessment, the Minister acknowledged that the 2019 call for evidence showed there was issues with the current duty to cooperate and that proposals would come forward for consultation. The Minister committed to ask officials to ‘...reflect on the comments that have been made this afternoon, and to ensure that they and any additional issues that have been raised are incorporated in the consultation.’⁴⁵

NC 4 was withdrawn. The subsequent [July 2020 consultation on the Fire Safety Order](#) proposes changes to support co-operation between responsible persons.

Implementing the Grenfell Tower Public Inquiry Report

New Clause 6 was moved by Sarah Jones (Lab) and sought to implement requirements on building owners or managers that were among the recommendations from phase 1 of the Grenfell Tower Public Inquiry (see section 1.5). Ms Jones explained that the clause was aimed at bringing forward measures that the Government have said they will implement in the future; she concluded:⁴⁶

It just pushes faster and implements more quickly the action that the Government have committed to implementing. I press the Government to accept that that is possible, or to set out exactly when those things will become part of legislation.

The Minister noted the Government’s acceptance of the Inquiry’s recommendations and the intention to enact the proposals, but argued they needed to be subject to consultation beforehand. NC6 was negated on division. The subsequent [July 2020 consultation on the Fire Safety Order](#) proposes changes to implement the Public Inquiry recommendations.

New Clause 9, which sought to ensure building inspection schedules were based on risk was also debated. The Minister disputed the change was needed in legislation as, in the Government’s view, as for example, the Fire and Rescue National Framework for England requires a locally determined risk-based inspection programme.⁴⁷

Waking Watches

Sarah Jones (Lab) also moved New Clause 8 which sought to require the Government to amend the regulation to specify when a waking watch was required. Ms Jones argued this was required due to the inconsistency in the advice provided to high-rise buildings in this area. The Minister, Kit Malthouse, said that he understood the concerns around the cost of waking watches, but did not consider expanding the

⁴⁵ [PBC Deb 25 June 2020 c58](#)

⁴⁶ [PBC Deb 25 June 2020 c60](#)

⁴⁷ [PBC Deb 25 June 2020 c62](#)

scope of this Bill the right way to tackle it. He outlined the work currently ongoing on the issue:⁴⁸

We are, however, taking forward work in conjunction with the NFCC on waking watches; it might reassure Members if I outlined it briefly. First, the NFCC is updating its guidance on waking watches. Once that guidance is available, we will ask fire protection boards to advise fire and rescue services on how best to ensure the guidance is implemented on the ground by responsible persons. That will include looking into other measures, such as installing building-wide fire alarm systems to reduce the dependency on waking watches wherever possible.

We are also looking to publish data on the costs of waking watches. That will ensure transparency on the range of costs, so that comparisons can be clearly made. Our aim is to help reduce the over-reliance on waking watch and, where it is necessary, reduce costs.

Furthermore, as Committee members may be aware, we are already working with the NFCC and fire and rescue services to undertake a building risk review programme on all high-rise residential buildings of 18 metres and above in England, which will ensure that all such buildings are inspected or reviewed by the fire service by the end of next year. It should give residents in high-rise blocks greater assurance that fire risks have been identified and action taken to address them, reducing the need for waking watches and other interim measures.

NC8 was withdrawn.

3.3 Remaining stages in the Commons

Report stage in the Commons was on 7 September 2020.⁴⁹ The lead amendment considered was [New Clause 1](#) which would introduce duties of an owner or manager that were among the recommendations from phase 1 of the Grenfell Tower Public Inquiry (see sections above). This new clause was defeated at division 318 to 188. Further amendments that were considered as part of the same debate included:

- A new clause on accreditation of fire risk assessors;
- A new clause requiring inspectors to prioritise inspections;
- A new clause on the meaning of responsible persons;
- A new clause to specify when a waking watch should be used;
- An amendment to apply the Fire Safety Order to electrical appliances and make relevant regulations.

Third Reading followed the Report Stage debate, and the Bill passed the Commons unamended.⁵⁰

⁴⁸ [PBC Deb 25 June 2020 c65](#)

⁴⁹ [HC Deb 7 September 2020 c410-448](#)

⁵⁰ [HC Deb 7 September 2020 c449-452](#)

4. House of Lords stages

The House of Lords Library produced a briefing for Lords stages: [Fire Safety Bill: Briefing for Lords Stages](#)

The Fire Safety Bill had First Reading in the House of Lords on 8 September 2020. [Second Reading](#) followed on 1 October 2020.⁵¹

Committee Stage in the House of Lords took place on 29 October 2020. It was completed in one day in the Lords Chamber. A range of amendments were considered but none were agreed and none went to division.⁵²

4.1 Amendments at Report Stage

The Bill was considered at Report Stage in the House of Lords on 17 November 2020. Five amendments were agreed.

