

Enforcement under the draft Building Safety Bill

Proposed offence under the Draft Bill	Proposed scope of power to sanction under the Draft Bill	Relevant clause of the Draft Bill	Position under the BA 1984	Does the HSE as BSR have the power to prosecute for non-compliance?
Clause 27 provides the BSR with the power to authorised individuals to carry out relevant building functions (which are set out in Schedule 2 of the Draft Bill). Obstructing and/or impersonating "authorised officers" is a criminal offence	Offence carries maximum fine for obstruction of level 3 (£1,000 when the Draft Bill was introduced) or an unlimited fine for impersonation.	Clause 28	N/A	Yes
Providing false or misleading information to the BSR is a criminal offence.	Triable as an either way offence, with the maximum penalty of an unlimited fine and 1 year imprisonment if tried in the magistrates courts or 2 years' imprisonment if tried in the crown court. Sentencing will depend upon the manner in which the information was withheld (either recklessly or deliberately).	Clause 29	N/A	Yes
Contravention of building regulations is a criminal offence.	The maximum penalty for contravention of building regulations is an unlimited fine and a further fine each day calculated on the basis of level 1 on the standard scale (£200 when the Draft Bill was introduced) to reflect inflation since the introduction of the BA.	Paragraph 25 of Schedule 5	Replaces section 35 of the BA, under which the maximum penalty is a fine not exceeding level 5 on the standard scale and to a further fine not exceeding £50 for each day the default continues post-conviction.	Yes

	Extends the time limit during which enforcement action in respect of a contravention of building regulations can take place to 10 years	Clause 42 (subsections (2) and (4))	Amends section 35A (concerning prosecution) of the BA and section 36 (notice requiring rectification of non-compliant work) of the BA, under which the time limit is 2 years and 1 year respectively.	Yes
	Power to issue compliance or stop notices where there is or is likely to be a contravention of building regulations	Clause 42	New sections 35B (re compliance notice), 35C (stop notice) and 35D (setting out when notices cannot be issued) to be introduced into the BA. New Section 39A of the BA will also be introduced to allow all notices to be appealed to the First Tier Tribunal.	Yes
Failure to comply with compliance and stop notices is a criminal offence.	Introduces maximum penalty of an unlimited fine and/or up to 12 months' (upon summary conviction) or 2 years' (upon indictment) imprisonment.	Clause 42	N/A	Yes
When a body corporate commits a criminal offence under the BA, any director, manager, secretary or similar office is deemed to have committed an offence if that person has consented to or connived in allowing that offence to occur, or when an offence has occurred as a result of their own neglect.	Unlimited fine and/or up to 2 years imprisonment upon indictment.	Clause 43; clause 114	Section 112A to be introduced into the BA	Yes
Failure by the appointed Accountable Person (i.e. the person or body with legal estate in possession of, or the relevant repairing obligation, for any part of the common parts of a building) to register a higher-risk building before it becomes occupied is a criminal offence.	Unlimited fine and/or imprisonment of 12 months (upon summary conviction) or 2 years (upon indictment). Any fine of Accountable Person cannot be recovered from residents.	Clause 62	N/A	Yes
Accountable Person's failure to apply for a Building Assurance Certificate is a criminal offence.	Unlimited fine and/or 51 weeks' imprisonment (upon summary conviction) or 2 years' imprisonment (upon indictment).	Clause 64	N/A	Yes

Accountable Person's failure to comply with duty to appoint "Building Safety Manager" as soon as reasonably practicable is a criminal offence.	Maximum penalty is an unlimited fine and/or 12 months' imprisonment (upon summary conviction) or 2 years' imprisonment (upon indictment).	Clause 67	N/A	Yes
Contravention of a "relevant requirement" (i.e. a requirement that is not excluded from enforcement) in relation to a higher-risk building by "relevant person" (i.e. the Accountable Person or Building Safety Manager) is an offence.	BSR is able to issue a compliance notice to them, requiring remedy of that contravention or particular steps to be taken within a set period of time. If the notice is not complied with by the date specified, it is a criminal offence, triable as an either way offence, which will carry a maximum penalty of an unlimited fine and/or up to 12 months imprisonment (upon summary conviction) or up to 2 years imprisonment upon indictment).	Clause 91	N/A	Yes
Breach of a "relevant requirement" without reasonable excuse and where it places those in or about the building at significant risk of death or serious injury is a criminal offence.	Triable as an either way offence, with a maximum penalty of an unlimited fine and/or up to 12 months' imprisonment (upon summary conviction) or 2 years' imprisonment (upon indictment). If the breach continues post-conviction, an ongoing penalty of £200 per day (currently) can be imposed until the breach is remedied.	Clause 94	N/A	Yes
Serious contravention of building regulations by Accountable Person and/or the Building Safety Manager is a dismissible offence.	The Accountable Person and/or the Building Safety Manager can be replaced.	Clause 96	N/A	Yes