

8 New and proposed legislation

This table, prepared by **Dentons UK and Middle East LLP**, provides a regularly amended guide to new and proposed legislation that will affect the construction industry. In addition to EU Directives and UK legislation, the table includes notes highlighting discussion papers issued by both government and non-government organisations, and commentary on the latest developments.

State of play table 245

Subject area	Title and reference	Comments
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UK

The Queen's Speech	Future parliamentary business?	The Queen's Speech 2019 included a number of government plans that affect the construction industry, including those on broadband, the environment, air traffic, the railways, science and space. The High Speed Rail 2 (Midlands–Crewe) Bill, which has reached the committee stage in the House of Lords, was also carried over into the new session. With Parliament having agreed to hold a general election on 12 December 2019, it is questionable how many of these plans will make it onto Parliament's agenda.
Payment	Retention bill dropped	<p>Peter Aldous MP's bill to reform the law on retentions was not included in the Queen's Speech and has not been carried forward into the new session of Parliament. Mr Aldous launched the Construction (Retention Deposit Schemes) Bill 2017–19 as a Ten Minute Rule Bill in January 2018. Its parliamentary readings were put back several times. The Bill sought to enable retention money to be secured and ringfenced in a retention deposit scheme (subject to the other party having a right of recourse to that money). That money would then be available for release on time and not subject to the expiry of two or more years, as often happens now.</p> <p>Another Private Member's Bill by Debbie Abrahams MP, the Public Sector Supply Chains (Project Bank Accounts) Bill 2017–2019, has also fallen away. Abrahams' Bill sought to require clients to pay money due under the project contract into a trust account. That money would then be available to make timely payments to the contractor and sub-contractors and would be protected in the event of insolvency further up the supply chain.</p> <p>It is understood that another Private Member's Bill is being prepared which combines the Aldous and Abrahams proposals.</p>
Environment	The Environment Bill	<p>The Environment Bill 2019–2020, announced in the Queen's Speech, aims to improve the natural environment and make provision for the Office for Environmental Protection as well as provision relating to waste and resource efficiency, air quality, the recall of products that fail to meet environmental standards, water, nature and biodiversity, conservation covenants and the regulation of chemicals.</p> <p>The Bill is (at the time of writing) being scrutinised by a Public Bill Committee, which is due to report to the House of Commons on 19 December 2019. That now seems unlikely given that the General Election is scheduled for 12 December 2019.</p>
Building regulations – housebuilding	The green revolution – new standards for new-build homes	<p>In the 2019 Spring Statement, the government committed to introduce a Future Homes Standard for new-build homes by 2025. The initiative encompasses cleaner housebuilding, banning gas boilers in new builds by 2025, overhauling the planning system, driving uptake of green energy sources (such as solar panels) and a government design manual to promote the building of 'beautiful new homes' in the UK.</p> <p>Set against the UK's commitment to net zero by 2050, the MHCLG commenced the Future Homes Standard, 2019 Consultation on changes to Part L (conservation of fuel and power) and Part F (Ventilation) of the Building Regulations for new dwellings.</p> <p>This consultation is the first stage of a two-part consultation about proposed changes to building regulations and ends on 10 January 2020.</p>
Slavery	Latest statistics	<p>The Home Office UK annual report on modern slavery provides an overview of modern slavery in the UK and how the UK has responded to its threat in the last year. A Home Office estimate in 2014 suggested that there were between 10,000 and 13,000 potential victims of modern slavery in the UK in 2013. The police recorded 5,059 modern slavery offences in England and Wales between March 2018 and March 2019 (a 49% increase on the previous year).</p> <p>The government's response is structured around the 'four Ps' framework used in the 2014 Modern Slavery Strategy: Pursue, Prevent, Protect and Prepare. The number of active law enforcement investigations had increased to 1,479 in June 2019 (compared with 188 in November 2016). As part of the 'Protect' element of the response, the government increased its activity to engage 17,000 businesses that fall within the scope of the <i>Modern Slavery Act</i> in their obligations on how to prevent slavery in their supply chains. The government estimates that approximately 75% of in-scope organisations now have a modern slavery statement.</p>