Risk Based Guidance

The Government introduced amendments 7 and 14 which inserted a new clause dealing with risk-based guidance for fire risk assessments, and the related commencement of that guidance. The amendments were agreed by the House and supported by opposition parties.

Throughout consideration of the Bill, in both the Commons and Lords, commencement and how it applies to buildings has been a matter of debate. The Government position was that the 'task and finish' group needed to complete its work (see 3.2). Lord Greenhalgh, Minister for Building Safety and Communities, stated that the group had now reported, advised that the Bill be commenced for all buildings at the same time, and that the Government issue statutory guidance covering the assessment of buildings with a risk-based approach:⁵³

...Your Lordships' House is aware that the Home Office established an independent task and finish group, chaired jointly by the National Fire Chiefs Council and the Fire Sector Federation, which brought together interested parties from across the fire and housing sectors. Its role was to provide a recommendation on the optimal way to commence the Bill. The group advised that the Bill should be commenced at once for all buildings in scope. I have accepted this recommendation to commence the Fire Safety Bill at once for all buildings in scope on a single date.

The group also recommended that responsible persons under the fire safety order should use a risk-based approach to carrying out or reviewing fire risk assessments upon commencement by way of using a risk operating model, and that the Government issue statutory guidance to support this approach. I also agreed to this recommendation, which will support responsible persons to develop an effective prioritisation strategy for such assessments, which will be supported by a risk operating model currently being developed. The Home Office, with support from the National Fire Chiefs Council and the Fire Sector Federation, will also host this model once it has been finalised.

⁵¹ [HL Deb 1 Oct 2020 c317-358](#)

⁵² [HL Deb 29 October 2020 c413-480](#)

⁵³ [HL Deb 17 November 2020 c1363](#)

Lords Amendment 7 (listed as **Amendment 1** as the Bill returns to the Commons) inserts a new clause after clause 2 titled *Risk based guidance about the discharge of duties under the Fire Safety Order*. It amends Article 50 [Regulatory Reform \(Fire Safety\) Order 2005](#), which relates to guidance on duties under the Order. The explanatory notes state that:⁵⁴

9 This amendment has the effect of ensuring that risk-based guidance, which will be issued by the Secretary of State to support commencement of the Fire Safety Bill will have the appropriate status to incentivise responsible persons to comply with such guidance in order to assist with the prioritisation of the discharge of their duties.

10 This amendment also explicitly states that a court can consider whether a responsible person has complied with the risk-based guidance and whether that tends to establish whether they have complied with their duties under the FSO. Similarly, they can consider whether a person has failed to comply with such guidance and whether that tends to establish there was a contravention of the duties in the FSO.

The amendment will require the Secretary of State to consult with appropriate persons before revising or withdrawing guidance.

Introducing the amendments in the Lords, the Minister stated:⁵⁵

These amendments ensure that the risk-based guidance which will be issued by the Secretary of State to support commencement of the Bill for all relevant buildings will have the legal status to incentivise compliance with it. It does this by stating explicitly that a court can consider whether a responsible person has complied with their duties under the fire safety order by compliance with the risk-based guidance. Equally, if a responsible person has failed to provide evidence that they have complied, it may be relied on by a court as tending to support non-compliance with the duties under the order.

On the potential to withdraw guidance the Minister stated:⁵⁶

...Our rationale for inserting this provision is that we believe that a point will eventually be reached where, having followed a risk-based approach to prioritisation, responsible persons will have assessed all the fire safety risks for the external walls of their buildings in direct consequence of the commencement of the Bill. At that stage there may no longer be a need for the guidance to remain in place.

The Minister also gave assurances on commencement and noted that Amendment 14 (**Amendment 5** as the Bill returns to the Commons) ensures that the clause on guidance comes into force at the same time as Clause 1 of the Bill.

