


# Building Safety Act 2022

**2022 CHAPTER 30**

An Act to make provision about the safety of people in or about buildings and the standard of buildings, to amend the Architects Act 1997, and to amend provision about complaints made to a housing ombudsman. [28th April 2022]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART 1

INTRODUCTION

### 1 Overview of Act

(1) This Act has 6 Parts, and contains provisions intended to secure the safety of people in or about buildings and to improve the standard of buildings.

(2) Part 2 contains provision about the building safety regulator and its functions in relation to buildings in England.

(3) Part 3 amends the Building Act 1984.

(4) Amendments made by Part 3—

(a) provide that the regulator is the building control authority in relation to higher-risk buildings in England, and

(b) require the regulator (for England) and the Welsh Ministers (for Wales) to establish and maintain registers of building control approvers and building inspectors.

(5) Part 4 is about occupied higher-risk buildings in England, and imposes duties on accountable persons.

(6) Part 5 contains further provisions, including—

(a) provisions about remediation and redress;

(b) provision requiring a new homes ombudsman scheme to be established;

(c) powers to make provision about construction products;

(d) further provision about fire safety;

(e) provision about the regulation of architects;

(f) provision about housing complaints.

(7) Part 6 contains general provisions.

## PART 2

THE REGULATOR AND ITS FUNCTIONS

*The regulator and its general functions*

### 2 The building safety regulator

(1) In this Part "the regulator" means the Health and Safety Executive.

(2) Schedule 1 contains amendments of provisions of the Health and Safety at Work etc Act 1974 that relate to the regulator.

### 3 The regulator: objectives and regulatory principles

(1) The regulator must exercise its building functions with a view to—

(a) securing the safety of people in or about buildings in relation to risks arising from buildings, and

(b) improving the standard of buildings.

(2) In exercising a building function (other than an excepted function), the regulator must have regard to the following principles—

(a) regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent, and

(b) regulatory activities should be targeted only at cases in which action is needed.

(3) The duty in subsection (2) is subject to any other requirement affecting the exercise of the function.

(4) In subsection (2) "excepted function" means—

(a) a function under any of sections 4 to 6, or

(b) a function of the regulator under the Health and Safety at Work etc Act 1974 so far as relating to any such function.

(5) In this Part "building function" means—

(a) any function of the regulator under, or under an instrument made under, this Act or the Building Act 1984;

(b) any prescribed function of the regulator;

(c) any function of the regulator under the Health and Safety at Work etc Act 1974 so far as relating to a function within paragraph (a) or (b).

### 4 Duty to facilitate building safety: higher-risk buildings

(1) The regulator must provide such assistance and encouragement to relevant persons as it considers appropriate with a view to facilitating their securing the safety of people in or about higher-risk buildings in relation to building safety risks as regards those buildings.

(2) The assistance and encouragement that must be provided under subsection (1) includes, in particular, assistance and encouragement with a view to facilitating securing the safety of disabled people in or about higher-risk buildings in relation to building safety risks as regards those buildings.

(3) For this purpose "relevant persons" means—

(a) residents of higher-risk buildings within the meaning of Part 4,

(b) owners of residential units in such buildings,

(c) persons who are accountable persons within the meaning of Part 4, and

(d) persons upon whom duties are imposed by virtue of paragraph 5B of Schedule 1 to the Building Act 1984 (dutyholders).

(4) In subsections (1) and (2)—

"building safety risk" has the meaning given by section 62;

"disabled": see section 30;

"higher-risk building" means—

(a) a higher-risk building within the meaning of Part 4 (see section 65), or

(b) a higher-risk building within the meaning of the Building Act 1984.

(5) Parts 3 and 4 confer further functions on the regulator in relation to higher-risk buildings.

### 5 Duty to keep safety and standard of buildings under review

The regulator must keep under review—

(a) the safety of people in or about buildings in relation to risks as regards buildings, and

(b) the standard of buildings.

### 6 Facilitating improvement in competence of industry and building inspectors

(1) The regulator must provide such assistance and encouragement as it considers appropriate to—

(a) persons in the built environment industry, and

(b) registered building inspectors,

with a view to facilitating their improving the competence of persons in that industry or members of that profession (as the case may be).

(2) For the meaning of "the built environment industry" and "registered building inspector" see section 30.

### 7 Proposals and consultation relating to regulations

(1) This section applies to regulations under—

(a) this Part, or

(b) any provision of Part 4 except section 62, 65 or 68.

(2) The regulator may at any time make proposals to the Secretary of State for the making of regulations.

(3) Before making a proposal, the regulator must consult such persons as it considers appropriate.

(4) Before making regulations, other than regulations proposed by the regulator, the Secretary of State must consult—

(a) the regulator, and

(b) such other persons as the Secretary of State considers appropriate.

### 8 Duty to establish system for giving of building safety information

(1) The regulator must make arrangements for a person to establish and operate a voluntary occurrence reporting system.

(2) A "voluntary occurrence reporting system" is a system to facilitate the voluntary giving of information about building safety to the person who operates the system.

*Committees*

### 9 Building Advisory Committee

(1) The regulator must exercise its powers under section 11A(3) of the Health and Safety at Work etc Act 1974 to establish and maintain a committee to be known as the Building Advisory Committee, with the following function.

(2) That function is to give advice and information to the regulator about matters connected with any of the regulator's building functions except its functions relating to the competence of—

(a) persons in the built environment industry, and

(b) registered building inspectors.

(3) The Building Regulations Advisory Committee for England, established under section 14 of the Building Act 1984, is abolished.

### 10 Committee on industry competence

(1) The regulator must exercise its powers under section 11A(3) of the Health and Safety at Work etc Act 1974 to establish and maintain a committee concerned with the competence of persons in the built environment industry ("industry competence"), with the following functions (and any other function that the regulator considers appropriate).

(2) The functions are—

(a) monitoring industry competence;

(b) advising the regulator in relation to industry competence;

(c) advising persons in the built environment industry in relation to industry competence;

(d) facilitating persons in the built environment industry to improve industry competence;

(e) providing guidance to the public (or a section of the public) about ways of assessing the competence of persons in the built environment industry;

(f) carrying out analysis and research in connection with a function mentioned in any of paragraphs (a) to (e).

## 11 Residents' panel

(1) The regulator must exercise its powers under section 11A(3) of the Health and Safety at Work etc Act 1974 to establish and maintain a committee with the functions mentioned in this section (and any other function that the regulator considers appropriate).

(2) The committee is to consist of—

(a) such residents of higher-risk buildings as the regulator considers appropriate, and

(b) such relevant persons (if any) as it considers appropriate.

(3) The regulator must take all reasonable steps to ensure that the committee includes—

(a) one or more residents of a higher-risk building who are disabled,

(b) a body that represents, supports or promotes the interests of any description of disabled people that includes residents of higher-risk buildings, or

(c) a member of a body within paragraph (b).

(4) The committee is to give advice to the regulator about such matters connected with the regulator's building functions and relating to higher-risk buildings as the regulator may specify.

(5) The regulator must consult the committee before issuing or revising any of the following—

(a) guidance to residents of higher-risk buildings about any of their rights or obligations under Part 4 or regulations made under that Part;

(b) guidance relating to any duty under regulations made under section 89 to give information or documents to residents of higher-risk buildings or owners of residential units in such buildings;

(c) guidance relating to any of sections 91 to 93 or 95 or regulations made under any of those sections (engagement with residents etc, and residents' duties).

(6) If the committee has not been established at a time when the regulator has prepared guidance to which subsection (5) applies—

(a) that subsection has effect as if it did not require the committee to be consulted before the guidance is issued, and

(b) the committee must be consulted in relation to the issued guidance as soon as reasonably practicable.

(7) See also—

(a) section 17(3) (duty to consult committee about regulator's strategic plan);

(b) section 94(2) (duty to consult committee about regulator's complaints system).

(8) In this section—

"higher-risk building" has the same meaning as in Part 4 (see section 65);

"relevant person" means—

(a) an owner of a residential unit in a higher-risk building,

(b) a body that represents, supports or promotes—

(i) the interests of any description of residents of higher-risk buildings or owners of residential units in such buildings, or

(ii) the interests of any description of persons that includes a description of such residents or owners, or

(c) a member of a body within paragraph (b).

### 12 Committees: power to amend or repeal

(1) The Secretary of State may by regulations amend or repeal any of sections 9 to 11 (provision about specific committees).

(2) But regulations repealing section 9, 10 or 11 may be made only if the regulator has made a proposal to the Secretary of State for the making of such regulations (as to which see section 7(2)).

(3) Regulations under this section may make consequential amendments of this Act.

*Staffing etc*

### 13 Local authorities and fire and rescue authorities: assistance etc to regulator

(1) A relevant authority may at the request of the regulator do anything for the purpose of—

(a) facilitating the exercise by the regulator of a relevant function, or

(b) enabling the relevant authority to facilitate the exercise by the regulator of a relevant function.

(2) The regulator may, for a purpose mentioned in paragraph (a) or (b) of subsection (1), direct a relevant authority to do anything specified in the direction.

(3) The direction may specify the way in which, and the time by which, the thing is to be done.

(4) A direction—

(a) may be given only if the regulator considers that it is expedient for the authority to do the specified thing, and

(b) must state how, in the regulator's opinion, the doing of the thing will facilitate the exercise of a relevant function or enable the authority to facilitate that exercise.

(5) A direction may be given only with the consent of the Secretary of State.

(6) Before giving a direction, the regulator must—

(a) make a written request under subsection (1) for the authority to do the thing, and

(b) have regard to any written representations made by the authority in the period specified in the request.

(7) A request under subsection (6)(a) must—

(a) state that the regulator may seek consent to give a direction under this section if the request is not complied with,

(b) state how, in the regulator's opinion, the doing of the thing will facilitate the exercise of a relevant function or enable the authority to facilitate that exercise, and

(c) specify a reasonable period for the authority to make any representations as to why it should not do the thing requested.

(8) In this section—

"relevant authority" means a local authority or fire and rescue authority;

"relevant function" means—

(a) a function of the regulator relating to—

(i) the regulation of higher-risk buildings (within the meaning of the Building Act 1984 or Part 4 of this Act), or

(ii) higher-risk building work (as defined by section 91ZA of the Building Act 1984), or

(b) in the case of a local authority, a function of the regulator relating to the regulation of any work for which the regulator is the building control authority by virtue of section 91ZB of the Building Act 1984.

(9) A direction or consent under this section must be in writing.

### 14 FSO authorised persons: assistance etc to regulator

(1) An FSO authorised person may at the request of the regulator do anything for the purpose of—

(a) facilitating the exercise by the regulator of a relevant function, or

(b) enabling FSO authorised persons to facilitate the exercise by the regulator of a relevant function.

(2) In this section—

"FSO authorised person" means a person authorised as mentioned in article 25(1)(e) of the Regulatory Reform (Fire Safety) Order 2005;

"relevant function" means a function of the regulator relating to—

(a) the regulation of higher-risk buildings (within the meaning of the Building Act 1984 or Part 4 of this Act), or

(b) higher-risk building work (as defined by section 91ZA of the Building Act 1984).

### 15 Provision of assistance etc: supplementary

(1) This section supplements sections 13 and 14.

(2) A relevant authority must ensure that any of its staff involved in providing relevant assistance to the regulator have the appropriate skills, knowledge, experience and behaviours.

(3) For this purpose "relevant assistance" means anything done by the authority pursuant to a request or direction, for the purpose of facilitating the exercise by the regulator of a relevant function.

(4) The Secretary of State may by regulations make provision about the reimbursement by the regulator of expenditure incurred by relevant authorities in complying with requests or directions.

(5) The Secretary of State may pay a relevant authority such amount as the Secretary of State considers appropriate in respect of things done by the relevant authority in complying with a request or direction.

(6) The Secretary of State may by regulations make further provision in relation to requests and directions, including in particular provision about—

(a) things done by a relevant authority in connection with a request or direction;

(b) things done by an FSO authorised person in connection with a request.

(7) In this section—

"direction" means a direction given under section 13;

"FSO authorised person" has the meaning given by section 14;

"relevant authority" has the meaning given by section 13;

"relevant function" has the meaning given by section 13;

"request" means a request made under section 13 or 14.

## 16 Guidance about the provision of assistance

(1) The regulator may issue guidance to—

(a) relevant authorities about their functions under section 13;

(b) FSO authorised persons about their functions under section 14.

(2) The regulator may revise or withdraw any issued guidance.

(3) A relevant authority must have regard to any guidance under this section when exercising its functions under section 13.

(4) An FSO authorised person must have regard to any guidance under this section when exercising their functions under section 14.

(5) Guidance under this section may be issued, revised or withdrawn only with the consent of the Secretary of State.

(6) In this section—

"FSO authorised person" has the meaning given by section 14;

"relevant authority" has the meaning given by section 13.

*Plans and reports*

## 17 Strategic plan

(1) The regulator must—

(a) prepare a strategic plan, and

(b) submit it to the Secretary of State for approval.

(2) A "strategic plan" is a plan setting out how the regulator proposes to carry out its building functions in the period to which the plan relates.

(3) Before submitting it, the regulator must consult—

(a) the committee mentioned in section 11 (residents' panel), and

(b) such other persons as the regulator considers appropriate.

(4) The Secretary of State may approve the plan, with or without modifications.

(5) Before approving the plan with modifications, the Secretary of State must consult the regulator.

(6) The regulator must publish the approved plan, and act in accordance with it.

(7) The first plan—

(a) must be submitted as soon as reasonably practicable after this section comes into force, and

(b) must relate to a period ending with the third 31 March to occur after the day on which it is submitted.

(8) If the committee mentioned in section 11 has not been established at the time the first plan is prepared—

(a) subsection (3) has effect as if it did not require the committee to be consulted before the plan is submitted, and

(b) the committee must be consulted in relation to the first approved plan as soon as reasonably practicable.

(9) Any other plan—

(a) must be submitted before the end of the period to which the most recent approved plan relates ("the current period"), and

(b) must relate to the period of three years, or such other period as the Secretary of State and the regulator may agree, beginning immediately after the end of the current period.

## 18 Revised strategic plans

(1) This section supplements section 17.

(2) The regulator may at any time in the period to which a plan relates—

(a) prepare a revised plan relating to the remainder of that period (or to such other period as the Secretary of State and the regulator may agree), and

(b) submit it to the Secretary of State for approval.

(3) The Secretary of State may at any time during the period to which a plan relates require the regulator to submit a revised plan for approval.

(4) Where such a requirement is made, the revised plan—

(a) must be submitted as soon as reasonably practicable, and

(b) must relate to the remainder of the period to which the current plan relates (or to such other period as the Secretary of State and the regulator may agree).

(5) Section 17(3) to (6) apply in relation to a revised plan.

(6) If approved, the revised plan replaces the current plan.

(7) In this section—

"current plan" means the first plan mentioned in subsection (2) or (3) (as the case may be);

"plan" means a strategic plan as defined by section 17.

### 19 Annual report about information provided under mandatory reporting requirements

(1) As soon as reasonably practicable after the end of each financial year, the regulator must prepare and publish a report about the information provided to it during that year pursuant to the mandatory reporting requirements.

(2) For this purpose, information is provided pursuant to the "mandatory reporting requirements" if it is provided under—

(a) section 87 (duty of accountable person to report to regulator), or

(b) any provision of building regulations that is prescribed by the regulations for the purposes of this section.

(3) A report under this section must not contain personal data.

### 20 Statement of regulator's engagement with residents etc

(1) The regulator must, at least once each financial year, publish a statement about its engagement with—

(a) the committee mentioned in section 11 (residents' panel),

(b) residents of higher-risk buildings,

(c) owners of residential units in higher-risk buildings, and

(d) bodies that represent, support or promote—

(i) the interests of any description of residents of higher-risk buildings or owners of residential units in such buildings, or

(ii) the interests of persons including any description of such residents or owners.

(2) A statement under subsection (1) must, in particular, include information about the regulator's engagement with residents of higher-risk buildings who are disabled.

(3) A statement under subsection (1) may be published by including it in the regulator's annual report.

(4) In this section—

"annual report" means the report made under paragraph 10(3) of Schedule 2 to the Health and Safety at Work etc Act 1974;

"higher-risk building" means—

(a) a higher-risk building within the meaning of Part 4, or

(b) a higher-risk building within the meaning of the Building Act 1984.

### 21 Report on certain safety-related matters

(1) Before the end of the period of three years beginning when this section comes into force, the regulator must—

(a) carry out a cost-benefit analysis of making regular inspections of, and testing and reporting on, the condition of electrical installations in relevant buildings;

(b) consider what further provision under the Building Act 1984, or in guidance under that Act, may be made about—

(i) stairs and ramps in relevant buildings,

(ii) emergency egress of disabled persons from relevant buildings, and

(iii) automatic water fire suppression systems in relevant buildings,

with a view to improving the safety of persons in or about relevant buildings, and carry out a cost-benefit analysis of the making of that provision.

(2) Before the end of that period, the regulator must—

(a) prepare one or more reports about the analysis mentioned in subsection (1) (which may also contain recommendations), and

(b) give them to the Secretary of State.

(3) The Secretary of State must publish any report received under subsection (2).

(4) In this section "cost-benefit analysis" means—

(a) an analysis of the costs together with an analysis of the benefits that will arise if the things mentioned in subsection (1)(a) are done or the provision mentioned in subsection (1)(b) is made, and

(b) an estimate of those costs and of those benefits (subject to subsection (5)).

(5) If, in the opinion of the regulator—

(a) the costs or benefits cannot reasonably be estimated, or

(b) it is not reasonably practicable to produce an estimate,

the cost-benefit analysis need not estimate them, but must include a statement of the regulator's opinion and an explanation of it.

(6) In this section—

"electrical installation" means fixed electrical cables or fixed electrical equipment located on the consumer's side of the electricity supply meter;

"relevant building" means a residential building or any other kind of building that the regulator considers appropriate.

*Enforcement*

### 22 Authorised officers

(1) The regulator may authorise a person in relation to specified paragraphs of Schedule 2 (investigatory powers), for the purposes of any specified relevant building function.

(2) A person may be authorised in relation to a paragraph of the Schedule only if they appear to the regulator to be suitably qualified to exercise any power conferred by virtue of that paragraph or do anything else mentioned in that paragraph.

(3) An authorisation—

(a) must be in writing;

(b) may be varied or revoked by an instrument in writing.

(4) When exercising or seeking to exercise a power conferred by virtue of Schedule 2, an authorised officer must if asked produce the authorisation (including any instrument varying it) or a duly authenticated copy.

(5) In this section—

"authorised officer" means a person in respect of whom an authorisation under this section is in force;

"relevant building function" means any function of the regulator under, or under an instrument made under—

(a) Part 4 of this Act (higher-risk buildings), or
(b) the Building Act 1984;

"specified" means specified in the authorisation.

### 23 Authorised officers: offences

(1) A person who intentionally obstructs a person who is an authorised officer exercising a relevant building function commits an offence.

(2) A person who, with intent to deceive, impersonates an authorised officer commits an offence.

(3) In this section—

"authorised officer" means a person in respect of whom an authorisation under section 22 is in force;

"relevant building function" has the meaning given by that section.

(4) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine.

### 24 Provision of false or misleading information to regulator

(1) A person commits an offence if they provide false or misleading information to the regulator—

(a) in purported compliance with a building enactment or a requirement imposed by virtue of such an enactment,
(b) in connection with an application made to the regulator under a building enactment, or
(c) for the purpose of avoiding enforcement action being taken or continued,

and the person knows that, or is reckless as to whether, the information is false or misleading.

(2) In this section—

"building enactment" means any provision of, or of an instrument made under—

(a) Part 2 or 4 of this Act, or
(b) the Building Act 1984;

"enforcement action" means action taken with a view to, or in connection with—

(a) securing compliance with a building enactment or a requirement imposed by virtue of such an enactment, or
(b) the imposition of a sanction in respect of a contravention of any such enactment or requirement.

(3) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);
(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both).

*Reviews and appeals*

### 25 Review by regulator of certain decisions made by it

(1) This section applies in relation to a prescribed decision of the regulator.

(2) A prescribed person may, before the end of a period prescribed for the purposes of this subsection, give a notice to the regulator requiring it to carry out a review of the decision in accordance with this section.

(3) A notice under subsection (2) must—
- (a) contain prescribed information,
- (b) be in the prescribed form, and
- (c) be given in the prescribed way.

(4) The nature and extent of the review are to be such as appear to the regulator to be appropriate in the circumstances.

(5) The review must take account of any representations made, or information given, by the person at a stage which gives the regulator a reasonable opportunity to consider the representations or information (and may take account of any other information).

(6) On the conclusion of the review the regulator must either uphold or vary the decision.

(7) The regulator must notify the person of the outcome of the review and its reasoning before the end of a period prescribed for the purposes of this subsection or such other period as may be agreed in writing ("the relevant period").

(8) Where the regulator is required to undertake a review but does not notify the person by the end of the relevant period—
- (a) the review is treated as having concluded at the end of that period, and the regulator is treated as having upheld the decision, and
- (b) the regulator must, as soon as reasonably practicable after the end of that period, notify the person of that fact.

(9) The decisions that may be prescribed under subsection (1) are any decisions of the regulator under, or under an instrument made under, this Act or the Building Act 1984 except—
- (a) a decision made on an appeal to the regulator, or
- (b) a decision to do any of the following—
  - (i) give a compliance notice under section 99 of this Act;
  - (ii) give a notice under section 35B, 35C or 36 of the Building Act 1984 (notices in respect of contraventions of building regulations etc);
  - (iii) make a disciplinary order under section 58I or 58U, or an order under section 58J or 58V, of that Act (misconduct of registered building inspector or building control approver);
  - (iv) give a notice under section 58Z4 or 58Z5, or act under section 58Z6 or 58Z7, of that Act (contravention of operational standards rules).

### 26 Right of appeal: requirement for review before appeal

(1) This section applies to a right of appeal against a decision of a kind prescribed under subsection (1) of section 25.

(2) The right of appeal may be exercised only if the decision has been reviewed under that section.

(3) If on the conclusion of the review the decision is varied, the right of appeal is in respect of the decision as varied (and not the original decision).

(4) For the purpose of any time limit as regards the exercise of the right of appeal—

(a) the decision is treated as made on the day on which the review concludes, and

(b) a person is treated as notified of the decision on the day on which they are notified of the outcome of the review.

*Supplementary and general*

### 27 Cooperation and information sharing

(1) Schedule 3—

(a) imposes duties of cooperation on the regulator and other persons, and

(b) confers powers to share information on the regulator and other persons.

(2) Except as provided by subsection (3), the disclosure of information under Schedule 3 does not breach—

(a) any obligation of confidence owed by the person making the disclosure, or

(b) any other restriction on the disclosure of information (however imposed).

(3) Schedule 3 does not authorise a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the powers conferred by the Schedule).

### 28 Fees and charges

(1) The Secretary of State may by regulations make provision authorising the regulator—

(a) to charge fees, and

(b) to recover charges,

for or in connection with the performance of a relevant function.

(2) The regulations may—

(a) prescribe a fee or charge, or

(b) provide for the amount of a fee or charge to be determined by the regulator in accordance with the regulations.

(3) The regulations may in particular—

(a) provide that the amount of any charge is to be determined by the regulator in accordance with a scheme made and published by it, and

(b) make provision about such schemes, including the principles to be embodied in such schemes.

(4) The regulations may make provision about the effect of failing to pay a fee or charge in accordance with the regulations.

(5) In this section "relevant function" means —

(a) any function of the regulator under, or under regulations made under, this Part or Part 4, or

(b) any function of the regulator under the Health and Safety at Work etc Act 1974 that is a building function.

(6) The regulator may—

(a) with the consent of the Secretary of State, provide services to a person in connection with any matter relating to buildings;

(b) charge fees for such services at a rate agreed with the person.

(7) Nothing in subsection (6) limits any other power of the regulator to charge for a service provided by it.

### 29 Service of documents

(1) This section applies to a document required or authorised under this Part or Part 4, or regulations under either Part, to be given to a person; but this is subject to subsection (11).

(2) The document may be given by—

(a) delivering it by hand to the person,

(b) leaving it at the person's proper address,

(c) sending it by post to the person at their proper address, or

(d) sending it by email to an electronic address at which the person has agreed to receive documents or has agreed to receive the document.

(3) The document may—

(a) in the case of a body corporate, be given in accordance with subsection (2) to an officer of the body;

(b) in the case of a partnership, be given in accordance with subsection (2) to a partner.

(4) For the purposes of this section, the "proper address" of a person (except an authorised officer of the regulator) is—

(a) in the case of a document to be given by or on behalf of the regulator to a person who has provided an address for service to the regulator, that address;

(b) subject to that—

(i) in the case of a body corporate (including a document given to an officer of the body), the address of its registered or principal office;

(ii) in the case of a partnership (including a document given to a partner), the address of its principal office;

(iii) in the case of any other person, their last known address.

(5) For the purposes of this section, the "proper address" of an authorised officer of the regulator is—

(a) the address specified by the officer, or

(b) if no address is specified, the address of the regulator's principal office.

(6) If—

(a) the document is to be given to the person as the owner of any premises, a resident of any premises, or the accountable person of a higher-risk building, and

(b) the person's name and proper address is not known, despite reasonable steps having been taken to ascertain it,

the document may be given by addressing it to the owner or resident of the premises (naming the premises) or the accountable person of the building (naming the building) and fixing it to a conspicuous part of the premises or building.

(7) A document left as mentioned in subsection (2)(b) is treated as given when it was left.

(8) A document sent as mentioned in subsection (2)(c) is treated as given 48 hours after it was sent, unless the contrary is proved.

(9) A document sent as mentioned in subsection (2)(d) is treated as given 24 hours after it was sent, unless the contrary is proved.

(10) A document fixed as mentioned in subsection (6) is treated as given 48 hours after it was fixed.

(11) This section does not apply to the giving of a document for which other provision is made by or under this Part or Part 4.

(12) In this section—

"accountable person" has the same meaning as in Part 4 (see section 72);

"agreed" means agreed in writing;

"authorised officer" means a person in respect of whom an authorisation under section 22 is in force;

"giving": references to giving include similar expressions (such as serving);

"specified" means specified in writing.

## 30 Interpretation of Part 2

(1) In this Part—

"building" (except in section 28(6)) means any permanent or temporary building in England except a building of a prescribed description;

"building function" has the meaning given by section 3;

"the built environment industry" means—

(a) persons carrying on, for business purposes, activities connected with the design, construction, management or maintenance of buildings, and

(b) employees of such persons;

and references to a person "in" the industry are to any such person or employee;

"contravention" includes a failure to comply;

"the data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

"disabled": a person is disabled if the person has a physical or mental impairment which has a substantial and long-term adverse effect on the person's ability to carry out normal day-to-day activities;

"financial year" means a year ending with 31 March;

"fire and rescue authority" means a fire and rescue authority, within the meaning of Part 1 of the Fire and Rescue Services Act 2004, for an area in England;

"local authority" means—

(a) a district council or relevant unitary authority,

(b) a London borough council,
(c) the Common Council of the City of London,
(d) the Sub-Treasurer of the Inner Temple,
(e) the Under Treasurer of the Middle Temple, or
(f) the Council of the Isles of Scilly;

"maximum summary term for either-way offences", with reference to imprisonment for an offence, means—
(a) if the offence is committed before the time when paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force, 6 months;
(b) if the offence is committed after that time, 12 months;

"owner" has the meaning given by section 115;

"personal data" has the same meaning as in the Data Protection Act 2018;

"prescribed" means prescribed by regulations made by the Secretary of State;

"registered building inspector" has the meaning given by section 58A of the Building Act 1984;

"the regulator" has the meaning given by section 2;

"resident" and "resident of a higher-risk building" have the same meaning as in Part 4 (see section 71(3) and (4)(c));

"residential unit" means—
(a) a dwelling, or
(b) any other unit of living accommodation;

"standard": any reference to the standard of a building is to its standard from a technical perspective.

(2) In subsection (1), in the definition of "local authority", "relevant unitary authority" means a council for a county in England so far as it is the council for an area for which there are no district councils.

(3) The Secretary of State may by regulations provide that in any prescribed provision of this Part a reference to a building includes any of the following—
(a) any other structure or erection of any kind (whether temporary or permanent);
(b) any vehicle, vessel or other movable object of any kind, in such circumstances as may be prescribed.

## PART 3

BUILDING ACT 1984

*Building control authorities and building regulations*

### 31 Higher-risk buildings etc

In the Building Act 1984 after section 120C (inserted by Schedule 5) insert—

*"Higher-risk buildings etc*

**120D Meaning of "higher-risk building": England**

(1) This section applies for the purposes of this Act as it applies in relation to England.

(2) "Higher-risk building" means a building in England that—

(a) is at least 18 metres in height or has at least 7 storeys, and

(b) is of a description specified in regulations made by the Secretary of State.

(3) The Secretary of State may by regulations make provision supplementing this section.

(4) The regulations may in particular—

(a) define "building" or "storey" for the purposes of this section;

(b) make provision about how the height of a building is to be determined for those purposes;

(c) provide that "higher-risk building" does not include a building of a specified description.

(5) Regulations made by virtue of subsection (4)(a) may in particular define "building" so as to provide that it includes—

(a) any other structure or erection of any kind (whether temporary or permanent);

(b) any vehicle, vessel or other movable object of any kind, in such circumstances as may be specified.

(6) The Secretary of State may by regulations amend this section (other than subsection (1) or (3) or this subsection).

(7) For the meaning of "higher-risk building work" see section 91ZA.

**120E Regulations under section 120D: procedure**

(1) Before making regulations under section 120D, the Secretary of State must consult—

(a) the regulator, and

(b) such other persons as the Secretary of State considers appropriate.

(2) But the regulator need not be consulted if—

(a) the regulations give effect to a recommendation made by the regulator under section 120G, or

(b) the Secretary of State has under section 120H asked the regulator for advice about the description of building in question.

### 120F Regulations under section 120D: additional procedure in certain cases

(1) This section applies if the Secretary of State proposes to make regulations under section 120D that would result in a description of building (including anything within subsection (5) of that section) becoming a higher-risk building for the purposes of this Act as it applies in relation to England.

(2) The Secretary of State must ask the regulator under section 120H(1) for advice about the description of building, except where the regulations would give effect to a recommendation under section 120G(2).

(3) The Secretary of State must carry out a cost-benefit analysis and publish it.

(4) In this section "cost-benefit analysis" means—

(a) an analysis of the costs together with an analysis of the benefits that will arise if the regulations are made, and

(b) an estimate of those costs and of those benefits (subject to subsection (5)).

(5) If, in the opinion of the Secretary of State—

(a) the costs or benefits cannot reasonably be estimated, or

(b) it is not reasonably practicable to produce an estimate,

the cost-benefit analysis need not estimate them, but must include a statement of the Secretary of State's opinion and an explanation for it.

### 120G Recommendations about regulations under section 120D

(1) Subsection (2) applies if, in respect of any description of building that is not a higher-risk building, the regulator considers—

(a) that a building safety risk is greater for that description of buildings than it is for buildings that are not of that description,

(b) that if the risk materialised as regards a building of that description it would have the potential to cause a major incident, and

(c) that buildings of that description should be higher-risk buildings for the purposes of this Act as it applies in relation to England.

(2) The regulator must—

(a) recommend to the Secretary of State that buildings of that description should be higher-risk buildings for the purposes of this Act, and

(b) give the Secretary of State a statement of its assessment of the issues it considered when deciding to make the recommendation.

(3) If, following a recommendation, the Secretary of State decides not to make regulations under section 120D giving effect to the recommendation, the Secretary of State must publish a document setting out—

(a) the regulator's recommendation,

(b) the Secretary of State's decision not to make the regulations, and

(c) the reasons for that decision.

(4) If the regulator considers that a particular description of higher-risk building should cease to be a higher-risk building for the purposes of this Act as it

applies in relation to England, it must make a recommendation to the Secretary of State to that effect.

(5) In this section—

"building safety risk" means a risk to the safety of people in or about a building arising from any of the following occurring as regards the building—

(a) the spread of fire;

(b) structural failure;

(c) any other matter prescribed by regulations under section 62 of the Building Safety Act 2022 in relation to all buildings, or in relation to a description of building that includes the building;

"major incident" means an incident resulting in—

(a) a significant number of deaths, or

(b) serious injury to a significant number of people.

### 120H Advice about regulations under section 120D

(1) Subsections (2) to (5) apply if the Secretary of State asks the regulator for advice as to whether a specified description of building should be a higher-risk building for the purposes of this Act as it applies in relation to England.

(2) The regulator must consider whether the following conditions are met—

(a) the first condition is that a building safety risk is greater for that description of buildings than it is for buildings that are not of that description;

(b) the second condition is that, if the risk materialised as regards a building of that description, it would have the potential to cause a major incident;

(c) the third condition is that buildings of that description should be higher-risk buildings for the purposes of this Act as it applies in relation to England.

(3) The regulator must—

(a) if the conditions mentioned in subsection (2) are met, recommend to the Secretary of State that buildings of that description should be higher-risk buildings for the purposes of this Act as it applies in relation to England;

(b) otherwise, recommend to the Secretary of State that buildings of that description should not be higher-risk buildings for those purposes.

(4) The regulator must give the Secretary of State a statement of its assessment of the issues it considered in relation to the recommendation under subsection (3).

(5) If, following a recommendation under subsection (3)(a), the Secretary of State decides not to make regulations under section 120D giving effect to the recommendation, the Secretary of State must publish a document setting out—

(a) the regulator's recommendation,

(b) the Secretary of State's decision not to make the regulations, and

(c) the reasons for that decision.

(6) If requested, the regulator must provide advice to the Secretary of State as to whether a specified description of building should cease to be a higher-risk building for the purposes of this Act as it applies in relation to England.

(7) In this section—

"building safety risk" has the meaning given by section 120G;

"major incident" has the meaning given by that section;

"specified" means specified in the request.

**120I Higher-risk buildings and higher-risk building work: Wales**

(1) This section applies for the purposes of this Act as it applies in relation to Wales.

(2) "Higher-risk building" means a building of a description specified in regulations made by the Welsh Ministers.

(3) "Higher-risk building work" means any work relating to a higher-risk building or a proposed higher-risk building, including—

(a) any work relating to a building that is not a higher-risk building that causes it to become such a building, and

(b) any work relating to a higher-risk building that causes it to cease to be such a building.

(4) The Welsh Ministers may by regulations define "building" for the purposes of this section.

(5) The regulations may in particular provide that "building" includes—

(a) any other structure or erection of any kind (whether temporary or permanent);

(b) any vehicle, vessel or other movable object of any kind, in such circumstances as may be specified."

**32 Building control authorities**

(1) The Building Act 1984 is amended as follows.

(2) In section 91—

(a) in subsection (1) before paragraph (a) insert—

"(za) subsection (3) of this section and regulations under section 91ZD,";

(b) in subsection (2) for the words from "sections" to the end substitute "—

(a) subsection (3) of this section,

(b) sections 5(3), 48(1) and 53(2), and

(c) regulations under section 91ZD.";

(c) after that subsection insert—

"(3) In cases where section 91ZA or 91ZB provides that the regulator is the building control authority, it is the duty of the regulator (and not the local authority in question)—

(a) to carry Part 1 of this Act into execution, and

(b) to enforce building regulations.";

(d) in the heading at the end insert "and the regulator".

(3) After that section insert—

"**91ZA The regulator: building control authority for higher-risk buildings in England**

(1) The regulator is the building control authority in relation to any higher-risk building in England or any proposed such building.

(2) This includes the regulator being the building control authority as regards—

(a) any work relating to a building in England that is not a higher-risk building that causes it to become such a building, and

(b) any work relating to a higher-risk building in England that causes it to cease to be such a building.

(3) In this Act "higher-risk building work", in relation to England, means any work for which the regulator is the building control authority by virtue of this section.

(4) For the meaning of "higher-risk building" see section 120D.

**91ZB The regulator: building control authority for other work**

(1) This section applies in relation to work of a prescribed description ("the work") that is to be carried out in England and has a prescribed connection with any higher-risk building work.

(2) Where—

(a) the regulator and the person intending to carry out the work, acting jointly, give a notice under this section (a "regulator's notice") to the local authority for the area in which the work is to be carried out, and

(b) the regulator's notice is accepted (or treated as accepted) by the local authority,

the regulator is the building control authority in relation to the work.

(3) A regulator's notice may not be given if any of the following has been given to the local authority in relation to the work (or any part of it)—

(a) an application for building control approval;

(b) an initial notice (within the meaning of section 47);

(c) a public body's notice (within the meaning of section 54).

**91ZC Section 91ZB: supplementary**

(1) This section supplements section 91ZB.

(2) A local authority to whom a regulator's notice is given must reject the notice if any prescribed ground exists, and must otherwise accept the notice.

(3) A notice of rejection must be given within the prescribed period, and must specify the ground or grounds in question.

(4) The person intending to carry out the work may appeal to the tribunal against a decision of the local authority to reject the regulator's notice.

(5) Where a local authority to whom a regulator's notice is given does not—

(a) give a notice of rejection in accordance with subsection (3), or

(b) give a notice of acceptance within the period mentioned in that subsection,

the authority is treated as having accepted the regulator's notice at the end of that period.

(6) As regards any notice under section 91ZB or this section, building regulations may make provision about—

(a) the form and content of the notice;

(b) the information and documents that must accompany it;

(c) the way in which the notice, and anything that is to accompany it, is to be given.

**91ZD Higher-risk buildings in Wales: local authority work**

(1) Building regulations may make provision about cases where a local authority for an area in Wales ("the relevant local authority") proposes to carry out higher-risk building work in that area.

(2) The regulations may in particular—

(a) restrict (or prevent) the exercise by the relevant local authority of prescribed functions in relation to the higher-risk building work;

(b) require the relevant local authority to notify the Welsh Ministers of prescribed matters;

(c) confer on the Welsh Ministers a power to designate another local authority as the building control authority in relation to the higher-risk building work (instead of the relevant local authority);

(d) confer on the Welsh Ministers a power to require the relevant local authority to provide specified information, for the purposes of deciding whether to exercise the power of designation.

(3) The regulations may also provide, in cases where a local authority is designated as the building control authority in relation to the higher-risk building work, that the relevant local authority and the designated local authority may agree that the designated local authority is to be the building control authority in relation to any work of a prescribed description that has a prescribed connection with the higher-risk building work.

(4) Where, as a result of regulations made by virtue of subsection (2)(c) or (3), a designated local authority is the building control authority in relation to any work, as regards that work—

(a) prescribed functions are functions of the designated local authority (rather than the relevant local authority);

(b) the designated local authority (rather than the relevant local authority) must perform such functions relating to enforcement as may be prescribed."

(4) After section 121 insert—

"**121A Meaning of "building control authority"**

(1) In this Act "building control authority" means—

(a) the regulator, in cases where section 91ZA or 91ZB provides that the regulator is the building control authority;

(b) the local authority mentioned in subsection (2), in any other case.

(2) That local authority is—

(a) if, by virtue of regulations made under section 91ZD (higher-risk buildings in Wales: local authority work), a designated local authority is the building control authority, that local authority;

(b) otherwise, the local authority for the area in which the building is situated or the proposed building is to be situated."

## 33 Building regulations

In Schedule 1 to the Building Act 1984 (building regulations) after paragraph 1 insert—

*"Procedural requirements etc: general*

1A (1) Building regulations may make provision about the procedure that may or must be followed in relation to any work.

(2) The regulations may in particular make provision for and in connection with—

(a) the giving of notices;

(b) the making of applications to building control authorities;

(c) the giving or receipt of certificates;

(d) requiring a prescribed person, in prescribed circumstances, to consult such other person as may be prescribed.

(3) The regulations may—

(a) confer on a building control authority a power to require a person to notify the authority of specified matters by the specified time;

(b) provide that in prescribed circumstances an application is treated as granted or is treated as refused;

(c) make provision about the effect of the grant of an application;

(d) make provision about the effect of certificates;

(e) require a person consulted to give a substantive response to the consultation before the end of a prescribed period.

(4) In sub-paragraph (3)(a) "specified" means specified by the building control authority.

*Applications for building control approval*

1B (1) Building regulations may in particular make provision for and in connection with applications for building control approval (including approval of changes to anything that has already been approved).

(2) "Building control approval"—

(a) in relation to any work, means the approval by the building control authority of—

(i) plans of the work, and

(ii) such other documents, relating to compliance with any provision of building regulations, as may be prescribed (or, in a case within sub-paragraph (5), as are provided to the authority);

(b) in relation to a change to a relevant document, means the approval by the authority of the change.

(3) Building regulations may—

(a) confer on building control authorities a power, with the consent of the applicant—

(i) to impose requirements (including in particular requirements of a kind mentioned in sub-paragraph (4)) when granting an application;

(ii) to vary requirements;

(b) make provision about the cases in which an application for approval of a change must be made (including provision conferring on building control authorities a power to specify the circumstances in which such an application must be made).

(4) The requirements referred to in sub-paragraph (3)(a) are—

(a) a requirement relating to the provision of a revised version of a specified relevant document;

(b) a requirement that the work does not proceed beyond a specified stage unless a specified relevant document has been given to, and approved by, the building control authority.

(5) Building regulations may provide that in prescribed cases—

(a) an application may be made to the authority for approval of the plans and such other relevant documents as the applicant considers appropriate, and

(b) the authority may refuse the application if the applicant does not, on request, provide it with a specified relevant document.

(6) In this paragraph—

(a) "relevant document" means—

(i) the plans mentioned in sub-paragraph (2)(a)(i), or

(ii) a document prescribed for the purposes of sub-paragraph (2)(a)(ii);

(b) "specified" means specified by the building control authority;

(c) a reference to a change to a document includes the replacement of it.

*Certificates: approved schemes*

1C (1) Building regulations may in particular make provision for and in connection with certificates that are given—

(a) by a member of a scheme that is approved,
(b) in accordance with the scheme, and
(c) in accordance with any prescribed requirement relating to the provision of insurance cover in respect of work to which the certificate relates.

(2) Building regulations may make provision for and in connection with—
(a) the approval of schemes by the appropriate national authority or a person designated by that authority;
(b) the suspension or withdrawal of approvals (including provision about appeals to the appropriate court or tribunal against the suspension or withdrawal of approvals).

(3) The regulations may in particular provide that a scheme may be approved (and may remain approved) only if prescribed requirements relating to the provision of insurance cover are complied with.

(4) The regulations may provide—
(a) that an approval has effect for a particular period (including a period specified in the approval), or
(b) that an approval has effect until it is suspended or withdrawn.

(5) The requirements relating to insurance cover that may be prescribed include in particular a requirement that insurance cover is provided through a scheme of insurance approved by the appropriate national authority or a person designated by that authority.

*Obtaining, keeping and giving information and documents*

1D (1) Building regulations may, in relation to any work, make provision about—
(a) obtaining information or documents;
(b) creating documents;
(c) keeping information or documents;
(d) giving information or documents.

(2) The regulations may in particular—
(a) provide that information or documents must be given or kept in accordance with prescribed standards;
(b) impose requirements as regards keeping information or documents up to date;
(c) confer on building control authorities or other prescribed persons a power, in prescribed circumstances, to require a person to give information to them.

(3) Where building regulations provide that any information or document must be given, they may make provision about the admissibility in any criminal proceedings of the information or document.

*Reporting requirements: duty to establish and operate system*

1E (1) This paragraph applies where building regulations made by virtue of paragraph 1D require a person to give information—

(a) in relation to work in England, to the regulator;
(b) in relation to work in Wales, to the building control authority.

(2) For the purpose of facilitating and securing compliance with any such requirement, the regulations may—
(a) require a prescribed person to establish and operate a system for the giving of prescribed information to such person as may be prescribed, and
(b) make provision about such systems.

