

Government Response: The Building Safety Act 2022 (Commencement No. 4, Transitional and Saving Provisions) (Wales) Regulations 2024

Scrutiny point 1:

The Government acknowledges that section 170(4)(b)(vii) of the Building Safety Act 2022 is not cited. The regulation within the instrument which relies upon section 170(4)(b)(vii) is regulation 2(d)(ix). The regulation commences section 53(2) and (3)(a)(ii) and (iii) and (3)(b) of the Building Safety Act 2022 in relation to Wales and although it forms part of a wider implementation project, this particular provision is not interconnected with any other provision within the Regulations.

The Government does not believe that the omission of the sub-paragraph alters the effect of the instrument, which remains intra vires. The Government relies upon the principles set out in *Inco Europe Ltd v First Choice Distribution* [2000] 1 WLR 586 in support of their view. The Welsh Ministers have the power to make these Regulations and have the power to commence section 53 in relation to Wales. It is clear from the operative provisions of the S.I. that section 170(4)(b)(vii) was intended to be specified in the preamble.

However, we will be fully commencing section 53 as part of the forthcoming phase 2 implementation of the Building Safety Act 2022.