

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.

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Subject area	Title and reference	Comments
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UK

Construction methods	Modern methods of construction	<p>In July 2019, the Housing, Communities and Local Government Committee set out recommendations to unlock the potential for Modern Methods of Construction (MMC) to build homes quicker and more cheaply while maintaining build quality.</p> <p>The government issued its response to those recommendations in September 2019, acknowledging the importance of MMC in meeting housing targets and embracing innovation both to deliver a better product for consumers and to create environments in which people want to live. The response outlines government progress on its MMC programme focusing on: its support for the pipeline (with a presumption in favour of MMC in certain departments); access to finance; encouraging lending and managing risk; planning; expanding the evidence base to better understand the industry's capacity to deliver; its support for local authorities in housebuilding and for affordable housing; and improving access to land and skills provision.</p>
Retentions	Build UK publish minimum standards	<p>Trade body, Build UK, has published minimum standards for the use of cash retentions in construction. To read more visit: www.constructionlaw.uk.com/build-uk-publishes-minimum-standards-for-retentions/</p>
Construction quality	Code of Quality Management	<p>The Chartered Institute of Building (CIOB) has published a new Code of Quality Management following a consultation in early 2019. See the <i>Commentary</i> below.</p>
Modern slavery	Tackling modern slavery in government supply chains	<p>The government's consultation on transparency in supply chains ended on 17 September 2019 and feedback is currently being analysed.</p> <p>In the meantime, the government has announced steps to ensure government supply chains are free from slavery, servitude, forced and compulsory labour and human trafficking. Guidance set out in <i>Procurement Policy Note 05/19: Tackling Modern Slavery in Government Supply Chains</i> (September 2019) underlines the government's commitment. From 1 October 2019, all central government departments, their executive agencies and non-departmental public bodies must:</p> <ul style="list-style-type: none"> • use the guidance to identify and manage risks in both existing contracts and new procurement activity; • ensure awareness training is delivered to relevant procurement, commercial and front-line staff; and • make relevant staff aware of the Modern Slavery Helpline (08000 121 700 or www.modernslaveryhelpline.org).
Community Infrastructure Levy (CIL)	Updated CIL guidance	<p>The government has updated its Community Infrastructure Levy (CIL) guidance to explain the effects of the Community Infrastructure Levy (Amendment) (England) (No 2) Regulations 2019, SI 2019/1103 (2019 Regulations). The guidance, which came into force on 1 September 2019, explains the CIL and how it operates.</p> <p>An important note was added to the amended guidance: the 2019 Regulations do not apply to those granted planning permission before 1 September 2019, or who intend to apply for a relief or an exemption from the levy in respect of a liability notice issued before 1 September 2019. In these cases, reference should be made to the previous version of the guidance on the CIL (and, for example, commencement notice should be submitted before starting any works onsite, otherwise the relief or exemption could be lost).</p>
Fire safety	First report of the Industry Safety Steering Group	<p>The Industry Safety Steering Group (ISSG), set up in September 2018, has issued its first report on the construction industry's progress in delivering culture change: <i>Building Safety: Industry Safety Steering Group Report for the Secretary of State</i>. Progress has been made, but it has been slow across parts of the industry. The ISSG report:</p> <ul style="list-style-type: none"> • focuses on themes reviewed by the ISSG, including competence, industry culture change and leadership, procurement and construction products; • provides details of the ISSG's findings from its engagement with bodies such as the Construction Leadership Council, the Industry Early Adopters, members of the Competence Steering Group and the Crown Commercial Services; • conveys the ISSG's observations on industry progress in embedding the recommendations of the Independent Review and moving forward with culture change.

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Fire safety	Raising the bar – competency issues	Competence concerns raised by the independent review of Building Regulation and Fire Safety (May 2018) – which focused on higher-risk residential buildings (HRRBs) – have been addressed by the Competence Steering Group (CSG) of the Industry Response Group (IRG) in an interim report. That report, <i>Raising the Bar</i> , sets out 12 areas of competence and makes 67 recommendations covering issues from resident support to procurement. A series of ‘Principles of Competence’ has also been published for adoption by all those working on HRRBs. At the time of writing, a consultation on the interim report is underway and will end on 18 October 2019.
Fire safety	Improving safety	The Ministry of Housing, Communities and Local Government (MHCLG) is consulting on proposals to: <ul style="list-style-type: none"> install sprinklers in new high-rise blocks of flats with a reduction in the building height requirements for sprinklers from 30m and above to 18m. Approximately speaking, this is a reduction from a height of ten to six floors; create a new Protection Board in association with the Home Office and National Fire Chiefs Council. This board would notify residents of HRRBs of risks and if they are being addressed. The consultation closes on 28 November 2019.
Procurement	NIC analytical framework	The National Infrastructure Commission (NIC) has published its report: ‘NIC, Evaluating the Performance of Private Financing and Traditional Procurement’ (26 July 2019). The report sets out findings from the application of the NIC’s analytical framework for assessing procurement models set out in the National Infrastructure Assessment. The NIC proposes that the framework is used by public bodies to analyse the costs and benefits of financing and procurement models and to support project appraisal decisions.
Building regulations (Scotland)	Review of building regulations	In delivering her speech on the programme for government for Scotland, First Minister, Nicola Sturgeon, set out a plan to enhance building standards to help deliver zero and low carbon homes and buildings. She announced that Scotland will require all new build homes to be heated from renewable or low carbon sources, rather than fossil fuel boilers from 2024 (as opposed to 2025 for the rest of the UK)
Fire safety (Scotland)	Fire safety changes (Scotland)	The Scottish Government has published an updated version of its <i>Building standards technical handbook 2019: non-domestic buildings</i> (12 July 2019). This version applies to a building warrant submitted on or after 1 October 2019 and to building work which does not require a warrant commenced from that date.

Quality counts

UK builders are subject to multiple building regulations that set minimum standards for design, construction and alterations to buildings. However, anyone can set up as a builder or tradesperson regardless of their skills or experience. The lack of checks on new entrants gives rise to a widespread problem of rogue and incompetent builders and poor quality buildings – problems that the government and various bodies are trying to address. (See, for example, the 2018 Federation of Master Builders’/Pye Tait Consultants’ ‘Licence to build: a pathway to licensing UK construction’ which proposed a licensing scheme governed and administered by a single authority.)

The fire at Grenfell Tower and the Report of the Independent Inquiry into the Construction of Edinburgh Schools were sobering reminders of the need to deal with the issue of quality in construction. Research by the Chartered Institute of Building (CIOB) highlighted that quality failings and the sacrifice of quality to achieve cost or time targets are chief concerns for the construction industry. Following a consultation, the

CIOB has published a new Code of Quality Management, subtitled ‘Guide to Best Practice Construction Quality Management’. The aim is ‘to provide a single point of information on construction quality management for construction professionals to improve quality by establishing best practice for quality management and quality planning processes’.

The Code includes sections on why quality matters, collates information on current standards, gives guidance on the ‘Quality Plan’, provides background information and research, references relevant codes and standards for the range of construction expertise (from sub-structures to masonry, internal finishes, glazing and external structures) and explains the various quality standards that are relevant to a construction project, including the ISO 9001 series of ‘quality management system’ international standards.

The code can be downloaded from the CIOB’s website here: www.ciob.org/ciob-code-quality-management

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