*Form and content of documents etc*

1F (1) Where building regulations provide that any document must or may be given, they may make provision about—
(a) the form and content of the document;
(b) the information and other documents that must accompany it;
(c) the way in which the document, and anything that is to accompany it, is to be given.

(2) Where building regulations provide that any information must or may be given, they may make provision about the way in which it is to be given.

(3) Building regulations may provide that any of the matters mentioned in paragraphs (a) to (c) of sub-paragraph (1), or in sub-paragraph (2), are to be specified in a direction made and published in accordance with the regulations.

(4) Building regulations may provide that—
(a) a prescribed application must be accompanied by such prescribed documents as the applicant considers appropriate, and
(b) the building control authority may refuse the application if the applicant does not, on request, provide it with a document of a kind prescribed for the purposes of paragraph (a) in relation to the application.

*Inspection, testing etc*

1G (1) Building regulations may make provision for and in connection with—
(a) the inspection and testing of work;
(b) the inspection and testing of buildings;
(c) the inspection and testing of services, fittings and equipment provided in connection with buildings;
(d) the taking of samples.

(2) The regulations may in particular—
(a) prohibit the covering up of any work, for a prescribed period after a prescribed or specified event;
(b) provide for the cutting into or laying open of any work or building, or the pulling down of any work.

(3) In sub-paragraph (2)(a) "specified" means specified by the building control authority.

*Applications to building control authorities: extension of period by agreement*

1H Building regulations may provide that any prescribed period for the doing of a thing by a building control authority in connection with an application made to it may be extended by agreement between the authority and the applicant.

*Appeals*

1I (1) Building regulations may make provision for and in connection with appeals against decisions made under, or under an instrument made under, Part 1, 2 or 2A of this Act.

(2) The regulations may confer, in respect of a prescribed decision—

(a) in relation to England—

(i) a right to appeal to the regulator or the tribunal, and

(ii) in the case of an appeal to the regulator, a right of appeal to the tribunal against the decision of the regulator made on appeal;

(b) in relation to Wales—

(i) a right to appeal to the Welsh Ministers or a magistrates' court, and

(ii) in the case of an appeal to the Welsh Ministers, a right of appeal to a magistrates' court or a right of appeal to the High Court, against the decision of the Welsh Ministers made on appeal.

(3) The provision that may be made in connection with appeals includes provision about a right of appeal conferred by Part 1, 2 or 2A.

(4) The regulations may in particular make provision about—

(a) the grounds upon which an appeal may be made;

(b) the period within which an appeal must be made;

(c) the way in which any appeal is to be made;

(d) the powers of the court, tribunal or other person determining the appeal (including provision conferring a power to give directions and, in the case of the regulator or Welsh Ministers, powers in respect of costs).

(5) In respect of appeals to the regulator or the Welsh Ministers, the regulations may make provision about procedural matters (including provision conferring a discretion as to the procedure to be adopted).

(6) In respect of appeals to the Welsh Ministers, the regulations may in particular make provision for and in connection with the Welsh Ministers appointing a person to determine the appeal (including provision conferring functions on that person and providing that their decision is treated as the decision of the Welsh Ministers)."

**34 Dutyholders and general duties**

In Schedule 1 to the Building Act 1984 (building regulations) after paragraph 5 insert—

*"Appointed persons*

5A (1) Building regulations may require prescribed appointments to be made in relation to any work.

(2) Building regulations may make provision about appointments, including provision about—

(a) the persons who are to make appointments;
(b) the persons who may be appointed;
(c) the time by which appointments must be made;
(d) the period for which persons are to be appointed;
(e) the termination of appointments;
(f) the replacement of appointed persons.

(3) The regulations may provide that in prescribed circumstances an appointment is treated as made.

(4) In this Schedule "appointed person", in relation to any work, means a person appointed in relation to that work under building regulations made by virtue of this paragraph.

*General duties*

5B (1) Building regulations may, for the purpose of facilitating compliance with any requirement of building regulations in relation to any work to which building regulations are applicable—

(a) impose duties on relevant persons in connection with the planning or management of the work;
(b) require relevant persons to co-operate with other relevant persons.

(2) The following are "relevant persons" for this purpose—

(a) any appointed person;
(b) any prescribed person."

**35 Industry competence**

In Schedule 1 to the Building Act 1984 (building regulations) after paragraph 5B (inserted by section 34) insert—

*"Competence requirements*

5C (1) Building regulations may, in relation to any work, impose competence requirements on—

(a) any appointed person, or
(b) any prescribed person.

(2) A "competence requirement" is a requirement relating to—

(a) the skills, knowledge, experience and behaviours of an individual;

(b) the capability of a person other than an individual to perform its functions under building regulations.

(3) The regulations may require an appointed person who is not an individual to give an individual acting under its control who has the appropriate skills, knowledge, experience and behaviours the task of managing its functions as an appointed person."

## 36 Lapse of building control approval etc

(1) The Building Act 1984 is amended as follows.

(2) For section 32 substitute—

"**32 Lapse of building control approval**

(1) This section applies where—

(a) an application for building control approval in respect of any work is made on any day ("the relevant day"), and

(b) the application is granted.

(2) Where—

(a) the work relates to one building, and

(b) the work is not commenced within 3 years from the end of the relevant day,

the relevant provisions have effect as if the application had not been made (and the approval had not been given).

(3) Where—

(a) the work relates to more than one building, and

(b) the work relating to one or more of the buildings ("the relevant work") is not commenced within 3 years from the end of the relevant day,

the relevant provisions have effect in relation to those buildings and the relevant work as if the application had not been made (and the approval had not been given).

(4) In subsection (1) the reference to an application for building control approval is to an application for approval of a kind mentioned in paragraph 1B(2)(a) of Schedule 1.

(5) In this section "the relevant provisions" means this Act and regulations made under it except the following provisions and any regulations made under them—

(a) sections 56, 56A, 56B and 91A (records and registers etc);

(b) section 105B (fees and charges).

(6) Building regulations may make provision about when work, or work relating to a building, is to be regarded as commenced for the purposes of this section."

(3) In section 47(4)(b) (time when initial notice ceases to be in force) for "below", in the first place it occurs, substitute "(final certificates) and section 53A (lapse of initial notice)".

(4) In section 50 (plans certificates) omit subsection (8).

(5) In section 52 (cancellation of initial notice) omit subsection (5).

(6) In section 53(2) (effect of initial notice ceasing to be in force: general)—

(a) at the end of paragraph (a) insert "and";

(b) omit paragraph (c) and the "and" immediately before it.

(7) After section 53 insert—

"**53A Lapse of initial notice**

(1) This section applies where—

(a) on any day ("the relevant day") an initial notice is given in respect of any work, and

(b) the initial notice is accepted.

(2) Where the work relates to one building and is not commenced within 3 years from the end of the relevant day—

(a) the initial notice ceases to be in force, and

(b) if a plans certificate relating to the work (or any part of it) has been accepted, the relevant provisions have effect as if the certificate had not been given (or accepted).

(3) Where the work relates to more than one building, and the work in relation to one or more of the buildings ("the relevant work") is not commenced within 3 years from the end of the relevant day—

(a) the initial notice ceases to be in force so far as it relates to the relevant work, and

(b) if a plans certificate relating to the relevant work (or any part of it) has been accepted, the relevant provisions have effect as if, as regards the relevant work, the certificate had not been given (or accepted).

(4) For the purposes of subsection (3)(b) it does not matter whether the plans certificate also relates to work other than the relevant work.

(5) In this section "the relevant provisions" has the meaning given by section 32.

(6) Building regulations may make provision about when work, or work relating to a building, is to be regarded as commenced for the purposes of this section."

(8) In section 54(4)—

(a) omit the "and" at the end of paragraph (a);

(b) after paragraph (b) insert ", and

(c) with the substitution, in subsection (2)(d), of a reference to paragraph 4A of Schedule 4 for the reference to section 53A."

(9) Schedule 4 is amended as follows.

(10) In paragraph 1(1) for "below" substitute "(final certificates) and paragraph 4A (lapse of public body's notice)".

(11) In paragraph 2 omit sub-paragraph (6).

(12) In paragraph 4(2) omit paragraph (c) and the "and" before it.

(13) After paragraph 4 insert—

*"Lapse of public body's notice*

4A (1) This paragraph applies where—

(a) on any day ("the relevant day") a public body's notice is given in respect of any work, and

(b) the public body's notice is accepted.

(2) Where the work relates to one building and is not commenced within 3 years from the end of the relevant day—

(a) the public body's notice ceases to be in force, and

(b) if a public body's plans certificate relating to the work (or any part of it) has been accepted, the relevant provisions have effect as if the certificate had not been given (or accepted).

(3) Where the work relates to more than one building, and the work in relation to one or more of the buildings ("the relevant work") is not commenced within 3 years from the end of the relevant day—

(a) the public body's notice ceases to be in force so far as it relates to the relevant work, and

(b) if a public body's plans certificate relating to the relevant work (or any part of it) has been accepted, the relevant provisions have effect as if, as regards the relevant work, the certificate had not been given (or accepted).

(4) For the purposes of sub-paragraph (3)(b) it does not matter whether the public body's plans certificate also relates to work other than the relevant work.

(5) In this paragraph "the relevant provisions" has the meaning given by section 32.

(6) Building regulations may make provision about when work (or work relating to a building) is to be regarded as commenced for the purposes of this paragraph."

## 37 Determination of certain applications by Secretary of State or Welsh Ministers

After section 30 of the Building Act 1984 insert—

*"Determination by appropriate national authority*

### 30A Determination of certain applications by appropriate national authority

(1) This section applies where the building control authority fails to determine a prescribed application relating to higher-risk building work ("the original application") within the relevant period.

(2) The applicant may apply to the appropriate national authority for the original application to be determined by that authority.

(3) An application under this section may be made only—

(a) before the end of the prescribed period, and

(b) if the building control authority has not determined the original application.

(4) The building control authority may not determine the original application at any time after the making of an application under this section.

(5) Building regulations may make provision about applications under this section, including in particular provision—

(a) about the making of such applications;

(b) requiring an applicant to notify the building control authority of the making of an application;

(c) imposing duties on the building control authority in cases where an application is made;

(d) for and in connection with the appropriate national authority appointing a person to determine the original application (including provision conferring functions on that person and providing that their decision is treated as the decision of the appropriate national authority);

(e) about the procedure to be adopted in connection with the determination of the original application.

(6) The provision that may be made by virtue of subsection (5)(a) includes provision about—

(a) the form and content of applications;

(b) the information and documents that are to accompany an application;

(c) the way in which an application, and anything that is to accompany it, is to be given.

(7) For the purposes of determining the original application by virtue of this section, this Act and building regulations apply in relation to the appropriate national authority (and any person appointed by virtue of subsection (5)(d)) as they apply in relation to the building control authority.

(8) The applicant may appeal to—

(a) the tribunal, against a decision of the Secretary of State made under this section;

(b) a magistrates' court, against a decision of the Welsh Ministers made under this section.

(9) In this section "the relevant period" means—

(a) the period provided by building regulations as the period within which the building control authority is to make the decision, or

(b) if the regulations provide that that period may be extended by agreement between the applicant and the building control authority and such an agreement is made, the agreed period."

## 38 Compliance and stop notices

(1) In the Building Act 1984 before section 36 insert—

*"Notices in respect of contraventions*

### 35B Compliance notices

(1) The building control authority may give a compliance notice to a person who appears to the authority to have contravened, be contravening or be likely to contravene—

(a) a relevant provision of building regulations, or

(b) a requirement imposed by virtue of such a provision.

(2) A "compliance notice" is—

(a) a notice requiring the recipient to take specified steps within a specified period, or

(b) a notice requiring the recipient to remedy the contravention or the matters giving rise to it within a specified period.

(3) A notice of a kind mentioned in subsection (2)(a) may specify any steps relating to—

(a) the remedying of the contravention, or

(b) avoiding the contravention occurring.

(4) A person who, without reasonable excuse, contravenes a compliance notice commits an offence.

(5) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction.

(6) A compliance notice may not be given in respect of a contravention which occurred more than 12 months before the day on which the notice is given.

(7) In this section—

(a) "relevant provision" means any provision of building regulations except one that is prescribed for the purposes of this paragraph;

(b) "specified" means specified in the notice.

### 35C Stop notices

(1) The building control authority may give a stop notice to a person appearing to the authority to be in control of any work if it appears to the authority that—

(a) the carrying out of the work would contravene a provision of building regulations prescribed for the purposes of this paragraph,

(b) a compliance notice relating to the work has been contravened, or

(c) the work contravenes a provision of building regulations or a requirement imposed by virtue of such a provision, and the risk of serious harm condition is met.

(2) For the purposes of subsection (1)(c) the "risk of serious harm condition" is that use of the building in question without the contravention having been remedied would be likely to present a risk of serious harm to people in or about the building.

(3) A "stop notice" is a notice prohibiting, either immediately or from a specified time, the carrying out of specified work until the occurrence of such of the following as may be specified—

(a) the taking of specified steps;

(b) the occurrence of specified circumstances;

(c) the remedying of a specified contravention or the matters giving rise to it.

(4) Where a stop notice is contravened, the person to whom the notice was given commits an offence.

(5) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction.

(6) It is a defence for a person charged with an offence under this section to prove that the person took all reasonable precautions and exercised all due diligence to avoid the contravention of the stop notice.

(7) In this section "specified" means specified in the notice.

### 35D Compliance and stop notices: supplementary

(1) Building regulations may make provision about compliance notices or stop notices.

(2) The regulations may in particular make provision about—

(a) the form and content of notices;

(b) the giving of notices;

(c) the amendment or withdrawal of notices;

(d) the extension of any period specified in a compliance notice for the doing of a thing.

(3) The regulations may require a building control authority which gives a notice to a person to take reasonable steps to notify other prescribed persons.

(4) A compliance notice, or a stop notice under section 35C(1)(a), may not be given in respect of a contravention (including a future contravention) where—

(a) an application for building control approval was made to a building control authority in respect of any work that is not higher-risk building work,

(b) the application was granted, and

(c) the contravention consists (or would consist) of the carrying out of work or the doing of anything else in accordance with—

(i) the plans, or any other document, approved by the grant of building control approval, and

(ii) any requirement imposed by the building control authority in connection with the work or other thing."

(2) After section 39 of that Act insert—

"**39A Appeals against compliance notices and stop notices etc**

(1) A person to whom a compliance notice has been given may appeal to the appropriate court or tribunal.

(2) Where an appeal under subsection (1) is made—

(a) the compliance notice is of no effect pending the final determination or withdrawal of the appeal, and

(b) the specified period mentioned in section 35B(2) is treated as extended by the period—

(i) beginning with the day on which the appeal is made, and

(ii) ending with the day on which the appeal is finally determined or withdrawn.

(3) A person to whom a compliance notice has been given may apply to the appropriate court or tribunal for an extension of the period for the doing of the thing specified in the notice.

(4) Subsection (2) applies in relation to such an application as it applies in relation to an appeal under subsection (1).

(5) A person to whom a stop notice has been given may appeal to the appropriate court or tribunal.

(6) Where an appeal under subsection (5) is made—

(a) the appellant may apply to the appropriate court or tribunal for a direction that the stop notice is of no effect pending the final determination or withdrawal of the appeal, and

(b) unless and until any such direction is given, the stop notice continues to have effect despite the making of the appeal."

## 39 Breach of building regulations

(1) The Building Act 1984 is amended as follows.

(2) For section 35 substitute—

"**35 Offence of contravening building regulations etc**

(1) A person who contravenes a provision of building regulations, or a requirement imposed by virtue of any such provision, commits an offence.

(2) Building regulations may provide that subsection (1) does not apply in relation to a prescribed provision of the regulations.

(3) Building regulations may provide that, in relation to a prescribed provision of the regulations, it is a defence for a person charged with an offence under this section to prove such matters relating to the contravention as may be prescribed.

(4) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction."

(3) In section 36(4) (time limit for notices requiring removal or alteration of non-compliant work) for "12 months" substitute "10 years".

**40 Liability of officers of body corporate etc**

In the Building Act 1984 before section 113 insert—

"**112A Liability of officers of body corporate etc**

(1) Where an offence under this Act committed by a body corporate—

(a) is committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, or

(b) is attributable to any neglect on the part of any such person,

that person as well as the body corporate commits the offence and is liable to be proceeded against and punished accordingly.

(2) In subsection (1) "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Subsection (1) also applies in relation to a body that is not a body corporate, with the substitution for the reference to a director of the body of a reference—

(a) in the case of a partnership, to a partner;

(b) in the case of an unincorporated body other than a partnership—

(i) where the body's affairs are managed by its members, to a member of the body;

(ii) in any other case, to a member of the governing body."

### 41 Revocation etc of certain provision made under section 2(2) of ECA 1972

(1) In this section "combined instrument" means an instrument containing (whether alone or with other provision)—

(a) provision made under section 1(1) of the Building Act 1984 (building regulations), and

(b) provision made under section 2(2) of the European Communities Act 1972 (provision implementing EU obligations etc).

(2) Regulations under section 1(1) of the Building Act 1984 may revoke a combined instrument so far as it is made under section 2(2) of the European Communities Act 1972.

(3) Nothing in paragraph 13 or 14 of Schedule 8 to the European Union (Withdrawal) Act 2018 (procedure etc for SIs amending or revoking regulations etc made under section 2(2) of the 1972 Act) is to be read as applying to a statutory instrument that amends a combined instrument so far as the combined instrument is made under section 2(2) of the European Communities Act 1972.

*Building control approvers and building inspectors*

### 42 Regulation of building control profession

In the Building Act 1984, after Part 2 insert—

"**PART 2A**

REGULATION OF BUILDING CONTROL PROFESSION

*Interpretation*

#### 58A "Regulatory authority"

In this Act the "regulatory authority" means—

(a) in relation to England, the regulator;

(b) in relation to Wales, the Welsh Ministers.

*Registered building inspectors*

#### 58B "Registered building inspector"

In this Act "registered building inspector" means an individual registered as a building inspector in accordance with this Part.

#### 58C Register of building inspectors

(1) The regulatory authority must establish and maintain a register of building inspectors.

(2) The register may provide for different classes of building inspectors (for example, according to qualifications or experience).

(3) The regulatory authority must register an individual as a building inspector, or a building inspector of a particular class, if—

(a) the individual makes an application for registration in accordance with section 58D, and

(b) the authority is satisfied that the individual meets such criteria as the authority may from time to time determine.

(4) Registration may—

(a) have effect in relation to all work or in relation to work of a particular description;

(b) be subject to conditions.

(5) Registration must be for a prescribed period.

(6) The register must record, in relation to each registered building inspector—

(a) the individual's name and business address;

(b) if the individual is employed by a building control authority or a registered building control approver, the name and business address of that person;

(c) whether the individual's registration has effect in relation to all work or work of a particular description;

(d) if the individual's registration has effect in relation to work of a particular description, that description of work;

(e) any conditions to which the individual's registration is subject;

(f) the period for which the individual is registered;

(g) if the individual's registration has been varied by an order under section 58I(2)(b), that fact and the effect of the variation;

(h) if the individual's registration has been suspended by an order under section 58I(2)(c) or 58J(2), that fact and the period of the suspension;

(i) any matters that are prescribed.

(7) The regulatory authority must make the register available for inspection by the public in whatever way the authority thinks appropriate.

### 58D Application for registration as building inspector

(1) An application for registration as a building inspector must—

(a) be made in such form and manner, and

(b) be accompanied by such information and supporting evidence,

as the regulatory authority may from time to time determine.

(2) The regulatory authority may make different provision about those matters for different cases.

(3) When considering an application for registration, the regulatory authority may require the applicant to provide it with such further information or supporting evidence as the authority may require.

(4) The applicant may appeal to the appropriate court or tribunal against any decision made by the regulatory authority on the application.

### 58E Variation or cancellation of registration as building inspector

(1) A registered building inspector may apply for the variation or cancellation of their registration.

(2) Section 58D applies to such an application as it applies to an application for registration.

### 58F Code of conduct

(1) The regulatory authority must prepare and publish a code of conduct for registered building inspectors.

(2) The code must set out standards of professional conduct and practice expected of registered building inspectors.

(3) The code may make different provision for different cases (for example, for different descriptions of work).

(4) The regulatory authority may revise the code of conduct at any time (and must publish any revised code).

### 58G Registered building inspectors: information notices

(1) The regulatory authority may by notice in writing require a registered building inspector to provide the authority with any documents or information the authority reasonably requires for the purposes its functions under sections 58B to 58M.

(2) The notice must specify—

(a) the documents or information required,

(b) the date by which they must be provided, and

(c) the form in which they must be provided.

### 58H Professional misconduct investigations

(1) If it appears to the regulatory authority (on receipt of a complaint or otherwise) that a registered building inspector may be guilty of professional misconduct, the authority may investigate the matter.

(2) In this Part "professional misconduct", in relation to a registered building inspector, means conduct that—

(a) falls short of the standards of conduct and practice expected of registered building inspectors, or

(b) is likely to bring the profession of registered building inspectors into disrepute.

(3) The regulatory authority must prepare and publish a statement of the procedure it will follow when investigating a registered building inspector under

this section (which must include an opportunity for the inspector to make representations).

(4) The regulatory authority may revise the statement at any time (and must publish any revised statement).

### 58I Sanctions for professional misconduct

(1) If following an investigation under section 58H the regulatory authority determines that an individual who is a registered building inspector is guilty of professional misconduct, the authority may make one or more disciplinary orders.

(2) A disciplinary order is an order—

(a) requiring the individual to pay a financial penalty of an amount specified in the order,

(b) varying the individual's registration in a way specified in the order,

(c) suspending the individual's registration for a period specified in the order, or

(d) cancelling the individual's registration from a date specified in the order.

(3) Varying the individual's registration means varying any of the matters listed in section 58C(4) (limitations and conditions).

(4) Where the regulatory authority makes a disciplinary order it must give a copy of the order to the individual concerned as soon as reasonably practicable.

(5) The individual may appeal to the appropriate court or tribunal against a disciplinary order under this section.

(6) A disciplinary order under subsection (2)(a) or (b) has no effect until—

(a) the end of the period within which an appeal may be brought, or

(b) if an appeal is brought before the end of that period, the determination of the appeal.

(7) Where the regulatory authority is the regulator, it must pay into the Consolidated Fund the amount of any financial penalty paid to it pursuant to a disciplinary order under subsection (2)(a).

### 58J Interim suspension for suspected serious professional misconduct

(1) This section applies where the regulatory authority considers that—

(a) an individual who is a registered building inspector may be guilty of professional misconduct, and

(b) the suspected misconduct is so serious that, if the authority determines that the individual is guilty, it is likely to make an order under section 58I(2)(d) cancelling the individual's registration.

(2) The regulatory authority may by order suspend the individual's registration for a period specified in the order (which must not exceed 3 months).

(3) The regulatory authority may revoke the order before the end of that period.

(4) Where the regulatory authority makes (or revokes) an order under this section it must give a copy of the order (or notice of the revocation) to the individual concerned as soon as reasonably practicable.

(5) The individual may appeal to the appropriate court or tribunal against an order under this section.

### 58K Suspension orders: further provision

An individual whose registration is suspended under section 58I(2)(c) or 58J(2) is not a registered building inspector for the purposes of section 46A or 54B (restricted activities and functions) (but is a registered building inspector for the purposes of this Part).

### 58L Offences relating to registration

(1) A registered building inspector commits an offence if, without reasonable excuse, they carry out a restricted activity on behalf of a building control authority or a registered building control approver—

(a) in relation to work which is outside the scope of their registration, or

(b) while their registration is suspended.

(2) "Restricted activity"—

(a) in relation to a building control authority, has the meaning given by section 46A;

(b) in relation to a registered building control approver, has the meaning given by section 54B.

(3) A registered building inspector commits an offence if, without reasonable excuse—

(a) they give advice to a building control authority or registered building control approver—

(i) in relation to work which is outside the scope of their registration, or

(ii) while their registration is suspended, and

(b) they know, or ought to know, that the authority or approver is obtaining that advice for the purposes of section 46A or 54B (restricted functions).

(4) A registered building inspector commits an offence if, with intent to deceive, they do anything which implies that work which is outside the scope of their registration is within the scope of their registration.

(5) A registered building inspector whose registration is suspended commits an offence if, with intent to deceive, they do anything which implies that their registration is not suspended.

(6) For the purposes of this section, work is outside the scope of a registered building inspector's registration if the inspector's registration does not have effect in relation to work of that description.

(7) An offence under this section is punishable on summary conviction by a fine.

### 58M Offence of acting as, or pretending to be, a registered building inspector

(1) A person who is not a registered building inspector commits an offence if, with intent to deceive, the person—

(a) impersonates a registered building inspector, or

(b) does anything (including using any name, title or description) which implies that the person is a registered building inspector.

(2) An offence under this section is punishable on summary conviction by a fine.

*Registered building control approvers*

### 58N "Registered building control approver"

In this Act "registered building control approver" means a person registered as a building control approver in accordance with this Part.

### 58O Register of building control approvers

(1) The regulatory authority must establish and maintain a register of building control approvers.

(2) The regulatory authority must register a person as a building control approver if—

(a) the person makes an application for registration in accordance with section 58P, and

(b) the authority is satisfied that the person meets such criteria as the authority may from time to time determine.

(3) Registration may—

(a) have effect in relation to all work or in relation to work of a particular description;

(b) be subject to conditions.

(4) Registration must be for a prescribed period.

(5) The register must record, in relation to each registered building control approver—

(a) the person's name and business address;

(b) whether the person's registration has effect in relation to all work or work of a particular description;

(c) if the person's registration has effect in relation to work of a particular description, that description of work;

(d) any conditions to which the person's registration is subject;

(e) the period for which the person is registered;

(f) if the person's registration has been varied by an order under section 58U(2)(b), that fact and the effect of the variation;

(g) if the person's registration has been suspended by an order under section 58U(2)(c) or 58V(2), that fact and the period of the suspension;

(h) any matters that are prescribed.

(6) The regulatory authority must make the register available for inspection by the public in whatever way the authority thinks appropriate.

### 58P Application for registration as building control approver

(1) An application for registration as a building control approver must—

(a) be made in such form and manner, and

(b) be accompanied by such information and supporting evidence,

as the regulatory authority may from time to time determine.

(2) The regulatory authority may make different provision about those matters for different cases.

(3) When considering an application for registration, the regulatory authority may require the applicant to provide it with such further information or supporting evidence as the authority may require.

(4) The applicant may appeal to the appropriate court or tribunal against any decision made by the regulatory authority on the application.

### 58Q Variation or cancellation of registration as building control approver

(1) A registered building control approver may apply for the variation or cancellation of their registration.

(2) Section 58P applies to such an application as it applies to an application for registration.

### 58R Professional conduct rules

(1) The regulatory authority must prepare and publish professional conduct rules applying to registered building control approvers (in addition to operational standards rules applying to them under section 58Z).

(2) Professional conduct rules may in particular make provision about insurance and financial propriety.

(3) The rules may make different provision for different cases (for example, for different descriptions of work).

(4) The regulatory authority may revise the professional conduct rules at any time (and must publish any revised rules).

### 58S Registered building control approvers: information notices

(1) The regulatory authority may by notice in writing require a registered building control approver to provide the authority with any documents or information the authority reasonably requires for the purposes of its functions under sections 58N to 58X.

(2) The notice must specify—

(a) the documents or information required,

(b) the date by which they must be provided, and
(c) the form in which they must be provided.

### 58T Investigations into contraventions of professional conduct rules

(1) If it appears to the regulatory authority (on receipt of a complaint or otherwise) that a registered building control approver may have contravened the professional conduct rules, the authority may investigate the matter.

(2) The regulatory authority must prepare and publish a statement of the procedure it will follow when investigating a registered building control approver under this section (which must include an opportunity for the person to make representations).

(3) The regulatory authority may revise the statement at any time (and must publish any revised statement).

### 58U Sanctions for contravention of professional conduct rules

(1) If following an investigation under section 58T the regulatory authority determines that a person who is a registered building control approver has contravened the professional conduct rules, the authority may make one or more disciplinary orders.

(2) A disciplinary order is an order—
(a) requiring the person to pay a financial penalty of an amount specified in the order,
(b) varying the person's registration in a way specified in the order,
(c) suspending the person's registration for a period specified in the order, or
(d) cancelling the person's registration from a date specified in the order.

(3) Varying the person's registration means varying any of the matters listed in section 58O(3) (limitations and conditions).

(4) Where the regulatory authority makes a disciplinary order it must as soon as reasonably practicable—
(a) give a copy of the order to the person concerned, and
(b) in prescribed cases, give a copy of the order—
(i) to each local authority in England, where the regulatory authority is the regulator, or
(ii) to each local authority in Wales, where the regulatory authority is the Welsh Ministers.

(5) The person may appeal to the appropriate court or tribunal against a disciplinary order under this section.

(6) A disciplinary order under subsection (2)(a) or (b) has no effect until—
(a) the end of the period within which an appeal may be brought, or
(b) if an appeal is brought before the end of that period, the determination of the appeal.

(7) Where the regulatory authority is the regulator, it must pay into the Consolidated Fund the amount of any financial penalty paid to it pursuant to a disciplinary order under subsection (2)(a).

(8) A person whose registration is suspended by an order under subsection (2)(c) is a registered building control approver for the purposes of this Part.

(9) See section 58Z6(2) for further provision about cancellation of a person's registration as a building control approver.

### 58V Interim suspension for suspected serious contravention

(1) This section applies where the regulatory authority considers that—

(a) a person who is a registered building control approver may have contravened the professional conduct rules, and

(b) the suspected contravention is so serious that, if the authority determines that the contravention has occurred, it is likely to make an order under section 58U(2)(d) cancelling the person's registration.

(2) The regulatory authority may by order suspend the person's registration for a period specified in the order (which must not exceed 3 months).

(3) The regulatory authority may revoke the order before the end of that period.

(4) Where the regulatory authority makes (or revokes) an order under this section it must as soon as reasonably practicable—

(a) give a copy of the order (or notice of the revocation) to the person concerned, and

(b) in prescribed cases, give a copy of the order (or notice of the revocation)—

(i) to each local authority in England, where the regulatory authority is the regulator, or

(ii) to each local authority in Wales, where the regulatory authority is the Welsh Ministers.

(5) The person may appeal to the appropriate court or tribunal against an order under this section.

(6) A person whose registration is suspended by an order under this section is a registered building control approver for the purposes of this Part.

### 58W Offence of registered building control approver acting outside scope of registration

(1) A registered building control approver commits an offence if, without reasonable excuse, they exercise a function under this Act, or regulations made under this Act—

(a) in relation to work outside the scope of their registration, or

(b) while their registration is suspended.

(2) A registered building control approver commits an offence if, with intent to deceive, they do anything which implies that work which is outside the scope of their registration is within the scope of their registration.

(3) A registered building control approver whose registration is suspended commits an offence if, with intent to deceive, they do anything which implies that their registration is not suspended.

(4) For the purposes of this section, work is outside the scope of a registered building control approver's registration if their registration does not have effect in relation to work of that description.

(5) An offence under this section is punishable on summary conviction by a fine.

### 58X Offence of pretending to be a registered building control approver

(1) A person who is not a registered building control approver commits an offence if, with intent to deceive, the person—

(a) impersonates a registered building control approver, or

(b) does anything (including using any name, title or description) which implies that the person is a registered building control approver.

(2) An offence under this section is punishable on summary conviction by a fine.

*Delegation of registration functions*

### 58Y Delegation of registration functions

(1) The regulatory authority may delegate its registration functions to another person, to such extent and subject to such conditions as it considers appropriate.

(2) The regulatory authority's registration functions are its functions under sections 58B to 58X (and include the charging of any registration fees or recovery of any registration charges).

(3) "Registration fees" and "registration charges" mean fees and charges in connection with the regulatory authority's functions under sections 58B to 58X that are—

(a) prescribed by regulations under section 105B, or

(b) determined by the regulatory authority in accordance with regulations under that section.

(4) The regulatory authority may vary or revoke a delegation.

(5) Where the regulatory authority is the regulator, it—

(a) may make, vary or revoke a delegation only with the consent of the Secretary of State;

(b) must vary or revoke a delegation if directed to do so by the Secretary of State.

(6) Section 58Z9 of this Act (sharing of information between regulatory authorities) and Schedule 3 to the Building Safety Act 2022 (information sharing between regulator and other authorities) apply as if references to the regulator included references to a person to whom the regulator has delegated functions under this section.

(7) The following provisions of this Act apply as if references to the Welsh Ministers included references to a person to whom the Welsh Ministers have delegated functions under this section—

(a) section 58Z9 (sharing of information between regulatory authorities);

(b) section 91B (cooperation and sharing of information between Welsh Ministers and other authorities);

(c) section 131A (application to the Crown).

*Operational standards rules*

### 58Z Operational standards rules

(1) The regulatory authority may make rules ("operational standards rules") applying to local authorities and registered building control approvers in relation to their exercise of building control functions.

(2) Operational standards rules may in particular make provision about standards to be met, and practices, procedures or methods to be adopted, in exercising building control functions.

(3) In this Part "building control functions", in relation to a local authority or registered building control approver, means the functions of the authority or approver under this Act and regulations made under it.

(4) The operational standards rules may make different provision for different cases (for example, for different descriptions of work).

(5) The regulatory authority may revise the operational standards rules at any time.

(6) The regulatory authority must publish the operational standards rules (and any revised rules).

### 58Z1 Reporting requirements

(1) The regulatory authority may direct local authorities and registered building control approvers to provide it, at specified times or intervals, with specified reports, returns and other information relating to the exercise of their building control functions.

(2) "Specified" means specified in the direction.

(3) A direction under this section—

(a) must be in writing;

(b) may be general or specific;

(c) may be varied or revoked.

(4) A registered building control approver who, without reasonable excuse, fails to comply with a direction under this section commits an offence.

(5) An offence under subsection (4) is punishable on summary conviction by a fine.

### 58Z2 Information: Wales

(1) This section applies where the Welsh Ministers are the regulatory authority.

(2) The Welsh Ministers may by notice in writing require a local authority or registered building control approver to provide the Welsh Ministers with any documents or information relating to the exercise of their building control functions that the Welsh Ministers reasonably require.

(3) The notice must specify—

(a) the documents or information required,

(b) the date by which they must be provided, and

(c) the form in which they must be provided.

(4) A registered building control approver who, without reasonable excuse, fails to comply with a notice under this section commits an offence.

(5) An offence under subsection (4) is punishable on summary conviction by a fine.

### 58Z3 Investigations

(1) If it appears to the regulatory authority (on receipt of a complaint or otherwise) that a local authority or registered building control approver may have contravened the operational standards rules, the regulatory authority may investigate the matter.

(2) The regulatory authority must prepare and publish a statement of the procedure it will follow when investigating an authority or approver under this section (which must include an opportunity for the authority or approver to make representations).

(3) The regulatory authority may revise the statement at any time (and must publish any revised statement).

### 58Z4 Improvement notice

(1) The regulatory authority may give an improvement notice to a local authority or a registered building control approver if it appears to the regulatory authority (following an investigation under section 58Z3 or otherwise) that the local authority or registered building control approver has contravened operational standards rules.

(2) An improvement notice is a notice requiring the local authority or registered building control approver to remedy the contravention by doing, or by refraining from doing, anything specified in the order.

(3) An improvement notice may have effect—

(a) until it is revoked, or

(b) for a period specified in the notice.

(4) Where the regulatory authority gives an improvement notice, it must also give the local authority or registered building control approver a statement of the reasons for giving the notice.

(5) Where the regulatory authority gives an improvement notice to a registered building control approver, in prescribed cases it must as soon as reasonably practicable provide copies of the notice and the statement—

(a) to each local authority in England, where the regulatory authority is the regulator, or

(b) to each local authority in Wales, where the regulatory authority is the Welsh Ministers.

(6) Where the regulatory authority giving an improvement notice is the regulator, it must as soon as reasonably practicable provide copies of the notice and the statement of reasons to the Secretary of State.

(7) The local authority or registered building control approver to whom the improvement notice is given may appeal to the appropriate court or tribunal against the notice.

### 58Z5 Serious contravention notices

(1) The regulatory authority may give a serious contravention notice to a local authority or a registered building control approver if it appears to the regulatory authority (following an investigation under section 58Z3 or otherwise) that the condition in subsection (2) or (3) is met.

(2) The condition in this subsection is that—

(a) the local authority or registered building control approver has contravened operational standards rules, and

(b) as a result of the contravention the safety of persons in or about buildings has been, or may have been, put at risk.

(3) This condition in this subsection is that the local authority or registered building control approver—

(a) has been given an improvement notice under section 58Z4, and

(b) has failed to remedy the contravention of operational standards rules in respect of which the notice was given.

(4) A serious contravention notice is a notice requiring the local authority or registered building control approver to remedy the contravention in question by doing, or by refraining from doing, anything specified in the order.

(5) A serious contravention notice may have effect—

(a) until it is revoked, or

(b) for a period specified in the notice.

(6) Where the regulatory authority gives a serious contravention notice, it must also give the local authority or registered building control approver a statement of the reasons for giving the notice.

(7) Where the regulatory authority gives a serious contravention notice to a registered building control approver, in prescribed cases it must as soon as reasonably practicable provide copies of the notice and the statement—

(a) to each local authority in England, where the regulatory authority is the regulator, or

(b) to each local authority in Wales, where the regulatory authority is the Welsh Ministers.

(8) Where the regulatory authority giving a serious contravention notice is the regulator, it must as soon as reasonably practicable provide copies of the notice and the statement of reasons to the Secretary of State.

(9) The local authority or registered building control approver to whom the serious contravention notice is given may appeal to the appropriate court or tribunal against the notice.

(10) A person who, without reasonable excuse, contravenes a serious contravention notice commits an offence and is liable on summary conviction to a fine.

### 58Z6 Continuing failure to meet standards: registered building control approvers

(1) This section applies where—

(a) the regulatory authority has given a registered building control approver one or more serious contravention notices under section 58Z5, and

(b) it appears to the regulatory authority that the way in which the approver exercises their building control functions—

(i) falls short of the standards expected, and

(ii) puts, or may put, the safety of persons in or about buildings at risk,

and is likely to continue to do so.

(2) The regulatory authority may cancel the approver's registration.

(3) But before cancelling a registered building control approver's registration under subsection (2) the regulatory authority must—

(a) give the approver notice that it is considering its registration under that subsection, and explain its reasons, and

(b) invite the approver to make representations within a period specified in the notice (which must not be less than 14 days).

(4) Where the regulatory authority cancels a registered building control approver's registration under subsection (2) it must as soon as reasonably practicable—

(a) notify the approver that it has done so,

(b) give the approver a statement of its reasons, and

(c) notify—

(i) each local authority in England, where the regulatory authority is the regulator, or

(ii) each local authority in Wales, where the regulatory authority is the Welsh Ministers.

(5) A registered building control approver may appeal to the appropriate court or tribunal against the cancellation of its registration under subsection (2).

### 58Z7 Continuing failure to meet standards: local authorities in England

(1) This section applies where—

(a) the regulatory authority is the regulator,

(b) the regulatory authority has given a local authority one or more serious contravention notices under section 58Z5, and

(c) it appears to the regulatory authority that the way in which the local authority exercises their building control functions—

(i) falls short of the standards expected, and

(ii) puts, or may put, the safety of persons in or about buildings at risk,

and is likely to continue to do so.

(2) The regulatory authority may recommend to the Secretary of State that the Secretary of State make an order under section 116(4) (transfer of functions to the Secretary of State or another local authority).

(3) But before making a recommendation under subsection (2) the regulatory authority must—

(a) give the local authority notice that it is considering making a recommendation under that subsection, and explain its reasons, and

(b) invite the authority to make representations within a period specified in the notice (which must not be less than 14 days).

(4) Where the regulatory authority makes a recommendation under subsection (2) it must as soon as reasonably practicable—

(a) notify the local authority that it has done so, and

(b) give the local authority a statement of its reasons.

(5) A local authority may appeal to the tribunal against a recommendation under subsection (2).

*Inspection of local authorities and registered building control approvers*

### 58Z8 Inspections

(1) The regulatory authority may carry out an inspection of a local authority, or a registered building control approver, in relation to their exercise of building control functions.

(2) The purposes for which an inspection may be carried out include—

(a) ascertaining the efficiency and effectiveness of the local authority or registered building control approver in exercising their building control functions;

(b) verifying any information provided by the local authority or registered building control approver to the regulatory authority, in connection with their building control functions.

*Information sharing*

**58Z9 Sharing of information between regulatory authorities**

(1) The regulator may disclose information held in connection with a function under this Part to the Welsh Ministers for the purposes of—

(a) a function of the regulator under this Part, or

(b) a function of the Welsh Ministers under this Part.

(2) The Welsh Ministers may disclose information held in connection with a function under this Part to the regulator for the purposes of—

(a) a function of the Welsh Ministers under this Part, or

(b) a function of the regulator under this Part.

(3) Except as provided by subsection (4), the disclosure of information under this section does not breach—

(a) any obligation of confidence owed by the person making the disclosure, or

(b) any other restriction on the disclosure of information (however imposed).

(4) This section does not authorise a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the powers conferred by this section).

*Appeals*

**58Z10 Appeal to Crown Court**

An appeal lies to the Crown Court against a decision of a magistrates' court under this Part."

**43 Transfer of approved inspectors' functions to registered building control approvers**

Schedule 4 amends the Building Act 1984 so as to—

(a) transfer the functions of approved inspectors to registered building control approvers, and

(b) make other provision consequential on section 42.

**44 Functions exercisable only through, or with advice of, registered building inspectors**

(1) The Building Act 1984 is amended as follows.

(2) After section 46 insert—

*"Building control authorities: restricted activities and functions*

**46A Building control authorities: restricted activities and functions**

(1) A building control authority may carry out a restricted activity in relation to any work only through a registered building inspector, acting on the authority's behalf, whose registration has effect in relation to work of that description.

(2) Before each exercise of a restricted function in relation to any work, a building control authority must obtain and consider the advice of a registered building inspector whose registration has effect in relation to work of that description.

(3) The registered building inspector who carries out the restricted activity, or advises on the exercise of the restricted function, may (but need not) be employed by the authority.

(4) In this section—

"restricted activity" means an activity that is prescribed for the purposes of this section;

"restricted function" means a function of a building control authority under—

(a) this Part,

(b) Part 3, or

(c) regulations made under this Part or Part 3,

that is prescribed for the purposes of this section."

(3) After section 54A (inserted by section 47) insert—

*"Registered building control approvers: restricted activities and functions*

**54B Registered building control approvers: restricted activities and functions**

(1) This section applies to a registered building control approver who is not a registered building inspector.

(2) The approver may carry out a restricted activity in relation to any work only through a registered building inspector, acting on the approver's behalf, whose registration has effect in relation to work of that description.

(3) Before each exercise of a restricted function in relation to any work, the approver must obtain and consider the advice of a registered building inspector whose registration has effect in relation to work of that description.

(4) The registered building inspector who carries out the restricted activity, or advises on the exercise of the restricted function, may (but need not) be employed by the approver.

(5) In this section—

"restricted activity" means an activity that is prescribed for the purposes of this section;

"restricted function" means a function of a registered building control approver under this Part, or regulations made under this Part, that is prescribed for the purposes of this section.

(6) A registered building control approver who contravenes subsection (2) or (3) without reasonable excuse commits an offence.

(7) An offence under this section is punishable on summary conviction by a fine."

**45 Default powers of appropriate national authority**

(1) The Building Act 1984 is amended as follows.

(2) In section 116 (power to transfer local authority functions to appropriate national authority)—

(a) in the heading for "Secretary of State" substitute "appropriate national authority";

(b) in subsection (1)—

(i) for "Secretary of State" substitute "appropriate national authority";

(ii) for "he" substitute "it";

(c) in subsection (2)—

(i) for "Secretary of State" substitute "appropriate national authority";

(ii) for the words from "make an order" to the end substitute "make a transfer order in respect of the body in default.";

(d) after subsection (2) insert—

"(3) The Secretary of State must consult the regulator before making an order under subsection (1) or (2).

