



Llywodraeth Cymru
Welsh Government

Our Ref: JB/PO/50/26

Mike Hedges MS
Chair Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff
CF99 1SN

28 January 2026

Building Safety (Wales) Bill

Dear Mike,

Following my letter of 19 December 2025 in response to the Legislation, Justice and Constitution Committee's recommendations, I am pleased to provide additional information below.

Further to my response to recommendation 5; my officials are continuing to work on a draft definition of storey.

Further to my response to recommendations 6 and 7; I have tabled amendments to limit the scope of sections 14 and 16.

As a result of further consideration, I have tabled an amendment which will limit the scope of section 14 considerably i.e. to sections 8 and 9 only. As I have previously outlined, section 14 is designed to enable key terms to be supplemented, for example, to ensure that more unusual ownership models can be accounted for. Recommendation 6 provided that section 14 should be limited to the matters in sections 14(2)(a) and 14(2)(b). This is largely what the amendment that has now been tabled would achieve, although it also retains scope to make further provision for the purposes of sections 8 and 9.

In light of recommendation 7, my officials have given detailed consideration to how the power in section 16 can be limited. The amendment I am bringing forward would limit the power in section 16 to fewer sections. Further, in respect of sections 2, 3 and 6, the power could only be used for the limited purposes specified in section 16. The power would no longer apply to sections 5, 10, 11 or 14. You will be aware the power in section 16 is proposed to enable amendments to be made to the key terms sections and is not about changing the duties under the Bill. This is an important

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

power which ensures that, for example, if issues arise during implementation, or in the future (perhaps with new building designs) amendments can be made so as to ensure the Bill works as intended.

I appreciate that the amendment to section 16 does not go as far as recommendation 7. However, I am wary of eroding this power further, as to do so would risk delay in making any necessary changes i.e. by having to wait for a primary legislation opportunity. A delay could potentially leave some buildings not adequately regulated, impacting on the effectiveness of the safety regime for those buildings.

The section 16 power is not intended to reduce Senedd scrutiny, rather to ensure that timely amendments can be made to certain key terms should this be necessary. The amendment to section 16 is in addition to the amendment I am bringing forward which, if accepted, would subject any regulations under section 16 to an enhanced procedure (recommendation 8).

In light of amendments to sections 14 and 16, I am now able to provide a full response to recommendation 9. To note, the intention is always to avoid overlapping provision where possible, but this is a complex and technical area where specific powers have been included to ensure the regime can accommodate certain niche buildings/ownership models and where broader powers have been included to ensure the regime can react to changes in the built environment and/or unidentified scenarios.

Please find below a list of when two or more powers in the Bill could potentially be used for the same purpose (along with the rationale):

Provision	Provision (if amendment to section 16 is accepted)	Rationale for the power
Section 4(6)	Section 16(1)(d)	The power in section 4(6) can be exercised in relation to particular circumstances. Whilst there is no intention to exercise this power in the short term, it could be used for more unusual ownership models and building designs where it may not be helpful to add detailed technical descriptions to the face of the Bill. The power in section 16 is a power to amend section 4 of the Bill and could be used more broadly e.g. if there are unforeseen consequences of the definition of “independent part”.
Section 12(3) and (4)(e)	Section 16(1)(i)	The power in section 12(3) can be exercised in relation to particular circumstances and the power in section 12(4)(e) is limited to specifying additional things as part of the “structure and exterior”.

		The power in section 16(1)(i) could be used more broadly to amend section 12 e.g. if there are unforeseen consequences/new building designs, etc.
Section 14	Section 16(1)(g) and (h)	<p>The power in section 14 (taking into account the government amendment) is limited to making further provision for the purposes of sections 8 and 9 including the provision in subsection (2). This is intended to be used for more unusual ownership models e.g. criss-cross leases where all parts of a building are in the demise of one or other residential unit.</p> <p>There are no current plans to use the powers in section 16(1)(g) and (h), but those powers could amend sections 8 and 9, for example if there are unintended consequences from the current definitions that only emerge during implementation.</p>
Section 67(3)(d)	Section 67(8)	The power in section 67(3)(d) is limited to making regulations to exclude HMOs of a particular description from the definition of “relevant HMO”. The power in section 67(8) is broader.

