



Understanding legal risk, responsibility and common pitfalls in building safety

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Learning lessons

- June 1999 – Garnock Court Fire
- Building (Scotland) Act 2003
- January 2016 – Oxfangs Primary wall collapse
- February 2017 – Cole Report on Edinburgh Schools
- June 2017 – Grenfell Tower Fire
- December 2017 – Initial Hackitt report
- Building Safety Act 2022
- Housing (Cladding Remediation) (Scotland) Act 2024
- February 2025 – Grenfell Tower Inquiry final report published
- Criminal investigations continue



Building Safety Act 2022

**INFRASTRUCTURE &
CAPITAL PROJECTS**

- Wide and far-reaching changes in England & Wales
- Limited application to Scotland
- Mainly a devolved matter
- Changes that do extend to Scotland:
 - Changes to the Architects Act 1997
 - National Regulator for Construction Products
 - Some changes to the law of time-bar for defective construction and cladding products claims

SCOTTISH CONTEXT

Powers



Devolved matters

Reserved matters

$\geq 11\text{m}$



12,300 residential buildings
(2025)

1,020 to 1,200 may require
remedial work (<10%)

84% full; 16% partial remediation

Scottish Government anticipated
expenditure is between
£1.7b and £3.1b

Inflation accounts for one third of
the anticipated expenditure

$\geq 18\text{m}$



1,100 residential buildings
(2025)

Circa 250 may require
remedial work

49% of buildings in Glasgow
(inc. the tallest buildings)

RSLs own 35% of buildings

45% completed in 1960s

ACM panels in 38

Stats



Fire Fatalities beyond the dwelling
of fire origin in Scotland (20 March
2026):

Reviewed data from 2009 to 2023

291 fire fatalities

7 fatalities beyond the origin floor

1 fatality beyond origin flat (smoke
inhalation)

no instances recorded where
cladding was involved in a fatal fire

The Scottish Building Safety Framework

**INFRASTRUCTURE &
CAPITAL PROJECTS**

- Building (Scotland) Act 2003: the building standards system
 - Building (Scotland) Regulations 2004
 - Technical Handbooks
 - Building (Procedure) (Scotland) Regulations 2004
- Fire (Scotland) Act 2005: fire safety duties
- Housing (Cladding Remediation) (Scotland) Act 2024
 - Cladding Assurance Register
 - Powers to arrange SBAs and remedial works
 - Responsible Developer Scheme
 - Building Safety Levy (Scotland) Act 2026

Single Building Assessment

INFRASTRUCTURE &
CAPITAL PROJECTS

- Holistic survey of the whole building that considers risk to life from external wall cladding systems **and** internal features
- Required for inclusion on Cladding Assurance Register
- Relevant to local authorities, RSLs, individual private homeowners and private developers
- Starting point for assessing the need for remedial works (if any)
- Potentially leads to Additional Work Assessments

High Risk Buildings (HRBs) Scotland

“relevant building” in The Building (Scotland) Amendment Regulations 2022, amending the Building (Scotland) Regulations 2004:

- $\geq 11\text{m}$
- Contains:
 - a dwelling,
 - a place of assembly, entertainment or recreation,
 - a hospital,
 - a residential care building or sheltered housing complex,
 - a shared multi-occupancy residential building
 - hotels, guest houses, boarding houses & hostels