(4) The Secretary of State may also make a transfer order in respect of a local authority if—

(a) under section 58Z7(2) the regulator recommends that the Secretary of State make a transfer order in respect of the authority, and

(b) the Secretary of State is satisfied that the way in which the authority exercises its functions under this Act—

(i) falls short of the standards expected, and

(ii) puts, or may put, the safety of persons in or about buildings at risk,

and is likely to continue to do so.

(5) The Welsh Ministers may also make a transfer order in respect of a local authority if the Welsh Ministers are satisfied that the way in which the authority exercises its functions under this Act—

(a) falls short of the standards expected, and

(b) puts, or may put, the safety of persons in or about buildings at risk,

and is likely to continue to do so.

(6) A "transfer order", in respect of a local authority or joint board, is an order transferring to the appropriate national authority, or to another

local authority, such functions of the authority or board as may be specified in the order."

(3) In section 117 (expenses)—

(a) in the heading for "Secretary of State" substitute "appropriate national authority";

(b) before subsection (1) insert—

"(A1) This section applies where the appropriate national authority has transferred functions to itself by a transfer order under section 116.

(A2) Any expenses incurred by the Secretary of State in discharging the transferred functions are to be paid in the first instance out of money provided by Parliament.";

(c) in subsection (1)—

(i) for the words before paragraph (a) substitute "The amount of any expenses certified by the appropriate national authority as having been incurred by the authority in discharging the transferred functions";

(ii) in paragraph (a) for "him" substitute "the authority";

(iii) in paragraph (b) for the words from "him" to the end substitute "the authority from the body as a debt due to the authority";

(d) in subsection (2) for "Secretary of State" substitute "appropriate national authority".

(4) In section 118 (variation or revocation of transfer order)—

(a) in subsection (1)—

(i) for "Secretary of State" substitute "appropriate national authority";

(ii) for "an order under section 116(2)" substitute "a transfer order under section 116";

(iii) for "he" substitute "it";

(b) after subsection (1) insert—

"(1A) The Secretary of State must consult the regulator before making an order under subsection (1).";

(c) in subsection (2)—

(i) for "Secretary of State" substitute "appropriate national authority";

(ii) for "him", in the first place it occurs, substitute "it";

(iii) for the words from "by him" to the end substitute ", by the person to whom the revoked order transferred functions, in discharging those functions."

## 46 Higher-risk building work: registered building control approvers

(1) In section 47 of the Building Act 1984 (giving and acceptance of initial notice), in subsection (1)(a)—

(a) after "prescribed form" insert "relating to work that is not higher-risk building work";

(b) after "carry out" insert "the".

(2) In section 51A of the Building Act 1984 (variation of work to which initial notice relates), for subsection (1) substitute—

"(1) This section applies where—

(a) it is proposed that the work to which an initial notice relates should be varied, and

(b) the work as varied is not higher-risk building work."

(3) After section 52 of the Building Act 1984 insert—

"**52A Cancellation of initial notice when work becomes higher-risk building work**

(1) If, at a time when an initial notice is in force, it appears to the registered building control approver that some or all of the work has become higher-risk building work, the registered building control approver must, as soon as is reasonably practicable, cancel the relevant part of the initial notice by notice in the prescribed form given to—

(a) the local authority concerned, and

(b) the person carrying out or intending to carry out the work.

(2) If, at a time when an initial notice is in force, it appears to the person carrying out or intending to carry out the work that some or all of the work has become higher-risk building work, the person must, as soon as is reasonably practicable, cancel the relevant part of the initial notice by notice in the prescribed form given to—

(a) the local authority concerned, and

(b) the registered building control approver.

(3) Where a person is required to give a notice under subsection (1) or (2) in relation to higher-risk building work in England, the person must, as soon as is reasonably practicable, give a copy of that notice to the regulator.

(4) If, at a time when an initial notice is in force, it appears to the local authority concerned that some or all of the work has become higher-risk building work, the authority must cancel the relevant part of the initial notice by notice in the prescribed form given to—

(a) the registered building control approver, and

(b) the person shown in the initial notice as the person intending to carry out the work.

(5) Where a local authority is required to give a notice under subsection (4) in relation to higher-risk building work in England, the local authority must give a copy of that notice to the regulator.

(6) A person commits an offence if they fail without reasonable excuse to—

(a) give to a local authority a notice that the person is required to give by subsection (1) or (2);

(b) give to the regulator a copy of a notice that the person is required to give by subsection (3).

(7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine.

(8) Where a notice is given under any of subsections (1), (2) and (4) (a "cancellation notice")—

(a) the part of the initial notice to which the cancellation notice relates is cancelled with effect from the day on which the cancellation notice is given, and

(b) a new initial notice may not be given in relation to any of the work to which the cancelled part of the initial notice related.

(9) In this section "the relevant part of the initial notice" means so much of the initial notice as relates to work that has become higher-risk building work.

**52B Effect of initial notice ceasing to be in force where work becomes higher-risk building work**

(1) This section applies where an initial notice ceases to be in force, whether in whole or in part, by virtue of section 47(4)(b)(ia) (higher-risk building work).

(2) If, before the day on which the relevant part of the initial notice ceased to be in force, a final certificate—

(a) was given in respect of part of the work to which the relevant part of the initial notice relates, and

(b) was accepted by the local authority,

the fact that the relevant part of the initial notice has ceased to be in force does not affect the continuing operation of section 51(3) in relation to that part of the work.

(3) The building control authority in relation to any of the uncertified work is—

(a) in England, the regulator, and

(b) in Wales, the relevant local authority (within the meaning of section 121A(2)).

(4) In subsection (3), the "uncertified work" means any of the work—

(a) to which the relevant part of the initial notice relates, and

(b) in respect of which no final certificate has been accepted by the local authority as mentioned in subsection (2).

(5) Sections 91(3) (duties of the regulator) and 121A(1) (meaning of "building control authority") apply as if, in each case, the reference to section 91ZA or 91ZB were a reference to section 52B, 91ZA or 91ZB.

(6) In any case where this section applies, the reference in subsection (4) of section 36 to the date of the completion of the work in question has effect, in relation to a notice under subsection (1) of that section, as if it were a reference to the date on which the relevant part of the initial notice ceased to be in force.

(7) In this section "the relevant part of the initial notice" means so much of the initial notice as was cancelled by a notice under section 52A (cancellation of initial notice when work becomes higher-risk building work)."

(4) In section 47 of the Building Act 1984 (giving and acceptance of initial notice), in subsection (4)(b)—

(a) omit the "or" after sub-paragraph (i);

(b) after sub-paragraph (i) insert—

"(ia) it is cancelled, in whole or in part, by a notice under section 52A,".

(5) In section 55 of the Building Act 1984 (appeals), after subsection (2) insert—

"(2A) Where a local authority cancels an initial notice, in whole or in part, by giving a notice (a "cancellation notice") under section 52A(4)—

(a) the person shown in the initial notice as the person intending to carry out the work, or

(b) the registered building control approver,

may appeal to the appropriate court or tribunal.

(2B) On an appeal under subsection (2A), the court or tribunal must determine whether the relevant part of the initial notice was properly cancelled.

(2C) In a case where the court or tribunal determines that the relevant part of the initial notice was not properly cancelled—

(a) the determination does not have the effect of reinstating the relevant part of the initial notice;

(b) section 52B(2) and (6) continue to apply in relation to the relevant part of the initial notice;

(c) a new initial notice relating to any of the work to which the relevant part of the original initial notice related (the "original work") may be given only if the new initial notice—

(i) is given before the end of the period of seven days beginning with the day on which the appeal is determined or such other period as may be prescribed, and

(ii) relates to all of the original work, except for any work in respect of which a final certificate has been accepted by the local authority;

(d) the court or tribunal may give such directions as it considers appropriate in consequence of the determination (which may include giving directions to the regulator).

(2D) Where—

(a) a plans certificate has been given in respect of any of the original work,

(b) the conditions in paragraphs (a) and (b) of section 53(2) are fulfilled with respect to that certificate, and

(c) a new initial notice as referred to in subsection (2C)(c) is accepted,

section 50(1C) does not apply in relation to so much of the work to which the new initial notice relates as is work specified in the plans certificate.

(2E) Where—

(a) a new initial notice is given in accordance with subsection (2C)(c), and

(b) the registered building control approver shown in the new initial notice is different to the registered building control approver shown in the original initial notice,

sections 53B to 53E apply as if any reference in those sections to a new initial notice given in accordance with section 53(7)(a) were a reference to a new initial notice given in accordance with section 55(2C)(c).

(2F) In this section the "relevant part of the initial notice" means so much of the initial notice as was subject to the cancellation notice."

## 47 Higher-risk building work: public bodies

After section 54 of the Building Act 1984 insert—

"**54A Public bodies and higher-risk building work**

(1) The appropriate national authority may by regulations make such amendments of the provisions listed in subsection (2) as the authority considers appropriate in connection with higher-risk building work.

(2) The provisions are—

(a) section 5;

(b) section 54;

(c) Schedule 4."

## 48 Insurance: removal of requirements

(1) The Building Act 1984 is amended as follows.

(2) In section 47 (giving and acceptance of initial notice)—

(a) in subsection (1) omit paragraph (c) (but not the "and" at the end of it);

(b) omit subsections (6) and (7).

(3) In section 51A(2) (variation of work to which initial notice relates) omit paragraph (c) (but not the "and" at the end of it).

(4) In section 56 (recording and furnishing of information) omit subsection (2).

## 49 Plans certificates

(1) The Building Act 1984 is amended as follows.

(2) In section 50 (plans certificates)—

(a) for subsection (1) substitute—

"(1) In this Part a "plans certificate" means a certificate by a registered building control approver that the relevant conditions are met in relation to the work specified in the certificate (which must be work in relation to which the approver has given an initial notice).

(1A) The relevant conditions are that the registered building control approver—

(a) has inspected—

(i) full plans of the work, or

(ii) plans of the work that the approver is satisfied are sufficient for the purposes of giving a plans certificate in relation to the work,

(b) is satisfied that the plans are not defective,

(c) is satisfied that work carried out in accordance with the plans would not contravene any provision of building regulations, and

(d) has complied with any prescribed requirements as to consultation or otherwise.

(1B) Subsection (1C) applies if the person intending to carry out work to which an initial notice relates asks the registered building control approver who gave the initial notice to give a plans certificate in respect of the work.

(1C) If the relevant conditions are met, the approver must give a plans certificate to the local authority and the person intending to carry out the work.

(1D) A plans certificate must be in the prescribed form.";

(b) in subsection (4) for "certificate under subsection (1) above" substitute "plans certificate";

(c) after subsection (7) insert—

"(7A) Building regulations may make further provision in connection with plans certificates, including in particular provision—

(a) requiring a plans certificate to be given to the local authority in prescribed cases;

(b) about the consequences of failing to comply with such a requirement (for example, for an initial notice to cease to have effect in whole or in part);

(c) requiring a plans certificate stating that the condition in subsection (1A)(a)(ii) is met to include prescribed information about the further plans that the registered building control approver considers need to be provided."

(3) In paragraph 2 of Schedule 4 (public body's plans certificates)—

(a) for sub-paragraph (1) substitute—

"(1) In this Part a "public body's plans certificate" means a certificate by a public body that the relevant conditions are met in relation to the work specified in the certificate (which must be work in relation to which the public body has given a public body's notice).

(1A) The relevant conditions are that the public body—

(a) is satisfied that—

(i) a competent person has inspected full plans of the work, or

(ii) a competent person has inspected plans of the work which the public body is satisfied, in the light of that inspection, are sufficient for the purposes of giving a public body's plans certificate in relation to the work,

(b) is satisfied in the light of that inspection that the plans are not defective,

(c) is satisfied in the light of that inspection that work carried out in accordance with the plans would not contravene any provision of building regulations, and

(d) has complied with any prescribed requirements as to consultation or otherwise.

(1B) "Competent person" means a servant or agent of the public body who is competent to assess the plans.

(1C) If the relevant conditions are met, the public body may give a public body's plans certificate to the local authority.

(1D) A public body's plans certificate must be in the prescribed form.";

(b) after sub-paragraph (6) insert—

"(7) Building regulations may make further provision about public body's plans certificates, including in particular provision—

(a) requiring a public body's plans certificate to be given to the local authority in prescribed cases;

(b) about the consequences of failing to comply with such a requirement (for example, for a public body's notice to cease to have effect in whole or in part);

(c) requiring a public body's plans certificate stating that the condition in sub-paragraph (1A)(a)(ii) is met to include prescribed information about the further plans that the public body considers need to be provided."

## 50 Cancellation of initial notice

(1) Section 52 of the Building Act 1984 (cancellation of initial notice) is amended in accordance with this section.

(2) In subsection (1)—

(a) omit the "or" after paragraph (b);

(b) after paragraph (c), insert—

"(d) the registered building control approver is given a disciplinary order under section 58U(2)(b) (variation of registration) such that the registered building control approver is no longer able to carry out the registered building control approver's functions with respect to the work to which the initial notice relates,

(e) the registered building control approver is given a disciplinary order under section 58U(2)(c) (suspension of registration) or an order under section 58V (interim suspension for suspected serious contravention), or

(f) it appears to the registered building control approver that a prescribed circumstance exists,";

(c) for "approved inspector shall" substitute "registered building control approver, or in the case of paragraph (e) the person shown in the initial notice as the registered building control approver, must".

(3) For subsection (3) substitute—

"(3) If, at a time when an initial notice is in force, it appears to the person carrying out or intending to carry out the work to which the notice relates that—

(a) the registered building control approver is no longer willing or able to carry out the registered building control approver's functions with respect to any of that work, or

(b) a prescribed circumstance exists,

the person must cancel the initial notice by notice in the prescribed form given to the local authority concerned and, if it is practicable to do so, to the registered building control approver."

(4) In subsection (4), after "subsection" insert "(1) or".

(5) After subsection (5) insert—

"(5A) If, at a time when an initial notice is in force, it appears to the local authority concerned that a condition in subsection (5B) is satisfied, the authority must cancel the initial notice by notice in the prescribed form given to—

(a) the person shown in the initial notice as the registered building control approver, and

(b) the person shown in the initial notice as the person intending to carry out the work.

(5B) The conditions are—

(a) the registered building control approver is given a disciplinary order under section 58U(2)(b) (variation of registration) such that the registered building control approver is no longer able to carry out the registered building control approver's functions with respect to the work to which the initial notice relates;

(b) the registered building control approver is given a disciplinary order under section 58U(2)(c) (suspension of registration) or an order under section 58V (interim suspension for suspected serious contravention);

(c) the registered building control approver is given a disciplinary order under section 58U(2)(d) (cancellation of registration);

(d) the registered building control approver has their registration cancelled under section 58Z6(2) (serious contravention notices);

(e) a prescribed circumstance exists."

(6) After subsection (6) insert—

"(7) Before cancelling an initial notice under subsection (5A) based on a condition in subsection (5B)(a), (b) or (e), the local authority must—

(a) give the person shown in the initial notice as the registered building control approver a notice in the prescribed form at least seven days before the day on which the initial notice is to be cancelled, and

(b) have regard to any representations made to the local authority during that period."

## 51 New initial notices

(1) In section 53 of the Building Act 1984 (effect of initial notice ceasing to be in force), for subsection (7) substitute—

"(7) A new initial notice relating to any of the work to which the original initial notice related (the "original work") may be given only if—

(a) in the case of an initial notice that ceases to be in force by virtue of—

(i) being cancelled under section 52(1)(d) or (e),

(ii) being cancelled under section 52(5A) based on a condition in section 52(5B)(a) to (d), or

(iii) such other provision as may be prescribed,

the conditions in subsection (8) are met, or

(b) in any other case, the conditions in subsection (9) are met.

(8) The conditions referred to in subsection (7)(a) are that the new initial notice—

(a) is given before the end of the period of seven days beginning with the day on which the original initial notice ceased to be in force or such other period as may be prescribed,

(b) relates to all of the original work, except for any work in respect of which a final certificate has been accepted by the local authority, and

(c) is not a combined initial notice and plans certificate given in accordance with section 50(4).

(9) The conditions referred to in subsection (7)(b) are that—

(a) before the original initial notice ceases to be in force, the original registered building control approver has given a final certificate under section 51 in respect of any part of the work which they are satisfied has been completed, and

(b) the new initial notice relates to all of the original work, except for any work in respect of which a final certificate has been accepted by the local authority.

(10) Where—

(a) a plans certificate has been given in respect of any of the original work,

(b) the conditions in paragraphs (a) and (b) of subsection (2) are fulfilled with respect to that certificate, and

(c) a new initial notice as referred to in subsection (7) is accepted,

section 50(1C) does not apply in relation to so much of the work to which the new initial notice relates as is work specified in the plans certificate.

(11) Section 53B applies in relation to a new initial notice given in accordance with subsection (7)(a).

(12) The appropriate national authority may issue guidance about the process for—

(a) the giving of a new initial notice under subsection (7);

(b) the giving of a transfer certificate and a transfer report under section 53B;

(c) the consideration of a transfer certificate and a transfer report under section 53C.

(13) The appropriate national authority may revise or withdraw any issued guidance.

(14) The following must have regard to guidance issued under subsection (12)—

(a) a local authority;
(b) a registered building control approver;
(c) a person carrying out or intending to carry out work to which a new initial notice given under subsection (7) relates."

(2) After section 53A of the Building Act 1984 (inserted by section 36) insert—

"**53B New initial notice: change of registered building control approver**

(1) This section applies where a new initial notice is given in accordance with section 53(7)(a) (change of registered building control approver in certain cases).

(2) Where the new initial notice is accepted by the local authority the registered building control approver must take all reasonable steps to determine whether the unfinished work contravenes any provision of building regulations (including where necessary by carrying out inspections and laying open any work).

(3) If the registered building control approver determines that the unfinished work does not contravene any provision of building regulations, the approver must give a transfer certificate and a transfer report to the local authority before the end of the relevant period.

(4) If the registered building control approver is unable to make the determination referred to in subsection (3), the approver must—
(a) give the person carrying out or intending to carry out the work a notice setting out why they were unable to make the determination, and
(b) give a copy of that notice to the local authority.

(5) A transfer certificate must—
(a) confirm that the registered building control approver has determined that the unfinished work up to the date of the certificate does not contravene any provision of building regulations, and
(b) contain the prescribed information.

(6) A transfer report must contain any plans, documents or other information related to the confirmation in subsection (5)(a).

(7) In this section the "relevant period" means—
(a) the period of 21 days beginning with the day on which the new initial notice is accepted or such other period as may be prescribed, or
(b) such longer period as may be agreed by the local authority following a request from the registered building control approver.

(8) A transfer certificate given by a registered building control approver—
(a) does not impose any liability, whether civil or criminal, on the registered building control approver for any work carried out by the previous registered building control approver, and
(b) does not affect any liability, whether civil or criminal, of the previous registered building control approver for work carried out by that approver.

(9) In this section "unfinished work" means all of the work to which the original initial notice related, except for any work in respect of which a final certificate was accepted by the local authority.

### 53C Consideration of transfer certificate and report

(1) This section applies where a registered building control approver gives a transfer certificate and a transfer report to a local authority in accordance with section 53B(3).

(2) The local authority must, by notice, accept or reject the certificate and report before the end of the relevant period.

(3) The local authority may reject the certificate and report only if—

(a) any of the prescribed grounds exist, or

(b) the registered building control approver fails to comply with a requirement in subsection (4) to give information to the local authority.

(4) During the period of 21 days beginning with the day on which the transfer certificate and transfer report is given to the local authority or such other period as may be prescribed, the local authority may, by notice, require the registered building control approver to give to the local authority such information as may be specified in the notice.

(5) The registered building control approver must give the information specified in the notice to the local authority before the end of the period of seven days beginning with the day on which the notice is given or such other period as may be prescribed.

(6) In this section the "relevant period" means—

(a) the period of 21 days beginning with the day on which the transfer certificate and transfer report is given to the local authority or such other period as may be prescribed, or

(b) such longer period as is determined in accordance with subsection (7).

(7) Where—

(a) a local authority requires a registered building control approver to give information to the local authority under subsection (4), and

(b) the day by which the information is required to be given would (but for this subsection) fall within the final seven days of the relevant period or would fall outside the relevant period,

the relevant period is to be extended to the end of the period of seven days beginning with the day after the day by which the information is required to be given.

(8) Where a local authority requires a registered building control approver to give information to the local authority under subsection (4), the local authority must give a copy of the notice to the person shown in the initial notice as the person intending to carry out the work.

### 53D Cancellation of initial notice: change of registered building control approver

(1) This section applies where—

(a) a new initial notice is given in accordance with section 53(7)(a) (change of registered building control approver in certain cases), and

(b) the notice is accepted by the local authority.

(2) If, at a time when the initial notice is in force—

(a) the registered building control approver does not give the local authority a transfer certificate and transfer report in accordance with section 53B(3), or

(b) the local authority rejects the transfer certificate and transfer report in accordance with section 53C,

the local authority must cancel the initial notice by notice in the prescribed form given to the registered building control approver and the person shown in the initial notice as the person intending to carry out the work.

(3) The person carrying out or intending to carry out the work to which the initial notice relates may, at a time—

(a) when the initial notice is in force, and

(b) before the local authority accepts or rejects the transfer certificate and report in accordance with section 53C,

cancel the initial notice by notice in the prescribed form given to the local authority and, if it is practicable to do so, to the registered building control approver.

(4) A notice under subsection (2) or (3) has the effect of cancelling the initial notice to which it relates with effect from the day on which the notice is given.

(5) Where an initial notice ceases to be in force by virtue of subsection (2) or (3), a new initial notice may not, except in prescribed circumstances, be given in relation to any of the work to which the cancelled notice related.

(6) Where an initial notice ceases to be in force by virtue of subsection (2) or (3)—

(a) for the purpose of enabling the local authority to perform the functions referred to in section 48(1) in relation to any part of the work, building regulations may require the local authority to be provided with plans that relate to that part of the work, and

(b) section 53(5) applies in relation to the notice as it applies in relation to an initial notice that ceases to be in force as referred to in section 53(1).

(7) This section is without prejudice to any other provisions of this Part relating to when an initial notice ceases to be in force.

### 53E Restriction on functions of registered building control approvers

(1) This section applies where—

(a) a new initial notice is given in accordance with section 53(7)(a) (change of registered building control approver in certain cases), and

(b) the notice is accepted by the local authority.

(2) During the period in respect of which—

(a) the notice is in force, but

(b) a transfer certificate and a transfer report have not been accepted by the local authority,

the registered building control approver may not exercise the relevant functions.

(3) In this section the "relevant functions" are the functions of a registered building control approver under, or under regulations made under—

(a) section 50 (plans certificates);

(b) section 51 (final certificates);

(c) section 51A (amendment notices)."

(3) In section 47 of the Building Act 1984 (giving and acceptance of initial notice)—

(a) in subsection (4)(b), after sub-paragraph (ia) (inserted by section 46) insert—

"(ib) it is cancelled by a notice under section 53D, or";

(b) after subsection (7) insert—

"(8) This section is subject to sections 53 and 53B (new initial notices)."

(4) In section 55 of the Building Act 1984 (appeals)—

(a) in subsection (1)—

(i) omit the "or" after paragraph (a);

(ii) after paragraph (b) insert "or

(c) a transfer certificate and a transfer report,";

(b) in subsection (2)(a), after "notice" insert ", report";

(c) in subsection (2)(b), after "notice" insert ", report".

## 52 Information gathering

(1) In section 53 of the Building Act 1984 (effect of initial notice ceasing to be in force), after subsection (4) insert—

"(4A) For the purpose of enabling the local authority to perform the functions referred to in section 48(1), the local authority may by notice require the person shown in the initial notice as the registered building control approver to give the local authority—

(a) any information the authority would have obtained if the authority had performed the function of enforcing building regulations in relation to the work to which the initial notice relates during the period in which the initial notice was in force, and

(b) any other information the local authority may reasonably require.

(4B) Where a person is required to give information under subsection (4A), the information must be given before the end of the prescribed period.

(4C) The person shown in the initial notice as the registered building control approver (the "outgoing approver") must, before the end of the prescribed period, give the person carrying out or intending to carry out the work to which the initial notice relates—

(a) any information given to a local authority under subsection (4A),

(b) any other information that the outgoing approver obtained or created in relation to the work during the period in which the initial notice was in force, and

(c) any other information that the person carrying out or intending to carry out the work may by notice reasonably require for the purpose of enabling a person other than the outgoing approver to perform the functions referred to in section 48(1) in relation to the work.

(4D) A notice under subsection (4C)(c)—

(a) may only require information to be given in relation to work carried out during the period in which the initial notice was in force;

(b) may require information to be provided in a specified format."

(2) In section 57 of the Building Act 1984 (offences), in subsection (1)—

(a) omit the "or" after paragraph (a);

(b) after paragraph (a) insert—

"(aa) fails without reasonable excuse to comply with a requirement under section 53(4A) to give information, or".

## 53 Information

(1) After section 56 of the Building Act 1984 insert—

"**56A Giving information by electronic means: England**

(1) The regulator must establish and maintain a facility (the "facility") to enable a specified person to give specified relevant information to another person by electronic communication.

(2) The Secretary of State may by regulations require or authorise a specified person to use the facility when giving specified relevant information to another person.

(3) Any information given to a person in accordance with regulations made under subsection (2) is to be treated for the purposes of section 56B (requirement to keep register) as also having been given to the regulator.

(4) Regulations under this section may require a person who is given specified relevant information otherwise than through the facility to give that information to the regulator using the facility.

(5) Regulations under this section may make provision treating specified relevant information that is given using the facility as having been given in the prescribed form for the purposes of this Part.

(6) In this section—

"relevant information" means information that is required or authorised to be given by this Part or regulations made under it;

"specified" means specified in regulations made by the Secretary of State under this section.

(7) In this section and section 56B—

"information" includes documents;

"documents" includes notices, certificates, orders, consents, demands and plans.

(8) The Secretary of State may make regulations under this section only in relation to England.

### 56B Requirement to keep register: England

(1) The regulator must keep a register of specified relevant information.

(2) The information that may be specified for the purposes of subsection (1) includes in particular information given, or treated as having been given, to the regulator using the facility established under section 56A(1).

(3) The regulator—

(a) must maintain the register in electronic form;

(b) must ensure that any specified parts of the register are available for inspection by members of the public;

(c) must, in specified circumstances, provide to members of the public, on request, copies of information kept in the register.

(4) In this section—

"relevant information" means information that is required or authorised to be given by this Part or regulations made under it;

"specified" means specified in regulations made by the Secretary of State under this section.

(5) The Secretary of State may make regulations under this section only in relation to England.

### 56C Delegation of functions

(1) The regulator may by written notice delegate to a person, to such extent and subject to such conditions as the regulator considers appropriate, the functions conferred on the regulator by—

(a) section 56A(1);

(b) section 56B(1) and (3) (including the ability to charge fees in connection with the exercise of those functions).

(2) In subsection (1) "fees" means fees that are prescribed by, or determined by the regulator in accordance with, regulations under section 105B.

(3) The regulator may delegate different functions to different persons under subsection (1).

(4) The regulator may delegate functions under subsection (1) only with the consent of the Secretary of State.

(5) The regulator may revoke a delegation of functions to a person by giving a written notice to the person.

(6) The regulator may revoke a delegation under subsection (5) only with the consent of the Secretary of State.

(7) Schedule 3 to the Building Safety Act 2022 (information sharing) applies as if references to the regulator included references to a person to whom the regulator has delegated functions under subsection (1)(b).”

(2) In section 55 of the Building Act 1984 (appeals), after subsection (3) insert—

“(4) On an appeal under subsection (1), the local authority must give the specified information to the regulator.

(5) In this section “specified” means specified in regulations made by the Secretary of State under this section.

(6) The Secretary of State may make regulations under this section only in relation to England.”

(3) In section 56 of the Building Act 1984 (recording and furnishing of information)—

(a) in subsection (1)—

(i) after “authority” insert “in Wales”;

(ii) after “public body’s notices” insert “, transfer reports”;

(iii) after “such notices” insert “, reports”;

(b) in subsection (3), after “plans certificates, final certificates” insert “, transfer certificates”;

(c) in subsection (4), after “section” insert “by a local authority in Wales”.

*Miscellaneous and general*

## 54 Functions under Part 3 of Building Act 1984

In the Building Act 1984 after section 90 insert—

“**90A Functions under this Part: the regulator etc**

(1) The Secretary of State may by regulations provide that in specified cases, a specified function under this Part of local authorities in England is to be a function of the regulator instead of, or in addition to, the local authority in question.

(2) The Secretary of State may by regulations provide that in specified cases, a relevant authority proposing to exercise a specified function under this Part must notify a specified relevant authority of specified matters.

(3) The notification must be made in the specified way and by the specified time.

(4) In this section—

“relevant authority” means the regulator or a local authority for an area in England;

“specified” means specified by regulations under this section.”

## 55 Minor and consequential amendments

Schedule 5 contains—

(a) minor amendments of the Building Act 1984, and

(b) amendments consequential on provision made by this Part.

## 56 Appeals

Schedule 6 makes provision about appeals under the Building Act 1984, including provision providing for—

(a) certain appeals to be made to the regulator instead of the Secretary of State,

(b) certain appeals relating to buildings in England to be made to the tribunal instead of a magistrates' court, and

(c) a right of appeal against a decision of a local authority not to consider certain applications or notices on the ground that they are in respect of higher-risk building work.

## 57 Fees and charges

In the Building Act 1984 after section 105A (inserted by paragraph 29 of Schedule 6) insert—

*"Fees, charges and levies*

### 105B Fees and charges

(1) The appropriate national authority may by regulations make provision authorising a relevant authority—

(a) to charge fees, and

(b) to recover charges,

for or in connection with the performance of any of its functions under, or under an instrument made under, this Act.

(2) The regulations may—

(a) prescribe a fee or charge, or

(b) provide for the amount of any fee or charge to be determined by the relevant authority in accordance with the regulations;

and may make provision about the effect of failing to pay a fee or charge in accordance with the regulations.

(3) The regulations may in particular—

(a) provide that the amount of any charge is to be determined by the relevant authority in accordance with a scheme made and published by it, and

(b) make provision about such schemes, including the principles to be embodied in such schemes.

(4) In this section "relevant authority" means—

(a) in relation to England, the regulator or a local authority for an area in England;

(b) in relation to Wales, the Welsh Ministers or a local authority for an area in Wales."

## 58 Levy on applications for building control approval etc

In the Building Act 1984 after section 105B (inserted by section 57) insert—

"**105C Levy on certain applications for building control approval etc**

(1) The Secretary of State may by regulations make provision for and in connection with the imposition, in respect of relevant applications or notices or specified descriptions of relevant applications or notices, of a levy for the purpose of meeting any building safety expenditure.

(2) The levy is payable to the Secretary of State or a person designated by the Secretary of State.

(3) The regulations may in particular make provision about—

(a) the amount of the levy;

(b) the person by whom it must be paid;

(c) when the levy must be paid;

(d) the provision of information or documents to, or by, the Secretary of State or designated person;

(e) the consequences of a failure to pay the levy in accordance with the regulations;

(f) the determination of disputes (including provision conferring a right to appeal to the tribunal and provision about appeals).

(4) The different provision that may be made by the regulations by virtue of section 120A(2)(b) includes in particular different provision in relation to—

(a) persons who are eligible to be members of a building industry scheme and are not members of that scheme, and

(b) other persons.

(5) The regulations may contain exemptions, for specified descriptions of person.

(6) The regulations may provide that, unless the building control authority is given a notification under subsection (7) in relation to a relevant application or notice (or a relevant application or notice of a specified description), the authority—

(a) may not take a specified step in relation to the application or notice (for example, may not grant an application, accept a notice or give a specified certificate in relation to works connected with the application or notice), or

(b) must take a specified step in relation to the application or notice (for example, must reject a notice).

(7) A notification under this section is a notification given by the Secretary of State or designated person—

(a) that the levy payable in respect of the application or notice has been paid, or

(b) that no levy is payable in respect of the application or notice.

(8) The regulations must provide for any amount received by a designated person by way of a levy to be paid to the Secretary of State, subject to retention of an amount, determined by or in accordance with the regulations, in respect of the costs of administering the levy.

(9) A designation under this section must be published in such way as the Secretary of State considers appropriate.

(10) In this section "relevant application or notice" means—

(a) an application for building control approval,

(b) an initial notice,

(c) an amendment notice, or

(d) a public body's notice,

relating to a relevant building or proposed relevant building (including any such application or notice relating to work that causes a building to become a relevant building or causes a relevant building to cease to be such a building).

(11) In this section—

"amendment notice, "initial notice" and "public body's notice" have the same meaning as in Part 2 (see section 58);

"building industry scheme" means a scheme established under section 126 of the Building Safety Act 2022;

"building safety expenditure" means expenditure incurred by the Secretary of State (whether before or after the passing of this Act) in providing financial assistance to persons (whether by way of grant, loan or otherwise) for the purposes of enabling them to improve the safety of persons in or about buildings in England;

"relevant building" means a building in England consisting of or containing—

(a) one or more dwellings, or

(b) other accommodation,

(and "accommodation" here includes temporary accommodation, for example in a hotel or hospital);

"specified" means specified in the regulations."

## 59 Crown application

In Part 5 of the Building Act 1984 before section 132 insert—

"**131A Crown application**

(1) The following provisions bind the Crown—

(a) Part 1 except sections 35B to 37, 39A and 40;

(b) Part 2;

(c) Part 2A except sections 58I to 58K, 58U, 58V and 58Z4 to 58Z6;

(d) Part 4 so far as it relates to a provision within any of the preceding paragraphs.

(2) No contravention by the Crown of a provision within subsection (1)(a) to (d) makes the Crown criminally liable.

(3) Subsection (2) does not affect the criminal liability of persons in the service of the Crown.

(4) Subsection (5) applies where—

(a) a contravention of a provision within subsection (1)(a) or (b), or of Part 4 so far as it relates to such a provision, occurs in relation to a building or proposed building for which a local authority is the building control authority, or

(b) a contravention of a provision within subsection (1)(c), or of Part 4 so far as it relates to such a provision, occurs in relation to Wales,

and the Crown would, but for subsection (2), be criminally liable under this Act in respect of the contravention.

(5) The High Court may, on the application of—

(a) the local authority (in a case within subsection (4)(a)), or

(b) the Welsh Ministers (in a case within subsection (4)(b)),

declare unlawful the act or omission constituting the contravention.

(6) In this section a reference to a provision includes any instrument made under it.

(7) For the application to the Crown of Part 3, and Part 4 so far as it relates to that Part, see section 87."

**60 Application to Parliament**

(1) The Building Act 1984 is amended as follows.

(2) In section 95 (power to enter premises) after subsection (4) insert—

"(5) This section does not apply in relation to the Parliamentary Estate (as defined by section 131B)."

(3) After section 131A (inserted by section 59) insert—

"**131B Parts 1 and 2 etc: application to Parliament**

(1) In their application in relation to the Parliamentary Estate, Parts 1 and 2, and Part 4 so far as it relates to those Parts, have effect with the following modifications—

(a) sections 35B to 37, 39A and 40 (enforcement etc) do not apply;

(b) any reference to the owner or occupier of a building or of any premises is be read as a reference to—

(i) the Corporate Officer of the House of Lords,

(ii) the Corporate Officer of the House of Commons, or (as the case may be)

(iii) the Corporate Officers acting jointly.

(2) In the following provisions—

"Corporate Officer" means—

(a) the Corporate Officer of the House of Lords,

(b) the Corporate Officer of the House of Commons, or

(c) the Corporate Officers acting jointly;

"relevant provision" means—

(a) any provision of, or of an instrument made under, Part 1 or 2, or

(b) any provision of Part 4 or of an instrument made under Part 4, so far as the provision relates to Part 1 or 2.

(3) No contravention by a Corporate Officer of a relevant provision makes the Corporate Officer criminally liable.

(4) Subsection (3) does not affect the criminal liability of relevant members of the House of Lords staff or of the House of Commons staff (as defined by sections 194 and 195 of the Employment Rights Act 1996).

(5) Where a contravention of a relevant provision occurs which, but for subsection (3), would result in a Corporate Officer being criminally liable, the High Court may, on the application of the local authority, declare unlawful the act or omission constituting the contravention.

(6) In this section "the Parliamentary Estate" means any building or other premises occupied for the purposes of either House of Parliament."

## PART 4

HIGHER-RISK BUILDINGS

*Introduction*

### 61 Overview of Part

(1) This Part contains provisions about the management of building safety risks as regards occupied higher-risk buildings.

(2) In this Part—

(a) sections 62 to 64 define "building safety risk" and make related provision;

(b) sections 65 to 70 define "higher-risk building", make related provision, and confer power to modify this Part as it applies in relation to any description of higher-risk building;

(c) sections 71 to 75 contain other key definitions, including—

(i) when a building is "occupied";

(ii) the definition of "accountable person" and "principal accountable person";

and provide that the First-tier Tribunal may determine who is an accountable person or the principal accountable person for a higher-risk building;

(d) sections 76 to 82 make provision about the registration of higher-risk buildings and about building assessment certificates;

(e) sections 83 to 86 make provision about the assessment and management of building safety risks, including provision requiring a safety case report to be prepared and revised;

(f) sections 87 to 90 contain provisions about the keeping and giving of information and documents to the regulator, other accountable persons, residents and others;

(g) sections 91 to 94 contain provisions about engagement with residents etc, including—

(i) provision requiring a residents' engagement strategy to be prepared and revised;

(ii) provision requiring complaints systems to be established and operated;

(h) sections 95 to 97 impose duties on residents and make provision for the enforcement of those duties;

(i) section 98 to 101 contain provisions about the enforcement of this Part;

(j) section 102 and Schedule 7 provide for the appointment of a special measures manager, to undertake duties under this Part in place of an accountable person, and make further provision in connection with that appointment;

(k) sections 103 to 107 contain provisions about appeals;

(l) sections 108 to 111 contain miscellaneous provisions, including provision about cooperation and coordination;

(m) sections 112 to 114 provide for certain terms to be implied into leases, and contain other provisions affecting the relationship between landlord and tenant or affecting commonholds;

(n) section 115 contains definitions applying for the purposes of this Part.

*Meaning of "building safety risk"*

### 62 Meaning of "building safety risk"

(1) In this Part "building safety risk" means a risk to the safety of people in or about a building arising from any of the following occurring as regards the building—

(a) the spread of fire;

(b) structural failure;

(c) any other prescribed matter.

(2) Before making regulations under subsection (1)(c), the Secretary of State must consult—

(a) the regulator, and

(b) such other persons as the Secretary of State considers appropriate.

(3) But the regulator need not be consulted if—

(a) the regulations give effect to a recommendation made by the regulator under section 63, or

(b) the Secretary of State has under section 64 asked the regulator for its advice in relation to a proposal to make the regulations.

### 63 Recommendations about regulations under section 62

(1) The regulator may recommend that the Secretary of State makes regulations under section 62.

(2) The regulator may make a recommendation to prescribe a matter under section 62(1)(c) for any higher-risk building only if it considers that if the matter occurred as regards a higher-risk building it would have the potential to cause a major incident.

(3) The regulator may make a recommendation to prescribe a matter under section 62(1)(c) for a description of higher-risk building only if it considers that if the matter occurred as regards a higher-risk building of that description it would have the potential to cause a major incident.

(4) The regulator may make a recommendation to prescribe a matter under section 62(1)(c) for a description of building that is not a higher-risk building only if—

(a) it considers that—

(i) if the matter occurred as regards a building of that description it would have the potential to cause a major incident,

(ii) the risk of the matter occurring is greater for that description of buildings than it is for buildings that are not of that description, and

(iii) this Part should apply (with or without modifications) in relation to buildings of that description, and

(b) it also recommends that buildings of that description should be higher-risk buildings for the purposes of this Part (and, if section 69(2)(b) applies, makes a recommendation of the kind mentioned there).

(5) The regulator may make a recommendation to make regulations that would result in a matter ceasing to be prescribed under section 62(1)(c) only if—

(a) where the matter is prescribed for any higher-risk building, it considers that if the matter occurred as regards a higher-risk building it would not have the potential to cause a major incident;

(b) where the matter is prescribed for a description of higher-risk building, it considers that if the matter occurred as regards a higher-risk building of that description it would not have the potential to cause a major incident.

(6) When making a recommendation, the regulator must give the Secretary of State a statement of its assessment of the issues it considered when deciding to make the recommendation.

(7) If following a recommendation the Secretary of State decides not to make the regulations, the Secretary of State must publish a document setting out—

(a) the regulator's recommendation,

(b) the Secretary of State's decision not to make the regulations, and

(c) the reasons for that decision.

(8) In this Part "major incident" means an incident resulting in—

(a) a significant number of deaths, or

(b) serious injury to a significant number of people.

### 64 Advice about regulations under section 62

Where the Secretary of State asks the regulator to provide advice about a proposal to make regulations under section 62, it must provide that advice.

*Meaning of "higher-risk building"*

### 65 Meaning of "higher-risk building" etc

(1) In this Part "higher-risk building" means a building in England that—

(a) is at least 18 metres in height or has at least 7 storeys, and

(b) contains at least 2 residential units.

(2) The Secretary of State may by regulations make provision supplementing this section.

(3) The regulations may in particular—

(a) define "building" or "storey" for the purposes of this section;

(b) make provision about how the height of a building is to be determined for those purposes;

(c) provide that "higher-risk building" does not include a building of a prescribed description.

(4) Regulations made by virtue of subsection (3)(a) may in particular define "building" so as to provide that it includes—

(a) any other structure or erection of any kind (whether temporary or permanent);

(b) any vehicle, vessel or other movable object of any kind, in such circumstances as may be prescribed.

(5) The Secretary of State may by regulations amend this section (other than subsection (2) or this subsection).

(6) For the meaning of "residential unit" see section 115.

### 66 Regulations under section 65: procedure

(1) Before making regulations under section 65, the Secretary of State must consult—

(a) the regulator, and

(b) such other persons as the Secretary of State considers appropriate.

(2) But the regulator need not be consulted if—

(a) the regulations give effect to a recommendation made by the regulator under section 63(4) or 69, or

(b) the Secretary of State has under section 70 asked the regulator for advice about the description of building in question.

### 67 Regulations under section 65: additional procedure in certain cases

(1) This section applies if the Secretary of State proposes to make regulations under section 65 that would result in a description of building (including anything within subsection (4) of that section) becoming a higher-risk building for the purposes of this Part.

(2) The Secretary of State must ask the regulator under section 70(1) for advice about the description of building, except where the regulations would give effect to a recommendation under section 69(2).

(3) The Secretary of State must carry out a cost-benefit analysis and publish it.

(4) In this section "cost-benefit analysis" means—

(a) an analysis of the costs together with an analysis of the benefits that will arise if the regulations are made, and

(b) an estimate of those costs and of those benefits (subject to subsection (5)).

(5) If, in the opinion of the Secretary of State—

(a) the costs or benefits cannot reasonably be estimated, or

(b) it is not reasonably practicable to produce an estimate,

the cost-benefit analysis need not estimate them, but must include a statement of the Secretary of State's opinion and an explanation of it.

### 68 Modification of Part in relation to certain kinds of higher-risk building

(1) The Secretary of State may make regulations modifying this Part as it applies in relation to a prescribed description of higher-risk building.

(2) Before making the regulations, the Secretary of State must consult—

(a) the regulator, and

(b) such other persons as the Secretary of State considers appropriate.

(3) But the regulator need not be consulted if the regulations give effect to a recommendation under section 63(4), 69 or 70.

