

Registration of existing occupied higher-risk buildings in England

Many provisions of the *Building Safety Act 2022* are already in force, although secondary legislation to support the Act and provide more detail on some aspects is expected over the coming months. HSE guidance and regulations which are now in force require all existing occupied “higher-risk buildings” in England to be registered with the Building Safety Regulator (**BSR**) before **1 October 2023**. From this date it is an offence to occupy a building which ought to be registered. Registration requires the accountable person/s (**AP**) and principal accountable person (**PAP**) to be identified for each higher-risk building.

New and refurbished higher-risk buildings in England will also need to be registered on completion and before any part of the building can be occupied, but these requirements are not yet in force and are subject to secondary legislation.



What is a higher-risk building for the in occupation phase?

In summary, for the in occupation phase a “higher-risk building” in England is defined as:

- a “building” at least 18 metres in height, or at least 7 storeys - whichever is reached first;
- with at least two “residential units”, and including plant rooms and machinery; and
- *excluding* a building that is *comprised entirely* of: a “hospital”, “a care home”, a “secure residential institution” (prisons and similar), a hotel, military barracks and certain defence forces’ accommodation.

There are also regulations which prescribe how the height of the building is to be measured and storeys are determined. [Criteria for being a higher-risk building during the occupation phase of the new higher-risk regime](#) also includes guidance to assist in determining whether a building is higher-risk.



Registration ‘window’ and information to be submitted

Registration of all existing occupied higher-risk buildings by the PAP for the building, or its agent, must take place **from April 2023 to 30 September 2023** (the registration ‘window’). It is an offence for a higher-risk building to be occupied but not registered with the BSR after this registration ‘window’. The registration application costs £251 per building and is made [online](#).

Applying for registration requires the PAP to provide initial information about the building. Within 28 days of submitting an application for registration, “key building information” about the building must also be provided in electronic form. This information is more detailed, e.g. information about external wall materials and insulation, roof materials and refurbishment works, and may require a survey of the building. The collection of key building information should start now so as to meet the 30 September 2023 deadline. The HSE recently provided [guidance about the key building information](#) required to be provided to the BSR.



Identification of APs and PAP

Identification of APs and then the PAP for each higher risk building is the first step in the application for registration process. There will often be more than one AP for a buildings and one of these will be the PAP. If there is only one AP, that person is also the PAP. This assessment needs to be made on an individual building by building basis, as it may vary depending on a number of factors, e.g. who holds a legal estate in possession and relevant repairing obligations in respect of the building. It is also necessary to look at which parts of the building the APs/ PAP is responsible for.

Some *initial* questions to consider, and by no means a complete checklist, include:

- Is the building on “commonhold land”? If so, who is the “commonhold association”?
- Who holds a legal estate in possession in any part of the “common parts” of the building?
- Who has the repairing obligation in respect of the “common parts” of the building?
- Are certain repairing obligations the function of a right to manage company?

Throughout the occupation of the higher-risk building, the APs and PAP are the dutyholders for that building for the purpose of the *Building Safety Act 2022* and have considerable ongoing obligations beyond registration.

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