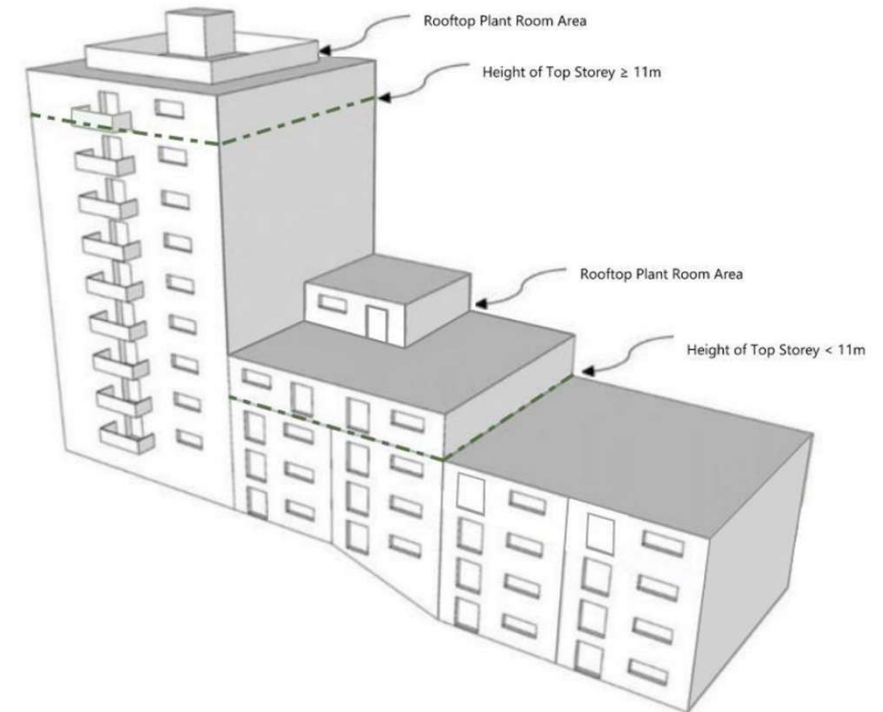


Figure 1 - Example of Building Height for Connected Buildings

From the Scottish Government's Single Building Assessment Specification Document dated June 2024

Single Open Call

**INFRASTRUCTURE &
CAPITAL PROJECTS**

- Part of the Cladding Remediation Programme
- To allow local authorities, RSLs and private homeowners (normally through factors) to access funding and help for arranging SBAs
- May lead to funding for Urgent Interim Measures (priority)
- May lead to funding for subsequent remediation works

PROGRESS

Single Open Call



1,799 expressions of interest (March 2026)

956 likely to be eligible for funding for an SBA (June 2026)

376 expressions of interest from Local Authorities – £31.5m made available

Offers of funding for 138 expressions of interest from RSLs

Offers of funding to 12 expressions of interest from factors/property managers

SBA's



Government funding for 219 buildings
(140 for $\geq 18m$, 79 for 11m-18m)

Local Authorities – 97

RSLs – 121

Factor/property manager – 1

Developer funded – 31

17 completed in total

29 didn't meet the standards

Urgent Interim Measures & Remedial Works



UIMs included in 9 SBAs

UIMs also in place for 13 buildings that have not yet completed an SBA

Priority for SG financial support

SG funded remedial works complete in 1 building

SG funded remedial works underway in 2 buildings

Developer funded remediation works underway in 2 buildings

Cladding Assurance Register



17 buildings recorded on the CAR

Not yet online – requests for the information can be made in writing to the Cladding Remediation Programme

Building Safety Levy (Scotland) Act 2026

**INFRASTRUCTURE &
CAPITAL PROJECTS**

- Tax on new residential units
- Help fund the cladding remediation programme
- Expected to raise between £360 million and £450 million over its 15 year period
 - Comes into force April 2028
- Equivalent (with differences!) to The Building Safety Levy (England) Regulations 2025
 - Comes into force October 2026
- Reduction for construction on brownfield land
- Risk to the housing market?

Exemptions

- First 29 units constructed each financial year
- Hotels, inns
- Homes/institutions providing residential accommodation for children
- Care homes
- Hospitals
- Military barracks
- Prisons
- Residential accommodation for school pupils

INFRASTRUCTURE & CAPITAL PROJECTS

- Manses, monasteries, nunneries
- For housing asylum-seekers
- Pre-existing residences
- Social housing
- Affordable housing
- Situated on an island

Other funding routes – claims?

**INFRASTRUCTURE &
CAPITAL PROJECTS**

- Claims against the design and build team
- Time bar?
- Prescription and Limitation (Scotland) Act 1973
- 20 year long stop for claims
- 5 year prescriptive period
- Changes made by BSA 2022 – will they help?

Criminal liability

- Building (Scotland) Act 2003
- Housing (Cladding) (Scotland) Remediation Act 2024
 - False information for the CAR
 - Failure to provide information for the CAR
 - Occupying evacuated premises
 - Obstruct assessment and/or remediation work
 - Failure to provide assistance to authorised personnel
- Long running investigations – e.g. Grenfell

**INFRASTRUCTURE &
CAPITAL PROJECTS**



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