



Ministry of Housing,
Communities &
Local Government

To:

The Chief Executive

Unitary, Metropolitan, District and London Borough Councils in England
County and County Borough Councils in Wales

The Town Clerk, City of London

The Clerk, Council of the Isles of Scilly

The Sub-Treasurer, Inner Temple

The Under Treasurer, Middle Temple

The Head of Building Control

Unitary Metropolitan, District and London Borough Councils in England
County and County Borough Councils in Wales

City of London

Council of the Isles of Scilly

Approved Inspectors

cc: The Chief Executive:

County Councils in England

National Park Authorities in England & Wales

Chair: National Fire Chiefs Council

10 December 2019

Dear Sir or Madam

Impact of Court ruling on the ban on combustible materials in and on the external walls of high-rise buildings

In November 2018, the Government laid regulations in Parliament that amended the Building Regulations 2010.

The regulations banned combustible materials from being used in or on the external walls of buildings over 18 metres containing flats, as well as new hospitals, residential care premises, dormitories in boarding schools and student accommodation over 18 metres.

The regulations can be found at

<http://www.legislation.gov.uk/uksi/2018/1230/regulation/2/made>

On 27th November 2019, after a challenge to the consultation process that introduced the ban, the High Court ruled that the consultation had been inadequate in respect of the inclusion of products intended to reduce heat gain within a building (for example, blinds, shutters and awnings) within the ban. As a result the Court quashed one part of the 2018

regulations which had included within the ban *"a device for reducing heat gain within a building by deflecting sunlight which is attached to an external wall"*. The practical effect of the Court judgment is that the regulations now exist as if that section of the regulations had never been included in the ban.

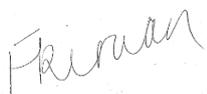
It is important to recognise the Court's decision does not otherwise impact the ban on the use of combustible material in and on the external walls of buildings in scope. It remains Government policy that combustible materials should not be used in or on external walls or in any attachments to those walls.

The review of the ban, promised in the explanatory memorandum that was published alongside the Regulations, is currently underway. A future Government will need to consider whether a further consultation is necessary to clarify the position for products used to reduce heat gain within buildings, alongside any other issues raised during the review.

While the review process is underway, building control bodies should take account of the Building Regulations requirement B4 when considering whether to allow the use of combustible materials intended to reduce heat gain within a building in and on the external walls of buildings. The requirement in B4 provides that *"the external walls of the building shall adequately resist the spread of fire over the walls and from one building to another, having regard to the height, use and position of the building"*.

Building control bodies should also take account of paragraph 10.4 in volume 1, and 12.4 volume 2 of the clarified version of Approved Document B, which states that *"in relation to buildings of any height or use, consideration should be given to the choice of materials (including their extent and arrangement) used for the external wall, or attachments to the wall, to reduce the risk of fire spread over the wall."*

Any enquiries should be directed to enquiries.br@communities.gov.uk



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