

UPDATE - RESPONSIBLE ACTORS SCHEME REGULATIONS

What is it?

The Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023 (SI 2023/753) came into effect on July 4, 2023. This is accomplished through the Building Safety Act of 2022, Sections 126, 127, 128 and 129. These regulations carry out the Responsible Actors Scheme (RAS) of the government, which prevents certain residential property developers from constructing buildings in England unless they have a developer remediation contract in place.

RAS was introduced for developers with the intention of raising building standards and safety. RAS will only recognise actions performed by responsible developers in England during the 30 years before to April 5, 2022, to identify, correct, or pay for the correction of life-critical fire safety flaws in residential buildings, 11 meters or higher in height.

Members of the RAS will be expected to agree and abide by the developer remediation contract to show their commitment. Property developers who meet the requirements but decline to sign and abide by the contract's conditions will not be allowed to join, and they will also be unable to carry out major development and obtain building control approval. As a result, they will be prohibited under the planning and building regulations from conducting any further developments.

Who is eligible?

- Major housebuilders who have developed 11m+ residential buildings.
- Other large developers who have developed or refurbished two or more residential buildings that are known to have fire safety defects by virtue of having been assessed as eligible for a relevant government cladding remediation scheme.

Why is this being done?

The introduction and implementation of these powers and regulations is a part of the Government's approach to tackling urgent building safety issues, which includes the assurance that the industry contributes to the costs of fixing the building safety crisis. The regulations will protect leaseholders from the expensive and unfair costs associated with making their buildings safe to ensure that residents are safe in their homes.

It had become evident to the government since the Grenfell Tower Fire, that a significant number of residential buildings of 11 metres and above in height were constructed with unsafe materials which posed a fire safety risk to residents. With the implementation of the regulations the Government aims to ensure that developers pay an appropriate share of the remediation costs to remedy the problems they created.

The Regulations now in force are identical to the government's draft bill proposed in April 2023. The government has updated the explanatory memorandum it originally published alongside the draft regulations which provide further information on the regulations. Which can be found here:

<https://www.legislation.gov.uk/ukxi/2023/753/memorandum/contents>

There is currently no guidance on the operation of the RAS, but the government has stated that this will be issued by Summer 2023 – which is well in advance of the prohibitions being applied to any developer.

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