Owner or manager duties

Lords Amendment 8, moved by Lord Kennedy of Southwark (Lab), would insert a new clause, after clause 2, to make a series of requirements of the owner or manager of any building that contained 2

⁵⁴ [Fire Safety Bill, Explanatory Notes on Lords Amendments](#)

⁵⁵ [HL Deb 17 November 2020 c1363](#)

⁵⁶ [HL Deb 17 November 2020 c1363](#)

or more buildings. This clause was agreed by the Lords on division (269 to 250).⁵⁷

This returns to the Commons as **Lords Amendment 2**. It would require that regulations are made to amend the Fire Safety Order to require the following of the owner or manager of any building that contained 2 or more buildings:⁵⁸

- to share information with their local Fire and Rescue Service about the design of and materials used in the construction of the external walls;
- to carry out annual inspections of the flat entrance doors of each of the flats in any building for which they have responsibility;
- to carry out monthly inspections of lifts and to report the results to their local Fire and Rescue Service;
- to share evacuation and fire safety instructions with residents of the relevant building.

An amendment with the same purpose was considered at Committee and Report stages in the Commons (see 3.2).

Lord Kennedy told the House that the intention of the amendment was to make progress with implementing recommendations from Phase 1 of the Grenfell Tower Inquiry. He criticised Government progress on building safety changes, and in respect of the amendment noted:⁵⁹

When this Bill was before the other place the Government did not take the opportunity to correct this, and opposed bringing it forward. Instead, they said that they would launch a consultation. The consultation was launched in July and ended last month—a full year after they pledged to implement the first phase recommendations. That highlights the problem: we are not moving quickly enough. I hope the noble Lord, Lord Greenhalgh, will explain to the House why the timescale that the Government are working to is so slow. People have waited far too long for legislative action.

I do not understand why the Government are not even prepared to include in the Bill the simplest of the inquiry's recommendations, such as the inspection of fire doors and the testing of lifts. Perhaps the Minister will tell us why when he responds to the debate. These recommendations need to be implemented urgently. The Government need to do more and act with greater speed.

The Minister argued that the Government remain committed to implementing the recommendations of the Inquiry, and that the amendment was not needed.⁶⁰

I will set out our approach on this issue. It is right that we consulted before making regulations to deliver the Grenfell recommendations. As I set out in Committee, this was not solely because we have a statutory duty to do so—but we do, and this amendment is not in keeping with that duty. It also reflects Sir

⁵⁷ [HL Deb 17 November 2020 c1373](#)

⁵⁸ [Fire Safety Bill, Explanatory Notes on Lords Amendments](#)

⁵⁹ [HL Deb 17 November 2020 c1367](#)

⁶⁰ [HL Deb 17 November 2020 c1371-72](#)

Martin Moore-Bick's own view on the need to ensure broad support for recommendations and an understanding of the practical issues associated with implementing them. Our 12-week public consultation, which closed on 12 October, is allowing us to do just that. I am pleased to say that over 200 responses were received. It is important that we consider carefully those responses before finalising the precise policy detail to implement these new duties. Due consideration has to be given to the views of those who have submitted a response to the consultation.

I will highlight an example of that. The amendment tabled by the noble Lord prescribes a minimum set period for checks of both fire doors and lifts. As we consider our responses to the consultation, other approaches may be suggested that may provide more practical and proportionate options which are no less effective. The amendment may hinder our ability to deliver what may be a better solution for the safety of residents. I hope that is not the noble Lord's intention, but I ask him to reflect on that fact. Understanding and acting on the consultation responses will ultimately help us to produce better, informed legislation, which we will deliver through regulations under the fire safety order as soon as possible after the Bill is commenced.

I reiterate that this amendment is not necessary and will not speed up the legislative process. It requires us to make regulations to amend the fire safety order to introduce new duties on the face of the order, but we consider that we already have the ability to implement such new duties through the power in Article 24 to make regulations, which we plan to use to implement a number of the Grenfell inquiry recommendations. Our intention is to introduce these regulations as soon as possible after the Bill is commenced.

Public Register of Fire Risk Assessments

Baroness Pinnock (LD) moved Amendment 10 in the Lords which would add a new clause after clause 2 on a public register of fire risk assessments. The new clause was agreed on division (284 to 267).

The new clause returns to the Commons as [Lords Amendment 3](#). It requires the Secretary of State to make regulations providing for a register of fire risk assessments under [article 9 of the Regulatory Reform \(Fire Safety\) Order 2005](#), and that the regulations require the register to be publicly available and kept up to date. The amendment would apply to all buildings in scope of the Fire Safety Order (not just those with two or more domestic premises).

Baroness Pinnock set out the case for the amendment in the debate:⁶¹

...Such a register will bring vital fire risk assessments to the forefront of considerations by homeowners and tenants. Once those who live in a property take more notice of fire risks, such as the importance of well-fitting fire doors—a subject raised in earlier debates—the consequence will be that any replacements will be made with fire hazards in mind.

