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Planning for Success: The Building Safety Act 2022 and Risk Management



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Overview of the Building Safety Act 2022

The Building Safety Act 2022 ("Act"):

- introduces extensive, wide-ranging changes to the regulation of the construction sector; and
- includes an emphasis on "higher-risk buildings", currently defined as those:
 - over 18 metres in height; or
 - having at least 7 storeys.







Overview of the Building Safety Act 2022

The scope of the Act is not limited to "higher-risk buildings" and will impact:

- anyone involved in the construction, development and ownership of property;
- how construction projects are carried out and regulated;
- how data and information is collated and stored during the lifecycle of certain projects; and
- how the risks associated with any given project or property are managed.







Building Safety Regulator

A division of the Health and Safety Executive, the BSR will:

- oversee the safety and performance of all buildings;
- act as the building control authority for work relating to higher-risk buildings;
- regulate the building control profession; and
- exercise enforcement powers in relation to non-compliance with the Building Regulations.







Civil Liability for Breach of the Building Regulations

<u>If</u> brought into force, s. 38 of the Building Act 1984 will expose builders to civil liability for damages arising from non-compliance with the Building Regulations.

- When will liability arise?
- What damages are recoverable?
- Within what period must a claim be brought?







Civil Liability in relation to Dwellings

- s. 2A of the Defective Premises Act 1972 exposes any person who "takes on work in relation to any part of a relevant building" to a duty to see the work is done in a workmanlike or professional manner, with proper materials and so that any associated dwelling is fit for habitation.
- When will liability arise?
- What damages are recoverable?
- Within what period must a claim be brought?







New Homes

The Act introduces:

- an obligation on developers of new build homes to provide the purchaser with a new build home warranty; and
- the New Homes Ombudsman, which:
 - will administer the New Homes Ombudsman Scheme; and
 - may enforce the New Homes Quality Code.





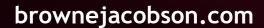


Building Liability Orders

A Building Liability Order:

- may be granted by the High Court in relation to liabilities arising:
 - under s. 38 of the Building Act 1984 (which is not yet in force);
 - under the Defective Premises Act 1972; or
 - in relation to a "building safety risk";
- will impose the liabilities of one body corporate on "associated" body corporates; and
- will only be granted where it is "just and equitable" to do so.







Managing Risk and Practical Tips

- What is the risk?
- Immediate risk management:
 - carry out a review of current and historic projects now;
 - implement a system for ensuring and evidencing compliance with the Building Regulations;
 - review corporate structuring; and
 - watch out for "pro-employer" contract terms.
- Future planning and risk







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