### 69 Recommendations about definition of "higher-risk building" etc

(1) Subsection (2) applies if, in respect of any description of building that is not a higher-risk building, the regulator considers—

(a) that a building safety risk is greater for that description of buildings than it is for buildings that are not of that description,

(b) that if the risk materialised as regards a building of that description it would have the potential to cause a major incident, and

(c) that this Part should apply (with or without modifications) in relation to buildings of that description.

(2) The regulator must—

(a) recommend to the Secretary of State that buildings of that description should be higher-risk buildings for the purposes of this Part,

(b) if it considers that regulations under section 68 should be made modifying this Part as it applies in relation to that description of building, make a recommendation to the Secretary of State to that effect, and

(c) give the Secretary of State a statement of its assessment of the issues it considered when deciding to make the recommendation under paragraph (a) and any recommendation under paragraph (b).

(3) Subsection (4) applies if—

(a) following a recommendation under subsection (2)(a) the Secretary of State decides not to make regulations under section 65 giving effect to the recommendation, or

(b) following a recommendation under subsection (2)(b) the Secretary of State decides not to make regulations under section 68 giving effect to the recommendation.

(4) The Secretary of State must publish a document setting out—

(a) the regulator's recommendation,

(b) the Secretary of State's decision not to make the regulations, and

(c) the reasons for that decision.

(5) If the regulator considers that this Part should not apply in relation to a particular description of higher-risk building, it must recommend to the Secretary of State that

buildings of that description should cease to be higher-risk buildings for the purposes of this Part.

(6) For the meaning of "major incident" see section 63.

### 70 Advice about definition of "higher-risk building" etc

(1) Subsections (2) to (6) apply if the Secretary of State asks the regulator for advice as to whether a specified description of building should be a higher-risk building for the purposes of this Part.

(2) The regulator must consider whether the following conditions are met—

(a) the first condition is that a building safety risk is greater for that description of buildings than it is for buildings that are not of that description;

(b) the second condition is that, if the risk materialised as regards a building of that description, it would have the potential to cause a major incident;

(c) the third condition is that buildings of that description should be higher-risk buildings for the purposes of this Part.

(3) The regulator must—

(a) if the conditions mentioned in subsection (2) are met, recommend to the Secretary of State that buildings of that description should be higher-risk buildings for the purposes of this Part;

(b) otherwise, recommend to the Secretary of State that buildings of that description should not be higher-risk buildings for those purposes.

(4) Where the regulator—

(a) makes a recommendation under subsection (3)(a), and

(b) considers that regulations under section 68 should be made modifying this Part as it applies in relation to buildings of the specified description,

it must make a recommendation to the Secretary of State to that effect.

(5) The regulator must give the Secretary of State a statement of its assessment of the issues it considered when deciding to make the recommendation under subsection (3) and any recommendation under subsection (4).

(6) If, following a recommendation under subsection (3)(a), the Secretary of State decides not to make regulations under section 65 giving effect to the recommendation, the Secretary of State must publish a document setting out—

(a) the regulator's recommendation,

(b) the Secretary of State's decision not to make the regulations, and

(c) the reasons for that decision.

(7) If requested, the regulator must provide advice to the Secretary of State as to whether higher-risk buildings of a specified description should cease to be higher-risk buildings for the purposes of this Part.

(8) In this section "specified" means specified by the Secretary of State in the request.

*Meaning of "accountable person" and other key definitions*

### 71 Meaning of "occupied" higher-risk building etc

(1) The following provisions apply for the purposes of this Part.

(2) A higher-risk building is "occupied" if there are residents of more than one residential unit in the building.

(3) A reference to a resident of a higher-risk building is to a resident of a residential unit in such a building.

(4) The Secretary of State may by regulations—

(a) amend the definition of a higher-risk building being "occupied";

(b) amend the definition of a "resident" of a higher-risk building;

(c) define, for the purposes of this Part, the meaning of being a "resident" of a residential unit.

(5) See—

(a) section 65 for the meaning of "higher-risk building";

(b) section 115 for the meaning of "residential unit".

### 72 Meaning of "accountable person"

(1) In this Part an "accountable person" for a higher-risk building is—

(a) a person who holds a legal estate in possession in any part of the common parts (subject to subsection (2)), or

(b) a person who does not hold a legal estate in any part of the building but who is under a relevant repairing obligation in relation to any part of the common parts.

This subsection is subject to subsection (5) (special rule for commonhold land).

(2) A person ("the estate owner") who holds a legal estate in possession in the common parts of a higher-risk building or any part of them ("the relevant common parts") is not an accountable person for the building by virtue of subsection (1)(a) if—

(a) each long lease of which the estate owner is lessor provides that a particular person, who does not hold a legal estate in any part of the building, is under a relevant repairing obligation in relation to all of the relevant common parts, or

(b) all repairing obligations relating to the relevant common parts which would otherwise be obligations of the estate owner are functions of an RTM company.

(3) Subsection (4) applies where—

(a) under a lease, a person ("the estate owner") holds a legal estate in possession in the common parts of a higher-risk building or any part of them ("the relevant common parts"), and

(b) a landlord under the lease is under a relevant repairing obligation in relation to any of the relevant common parts.

(4) For the purposes of this section and section 73—

(a) the legal estate in possession in so much of the relevant common parts as are within subsection (3)(b) is treated as held by the landlord (instead of the estate owner), and

(b) if (and so far as) the landlord's actual legal estate in those common parts is held under a lease, the legal estate in possession mentioned in paragraph (a) is treated as held under that lease (and, accordingly, subsection (3) and this subsection may apply in relation to it).

(5) Where a higher-risk building is on commonhold land, the commonhold association is the accountable person for the building for the purposes of this Part.

(6) For the purposes of this section—

"common parts", in relation to a building, means—

(a) the structure and exterior of the building, except so far as included in a demise of a single dwelling or of premises to be occupied for the purposes of a business, or

(b) any part of the building provided for the use, benefit and enjoyment of the residents of more than one residential unit (whether alone or with other persons);

"commonhold association" and "commonhold land" have the same meaning as in Part 1 of the Commonhold and Leasehold Reform Act 2002 (see sections 34 and 1 respectively);

"long lease": for the meaning of "long lease" see section 115;

"possession": a reference to "possession" does not include the receipt of rents and profits or the right to receive the same;

"relevant repairing obligation": a person is under a relevant repairing obligation in relation to anything if the person is required, under a lease or by virtue of an enactment, to repair or maintain that thing;

"RTM company" has the same meaning as in Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002 (right to manage).

(7) The Secretary of State may by regulations amend this section (other than this subsection).

## 73 Meaning of "principal accountable person"

(1) In this Part the "principal accountable person" for a higher-risk building is—

(a) in relation to a building with one accountable person, that person;

(b) in relation to a building with more than one accountable person, the accountable person who—

(i) holds a legal estate in possession in the relevant parts of the structure and exterior of the building, or

(ii) is within section 72(1)(b) because of a relevant repairing obligation (within the meaning of that section) in relation to the relevant parts of the structure and exterior of the building.

(2) For the purposes of this section—

(a) the reference to "the relevant parts of the structure and exterior" of a building is to its structure and exterior except so far as included in a demise of a single dwelling or of premises to be occupied for the purposes of a business;

(b) the reference to "possession" does not include the receipt of rents and profits or the right to receive the same.

(3) Subsection (1)(b) is subject to section 75(2) (powers of tribunal where more than one accountable person is within subsection (1)(b)).

### 74 Part of building for which an accountable person is responsible

In this Part, any reference to the part of a higher-risk building for which an accountable person is responsible is to such part of the building (including all of it) as is determined by or in accordance with regulations.

### 75 Determinations by the tribunal

(1) An interested person may apply to the tribunal for a determination, as regards a higher-risk building, of any of the following—

(a) the person or persons who are accountable persons for the building;

(b) the person who is the principal accountable person for the building;

(c) the part of the building for which any accountable person for the building is responsible.

(2) Where, on an application under subsection (1)(b), it appears to the tribunal that there is more than one accountable person within section 73(1)(b), the principal accountable person is such one of those accountable persons as the tribunal considers appropriate.

(3) In this section "interested person" means—

(a) the regulator,

(b) a person who holds a legal estate in any part of the common parts (or who claims to hold such an estate), or

(c) a person who is under a relevant repairing obligation in relation to any part of the common parts (or who claims to be under such an obligation).

(4) In subsection (3) "relevant repairing obligation" and "common parts" have the same meaning as in section 72.

*Registration and certificates*

### 76 Requirement for completion certificate before occupation

(1) This section applies if any of the following works are carried out—

(a) the construction of a higher-risk building;

(b) the creation of additional residential units in such a building;

(c) works to a building that cause it to become a higher-risk building.

(2) If a relevant residential unit is occupied before a completion certificate relating to a relevant part of the building is issued, the relevant accountable person commits an offence.

(3) It is a defence for a person charged with an offence under this section to prove that the person had a reasonable excuse for the residential unit being occupied before such a completion certificate was issued.

(4) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both).

(5) In this section—

"completion certificate" means a certificate of a prescribed description that is issued under regulations made under section 1(1) of the Building Act 1984 (building regulations);

"occupied": a residential unit is occupied if there is a resident of it;

"relevant accountable person", in relation to a residential unit, means the accountable person who is responsible for a relevant part of the building;

"relevant part" of a building, in relation to a residential unit, means a part of the building containing the residential unit;

"relevant residential unit" means—

(a) in the case of works within subsection (1)(a), any residential unit in the building;

(b) in the case of works within subsection (1)(b), any additional residential unit;

(c) in the case of works within subsection (1)(c), any residential unit in the building except one that existed before the works began.

## 77 Occupation: registration requirement

(1) The principal accountable person for a higher-risk building commits an offence if the building is occupied but not registered.

(2) It is a defence for a person charged with an offence under this section to prove that the person had a reasonable excuse for the building being occupied but not registered.

(3) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction.

(4) In this section "registered" means registered under section 78.

## 78 Registration of higher-risk buildings

(1) On an application by the principal accountable person for a higher-risk building the regulator may register the building.

(2) The regulator must publish the register in such way as it considers appropriate.

(3) The regulator may remove a building from the register if it appears to the regulator that—

(a) the building is not occupied, or
(b) the building is not a higher-risk building.

(4) The Secretary of State may by regulations make provision about the register, including in particular provision about—
(a) the information to be contained in the register;
(b) the updating or other revision of information in the register;
(c) the procedure for removing buildings from the register.

(5) The Secretary of State may by regulations make provision in relation to applications under this section, including in particular provision about—
(a) the form and content of an application;
(b) the information and documents that must accompany an application;
(c) the way in which an application, and anything that is to accompany it, is to be given;
(d) the circumstances in which an application may be withdrawn or treated as withdrawn;
(e) the way in which an application may be withdrawn.

### 79 Occupied building: duty to apply for building assessment certificate

(1) This section applies where the regulator directs the principal accountable person for an occupied higher-risk building to apply to the regulator for a building assessment certificate in relation to the building.

(2) The principal accountable person for the building must make the application within the period of 28 days beginning with the day on which the direction is given.

(3) A person who, without reasonable excuse, contravenes subsection (2) commits an offence.

(4) A person guilty of an offence under this section is liable—
(a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);
(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction.

(5) In this section "building assessment certificate" means a certificate issued under section 81.

### 80 Applications for building assessment certificates

(1) An application under section 79 must be accompanied by—
(a) a copy of the most recent safety case report for the building unless a copy of that report has been provided under section 86(2);
(b) prescribed information about the mandatory occurrence reporting system operated by the principal accountable person;
(c) prescribed information demonstrating compliance by each accountable person for the building with their duties under section 89;

(d) a copy of any residents' engagement strategy.

(2) The Secretary of State may by regulations make further provision about applications under section 79, including in particular provision about—

(a) the form and content of an application;

(b) the way in which an application, and anything which is to accompany it, is to be given;

(c) the circumstances in which an application may be withdrawn or treated as withdrawn;

(d) the way in which an application may be withdrawn.

(3) In this section—

"mandatory occurrence reporting system" has the same meaning as in section 87;

"residents' engagement strategy" has the same meaning as in section 91;

"safety case report" has the same meaning as in section 85.

## 81 Building assessment certificates

(1) This section applies where—

(a) the principal accountable person for an occupied higher-risk building applies under section 79 for a certificate in relation to the building (a "building assessment certificate"),

(b) the application is made pursuant to a direction of the regulator under that section, and

(c) the building is registered under section 78.

(2) The regulator must assess whether the relevant duties are being complied with (and may inspect the building in connection with that assessment).

(3) The regulator—

(a) must give a building assessment certificate if satisfied that all relevant duties are being complied with;

(b) if not so satisfied, must (subject to subsection (4)) refuse the application and notify the principal accountable person of the refusal.

(4) If the regulator considers that a contravention of a relevant duty can be remedied promptly—

(a) the regulator may give a notice under this subsection to the principal accountable person containing a brief description of the contravention and specifying a period for remedying the contravention, and

(b) if it does so, and the contravention is remedied within that period, it may give a building assessment certificate (instead of refusing the application).

(5) In this section "relevant duty" means a duty of an accountable person for the building under, or under prescribed regulations made under, any of the following—

(a) section 83 (duty to assess building safety risks);

(b) section 84 (management of building safety risks);

(c) section 85 (duties relating to safety case report);

(d) section 87(5) (duties relating to mandatory occurrence reporting system);

(e) section 89 (provision of information to regulator, residents etc);

(f) section 91 (duty to produce a residents' engagement strategy).

(6) The Secretary of State may by regulations make further provision about building assessment certificates and notices under this section, including in particular provision about—

(a) the period in relation to which a certificate may be given;

(b) the form and content of a certificate or notice;

(c) the way in which a certificate or notice is to be given.

## 82 Duty to display building assessment certificate etc

(1) The principal accountable person for an occupied higher-risk building must ensure that the following are displayed together, in a conspicuous position in the building—

(a) a notice in the prescribed form containing prescribed information about accountable persons for the building;

(b) the most recent building assessment certificate relating to the building;

(c) any relevant compliance notice (see subsection (5)).

(2) Where a special measures order is in force in relation to an occupied higher-risk building—

(a) subsection (1) has effect as if paragraph (b) were omitted, and

(b) the principal accountable person for the building must ensure that no building assessment certificate relating to the building is displayed in the building.

(3) A person who, without reasonable excuse, contravenes subsection (1) or (2)(b) commits an offence.

(4) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction.

(5) In this section—

"building assessment certificate" has the same meaning as in section 81;

"relevant compliance notice": a compliance notice is "relevant" if—

(a) it has been given to an accountable person for the building,

(b) if it was not given to the principal accountable person for the building, the regulator has given a copy of it to the principal accountable person, and

(c) the regulator has not notified the principal accountable person that the notice has been withdrawn.

*Duties relating to building safety risks*

### 83 Assessment of building safety risks

(1) An accountable person for an occupied higher-risk building must as soon as reasonably practicable after the relevant time assess the building safety risks as regards the part of the building for which they are responsible.

(2) Further such assessments must be made—

(a) at regular intervals,

(b) at any time that the accountable person has reason to suspect that the current assessment is no longer valid, and

(c) at the direction of the regulator, within a period specified in the direction.

(3) An assessment under subsection (1) or (2) must be suitable and sufficient for the purposes of enabling the accountable person to comply with their duties under section 84.

(4) In this section "the relevant time" means—

(a) the time when the building becomes occupied, or

(b) if later, the time when the person becomes an accountable person for the building.

### 84 Management of building safety risks

(1) An accountable person for an occupied higher-risk building must take all reasonable steps for the following purposes—

(a) preventing a building safety risk materialising as regards the part of the building for which they are responsible;

(b) reducing the severity of any incident resulting from such a risk materialising.

(2) Those steps may in particular involve the accountable person carrying out works to the part of the building for which they are responsible.

(3) When taking the steps the accountable person must act in accordance with prescribed principles.

(4) The steps must be taken promptly.

(5) The accountable person must make and give effect to arrangements for the purpose of ensuring the effective planning, organisation, control, monitoring and review of steps taken under this section.

### 85 Safety case report

(1) The principal accountable person for an occupied higher-risk building must as soon as reasonably practicable after the relevant time prepare a report (a "safety case report") containing—

(a) any assessment of the building safety risks made under section 83 by an accountable person for the building, and

(b) a brief description of any steps taken under section 84 by an accountable person for the building.

(2) The principal accountable person must revise a safety case report if they consider it necessary or appropriate to do so following—

(a) any further assessment under section 83 made by an accountable person for the building, or

(b) the taking of further steps under section 84 by an accountable person for the building.

(3) The Secretary of State may by regulations make further provision about the content and form of safety case reports.

(4) In this section "the relevant time" means—

(a) the time when the building becomes occupied, or

(b) if later, the time when the person becomes the principal accountable person for the building.

### 86 Notification and provision of report to the regulator

(1) The principal accountable person for an occupied higher-risk building must notify the regulator as soon as reasonably practicable after preparing or revising a safety case report.

(2) Where the regulator asks the principal accountable person to provide it with a copy of the safety case report, the principal accountable person must give a copy of it to the regulator as soon as reasonably practicable.

(3) The Secretary of State may by regulations make provision about—

(a) the content and form of notifications under this section;

(b) the way in which a notification or copy of a report must be given.

(4) In this section "safety case report" has the same meaning as in section 85.

*Duties relating to information and documents*

### 87 Mandatory reporting requirements

(1) An accountable person for an occupied higher-risk building must, in prescribed circumstances, give prescribed information to the regulator by the prescribed time and in the specified way.

(2) The information that may be prescribed is information that relates to a building safety risk as regards the part of the building for which an accountable person is responsible.

(3) In subsection (1) "specified" means specified in a direction given and published by the regulator.

(4) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on summary conviction to a fine.

(5) The principal accountable person for an occupied higher-risk building must establish and operate an effective mandatory occurrence reporting system which complies with prescribed requirements.

(6) A "mandatory occurrence reporting system" is a system for the giving of information to accountable persons for the building for the purpose of enabling them to comply with subsection (1).

(7) Information provided by a person under subsection (1) is not admissible in evidence against that person in criminal proceedings except—

(a) in proceedings for an offence under section 24 or this section,

(b) in proceedings for an offence of perverting the course of justice, or

(c) if in the proceedings—

(i) in giving evidence the person makes a statement inconsistent with the information, and

(ii) evidence as to the information that was provided is adduced, or a question relating to it is asked, by or on behalf of the person.

## 88 Keeping information about higher-risk buildings

(1) An accountable person for a higher-risk building must—

(a) keep prescribed information in accordance with prescribed standards, and

(b) so far as possible keep such information up to date.

(2) An accountable person for a higher-risk building must keep copies of prescribed documents in accordance with prescribed standards.

(3) Where an accountable person does not hold prescribed information or a copy of a prescribed document, they must obtain it except where it is not practicable to do so.

(4) The Secretary of State may by regulations make provision as to when the duties in subsections (1) to (3) apply.

## 89 Provision of information etc to the regulator, residents and other persons

(1) The Secretary of State may by regulations make provision requiring an accountable person for a higher-risk building to give prescribed information or a copy of a prescribed document to—

(a) the regulator,

(b) another accountable person for the building,

(c) residents of the building,

(d) owners of residential units in the building, or

(e) any other prescribed person.

(2) The regulations may in particular make provision about—

(a) when information or a copy of a document must be given;

(b) the way in which information or copy of a document must be given;

(c) the form in which information must be given (and may in particular require that the information is given in an accessible form);

(d) the standards in accordance with which information or a copy of a document must be given.

(3) The regulations may make exceptions to any duty imposed under the regulations.

(4) Subject to subsection (5), the regulations may provide that the disclosure of information under this section does not breach—

(a) any obligation of confidence owed by the accountable person in relation to that information;

(b) any other restriction on the disclosure of information (however imposed).

(5) This section does not authorise a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the powers conferred by this section).

(6) Where the regulations provide that any information or document must be given to the regulator, they may make provision about the admissibility in any criminal proceedings of the information or document.

### 90 Provision of information etc on change in accountable person

(1) This section applies where at any time ("the relevant time") an accountable person for a higher-risk building (the "outgoing person") ceases to be responsible for all or any part of the building.

(2) The outgoing person must give prescribed information and a copy of any prescribed document to any person who, immediately after the relevant time—

(a) is an accountable person for the building, and

(b) is responsible for a part of the building for which the outgoing person ceased to be responsible at the relevant time.

(3) The information and documents must be given—

(a) by the prescribed time,

(b) in the prescribed way, and

(c) in accordance with prescribed standards.

(4) The outgoing person must give prescribed information to the regulator in the prescribed way, as soon as reasonably practicable after the relevant time.

(5) Subject to subsection (6), regulations made by the Secretary of State under this section may provide that the disclosure of information under this section does not breach—

(a) any obligation of confidence owed by the outgoing person in relation to that information;

(b) any other restriction on the disclosure of information (however imposed).

(6) This section does not authorise a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the powers conferred by this section).

(7) A person who, without reasonable excuse, contravenes subsection (2) or (4) commits an offence and is liable—

(a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction.

*Engagement with residents etc*

**91 Residents' engagement strategy**

(1) The principal accountable person for an occupied higher-risk building must—

(a) as soon as reasonably practicable after the relevant time prepare a strategy (a "residents' engagement strategy") for promoting the participation of relevant persons in the making of building safety decisions;

(b) review the strategy at prescribed times, and revise it if they consider it necessary or appropriate to do so;

(c) in prescribed circumstances, consult relevant persons and prescribed persons on the strategy and take any representations made on the consultation into account when next reviewing the strategy;

(d) act in accordance with the strategy.

(2) "Building safety decision" means a decision by an accountable person for the building that—

(a) is about the management of the building, and

(b) is made in connection with the performance of a duty of the accountable person under, or under regulations made under, this Part.

(3) The strategy must include information about—

(a) the information that will be provided to relevant persons about decisions relating to the management of the building,

(b) the aspects of those decisions that relevant persons will be consulted about,

(c) the arrangements for obtaining and taking account of the views of relevant persons, and

(d) how the appropriateness of methods for promoting participation will be measured and kept under review.

(4) As soon as reasonably practicable after the strategy is prepared or revised, each accountable person for the building must give a copy of the strategy to—

(a) each resident of the building who—

(i) is aged 16 or over, and

(ii) resides in a residential unit in the part of the building for which the accountable person is responsible;

(b) each owner of a residential unit in that part of the building;

(c) any prescribed person.

(5) The duty under subsection (4)(a) does not apply in relation to a resident if the accountable person—

(a) is not aware of the resident, and

(b) has taken all reasonable steps to make themselves aware of persons who reside in residential units in the part of the building for which the accountable person is responsible.

(6) The Secretary of State may by regulations—

(a) make further provision about the content of a residents' engagement strategy;

(b) make provision about the preparation, review or revision of a residents' engagement strategy, in cases where there is more than one accountable person for the building;

(c) make provision about the way in which a copy of the strategy is to be given;
(d) make provision about consultations under this section.

(7) In this section—

"relevant persons" are—

(a) residents of the higher-risk building who are aged 16 or over, and
(b) owners of residential units in the building;

"the relevant time" has the meaning given by section 85.

### 92 Requests for further information

(1) This section applies where—

(a) a resident of an occupied higher-risk building who is aged 16 or over, or
(b) an owner of a residential unit in the building,

makes a request to an accountable person for the building to give them prescribed information or a copy of a prescribed document.

(2) The accountable person must as soon as reasonably practicable give the resident or owner the information or document requested.

(3) The Secretary of State may by regulations make provision about—

(a) the way in which information or a copy of a document must be given under this section;
(b) the form in which information must be given under this section (and may in particular require that the information is given in an accessible form).

(4) The Secretary of State may by regulations provide that in prescribed circumstances an accountable person is not required by subsection (2) to provide a copy of a document or some or all of the information requested.

(5) Subject to subsection (6), the regulations may provide that the disclosure of information under this section does not breach—

(a) any obligation of confidence owed by the person making the disclosure, or
(b) any other restriction on the disclosure of information (however imposed).

(6) This section does not authorise a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the powers conferred by this section).

### 93 Complaints procedure operated by principal accountable person

(1) The principal accountable person for an occupied higher-risk building must as soon as reasonably practicable after the relevant time establish and operate a system for the investigation of relevant complaints.

(2) The Secretary of State may by regulations make provision about the establishment and operation of complaints systems under this section.

(3) The regulations may in particular make provision—

(a) about the way in which complaints may be made;
(b) about the period within which a complaint must be considered and dealt with;
(c) requiring the principal accountable person to refer a complaint to the regulator.

(4) In this section—

"relevant complaint" means a complaint relating to—

(a) a building safety risk as regards the building, or

(b) the performance by an accountable person for the building of any duty under, or under regulations made under, this Part;

"the relevant time" has the meaning given by section 85.

### 94 Complaints procedure operated by the regulator

(1) The regulator must establish and operate a system for the investigation of relevant complaints that are made, or referred under section 93, to the regulator.

(2) The regulator must consult the committee mentioned in section 11 (residents' panel)—

(a) before the complaints system is established or, if the committee has not been established at the time the complaints system is established, as soon as reasonably practicable after the committee is established, and

(b) before making any significant change to the complaints system.

(3) The Secretary of State may by regulations make provision about the establishment and operation of the complaints system under this section.

(4) The regulations may in particular make provision about—

(a) the period within which a complaint must be considered and dealt with;

(b) action that the regulator must consider taking in response to a complaint.

(5) In this section "relevant complaint" means a complaint relating to—

(a) a building safety risk as regards an occupied higher-risk building,

(b) the performance by an accountable person for an occupied higher-risk building of any duty under, or under regulations made under, this Part, or

(c) the performance by a special measures manager of any function conferred on the manager by a special measures order.

*Residents' etc duties*

### 95 Duties on residents and owners

(1) This section applies to—

(a) a resident of a residential unit in an occupied higher-risk building who is aged 16 or over;

(b) an owner of a residential unit in such a building.

(2) A person to whom this section applies—

(a) must not act in a way that creates a significant risk of a building safety risk materialising;

(b) must not interfere with a relevant safety item;

(c) must comply with a request, made by the appropriate accountable person, for information reasonably required for the purposes of a duty under section 83 or 84.

(3) For the purposes of subsection (2)(b) a person "interferes" with a relevant safety item if they, without reasonable excuse—

(a) damage it,
(b) remove it, or
(c) do anything to, or in relation to, it that interferes with its intended function.

(4) In this section—

"appropriate accountable person" means the accountable person for the building who is responsible for the part of the building comprising the residential unit;

"relevant safety item" means—

(a) anything that—

(i) is in, or forms part of, the common parts (as defined by section 72), and

(ii) is intended to improve the safety of people in or about the building in relation to a building safety risk, or

(b) any other prescribed thing.

## 96 Contravention notices

(1) This section applies where it appears to the appropriate accountable person that a relevant person has contravened or is contravening a duty under section 95(2).

(2) The appropriate accountable person may give a contravention notice to the relevant person.

(3) A "contravention notice" is a notice that—

(a) specifies the alleged contravention;
(b) specifies any steps that the appropriate accountable person considers the relevant person should take in order to remedy the contravention, and a reasonable time for the taking of those steps;
(c) specifies anything that the appropriate accountable person considers the relevant person should refrain from doing, to avoid further contraventions of the duty;
(d) contains an explanation of the steps that the appropriate accountable person may take under this section if the notice is not complied with.

(4) Where it appears to the appropriate accountable person that the relevant person has contravened or is contravening the duty under section 95(2)(b), the contravention notice may require the relevant person to pay to the appropriate accountable person a sum specified in the notice.

(5) A sum may be specified in a contravention notice under subsection (4) only if—

(a) it is necessary to repair or replace the relevant safety item as a result of the contravention, and
(b) the sum specified does not exceed the reasonable cost of repairing or replacing (as the case may be) that item.

(6) The Secretary of State may by regulations make provision about contravention notices, including—

(a) provision about the form of a notice and the way a notice is to be given, and
(b) further provision about the content of a notice.

(7) The county court may, on an application made by the appropriate accountable person, make an order under this section if satisfied that—

(a) a contravention notice has been given,

(b) the contravention alleged in the notice occurred, and

(c) it is necessary to make the order.

(8) An order under this section may—

(a) require a relevant person to provide specified information or do a specified thing, by a specified time;

(b) prohibit a relevant person from doing a specified thing;

(c) where a contravention notice requires a sum to be paid under subsection (4), require a relevant person to pay to the appropriate accountable person a specified sum.

"Specified" here means specified in the order.

(9) A sum specified in an order under subsection (8)(c) may not exceed the sum specified in the contravention notice.

(10) In this section—

"appropriate accountable person" has the same meaning as in section 95;

"relevant person" means a person who is subject to the duties under section 95 (see subsection (1) of that section).

**97 Access to premises**

(1) This section applies where —

(a) an accountable person for an occupied higher-risk building makes a request to a relevant person to enter relevant premises,

(b) the request is made for the purpose of—

(i) facilitating the performance of a duty under section 83 or 84 (assessment of building safety risk etc), or

(ii) determining whether a duty under section 95 (duties on residents and owners) has been contravened,

(c) the request is within subsection (2), and

(d) entry to the premises is not given.

(2) A request is within this subsection if it—

(a) is in writing,

(b) sets out the purpose for which it is made,

(c) contains an explanation of why it is necessary to enter the premises for that purpose,

(d) requests access to the premises at a reasonable time, and

(e) is made at least 48 hours before the time mentioned in paragraph (d).

(3) The accountable person may apply to the county court for an order—

(a) requiring the relevant person to allow the accountable person, or a person authorised by the accountable person, to enter the relevant premises at a reasonable time for the purpose mentioned in the request, and

(b) if necessary for that purpose, authorising the taking of measurements, photographs, recordings or samples by the accountable person or authorised person.

(4) The county court—

(a) may make an order under subsection (3)(a) or (b) if satisfied that it is necessary to do so for the purpose mentioned in the request;

(b) must, if it does so, specify a date on which, or in a period within which, the accountable person or authorised person may enter the relevant premises for that purpose.

(5) In this section—

"relevant person" in relation to relevant premises means—

(a) a resident of those premises who is aged 16 or over;

(b) where those premises are controlled but not occupied, a person controlling those premises;

(c) in any other case, an owner of those premises;

"relevant premises" means any premises in the part of the building for which the accountable person is responsible that are occupied or controlled by—

(a) a resident of a residential unit in the building, or

(b) an owner of a residential unit in the building.

*Enforcement*

### 98 Duty on regulator to enforce Part

The regulator must enforce the provisions of this Part and regulations made under it.

### 99 Compliance notices

(1) The regulator may give a compliance notice to an accountable person for a higher-risk building who appears to the regulator to have contravened, be contravening or be likely to contravene a relevant requirement.

(2) A "compliance notice" is—

(a) a notice requiring the accountable person to take specified steps within a specified period, or

(b) a notice requiring the accountable person to remedy the contravention or the matters giving rise to it within a specified period.

(3) A notice of a kind mentioned in subsection (2)(a) may specify any steps relating to—

(a) the remedying of the contravention, or

(b) avoiding the contravention occurring.

(4) Where it appears to the regulator that the contravention has placed or will place people in or about the building in imminent danger, the regulator may specify that the compliance notice is a notice to which this subsection applies (an "urgent action notice").

(5) A person who, without reasonable excuse, contravenes a compliance notice commits an offence.

(6) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction.

(7) In this section—

"relevant requirement" means any requirement on an accountable person under, or under regulations made under, this Part except one that is prescribed for the purposes of this section;

"specified" means specified in the notice.

### 100 Compliance notices: supplementary

(1) The Secretary of State may by regulations make further provision about compliance notices.

(2) The regulations may in particular make provision about—

(a) the form and content of notices;

(b) the giving of notices;

(c) the amendment or withdrawal of notices;

(d) the extension of any period specified in a compliance notice for the doing of a thing.

(3) Subsection (4) applies where the regulator has given a compliance notice to an accountable person for a higher-risk building.

(4) The regulator must take reasonable steps to notify—

(a) the local authority for the area in which the building is situated;

(b) the fire and rescue authority for the area in which the building is situated;

(c) where the accountable person for the building is a registered provider of social housing, the Regulator of Social Housing;

(d) any other prescribed person.

### 101 Offence: contravention giving rise to risk of death and serious injury

(1) An accountable person for a higher-risk building commits an offence if—

(a) without reasonable excuse, the accountable person contravenes a relevant requirement, and

(b) the contravention places one or more people in or about the building at critical risk.

(2) In subsection (1)—

"critical risk" means a significant risk of death or serious injury arising from a building safety risk;

"relevant requirement" means any requirement on an accountable person under, or under regulations made under, this Part except one that is prescribed for the purposes of this section.

(3) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction.

*Special measures*

### 102 Special measures

Schedule 7 provides for the appointment of a special measures manager, to undertake duties under this Part in place of an accountable person, and makes further provision in connection with that appointment.

*Appeals etc*

### 103 Appeals against compliance notice etc

(1) A person to whom a compliance notice has been given may appeal to the tribunal.

(2) An appeal may be on the grounds—

(a) that the person has not contravened, is not contravening, or is not likely to contravene, a relevant requirement;

(b) that it is unreasonable to require the person to do any thing specified to be done in the notice.

(3) Where an appeal under subsection (1) is made and the compliance notice is not an urgent action notice—

(a) the compliance notice is of no effect pending the final determination or withdrawal of the appeal, and

(b) the specified period mentioned in section 99(2)(a) is treated as extended by the period—

(i) beginning with the day on which the appeal is made, and

(ii) ending with the day on which the appeal is finally determined or withdrawn.

(4) Where an appeal under subsection (1) is made and the compliance notice is an urgent action notice—

(a) the appellant may apply to the tribunal for a direction that the compliance notice is of no effect pending the final determination or withdrawal of the appeal, and

(b) unless and until any such direction is given, the compliance notice continues to have effect despite the making of the appeal.

(5) A person to whom a compliance notice has been given may apply to the tribunal for an extension of the period for the doing of any thing specified to be done in the notice.

(6) Subsections (3) and (4) apply to such an application as they apply to an appeal under subsection (1).

(7) In this section "urgent action notice" has the meaning given by section 99(4).

### 104 Appeals against decisions of the regulator made under this Part

(1) This section applies in relation to a decision of the regulator—

(a) not to register a building on an application under section 78(1);

(b) to remove a building from the register under section 78(3);

(c) to refuse an application for a building assessment certificate under section 81(3);

(d) to give a direction under section 83(2).

(2) An affected person may appeal the decision.

(3) An appeal may be on the grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable.

(4) In this section "an affected person" means—

(a) in relation to a decision of the regulator mentioned in paragraph (a) or (b) of subsection (1), an accountable person for the higher-risk building (or a person who would be an accountable person for the building if the building were a higher-risk building);

(b) in relation to a decision of the regulator mentioned in paragraph (c) of subsection (1), an accountable person for the higher-risk building;

(c) in relation to a decision of the regulator mentioned in paragraph (d) of subsection (1), the accountable person subject to the direction.

### 105 Appeals against decisions of the regulator made under regulations

(1) This section applies in relation to a prescribed decision of the regulator made under regulations made under this Part.

(2) A prescribed person may appeal to the tribunal against the decision.

(3) An appeal may be made only on prescribed grounds.

### 106 Appeals: supplementary

(1) This section applies in relation to an appeal to the tribunal under section 103(1), 104 or 105.

(2) The tribunal—

(a) must consider afresh the decision appealed against, and

(b) may take into account evidence that was not available to the regulator.

(3) The tribunal may confirm, vary or quash the decision of the regulator.

(4) The Secretary of State may, by regulations—

(a) provide for the suspension during the appeal period of the effect of a notice (other than a compliance notice) given or other thing done by the regulator;

(b) make other provision about the effect during the appeal period of an appeal (including provision conferring powers on the tribunal).

(5) In subsection (4) "the appeal period" means the period beginning with the making of the appeal and ending with the final determination or withdrawal of the appeal.

### 107 Enforcement of decisions of the First-tier and Upper Tribunal

(1) A decision of the First-tier Tribunal or Upper Tribunal made under or in connection with this Part is enforceable with the permission of the county court in the same way as an order of that court.

(2) Subsection (1) does not apply to a decision of the First-tier Tribunal or Upper Tribunal ordering the payment of a sum (as to which see section 28 of the Tribunals, Courts and Enforcement Act 2007 (enforcement)).

*Miscellaneous and general*

### 108 Guidance

(1) The regulator may issue guidance about any of the following matters—

(a) the performance of any duties under section 87 (mandatory reporting requirements);

(b) the performance of any duties under section 88 or 89 (duty to keep or give information);

(c) the performance of any duties under section 92 (duty to give further information to residents);

(d) the performance of any duties under section 93 (complaints procedure).

(2) The regulator may revise or withdraw any issued guidance.

(3) Where in any proceedings it is alleged that a person has contravened a provision mentioned in subsection (1)—

(a) proof of a failure to comply with any applicable guidance may be relied on as tending to establish that there was such a contravention, and

(b) proof of compliance with any applicable guidance may be relied on as tending to establish that there was no such contravention.

(4) In any proceedings, a document purporting to be guidance under this section is to be taken to be such guidance unless the contrary is proved.

(5) Guidance under this section may be issued, revised or withdrawn only with the consent of the Secretary of State.

(6) In this section any reference to a provision includes regulations made under the provision.

### 109 Cooperation and coordination

(1) Subsection (2) applies if there is more than one accountable person for an occupied higher-risk building.

(2) When carrying out their duties under, or under regulations made under, this Part, each accountable person must so far as possible—

(a) cooperate with every other accountable person for the building, and

(b) coordinate with every other accountable person for the building.

(3) Subsection (4) applies to an accountable person for an occupied higher-risk building if there are one or more other persons who are responsible persons within the meaning of article 3 of the Regulatory Reform (Fire Safety) Order 2005 in relation to the building.

(4) The accountable person must cooperate with each responsible person for the purpose of each responsible person carrying out their duties under the Order.

### 110 Managers appointed under Part 2 of the Landlord and Tenant Act 1987

(1) Section 24 of the Landlord and Tenant Act 1987 (appointment of a manager by a tribunal) is amended as follows.

(2) After subsection (2ZA) insert—

"(2ZB) Subsection (2)(a) does not apply in respect of a breach of a building safety obligation by an accountable person for a higher-risk building.

(2ZC) In this section—

"accountable person" has the meaning given in section 72 of the Building Safety Act 2022;

"building safety obligation" means an obligation of an accountable person under Part 4 of the Building Safety Act 2022 or regulations made under that Part;

"higher-risk building" has the meaning given in section 65 of the Building Safety Act 2022."

(3) After subsection (2D) (inserted by paragraph 8(3) of Schedule 7) insert—

"(2E) An order under this section may not provide for a manager to carry out a function in relation to a higher-risk building where Part 4 of the Building Safety Act 2022 or regulations made under that Part provide for that function to be carried out by an accountable person for that building."

### 111 Building safety directors of resident management companies

(1) This section applies in relation to a resident management company that is an accountable person for a higher-risk building.

(2) The articles of association of the resident management company have effect as if they included such provision as may be prescribed relating to—

(a) eligibility for appointment as a director of the company, for a building safety purpose;

(b) the appointment of a director for such a purpose;

(c) the entitlement to remuneration of a director appointed for such a purpose;

(d) the removal of a director so appointed.

(3) Subsection (2) has effect—

(a) whether or not the provision is adopted by the company;

(b) whether the company was formed before or after the coming into force of this section;

(c) notwithstanding anything in the company's articles of association.

(4) In this section—

"building safety purpose" means the purpose of supporting the resident management company in complying with its duties under this Part or under regulations made under this Part;

"resident management company" has the meaning given by regulations made by the Secretary of State.

*Landlord and tenant etc*

### 112 Implied terms in leases and recovery of safety related costs

(1) The Landlord and Tenant Act 1985 is amended in accordance with subsections (2) to (6).

(2) After section 30B insert—

*"Higher-risk buildings in England*

#### 30C Implied terms relating to building safety

(1) This section applies to a lease of premises which consist of or include a dwelling in a higher-risk building.

(2) In the lease there is implied a covenant by the landlord—

(a) where the landlord is an accountable person for the higher-risk building, to comply with their building safety duties;

(b) to cooperate with any person in connection with a relevant person complying with their building safety duties;

(c) where a special measures order in relation to the higher-risk building is in force, to comply with that order so far as it relates to the landlord.

(3) In the lease there is implied a covenant by the tenant—

(a) to allow the landlord, a relevant person or a person authorised in writing by the landlord or a relevant person to enter the premises for a relevant building safety purpose;

(b) where the tenant is a resident of the higher-risk building, to comply with their duties under sections 95 and 97 of the Building Safety Act 2022;

(c) where a special measures order in relation to the higher-risk building is in force, to comply with that order so far as it relates to the tenant.

(4) In the covenant implied by subsection (2)(b), "cooperate", in relation to a person, includes—

(a) taking any steps which are reasonably required by the person to facilitate compliance by a relevant person with their building safety duties;

(b) where the person is a relevant person (or a person authorised in writing by a relevant person), providing any information (including names and contact details of residents and tenants of the premises) to the person which is reasonably required in connection with the relevant person complying with their building safety duties.

(5) In the covenant implied by subsection (3)(a), a relevant building safety purpose means—

(a) inspecting the premises in connection with a relevant person complying with their building safety duties;

(b) carrying out works to the premises, where such works are required to be carried out in connection with a relevant person complying with their building safety duties;

(c) accessing a part of the higher-risk building that is not let to the tenant in order to—

(i) inspect that part of the building in connection with a relevant person complying with their building safety duties;

(ii) carry out works to that part of the building, where such works are required to be carried out in connection with a relevant person complying with their building safety duties.

(6) The covenant implied by subsection (3)(a) requires entry to the premises to be allowed—

(a) only at reasonable times, and

(b) only if the tenant has been given at least 48 hours' notice in writing.

(7) Except as provided by subsection (8), the disclosure of information in accordance with subsections (2)(b) and (4)(b) does not breach—

(a) any obligation of confidence owed by the landlord in relation to that information;

(b) any other restriction on the disclosure of information (however imposed).

(8) Subsections (2)(b) and (4)(b) do not require a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the duty imposed by subsections (2)(b) and (4)(b)).

(9) In this section—

"building safety duties"—

(a) in relation to an accountable person, means any duties of the accountable person under Part 4 of the Building Safety Act 2022, or regulations made under that Part of that Act;

(b) in relation to a special measures manager, means any duties of the manager included in the special measures order appointing the manager;

"the data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

"relevant person" means—

(a) an accountable person for the higher-risk building;

(b) a special measures manager for the higher-risk building;

"resident" and "resident of a higher-risk building" have the same meaning as in Part 4 of the Building Safety Act 2022 (see section 71(3) and (4)(c) of that Act);

"works" includes alterations, improvements and installations.

**30D Liability for building safety costs**

(1) This section applies to a relevant lease of premises which consist of or include a dwelling in a higher-risk building.

(2) In this section "relevant lease"—

(a) means a lease—

(i) that is granted for a term certain of 7 years or more, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture, and

(ii) under which the tenant is liable to pay a service charge (within the meaning of section 18), but

(b) does not include a relevant social housing tenancy.

(3) The relevant lease has effect—

(a) as if the matters for which the service charge is payable under the lease included the taking of building safety measures by or on behalf of a relevant person (insofar as this would not otherwise be the case), and

(b) where the lease contains different methods for apportioning different relevant costs (within the meaning of section 18), as if it provided for any costs for which the tenant is liable by virtue only of paragraph (a) to be apportioned in the same way as costs incurred in connection with insuring the building.