The other obvious benefit is that construction and maintenance companies will be aware that their work is being measured against a public test of fire risk. This knowledge will inevitably lead to safety-first construction and improvements. A mandatory, publicly available fire risk assessment register will be another

⁶¹ [HL Deb 17 November 2020 c1385](#)

important step in preventing further major domestic fires, as accountability and transparency become the norm.

Of course, as we heard in Committee, a register of assessments is dependent on qualified and competent fire assessors being available in the numbers required. We know that there have been significant cuts in government funding of fire and rescue services over the last 10 years, and one area of work that has borne the brunt of those cuts has been that of fire risk assessors. The Government have stated that they will develop a plan to greatly increase the numbers. That will of course take several years, but it must not slow down or prevent the start of this vital area of fire safety, even in a phased way.

In response the Minister explained that:⁶²

The fire safety order currently places no requirement for responsible persons to record their completed fire risk assessments, save for in limited and specified circumstances. The self-regulatory and non-prescriptive nature of the fire safety order is the cornerstone of the legislation. It provides for a proportionate approach to effective regulation of fire-related risks across the wide range of buildings that fall within its scope.

Whilst agreeing with Baroness Pinnock on the importance of resident information, the Minister felt the creation of register may be a disproportionate level of regulation. He noted:

The Government do, however, acknowledge that there is work to be done and that improvements can be made in respect of the sharing of important information with residents and other relevant persons. That is why the fire safety consultation set out a range of proposals to ensure that those persons are provided with vital fire safety information.

First, the fire safety consultation proposed to change the current position that a responsible person does not have to record their fire risk assessment by including a proposed new requirement on all responsible persons to record their full fire risk assessments. This would provide a level of assurance that their duty to complete a suitable and sufficient fire risk assessment has been fulfilled. In addition, the consultation also included proposals for responsible persons to take steps to provide vital fire safety information to residents, including the fire risk assessments on request. We are considering responses to the consultation to ensure that we take the needs of residents into account when establishing the final policy approach. The full consultation can be found online at GOV.UK and we will publish a response at the earliest opportunity.

Passing remediation costs on to leaseholders and tenants

Baroness Pinnock (LD) moved Amendment 13 in the Lords which would add a new clause after clause 2 on prohibiting the passing of remediation costs on to leaseholders and tenants. The new clause was agreed on division (275 to 262).

The new clause returns to the Commons as **Lords Amendment 4**. It is a short clause that requires that the "owner of a building may not pass the costs of any remedial work attributable to the provisions of this Act

⁶² [HL Deb 17 November 2020 c1391-2](#)

on to leaseholders or tenants of that building.” It would not apply where a leaseholder is also the owner or part owner of the freehold. It is intended that this would cover demands for one-off payments or service or other charges relating to fire safety work.

The new clause relates to the high-profile issue of paying for remedial fire safety work. This is considered in more detail in the Library briefing [Leasehold high-rise flats: who pays for fire safety work?](#)

Baroness Pinnock argued the rationale for the amendment was that:⁶³

During the debate on an earlier amendment, the Minister referred to leaseholders being asked to pay only affordable costs. I am very disappointed if that reflects the Government’s thinking. Leaseholders should not be asked to pay towards remediation of problems that are not of their making in any way. The question that then arises is: who was responsible for including these dangerous cladding panels in the first place? The construction companies surely have some responsibility. The warranties that were provided on the building should surely cover errors made during construction. The people who do not have any responsibility are those currently being asked to pay the bills. This is not just and not right, and we have an opportunity today to take the first step towards removing the anguish and anxiety faced by homeowners and tenants in this position.

The amendment was not supported by the Government. Lord Greenhalgh, Minister for Building Safety and Communities, set out the Government’s position on the amendment and remediation more widely; noting that an update on the Government’s position on remediation costs would be provided when the Building Safety Bill ‘returns to Parliament’.⁶⁴

I want to make clear the sincerity of our view that we need to understand the scale of the problem. Removing the cladding is like unpeeling an orange. You then find greater defects: the internal compartmentation issues, the missing firebreaks, and the issues around fire doors and wooden balconies. These historic structural defects will involve a colossal sum of money. We do not know how much; there are estimates and there are guesstimates, but we accept that there is a significant job of work to be done to deal with the historic defects that have accrued over many, many years.

As the Minister with responsibility for building—as well as fire—safety, I am regularly in contact with leaseholders hit with high bills for remediation to help make their homes safer. I fully understand the anxiety and distress that these people are going through. These are people who have done the right thing, investing their hard-earned savings into a home for themselves and their families, yet now many of them are facing unaffordable bills. I fully understand the intention behind this amendment, and I want to assure noble Lords that we are working very hard in the Ministry of Housing, Communities and Local Government to improve the situation that people find themselves in.