Please find below an analysis of the Henry VIII powers that will be included in the Bill, if my amendments are agreed. I believe these powers to be necessary, reasonable and proportionate.

Power	Why the power is necessary, reasonable and proportionate
Section 16(1) (power to amend sections 2, 3, 4, 6, 7, 8, 9, 12 and 13 and Schedule 1 (some for limited purposes only)).	<p>This regulation-making power is necessary to enable the Bill to be amended to respond to evidence of new and emerging issues and to ensure that the regime can be adapted to respond to such issues. It will also enable amendments to be made e.g. to account for new ownership models or building design. Like most of the other powers in Part 1 there is no current intention to use them. This power is distinct from those other powers as it will enable wider changes to be made, whilst the other powers in Part 1 are generally only to be used to deal with particular circumstances.</p> <p>An enhanced procedure is proposed to apply to this power (to respond to recommendation 8) and the regulations will be subject to the Senedd approval procedure which will allow additional Senedd scrutiny. In addition, there is a duty to</p>

	<p>consult each building safety authority, each fire safety authority and such other persons as the Welsh Ministers consider appropriate.</p> <p>The regulations do not amend any of the duties in the Bill. On balance, the regulation-making power is considered to be reasonable and proportionate.</p>
<p>Section 27(2) (to modify the definition of “building safety risk”)</p>	<p>This is distinct from any other power in the Bill.</p> <p>The Bill is aimed at ensuring that building safety risks are properly assessed and managed. How the risks are assessed and managed, that is, the duties we place on the principle accountable person and accountable persons, and the enforcement of those duties are at the core of this Bill. The Bill is intended to ensure the safety of people in or about regulated buildings by making sure that someone is held accountable for that.</p> <p>The regulation-making power is necessary as new evidence may emerge that there are risks other than fire and structural safety risks that, if not assessed and managed, may result in a risk to the safety of people in or about a regulated building. For example, this could be a risk arising from climate change, such as flooding.</p> <p>In response to recommendation 9 I have tabled an amendment which, if agreed, will apply an enhanced procedure to regulations under section 27(2).</p>
<p>Section 41(9) (amend the period of time when a further building certificate application must be made – to change from 5 years).</p>	<p>This is distinct from any other power in the Bill.</p> <p>The regulation-making power is necessary to allow flexibility to decrease or increase the five-year period depending on any emerging evidence about building safety risks.</p> <p>The regulation-making power is reasonable and proportionate because new evidence may emerge indicating that this timeframe should be changed. The scope of the regulation-making power is limited to only adjusting the time period.</p>
<p>Section 56(4) (amend list of “reviewable</p>	<p>This is distinct from any other power in the Bill.</p>