(4) "Building safety measure" means any of the following—

(a) applying for registration of a higher-risk building in accordance with section 78 of the Building Safety Act 2022;

(b) applying for a building assessment certificate in accordance with section 79 of that Act;

(c) displaying a building assessment certificate in accordance with section 82 of that Act;

(d) assessing building safety risks in accordance with section 83 of that Act;

(e) taking reasonable steps in accordance with section 84 of that Act (management of building safety risks), other than steps involving the carrying out of works as referred to in section 84(2);

(f) preparing and revising a safety case report in accordance with section 85 of that Act;

(g) notifying the regulator of a safety case report, and giving a copy of a safety case report to the regulator, in accordance with section 86 of that Act;

(h) establishing and operating a mandatory occurrence reporting system, and giving information to the regulator, in accordance with section 87 of that Act;

(i) keeping information and documents in accordance with section 88 of that Act;

(j) giving information and documents to any person in accordance with section 89, 90 or 92 of that Act;

(k) complying with any duty under section 91 of that Act (residents' engagement strategy);

(l) establishing and operating a system for the investigation of complaints in accordance with section 93 of that Act;

(m) giving a contravention notice to a resident, and making an application to the county court, in accordance with section 96 of that Act;

(n) making a request to enter premises, or making an application to the county court, in accordance with section 97 of that Act (access to premises).

(5) For the purposes of this section any of the following incurred in connection with the taking of a building safety measure are to be regarded as incurred in taking the measure—

(a) legal and other professional fees;

(b) fees payable to the regulator;

(c) management costs.

(6) In this section—

"landlord" includes any person who has a right under the lease to enforce payment of a service charge (within the meaning of section 18);

"relevant person" means—

(a) if the landlord is an accountable person for the building, the landlord or a special measures manager for the building;

(b) otherwise, any superior landlord who is an accountable person for the building or a special measures manager for the building;

"relevant social housing tenancy" has the meaning given in section 132 of the Land Registration Act 2002;

"tenant" includes any person who has an obligation under the lease to pay a service charge (within the meaning of section 18).

(7) The Secretary of State may by regulations made by statutory instrument amend subsection (4) so as to add, remove or modify a building safety measure.

(8) The regulations may make incidental, transitional or saving provision.

(9) A statutory instrument containing regulations under subsection (7) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

### 30E Liability for remuneration of building safety director of resident management company etc

(1) This section applies to a lease of premises which consist of or include a dwelling in a higher-risk building if—

(a) the landlord is an accountable person for the building,

(b) the landlord is—

(i) a resident management company within the meaning of section 111 of the Building Safety Act 2022, or

(ii) an RTM company within the meaning of Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002 (right to manage), and

(c) the tenant is liable to pay a service charge.

(2) The lease has effect—

(a) as if it contained provision authorising the appointment of a person (whether or not a leaseholder or a resident of the building) as a director of the landlord for a building safety purpose,

(b) as if the matters for which the service charge is payable under the lease included remunerating any director of the landlord appointed for a building safety purpose (insofar as this would not otherwise be the case), and

(c) where the lease contains different methods for apportioning different relevant costs (within the meaning of section 18), as if it provided that any costs for which the tenant is liable by virtue only of paragraph (b) to be apportioned in the same way as costs incurred in connection with insuring the building.

(3) In this section—

"building safety purpose" means the purpose of supporting the landlord in complying with its duties under Part 4 of the Building Safety Act 2022 or under regulations made under that Part;

"landlord" includes any person who has a right under the lease to enforce payment of a service charge;

"service charge" has the meaning given by section 18;

"tenant" includes any person who has an obligation under the lease to pay a service charge.

### 30F Restrictions on contracting out of sections 30C to 30E

(1) A covenant or agreement, whether contained in a lease to which section 30C (implied terms) applies or in an agreement collateral to such a lease, is void in so far as it purports—

(a) to exclude or limit the obligations of the landlord or the tenant under section 30C, or

(b) to authorise any forfeiture or impose on the tenant any penalty, disability or obligation in the event of the tenant enforcing or relying upon the obligations of the landlord.

(2) A covenant or agreement, whether contained in a lease to which section 30D or 30E applies or in an agreement collateral to such a lease, is void insofar as it purports to modify the effect of section 30D(3) or 30E(2).

### 30G Jurisdiction of county court

The county court has jurisdiction to deal with any claim or other proceedings arising under or in connection with any of sections 30C to 30E (implied terms

etc) notwithstanding that by reason of the amount of the claim or otherwise the case would not, apart from this section, be within the jurisdiction of the county court.

**30H Specific performance of implied terms**

In proceedings relating to a breach of a covenant in section 30C(2) or (3) (implied building safety terms), the court may order specific performance of the covenant—

(a) notwithstanding any equitable rule restricting the scope of the remedy, whether on the basis of a lack of mutuality or otherwise, and

(b) in the case of a breach of a covenant in section 30C(2) or (3)(b) or (c), whether or not the breach relates to a part of the higher-risk building let to the tenant.

**30I Interpretation of building safety provisions**

In sections 30C to 30H—

"accountable person" has the meaning given in section 115 of the Building Safety Act 2022;

"higher-risk building" has the meaning given in section 115 of that Act;

"lease" does not include a mortgage term;

"special measures manager" has the meaning given in paragraph 1 of Schedule 7 to the Building Safety Act 2022;

"special measures order" has the meaning given in paragraph 1 of Schedule 7 to that Act."

(3) After section 20E (inserted by section 133) insert—

"**20F Limitation of service charges: excluded costs for higher-risk buildings**

(1) This section applies in relation to a lease to which section 30D (higher-risk buildings: building safety costs) applies.

(2) Excluded costs are not to be regarded as relevant costs to be taken into account in determining the amount of service charge payable by a tenant under the lease.

(3) In this section "excluded costs" means any of the following incurred in connection with Part 4 of the Building Safety Act 2022 or regulations made under that Part—

(a) costs incurred or to be incurred by or on behalf of a relevant person solely as a result of any penalty imposed or enforcement action taken by the regulator;

(b) legal costs incurred or to be incurred by or on behalf of a relevant person in connection with special measures order proceedings;

(c) costs incurred or to be incurred by or on behalf of a relevant person by reason of any negligence, breach of contract or unlawful act on the part of that relevant person or a person acting on their behalf;

(d) costs of a description prescribed by regulations made by the Secretary of State that are incurred or to be incurred by or on behalf of an accountable person or special measures manager for the building in connection with the taking of building safety measures.

(4) In this section—

"building safety measures" has the meaning given by section 30D;

"enforcement action" means action taken with a view to, or in connection with—

(a) securing compliance with Part 4 of the Building Safety Act 2022 or regulations made under that Part, or

(b) the imposition of a sanction in respect of a contravention of that Part or those regulations;

"the regulator" has the meaning given by section 115 of the Building Safety Act 2022;

"relevant person" means—

(a) where the landlord under the lease is an accountable person for the higher-risk building, the landlord or a special measures manager for the higher-risk building;

(b) where the landlord is not such an accountable person, any superior landlord who is an accountable person for the higher-risk building or a special measures manager for the higher-risk building;

"special measures order proceedings" means any proceedings relating to the making, variation or discharge of, or the giving of directions in relation to, a special measures order under Schedule 7 to the Building Safety Act 2022 (including any appeals in relation to such proceedings).

(5) Regulations under this section are to be made by statutory instrument.

(6) A power to make regulations includes power to make—

(a) incidental, transitional or saving provision;

(b) different provision for different purposes.

(7) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament."

(4) In section 21 (service charge information) after subsection (6) insert—

"(6A) In particular, regulations which make provision about higher-risk buildings (within the meaning of Part 4 of the Building Safety Act 2022) need not contain provision of a kind mentioned in subsection (2) or (3)."

(5) In section 30 (meaning of "landlord" and "tenant")—

(a) after the definition of "landlord" insert—

""services" includes, in relation to a dwelling in a higher-risk building (as defined by section 30I), building safety measures within the meaning of section 30D;";

(b) in the heading for ""flat", "landlord" and "tenant"" substitute ""landlord", "tenant" etc".

(6) In section 32(1) (business tenancies), after the entry relating to section 17 insert—

"section 30C (implied terms relation to building safety),

section 30D (building safety costs),

section 30E (liability for remuneration of building safety director of resident management company etc)."

(7) In section 172(1)(a) of the Commonhold and Leasehold Reform Act 2002 (application to Crown)—

(a) for "30B" substitute "30I";

(b) after "agents" insert "and building safety".

## 113 Provision of building safety information

(1) The Landlord and Tenant Act 1987 is amended in accordance with subsections (2) to (4).

(2) After section 47 insert—

"**47A Building safety information to be contained in demands for rent etc: England**

(1) Where premises to which this Part applies are premises in England which consist of or include a dwelling in a higher-risk building, any written demand given to a tenant of the premises must contain the relevant building safety information.

(2) Where—

(a) a tenant of such premises is given such a demand, but

(b) the demand does not contain the relevant building safety information,

any part of the amount demanded which consists of a service charge or an administration charge ("the relevant amount") is to be treated for all purposes as not being due from the tenant to the landlord at any time before the landlord gives the relevant building safety information to the tenant.

(3) But the relevant amount is not to be so treated in relation to any time when—

(a) by virtue of an order of any court or tribunal there is in force an appointment of a receiver or manager whose functions include the receiving of service charges or administration charges from the tenant, or

(b) a special measures order (within the meaning of Schedule 7 to the Building Safety Act 2022) is in force.

(4) In this section—

"demand" has the meaning given in section 47;

"higher-risk building" has the meaning given in section 115 of the Building Safety Act 2022;

"relevant building safety information" has the meaning given in section 49A."

(3) After section 49 insert—

"**49A Notification by landlord of building safety information: England**

(1) Where premises to which this Part applies are premises in England which consist of or include a dwelling in a higher-risk building, the landlord must give the tenant a notice containing the relevant building safety information.

(2) Where a landlord fails to give a notice to a tenant in accordance with subsection (1), any rent, service charge or administration charge otherwise due from the tenant to the landlord is to be treated for all purposes as not being due from the tenant to the landlord at any time before the landlord gives the notice to the tenant.

(3) But any such rent, service charge or administration charge is not to be so treated in relation to any time when—

(a) by virtue of an order of any court or tribunal there is in force an appointment of a receiver or manager whose functions include the receiving of rent, service charges or administration charges from the tenant, or

(b) a special measures order (within the meaning of Schedule 7 to the Building Safety Act 2022) is in force.

(4) The requirement to give a notice to a tenant under subsection (1) may be satisfied by giving the notice to them at a time when they are a prospective tenant.

(5) In this section "relevant building safety information" means—

(a) the fact that the premises consist of or include a dwelling in a higher-risk building;

(b) the name of each person listed in subsection (6);

(c) an email address and telephone number through which each person listed in subsection (6) may be contacted;

(d) a postal address in England and Wales at which notices (including notices in proceedings) may be served by the tenant on the principal accountable person for the higher-risk building;

(e) a postal address for the regulator;

(f) such other information as may be prescribed in regulations made by the Secretary of State.

(6) The persons are—

(a) the principal accountable person for the higher-risk building;

(b) any special measures manager for the higher-risk building;

(c) the regulator.

(7) In this section—

"higher-risk building" has the meaning given in section 115 of the Building Safety Act 2022;

"principal accountable person" has the meaning given in section 115 of that Act;

"the regulator" has the meaning given in section 115 of that Act;

"special measures manager" has the meaning given in paragraph 1 of Schedule 7 to that Act."

(4) In section 53(2)(b) (regulations and orders), after "42A" insert "or 49A".

(5) In section 172(1)(d) of the Commonhold and Leasehold Reform Act 2002 (application to Crown), for "49" substitute "49A".

**114 Commonholds**

(1) The Commonhold and Leasehold Reform Act 2002 is amended as follows.

(2) In section 13(3) (joint unit-holders), after paragraph (fa) insert—

"(faa) section 38A(1),".

(3) In section 14 (use and maintenance)—

(a) in the heading, for "and maintenance" substitute ", maintenance and building safety";

(b) after subsection (3) insert—

"(4) A commonhold community statement for a higher-risk commonhold must make provision requiring the commonhold association to comply with its duties under Part 4 of the Building Safety Act 2022, or regulations made under that Part of the Act, in relation to each commonhold unit."

(4) In section 26 (use and maintenance)—

(a) in the heading, for "and maintenance" substitute ", maintenance and building safety";

(b) the existing subsection becomes subsection (1);

(c) after that subsection insert—

"(2) A commonhold community statement for a higher-risk commonhold must make provision requiring the commonhold association to comply with its duties under Part 4 of the Building Safety Act 2022, or regulations made under that Part of that Act, in relation to the common parts."

(5) In section 31(5) (form and content of commonhold community statement), after paragraph (d) insert—

"(da) to give information;

(db) to apply for grants or other funding;".

(6) In section 32(5)(a) (regulations), after "38," insert "38A,".

(7) In section 38 (commonhold assessment), after subsection (2) insert—

"(3) In subsection (1)(a) "expenses of the association" does not include building safety expenses of the association (within the meaning of section 38A)."

(8) After section 38 insert—

"**38A Building safety assessment**

(1) A commonhold community statement for a higher-risk commonhold must make provision—

(a) requiring the directors of the commonhold association to make an annual estimate of the income required to be raised from unit-holders to meet the building safety expenses of the association,

(b) enabling the directors of the commonhold association to make estimates from time to time of income required to be raised from unit-holders in addition to the annual estimate,

(c) specifying the percentage of any estimate made under paragraph (a) or (b) which is to be allocated to each unit,

(d) requiring each unit-holder to make payments in respect of the percentage of any estimate which is allocated to their unit, and

(e) requiring the directors of the commonhold association to serve notices on unit-holders specifying payments required to be made by them and the date on which each payment is due.

(2) For the purpose of subsection (1)(c)—

(a) the percentages allocated by a commonhold community statement to the commonhold units must amount in aggregate to 100;

(b) a commonhold community statement may specify 0 per cent in relation to a unit.

(3) In this section—

"building safety expenses of the association" means the expenses incurred by the commonhold association or special measures manager for the higher-risk building in connection with taking measures that the association or manager is required or permitted to take under Part 4 of the Building Safety Act 2022, or regulations made under that Part of that Act;

"special measures manager" means a person appointed under paragraph 4 of Schedule 7 to the Building Safety Act 2022."

(9) In section 69(1) (interpretation), before the definition of "instrument" insert—

""higher-risk building" has the meaning given by section 115 of the Building Safety Act 2022,

"higher-risk commonhold" means a commonhold in England that includes all or any part of a higher-risk building,".

*Interpretation*

### 115 Interpretation of Part 4

In this Part—

"accountable person" has the meaning given by section 72;

"building safety risk" has the meaning given by section 62;

"compliance notice" has the same meaning as in section 99;

"contravention" includes a failure to comply;

"the data protection legislation" has the meaning given by section 30;

"fire and rescue authority" has the meaning given by section 30;

"higher-risk building" has the meaning given by section 65;

"local authority" has the meaning given by section 30;

"long lease" means—

(a) a lease granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture, or

(b) a lease for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, other than a lease by sub-demise from one which is not a long lease;

"major incident" has the meaning given by section 63;

"maximum summary term for either-way offences" has the meaning given by section 30;

"occupied": any reference to an "occupied" higher-risk building is to be read in accordance with section 71;

"owner" means the person—

(a) for the time being receiving the rackrent of the premises in question, whether on the person's own account or as agent or trustee for another person, or

(b) who would so receive it if those premises were let at a rackrent;

and for this purpose "rackrent" has the meaning given by section 126 of the Building Act 1984;

"prescribed" means prescribed by regulations made by the Secretary of State;

"principal accountable person" has the meaning given by section 73;

"registered provider of social housing" has the meaning given by section 80 of the Housing and Regeneration Act 2008;

"the regulator" has the meaning given by section 2;

"resident" and "resident of a higher-risk building" have the meaning given by section 71;

"residential unit" means—

(a) a dwelling, or

(b) any other unit of living accommodation;

"responsible": any reference to the part of a higher-risk building for which an accountable person is responsible is to be read in accordance with section 74;

"special measures manager" has the meaning given by paragraph 1 of Schedule 7;

"special measures order" has the meaning given by paragraph 1 of Schedule 7;

"the tribunal" means the First-tier Tribunal.

## PART 5

OTHER PROVISION ABOUT SAFETY, STANDARDS ETC

*Remediation of certain defects*

### 116 Remediation of certain defects

(1) Sections 117 to 125 and Schedule 8 make provision in connection with the remediation of relevant defects in relevant buildings.

(2) In those sections—

(a) sections 117 to 121 define "relevant building", "qualifying lease", "the qualifying time", "relevant defect" and "associate";

(b) section 122 and Schedule 8 contain protections for tenants in respect of costs connected with relevant defects, and impose liabilities on certain landlords;

(c) section 123 makes provision about remediation orders, under which a landlord in a relevant building is required to remedy certain relevant defects;

(d) section 124 makes provision about remediation contribution orders, under which an associate of a landlord in a relevant building is required to contribute towards the costs of remedying certain relevant defects;

(e) section 125 makes provision about cases where a company that is a landlord in a relevant building is being wound up, and confers on the court powers in respect of persons associated with the company.

## 117 Meaning of "relevant building"

(1) This section applies for the purposes of sections 119 to 125 and Schedule 8.

(2) "Relevant building" means a self-contained building, or self-contained part of a building, in England that contains at least two dwellings and—

(a) is at least 11 metres high, or

(b) has at least 5 storeys.

This is subject to subsection (3).

(3) "Relevant building" does not include a self-contained building or self-contained part of a building—

(a) in relation to which a right under Part 1 of the Landlord and Tenant Act 1987 (tenants' right of first refusal) or Part 3 of that Act (compulsory acquisition by tenants of landlord's interest) has been exercised,

(b) in relation to which the right to collective enfranchisement (within the meaning of Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993) has been exercised,

(c) if the freehold estate in the building or part of the building is leaseholder owned (within the meaning of regulations made by the Secretary of State), or

(d) which is on commonhold land.

(4) For the purposes of this section a building is "self-contained" if it is structurally detached.

(5) For the purposes of this section a part of a building is "self-contained" if—

(a) the part constitutes a vertical division of the building,

(b) the structure of the building is such that the part could be redeveloped independently of the remainder of the building, and

(c) the relevant services provided for occupiers of that part—

(i) are provided independently of the relevant services provided for occupiers of the remainder of the building, or

(ii) could be so provided without involving the carrying out of any works likely to result in a significant interruption in the provision of any such services for occupiers of the remainder of the building.

(6) In subsection (5) "relevant services" means services provided by means of pipes, cables or other fixed installations.

### 118 Section 117: height of buildings and number of storeys

(1) This section applies for the purpose of section 117.

(2) The height of a building is to be measured from ground level to the finished surface of the floor of the top storey of the building (ignoring any storey which is a roof-top machinery or plant area or consists exclusively of machinery or plant rooms).

(3) When determining the number of storeys in a building—

(a) any storey below ground level is to be disregarded;

(b) any mezzanine floor is to be regarded as a storey if its internal floor area is at least half of the internal floor area of the largest storey in the building which is not below ground level.

(4) In subsection (2) "ground level", in relation to a building, means—

(a) the level of the surface of the ground immediately adjacent to the building, or

(b) where the level of the surface of the ground on which the building is situated is not uniform, the level of the lowest part of the surface of the ground immediately adjacent to it.

(5) For the purposes of subsection (3) a storey is "below ground level" if any part of the finished surface of the ceiling of the storey is below the level of the surface of the ground immediately adjacent to that part of the building.

### 119 Meaning of "qualifying lease" and "the qualifying time"

(1) This section applies for the purposes of sections 122 to 125 and Schedule 8.

(2) A lease is a "qualifying lease" if—

(a) it is a long lease of a single dwelling in a relevant building,

(b) the tenant under the lease is liable to pay a service charge,

(c) the lease was granted before 14 February 2022, and

(d) at the beginning of 14 February 2022 ("the qualifying time")—

(i) the dwelling was a relevant tenant's only or principal home,

(ii) a relevant tenant did not own any other dwelling in the United Kingdom, or

(iii) a relevant tenant owned no more than two dwellings in the United Kingdom apart from their interest under the lease.

(3) Where a dwelling was at the qualifying time let under two or more leases to which subsection (2)(a) and (b) apply, any of those leases which is superior to any of the other leases is not a "qualifying lease".

(4) For the purposes of this section—

(a) "long lease" means a lease granted for a term of years certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise;

(b) a person "owns" a dwelling in England, Wales or Northern Ireland if the person has a freehold interest in it or is a tenant under a long lease of it;

(c) "relevant tenant" means a person who, at the qualifying time, was the tenant, or any of the tenants, under the lease mentioned in subsection (2);

(d) "service charge" has the meaning given by section 18 of the Landlord and Tenant Act 1985.

### 120 Meaning of "relevant defect"

(1) This section applies for the purposes of sections 122 to 125 and Schedule 8.

(2) "Relevant defect", in relation to a building, means a defect as regards the building that—

(a) arises as a result of anything done (or not done), or anything used (or not used), in connection with relevant works, and

(b) causes a building safety risk.

(3) In subsection (2) "relevant works" means any of the following—

(a) works relating to the construction or conversion of the building, if the construction or conversion was completed in the relevant period;

(b) works undertaken or commissioned by or on behalf of a relevant landlord or management company, if the works were completed in the relevant period;

(c) works undertaken after the end of the relevant period to remedy a relevant defect (including a defect that is a relevant defect by virtue of this paragraph).

"The relevant period" here means the period of 30 years ending with the time this section comes into force.

(4) In subsection (2) the reference to anything done (or not done) in connection with relevant works includes anything done (or not done) in the provision of professional services in connection with such works.

(5) For the purposes of this section—

"building safety risk", in relation to a building, means a risk to the safety of people in or about the building arising from—

(a) the spread of fire, or

(b) the collapse of the building or any part of it;

"conversion" means the conversion of the building for use (wholly or partly) for residential purposes;

"relevant landlord or management company" means a landlord under a lease of the building or any part of it or any person who is party to such a lease otherwise than as landlord or tenant.

### 121 Associated persons

(1) For the purposes of sections 122 to 125 and Schedule 8, a partnership or body corporate is associated with another person in the circumstances mentioned in subsections (2) to (5).

(2) Where a person's interest in a relevant building was held on trust at the qualifying time, any partnership or body corporate which was a beneficiary of the trust at that time is to be regarded, for the purposes of the provisions mentioned in subsection (1) as they apply in relation to the relevant building, as associated with the person.

(3) A partnership is associated with any person who was a partner in the partnership, other than a limited partner, at any time in the period of 5 years ending at the qualifying time ("the relevant period").

(4) A body corporate is associated with any person who was a director of the body corporate at any time in the relevant period.

(5) A body corporate is associated with another body corporate if—

(a) at any time in the relevant period a person was a director of both of them, or

(b) at the qualifying time, one of them controlled the other or a third body corporate controlled both of them.

Subsections (6) to (8) set out the cases in which a body corporate is regarded as controlling another body corporate.

(6) A body corporate (X) controls a company (Y) if X possesses or is entitled to acquire—

(a) at least half of the issued share capital of Y,

(b) such rights as would entitle X to exercise at least half of the votes exercisable in general meetings of Y,

(c) such part of the issued share capital of Y as would entitle X to at least half of the amount distributed, if the whole of the income of Y were in fact distributed among the shareholders, or

(d) such rights as would, in the event of the winding up of Y or in any other circumstances, entitle it to receive at least half of the assets of Y which would then be available for distribution among the shareholders.

(7) A body corporate (X) controls a limited liability partnership (Y) if X—

(a) holds a majority of the voting rights in Y,

(b) is a member of Y and has a right to appoint or remove a majority of other members, or

(c) is a member of Y and controls alone, or pursuant to an agreement with other members, a majority of the voting rights in Y.

(8) A body corporate (X) controls another body corporate (Y) if X has the power, directly or indirectly, to secure that the affairs of Y are conducted in accordance with X's wishes.

(9) In subsection (7) a reference to "voting rights" is to the rights conferred on members in respect of their interest in a limited liability partnership to vote on those matters which are to be decided on by a vote of the members of the limited liability partnership.

(10) In determining whether one body corporate (X) controls another, X is treated as possessing—

(a) any rights and powers possessed by a person as nominee for it, and

(b) any rights and powers possessed by a body corporate which it controls (including rights and powers which such a body corporate would be taken to possess by virtue of this paragraph).

(11) In this section "partnership" means—

(a) a partnership within the meaning of the Partnership Act 1890, or

(b) a limited partnership registered under the Limited Partnerships Act 1907,

or a firm or entity of a similar character formed under the law of a country or territory outside the United Kingdom (and the reference to "limited partner" is to be read accordingly).

(12) The Secretary of State may by regulations provide that, in relation to a prescribed reference in a provision mentioned in subsection (1) to anyone associated with another person, subsections (2) to (5) have effect with prescribed modifications.

### 122 Remediation costs under qualifying leases etc

Schedule 8—

(a) provides that certain service charge amounts relating to relevant defects in a relevant building are not payable, and

(b) makes provision for the recovery of those amounts from persons who are landlords under leases of the building (or any part of it).

### 123 Remediation orders

(1) The Secretary of State may by regulations make provision for and in connection with remediation orders.

(2) A "remediation order" is an order, made by the First-tier Tribunal on the application of an interested person, requiring a relevant landlord to remedy specified relevant defects in a specified relevant building by a specified time.

(3) In this section "relevant landlord", in relation to a relevant defect in a relevant building, means a landlord under a lease of the building or any part of it who is required, under the lease or by virtue of an enactment, to repair or maintain anything relating to the relevant defect.

(4) In subsection (3) the reference to a landlord under a lease includes any person who is party to the lease otherwise than as landlord or tenant.

(5) In this section "interested person", in relation to a relevant building, means—

(a) the regulator (as defined by section 2),

(b) a local authority (as defined by section 30) for the area in which the relevant building is situated,

(c) a fire and rescue authority (as defined by section 30) for the area in which the relevant building is situated,

(d) a person with a legal or equitable interest in the relevant building or any part of it, or

(e) any other person prescribed by the regulations.

(6) In this section "specified" means specified in the order.

(7) A decision of the First-tier Tribunal or Upper Tribunal made under or in connection with this section (other than one ordering the payment of a sum) is enforceable with the permission of the county court in the same way as an order of that court.

### 124 Remediation contribution orders

(1) The First-tier Tribunal may, on the application of an interested person, make a remediation contribution order in relation to a relevant building if it considers it just and equitable to do so.

(2) "Remediation contribution order", in relation to a relevant building, means an order requiring a specified body corporate or partnership to make payments to a specified person, for the purpose of meeting costs incurred or to be incurred in remedying relevant defects (or specified relevant defects) relating to the relevant building.

(3) A body corporate or partnership may be specified only if it is—

(a) a landlord under a lease of the relevant building or any part of it,

(b) a person who was such a landlord at the qualifying time,

(c) a developer in relation to the relevant building, or

(d) a person associated with a person within any of paragraphs (a) to (c).

(4) An order may—

(a) require the making of payments of a specified amount, or payments of a reasonable amount in respect of the remediation of specified relevant defects (or in respect of specified things done or to be done for the purpose of remedying relevant defects);

(b) require a payment to be made at a specified time, or to be made on demand following the occurrence of a specified event.

(5) In this section—

"associated": see section 121;

"developer", in relation to a relevant building, means a person who undertook or commissioned the construction or conversion of the building (or part of the building) with a view to granting or disposing of interests in the building or parts of it;

"interested person", in relation to a relevant building, means—

(a) the Secretary of State,

(b) the regulator (as defined by section 2),

(c) a local authority (as defined by section 30) for the area in which the relevant building is situated,

(d) a fire and rescue authority (as defined by section 30) for the area in which the relevant building is situated,

(e) a person with a legal or equitable interest in the relevant building or any part of it, or

(f) any other person prescribed by regulations made by the Secretary of State;

"partnership" has the meaning given by section 121;

"relevant building": see section 117;

"relevant defect": see section 120;

"specified" means specified in the order.

(6) The Secretary of State may by regulations provide that this section applies, with or without modifications, in relation to a building that would, but for section 117(3), be a relevant building.

### 125 Meeting remediation costs of insolvent landlord

(1) This section applies if, in the course of the winding up of a company which is a landlord under a lease of a relevant building or any part of it, it appears—

(a) that there are relevant defects relating to the building, and

(b) that the company is under an obligation (howsoever imposed) to remedy any of the relevant defects or is liable to make a payment relating to any costs incurred or to be incurred in remedying any of the relevant defects.

(2) The court may, on the application of a person acting as an insolvency practitioner in relation to the company, by order require a body corporate or partnership associated with the company—

(a) to make such contributions to the company's assets as the court considers to be just and equitable, or

(b) to make such payments to a specified person as the court considers to be just and equitable for the purpose of meeting costs incurred or to be incurred in remedying relevant defects mentioned in subsection (1)(b).

Section 124(4) applies for the purposes of this section.

(3) An order may be made where proceedings for the winding up of the company were commenced before (as well as after) the coming into force of this section.

(4) In this section—

"act as an insolvency practitioner" has the meaning given by section 388 of the Insolvency Act 1986;

"associated": see section 121;

"the court" means a court having jurisdiction to wind up the company;

"partnership" has the meaning given by section 121;

"relevant building": see section 117;

"relevant defect": see section 120;

"specified" means specified in the order.

*Building industry schemes*

### 126 Building industry schemes

(1) The Secretary of State may by regulations—

(a) establish a scheme to be maintained by the Secretary of State, or a person designated by the Secretary of State and acting on the Secretary of State's behalf, and

(b) make provision about the scheme.

(2) A scheme may be established for any purpose connected with—

(a) securing the safety of people in or about buildings in relation to risks arising from buildings, or

(b) improving the standard of buildings,

including securing that safety, or improving that standard, by securing that persons in the building industry remedy defects in buildings or contribute to costs associated with remedying defects in buildings.

(3) Regulations that establish a scheme must prescribe—

(a) the descriptions of persons in the building industry who may be members of the scheme ("eligible persons"), and

(b) the conditions that an eligible person must meet in order to become, and remain, a member of the scheme ("membership conditions"),

and may provide for different categories of membership.

(4) The membership conditions that may be prescribed include in particular conditions relating to—

(a) the remedying of defects in buildings with which an eligible person has a connection of a prescribed kind;

(b) the making of financial contributions towards meeting costs associated with remedying defects in buildings (including buildings with which an eligible person has no connection);

(c) the use (or use in prescribed cases) of construction products (or construction products of a prescribed description) of prescribed persons carrying out activities in relation to construction products;

(d) the provision of information to the Secretary of State or any other person;

(e) the competence or conduct of any individual connected with an eligible person (for example, any director or senior manager of an eligible person) or any person with whom an eligible person contracts;

(f) whether persons with whom an eligible person contracts are members of a scheme.

In paragraph (e) "conduct" includes conduct occurring before the coming into force of this section.

(5) The descriptions of persons prescribed by virtue of subsection (4)(c) may in particular be prescribed by reference to—

(a) being eligible to be members of a scheme and not being members of that scheme;

(b) their conduct in relation to remedying defects in buildings or contributing to costs associated with remedying defects in buildings.

(6) The membership conditions that may be prescribed by virtue of subsection (4)(c) include in particular a condition requiring an eligible person to ensure that no prescribed product of prescribed persons carrying out activities in relation to construction products is used in prescribed cases.

(7) The Secretary of State must ensure that a list of members of a scheme is kept and published (and may publish a list of persons who are eligible persons but are not members of a scheme).

(8) Regulations may make provision about the keeping and publication of other lists.

### 127 Building industry schemes: supplementary

(1) This section supplements section 126.

(2) Regulations may make provision about—

(a) applications for membership of a scheme;

(b) renewal of membership at prescribed intervals;

(c) termination of a person's membership;

(d) the suspension of a person from membership.

(3) Regulations may provide for the charging of fees, in connection with—

(a) an application for membership;

(b) renewal of membership;

(c) a review;

(d) any other prescribed matter.

(4) Regulations may provide for membership conditions to be framed by reference to—

(a) standards, or a document, from time to time published by any person;

(b) the opinion of the Secretary of State, or a designated person, in relation to any matter.

(5) Regulations may make provision about the determination of disputes.

(6) Regulations may make provision about the termination of a scheme.

(7) In section 126 and this section—

"building" means a building in England;

"building industry": a reference to persons in the building industry is to persons carrying on, for business purposes, activities connected with the design, construction, management or maintenance of buildings, including persons carrying out activities in relation to construction products in England;

"construction product" has the meaning given by regulations;

"persons carrying out activities in relation to construction products" include (without limitation)—

(a) a manufacturer of construction products,

(b) a person who markets or supplies construction products to others, and

(c) a person who imports construction products into the United Kingdom for use, marketing or supply;

"prescribed" means prescribed by the regulations;

"regulations" means regulations under section 126;

"scheme" means a scheme established under section 126;

"standard" (except in subsection (4) of this section) is to be read in accordance with section 30.

*Prohibitions on development and building control*

### 128 Prohibition on development for prescribed persons

(1) The Secretary of State may by regulations prohibit a person of a prescribed description from carrying out development of land in England (or a prescribed description of such development).

(2) The descriptions of persons which may be prescribed include in particular persons who—

(a) are eligible to be members of a scheme established under section 126, and

(b) are not members of that scheme.

(3) A prohibition under the regulations may be imposed for any purpose connected with—

(a) securing the safety of people in or about buildings in relation to risks arising from buildings, or

(b) improving the standard of buildings,

including securing that safety, or improving that standard, by securing that persons in the building industry remedy defects in buildings or contribute to costs associated with remedying defects in buildings.

(4) A prohibition under the regulations applies despite planning permission (or any prescribed description of planning permission) having been granted.

(5) The regulations may provide that, in prescribed cases, no prescribed certificate under the 1990 Act may be granted (and any purported grant is of no effect).

(6) The regulations may require a person of a prescribed description to give a notification relating to development (and may make provision about the content and form of a notification and the way in which it is to be given).

(7) The regulations may contain exceptions.

(8) The regulations may make provision about enforcement, including in particular provision applying (with or without modifications), in relation to a breach of the regulations, any provision of Part 7 of the 1990 Act (enforcement).

(9) For the purposes of this section—

(a) "the 1990 Act" means the Town and Country Planning Act 1990;

(b) "building" means a building in England;

(c) "development" has the meaning given by section 55 of the 1990 Act;

(d) "planning permission" has the meaning given by section 336 of the 1990 Act;

(e) "prescribed" means prescribed by regulations under this section;

(f) "standard" is to be read in accordance with section 30.

### 129 Building control prohibitions

(1) The Secretary of State may by regulations impose a building control prohibition, as regards buildings or proposed buildings, in relation to persons of a prescribed description.

(2) The descriptions of persons which may be prescribed include in particular persons who—

(a) are eligible to be members of a scheme established under section 126, and

(b) are not members of that scheme.

(3) A building control prohibition may be imposed for any purpose connected with—

(a) securing the safety of people in or about buildings in relation to risks arising from buildings, or

(b) improving the standard of buildings,

including securing that safety, or improving that standard, by securing that persons in the building industry remedy defects in buildings or contribute to costs associated with remedying defects in buildings.

(4) A "building control prohibition", in relation to a person, prohibits—

(a) the person from applying for building control approval or from depositing plans,

(b) the person from giving an initial notice (whether or not jointly with anyone else) or a public body's notice, public body's plans certificate or public body's final certificate,

(c) the granting of building control approval to the person,

(d) the passing of plans deposited by the person,

(e) the acceptance of an initial notice given by the person (whether or not jointly with anyone else) or a public body's notice, public body's plans certificate or public body's final certificate given by the person,

(f) the giving of a final certificate in relation to works carried out by the person,

(g) the person from giving a prescribed document,

(h) the giving of a prescribed document to the person or in respect of works carried out by the person, or

(i) the acceptance of any prescribed document given by the person or in respect of works carried out by the person.

(5) A building control prohibition applies despite any provision made by or under the Building Act 1984.

(6) The regulations may contain exceptions.

(7) The regulations may provide that anything done in contravention of the regulations is of no effect.

(8) Any reference in this section to a building or proposed building is to a building or proposed building in England.

(9) In this section—

"building" and "building control approval", and references to the deposit and passing of plans, are to be read in accordance with Part 1 of the Building Act 1984;

"initial notice", "final certificate", "public body's notice", "public body's plans certificate" and "public body's final certificate" have the same meaning as in Part 2 of that Act;

"prescribed" means prescribed by regulations under this section;

"standard" is to be read in accordance with section 30.

*Building liability orders*

### 130 Building liability orders

(1) The High Court may make a building liability order if it considers it just and equitable to do so.

(2) A "building liability order" is an order providing that any relevant liability (or any relevant liability of a specified description) of a body corporate ("the original body") relating to a specified building is also—

(a) a liability of a specified body corporate, or

(b) a joint and several liability of two or more specified bodies corporate.

(3) In this section "relevant liability" means a liability (whether arising before or after commencement) that is incurred—

(a) under the Defective Premises Act 1972 or section 38 of the Building Act 1984, or

(b) as a result of a building safety risk.

(4) A body corporate may be specified only if it is, or has at any time in the relevant period been, associated with the original body.

(5) A building liability order—

(a) may be made in respect of a liability of a body corporate that has been dissolved (including where dissolution occurred before commencement);

(b) continues to have effect even if the body corporate is dissolved after the making of the order.

(6) In this section—

"associate": see section 131;

"building safety risk", in relation to a building, means a risk to the safety of people in or about the building arising from the spread of fire or structural failure;

"commencement" means the time this section comes into force;

"the relevant period" means the period—

(a) beginning with the beginning of the carrying out of the works in relation to which the relevant liability was incurred, and

(b) ending with the making of the order;

"specified" means specified in the building liability order.

### 131 Building liability orders: associates

(1) For the purposes of section 130, a body corporate (A) is associated with another body corporate (B) if—

(a) one of them controls the other, or

(b) a third body corporate controls both of them.

Subsections (2) to (4) set out the cases in which a body corporate is regarded as controlling another body corporate.

(2) A body corporate (X) controls a company (Y) if X possesses or is entitled to acquire—

(a) at least half of the issued share capital of Y,

(b) such rights as would entitle X to exercise at least half of the votes exercisable in general meetings of Y,

(c) such part of the issued share capital of Y as would entitle X to at least half of the amount distributed, if the whole of the income of Y were in fact distributed among the shareholders, or

(d) such rights as would, in the event of the winding up of Y or in any other circumstances, entitle it to receive at least half of the assets of Y which would then be available for distribution among the shareholders.

(3) A body corporate (X) controls a limited liability partnership (Y) if X—

(a) holds a majority of the voting rights in Y,

(b) is a member of Y and has a right to appoint or remove a majority of other members, or

(c) is a member of Y and controls alone, or pursuant to an agreement with other members, a majority of the voting rights in Y.

(4) A body corporate (X) controls another body corporate (Y) if X has the power, directly or indirectly, to secure that the affairs of Y are conducted in accordance with X's wishes.

(5) In subsection (3) a reference to "voting rights" is to the rights conferred on members in respect of their interest in a limited liability partnership to vote on those matters which are to be decided on by a vote of the members of the limited liability partnership.

(6) In determining under any of subsections (2) to (4) whether one body corporate (X) controls another, X is treated as possessing—

(a) any rights and powers possessed by a person as nominee for it, and

(b) any rights and powers possessed by a body corporate which it controls (including rights and powers which such a body corporate would be taken to possess by virtue of this paragraph).

(7) For the purposes of section 130 as it applies in relation to a building, where a person's interest in the building is held on trust, a body corporate which is a beneficiary of the trust is to be regarded as associated with the person.

### 132 Order for information in connection with building liability order

(1) A person of a prescribed description may apply to the High Court for an information order.

(2) An "information order" is an order requiring a specified body corporate to give, by a specified time, specified information or documents relating to persons who are, or have at any time in a specified period been, associated with the body corporate.

(3) An information order may be made only if it appears to the court—

(a) that the body corporate is subject to a relevant liability (within the meaning of section 130), and

(b) that it is appropriate to require the information or documents to be provided for the purpose of enabling the applicant (or the applicant and others) to make, or consider whether to make, an application for a building liability order.

(4) In this section—

"associate": section 131 applies for the purposes of this section as it applies for the purposes of section 130;

"building liability order": see section 130;

"prescribed" means prescribed by regulations made by the Secretary of State;

"specified" means specified in the information order.

*Remediation and redress: other provisions*

### 133 Service charges in respect of remediation works

(1) The Landlord and Tenant Act 1985 is amended as follows.

(2) In section 20(1)(b) (limitation of service charges: consultation requirements) at the beginning insert "except in the case of works to which section 20D applies,".

(3) In section 20ZA (consultation requirements: supplementary) after subsection (5) insert—

"(5A) And in the case of works to which section 20D applies, regulations under subsection (4) may also include provision requiring the landlord—

(a) to give details of the steps taken or to be taken under section 20D(2),

(b) to give reasons about prescribed matters, and any other prescribed information, relating to the taking of such steps, and

(c) to have regard to observations made by tenants or the recognised tenants' association in relation to the taking of such steps."

(4) After section 20C insert—

"**20D Limitation of service charges: remediation works**

(1) This section applies to works of a prescribed description ("remediation works") on a building in England of a prescribed description.

(2) The landlord must—

(a) take reasonable steps to ascertain whether any grant is payable in respect of the remediation works and, if so, to obtain the grant;

(b) take reasonable steps to ascertain whether monies may be obtained from a third party in connection with the undertaking of the remediation works and, if so, to obtain monies from the third party;

(c) take prescribed steps relating to any other prescribed kind of funding.

(3) In subsection (2)(b) the reference to obtaining monies from a third party includes obtaining monies—

(a) under a policy of insurance;

(b) under a guarantee or indemnity;

(c) pursuant to a claim made against—

(i) a developer;

(ii) a person involved in the design of the building or of works to the building; or

(iii) a person involved in carrying out works in relation to the building.

(4) Where any funding of a kind mentioned in subsection (2) is obtained, the amount of the funding is to be deducted from the remediation costs (and the amount of any service charge is to be reduced accordingly).

(5) In the case of a failure to comply with subsection (2), a tenant may make an application for an order that all or any of remediation costs are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by—

(a) the tenant, or

(b) anyone else specified in the application.

(6) An application is to be made to the prescribed court or tribunal.

(7) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

(8) Nothing in this section requires the landlord to do anything mentioned in subsection (2) before carrying out remediation works.

(9) The Secretary of State may issue guidance about the taking of steps under subsection (2), and may revise or withdraw any issued guidance.

(10) Where on an application under this section it is alleged that a person failed to comply with subsection (2)—

(a) proof of a failure to comply with any applicable guidance may be relied on as tending to establish that there was such a failure, and

(b) proof of compliance with any applicable guidance may be relied on as tending to establish that there was no such failure.

(11) In this section—

"developer", in relation to a building, means a person who undertakes or commissions the construction or conversion of the building with a view to granting or disposing of interests in the building (or parts of it);

"prescribed" means prescribed by regulations made by the Secretary of State;

"remediation costs" means costs incurred or to be incurred in carrying out the remediation works;

"third party" means a person other than a tenant.

**20E Regulations under section 20D**

(1) In this section "regulations" means regulations under section 20D.

(2) Regulations are to be made by statutory instrument.

(3) A power to make regulations includes power to make—

(a) incidental, transitional or saving provision;

(b) different provision for different purposes.

(4) A statutory instrument containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament."

**134 Duties relating to work to dwellings etc**

(1) In the Defective Premises Act 1972 after section 2 insert—

"**2A Duties relating to work to dwellings etc**

(1) This section applies where a person, in the course of a business, takes on work in relation to any part of a relevant building.

(2) In this section "relevant building" means a building consisting of or containing one or more dwellings.