Finally, we have already committed £1.6 billion to fund the removal and replacement of unsafe cladding on high-rise residential buildings, and we have been putting pressure on

⁶³ [HL Deb 17 November 2020 c1399](#)

⁶⁴ [HL Deb 17 November 2020 c1404-5](#)

building owners to step up to the plate, as well as using warranties and recovering costs from contractors for incorrect or poor work.

However, I can assure noble Lords that we want to go further to protect people from unaffordable costs. Noble Lords will be aware that we published the draft building safety Bill on 20 July 2020. This includes important public safety measures; the Government are committed to progressing the Bill as quickly as possible so that reforms can be implemented in a timely manner. The Bill will be introduced to Parliament once the Government have considered the scrutiny committee's recommendations.

My right honourable friend the Secretary of State for Housing, Communities and Local Government is committed to updating our position on remediation costs when the building safety Bill returns to Parliament. Michael Wade, senior adviser to MHCLG, is accelerating work with leaseholders and the financial sector to identify financing solutions that protect leaseholders from unaffordable costs while ensuring that the bill does not fall entirely on taxpayers. We have had regular meetings with leaseholder groups, on this and a range of other issues, since the draft Bill was published.

While I support the underlying intention to protect leaseholders and have gone on the record today saying so, this amendment falls down in three main areas, which might make the problem worse rather than better.

First, the safety of residents in their homes is of the highest priority. This is the intention behind today's Bill and all the Government's wider work on building safety. There is a range of options for meeting the costs of safety-critical remediation work, which will be appropriate in different circumstances. It would be irresponsible to close off one of the potential routes to funding these works. This amendment risks leaving a building with known fire risks in a position where the work is not taken forward.

Secondly, this new clause would stop all remediation costs from being passed on to leaseholders. For example, service and maintenance charges would at present meet the cost of safety work required as a result of routine wear and tear, such as worn fire door closers. These costs would now fall to building owners—who are, in many cases, also not responsible for original building defects, as they did not build the property—rather than being determined by the terms of the lease.

Thirdly, the fire safety order is not the appropriate legislative framework to resolve remediation costs. The primary focus of the fire safety order is to place duties on any person who has some level of control in a premises—the responsible person or the dutyholder—to ensure that they identify the fire safety risks for the buildings they are responsible for and, if necessary, put in place general fire precautions. As I have said, we are looking to the building safety Bill to address the issues raised in this amendment.

5. Consideration of amendments and ping pong

The Bill received [Third Reading in the Lords](#) on 24 November 2020 and was passed back to the Commons with the amendments agreed at report stage.⁶⁵ The first Commons consideration of Lords Amendments took place on 24 February 2021.

[Several amendments were tabled](#) additionally in the Commons. These related principally to Lords Amendment 4 that would restrict the passing on of remediation costs to leaseholders. The progress of this Bill and the Building Safety Bill (see above) appear to be linked to the ongoing question of funding for remediation costs.

On 10 February 2021 the [Government announced an increase to the funding available for remediation of unsafe cladding in high-rise residential buildings](#) (18 metres and above). Where cladding needs to be removed from lower and medium rise blocks, the Government intends to develop a long-term low interest loan scheme. The increase in funding was welcomed but concerns remain in a number of areas (for further information see Library Briefing [Leasehold high-rise flats: who pays for fire safety work?](#)).

McPartland Smith Amendments

[A set of amendments](#) proposed by Stephen McPartland, Royston Smith and others aimed remove clause 6 (which is Lords amendment 4) and then reinsert it alongside two additional new clauses. The main new clause would apply to the specific circumstances where an enforcement notice is served on the responsible person under articles 28, 29, or 30 of the Fire Safety Order, or where works are required under risk-based guidance issued by the Secretary of State. It then provides for how resulting costs should be dealt with depending on whether they predated the first long lease. Costs relating to works remedying something that pre-dated the first long lease cannot be passed on to a leaseholder under the clause. Costs relating to a deterioration in the original condition can be passed on under the clause, an issue raised by the Minister in the Lords about the original amendment (see above). The full proposed clause reads:

Costs arising from relevant notices or risk based guidance under the Fire Safety Order

- (1) This section applies to a long lease of a dwelling in a relevant building.
- (2) This section applies—
 - (a) where a notice has been served by an enforcing authority under article 28, article 29 or article 30 of the Fire Safety Order; or
 - (b) where a responsible person carries out works on the basis that they are required or said to be required by the risk based guidance

⁶⁵ [HL Deb 24 November 2020 c141-4](#)

issued by the Secretary of State under article 50 of the Fire Safety Order.