<p>decisions” and meaning of “affected person”)</p>	<p>This regulation-making power is necessary to provide flexibility to change the list of decisions of a building safety authority that may be reviewed on request and that may subsequently be appealed to the residential property tribunal. It also allows for a change in the description of persons who may request a review and appeal.</p> <p>The regulation-making power is reasonable and proportionate as it allows for amendments to be made if, in the light of the experience of implementation, it appears appropriate that additional or different decisions should be able to be reviewed and appealed, or that additional or different types of people who are affected by decisions should be able to request reviews and appeals. It is deemed appropriate for this type of amendments to be made via regulations.</p>
<p>Section 62 (new section 30IC of LTA1985 – meaning of building safety measure) – can amend subsections (2), (3) or (4) to amend “building safety measure”.</p>	<p>This is distinct from any other power in the Bill.</p> <p>The regulation-making power in this section is necessary in order to allow the Welsh Ministers to amend the definition of a building safety measure, should it appear in future that the definition should be amended. It may be necessary to amend the meaning of building safety measure if, for example, it is considered that the cost of compliance by accountable persons with additional duties should be recoverable though variable service charges payable under certain types of lease. A regulation-making power will enable this flexibility.</p> <p>The regulation-making power is reasonable and proportionate as it is limited to adding, removing or modifying the definition of a building safety measure. It is therefore considered appropriate for these changes to be made by secondary legislation.</p>
<p>Section 64 (new section 20FA of LTA1985 – limitation of variable service charges: excluded costs for regulated buildings). Can amend the definition of</p>	<p>This is distinct from any other power in the Bill.</p> <p>The regulation-making power in subsection (5) allows the Welsh Ministers to amend the definition of “excluded costs” in subsection (3) by adding, removing or modifying a description of excluded costs.</p> <p>The regulation-making power in subsection (5) is necessary to allow the Welsh Ministers to amend the definition of “excluded costs” should it appear that the definition should be amended.</p>

<p>“excluded costs” in new section 20FA.</p>	<p>This is to ensure that the liability for costs is passed on through service charges appropriately and that, for example, costs incurred by an accountable person because certain enforcement action has been taken against them is not recoverable through a service charge. A regulation-making power will enable this flexibility.</p> <p>The regulation-making power is reasonable and proportionate as it is limited to adding, removing or modifying the definition of “excluded costs”. It is therefore considered appropriate for these changes to be made by secondary legislation.</p>
<p>Section 67(8) (meaning of relevant HMO) power to amend section 67.</p>	<p>This is distinct from any other power in the Bill.</p> <p>The regulation-making power enables section 67 to be amended, for example to enable the meaning of ‘HMO’ for the Bill to be brought in line with changes outside of the Part 2 regime. This power provides the flexibility going forward.</p>
<p>Section 86(7) (appeal against prohibition notice) power in section 86(7) to amend who can appeal against a prohibition notice.</p>	<p>This is distinct from any other power in the Bill.</p> <p>The regulation-making power in section 86(7) is necessary in order to amend the list of persons in subsection (2). An example of when this may be necessary is, for instance, where a new entity that has an interest in regulating building safety is created, or if such an interest arose out of a new form of housing tenure. These regulations may be needed in light of future wider policy or legislative change, including new information obtained during implementation and subsequently. This regulation-making power provides flexibility should there be a need to amend this list in future. For example, if the meaning of building safety risk is modified using powers in section 27(2), then there may be other persons that have an interest in the management of that type of risk, that may need to be added to this list.</p> <p>The amendments are likely to be technical in nature, and it is therefore considered reasonable and appropriate for these changes to be made by secondary legislation.</p>
<p>Section 112(3) (consequential and transitional etc. provision).</p>	<p>This regulation-making power is necessary to ensure that incidental, supplementary, consequential, transitional and saving provision, including amendments to legislation, can be made to ensure that the Bill works together with other laws.</p>

<p>Paragraph 21(3) of Schedule 2 (Welsh Ministers can amend paragraph 21 to change the meaning of “interested person” – who is someone who must, for example, be given certain information about Special Measures Orders).</p>	<p>This regulation making-power is necessary to provide flexibility should there be a need to amend this list in future. For example, if the meaning of building safety risk is modified using powers in section 27(2), then there may be other persons that have an interest in the management of that type of risk, that would need to be added to this list.</p> <p>The amendments are likely to be technical in nature, and it is therefore considered reasonable and appropriate for these changes to be made by secondary legislation.</p>
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I am copying this letter to the Chair of the Local Government and Housing Committee and Chair of the Finance Committee.

Yours sincerely



Jayne Bryant AS/MS
Ysgrifennydd y Cabinet dros Lywodraeth Leol a Thai
Cabinet Secretary for Housing and Local Government