(3) The person owes a duty to—

(a) the person for whom the work is done, and

(b) each person who holds or acquires an interest (whether legal or equitable) in a dwelling in the building,

to see that the work is done in a workmanlike or (as the case may be) professional manner, with proper materials and so that as regards the work the dwelling is fit for habitation when the work is completed.

(4) The duty under this section does not apply in relation to a dwelling if—

(a) the work taken on is work for or in connection with the provision of the dwelling (as to which see section 1), or

(b) it is expected that, on completion of the work, it will have ceased to be a dwelling or will otherwise have ceased to exist.

(5) A person (A) who takes on any work to which this section applies for another (B) on terms that A is to do it in accordance with instructions given by or on behalf of B is, to the extent to which A does it properly in accordance with those instructions, to be treated for the purposes of this section as discharging the duty imposed on A by this section except where A owes a duty to B to warn B of any defects in the instructions and fails to discharge that duty.

(6) A person is not treated for the purposes of subsection (5) as having given instructions for the doing of work merely because the person has agreed to the work being done in a specified manner, with specified materials or to a specified design.

(7) A person who, in the course of a business which consists of or includes carrying out or arranging for the carrying out of work of a kind mentioned in subsection (1), arranges for another to take on work of that kind is treated for the purposes of this section as included among the persons who have taken on the work.

(8) For the purposes of the Limitation Act 1980, a cause of action in respect of a breach of a duty imposed by this section is treated as accruing at the time the work is completed; but if after that time a person does further work to rectify the work the person has already done, any such cause of action in respect of that further work is treated as accruing at the time when the further work is finished."

(2) The amendment made by this section applies in relation to work completed after the coming into force of this section.

## 135 Limitation periods

(1) After section 4A of the Limitation Act 1980 insert—

"**4B Special time limit for certain actions in respect of damage or defects in relation to buildings**

(1) Where by virtue of a relevant provision a person becomes entitled to bring an action against any other person, no action may be brought after the expiration of 15 years from the date on which the right of action accrued.

(2) An action referred to in subsection (1) is one to which—

(a) sections 1, 28, 32, 35, 37 and 38 apply;

(b) the other provisions of this Act do not apply.

(3) In this section "relevant provision" means—

(a) section 1 or 2A of the Defective Premises Act 1972;

(b) section 38 of the Building Act 1984.

(4) Where by virtue of section 1 of the Defective Premises Act 1972 a person became entitled, before the commencement date, to bring an action against any other person, this section applies in relation to the action as if the reference in subsection (1) to 15 years were a reference to 30 years.

(5) In subsection (4) "the commencement date" means the day on which section 135 of the Building Safety Act 2022 came into force."

(2) In section 1(5) of the Defective Premises Act 1972, for "the Limitation Act 1939, the Law Reform (Limitation of Actions, &c.) Act 1954 and the Limitation Act 1963" substitute "the Limitation Act 1980".

(3) The amendment made by subsection (1) in relation to an action by virtue of section 1 of the Defective Premises Act 1972 is to be treated as always having been in force.

(4) In a case where—

(a) by virtue of section 1 of the Defective Premises Act 1972 a person became entitled, before the day on which this section came into force, to bring an action against any other person, and

(b) the period of 30 years from the date on which the right of action accrued expires in the initial period,

section 4B of the Limitation Act 1980 (inserted by subsection (1)) has effect as if it provided that the action may not be brought after the end of the initial period.

(5) Where an action is brought that, but for subsection (3), would have been barred by the Limitation Act 1980, a court hearing the action must dismiss it in relation to any defendant if satisfied that it is necessary to do so to avoid a breach of that defendant's Convention rights.

(6) Nothing in this section applies in relation to a claim which, before this section came into force, was settled by agreement between the parties or finally determined by a court or arbitration (whether on the basis of limitation or otherwise).

(7) In this section—

"Convention rights" has the same meaning as in the Human Rights Act 1998;

"the initial period" means the period of one year beginning with the day on which this section comes into force.

*New homes ombudsman scheme*

### 136 Establishment of the new homes ombudsman scheme

(1) The Secretary of State must make arrangements for there to be a scheme, to be known as the "new homes ombudsman scheme", which meets the conditions in section 137(1).

(2) Examples of arrangements under subsection (1) are arrangements—

(a) with another person under which that other person agrees to establish and maintain the new homes ombudsman scheme in accordance with the terms of the arrangements,

(b) under which the new homes ombudsman scheme is established and maintained by (or on behalf of) the Secretary of State, or

(c) for the maintenance of the new homes ombudsman scheme, in accordance with the terms of the arrangements, by a person other than the person who established it.

(3) The Secretary of State may—

(a) give financial assistance (by way of grant, loan, guarantee or in any other form) to a person for the establishment or maintenance of the new homes ombudsman scheme;

(b) make payments to such a person (otherwise than as financial assistance) in accordance with arrangements under subsection (1).

(4) Before making arrangements under subsection (1), the Secretary of State must consult—

(a) the Welsh Ministers,

(b) the Scottish Ministers, and

(c) the relevant Northern Ireland department.

(5) In this section, "the relevant Northern Ireland department" means—

(a) the Northern Ireland department designated for the purposes of this section by the First Minister and deputy First Minister acting jointly, or

(b) failing such a designation, the Executive Office in Northern Ireland.

### 137 The new homes ombudsman scheme

(1) The conditions referred to in section 136(1) are that—

(a) membership of the scheme is open to all developers,

(b) the scheme enables qualifying complainants to have complaints against members of the scheme investigated and determined by an independent individual, and

(c) the scheme contains the provisions required by Schedule 9.

(2) A "qualifying complainant" is a person who, at the time the complaint is made, is a relevant owner of a home which, at that time, is a new build home.

(3) The individual who is to investigate and determine complaints under the scheme is to be known as "the new homes ombudsman".

(4) The scheme may also include provision for persons other than qualifying complainants to have complaints against members of the scheme investigated and determined under the scheme.

(5) The scheme may provide that the new homes ombudsman is not required to investigate a complaint if the new homes ombudsman is satisfied that the complaint (or a complaint which is materially the same) is being, or has been, dealt with under another redress scheme or in legal proceedings.

(6) In this section, "redress scheme" means a scheme under which complaints may be made to, and investigated and determined by, an independent person.

(7) Schedule 9 contains further provision about the new homes ombudsman scheme.

(8) Schedule 10 contains amendments connected with the establishment of the new homes ombudsman scheme.

### 138 "Relevant owner", "new build home" and "developer"

(1) This section provides for the meaning of terms used in section 137 (and in this section).

(2) A person is a "relevant owner" of a home if the person—

(a) is an individual,

(b) has a relevant interest in land that includes the home, and

(c) meets the occupation condition.

(3) A person meets the occupation condition if the person—

(a) occupies the home, or

(b) is the landlord under a lease of land that includes the home granted for a term not exceeding 21 years to another individual for that individual's occupation of the home.

(4) In relation to a home in Scotland or Northern Ireland, subsection (3) has effect as if in paragraph (b) the words "for a term not exceeding 21 years" were omitted.

(5) A home is a "new build home" if—

(a) the home is, or is contained in—

(i) a building the construction of which began after the coming into force of this section, or

(ii) a building that has been converted, or to which any other works have been carried out, so that it consists of or contains the home, where the conversion or works began after the coming into force of this section,

(b) there is a person who is, or was, a developer in relation to the home, and

(c) no more than two years have elapsed since the first acquisition, by any person, of a relevant interest in land that includes the home from the person mentioned in paragraph (b).

(6) "Relevant interest" means—

(a) in relation to land in England or Wales, a legal estate which is—

(i) an estate in fee simple absolute in possession, or

(ii) a term of years absolute granted for a term of more than 21 years from the date of the grant;

(b) in relation to land in Scotland, the interest of an owner of land;

(c) in relation to land in Northern Ireland, a legal estate which is—

(i) an estate in fee simple absolute in possession,

(ii) an estate in fee simple in possession subject to a rent payable under a fee farm grant, or

(iii) a term of years absolute granted for a term of more than 21 years from the date of the grant.

(7) A "developer" is a person—

(a) who undertakes or commissions—

(i) the construction of a new building that is to consist of or contain a home,

(ii) the conversion of, or carrying out of any other works to, an existing building so that it consists of or contains a home, or

(iii) the conversion of, or carrying out of any other works to, an existing building so as to alter the number of homes contained in it,

with a view to granting, or disposing of, a relevant interest in land that includes the home or, in a case falling within sub-paragraph (iii), any of the homes, or

(b) who is of a description specified in regulations made by the relevant national authority.

(8) Regulations under subsection (7)(b) may, among other things, specify a description of persons by reference to a connection with a person mentioned in subsection (7)(a).

(9) In subsection (7)(b), "the relevant national authority" means—

(a) in relation to homes in England, the Secretary of State,

(b) in relation to homes in Wales, the Welsh Ministers,

(c) in relation to homes in Scotland, the Scottish Ministers, and

(d) in relation to homes in Northern Ireland, the Northern Ireland department designated for the purposes of this section by the First Minister and deputy First Minister acting jointly.

(10) Before making regulations under subsection (7)(b), the relevant national authority must consult each other person who is the relevant national authority in relation to regulations under that subsection.

(11) If no Northern Ireland department has been designated for the purposes of this section then, for the purposes of subsection (10), "the relevant national authority" in relation to homes in Northern Ireland is the Executive Office in Northern Ireland.

(12) "Home" means a private residence.

(13) "Occupies" means occupies as a private residence (and "occupation" is to be construed accordingly).

### 139 Regulations under section 138

(1) The power to make regulations under section 138(7)(b) is exercisable—

(a) in the case of regulations made by the Secretary of State or the Welsh Ministers, by statutory instrument, and

(b) in the case of regulations made by a Northern Ireland department, by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

(For regulations under section 138(7)(b) made by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).

(2) Regulations under section 138(7)(b)—

(a) may make different provision for different purposes;

(b) may contain consequential, supplementary, incidental, transitional or saving provision.

(3) Regulations under section 138(7)(b)—

(a) if made by the Secretary of State, may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament;

(b) if made by the Welsh Ministers, may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, Senedd Cymru;

(c) if made by the Scottish Ministers, are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10));

(d) if made by a Northern Ireland department, may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

### 140 Power to require persons to join scheme and to provide information

(1) The Secretary of State may by regulations—

(a) require persons who are developers, or developers of a specified description, to become members of the new homes ombudsman scheme;

(b) require persons who are required to become members of the scheme under paragraph (a) to remain members of the scheme for a period specified in the regulations (even if they are no longer developers);

(c) require members of the scheme to inform persons of a specified description of the scheme;

(d) make provision for civil sanctions to be imposed in respect of a breach of a requirement imposed by regulations under paragraph (a), (b) or (c);

(e) make provision for the investigation of suspected breaches of such a requirement.

In this subsection, "developer" has the meaning given in section 138 and "specified" means specified in the regulations.

(2) Before making regulations under subsection (1), the Secretary of State must consult—

(a) the Welsh Ministers,

(b) the Scottish Ministers, and

(c) the relevant Northern Ireland department.

(3) Provision made by virtue of subsection (1)(a) may provide for exceptions to the requirement to become a member of the scheme.

(4) Provision made by virtue of subsection (1)(a) or (b) may require persons who are members of the new homes ombudsman scheme to—

(a) obtain a certificate confirming their membership of the scheme;

(b) display or publish the certificate in accordance with the regulations;

(c) produce a copy of the certificate, on request, in accordance with the regulations.

(5) Provision made for the imposition of a civil sanction by virtue of subsection (1)(d) must include—

(a) provision for appeals to a court or tribunal against the imposition of the sanction, and

(b) such other provision as the Secretary of State considers appropriate for safeguarding the interests of persons on whom the sanction may be imposed.

(6) Provision made by virtue of subsection (1)(d) or (e) may—

(a) confer functions on a person (including functions involving the exercise of a discretion);

(b) require a person on whom functions are so conferred to have regard to any relevant guidance issued by the Secretary of State relating to the exercise of those functions.

(7) The Secretary of State may make payments to a person on whom functions are conferred by virtue of subsection (6).

(8) In this section, "the relevant Northern Ireland department" means—

(a) the Northern Ireland department designated for the purposes of this section by the First Minister and deputy First Minister acting jointly, or

(b) failing such a designation, the Executive Office in Northern Ireland.

### 141 Register of members

(1) The person who maintains the new homes ombudsman scheme must keep a register of persons who are members of the scheme.

(2) The register must be made available for inspection by members of the public at all reasonable times.

### 142 Developers' code of practice

(1) The Secretary of State may issue or approve a code of practice about the standards of conduct and standards of quality of work expected of members of the new homes ombudsman scheme.

(2) The Secretary of State may from time to time revise or replace the code or approve its revision or replacement.

(3) The Secretary of State must ensure that the current version of the code is published.

(4) The Secretary of State must consult the Welsh Ministers, the Scottish Ministers and the relevant Northern Ireland department before—

(a) issuing, revising or replacing the code, or

(b) approving the code or a revision or replacement of it.

(5) In this section, "the relevant Northern Ireland department" means—

(a) the Northern Ireland department designated for the purposes of this section by the First Minister and deputy First Minister acting jointly, or

(b) failing such a designation, the Executive Office in Northern Ireland.

### 143 Amendment of the Government of Wales Act 2006

In Schedule 7B to the Government of Wales Act 2006 (general restrictions on legislative competence of Senedd Cymru), in paragraph 10(2), at the end insert—

"(o) the new homes ombudsman."

*New build home warranties*

### 144 New build home warranties

(1) This section applies where a person ("the developer") carries out a development in England that results in the creation of one or more dwellings ("new build homes").

(2) The developer must, at the time of or before granting or disposing of a relevant interest in a new build home—

(a) provide to the purchaser a new build home warranty for the new build home, and

(b) provide to a prescribed person a new build home warranty for any common parts.

(3) A "new build home warranty" for a thing is an arrangement, satisfying any requirements under subsection (4), under which—

(a) the developer agrees, in specified circumstances, to remedy any specified defect (or any defect) in the thing occurring in a specified period, and

(b) a prescribed person obtains the benefit of a policy of insurance relating to specified defects (or any defects) in the thing.

"Specified" here means specified in the arrangement.

(4) The Secretary of State may by regulations impose requirements about new build home warranties, including in particular requirements as to—

(a) the kinds of defect which the developer must agree to remedy;

(b) the circumstances in which the developer must agree to remedy a defect (including the minimum duration of the period mentioned in subsection (3)(a));

(c) the developer agreeing to meet prescribed costs incurred by a person occupying a new build home, where works to remedy a defect are carried out;

(d) the policy of insurance (including risks that must be covered, the minimum amount of cover, the minimum duration of the period of cover, and the maximum amount of any excess);

(e) the solvency of the insurer or underwriter;

(f) the standard of service provided by or on behalf of the insurer in relation to the policy;

(g) the ability of a person who has the benefit of the warranty to transfer that benefit to another person.

(5) The regulations must provide that the period of cover under the policy of insurance must be at least 15 years beginning with the day on which the relevant interest is granted or disposed of.

(6) In this section—

"carries out a development": the reference to a person carrying out a development is to undertaking or commissioning—

(a) the construction of a building, or

(b) the conversion of, or carrying out of any other works to, a building,

with a view to granting, or disposing of, relevant interests in one or more dwellings created as a result of the construction, conversion or carrying out of works;

"common parts", in relation to a new build home, means any part of a building, where—

(a) that part is provided for the use, benefit and enjoyment of the residents of the new build home and the residents of other dwellings (whether alone or with other persons), and

(b) the right to use that part is conferred in connection with the grant or disposal of the relevant interest in the new build home;

"defect": any reference to a defect includes, in relation to land, contamination;

"prescribed" means prescribed by regulations made by the Secretary of State;

"purchaser" means the person to whom the relevant interest is granted or disposed of;

"relevant interest" means a legal estate which is—

(a) an estate in fee simple absolute in possession, or

(b) a term of years absolute granted for a term of more than 21 years from the date of the grant.

### 145 New build home warranties: financial penalties

(1) The Secretary of State may by regulations make provision for and in connection with the imposition of a financial penalty in cases where the Secretary of State, or a person designated by the Secretary of State, is satisfied beyond reasonable doubt that a person has, without reasonable excuse, failed to comply with section 144(2).

(2) The regulations may include provision—

(a) about the procedure to be followed in imposing penalties;

(b) about the amount of penalties;

(c) for the imposition of interest or additional penalties for late payment;

(d) conferring rights of appeal against penalties.

(3) The regulations must provide that the amount of a financial penalty (excluding interest or any additional penalty) may not exceed the greater of—

(a) 10% of the value of the relevant interest at the time the person granted or disposed of the relevant interest, and

(b) £10,000.

*Construction products*

### 146 Construction products

Schedule 11 contains provision for regulations relating to construction products.

*Liability relating to construction products*

### 147 Liability relating to construction products: general definitions

In this section, section 148 and section 149—

"the 1991 Regulations" means the Construction Products Regulations 1991 (S.I. 1991/1620);

"the 2011 Regulation" means Regulation (EU) No. 305/2011 (regulation laying down harmonised conditions for the marketing of construction products);

"the 2019 Regulations" means the Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465);

"construction products regulations" means regulations under paragraph 1 of Schedule 11;

"construction product requirement" means a requirement under—

(a) construction products regulations,

(b) the 2011 Regulation, or

(c) the 2019 Regulations;

"relevant building" means—

(a) a building which consists of a dwelling, or

(b) a building which contains two or more dwellings;

"relevant interest", in relation to a building in England and Wales, means—

(a) in a case where the building consists of a dwelling, a legal or equitable interest in the building, and

(b) in a case where the building contains one or more dwellings, a legal or equitable interest in—

(i) the building, or

(ii) any dwelling contained in the building;

"relevant interest", in relation to a building in Scotland, means—

(a) in a case where the building consists of a dwelling, any right or interest (including a servitude or heritable security) in or over the building, and

(b) in a case where the building contains one or more dwellings, any right or interest (including a servitude or heritable security) in or over—

(i) the building, or

(ii) any dwelling contained in the building;

"requirement" includes a prohibition or restriction.

## 148 Liability relating to construction products

(1) This section applies where Conditions A to D are met.

(2) Condition A is that, at any time after the coming into force of this section—

(a) a person fails to comply with a construction product requirement in relation to a construction product,

(b) a person who markets or supplies a construction product makes a misleading statement in relation to it, or

(c) a person manufactures a construction product that is inherently defective.

(3) Condition B is that, after Condition A is met, the construction product referred to in subsection (2)(a), (b) or (c) is installed in, or applied or attached to, a relevant building in the course of works carried out in the construction of, or otherwise in relation to, the building.

(4) Condition C is that, when those works are completed—

(a) in a case where the relevant building consists of a dwelling, the building is unfit for habitation, or

(b) in a case where the relevant building contains one or more dwellings, a dwelling contained in the building is unfit for habitation.

(5) Condition D is that the facts referred to in subsection (2)(a), (b) or (c) were the cause, or one of the causes, of the building or dwelling being unfit for habitation.

(6) The person referred to in subsection (2)(a), (b) or (c) is liable to pay damages to a person with a relevant interest in relation to the relevant building for personal injury, damage to property or economic loss suffered by that person as a result of the facts referred to in subsection (4)(a) or (b).

(7) A term of an agreement which purports to exclude or restrict, or has the effect of excluding or restricting, any liability arising under this section is void.

(8) For the purposes of section 10B(1) of the Limitation Act 1980 and section 18ZD(1) of the Prescription and Limitation (Scotland) Act 1973, the right of action that a person has by virtue of this section is to be regarded as having accrued—

(a) in a case where the works referred to in subsection (3) are carried out in the construction of the relevant building, when the construction is completed, and

(b) in any other case, when the works are completed.

(9) In subsection (2)(a) "construction product"—

(a) in relation to a construction product requirement under construction products regulations, has the meaning specified in those regulations;

(b) in relation to a construction product requirement under the 2011 Regulation, has the meaning specified in the 2011 Regulation;

(c) in relation to a construction product requirement under the 2019 Regulations, has the meaning specified in the 2011 Regulation as it had effect immediately before IP completion day.

(10) In subsection (2)(b) and (c) "construction product" has the meaning specified in the 2011 Regulation.

### 149 Liability for past defaults relating to cladding products

(1) This section applies where Conditions A to D are met.

(2) Condition A is that, at any time before the coming into force of this section—

(a) a person fails to comply with a cladding product requirement in relation to a cladding product,

(b) a person who markets or supplies a cladding product makes a misleading statement in relation to it, or

(c) a person manufactures a cladding product that is inherently defective.

(3) Condition B is that, after Condition A has been met, the cladding product is attached to, or included in, the external wall of a relevant building in the course of works carried out in the construction of, or otherwise in relation to, the building.

(4) Condition C is that, when those works are completed—

(a) in a case where the relevant building consists of a dwelling, the building is unfit for habitation, or

(b) in a case where the relevant building contains one or more dwellings, a dwelling contained in the building is unfit for habitation.

(5) Condition D is that the facts referred to in subsection (2)(a), (b) or (c) were the cause, or one of the causes, of the building or dwelling being unfit for habitation.

(6) The person referred to in subsection (2)(a), (b) or (c) is liable to pay damages to a person with a relevant interest in relation to the relevant building for personal injury, damage to property or economic loss suffered by that person as a result of the facts referred to in subsection (4)(a) or (b).

(7) A term of an agreement which purports to exclude or restrict, or has the effect of excluding or restricting, any liability arising under this section is void.

(8) For the purposes of section 10B(2) of the Limitation Act 1980 and section 18ZD(2) of the Prescription and Limitation (Scotland) Act 1973, the right of action that a person has by virtue of this section is to be regarded as having accrued—

(a) in a case where the works referred to in subsection (3) are carried out in the construction of the relevant building, when the construction is completed, and

(b) in any other case, when the works are completed.

(9) Where an action is brought under this section in England and Wales that, but for section 10B(2) of the Limitation Act 1980, would have been barred by that Act, a court hearing the action must dismiss it in relation to any defendant if satisfied that it is necessary to do so to avoid a breach of that defendant's Convention rights.

(10) Where an action is brought under this section in Scotland that, but for section 18ZD(2) of the Prescription and Limitation (Scotland) Act 1973, would have been barred by that Act, a court hearing the action must dismiss it in relation to any defender if satisfied that it is necessary to do so to avoid a breach of that defender's Convention rights.

(11) In this section "cladding product requirement" means—

(a) in relation to a time before IP completion day, a requirement relating to a cladding product under—

(i) the 1991 Regulations, or

(ii) the 2011 Regulation as it had effect in EU law at that time, and

(b) in relation to a time after IP completion day, a requirement relating to a cladding product under—

(i) the 2011 Regulation, or

(ii) the 2019 Regulations.

(12) In this section—

"cladding product" means a cladding system or any component of a cladding system;

"Convention rights" has the same meaning as in the Human Rights Act 1998;

"external wall", in relation to a building, includes any part of a roof pitched at an angle of more than 70 degrees to the horizontal if that part of the roof adjoins a space within the building to which persons have access otherwise than for the purpose of carrying out repairs or maintenance.

### 150 Liability relating to construction products: limitation in England and Wales

In the Limitation Act 1980, after section 10A insert—

"**10B Special time limit for actions relating to construction products**

(1) An action under section 148 of the Building Safety Act 2022 shall not be brought after the expiration of 15 years from the date on which the right of action accrued.

(2) An action under section 149 of the Building Safety Act 2022 shall not be brought after—

(a) if the right of action accrued before the commencement date, the expiration of the period of 30 years from the date on which it accrued, and

(b) if the right of action accrued on or after the commencement date, the expiration of the period of 15 years beginning with the date on which it accrued.

(3) In a case where—

(a) a right of action under section 149 of the Building Safety Act 2022 accrued before the commencement date, and

(b) the expiration of the period of 30 years beginning with the date on which the right of action accrued falls in the year beginning with the commencement date,

subsection (2)(a) has effect as if it referred to the expiration of that year.

(4) In subsections (2) and (3) "the commencement date" is the day on which section 149 of the Building Safety Act 2022 came into force.

(5) No other period of limitation prescribed by Part 1 of this Act applies in relation to an action referred to in subsections (1) and (2).

(6) Sections 28, 32 and 35 of this Act apply in relation to an action referred to subsections (1) and (2), but otherwise Parts 2 and 3 of this Act (except sections 37 and 38) do not apply for the purposes of this section."

### 151 Liability relating to construction products: limitation in Scotland

(1) The Prescription and Limitation (Scotland) Act 1973 is amended as follows.

(2) After section 18ZC insert—

"**18ZD Actions relating to construction products**

(1) An action under section 148 of the Building Safety Act 2022 may not be brought after the expiration of 15 years from the date on which the right of action accrued (see subsection (8) of that section).

(2) An action under section 149 of the Building Safety Act 2022 may not be brought after—

(a) if the right of action accrued before the commencement date, the expiration of the period of 30 years from the date on which it accrued (see subsection (8) of that section), and

(b) if the right of action accrued on or after the commencement date, the expiration of the period of 15 years beginning with the date on which it accrued.

(3) In a case where—

(a) a right of action under section 149 of the Building Safety Act 2022 accrued before the commencement date, and

(b) the expiration of the period of 30 years beginning with the date on which the right of action accrued falls in the year beginning with the commencement date,

subsection (2)(a) has effect as if it referred to the expiration of that year.

(4) In subsections (2) and (3) "the commencement date" is the day on which section 149 of the Building Safety Act 2022 came into force.

(5) No other period of limitation specified by this Part of this Act applies in relation to an action referred to in subsection (1) or (2).

(6) In the computation of a period of time specified in subsection (1) or (2), there is to be disregarded any time during which the person seeking to bring the action (P)—

(a) was under a legal disability by reason of nonage or unsoundness of mind, or

(b) failed to bring the action by reason of—

(i) fraud on the part of the person against whom the action is to be brought (D) or the part of any person acting on D's behalf, or

(ii) error induced by words or conduct of D or any person acting on D's behalf,

(but not including, for the purposes of paragraph (b), any time occurring after P could with reasonable diligence have discovered the fraud or error mentioned in that paragraph).

(7) For the purposes of subsection (6)(b), it does not matter whether D, or the person acting on D's behalf, intended the fraud or the words or conduct to cause P to fail to bring the action."

(3) In section 7(2) (extinction of obligations by prescriptive periods of twenty years), at the end insert "or any obligation to pay damages arising from liability under section 148 or section 149 of the Building Safety Act 2022 (see section 18ZD of this Act)."

(4) In section 19CA(1) (interruption of limitation period: arbitration), after "18ZC(2)" insert ", 18ZD(1) or (2)".

(5) In Schedule 1, in paragraph 2 (exceptions from the 5 year prescriptive period under section 6), after paragraph (ga) insert—

"(gb) to any obligation to pay damages arising from liability under section 148 or 149 of the Building Safety Act 2022;"."

*Construction products: costs contribution orders*

## 152 Costs contribution orders: general definitions

In this section and sections 153 to 155—

"the 2011 Regulation" means Regulation (EU) No. 305/2011 (regulation laying down harmonised conditions for the marketing of construction products);

"the 2019 Regulations" means the Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465);

"the 2020 Regulations" means the Construction Products (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1359);

"construction product"—

(a) in relation to a construction product requirement under construction products regulations, has the meaning specified in those regulations;

(b) in relation to a construction product requirement under the 2011 Regulation, has the meaning specified in the 2011 Regulation (or, in Northern Ireland, in the 2011 Regulation as having effect in EU law from time to time);

(c) in relation to a construction product requirement under the 2019 Regulations, has the meaning specified in the 2011 Regulation as it had effect immediately before IP completion day;

(d) in relation to a construction product requirement under the 2020 Regulations, has the meaning given by regulation 2 of those Regulations;

"construction products regulations" means regulations under paragraph 1 of Schedule 11;

"construction product requirement", in England and Wales or Scotland, means a requirement under—

(a) construction products regulations,

(b) the 2011 Regulation, or

(c) the 2019 Regulations;

"construction product requirement", in Northern Ireland, means a requirement under—

(a) construction product regulations,

(b) the 2011 Regulation as having effect from time to time in EU law,

(c) the 2019 Regulations, or

(d) the 2020 Regulations;

references to an "interest" in a building or dwelling include—

(a) in England and Wales, any legal or equitable interest in the building or dwelling;

(b) in Scotland, any right or interest (including a servitude or heritable security) in or over the building or dwelling;

(c) in Northern Ireland, any estate within the meaning given by section 45(2) of the Interpretation Act (Northern Ireland) 1954 in the building or dwelling;

"relevant building" means—

(a) a building which consists of a dwelling, or

(b) a building which contains two or more dwellings;

"requirement" includes a prohibition or restriction.

### 153 Costs contribution orders made by courts

(1) The Secretary of State may by regulations make provision for courts to make costs contribution orders on the application of the Secretary of State.

(2) The regulations may only make provision for the making of costs contribution orders under this section in cases where—

(a) Conditions A to D are met, and

(b) any prescribed conditions are met.

(3) Condition A is that a person ("the defaulter") is convicted of an offence consisting of a failure to comply with a construction product requirement in relation to a construction product.

(4) Condition B is that, after the failure to comply referred to in subsection (3), the construction product is installed in, or applied or attached to, a relevant building in the course of works carried out in the construction of, or otherwise in relation to, the building.

(5) Condition C is that, when those works are completed—

(a) in a case where the relevant building consists of a dwelling, the building is unfit for habitation, or

(b) in a case where the relevant building contains one or more dwellings, a dwelling contained in the building is unfit for habitation.

(6) Condition D is that the failure to comply referred to in subsection (3) was the cause, or one of the causes, of the building or dwelling being unfit for habitation.

(7) A "costs contribution order" under this section is an order requiring the defaulter to pay an amount to a person with a prescribed interest in the building or any dwelling contained in the building.

(8) Regulations under this section must provide for the amount to be paid to a person under a costs contribution order under this section to be such amount as the court making the order considers just and equitable in respect of the costs that the person has reasonably incurred, or in the view of the court is likely to reasonably incur, in respect of works to make the building or dwelling fit for habitation.

(9) The regulations may make provision as to the matters which may or must be taken into account by a court in determining—

(a) whether, against whom and in favour of whom to make a costs contribution order under this section;

(b) the amount required to be paid by a person under a costs contribution order under this section.

(10) The regulations may make provision in relation to—

(a) enforcement of a costs contribution order under this section;

(b) court powers to order the defaulter to pay—

(i) any costs incurred by the Secretary of State under regulations under section 155 (assessments) in respect of the application, and

(ii) any costs incurred by the Secretary of State in making the application.

(11) The regulations may make provision about how a costs contribution order under this section relates to other remedies, including in particular—

(a) provision to secure that, taking a costs contribution order under this section together with other remedies—

(i) a person does not incur liability more than once in respect of the same costs;

(ii) a person is not entitled to be reimbursed more than once for the same costs;

(b) provision preventing a person to whom any amount is payable under a costs contribution order under this section from pursuing any other legal remedy for the recovery of such an amount.

(12) In this section "prescribed" means prescribed by regulations under this section.

**154 Costs contribution orders made by the Secretary of State**

(1) The Secretary of State may by regulations make provision for the Secretary of State to make costs contribution orders.

(2) The regulations may only make provision for the making of costs contribution orders in cases where—

(a) Conditions A to D are met, and

(b) any prescribed conditions are met.

(3) Condition A is that a person ("the defaulter") is convicted of an offence consisting of a failure to comply with a construction product requirement in relation to a construction product.

(4) Condition B is that, after the failure to comply referred to in subsection (3), the construction product is installed in, or applied or attached to, a relevant building in the course of works carried out in the construction of, or otherwise in relation to, the building.

(5) Condition C is that, when those works are completed—

(a) in a case where the relevant building consists of a dwelling, the building is unfit for habitation, or

(b) in a case where the relevant building contains one or more dwellings, a dwelling contained in the building is unfit for habitation.

(6) Condition D is that the failure to comply referred to in subsection (3) was the cause, or one of the causes, of the building or dwelling being unfit for habitation.

(7) A "costs contribution order" under this section is an order requiring the defaulter to make a payment to a person with a prescribed interest in the building or any dwelling contained in the building.

(8) Regulations under this section must provide for the amount to be paid to a person under a costs contribution order under this section to be such amount as the Secretary of State considers just and equitable in respect of the costs that the person has reasonably incurred, or in the view of the Secretary of State is likely to reasonably incur, in respect of works to make the building or dwelling fit for habitation.

(9) The regulations may make provision as to the matters which may or must be taken into account by the Secretary of State in determining—

(a) whether, against whom, and in favour of whom, to make a costs contribution order under this section;

(b) the amount required to be paid by a person under a costs contribution order under this section.

(10) The regulations may make provision for the Secretary of State to issue a warning notice to a person before determining whether to make a costs contribution order under this section against that person.

(11) The regulations may make provision requiring that a costs contribution order under this section—

(a) be made in a prescribed form;

(b) contain prescribed information.

(12) The regulations may make provision about service of a costs contribution order under this section including—

(a) how an order is to be served;

(b) when an order is to be taken as having been served;

(c) the persons on whom an order must be served.

(13) The regulations may make provision in relation to—

(a) enforcement of a costs contribution order made under this section (including enforcement by the Secretary of State);

(b) powers of the Secretary of State to order the defaulter to pay any costs incurred by the Secretary of State under section 155 in respect of a costs contribution order under this section.

(14) The regulations may make provision about how a costs contribution order under this section relates to other remedies, including in particular—

(a) provision to secure that, taking a costs contribution order under this section together with other remedies—

(i) a person does not incur liability more than once in respect of the same costs;

(ii) a person is not entitled to be reimbursed more than once for the same costs;

(b) provision preventing a person to whom any amount is payable under a costs contribution order under this section from pursuing any other legal remedy for the recovery of such an amount.

(15) The regulations may make provision for persons to apply to the Secretary of State for a review of a costs contribution order under this section.

(16) The regulations may make provision for appeals to a court or tribunal in relation to—

(a) a decision of the Secretary of State to make or not make a costs contribution order under this section;

(b) a refusal by the Secretary of State to review a costs contribution order under this section;

(c) the outcome of a review by the Secretary of State of a costs contribution order under this section.

(17) The regulations may in particular include provision suspending a requirement to pay an amount due under a costs contribution order under this section pending the determination or withdrawal of an appeal or the determination of a review.

(18) In this section "prescribed" means prescribed by regulations under this section.

### 155 Costs contribution orders: assessments

(1) For the purposes of sections 153 and 154, the Secretary of State may by regulations make provision for the Secretary of State to appoint persons to assess—

(a) whether the conditions for the imposition of a costs contribution order under either of those sections are met;

(b) the works required to make a building or dwelling fit for habitation;

(c) what interest a person has in a building or dwelling;

(d) the costs that a person has reasonably incurred or is likely to reasonably incur in respect of works referred to in paragraph (b);

(e) the amount that a person should be required to pay under a costs contribution order.

(2) The regulations may include provision about the criteria to be met by a person before they may be appointed as an assessor.

(3) The regulations may make provision about assessments, including provision—

(a) conferring power on an assessor to require that persons provide such information as the assessor may reasonably require for the purposes of an assessment;

(b) for the provision of information by an assessor to the Secretary of State (including any information provided under paragraph (a)).

(4) Regulations under subsection (3)(a) may include provision for criminal offences relating to a failure to provide information, or to the provision of false or misleading information.

(5) Regulations under subsection (3)(a) creating a criminal offence must have the effect that—

(a) the offence is—

(i) triable summarily only, or

(ii) triable summarily or on indictment,

(b) the offence is punishable only—

(i) with a fine, or

(ii) with a term of imprisonment or a fine (or both),

(c) where the offence is triable summarily only, any fine with which the offence is punishable in Scotland or Northern Ireland does not exceed level 5 on the standard scale,

(d) where the offence is triable summarily or on indictment, any fine with which the offence is punishable on summary conviction in Scotland or Northern Ireland does not exceed the statutory maximum, and

(e) any term of imprisonment with which the offence is punishable on summary conviction does not exceed—

(i) in England and Wales, the relevant period,

(ii) in Scotland, 12 months, and

(iii) in Northern Ireland, 6 months.

(6) In subsection (5)(e)(i), "the relevant period" means—

(a) in relation to an offence that is triable summarily only—

(i) where the offence is committed before the coming into force of section 281 of the Criminal Justice Act 2003, 6 months, and

(ii) where the offence is committed after that time, 51 weeks;

(b) in relation to an offence that is triable summarily or on indictment—

(i) where the offence is committed before the coming into force of paragraph 24(2) of Schedule 22 to the Sentencing Act 2020, 6 months, and

(ii) where the offence is committed after that time, 12 months.

(7) Regulations under subsection (3)(b) may make provision for the purpose of securing that there is (taking into account any power or duty to provide information under the regulations) no contravention of the data protection legislation.

(8) In subsection (7), "data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).

*Fire safety*

### 156 Amendment of Regulatory Reform (Fire Safety) Order 2005

(1) The Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541) is amended as follows.

(2) In article 5 (duties under the Order), for "22", in each place it occurs, substitute "22B".

(3) In article 9 (risk assessment)—

(a) in paragraph (6) for the words from "record" to the end substitute "make a record of the assessment or review, which must in particular include the information prescribed by paragraph (7).";

(b) in paragraph (7)(a) omit "significant".

(4) After article 9 insert—

"9A **Risk assessment: assistance**

(1) The responsible person must not appoint a person to assist them with making or reviewing an assessment under article 9 unless that person is competent.

(2) A person is to be regarded as competent for the purposes of this article where the person has sufficient training and experience or knowledge and other qualities to enable the person properly to assist in making or reviewing the assessment.

(3) Where the responsible person appoints more than one person, the responsible person must make arrangements for ensuring adequate co-operation between them."

(5) In article 11(2) (fire safety arrangements) omit the words from "where" to the end.

(6) After article 21 insert—

"21A **Provision of information to residents of domestic premises**

(1) This article applies in relation to a building containing two or more sets of domestic premises.

(2) The responsible person must give residents of the domestic premises comprehensible and relevant information about the relevant fire safety matters.

(3) The relevant fire safety matters are—

(a) the risks to residents of the domestic premises identified by the risk assessment;

(b) the preventive and protective measures;

(c) the name of the responsible person and an address in the United Kingdom at which the responsible person, or someone acting on their behalf, will accept notices and other documents;

(d) the identity of any person appointed by the responsible person to assist them with making or reviewing an assessment under article 9;

(e) the identity of any persons nominated by the responsible person under article 13(3)(b);

(f) any risks of which the responsible person has been informed under article 22(1)(c);

(g) any other matters specified in regulations made by the relevant authority.

(4) The information is to be provided at such times, and in such form, as may be specified in regulations made by the relevant authority.

(5) The responsible person must keep records of the relevant fire safety matters.

(6) The "relevant authority"—

(a) in relation to premises in England, means the Secretary of State;

(b) in relation to premises in Wales, means the Welsh Ministers.

(7) Regulations under this article are to be made by statutory instrument.

(8) A statutory instrument containing regulations made by the Secretary of State under this article is subject to annulment in pursuance of a resolution of either House of Parliament.

(9) A statutory instrument containing regulations made by the Welsh Ministers under this article is subject to annulment in pursuance of a resolution of Senedd Cymru."

(7) In article 22 (co-operation and co-ordination)—

(a) in the heading, at the end insert "between responsible persons";

(b) before paragraph (1) insert—

"(A1) A person who is a responsible person in relation to any premises must take such steps as are reasonably practicable to ascertain whether any other responsible person shares, or has duties in respect of, the premises.";

(c) in paragraph (1) before sub-paragraph (1)(a) insert—

"(za) inform the other responsible persons concerned of that person's name and an address in the United Kingdom at which that person, or someone acting on their behalf, will accept notices and other documents;

(zb) inform the other responsible persons concerned of the part of the premises for which that person considers themselves to be a responsible person, and keep a record of that information;".

(8) After article 22 insert—

"22A **Provision of information to new responsible person**

(1) Paragraph (2) applies where a person (the "outgoing person") ceases to be a responsible person for premises and another person (the "new responsible person") becomes a responsible person for the premises in place of the outgoing person.

(2) The outgoing person must give the new responsible person any relevant fire safety information held by the outgoing person.

(3) "Relevant fire safety information" means—

(a) records kept under article 9(6) of assessments and reviews under article 9;

(b) the identity of any person appointed by the responsible person to assist them with making or reviewing an assessment under article 9;

(c) the name of any other person who is a responsible person in relation to the premises and an address in the United Kingdom at which that person, or someone acting on their behalf, will accept notices and other documents (where known);

(d) where the premises consist of or include a higher-risk building, the identity of any other person who is an accountable person in relation to the premises (where known);

(e) any information given under regulation 38 of the Building Regulations 2010 (S.I. 2010/2214) (fire safety information);

(f) any other matters specified in regulations made by the relevant authority.

(4) The information is to be provided at such times, and in such form, as may be specified in regulations made by the relevant authority.

(5) A responsible person must keep records of relevant fire safety information.

(6) In this article—

"accountable person" has the meaning given by section 72 of the Building Safety Act 2022;

"higher-risk building" has the meaning given by section 65 of that Act;

"relevant authority"—

(a) in relation to premises in England, means the Secretary of State;

(b) in relation to premises in Wales, means the Welsh Ministers.

(7) Regulations under this article are to be made by statutory instrument.

(8) A statutory instrument containing regulations made by the Secretary of State under this article is subject to annulment in pursuance of a resolution of either House of Parliament.

(9) A statutory instrument containing regulations made by the Welsh Ministers under this article is subject to annulment in pursuance of a resolution of Senedd Cymru.

22B **Co-operation with accountable persons**

(1) This article applies in relation to premises which consist of or include a residential unit in a higher-risk building.

(2) The responsible person ("P") must take such steps as are reasonably practicable to ascertain whether there are one or more other persons who are accountable persons in relation to the premises.

(3) If there are, P must co-operate with each accountable person for the purpose of the accountable person carrying out their duties under the Building Safety Act 2022.

(4) In this article—

"accountable person" has the meaning given by section 72 of the Building Safety Act 2022;

"higher-risk building" has the meaning given by section 65 of that Act;

"residential unit" has the meaning given by section 115 of that Act."

(9) In article 29(5) (alterations notices), omit paragraphs (b) and (c).

(10) In article 32 (offences)—

(a) in paragraph (1)(a) for "22" substitute "22B";

(b) in paragraph (4) omit "not exceeding level 3 on the standard scale";

(c) in paragraph (7) omit "not exceeding level 3 on the standard scale".

(11) In article 50 (guidance)—

(a) in paragraph (1) for "22" substitute "22B";

(b) in paragraph (1A)—

(i) for "22" substitute "22B";

(ii) omit "in relation to a relevant building (or part of the building)";

(iii) in sub-paragraph (a) omit "risk based";

(iv) in sub-paragraph (b) omit "risk based".

*Architects*

**157 Architects: discipline and continuing professional development**

(1) The Architects Act 1997 is amended as follows.

(2) In section 3 (the register), after subsection (2) insert—

"(2A) The Register shall show disciplinary orders made in relation to a registered person for such period as may be prescribed."

(3) In section 9 (competence to practise)—

(a) in subsection (1), in the words after paragraph (c), after "practical experience" insert "or undertaken such recent training",

(b) after subsection (1) insert—

"(1A) Before prescribing recent practical experience or training for the purposes of subsection (1), the Board shall consult the bodies representative of architects which are incorporated by royal charter and such other professional and educational bodies as it thinks appropriate.", and

(c) after subsection (2) insert—

"(3) Where the Board decides that the name of a person to whom paragraph (b) of subsection (1) applies is by virtue of that subsection to be removed from Part 1 of the Register—

(a) the person shall be entitled to apply to the Board within a prescribed period for an extension of time to gain the prescribed experience or undertake the prescribed training or to otherwise satisfy the Board of the person's competence to practise, and

(b) the Board shall not remove the name of the person from the Register unless—

(i) the person has not made an application for an extension of time within the prescribed period,

(ii) an extension of time granted by the Board has expired and the Board is not satisfied that the person has gained the prescribed experience or undertaken the prescribed training or is otherwise competent to practise, or

(iii) the Board has decided not to grant an extension of time in respect of an application made by the person.

