

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT BUILDING SAFETY ACT 2022
(CONSEQUENTIAL AMENDMENTS ETC.)
REGULATIONS 2023

Tuesday 13 June 2023

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 17 June 2023

© Parliamentary Copyright House of Commons 2023

This publication may be reproduced under the terms of the Open Parliament licence, which is published at www.parliament.uk/site-information/copyright/.

The Committee consisted of the following Members:

Chair: † SIR ROBERT SYMS

- | | |
|---|---|
| † Benn, Hilary (<i>Leeds Central</i>) (Lab) | † Osborne, Kate (<i>Jarrow</i>) (Lab) |
| † Burgon, Richard (<i>Leeds East</i>) (Lab) | † Pennycook, Matthew (<i>Greenwich and Woolwich</i>) (Lab) |
| † Cairns, Alun (<i>Vale of Glamorgan</i>) (Con) | † Rowley, Lee (<i>Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities</i>) |
| Drax, Richard (<i>South Dorset</i>) (Con) | Sheerman, Mr Barry (<i>Huddersfield</i>) (Lab/Co-op) |
| † Fell, Simon (<i>Barrow and Furness</i>) (Con) | Timpson, Edward (<i>Eddisbury</i>) (Con) |
| † Fletcher, Colleen (<i>Coventry North East</i>) (Lab) | † Young, Jacob (<i>Redcar</i>) (Con) |
| Gullis, Jonathan (<i>Stoke-on-Trent North</i>) (Con) | |
| † Hamilton, Mrs Paulette (<i>Birmingham, Erdington</i>) (Lab) | Yohanna Sallberg, <i>Committee Clerk</i> |
| † Henry, Darren (<i>Broxtowe</i>) (Con) | |
| † Hunt, Jane (<i>Loughborough</i>) (Con) | |
| † Moore, Robbie (<i>Keighley</i>) (Con) | † attended the Committee |

Second Delegated Legislation Committee

Tuesday 13 June 2023

[SIR ROBERT SYMS *in the Chair*]

Draft Building Safety Act 2022 (Consequential Amendments etc.) Regulations 2023

9.25 am

The Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities (Lee Rowley): I beg to move,

That the Committee has considered the draft Building Safety Act 2022 (Consequential Amendments etc.) Regulations 2023.

It is a pleasure to serve under your chairmanship, Sir Robert. The regulations will make technical but important changes to the language used in existing legislation, bringing it into line with the new terminology and processes introduced by the Building Safety Act 2022.

I will start by providing some context. After the Grenfell Tower tragedy, the Government recognised the need for an overhaul of our building safety regime. The Hackitt review identified the need for significant change, including recommendations focused on the building control process. Part of the Government's response to those building control recommendations included the introduction of provisions in section 33 of the 2022 Act that repeal section 16 of the Building Act 1984. The Government consulted on those provisions and they were subject to pre-legislative scrutiny ahead of the laying of the 2022 Act.

Section 16 of the 1984 Act made provision for the deposit of plans with local authorities before starting building work, as well as the passing or rejection of the plans. The information provided to building control was not always consistent, nor was it always sufficiently detailed for the work being carried out.

Section 33 of the 2022 Act—that section is yet to be enacted—repeals section 16 of the 1984 Act and provides instead for a new system of applications for building control approval. For higher-risk buildings, that effectively means a more stringent system that makes the Building Safety Regulator the sole building control body. Applicants cannot proceed with work without having explicit approval from the regulator. For non-higher-risk buildings, there is no significant change from the existing procedure. Local authorities and approved inspectors will remain responsible for supervising that work, and work can begin before approval is granted.

Hilary Benn (Leeds Central) (Lab): As the Minister and we all know, one thing that we have learned during the cladding crisis is that there are loads of jerry-built buildings that were not built according to the building regulations at the time. Will he explain how the new system and the role of the Building Safety Regulator will ensure that, in future, the basic rules are indeed

followed, not just when the plans are submitted and approved, but so that the buildings are built according to those rules?

Lee Rowley: I am grateful to the right hon. Gentleman for his pertinent question. He is absolutely right that we have to bring in new regulation and ensure that that is effective, compared with what happened previously. The purpose of centralising everything in the Building Safety Regulator for buildings that are over 18 metres is to make sure that there is a consistent approach. That approach will take the form of a multiple-stage process, known as gateways, whereby the developer is required to have an interaction with the regulator to make sure that the system works as it goes along. For example, for gateway 0, initial plans have to be submitted for consideration and comment by the regulator, and the exchange goes backwards and forwards. It is a much more iterative and discursive-based approach. There is also a stop in the process, whereby if the Building Safety Regulator is not content with what is happening, approval will not be provided to allow the developer to continue.