(3) In the lease there is an implied covenant by the lessor, or any third party to the lease, that the lessor or third party shall not recover from the lessee any amount in respect of the costs of works under subsection (2) where the works are to remedy any defect, risk or issue that predated the first grant of a long lease of the dwelling.

(4) Subsection (3) does not apply where the works are to repair a deterioration in original condition.

(5) Subsection (3) does not apply to any interest or shareholding the lessee may have in any superior lessor or freeholder.

(6) This section does not apply to commonhold land.

(7) "Dwelling" has the meaning given by s.112, Commonhold and Leasehold Reform Act 2002 and "long lease" has the meaning given by ss.76 and 77 of that Act, save that, in the case of a shared ownership lease, it is irrelevant whether or not the tenant's total share is 100%.

A further new clause "Restriction on contracting out of section (Costs arising from relevant notices or risk based guidance under the Fire Safety Order)" would appear to render void a covenant in a lease agreement seeking to limit the liability of a lessor or place liability on a lessee for works in connection with the previous clause.

Further background on the 'McPartland-Smith' amendment can be found in "[Wave of Conservative MPs back amendment to protect leaseholders from cladding costs](#)", Inside Housing, 8 January 2021.

A further amendment tabled by the Opposition front bench proposed the same main clause as above except that it removes the requirement for the defect subject to enforcement to pre-date the first grant of a long lease – in other words it would appear to cover any fire safety defect subject to enforcement except those related to a deterioration in the original condition.

Related commencement amendments were tabled.

Commons debate on Lords Amendments (24 February)

The Lords amendments to the Bill, and addition amendments tabled in the Commons were considered on 24 February 2021. The Commons accepted Lords amendments 1 and 5, but rejected Lords amendments 2, 3 and 4.

Lords Amendment 2 was disagreed on division by 345 to 246.

Lords amendment 3, on a public register of fire risk assessors, was not debated on the basis that it engaged financial privilege. The Minister added that:⁶⁶

Notwithstanding the issue of financial privilege, I sympathise with the intent behind the amendment, and we will not rule out doing this in the future. However, there is a need for detailed policy consideration prior to implementation of such a database, which

⁶⁶ [HC Deb 24 February 2021 c949](#)

makes this the wrong time to impose this measure in primary legislation.

Amendment 4 from the Lords, which sought to prohibit the passing on of leasehold costs and which the McPartland Smith amendment was linked to, was disagreed with by 340 to 245.

In the debate on [24 February Stephen McPartland](#) indicated the issue would be returned to in the Lords:⁶⁷

...It is a great pleasure to see the Minister in his place and responding to this debate. I listened to him very carefully and I detect a hint that there could be a compromise, for which I and my hon. Friend the Member for Southampton, Itchen (Royston Smith) have been calling for many months now. We are very keen to work with the Government. We are very keen for the Government to table an amendment in lieu, to accept our amendment today or, if the Minister feels so inclined, even to move our amendment to a vote to test the will of the House, but I imagine that, sadly, we will not have the opportunity to vote on what is called the McPartland-Smith amendment today.

I would like to pick the Minister up on the point he made about this Bill not being the correct place for the amendment. I believe it is, which I will come on to in a moment. I would also like to put on record that I, my hon. Friend the Member for Southampton, Itchen, those who have supported our amendment and the leaseholders themselves are all very clear that we have never asked the Government to pay for the full costs of remediation, or the taxpayer to bail people out. We just want the taxpayer to provide a safety net for leaseholders to ensure the fire safety works are actually undertaken; it has been nearly four years.

We want to be in a position whereby the Government provide the cash flow up front, and then they can levy those who have been responsible within the industry to recoup those funds over the next 10 years. That is our plan and objective. We would love to work with the Minister and the Government to get this resolved in the Lords. I say to the Minister today that their lordships have already agreed to re-table the amendment if it is not accepted. It will be tabled in the Lords on Friday. I am sure we will be back to discuss this later on—in a few months. So I hope that we can work in the in-between time to come to some solution together.