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Fire safety	Responses to the Grenfell Tower fire	<p>The Queen's Speech of October 2019 included legislation to introduce new building safety following the Grenfell Tower fire. The proposed legislation will implement new and modernised regulatory regimes for building safety and construction products. It will also give residents a stronger voice.</p> <p>Dame Hackitt will advise the MHCLG on how to establish a new building safety regulator, with powers to apply sanctions to oversee the design and management of buildings with a particular focus on designs (such as high-rise developments) with unusually high risk.</p> <p>The government has issued its response to the Homes, Communities and Local Government Select Committee's report on 'Building regulations and fire safety – consultation response and connected issues [HC2546]'. The government references:</p> <ul style="list-style-type: none"> its consultation, 'Building a safer future: proposals for reform of the building safety regulatory system' (which closed on 31 July 2019), which outlines proposals to implement legislative reform and invites views on the proposed changes (at the time of writing, the government is analysing the responses to this consultation); its full technical review of aspects of fire safety in building regulations fire safety guidance (announced on 8 December 2018); its call for evidence on 15 March 2019 (the first step in the technical review of Approved Document B) and the analysis and high-level summary of responses received in response to this Call for Evidence on the future technical guidance contained within Approved Document B. <p>MHCLG issued a notice of correction to Approved Document B 2019 edition on 19 September 2019, which came into effect immediately. The correction relates to smoke control dampers, double-skinned insulated roof sheeting, and fire detection and alarm systems in large dwelling houses.</p>
VAT	EU proposals for changes to VAT – and the effect of Brexit	<p>The House of Commons Library has published a Commons Briefing paper SN00587 on VAT on construction. Acknowledging that VAT law is a complex area, the paper deals with the European Commission's January 2018 proposal to overhaul the EU rules on VAT rates, including, for example, a new list of products to which a minimum 15 per cent rate would apply. There is no timetable for the proposed changes and considerable uncertainty in the UK as to their relevance given the UK's vote to leave the EU.</p>

Grenfell Tower Inquiry phase 1 recommendations

The public inquiry into the Grenfell Tower fire, chaired by Sir Martin Moore-Bick, published its Phase 1 report on 30 October 2019. It describes the fire and sets out conclusions on its origin and development, an analysis of the response of the London Fire Brigade (LFB) and emergency services, and a summary of tributes to loved ones from family and friends.

Key findings include:

- the principal reason the flames spread so rapidly was the presence of the aluminium composite material (ACM) rainscreen panels with polyethylene cores, which acted as a source of fuel. The panels melted and dripped down causing fires lower down the building, which then travelled back up. Polyisocyanurate (PIR) and phenolic foam insulation boards behind the ACM panels contributed to the rate and extent of vertical flame spread; and
- there was 'compelling evidence that the external walls of the building failed to comply with Requirement B4(1) of Sch 1 to the Building Regulations 2010, in that they did not adequately resist the spread of fire having

regard to the height, use and position of the building. On the contrary, they actively promoted it'.

Recommendations to improve fire safety include speeding up the process of replacing dangerous cladding, producing/amending guidelines both on emergency calls and on how the LFB and other fire and rescue services respond to major disasters, training fire brigades on high-rise inspections and how to handle façade fires, ensuring rescue services have good compatible communication systems (both internally and with other services), introducing legislation to require more action by building owners and managers relating to internal inspections (including inspections of the lifts) and providing up to date building plans and evacuation procedures to the rescue services.

These recommendations will come as small comfort to those who lost family, friends and their homes in the fire. They do, however, make clear that change needs to be implemented – and swiftly – to avoid similar tragedies in the future.

Tracey Summerell
Dentons UK and Middle East LLP