

BUILDING SAFETY ACT 2022 PART 5

Reviewed by Matthew Bartlett, Director · Last reviewed 2026-06-23

Part 5 of the Building Safety Act 2022 introduced a self-remediation regime for developers of higher-risk residential buildings. The detail of how remediation contracts have been operating since the Act took effect, and the consequences for the professional advisers (architects, engineers, fire engineers) involved in remediation work, materially affect PI cover. This entry explains the position as it stood in 2026.

WHAT PART 5 DOES

Part 5 of BSA 2022 (specifically the Developer Remediation Contract regime) requires major UK developers to remediate "relevant" building safety defects in higher-risk residential buildings at their own cost. The scheme operates via contracts entered into with the government. Developers who signed the contract are committed to:

- Identifying buildings within scope (developed by them or related companies)
- Assessing fire safety and structural defects
- Funding remediation works
- Reporting progress to government on agreed timescales

The contract creates obligations between the developer and government. It does NOT extinguish leaseholder claims against the developer or other parties. It also does NOT discharge the underlying design or construction parties from their original duty of care.

IMPLICATIONS FOR DESIGN PROFESSIONALS

If a developer is remediating a defect originally caused by negligent design:

- The developer may seek to recover remediation costs from the original architect, engineer, fire engineer, or contractor
- The original adviser's PI policy is the policy that would respond — usually the policy in force when the claim is made (claims-made trigger)
- BSA s.135's extended limitation (30 years for HRBs, retrospectively applied) means claims arising from work done as far back as 1992 may now be in time
- The original adviser may now be retired or the firm dissolved — run-off cover (or lack of it) becomes critical

THE NEW WAVE OF PROFESSIONAL NEGLIGENCE CLAIMS

The construction PI market has seen a marked uptick in claims arising from BSA-driven remediation since 2023. Claim characteristics:

- **Old work, current claim.** Work done 10-25 years ago is now subject to claims because the limitation window reopened.
- **High quantum.** Remediation costs for a single building can be £5m – £30m+. Individual professional cover limits are often exhausted.
- **Multiple defendants.** Architects, engineers, fire engineers, contractors, sub-contractors all typically named. Contribution and apportionment add complexity.
- **Insurer constraints.** Insurers writing original cover decades ago may not exist now; FSCS provides limited backup.

IMPLICATIONS FOR CURRENT PI COVER

Firms still active in the construction professions should:

- Maintain limit appropriate to historic project values, not just current work
- Verify retroactive date covers historic work (or that prior policies still respond)
- Carry adequate run-off if winding down — six years is no longer enough for HRB-related work
- Document any current advice carefully to establish defensibility of remediation decisions
- Understand the cyber exposure of remediation file records — large datasets being assembled for remediation work are increasingly cyber-targeted

BSA PART 5 AND THE "RESPONSIBLE DEVELOPER" CHAIN

The Act creates a concept of "related companies" — entities under common control of the developer. If the original developer no longer exists, related companies may inherit liability. For PI purposes:

- The professional adviser's original engagement was usually with the developer who commissioned the work
- If that developer ceased trading and the "related company" now bears the obligation, the chain of contractual privity is unclear
- The Defective Premises Act 1972 (as extended by BSA s.135) provides a statutory route for claims directly against design and construction parties — bypassing contractual chain issues

Professional advisers should assume DPA 1972 / BSA s.135 routes will be used aggressively by remediating developers seeking recovery.

RECENT CASE LAW (2024–25)

Several first-instance decisions in 2024–25 have addressed:

- The scope of "defective premises" for DPA purposes
- Whether commercial elements in mixed-use buildings benefit from the extended limitation
- The interaction between Part 5 remediation contracts and individual leaseholder claims

- The application of BSA s.135 to non-HRB buildings (mostly limited to true HRBs but some boundary cases tested)

The case law is still developing. Insurers and brokers are watching it carefully because each decision affects underwriting appetite.

WHAT DESIGN PROFESSIONAL FIRMS SHOULD ASK THEIR BROKER

1. Does my current PI policy cover work done before BSA 2022 took effect?
2. What is the retroactive date and is it sufficient for my historic project range?
3. Is the limit appropriate for the highest-value historic project I worked on?
4. If I'm planning to retire, what run-off arrangement covers my BSA-exposure window?
5. Does the insurer have a specific stance on HRB / cladding work?
6. What is the position on costs-in-addition vs inclusive for BSA claims?

ABOUT APEX INSURANCE BROKERS

Apex Insurance Brokers Limited places PI cover for UK design professionals with BSA exposure — architects, fire engineers, structural engineers, building surveyors. FCA firm reference number 724952. We discuss the limit, retroactive date, and run-off planning specifically against the BSA 2022 risk profile.

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