

The Building (Amendment) Regulations 2018. The ban on combustible materials; what is it and what next?

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On 21 December 2018, an outright ban on the use of combustible materials on the exterior of new residential buildings over 18 metres in height came into force.

The Building (Amendment) Regulations 2018 (“**the Regulations**”) gave legal effect to this ban in England.

What are combustible materials?

The government’s official guidance defines materials classified:

- (i) A1 as non-combustible; and
- (ii) A2 as being of limited combustibility.

Products with a classification of B through to F are combustible and are now banned for use on the exterior of new residential buildings over 18 metres in height.

Therefore, where a material does not achieve a European/British classification of A2-s1, d0 or A1 (in accordance with BS EN 13501-1:2007+A1:2009), it will no longer be permitted for use on the exterior of new residential buildings over 18 metres in height.

What buildings are affected by the Regulations?

The ban on combustible materials will apply to ‘new’ residential buildings with a storey at least 18 metres above ground level and which contain one or more dwellings, an

institution, or a room for residential purposes (defined under SI 2018/1230). This includes apartments, hospitals, care homes, dormitories in boarding schools, sheltered housing and student accommodation.

The ban does not apply to;

- (a) buildings currently under construction where building work started before or within 2 months of 21 December 2018; and
- (b) new hotels, hostels, and boarding houses which are over 18 metres in height.

There is also a transitional period for new buildings. Provided that building work begins before 21 February 2019, the ban will not apply to projects where a building notice or initial notice has been given, or full plans deposited with a local authority, before the legislation commencement date of 21 December 2018.

Do the Regulations apply to existing buildings?

The ban on combustible materials will not have retrospective effect i.e. it will not apply to existing residential buildings above 18 metres in height.

However, the ban will apply where there is a ‘material change of use’ of an existing building which brings it into scope. Where an existing building (not currently affected by the Regulations) is being converted into one of the categories of building affected by the Regulations (such as

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an apartment block or student accommodation) or where there is a 'material alteration' to a building which is in one of the affected categories already, the building must be investigated and, where necessary, work must be carried out to ensure they only contain materials achieving the acceptable classifications described above.

Does the ban cover the internal systems of buildings?

The ban does not apply to:

- (a) the interior of buildings i.e. any internal wallpaper, paint, window frames, door frames and doors, gaskets, seals, vapour membranes, surface finishes, and laminated glass; or
- (b) cavity trays (when used between two leaves of masonry), electrical installations, insulation and water proofing materials used below ground level or any part of a roof if that part is connected to an external wall.

The ban on combustible materials currently only applies to materials used in the external wall/system of a building and not the interior. The ban does, however, extend to materials used on attachments to external walls, such as balconies, solar panels, and sun shading.

What next?

The ban and amendment to the Building Regulations are as a result of the cladding materials associated with the tragic fire at the Grenfell Tower.

Whilst this has been the focus to date, it has been announced that the government has commissioned testing to be carried out on a wider range of exterior cladding materials used on high-rise residential buildings, and not just of the type used on the Grenfell Tower.

Aside from the Regulations, which apply to new buildings, the government has indicated a "full backing" for local authorities to enable them to carry out emergency remediation work on private residential buildings that contain 'unsafe' cladding.

This is understood to include financial assistance, with local authorities expected to be able to recover the expenditure from building owners.

How this will work in practice, how many buildings may be affected, what future amendments to the Building Regulations there may be and whether these will apply retrospectively is currently unknown.

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