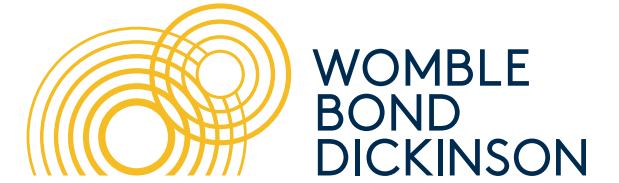


Building Safety in Brief

Transitional Arrangements for Higher-Risk Buildings



Background

- Major changes to the building control process came into force in October 2023 impacting **higher-risk buildings (HRBs)** and non-HRBs, including where works are planned or underway.
- (Key legislation ushering in these changes includes the **Building (Higher-Risk Buildings Procedures) (England) Regulations 2023** and the **Building Regulations etc. (Amendment) (England) Regulations 2023**.)
- In light of the scale of the changes, the legislation included lengthy and complex transitional provisions under which some works could remain under the old building control process rather than the new one (in limited circumstances for a limited timeframe).
- **The Government's consultation response** about the building control changes explained the approach to the transitional provisions (including with a flowchart at Annex B).
- This factsheet highlights some important points to be aware of in relation to the transitional provisions for HRBs only.
- This factsheet applies to England only.

Key dates for HRB projects

1 October 2023 – new building control regime in force:

- The new, more stringent building control regime applied from this date, including introducing **Gateways**, dutyholders, change control and more.
- In particular, developers must now apply to the new Building Safety Regulator (**BSR**) for building control approval before commencing work on **HRBs** (Gateway 2) and apply for a completion certificate from the BSR at the end of the works (Gateway 3).

From now until 6 April 2024 – transitional provisions (in brief):

- The transitional provisions apply where before 1 October 2023 for HRB work or work to existing HRBs, for a particular building:
 - an initial notice has been given to a local authority and has been accepted or deemed accepted.
 - full plans have been deposited with a local authority.

(we will refer to these as the **transitional conditions**)

- Even if these transitional conditions are met, the works **must be “significantly progressed” before 6 April 2024 to remain under the old regime.**

What does “significantly progressed” mean ?

- For new HRBs – when the pouring of concrete for that building has started in relation to the permanent placement of:
 - (a) the trench, pad or raft foundations, or (b) the piling.
- For works to an existing HRB, when that work has “started” (the exact meaning of this is currently unclear with further guidance awaited).
- For building work that consists of a material change of use of a building, when work to effect that change of use has “started” (again, further guidance awaited).

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Important points to bear in mind

There are other important provisions forming part of the transitional arrangements, such as:

- **Not more than five working days after the day on which the work is to be regarded as “sufficiently progressed”**, notice must be given to the local authority (and copied to the approved inspector, if relevant). So, if your work is “sufficiently progressed” including before 1 October 2023, submit this notice ASAP. Be aware that by 6 March 2024, local authorities must notify the BSR of HRB works for which it has not received a “sufficiently progressed” notice.
- **Even if the above transitional conditions are met at 1 October 2023**, there may be subsequent changes which mean the new regime applies. For example, where:
 - building control approval for the work lapses
 - the initial notice for the work is cancelled, or
 - full plans are rejected
- **For projects involving an Approved Inspector**, that Approved Inspector must become a Registered Building Control Approver by 6 April 2024, or the new building control regime will then apply. An Approved Inspector who does not register by this date cannot continue to oversee the HRB project. If you have an Approved Inspector, find out if they will become a Registered Building Control Approver.
- **Where the project involves work to more than one HRB**, then each building is treated separately. So, this means that if one HRB meets the transitional conditions and the other does not, then the HRB that doesn’t meet the conditions will fall under the new regime.
- **Even if the HRB works fall outside the new regime and are completed under the old regime**, Part 4 of the Building Safety Act 2022 (about HRBs) will apply for the occupation phase, including complying with the accountable person regime. Any new HRB would need to be registered with the BSR before occupation (and if the building is an existing HRB, it should have been registered by 30 September 2023 and comply with the accountable person regime).
- **The Government has recently published further information** on the transitional provisions for HRBs (and non-HRBs) in a [circular letter](#). For HRBs, this includes information on points we’ve summarised above. And it also includes information about the new automatic lapse of building control approval 3 years from the date of application for building control approval – this applies even where plans or initial notices were submitted and agreed before 1 October **if** building work has not started on site by 6 April 2024.

This is a high level overview of the very complex transitional provisions. If you think you may be affected, please get in touch.

You can find out more about building safety on our [Building Safety Hub](#).

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