(4) For the purposes of this section, a person is competent to practise if the person has the skills, knowledge, experience and behaviours required for a person to practise as an architect."

## 158 Architects: Appeals Committee

(1) The Architects Act 1997 is amended as follows.

(2) In section 1 (the Board)—

(a) after subsection (2) insert—

"(2A) There is to be an Appeals Committee of the Board.";

(b) after subsection (4) insert—

"(4A) Part 2A of that Schedule makes provision about the Appeals Committee."

(3) In section 4 (registration: general)—

(a) in subsection (4)(b) for "refer the application to the Board" substitute "refuse the application";

(b) in subsection (6)—

(i) omit "(4) or";

(ii) for the words from "direct" to the end substitute "—

(a) direct the Registrar to enter the person's name in the Register if it is satisfied that the person is entitled to be registered, or

(b) direct the Registrar to refuse the application if it is not so satisfied."

(4) In section 6(4B) (notice of refusal of application) for the words from "in the case" to "section 4(2A)" substitute "of an application".

(5) In section 9 (competence to practise) after subsection (2) insert—

"(2A) A notice under subsection (2) must state reasons for the decision."

(6) In Part 5 (general and supplementary) before section 22 insert—

"**21A Appeals to the Appeals Committee**

(1) A person may appeal to the Appeals Committee against—

(a) a decision to refuse the person's application for registration, or

(b) if the person is a person to whom paragraph (b) of section 9(1) applies, a decision to remove or not to re-enter the person's name in the Register as a result of section 9(1).

(2) The Board may make rules about appeals to the Appeals Committee, including in particular rules about—

(a) the period within which any appeal must be made;

(b) the way in which an appeal is to be made or withdrawn;

(c) the fee that must be paid on the making of an appeal (including circumstances in which that fee may or must be refunded);

(d) the procedure to be followed by the Appeals Committee in relation to an appeal;

(e) the effect of the making of an appeal, pending its determination, on the decision appealed against.

(3) On the determination of an appeal, the Appeal Committee may make any decision that could have been made by the person who made the decision appealed against.

(4) The Appeals Committee must, within the prescribed period after determining a person's appeal, serve on the person written notice of the decision made on that determination."

(7) In section 22 (appeals)—

(a) in subsection (1)—

(i) for paragraph (a) substitute—

"(a) a decision of the Appeals Committee under section 21A, on an appeal made by the person;";

(ii) for paragraph (c) substitute—

"(c) the person's name not being re-entered in the Register under section 18 as a result of section 9(1);";

(b) in subsection (2) omit "Subject to subsection (3),";

(c) omit subsection (3);

(d) in the heading at the end insert "to the court".

(8) In section 24(2) (service of documents) for "or 15(3)" substitute ", 15(3) or 21A(4)".

(9) In Schedule 1 (the Board and its committees) after Part 2 insert—

"**PART 2A**

THE APPEALS COMMITTEE

17B (1) The Board may make rules about—

(a) the composition of the Appeals Committee;

(b) the selection and term of office of members of the Appeal Committee (including casual vacancies);

(c) the meetings and procedure (including chairing and quorum) of the Appeal Committee;

(d) votes of the Appeal Committee (including providing for a casting vote and the way in which it is to be exercised).

(2) Before making rules about the composition of the Appeals Committee, the Board must consult the Secretary of State."

(10) In Part 4 of that Schedule (general provisions), after "Professional Conduct Committee", in each place it occurs, insert ", the Appeals Committee".

## 159 Architects Registration Board: fees and discharge of functions by a committee

(1) In the Architects Act 1997, after section 24 insert—

"**24A Fees**

(1) The Secretary of State may make regulations for, and relating to, the charging of fees by the Board in respect of services which it provides.

(2) Regulations under this section may in particular make provision about—

(a) the services, or types of services, in respect of which the Board may charge a fee;

(b) the persons who are liable to pay a fee;

(c) how fees charged by the Board are to be calculated;

(d) how fees charged by the Board are to be paid.

(3) In this section, a "service"—

(a) includes any exercise by the Board of its power to prescribe qualifications for the purposes of section 4(1)(a);

(b) does not include any service in respect of which a fee may be prescribed under any other provision of this Act.

(4) Regulations under this section are to be made by statutory instrument.

(5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament."

(2) In Schedule 1 to that Act (the Board and its committees), in paragraph 18(2)(b) (functions of the Board which may not be discharged by a committee) for "4(1) or (2)" substitute "4(2)".

(3) In consequence of the amendment made by subsection (2), in section 11(5) of the Professional Qualifications Act 2022 for the words from "after" to the end substitute "for "4(2)" substitute "4(1A) or (2)"."

*Housing complaints*

### 160 Housing complaints made to a housing ombudsman

(1) Schedule 2 to the Housing Act 1996 is amended in accordance with subsections (2) and (3).

(2) In paragraph 7 (determinations by housing ombudsman)—

(a) after "approved scheme shall" insert ", in accordance with the scheme,", and

(b) for the words from "and not withdrawn" to "but withdrawn" substitute "under the scheme".

(3) Omit paragraphs 7A to 7C (complaints to a housing ombudsman to be referred by designated person and exceptions).

(4) The amendments made by this section apply in relation to a complaint made to a housing ombudsman—

(a) after the time this section comes into force, or

(b) before the time this section comes into force, but only if a determination by a housing ombudsman is still pending in respect of the complaint at such time.

## PART 6

GENERAL

### 161 Liability of officers of body corporate etc

(1) Where an offence under Part 2 or 4 committed by a body corporate—

(a) is committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, or

(b) is attributable to any neglect on the part of any such person,

that person as well as the body corporate commits the offence and is liable to be proceeded against and punished accordingly.

(2) In subsection (1) "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Subsection (1) also applies in relation to a body that is not a body corporate, with the substitution for the reference to a director of the body of a reference—

(a) in the case of a partnership, to a partner;

(b) in the case of an unincorporated body other than a partnership—

(i) where the body's affairs are managed by its members, to a member of the body;

(ii) in any other case, to a member of the governing body.

(4) Where—

(a) a relevant company is an accountable person for a higher-risk building (within the meaning of Part 4), and

(b) one or more (but not all) directors of the relevant company have been appointed for a building safety purpose and are entitled to remuneration from the company,

this section, so far as relating to Part 4, does not apply in relation to a director who is not entitled to remuneration from the relevant company.

(5) In subsection (4)—

"building safety purpose" means the purpose of supporting the relevant company in complying with its duties under Part 4 or under regulations made under that Part;

"relevant company" means—

(a) a resident management company within the meaning of section 111,

(b) an RTM company within the meaning of Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002 (right to manage), or

(c) a company that is a commonhold association within the meaning of Part 1 of that Act (see section 34).

## 162 Review of regulatory regime

(1) The Secretary of State must appoint an independent person to carry out a review of—

(a) the effectiveness of the regulator in—

(i) exercising its building functions,

(ii) securing the safety of people in or about buildings in relation to risks arising from buildings, and

(iii) improving the standard of buildings,

(b) the adequacy and effectiveness of—

(i) provision made by or under Parts 2 and 4 of this Act, and

(ii) provision made by or under the Building Act 1984 (except section 105C) that applies in relation to England,

(c) the effectiveness of the regulation of construction products in the United Kingdom,

(d) such matters connected with any of the matters mentioned in paragraphs (a) to (c) as the person considers appropriate, and

(e) any other matter specified in the appointment.

(2) On completion of a review, the appointed person must make a written report to the Secretary of State—

(a) setting out the result of the review, and

(b) making such recommendations (if any) as the person considers appropriate.

(3) The Secretary of State must publish a copy of the report.

(4) The first appointment must be made within the period of 5 years beginning with the day on which this Act is passed.

(5) Any other appointment must be made within the period of 5 years beginning with the day on which the most recent appointment was made.

(6) In this section—

"building function" has the meaning given by section 3;

"independent" means appearing to the Secretary of State to be independent of—

(a) the Secretary of State,

(b) the regulator,

(c) the profession of registered building inspectors,

(d) the built environment industry (as defined by section 30),

(e) persons carrying on activities connected with the manufacture, importation, marketing or supply of construction products (as defined by paragraph 24 of Schedule 11), and

(f) local authorities (as so defined);

"the regulator" has the meaning given by section 2.

### 163 Financial provisions

There is to be paid out of money provided by Parliament—

(a) any expenditure incurred under or by virtue of this Act by the Secretary of State, and

(b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

### 164 Crown application

(1) The following provisions, and any provision made under them, bind the Crown—

(a) Part 2;

(b) Part 4 except sections 99, 100 and 103 (compliance notices);

(c) sections 116 to 125 and Schedule 8 (remediation of certain defects);

(d) sections 136 to 142 and Schedule 9 (new homes ombudsman scheme);

(e) sections 144 and 145 (new build home warranties);

(f) section 161.

(2) No contravention by the Crown of a provision mentioned in subsection (1) makes the Crown criminally liable.

(3) Subsection (2) does not affect the criminal liability of persons in the service of the Crown.

### 165 Application to Parliament

(1) The following provisions do not apply in relation to the Parliamentary Estate—

(a) sections 99, 100 and 103 (compliance notices under Part 4);
(b) paragraphs 1 to 3 of Schedule 2 (powers of entry of authorised officers).

(2) If the Palace of Westminster (or any part of it) is a higher-risk building within the meaning of Part 4, for the purposes of that Part the accountable persons for the building are the Corporate Officer of the House of Lords and the Corporate Officer of the House of Commons, acting jointly.

(3) No contravention by a Corporate Officer of a provision made by or under Part 2 or 4 makes the Corporate Officer criminally liable.

(4) Subsection (3) does not affect the criminal liability of relevant members of the House of Lords staff or of the House of Commons staff (as defined by sections 194 and 195 of the Employment Rights Act 1996).

(5) In subsection (3) "Corporate Officer" means—
(a) the Corporate Officer of the House of Lords,
(b) the Corporate Officer of the House of Commons, or
(c) the Corporate Officers acting jointly.

(6) In this section "Parliamentary Estate" means any building or other premises occupied for the purposes of either House of Parliament.

### 166 Power of Secretary of State to make consequential provision

(1) The Secretary of State may by regulations make provision that is consequential on this Act.

(2) The regulations may amend, repeal or revoke provision made by or under—
(a) an Act passed before this Act;
(b) an Act passed later in the same session of Parliament as this Act.

(3) Regulations under this section may not make provision that may be made under section 167.

### 167 Power of Welsh Ministers to make consequential provision

(1) The Welsh Ministers may by regulations make provision, in relation to Wales, that is consequential on Part 3 or section 156.

(2) The regulations may amend, repeal or revoke provision made by or under—
(a) an Act passed before this Act;
(b) an Act passed later in the same session of Parliament as this Act;
(c) an Act or Measure of Senedd Cymru passed before this Act.

(3) The regulations may make—
(a) transitional, transitory or saving provision;
(b) different provision for different purposes.

(4) The regulations are to be made by statutory instrument.

(5) A statutory instrument containing (whether alone or with other provision) regulations under this section that amend or repeal provision made by an Act, or by an Act or

Measure of Senedd Cymru, may not be made unless a draft of the instrument has been laid before and approved by a resolution of Senedd Cymru.

(6) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of Senedd Cymru.

### 168 Regulations

(1) This section applies to regulations under any provision of this Act except—

(a) section 138(7)(b) (new homes ombudsman scheme: meaning of "developer"),

(b) section 167 (power of Welsh Ministers to make consequential provision),

(c) section 170 (commencement and transitional provision), and

(d) Schedule 11 (construction products regulations).

(2) A power to make regulations includes power to make—

(a) consequential, supplementary, incidental, transitional, transitory or saving provision;

(b) different provision for different purposes or for different areas.

(3) Regulations may describe a building by reference to its height, size, design, use, purpose or any other characteristic.

(4) A power to make regulations about the way in which anything is to be given to the regulator (as defined by section 2) includes power to provide that the thing is to be given in a way specified in a direction made and published by the regulator in accordance with the regulations.

(5) Regulations are to be made by statutory instrument.

(6) A statutory instrument containing (whether alone or with other provision)—

(a) regulations under section 12, 62, 65(5), 68, 71, 72, 74, 123, 126, 128, 129 or 140 or paragraph 6 of Schedule 3 or paragraph 2(12), 13(10) or 15(4) of Schedule 7 or paragraph 3(5), 12 or 15 of Schedule 8,

(b) regulations made by virtue of section 65(3)(c),

(c) regulations under section 89 (except regulations only making provision of a kind mentioned in section 89(2)),

(d) regulations under section 90 (except regulations only making provision of a kind mentioned in section 90(3) or (4)),

(e) regulations under section 92 (except regulations only making provision of a kind mentioned in section 92(3)),

(f) regulations under sections 153 to 155, or

(g) regulations under section 166 that amend or repeal provision made by an Act,

may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(7) Any other statutory instrument containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

### 169 Extent

(1) Subject as follows, this Act extends to England and Wales only.

(2) The following provisions extend to England and Wales, Scotland and Northern Ireland—

(a) Part 1;

(b) paragraphs 87 and 88 of Schedule 5 (and section 55 so far as relating to those paragraphs);

(c) sections 136 to 143 and Schedule 9 (new homes ombudsman scheme);

(d) section 146 and Schedule 11 (construction products);

(e) sections 152 to 155 (costs contribution orders);

(f) section 157 to 159 (architects);

(g) this Part except section 161, 164 and 167.

(3) Section 2(2) and Schedule 1 (amendments of the Health and Safety at Work etc Act 1974) extend to England and Wales and Scotland.

(4) The amendments made by Schedule 10 (amendments in connection with the new homes ombudsman scheme) have the same extent as the provision amended.

(5) Sections 147 to 149 (liability relating to construction products) extend to England and Wales and Scotland.

(6) Section 151 (liability relating to construction products: limitation in Scotland) extends to Scotland only.

(7) The Secretary of State may by regulations—

(a) provide for the provisions mentioned in subsection (5) to extend also to Northern Ireland, and

(b) make provision (including provision amending this Act or any other enactment) in relation to the application of the provisions mentioned in subsection (5) in Northern Ireland.

## 170 Commencement and transitional provision

(1) The following provisions come into force on the day on which this Act is passed—

(a) section 1;

(b) section 2(1);

(c) section 7;

(d) section 28;

(e) section 30;

(f) sections 61 to 70;

(g) section 115;

(h) this Part except sections 161 and 164.

(2) Parts 2 and 4, except the provisions mentioned in subsection (1), come into force—

(a) for the purposes of making regulations, on the day on which this Act is passed;

(b) for remaining purposes, on such day as the Secretary of State may by regulations appoint.

(3) The following provisions come into force at the end of the period of two months beginning with the day on which this Act is passed—

(a) sections 116 to 125 and Schedule 8;

(b) section 134;

(c) section 135;
(d) section 146 and Schedule 11;
(e) sections 147 to 155;
(f) sections 157 to 159.

(4) As regards Part 3 and section 156—
(a) the following provisions come into force on such day as the Welsh Ministers may by regulations appoint—
(i) section 31 so far as relating to section 120I of the Building Act 1984;
(ii) section 32(3) so far as relating to section 91ZD of that Act;
(iii) section 42 so far as relating to section 58Z2 and 58Z10 of that Act;
(iv) paragraph 56 of Schedule 5 (and section 55 so far as relating to that paragraph);
(v) paragraph 77 of that Schedule so far as relating to section 120C of the Building Act 1984 (and section 55 so far as relating to that section);
(b) the following provisions come into force, in relation to Wales, on such day as the Welsh Ministers may by regulations appoint—
(i) section 32 except subsection (3) of that section;
(ii) section 33 except so far as relating to paragraph 1D(3) of Schedule 1 to the Building Act 1984;
(iii) sections 34 to 41;
(iv) section 42 except so far as relating to section 58Z2, 58Z7 or 58Z10 of the Building Act 1984;
(v) section 43 and Schedule 4;
(vi) sections 44 to 52;
(vii) section 53 except subsection (1) of that section;
(viii) section 55 and Schedule 5 except—
(A) paragraphs 38 and 87 to 89 of that Schedule (and section 55 so far as relating to those paragraphs);
(B) paragraph 77 of that Schedule so far as relating to section 120B of the Building Act 1984 (and section 55 so far as relating to that section);
(ix) section 56 and Schedule 6 except paragraphs 7 and 29 of that Schedule (and section 56 so far as relating to those paragraphs);
(x) section 57;
(xi) section 156 except subsection (8) of that section so far as relating to Article 22B of the Regulatory Reform (Fire Safety) Order 2005;
(c) subject to that, Part 3 and section 156 come into force on such day as the Secretary of State may by regulations appoint.

(5) The other provisions of this Act come into force on such day as the Secretary of State may by regulations appoint.

(6) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Act.

(7) Regulations under subsection (4)(a) or (b) may make transitional or saving provision.

(8) The powers to make regulations under this section include power to make different provision for different purposes or for different areas.

(9) Regulations under this section are to be made by statutory instrument.

### 171 Short title

This Act may be cited as the Building Safety Act 2022.

# SCHEDULES

## SCHEDULE 1

Section 2

### AMENDMENTS OF THE HEALTH AND SAFETY AT WORK ETC ACT 1974

1 The Health and Safety at Work etc Act 1974 is amended as follows.

2 (1) Section 11 (functions of the Executive) is amended as follows.

(2) In subsection (5)—

(a) in paragraph (a) after "functions" insert "other than its building functions";

(b) in paragraph (b) after "activities" insert "other than its building functions".

(3) In subsection (6)(b) at the end insert "or to its building functions."

3 After section 11 insert—

"**11A Powers of the Executive: buildings in England**

(1) The Executive may do such things and make such arrangements as it considers appropriate in connection with any of its building functions.

(2) In particular, it may—

(a) assist and encourage persons concerned with matters relevant to those functions;

(b) make arrangements for—

(i) the carrying out of research and the publication of the results of research;

(ii) the provision of training and information;

(c) encourage research and the provision of training and information by others;

(d) make arrangements for the provision of a service providing information or advice on such matters, and to such persons, as it considers appropriate;

(e) institute criminal proceedings.

(3) And it may—

(a) appoint persons or committees of persons to provide it with advice, or to do such other things as it considers appropriate, in connection with any of its building functions, and

(b) remunerate those persons.

Nothing in paragraph (b) limits section 13(8).

(4) Any amounts paid under subsection (3)(b) are to be such as may be determined by the Secretary of State."

4 In section 12(3) (control of the Executive) after "provisions" insert ", or the enforcement of the building enactments,".

5 (1) Section 13 (powers of the Executive) is amended as follows.

(2) In subsection (3) after "functions" insert "on its behalf".

(3) In subsection (4) after "department or authority" insert "on behalf of the Minister, department or authority".

(4) In subsection (6) after "Part" insert "or in connection with its building functions".

(5) In subsection (7) after "functions" insert "except its building functions".

6 In section 27 (information powers) after subsection (4) insert—

"(5) In this section any reference to the Executive's functions does not include its building functions."

7 In section 53 (general interpretation) at the appropriate place insert—

""the building enactments" means the provisions of, and of instruments made under—

(a) the Building Act 1984, and

(b) Parts 2 and 4 of the Building Safety Act 2022;";

""building function" has the meaning given by section 3 of the Building Safety Act 2022;".

8 (1) Schedule 2 (constitution of the Executive) is amended as follows.

(2) In paragraph 2(3)(d)(iii) at the end insert ", building safety, building standards or fire safety."

(3) In paragraph 9(3)(b) after "provisions" insert ", or the building enactments,".

(4) In paragraph 12(2)—

(a) after "Executive" insert "or signed on its behalf";

(b) after "so executed" insert "or signed".

## SCHEDULE 2

Section 22

### AUTHORISED OFFICERS: INVESTIGATORY POWERS

*Entry to non-domestic premises without warrant*

1 (1) An authorised officer may enter any non-domestic premises which the officer has reason to believe it is necessary for the officer to enter for a relevant purpose—

(a) at any reasonable time, or

(b) at any time, in a situation which in the officer's opinion is or may be dangerous.

(2) The officer may be accompanied by any person, and bring anything, required for any purpose for which the officer is exercising the power of entry.

(3) If the officer has reasonable cause to expect any obstruction in the exercise of any relevant power, the officer may be accompanied by a constable.

(4) The officer may—

(a) take measurements and photographs, and may make recordings;
(b) take samples of anything.

(5) The officer may seize anything if it appears to the officer—
(a) to be evidence of an offence under this Act or the Building Act 1984, and
(b) to be necessary to seize it to prevent the evidence being concealed, lost, altered or destroyed.

*Entry to non-domestic premises with warrant*

2 (1) A justice of the peace may issue a warrant in respect of non-domestic premises specified in the warrant if satisfied, on an information in writing made by an authorised officer, that it is necessary—
(a) for an authorised officer to enter the premises for a relevant purpose, and
(b) to confer a power to enter by force (if necessary).

(2) The warrant authorises any authorised officer to enter the premises at any time (subject to sub-paragraph (3)) for the purposes specified in the warrant, by force (if necessary).

(3) The warrant may limit the times at which the power of entry may be exercised.

(4) Sub-paragraphs (2) to (5) of paragraph 1 apply in relation to the power of entry conferred by a warrant under this paragraph as they apply in relation to the power of entry conferred by sub-paragraph (1) of that paragraph.

*Entry to domestic premises (with warrant)*

3 (1) A justice of the peace may issue a warrant in respect of domestic premises specified in the warrant if satisfied, on an information in writing made by an authorised officer, that—
(a) it is necessary for an authorised officer to enter the premises for a relevant purpose, and
(b) one of the following conditions is met—
(i) that entry to the premises for the relevant purpose has been, or is likely to be, refused;
(ii) that no person entitled to grant entry to the premises can be found;
(iii) that requesting entry may frustrate or seriously prejudice the purpose of entry.

(2) The warrant—
(a) authorises any authorised officer to enter the premises at any time (subject to sub-paragraph (3)) for the purposes specified in the warrant, and
(b) confers such additional powers as may be specified in the warrant.

(3) The warrant may limit the times at which the power of entry may be exercised.

(4) For this purpose "additional powers" means—
(a) the power to enter by force (if necessary);
(b) the powers under sub-paragraphs (2) to (5) of paragraph 1.

(5) An additional power may be specified in the warrant only if the justice of the peace is satisfied that it is necessary to confer the power.

*Power to require information, documents etc*

4 (1) An authorised officer may for a relevant purpose require a person to give specified information or documents to the officer by such time as may be specified.

(2) In the case of a document consisting of information held in electronic form, the officer may require it to be produced—

(a) in a legible form, or

(b) in a form from which it can readily be produced in legible form.

(3) The officer may inspect and take copies of (or of any information in) any document that is produced.

(4) An authorised officer may for a relevant purpose require a person to provide such facilities and assistance to the officer as may be specified, by such time as may be specified.

(5) A requirement under this paragraph is imposed by the authorised officer in question giving, to the person in question, a notice in writing that states—

(a) that it is a notice containing a requirement under this paragraph, and

(b) the consequences of failing to comply with the requirement.

(6) Information provided by a person under sub-paragraph (1) is not admissible in evidence against that person in criminal proceedings except—

(a) in proceedings for an offence under section 24,

(b) in proceedings for an offence under paragraph 6(1),

(c) in proceedings for an offence of perverting the course of justice, or

(d) if in the proceedings—

(i) in giving evidence the person makes a statement inconsistent with the information, and

(ii) evidence as to the information that was provided is adduced, or a question relating to it is asked, by or on behalf of the person.

(7) In this paragraph—

"document" includes information recorded in any form;

"specified", in relation to a requirement, means specified in the notice imposing the requirement.

*Retention of evidence etc*

5 Anything that has been seized under paragraph 1(5), or any document produced under paragraph 4, may be retained for so long as is necessary in all the circumstances.

*Offence of failing to provide information, documents etc*

6 (1) A person who fails without reasonable excuse to comply with a requirement under paragraph 4 commits an offence.

(2) A person guilty of an offence under this paragraph is liable—

(a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both).

*Interpretation*

7 (1) In this Schedule —

"authorised officer", in relation to the exercise of any power conferred by or the doing of anything else mentioned in a paragraph of this Schedule for the purpose of a relevant building function, means a person authorised under section 22 in relation to that paragraph for the purposes of that function;

"domestic premises" means premises (in England or Wales) used wholly or mainly as a private dwelling;

"non-domestic premises" means premises (in England or Wales) that are not domestic premises;

"relevant purpose", in relation to an authorised officer, means the purpose of any relevant building function specified in the officer's authorisation.

(2) In sub-paragraph (1) "relevant building function" has the meaning given by section 22.

*Saving for material subject to legal professional privilege*

8 Nothing in this Schedule confers power to—

(a) seize anything, or

(b) compel the production by any person of a document or information,

in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

## SCHEDULE 3

Section 27

### COOPERATION AND INFORMATION SHARING

*Interpretation*

1 In this Schedule any reference to a function under an enactment includes a function under an instrument made under the enactment.

*Local authorities, fire and rescue authorities etc*

2 (1) The regulator and a local authority must cooperate with each other in the exercise of their relevant functions.

(2) The regulator and a fire and rescue authority must cooperate with each other in the exercise of—

(a) any building function of the regulator,

(b) any function of the authority under—

(i) section 6 or 7 of the Fire and Rescue Services Act 2004,

(ii) the Regulatory Reform (Fire Safety) Order 2005, or

(iii) section 13 of this Act, and

(c) any other prescribed function of the authority.

(3) The regulator and an FSO authorised person must cooperate with each other in the exercise of their relevant functions.

(4) A relevant person may disclose information held in connection with any of their relevant functions to another relevant person for the purposes of a relevant function of either of them.

(5) In this paragraph—

"FSO authorised person" has the meaning given by section 14;

"relevant function" means—

(a) in relation to the regulator, any building function;

(b) in relation to a local authority, a function under any of the following—

(i) the Prevention of Damage by Pests Act 1949;

(ii) Part 2 of the Public Health Act 1961;

(iii) Part 11 of the Local Government (Miscellaneous Provisions) Act 1982;

(iv) the Building Act 1984;

(v) Part 3 of the Environmental Protection Act 1990;

(vi) Parts 1 to 4 of the Housing Act 2004;

(vii) section 13 of this Act;

or any other prescribed function;

(c) in relation to a fire and rescue authority, a function under any of the following—

(i) the Fire and Rescue Services Act 2004;

(ii) the Regulatory Reform (Fire Safety) Order 2005;

(iii) section 13 of this Act;

or any other prescribed function;

(d) in relation to an FSO authorised person, any function under—

(i) the Regulatory Reform (Fire Safety) Order 2005, or

(ii) section 14 of this Act;

"relevant person" means—

(a) the regulator;

(b) a local authority;

(c) a fire and rescue authority;

(d) an FSO authorised person.

*Ombudsmen*

3 (1) The regulator and a person mentioned in sub-paragraph (4) must cooperate with each other in the exercise of—

(a) any building function of the regulator, and

(b) any relevant function of the person.

(2) The regulator may disclose to a person mentioned in sub-paragraph (4) information held in connection with any of its building functions, for the purpose of any of those functions or any relevant functions of the person.

(3) A person mentioned in sub-paragraph (4) may disclose to the regulator information held in connection with any of their relevant functions, for the purpose of any of those functions or any building function of the regulator.

(4) The persons are—

(a) the Regulator of Social Housing;

(b) a person who administers a relevant scheme.

(5) "Relevant scheme" means—

(a) a scheme approved under Schedule 2 to the Housing Act 1996 (housing complaints: social landlords),

(b) a redress scheme to which persons are required by virtue of section 83 of the Enterprise and Regulatory Reform Act 2013 (lettings agency work) to be members,

(c) a redress scheme to which persons are required by virtue of section 84 of that Act (property management work) to be members, or

(d) the new homes ombudsman scheme.

(6) In this paragraph "relevant function" means—

(a) in relation to the Regulator of Social Housing, any of its functions;

(b) in relation to a person who administers a relevant scheme, any function relating to that scheme.

*Secretary of State*

4 (1) The regulator may disclose to the Secretary of State information held in connection with any of its building functions, for the purpose of any of those functions or any relevant function of the Secretary of State.

(2) The Secretary of State may disclose to the regulator information held in connection with any relevant function, for the purpose of any relevant function or any building function of the regulator.

(3) In this paragraph "relevant function" means any function of the Secretary of State (whether or not under an enactment) that relates to buildings.

*Police*

5 (1) The regulator may disclose to a constable information held by it in connection with any of its building functions.

(2) A constable to whom information is disclosed in pursuance of sub-paragraph (1) must not use the information for a purpose other than—

(a) a purpose relating to the prevention, detection, investigation or prosecution of an offence (whether or not under this Act);

(b) a purpose of the police relating to public health or public safety;

(c) a purpose relating to national security.

*Public authorities*

6 (1) The Secretary of State may by regulations make provision requiring the regulator and any prescribed public authority to cooperate with each other in the exercise of—

(a) any building function of the regulator, and
(b) any prescribed function of the public authority, so far as it relates to England.

(2) The Secretary of State may by regulations make provision authorising a relevant person and any prescribed public authority to disclose prescribed information to each other for the purpose of—
(a) any relevant function of the relevant person, and
(b) any prescribed function of the public authority, so far as it relates to England.

(3) In this paragraph "relevant person" and "relevant function" have the meaning given in paragraph 2.

## SCHEDULE 4

Section 43

### TRANSFER OF APPROVED INSPECTORS' FUNCTIONS TO REGISTERED BUILDING CONTROL APPROVERS

1 The Building Act 1984 is amended as follows.

2 In section 42(1) (appeals) for "approved inspector" substitute "registered building control approver".

3 In the heading before section 47, for "approved inspectors" substitute "registered building control approvers".

4 (1) Section 47 (giving and acceptance of initial notice) is amended as follows.

(2) In subsection (1)—
(a) in paragraph (a) for "an approved inspector" substitute "a registered building control approver";
(b) in the words after paragraph (d) for "approved inspector" substitute "registered building control approver".

(3) In subsection (5)(b)—
(a) for "approved inspector" substitute "registered building control approver";
(b) for "his" substitute "their".

5 Omit section 49 (approved inspectors).

6 In section 50(7) (plans certificates) for "approved inspector", in both places it occurs, substitute "registered building control approver".

7 In section 51(1) (final certificates)—
(a) for "an approved inspector" substitute "a registered building control approver";
(b) for "him" substitute "them";
(c) for "he" substitute "they";
(d) for "his" substitute "their".

8 In section 51A(2)(a)(ii) (variation of work) for "approved inspector" substitute "registered building control approver".

9 In section 51C(2)(a) (change of person carrying out work) for "approved inspector" substitute "registered building control approver".

10 (1) Section 52 (cancellation of initial notice) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a)—

(i) for "approved inspector" substitute "registered building control approver";

(ii) for "his" substitute "their";

(b) in paragraph (b)—

(i) for "approved inspector" substitute "registered building control approver";

(ii) for "he is" substitute "they are";

(iii) for "his" substitute "their";

(c) in paragraph (c) for "approved inspector" substitute "registered building control approver".

(3) In subsection (2)(a) for "approved inspector" substitute "registered building control approver".

11 In section 56(5) (powers to require information) for "approved inspector" substitute "registered building control approver".

12 In section 57 (offences), for subsection (3) substitute—

"(3) Where a registered building control approver is convicted of an offence under this section, the court by or before which they are convicted must, within one month of the date of conviction, forward a certificate of the conviction to—

(a) the regulatory authority, or

(b) if the regulatory authority has delegated its functions in relation to the register of building control approvers to another person under section 58Y, that person."

13 In section 58(3) (construction of Part 2)—

(a) for "an approved inspector" substitute "a registered building control approver";

(b) for "him" substitute "them".

14 In section 126 (general interpretation)—

(a) omit the definition of "approved inspector";

(b) at the appropriate place insert—

""registered building control approver" has the meaning given by section 58N;";

"""registered building inspector" has the meaning given by section 58B;";

""regulatory authority" has the meaning given by section 58A;".

# SCHEDULE 5

Section 55

## MINOR AND CONSEQUENTIAL AMENDMENTS IN CONNECTION WITH PART 3

## PART 1

### AMENDMENTS OF THE BUILDING ACT 1984

1 The Building Act 1984 is amended as follows.

2 (1) Section 1 is amended as follows.

(2) In subsection (1) for "Secretary of State" substitute "appropriate national authority".

(3) In subsection (4) for the words from "subject to" to the end substitute "—

(a) in the case of a statutory instrument made by the Secretary of State, subject to annulment in pursuance of a resolution of either House of Parliament;

(b) in the case of a statutory instrument made by the Welsh Ministers, subject to annulment in pursuance of a resolution of Senedd Cymru."

3 In section 1A(1) for "Secretary of State" substitute "appropriate national authority".

4 (1) Section 2 is amended as follows.

(2) In subsection (1) for "Secretary of State" substitute "appropriate national authority".

(3) In subsections (3) and (4) for "local authority" substitute "building control authority".

5 (1) Section 3 is amended as follows.

(2) In subsection (2) for "Secretary of State" substitute "appropriate national authority".

(3) After that subsection insert—

"(2A) The regulator may at any time make a proposal to the Secretary of State for the giving of a direction under subsection (2).

(2B) Before making a proposal, the regulator must consult such persons as it considers appropriate.

(2C) Before giving a direction under subsection (2), other than a direction proposed by the regulator, the Secretary of State must consult—

(a) the regulator, and

(b) any other person that the Secretary of State considers appropriate."

(4) In subsection (3)—

(a) omit "not exceeding level 5 on the standard scale";

(b) for "£50" substitute "level 1 on the standard scale".

6 In section 4(1)(a)(i) for "Secretary of State" substitute "appropriate national authority".

7 In section 5(3)(b) omit "of building regulations".

8 Omit section 5(4).

9 (1) Section 6 is amended as follows.

(2) For "Secretary of State", in each place it occurs, substitute "appropriate national authority".

(3) In subsection (1) for "him", in each place it occurs, substitute "the appropriate national authority".

(4) In subsection (4)(a) omit "him or".

(5) In subsection (5) omit "his or".

(6) After that subsection insert—

"(5A) A notice under subsection (3) or (5) may contain transitional or saving provision (and different provision may be made for different purposes or for different areas).

(5B) A body may give an approval under subsection (1) or (4), or withdraw an approval under subsection (5), only with the consent of the appropriate national authority."

(7) In subsection (8) for the words from "subject to" to the end substitute "—

(a) in the case of a statutory instrument made by the Secretary of State, subject to annulment in pursuance of a resolution of either House of Parliament;

(b) in the case of a statutory instrument made by the Welsh Ministers, subject to annulment in pursuance of a resolution of Senedd Cymru."

(8) After subsection (8) insert—

"(9) An order under subsection (8) may provide that a body is designated only in relation to—

(a) buildings of a specified description;

(b) work of a specified description;

(c) specified provisions of building regulations."

10 (1) Section 7 is amended as follows.

(2) In subsection (1)(a) for the words from "document" to "provision" substitute "relevant approved document".

(3) After subsection (1) insert—

"(1A) In subsection (1) "relevant approved document" means a document approved for the purposes of the provision that applies in relation to the work in question."

11 (1) Section 8 is amended as follows.

(2) For "Secretary of State", in both places it occurs, substitute "appropriate national authority".

(3) In subsection (1) for "he" substitute "it".

(4) After subsection (3) insert—

"(3A) If, in a case where the regulator is the building control authority—

(a) an application for a direction under this section is made to the regulator, and

(b) the regulator considers that the operation of a requirement in building regulations would be unreasonable in relation to the particular case,

it may give a direction dispensing with or relaxing the requirement.

(3B) No application under subsection (1) or (2) may be made in a case where the regulator is the building control authority."

12 (1) Section 9 is amended as follows.

(2) For "Secretary of State", in both places it occurs, substitute "appropriate national authority".

(3) In subsection (1) for "or (2) above" substitute ", (2) or (3A)".

(4) In subsection (2) for "The application" substitute "An application under section 8(1) or (2)".

(5) In subsection (3) at the end insert "or in a case where the regulator is the building control authority."

13 (1) Section 10 is amended as follows.

(2) In subsections (1), (2), (4) and (5) for "Secretary of State", in each place it occurs, substitute "appropriate national authority".

(3) In subsections (1), (2) and (5) for "local authority", in each place it occurs, substitute "building control authority".

(4) In subsection (1) after "(2)" insert ", (3A)".

(5) In subsection (2) omit "he, they or".

(6) In subsection (4) omit "himself".

14 (1) Section 11 is amended as follows.

(2) In subsection (1)—

(a) for "Secretary of State" substitute "appropriate national authority";

(b) for "he may, either on an application made to him or of his" substitute "the authority may, either on an application made by any person (the "original applicant") or of its".

(3) In subsection (2)(b)—

(a) after "may" insert ", either on an application or of the appropriate national authority's own accord,";

(b) for "Secretary of State" substitute "appropriate national authority".

(4) In subsection (3)—

(a) after "(1)" insert "or (2)(b)";

(b) for "Secretary of State", in both places it occurs, substitute "appropriate national authority".

(5) After that subsection insert—

"(3A) The regulator may at any time make a proposal to the Secretary of State for the giving of a direction under this section.

(3B) Before making a proposal, the regulator must consult—

(a) such persons as it considers appropriate, and

(b) if the proposal is for a direction that would vary or revoke a direction given on an application under subsection (1), the original applicant.

(3C) Before giving a direction under this section, other than a direction proposed by the regulator, the Secretary of State must consult—

(a) the regulator,

(b) any other person the Secretary of State considers appropriate, and

(c) if the direction would vary or revoke a direction given on an application under subsection (1), the original applicant."

(6) For subsections (4) and (5) substitute—

"(4) Before giving a direction under subsection (1) or (2)(b), the Welsh Ministers must consult such persons as they consider appropriate.

(5) Where the appropriate national authority gives a direction under subsection (1) or (2)(b), it must publish notice of that fact in such way as it considers appropriate."

(7) In subsection (6)—

(a) omit "not exceeding level 5 on the standard scale";

(b) for "£50" substitute "level 1 on the standard scale".

(8) In subsection (7) for the words from "before that time" to the end substitute "an application for building control approval in relation to the proposed work was made before that time."

15 (1) Section 12 is amended as follows.

(2) In subsections (1), (3), (7), (8), (9) and (11) and the heading, for "Secretary of State", in each place it occurs, substitute "appropriate national authority".

(3) In subsection (1) for "to him or of his" substitute "by any person (the "original applicant") or of its".

(4) In subsection (3) for "he" substitute "it".

(5) In subsection (6)—

(a) for "Secretary of State", in the first place it occurs, substitute "appropriate national authority";

(b) for the words from "him" to the end substitute "it or of its own accord."

(6) In subsection (7) for "(1) or (6) above" substitute "(1), (6) or (8)".

(7) In subsection (8) for the words from "but" to the end substitute "either on an application or of the appropriate national authority's own accord."

(8) After subsection (8) insert—

"(8A) The regulator may at any time make a proposal to the Secretary of State for—

(a) the giving of an approval under subsection (1), or

(b) the varying or revocation of a certificate under subsection (6) or (8).

(8B) Before making a proposal, the regulator must consult—

(a) such persons as it considers appropriate, and

(b) if the proposal is to vary or revoke a certificate issued on an application under subsection (1), the original applicant.

(8C) Before giving an approval or varying or revoking a certificate under this section, unless acting on a proposal of the regulator, the Secretary of State must consult—

(a) the regulator,

(b) any other person the Secretary of State considers appropriate, and

(c) if varying or revoking a certificate issued on an application under subsection (1), the original applicant.

(8D) Before varying or revoking a certificate issued on an application under subsection (1), the Welsh Ministers must give the original applicant reasonable notice that they propose to do so (except in the case of a variation or revocation made on the application of that person).”

(9) In subsection (9) for “he”, in both places it occurs, substitute “it”.

(10) In subsection (10) for the words from “before that time” to the end substitute “an application for building control approval in relation to the proposed work was made before that time.”

16 (1) Section 13 is amended as follows.

(2) For “Secretary of State”, in each place it occurs, substitute “appropriate national authority”.

(3) In subsection (1) omit “on him”.

17 (1) Section 14 is amended as follows.

(2) Omit subsections (1) to (4).

(3) In subsection (7) for the words from “such” to the end substitute “any other person that the Welsh Ministers consider appropriate.”

(4) In subsection (8)—

(a) in paragraph (b) for “persons or bodies” substitute “persons”;

(b) for paragraph (c) substitute—

“(c) any other person that the Welsh Ministers consider appropriate.”

(5) In the heading at the end insert “: Wales”.

18 In section 15 after subsection (2) insert—

“(3) As regards a requirement of a kind mentioned in subsection (1), the regulator must consult the fire and rescue authority before exercising the power under section 8(3A) in relation to any premises or proposed premises.”

19 For the heading before section 16 substitute “Building control approval”.

20 Omit sections 16 and 17.

21 (1) Section 19 is amended as follows.

(2) For "local authority", in each place it occurs except subsection (1), substitute "building control authority".

(3) In subsection (1)—

(a) for the words from the beginning to "plans show" substitute "Where an application for building control approval in respect of a proposed building is made to a building control authority, and it appears";

(b) for "plans conform" substitute "application conforms";

(c) in paragraph (a) for "the plans" substitute "the application";

(d) in paragraph (b) for "passing the plans" substitute "granting the application".

(4) In subsection (2)—

(a) for "plans ought under the building regulations to have been deposited, but have not been deposited," substitute "an application for building control approval ought to have been made but was not made";

(b) in paragraph (b) for "passing of plans for the building" substitute "granting of such an application".

(5) In subsection (4) for "plans" substitute "an application".

22 (1) Section 20 is amended as follows.

(2) For "local authority", in each place it occurs except subsection (1), substitute "building control authority".

(3) In subsection (1)—

(a) for the words from the beginning to "plans show" substitute "Where an application for building control approval in respect of any proposed work is made to a building control authority, and it appears";

(b) for "plans conform" substitute "application conforms";

(c) in paragraph (a) for "the plans" substitute "the application";

(d) in paragraph (b) for "passing the plans", in both places it occurs, substitute "granting the application".

(4) In subsection (2)—

(a) in the words before paragraph (a), for the words from "plans" to "so deposited" substitute "an application for building control approval ought to have been made but was not made";

(b) in paragraph (b) for "passing plans" substitute "granting the application".

(5) In subsection (3)—

(a) in the words before paragraph (a), for the words from "plans" to "so deposited" substitute "an application for building control approval was not required by building regulations to be made and was not made";

(b) in paragraph (b) for the words from "if plans" to the end substitute "if an application for building control approval in respect of the work had been required to be made and had been made, might have been imposed under subsection (1) in granting the application,".

(6) In subsection (5)(a) for "plans" substitute "an application".

(7) In subsection (7)—

(a) omit "not exceeding level 5 on the standard scale";
(b) for "£50" substitute "level 1 on the standard scale".

(8) In subsection (10)—
(a) for "Secretary of State" substitute "appropriate national authority";
(b) for "his", in both places it occurs, substitute "its".

23 (1) Section 21 is amended as follows.

(2) For "local authority", in each place it occurs, substitute "building control authority".

(3) In subsection (3) for "plans are deposited" substitute "an application for building control approval is made".

(4) In subsection (4) for the words from "plans" to "deposited with" substitute "an application for building control approval in respect of a building or an extension of a building is made to".

24 (1) Section 22 is amended as follows.

(2) For "local authority", in each place it occurs, substitute "building control authority".

(3) In subsection (2) for the words from "for whose drainage" to the end substitute "if building control approval has been given in respect of work comprising drainage for the building."

