

Government Response: The Building Safety (Description of Higher-Risk Building) (Design and Construction Phase) (Wales) Regulations 2023

Technical Scrutiny point 1:

The definition of “higher-risk building” will interact with other legislation, in particular (but not exclusively) the Building Act 1984 and the Building Regulations 2010. The definition of “flat” and “dwelling” in the draft regulations are similar to the definitions used in the Building Regulations 2010, the intention being to make the definition as accessible as possible, particularly to those most likely to be interacting with the regulations. The Welsh Government acknowledge that a different drafting approach could have been adopted, and was indeed considered, but are satisfied that the drafting achieves the policy aim, including in relation to maisonettes and other similar dwellings i.e. that they come within the definition of a “residential unit” as defined in regulation 2.

Technical Scrutiny point 2:

It is accepted that a different approach could have included more specific signposting. However, the Welsh Government consider there is no ambiguity in the drafting, and that it meets the policy intent of applying the appropriate meaning of the defined terms to the definition of “higher-risk building”. As such amendments to the drafting are not considered necessary.