

## “Building Safety Act already changing the legal landscape”

2 years ago



2024 will see significant change to the legal liabilities of building services contractors because of new powers introduced under the Building Safety Act, according to the [Building Engineering Services Association](#) (BESA).

The dramatic extension of the claims period for defects from six to 30 years is the standout potential legal issue for contractors as it substantially redraws the 1972 Defective Premises Act.

The implications for supply chains are profound, according to BESA, with the 30-year limitation applying to projects completed before the Act came into force in June 2022. The limitation period for projects completed after that date is 15 years.

Anyone involved in the design, construction and management of a residential building should keep this on their radar, the Association believes, although the practical and insurance issues are considerable.

“In theory at least, companies could be asked for project records dating back three decades,” said BESA’s director of specialist knowledge Rachel Davidson. “Before the Act, documents would most likely have been retained for up to 12 years in line with industry legal best practice and then destroyed.

“Digital record keeping was not the powerful tool it is today so many firms may find it hard to dig out the necessary information if instructed to by a court. Also, there will have been wholesale staff changes over that time so it will often be impossible to rely on the recollections of key individuals,” she added.

Insurance

Davidson also pointed out that many of the parties involved may no longer be trading and others could

lack adequate insurance cover.

The Act has also introduced a new wide-reaching instrument called the Building Liability Order (BLO), which allows so-called 'associate' companies to be prosecuted alongside the main defendant in a construction dispute.

This is primarily aimed at large firms and Tier One contractors who may have used 'special purpose vehicles' (SPVs) to carry out projects and these may not have their own funds to pay out any compensation. The BLO allows lawyers to "pierce the corporate veil" to establish who is ultimately responsible for a failed project and ensure they meet any liabilities.

Product quality will also come under renewed scrutiny this year because of changes introduced by the Act with manufacturers particularly targeted if they make unsubstantiated claims for their equipment. The Act makes it easier for end clients, developers etc. to launch claims directly against product suppliers and for contractors to seek redress from manufacturers or deflect some blame as part of their own defence.

"Contractors will have to get used to facing more forensic legal scrutiny, particularly in terms of long-term liabilities," said BESA's director of legal and commercial affairs Debbie Petford.

"However, BESA members have access to an expert legal team who are carefully tracking the Act and its implications and will be able to advise on ways to prepare and protect yourself, and deal with any claims."