Lords debate on Commons Reasons (17 March)

On the same day as the Bill returned to the House of Lords (17 March 2021), the Government [published the response](#) to the consultation on the Fire Safety Order which covers three main areas of action:

- legislating through the Building Safety Bill to strengthen the Fire Safety Order in a number of key areas;
- delivering new regulations through Article 24 of the Fire Safety Order in response to the Grenfell Tower Inquiry Phase 1 Report recommendations;
- implementing changes to improve engagement between building control bodies and fire and rescue services.

⁶⁷ [HC Deb 24 February 2021 c964](#)

A written statement provided further detail of the outcome.⁶⁸

The Lords considered the Commons Reasons on 17 March 2021. The amendments resisted by the Commons (Lords amendments 2, 3 and 4) were debated along with additional amendments to 2 and 4.

Amendment 2 (and the additional amendments), which aimed to implement recommendations of phase 1 of the Grenfell Inquiry, were debated but the Commons reason was accepted and the amending motion not moved. In the debate Lord Kennedy noted:⁶⁹

...This morning I received a letter from the noble Lord, Lord Greenhalgh, which seeks to add some clarity to the timescales for action, and that is welcome. We also have the Government's response to the consultation, which is helpful. It looks as if we are finally making some progress and I welcome that. It would be good to hear him, when he responds to the debate, set out the timescales for the actions the Government are proposing, and I look forward to that. That will be part of the official record of the House and the Government will be held accountable for the pledges that they make today.

Responding to the debate, the Minister, Lord Greenhalgh said:⁷⁰

Today, the Government published their response to the fire safety consultation. This is an important and clear demonstration of our progression towards implementing the inquiry's recommendations. I am clear that, subject to the Fire Safety Bill gaining Royal Assent, the Government intend to lay regulations before the second anniversary of the Grenfell Tower inquiry phase 1 report that will deliver on the inquiry's recommendations. These will include measures around checking fire doors and lifts.

I am also committed to seeking further views, as soon as practicable, through a further public consultation on the complex issue of personal emergency evacuation plans. We already know that some of our proposals from the consultation will require primary legislation. They include strengthening the guidance relating to the discharge of duties under the fire safety order and the requirement for responsible persons in all regulated premises to record who they are and provide a UK-based address. We intend to include these measures, and possibly others that come out of the consultation, to strengthen fire safety in the building safety Bill, which will be introduced after the Government have considered the recommendations made by the Housing, Communities and Local Government Select Committee, and when parliamentary time allows.

I thank the noble Lord for, I hope, not pressing this matter to a vote. He is right in his role to hold the Government to account for delivering on the Grenfell recommendations, and I am pleased to have provided the reassurance that he sought.

The Lords also accepted the Commons reason for Amendment 3 (financial privilege) and this is no longer part of the Bill.

However, the Lord Bishop of St Albans, supported by the Lord Bishop of London sought to amend the Bill and insert the 'McPartland Smith' amendment (see above) in lieu of Amendment 4. On 10 March 2020

⁶⁸ [HCWS851 17 March 2021](#)

⁶⁹ [HL Deb 17 March 2021 c306](#)

⁷⁰ [HL Deb 17 March 2021 c321-2](#)

they published an article in 'The House' on the issue ("[The government must step in to help leaseholders still burdened with fire safety costs](#)"). Concluding the debate, the Minister outlined the actions the Government had taken on remediation and funding, and that "...while this issue is vital, it would be impractical and confusing to include remediation measures in the Bill." He set out that, in the Government's view, the forthcoming Building Safety Bill was the right place, and that there were other redrafting issues that would delay the Bill or cause legal problems.⁷¹

In response to the right reverend Prelate the Bishop of St Albans, I point specifically to Clauses 88 and 89 in the building safety Bill, which relate to charges. These clauses facilitate regulations that would amend the building safety Act and the Landlord and Tenant Act. We will add to what is already in the draft Bill, including additional duties on the accountable person to seek alternative funding before they pass costs on to leaseholders.

While I appreciate the desire that many noble Lords have for a quick legislative solution to the "who pays" issue, we also have a duty as parliamentarians to implement a clear framework and transparent legislation to support fire and building safety reforms. Even more than this, it is important to ensure that the practical implications of any legislation are properly worked through, rather than being rushed on to the statute book in this Bill. In this vein, I am clear that these alternative amendments do not work.

I thank the right reverend Prelate the Bishop of St Albans for his amendment in lieu. However, it does not take into account remedial works that arise outside the fire risk assessment process—for example, costs identified as a result of a fire or building works taking place. Such cases would not prevent costs being passed on. Further, the amendment is insufficiently detailed and would require extensive drafting of primary legislation, thereby delaying the implementation of the Fire Safety Bill and the crucial measures it puts forward to improve the fire safety regulatory system.