Hilary Benn: I am grateful to the Minister for that explanation. I have a follow-up question: what will that mean for inspection? This is about what the builders are doing on any given day, including putting in or not putting in the fire break—in many cases, they did not do that, even though it was in the plans. What role will the building safety inspector have in ensuring that, as the buildings are built, they are inspected to see that what is on the plans is actually built?

Lee Rowley: I am grateful to the right hon. Gentleman for raising that question. That will be in subsequent gateways and a subsequent part of what the Building Safety Regulator does. We are introducing a succession of regulations and statutory instruments, and on top of that, the Health and Safety Executive, which is where the Building Safety Regulator sits, will provide further information and guidance, and so on. That is a very important question, and the answer will become clearer in the coming months. If the right hon. Gentleman has any remaining concerns or suggestions from his experience, I will be happy to consider them and pass them back to the HSE.

Alun Cairns (Vale of Glamorgan) (Con): The right hon. Member for Leeds Central makes some important points, but as the Minister introduces further guidance associated with the regulation, will he agree to work with the industry to ensure that the additional red tape that is necessary to meet the safety needs does not inhibit business development and the construction industry adversely, adding costs well in excess of what was envisaged? Will he work with industry to come up with novel solutions in respect of how to meet the need, but not at an adverse cost?

Lee Rowley: My right hon. Friend makes an incredibly important point. We have to ensure that the regulations are effective in solving the problem, which manifested itself in such a tragic way a number of years ago, and that they do so in a way that ensures that we still build and that developers can still bring forward the houses

that we badly need for the next generation. We have started that process. A couple of a months ago, I spoke at a conference convened by the Health and Safety Executive—where there were nearly 1,000 people from the industry, regulators and local councils—to make sure that that conversation is under way. We need to continue that and ensure that there is clarity on that issue.

The purpose of the regulations is to align the Highways Act 1980, the Clean Air Act 1993 and 13 local Acts with the terminology and processes that will be established when section 33 of the Building Safety Act is enacted. Provisions in the Highways Act that relate to the payment of charges for street works when building control plans are deposited are amended to refer to the new system for building control approval.

Section 16 of the Clean Air Act is also amended. That section requires local authorities to check the height of proposed chimneys to ensure that they are tall enough to prevent smoke and particulates from becoming prejudicial to health. The changes replace references to the deposit of plans with, again, references to the new process for building control approval. Similarly, 13 local Acts are amended to do the same. Of those local Acts, 11 contain provisions relating to appeals to the magistrates court. To align the Acts with the new procedure for appeals, the provisions are amended to direct those appeals to the first-tier tribunal.

This instrument also contains a transitional provision to ensure that consequential amendments do not apply to plans for building work that were deposited before the date on which the regulations come into force.

I say to the right hon. Gentleman for Leeds East—

Hilary Benn: Central.

Lee Rowley: Central—I almost got my points of the compass correct. To address the question from the right hon. Member for Leeds Central, I reassure all right hon. and hon. Members that they will be provided with the opportunity to scrutinise the new system's specific requirements—we have talked about this briefly today—for applications for building control approval. Those were

subject to a consultation in 2022 and will be set out in a number of statutory instruments in the coming months. The Government intend to bring the consequential amendment regulations and the regulations that create the new system into force in the autumn.

Without these consequential changes, the provisions of the Highways Act, the Clean Air Act and the 13 local Acts will not operate as they do now, as they will no longer have meaning once section 33 of the Building Safety Act is brought into force. For that reason, I commend the changes to the Committee.

9.33 am

Matthew Pennycook (Greenwich and Woolwich) (Lab): It is a pleasure to serve with you in the Chair, Sir Robert. I shall be extremely brief because this statutory instrument is entirely uncontroversial. The Minister has provided us with a fairly detailed explanation of the purpose of the instrument, and we are satisfied that it is simply a series of consequential amendments and changes to terminology to ensure consistency across the statute book in respect of part 3 of the Building Safety Act, and specifically, as he mentioned, the provisions relating to the making of applications for building control approval.

That is not to say that the Opposition do not have a number of outstanding questions and concerns about the resourcing and functioning of the new regime for high-rise buildings that is due to come into force on 1 October, but this Committee is probably not the appropriate forum to air those. We will seek further opportunities to do so, including in relation to the further regulations that the Minister mentioned. On that basis, we take no issue with these regulations and will not oppose them.

9.34 am

Lee Rowley: I am very grateful to the hon. Gentleman for confirming his support for the regulations. I look forward, hopefully, to the Committee's commendation of them.

Question put and agreed to.

9.35 am

Committee rose.