If the amendment were to be added to the Bill and became law without the necessary redrafting, the Government and taxpayers might be exposed to protracted action by building owners and the courts. Building owners could use litigation to claim for costs that they feel they are entitled to pursue from leaseholders under the terms of a lease agreement. While litigation is ongoing alongside disputes over where costs should be, there would also be delays to construction work to carry out urgent remediation and, possibly, interim safety measures.

The amendment was agreed [by the Lords at division 326 to 248](#).

Commons debate on Lords Amendments (22 March)

The Bill was considered by the [Commons on 22 March 2021](#). The Commons disagreed with the [Lords amendments on division \(322 to 253\)](#).

In the short debate Members from both sides of the House set out their support for the amendment, because of its intention to support leaseholders. The Minister for Housing, Christopher Pincher, set out

⁷¹ [HL Deb 17 March 2021 c323-4](#)

three reasons why the amendment was ‘unworkable and impractical’ in the Government’s view: that it did not take into account remedial works that would arise outside of the fire risk assessment process, that the legislation would require redrafting with the potential for ‘protracted action by building owners’, and that the amendments do not reflect the complexity involved in apportioning liability for remedial defects.⁷²

Lords debate on Commons Reasons (20 April)

When the Bill returned to the House of Lords on 20 April 2021 the Lords did not insist on their previous amendments but made a further change. [Three amendments were put forward for consideration](#):

- An amendment from The Bishop of St Albans which would prohibit passing remediation costs on to leaseholders and tenants pending operation of a statutory scheme providing financial support for residents (amendment 4J);
- An amendment from the Earl of Lytton that would that would require the owner of a building to apply to the Building Safety Fund, or to any other scheme that the Government establishes to finance the cost of removal and replacement of unsafe cladding before passing costs on (amendment 4K);
- An amendment from Baroness Pinnock that would prohibit the passing of remediation costs on to leaseholders and tenants and would require an independent inquiry into the financial impact of the cost of fire remediation work (amendment 4L)

In the debate the Minister, Lord Greenhalgh, set out that he wanted to see the Bill make progress given the Commons had twice considered changes from the Lords.⁷³

In the debate each of the Members putting forward amendments spoke. The Minister responded at the end of the debate to each of the amendments, resisting them. At the end of the debate the House [divided on amendment 4J from the Bishop of St Albans \(motion A1\) and it was agreed 322 to 236](#); the remaining two amendments did not progress. During the debate the Minister commented on the successful amendment:⁷⁴

[...]

I thank the right reverend Prelate the Bishop of St Albans for his engagement over the last few weeks, but I am afraid that his amendment will not work either. It would orphan liability. We have looking to assign liability to freeholders or orphan liability of works until such times as a statutory scheme is in place that pays for the work directly attributable to this Bill. I have already talked about the difficulties of defining which works might be directly attributable to the Fire Safety Bill provisions and which might not.

Some of the works that may be required will be low cost, where anyone would reasonably expect leaseholders to pay. Does the right reverend Prelate really want to stop the passing on of relatively minor costs, such as for a new smoke alarm? The amendment does not differentiate between the costs of the work

⁷² [HC Deb 22 March 2021 c707](#)

⁷³ [HL Deb 20 April 2021 c1737](#)

⁷⁴ [HL Deb 20 April 2021 c1758-9](#)

which could lead to delays in important minor works. He is talking about stopping something even as minor as putting in a smoke alarm as a consequence of the amendment. No taxpayer scheme for such minor works would be forthcoming, and we would reach an entirely avoidable impasse.

The amendment does not take into account safety defects that are identified outside the fire safety risk process—for example, necessary works brought into scope as a result of another incident. In such cases, this will not prevent costs being passed on, and the amendment will not, therefore, achieve what the right reverend Prelate intends. Since this amendment is not sufficiently detailed and will require extensive drafting of primary legislation, it would continue to delay the implementation of the Fire Safety Bill and the important reforms that it intends to carry out.

We also recognise that there could be protracted legal action from building owners to claim for costs they feel they are entitled to pursue from leaseholders. Stating in legislation what the landlord can and cannot recover from the leaseholders, and when, could contradict the provisions set out in the contractual terms of a lease. This would affect the Government and, to that extent, taxpayers. The amendment should ultimately be self-defeating as the pace and progress of all fire safety works would be stalled, leaving leaseholders still in an invidious position.

The Bill will be considered by the Commons on Tuesday 27 April. At the time of writing [further amendments](#) had been tabled in the Commons.

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