25 In section 23(3) for "local authority", in both places it occurs, substitute "building control authority".

26 (1) Section 24 is amended as follows.

(2) For "local authority", in each place it occurs, substitute "building control authority".

(3) In subsection (1)—
(a) in paragraph (a) for the words from "plans" to "deposited with" substitute "an application for building control approval in respect of a building or an extension of a building is made to";
(b) in the words after paragraph (b) for "plans" substitute "application".

(4) In subsection (2) for "plans are deposited" substitute "an application for building control approval is made".

27 (1) Section 25 is amended as follows.

(2) For "local authority", in each place it occurs, substitute "building control authority".

(3) In subsection (1)—
(a) for "plans of a house are, in accordance with building regulations, deposited with" substitute "an application for building control approval in respect of a house is made to";
(b) for "the plans" substitute "the application".

(4) In subsection (2)—
(a) for "plans are deposited" substitute "an application for building control approval is made";
(b) for "pass the plans" substitute "grant the application".

(5) In subsection (3) for "plans as aforesaid have been passed" substitute "application has been granted".

28 Omit section 31 (and the heading before it).

29 In the heading before section 32 for "deposit of plans" substitute "building control approval".

30 (1) Section 33 is amended as follows.

(2) For subsections (1) and (2) substitute—

"(1) Where work to which building regulations are applicable is proposed or carried out, the building control authority has the powers under subsection (2) for the purpose of ascertaining whether any provision of building regulations is or would be contravened—

(a) by or in connection with the work, or

(b) in relation to the building that the work has been, is being or will be carried out on.

(2) The powers are—

(a) to require a person by whom or on whose behalf the work was, is being, or is proposed to be done to carry out such reasonable tests of or in connection with the work, or in relation to the building, as may be specified in the requirement, or

(b) to carry out any reasonable tests of or in connection with the work, or in relation to the building, and to take any samples necessary to enable them to carry out such a test. "

(3) After subsection (3) insert—

"(3A) The tests that may be required or carried out under subsection (2) include in particular tests involving—

(a) the cutting into or laying open of any work or any building, and

(b) the pulling down of any work."

(4) In subsections (4), (5) and (6) for "local authority", in each place it occurs, substitute "building control authority".

31 Omit section 35A.

32 (1) Section 36 is amended as follows.

(2) In subsections (1) to (3) for "local authority", in each place it occurs, substitute "building control authority".

(3) In subsection (1) after "those regulations" insert "or a requirement imposed by virtue of any of those regulations".

(4) In subsection (2)—

(a) for "any section of this Part of this Act other than section 16" substitute "any of sections 19 to 25";

(b) for "plans", in the first place it occurs, substitute "an application for building control approval";

(c) for paragraphs (a) and (b) (including the "or" at the end of paragraph (b)) substitute—

"(a) without such an application having been made,
(b) notwithstanding the refusal of such an application, or";

(d) in paragraph (c) for "passed the plans" substitute "granted such an application";

(e) in paragraph (ii) for "passing plans" substitute "granting such an application".

(5) For subsection (5) substitute—

"(5) Subsection (5A) applies where—

(a) an application for building control approval is made to a building control authority in respect of any work that is not higher-risk building work,

(b) the application is granted, and

(c) work that is shown on the plans approved by the granting of the application ("the work") is executed in accordance with—

(i) the plans, and

(ii) any requirement imposed by the building control authority.

(5A) A section 36 notice may not be given on the ground that the work contravenes—

(a) any building regulations or any requirement imposed by virtue of the regulations, or (as the case may be)

(b) any requirement under any of sections 19 to 25."

(6) In subsection (6)—

(a) for "does" substitute ", and sections 35B and 35C, do";

(b) for "local authority", in the first place it occurs, substitute "building control authority";

(c) after "Attorney General" insert ", the Counsel General to the Welsh Government";

(d) for paragraphs (a) to (c) substitute—

"(a) an application for building control approval was made to the local authority in respect of the work,

(b) the application was granted,

(c) the work was executed in accordance with—

(i) the plans approved by the granting of the application, and

(ii) any requirement imposed by the authority, and

(d) the work was not higher-risk building work,".

33 In section 37(1) for "local authority", in each place it occurs, substitute "building control authority".

34 In section 39(1) and (2) for "local authority", in each place it occurs, substitute "building control authority".

35 In section 40(2), (3) and (6) for "local authority", in each place it occurs, substitute "building control authority".

36 In section 41(1)(a) for the words from "under this" to the end substitute "under, or under an instrument made under, this Part or Part 4 as it applies in relation to this Part,".

37 In section 42(1) for "local authority", in both places it occurs, substitute "building control authority".

38 Omit sections 44 and 45 (and the heading before section 44).

39 In the heading of Part 2 for "LOCAL AUTHORITIES" substitute "BUILDING CONTROL AUTHORITIES".

40 (1) Section 47 is amended as follows.

(2) In subsection (2)—

(a) for "plans of it had been deposited with" substitute "an application for building control approval in respect of it had been made to";

(b) for "passing the plans" substitute "granting the application".

(3) After subsection (3) insert—

"(3A) Subsection (3) does not apply in prescribed circumstances."

41 (1) Section 48 is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a) after "section" insert "35B, 35C or";

(b) in paragraph (b) omit "of building regulations".

(3) In subsection (2)—

(a) in paragraph (a) for "deposit of plans" substitute "making of an application for building control approval";

(b) in paragraph (b) for "deposited plans" substitute "plans accompanying the application for building control approval";

(c) in paragraph (c) for "passing or, as the case may be, the rejection of plans" substitute "approval or rejection of the application";

(d) for paragraph (d) substitute—

"(d) where an initial notice ceases to be in force under section 53A, the application for building control approval (treated by virtue of paragraph (a) as made) is to be treated as if it was not made (and the approval was not given)."

42 (1) Section 51A is amended as follows.

(2) In subsection (4)—

(a) for "plans of it had been deposited with" substitute "an application for building control approval in respect of it had been made to";

(b) for "passing the plans" substitute "granting the application".

(3) After subsection (5) insert—

"(5A) Subsection (5) does not apply in prescribed circumstances."

43 In section 51B(1)—

(a) in paragraph (a) for "deposit of plans" substitute "making of an application for building control approval";

(b) in paragraph (b) for "passing or, as the case may be, the rejection of plans" substitute "approval or rejection of the application";

(c) in paragraph (c)—

(i) in the words before sub-paragraph (i) for "deposited plans" substitute "plans treated as accompanying the application for building control approval";

(ii) in sub-paragraph (ii) for "the deposited plans" substitute "accompanying the application";

(d) in paragraph (d) for the words from ", the cancellation" to the end substitute "and the initial notice ceases to be in force under section 53A, the application for building control approval (treated by virtue of paragraph (a) as made) is to be treated as if it was not made (and the approval was not given)."

44 (1) Section 52 is amended as follows.

(2) In subsection (4) omit "not exceeding level 5 on the standard scale".

(3) In subsection (6) for "(5)" substitute "(5A)".

45 In section 53 omit subsections (6) and (6A).

46 (1) Section 54 is amended as follows.

(2) In subsection (1) for "Secretary of State" substitute "appropriate national authority".

(3) In subsection (2)—

(a) for "plans of it had been deposited with" substitute "an application for building control approval in respect of it had been made to";

(b) for "passing the plans" substitute "granting the application".

47 In section 56(3) for the words from ", public body's final certificates" to the end substitute "and public body's final certificates."

48 (1) Section 57 is amended as follows.

(2) In subsection (1)(a)(i) for the words from "of this Act" to the end (not including the "and") substitute "or a provision of building regulations that is designated by the regulations for the purposes of this section,".

(3) In subsection (2)(a) omit "not exceeding the statutory maximum".

49 Omit section 58(2).

50 In section 68(8)(b) for "Secretary of State" substitute "appropriate national authority".

51 In section 78(7)(b) omit "and (3) below".

52 In section 86(1)(a) for the words from "under this" to the end substitute "under, or under an instrument made under, this Part or Part 4 as it applies in relation to this Part,".

53 In section 90(2) for "Secretary of State" substitute "appropriate national authority".

54 In the italic heading before section 91 at the end insert "etc".

55 (1) Section 91A is amended as follows.

(2) In subsections (1), (2) and (4) for "local authority", in each place it occurs, substitute "relevant authority".

(3) In subsection (2)(a) omit ", or deposited with,".

(4) In subsection (5)—

(a) in the definition of "prescribed" for "Secretary of State" substitute "appropriate national authority";

(b) insert at the appropriate place—

""relevant authority" means a local authority or the regulator."

(5) In the heading after "local authorities" insert "and the regulator".

(6) Omit subsections (6) to (8).

56 After section 91A insert—

"**91B Cooperation and the sharing of information: Wales**

(1) Relevant persons (as defined by subsection (7)) must cooperate with each other in the exercise of any of the following functions—

(a) any function of a local authority under this Act,

(b) any function of a Welsh fire and rescue authority under—

(i) section 6 or 7 of the Fire and Rescue Services Act 2004, or

(ii) the Regulatory Reform (Fire Safety) Order 2005, and

(c) any function of a fire inspector under that Order.

(2) A relevant person may disclose information held in connection with any of their relevant functions to another relevant person for the purposes of a relevant function of either of them.

(3) The Welsh Ministers and a relevant person must cooperate with each other in the exercise of any of the following functions—

(a) a function of the Welsh Ministers under Part 2A;

(b) a function mentioned in the relevant paragraph of subsection (1).

(4) The Welsh Ministers may disclose information held in connection with a function under Part 2A to a relevant person for the purposes of—

(a) a function of the Welsh Ministers under Part 2A, or

(b) a function mentioned in the relevant paragraph of subsection (1).

(5) A relevant person may disclose information held in connection with a function mentioned in the relevant paragraph of subsection (1) to the Welsh Ministers for the purposes of—

(a) a function mentioned in the relevant paragraph of subsection (1), or

(b) a function of the Welsh Ministers under Part 2A.

(6) In subsections (3) to (5) "the relevant paragraph" of subsection (1), in relation to a kind of relevant person, means the paragraph of subsection (1) relating to a relevant person of that kind.

(7) In this section—

"fire inspector" means an inspector or assistant inspector appointed under section 28(1) of the Fire and Rescue Services Act 2004;

"relevant person" means a local authority in Wales, Welsh fire and rescue authority or fire inspector;

"relevant function" means—

(a) in relation to a local authority, any function of a local authority under—

(i) the Prevention of Damage by Pests Act 1949,

(ii) Part 2 of the Public Health Act 1961,

(iii) Part 11 of the Local Government (Miscellaneous Provisions) Act 1982,

(iv) Part 3 of the Environmental Protection Act 1990,

(v) Parts 1 to 4 of the Housing Act 2004, or

(vi) this Act,

or any prescribed function of a local authority;

(b) in relation to a Welsh fire and rescue authority, any function of such an authority under—

(i) the Fire and Rescue Services Act 2004, or

(ii) the Regulatory Reform (Fire Safety) Order 2005,

or any prescribed function of such an authority;

(c) in relation to a fire inspector, any function of a fire inspector under the Regulatory Reform (Fire Safety) Order 2005;

"Welsh fire and rescue authority" means a fire and rescue authority, within the meaning of Part 1 of the Fire and Rescue Services Act 2004, for an area in Wales.

(8) Except as provided by subsection (9), the disclosure of information under this section does not breach—

(a) any obligation of confidence owed by the person making the disclosure, or

(b) any other restriction on the disclosure of information (however imposed).

(9) This section does not authorise a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the powers conferred by this section)."

57 (1) Section 92 is amended as follows.

(2) In subsection (1) after "authority", in both places it occurs, insert "or the regulator".

(3) In subsection (2)—

(a) for "Secretary of State" substitute "appropriate national authority";

(b) omit "made by statutory instrument".

58 (1) Section 94 is amended as follows.

(2) The existing provision becomes subsection (1) of that section.

(3) In that subsection—

(a) in the words before paragraph (a) after "made by" insert "or under";

(b) after paragraph (b) insert—

"(ba) in the case of an authorised officer of the regulator, by—

(i) leaving it at the relevant address (see subsection (2)), or

(ii) sending it in a prepaid letter addressed to the officer at the relevant address;";

(c) in paragraph (c) for "other person" substitute "person other than an officer of a local authority or an authorised officer of the regulator";

(d) after paragraph (c) insert—

"(ca) in the case of a partnership, by—

(i) delivering it to any partner,

(ii) leaving it at the principal office of the partnership, or

(iii) sending it in a prepaid letter addressed to the partnership at its principal office;";

(e) after paragraph (f) insert—

"(g) by sending it by email to an electronic address at which the person has agreed to receive documents or has agreed to receive the document."

(4) After that subsection insert—

"(2) In subsection (1)—

"agreed" means agreed in writing;

"authorised officer" means a person in respect of whom an authorisation under section 22 of the Building Safety Act 2022 is in force;

"the relevant address" means—

(a) the address specified by the officer in writing, or

(b) if no address has been specified, the principal office of the regulator."

59 Omit section 94A.

60 In section 95 after subsection (2) insert—

"(2A) Subsections (1) and (2) do not apply in relation to premises used wholly or mainly as a private dwelling."

61 In section 97 after "authority" insert "or the regulator".

62 In section 99(2)(a) after "authority" insert "or the regulator (as the case may be)".

63 (1) Section 100 is amended as follows.

(2) For "local authority", in each place it occurs, substitute "relevant authority".

(3) After subsection (3) insert—

"(4) In this section "relevant authority" means a local authority or the regulator."

64 (1) Section 101 is amended as follows.

(2) In subsection (1) for "local authorities" substitute "any relevant authority".

(3) In subsection (2) for "local authority" substitute "relevant authority".

(4) After that subsection insert—

"(3) In this section "relevant authority" means a local authority or the regulator."

65 In section 102(3)(b)(ii) after "authority" insert "or the regulator".

66 (1) Section 104 is amended as follows.

(2) In the provision—

(a) after "authority", in the first place it occurs, insert "or the regulator";

(b) after "authority", in the second place it occurs, insert "or regulator".

(3) In the heading after "authority" insert "or regulator".

67 (1) Section 106 is amended as follows.

(2) In subsection (2) omit "Subject to subsection (3) below,".

(3) Omit subsection (3).

68 (1) Section 107 is amended as follows.

(2) For "local authority", in each place it occurs, substitute "relevant authority".

(3) After subsection (5) insert—

"(6) In this section "relevant authority" means a local authority or the regulator."

69 (1) Section 108 is amended as follows.

(2) For "local authority", in each place it occurs, substitute "relevant authority".

(3) After subsection (4) insert—

"(5) In this section "relevant authority" means a local authority or the regulator."

70 (1) Section 110 is amended as follows.

(2) In the existing provision (which becomes subsection (1) of that section) for "local authority", in each place it occurs, substitute "relevant authority".

(3) After that subsection insert—

"(2) In this section "relevant authority" means a local authority or the regulator."

71 In section 111 for "Secretary of State" substitute "appropriate national authority".

72 (1) Section 112 is amended as follows.

(2) The existing provision becomes subsection (1) of that section.

(3) In that subsection for "level 1" substitute "level 3".

(4) After that subsection insert—

"(2) Subsection (1) does not apply where the person obstructed is an authorised officer (within the meaning of section 22 of the Building Safety Act 2022)."

73 In section 113(b) after "authority" insert ", the regulator, the Welsh Ministers, the Counsel General to the Welsh Government".

74 (1) Section 119 is amended as follows.

(2) In the existing provision (which becomes subsection (1) of that section)—

(a) for "Secretary of State" substitute "appropriate national authority or the regulator";

(b) for "he" substitute "it".

(3) After that subsection insert—

"(2) Section 250 of the Local Government Act 1972 (power to direct inquiries) applies in relation to a local inquiry caused to be held by the regulator as it applies in relation to one caused to be held by the Secretary of State."

75 In the italic heading before section 120 at the end insert "and regulations".

76 (1) Section 120 is amended as follows.

(2) In subsection (1) for the words from "section" to "this Act," substitute "section 134(1)".

(3) In subsection (2)—

(a) omit "30(3) above or";

(b) after "Secretary of State" insert "or Welsh Ministers";

(c) for "him" substitute "the Secretary of State or Welsh Ministers".

77 After section 120 insert—

"**120A Regulations**

(1) This section applies to regulations under section 54A, 55, 56A, 56B, 90A, 91A, 92, 105B, 105C, 120D, 120I or 125A.

(2) A power to make regulations includes power to make—

(a) consequential, supplementary, incidental, transitional, transitory or saving provision;

(b) different provision for different purposes or for different areas.

(3) Regulations may describe a building by reference to its height, size, design, use, purpose or any other characteristic.

(4) Regulations under section 54A may make such consequential amendments of this Act as the appropriate national authority considers appropriate.

(5) Regulations under section 90A may make such consequential amendments of this Act as the Secretary of State considers appropriate.

(6) Regulations are to be made by statutory instrument.

(7) A statutory instrument containing (whether alone or with other provision)—

(a) regulations under section 54A, 90A, 105C or 125A, or

(b) regulations under section 120D(2)(b) or (6), or regulations made by virtue of section 120D(4)(c),

may not be made by the Secretary of State unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(8) Any other statutory instrument containing regulations made by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.

(9) A statutory instrument containing (whether alone or with other provision) regulations under section 54A, 120I(2) or 125A may not be made by the Welsh Ministers unless a draft of the instrument has been laid before and approved by a resolution of Senedd Cymru.

(10) Any other statutory instrument containing regulations made by the Welsh Ministers is subject to annulment in pursuance of a resolution of Senedd Cymru.

**120B Proposals and consultation relating to regulations made by the Secretary of State**

(1) The regulator may at any time make proposals to the Secretary of State for the making of regulations under this Act.

(2) Before making a proposal, the regulator must consult such persons as it considers appropriate.

(3) Before making any regulations under this Act, other than regulations proposed by the regulator, the Secretary of State must consult—

(a) the regulator, and

(b) any other person that the Secretary of State considers appropriate.

(4) This section does not apply in relation to regulations under section 120D.

**120C Consultation relating to regulations made by the Welsh Ministers**

(1) Before making any regulations under this Act except building regulations or regulations under section 120I, the Welsh Ministers must consult such persons as they consider appropriate.

(2) Before making any regulations under section 120I, the Welsh Ministers must consult—

(a) the Building Regulations Advisory Committee for Wales, and

(b) any other person that the Welsh Ministers consider appropriate.

(3) See also section 14 (consultation requirements for building regulations)."

78 (1) Section 121 is amended as follows.

(2) In subsection (2) for "Secretary of State" substitute "appropriate national authority".

(3) After subsection (3) insert—

"(4) Nothing in this section applies in relation to section 120D or 120I."

79 Omit section 124.

80 After section 125 insert—

"**125A Meaning of work**

(1) In the relevant provisions references to work include a material change of use as defined by building regulations.

(2) The appropriate national authority may by regulations provide that in a specified relevant provision references to work include any specified matter.

(3) "Relevant provision" means any provision of the following—

(a) Part 1 except sections 2(3) to (5), 20(9), 21(7), 22(2), 33(3A), 36, 37 and paragraph 1G of Schedule 1;

(b) Part 2;
(c) Part 2A;
(d) sections 91ZA to 91ZD;
(e) section 101A;
(f) section 105C;
(g) section 120I(3).

(4) In this section "specified" means specified by regulations under this section."

81 (1) Section 126 is amended as follows.

(2) At the appropriate place insert—

""appropriate court or tribunal" means—
(a) in relation to England, the tribunal;
(b) in relation to Wales, a magistrates' court;";

""appropriate national authority" means—
(a) in relation to England, the Secretary of State;
(b) in relation to Wales, the Welsh Ministers;";

""building control approval" has the meaning given by paragraph 1B of Schedule 1;";

"""building control authority" has the meaning given by section 121A;";

"""the data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);";

""higher-risk building"—
(a) in relation to England, has the meaning given by section 120D;
(b) in relation to Wales, has the meaning given by section 120I;";

"""higher-risk building work"—
(a) in relation to England, has the meaning given by section 91ZA;
(b) in relation to Wales, has the meaning given by section 120I;";

"""maximum summary term for either-way offences", with reference to imprisonment for an offence, means—
(a) if the offence is committed before the time when paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force, 6 months;
(b) if the offence is committed after that time, 12 months;";

"""the regulator" means the Health and Safety Executive;";

"""the tribunal" means the First-tier Tribunal;".

(3) Omit the definition of "relevant period".

82 In section 134 after subsection (1) insert—

"(1A) Except so far as relating to the provisions listed in subsection (1B), the reference in subsection (1) to the Secretary of State is to be read, in relation to Wales, as a reference to the Welsh Ministers.

(1B) The provisions mentioned in subsection (1A) are sections 38, 44, 45 and 133(2) and Schedule 7."

83 (1) Schedule 1 is amended as follows.

(2) In paragraph 1(b) for "Secretary of State" substitute "appropriate national authority".

(3) Omit paragraphs 2 to 5.

(4) In paragraph 6—

(a) for "local authorities", in both places it occurs, substitute "building control authorities";

(b) for "local authority" substitute "building control authority".

(5) In paragraph 7A(4) for "under paragraph 4A" substitute "by virtue of paragraph 1A".

(6) In paragraph 8—

(a) in sub-paragraph (1)(e) omit the words "for the purposes of this paragraph";

(b) in sub-paragraph (2) for "(6)" substitute "(7)";

(c) after sub-paragraph (6) insert—

"(7) The provision that may be made by building regulations includes provision imposing a requirement to do things for the purpose mentioned in section 1(1)(b) (conserving fuel and power) in any case where a building becomes a building of a prescribed description."

(7) Omit paragraph 9.

(8) For paragraph 10 substitute—

"10 (1) Building regulations may make supplementary, incidental, transitional, transitory or saving provision.

(2) Building regulations may make—

(a) different provision for different purposes, and

(b) different provision for different areas.

(3) The power conferred by sub-paragraph (2)(a) includes in particular the power to make different provision for—

(a) higher-risk buildings or proposed higher-risk buildings, or

(b) higher-risk building work,

and different provision for different descriptions of such buildings or work.

(4) Nothing in sub-paragraph (3) is to be read as limiting the effect of section 34 (classification of buildings)."

(9) In paragraph 11 for "Secretary of State", in both places it occurs, substitute "appropriate national authority".

84 (1) Schedule 2 is amended as follows.

(2) For "local authority", in each place it occurs, substitute "building control authority".

(3) In paragraphs 2 and 3(5) for "Secretary of State" substitute "appropriate national authority".

85 In Schedule 3, in paragraph 4 for "section 14(3)" substitute "section 120B(3)".

86 In Schedule 4, in paragraph 4 omit sub-paragraph (6).

## PART 2

OTHER AMENDMENTS

*Parliamentary Commissioner Act 1967 (c. 13)*

87 In Schedule 2 to the Parliamentary Commissioner Act 1967, omit the entry relating to the Building Regulations Advisory Committee for England.

*Freedom of Information Act 2000 (c. 36)*

88 In Schedule 1 to the Freedom of Information Act 2000, in Part 6 omit the entry relating to the Building Regulations Advisory Committee for England.

*Sustainable and Secure Buildings Act 2004 (c. 22)*

89 (1) The Sustainable and Secure Buildings Act 2004 is amended as follows.

(2) In section 3 omit subsections (8) and (9).

(3) In section 4 omit subsection (4).

*The Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541)*

90 (1) The Regulatory Reform (Fire Safety) Order 2005 is amended as follows.

(2) Omit article 45.

(3) In article 52(1) omit sub-paragraph (k).

## SCHEDULE 6

Section 56

APPEALS AND OTHER DETERMINATIONS

*Introduction*

1 The Building Act 1984 is amended as follows.

*Transfer from Secretary of State to the regulator*

2 In section 10(6) (procedure where appeal against decision of local authority under section 8) for the words from "to the Secretary of State" to the end substitute "copies of the representations to—

(a) the regulator, in the case of a local authority for an area in England;

(b) the Welsh Ministers, in the case of a local authority for an area in Wales."

3 (1) Section 20 (use of materials unsuitable for permanent building) is amended as follows.

(2) In subsection (5) omit the words from "to the Secretary of State" to the end.

(3) After that subsection insert—

"(5A) The appeal is to be made to—

(a) the regulator, in the case of action by a local authority for an area in England;

(b) the tribunal, in the case of action by the regulator;

(c) the Welsh Ministers, in the case of action by a local authority for an area in Wales."

4 (1) Section 39 (appeal against refusal to relax building regulations) is amended as follows.

(2) In subsection (1) omit "to the Secretary of State".

(3) After that subsection insert—

"(1A) The appeal is to be made to—

(a) the regulator, in the case of a refusal by a local authority for an area in England;

(b) the tribunal, in the case of a refusal by the regulator;

(c) the Welsh Ministers, in the case of a refusal by a local authority for an area in Wales."

(4) Omit subsections (3) to (6).

5 (1) Section 42 (appeal and statement of case to High Court in certain cases) is amended as follows.

(2) Before subsection (1) insert—

"(A1) Where the Secretary of State gives a decision on an application for a direction under section 8, any of the following may appeal to the High Court against the decision on a point of law—

(a) the applicant;

(b) the local authority;

(c) the registered building control approver."

(3) In subsection (1)—

(a) for "Secretary of State gives" substitute "Welsh Ministers give";

(b) for paragraph (b) (not including the "or" at the end) substitute—

"(b) on an appeal under section 50,".

(4) In subsection (2) for paragraph (b) substitute—

"(b) as regards an appeal under section 50, the person on whose application the appeal was made,".

(5) In subsection (3)—

(a) omit ", reference";

(b) after "subsection" insert "(A1) or";

(c) in paragraph (a) for "Secretary of State" substitute "appropriate national authority".

(6) In subsection (4) for "Secretary of State", in each place it occurs, substitute "appropriate national authority".

(7) Omit subsection (7).

6 Omit section 43 (procedure on appeal to Secretary of State on certain matters).

7 After that section insert—

"**43A Appeals under sections 20, 39 and 50: England**

(1) This section applies to an appeal to the regulator or the tribunal made under section 20(5), 39 or 50(2).

(2) On determining the appeal, the regulator or the tribunal may give any directions it considers appropriate for giving effect to its determination.

(3) Where the appeal is determined by the regulator, a relevant person may appeal to the tribunal against the regulator's decision (and subsection (2) applies in relation to this appeal).

(4) "Relevant person" means—

(a) the appellant;

(b) the local authority or registered building control approver."

8 In section 50 (plans certificates) for subsections (2) and (3) substitute—

"(2) If a registered building control approver refuses to give a plans certificate on being asked to do so, the person intending to carry out the work may appeal to—

(a) the regulator, in the case of work to be carried out in England;

(b) the Welsh Ministers, in the case of work to be carried out in Wales."

*Transfer from magistrates' court to the tribunal: England*

9 In the following provisions for "a magistrates' court" substitute "the appropriate court or tribunal"—

(a) section 19(4) (use of short-lived materials);

(b) section 21(3), (4) and (6) (provision of drainage);

(c) section 22(4) (drainage of buildings in combination);

(d) section 24(2) (provision of exits etc);

(e) section 25(2) and (5) (provision of water supply);

(f) section 33(6) (tests for conformity with building regulations);

(g) section 36(3) (period for compliance with section 36 notice);

(h) section 40(1) (appeal against section 36 notice);

(i) section 55(1) (appeal against rejection of certain notices);

(j) section 62(2) (disconnection of drain);

(k) section 68(3) (erection of public conveniences);

(l) section 73(2) (raising of chimney);

(m) section 75(2), in both places it occurs, and section 75(3) (cellars etc below subsoil);

(n) section 77(1), in both places it occurs (dangerous buildings);

(o) section 78(7)(a) (dangerous buildings - emergency measures);

(p) section 85(3) (maintenance of entrances to courtyards);

(q) section 98 (power to require occupier to permit work);

(r) section 102(1) (appeal against notice requiring works);

(s) section 103(3) (notification requirement as regards right of appeal);

(t) in Schedule 2, paragraph 3(3) (application under section 8).

10 In section 7(2)(b) after "court" insert "or tribunal".

11 In section 25(5) after "the court", in both places it occurs, insert "or tribunal".

12 In section 33(6) after "the court", in both places it occurs, insert "or tribunal".

13 In section 37(3) for "a court" substitute "the appropriate court or tribunal".

14 In section 40 after "the court", in each place it occurs, insert "or tribunal".

15 In section 55(2) after "court" insert "or tribunal".

16 In section 62(2) after "the court" insert "or tribunal".

17 In section 64(5)(b) after "court" insert "or tribunal".

18 In section 70(4)(b) after "court" insert "or tribunal".

19 In section 75(2) after "court" insert "or tribunal".

20 In section 77(1) after "court" insert "or tribunal".

21 In section 78(7)(b) after "court" insert "or tribunal".

22 In section 83(3)(b) after "court" insert "or tribunal".

23 In section 98—

(a) for "a complaint" substitute "an application or (as the case may be) complaint";

(b) after "court" insert "or tribunal".

24 In section 102(2), (3) and (4) after "court", in each place it occurs, insert "or tribunal".

25 (1) Section 103 is amended as follows.

(2) After subsection (1) insert—

"(1A) Subsections (2) and (3) apply—

(a) where this Act provides for an appeal to the tribunal against a requirement, refusal or other decision of a relevant authority, and

(b) in relation to an appeal of a kind mentioned in subsection (1)(a)."

(3) In subsection (2)—

(a) for "local" substitute "relevant";

(b) after "making of the" insert "application or".

(4) In subsection (3) "local" substitute "relevant".

(5) After that subsection insert—

"(4) In this section "relevant authority" means a local authority or the regulator."

(6) In the heading for "magistrates' court" substitute "appropriate court or tribunal".

26 In section 104 after "court", in both places it occurs, insert "or tribunal".

27 In section 105 after "court" insert "or tribunal".

28 In Schedule 2 in paragraph 2(b) after "court" insert "or tribunal".

*Enforcement*

29 After section 105 insert—

"**105A Enforcement of decisions of the First-tier and Upper Tribunal**

(1) A decision of the First-tier Tribunal or Upper Tribunal made under or in connection with this Act is enforceable with the permission of the county court in the same way as an order of that court.

(2) Subsection (1) does not apply to a decision of the First-tier Tribunal or Upper Tribunal ordering the payment of a sum (as to which see section 27 of the Tribunals, Courts and Enforcement Act 2007 (enforcement)).”

*Appeal: local authority decision not to consider application etc*

30 After section 101 insert—

*“Appeal against refusal to consider application etc*

**101A Appeal: refusal to consider application etc on ground is higher-risk building work**

(1) This section applies where—

(a) a local authority for an area in England refuses to consider an application for building control approval, or

(b) a local authority refuses to consider an initial notice (within the meaning of section 47) or an amendment notice (within the meaning of section 51A),

on the ground that all or part of the work to which the application or notice relates is higher-risk building work.

(2) The person intending to carry out the work may appeal to the appropriate national authority, before the end of the prescribed period, on the ground that none of the work is higher-risk building work.

(3) Building regulations may make provision about appeals under this section, including in particular provision—

(a) about the making of an appeal;

(b) requiring an appellant to notify the local authority of the making of an appeal;

(c) imposing duties on the local authority in cases where an appeal is made;

(d) for and in connection with the appropriate national authority appointing a person to determine the appeal (including provision conferring functions on that person and providing that their decision is treated as the decision of the appropriate national authority);

(e) about the procedure to be adopted in connection with the determination of the appeal.

(4) The provision that may be made by virtue of subsection (3)(a) includes provision about—

(a) the form and content of a notice of appeal;

(b) the information and documents that are to accompany a notice of appeal;

(c) the way in which a notice of appeal, and anything that is to accompany it, is to be given.

(5) The decision made on the appeal is final (subject to subsection (6)).

(6) The appellant or the local authority may, before the end of the prescribed period and with the permission of the High Court, appeal to the High Court against the decision of the appropriate national authority on a point of law."

## SCHEDULE 7

Section 102

### SPECIAL MEASURES

*Introductory*

1 In this Schedule—

"special measures manager" means a person appointed under paragraph 4;

"special measures order" means an order under paragraph 4.

*Notification by regulator before applying for special measures order*

2 (1) This paragraph applies where the regulator proposes to make an application under paragraph 4 for a special measures order in relation to an occupied higher-risk building.

(2) The regulator must give a notice (an "initial notice") of the proposal to—

(a) each accountable person for the building,

(b) each resident of the building who is aged 16 or over,

(c) each owner of a residential unit in the building,

(d) any managing agent for the building or any relevant part of the building,

(e) any recognised tenants' association for the building or any part of the building,

(f) any manager appointed under section 24 of the Landlord and Tenant Act 1987 in relation to the building or any part of the building,

(g) the fire and rescue authority for the area in which the building is situated,

(h) the local housing authority for the area in which the building is situated,

(i) where any accountable person for the building is a registered provider of social housing, the Regulator of Social Housing, and

(j) where any part of the building contains premises occupied for the purposes of a business, each responsible person (within the meaning of article 3 of the Regulatory Reform (Fire Safety) Order 2005) in relation to those premises.

(3) The initial notice must—

(a) state that the regulator proposes to make an application for a special measures order in relation to the building,

(b) specify the address of the building,

(c) specify the reasons for the proposed application,

(d) specify the terms of the order that the regulator proposes to invite the tribunal to make (including the name and address of the person the regulator proposes to be the special measures manager for the building),

(e) specify a period in which recipients of the notice may make representations in response to the notice, and

(f) state that any representations must be in writing to such postal or email address as is specified in the notice.

(4) Where the terms specified by virtue of sub-paragraph (3)(d) include a term requiring an accountable person for the building to make payments to the special measures manager for the building, the regulator must give to the persons mentioned in sub-paragraph (2) a financial management proposal with the initial notice.

(5) After the end of the period mentioned in sub-paragraph (3)(e) the regulator must—

(a) decide whether to make the application, and

(b) give a notice (a "final notice") of its decision to the persons mentioned in sub-paragraph (2).

(6) The final notice must—

(a) state whether or not the regulator intends to make the application,

(b) specify the reasons for reaching that decision, and

(c) if the regulator intends to make the application, specify the terms of the order that the regulator intends to invite the tribunal to make (including the name and address of the person the regulator proposes to be the special measures manager for the building).

(7) Where the terms specified by virtue of sub-paragraph (6)(c) include a term requiring an accountable person for the building to make payments to the special measures manager for the building, the regulator must give to the persons mentioned in sub-paragraph (2) a financial management proposal with the final notice.

(8) The regulator must comply with sub-paragraphs (5) to (7) before making the application.

(9) The duty under sub-paragraph (2), (4), (5)(b) or (7) does not apply in relation to a person mentioned in sub-paragraph (2) if the regulator—

(a) is not aware of the person, and

(b) has taken all reasonable steps to ascertain the identity of the persons mentioned in that sub-paragraph.

(10) In this paragraph—

"financial management proposal" has the meaning given by paragraph 3;

"relevant part", in relation to a higher-risk building, means any part of the building except premises occupied for the purposes of a business.

(11) The Secretary of State may by regulations make provision in relation to notices under this paragraph, including in particular provision about—

(a) the form of the notice;

(b) the way in which the notice must be given.

(12) The Secretary of State may by regulations amend the list in sub-paragraph (2).

*Meaning of "financial management proposal"*

3 (1) In this Schedule "financial management proposal", in relation to a higher-risk building, means a document setting out—

(a) an estimate of the relevant expenses the regulator expects a special measures manager for the building to incur (including a reasonable amount in respect of contingencies),

(b) the measures to which the relevant expenses relate, and

(c) if there is more than one accountable person for the building—

(i) the regulator's proposed apportionment of the relevant expenses between them, and

(ii) the reasons for that proposal (including any calculation giving rise to it).

(2) In this Schedule "relevant expenses" means expenses incurred by the special measures manager for a higher-risk building in connection with the exercise of their functions in relation to the building.

*Special measures order*

4 (1) The regulator may apply to the tribunal for an order under this paragraph in relation to an occupied higher-risk building (a "special measures order").

(2) A special measures order is an order appointing a person to be the manager (a "special measures manager") for the building to carry out the functions of all accountable persons for the building under, or under regulations made under, this Part.

(3) A special measures order may also appoint the manager to carry out any function as a receiver in relation to commonhold building safety assessments.

(4) The tribunal may make a special measures order if satisfied that there has been a serious failure, or a failure on two or more occasions, by an accountable person for the building to comply with a duty imposed on that person under, or under regulations made under, this Part.

(5) A special measures order may make provision with respect to—

(a) payments to be made by an accountable person for the building to the special measures manager in connection with relevant expenses incurred, or to be incurred, by the manager,

(b) any other matter relating to the exercise of the manager's functions, and

(c) any incidental or ancillary matter.

(6) A special measures order may not make the provision mentioned in sub-paragraph (5)(a) in relation to a higher-risk building on commonhold land.

(7) A special measures order continues in force until it is discharged.

(8) In this Schedule "commonhold building safety assessment" means income raised from commonhold unit-holders by virtue of section 38A of the Commonhold and Leasehold Reform Act 2002.

*Special measures order: supplementary*

5 (1) This paragraph applies where a special measures order is made in relation to a higher-risk building.

(2) While the order is in force any function of an accountable person for the building under, or under regulations made under, this Part is to be treated as a function of the special measures manager for the building, except any function relating to—

(a) the making of an application to the tribunal, or

(b) the making of an appeal to the tribunal.

(3) Any compliance notice given under section 99 relating to the building ceases to have effect (but this does not affect any liability incurred as a result of a contravention of a compliance notice occurring before the making of the order).

*Payments received by special measures manager to be held on trust*

6 (1) This paragraph applies where a special measures order relating to a higher-risk building requires one or more accountable persons for the building to make payments to the special measures manager for the building.

(2) The manager must hold the payments (together with any income accruing on those payments) as either—

(a) a single trust fund, or

(b) in two or more separate trust funds.

(3) The manager must hold any trust fund—

(a) on trust to defray relevant expenses, and

(b) subject to that, on trust for the accountable person or persons for the building for the time being.

(4) The accountable person or persons for the building for the time being are to be treated as entitled by virtue of sub-paragraph (3)(b) to—

(a) if there is one accountable person for the building, the residue of the fund or funds;

(b) otherwise, to such shares in that residue as the accountable persons may agree in writing or (in default of agreement) as the tribunal may direct.

(5) An application for a direction under sub-paragraph (4)(b) may be made by—

(a) the regulator,

(b) an accountable person for the building, or

(c) the manager.

*Effect of special measures order on relevant contracts and legal proceedings*

7 (1) Sub-paragraphs (2) and (6) apply while a special measures order relating to a higher-risk building is in force.

(2) A relevant contract has effect as if relevant rights and liabilities of an accountable person for the building arising under the contract were rights and liabilities of the special measures manager for the building.

(3) A contract is a "relevant contract" if—

(a) it is effective on the date the special measures order is made,

(b) one of the parties to it is an accountable person for the building,

(c) one or more rights or liabilities of that person under the contract are relevant rights or liabilities,

(d) it is specified for the purposes of this sub-paragraph in the special measures order or falls within a description of contracts so specified, and

(e) the manager gives notice in writing to the parties to it stating that sub-paragraph (2) is to apply to it.

(4) A right or liability of an accountable person for the building under a relevant contract is a "relevant right or liability" if it relates to a function of that person under, or under regulations made under, this Part in relation to the building.

(5) The notice under sub-paragraph (3)(e) must state which rights or liabilities under the contract are relevant rights or liabilities.

(6) The special measures manager for the building may bring, continue or defend a relevant cause of action.

(7) A cause of action is a "relevant cause of action" if—

(a) it accrued to or against an accountable person for the building before the date the special measures order was made,

(b) it relates to a function of that person under, or under regulations made under, this Part in relation to the building,

(c) it is specified for the purposes of this sub-paragraph in the special measures order or falls within a description of causes of action so specified, and

(d) the manager gives notice in writing to any person the manager considers would have an interest in the cause of action that sub-paragraph (6) is to apply to it.

(8) Where, by virtue of this paragraph, the special measures manager for the building is subject to a liability to pay damages in respect of anything done (or not done) before the date of their appointment by or on behalf of an accountable person for the building, that person is liable to reimburse to the manager an amount equal to the amount of damages paid by the manager.

*Special measures orders and orders under section 24 of the Landlord and Tenant Act 1987*

8 (1) Sub-paragraph (2) applies where—

(a) the tribunal makes a special measures order in relation to a higher-risk building, and

(b) an order under section 24 of the Landlord and Tenant Act 1987 appointing a manager in relation to that building is in force (a "section 24 order").

(2) The tribunal may amend the section 24 order so as to ensure that the functions to be carried out by virtue of that order do not include any function that the special measures order provides is to be carried out by the special measures manager.

(3) In section 24 of the Landlord and Tenant Act 1987, after subsection (2B) insert—

"(2C) Where a special measures order relating to the building is in force, an order under this section may not provide for a manager to carry out a function which the special measures order provides is to be carried out by the special measures manager for the building.

(2D) In this section—

"special measures manager" means a person appointed under paragraph 4 of Schedule 7 to the Building Safety Act 2022;

"special measures order" means an order under paragraph 4 of Schedule 7 to the Building Safety Act 2022."

9 (1) The Landlord and Tenant Act 1987 is amended as follows.

(2) In section 21(2) after "subsection (3)" insert "and section 24ZA".

(3) After section 24 insert—

"**24ZA Application for appointment of manager by special measures manager**

(1) A special measures manager for an occupied higher-risk building may apply to the appropriate tribunal for an order under section 24 (as modified by subsection (4)) appointing a manager to act in relation to premises to which this section applies.

(2) This section applies to premises consisting of the whole or part of the higher-risk building if the building or part contains two or more flats.

(3) Section 22 applies in relation to such an application as if—

(a) for subsection (1) there were substituted—

"(1) Before an application for an order under section 24 is made in respect of any premises to which section 24ZA applies by a special measures manager for an occupied higher-risk building, a notice under this section must (subject to subsection (3)) be served by the special measures manager on—

(a) the landlord;

(b) any person (other than the landlord) by whom obligations relating to the management of the premises or any part of them are owed to tenants of flats contained in those premises under a tenancy;

(c) each accountable person for the higher-risk building.";

(b) for subsection (2)(a) there were substituted—

"(a) specify the special measures manager's name and an address in England and Wales at which any person on whom the notice is served may serve notices, including notices in proceedings, on the special measures manager in connection with this Part;";

(c) in subsection (2)(b)—

(i) for "tenant" there were substituted "special measures manager";

(ii) for "this Part" there were substituted "section 24ZA";

(d) in subsection (2)(c) for "tenant" there were substituted "special measures manager".

(4) Section 24 applies in relation to such an application as if—

(a) in subsection (1) for "this Part" there were substituted "section 24ZA";

(b) for subsection (2) there were substituted—

"(2) The appropriate tribunal may only make an order under this section where it is satisfied—

(a) that—

(i) the relevant person is in breach of any obligation owed by the person to the special measures manager by virtue of a special measures order, and

(ii) it is just and convenient to make the order in all the circumstances of the case; or

(b) that other circumstances exist which make it just and convenient for the order to be made.";

(c) subsections (2A), (2B) and (10) were omitted.

(5) In this section "special measures manager" has the meaning given by section 24(2D)."

*Provision of financial assistance by regulator*

10 (1) The regulator may give financial assistance to the special measures manager for a higher-risk building by way of loans or grants.

(2) The Secretary of State may by regulations make provision in relation to financial assistance given under this paragraph, including in particular provision about—

(a) the circumstances in which financial assistance may be given;

(b) the kind of financial assistance that may be given;

(c) conditions that may or must be attached to any financial assistance (including conditions as to repayment).

(3) In this paragraph "special measures manager", in relation to a higher-risk building, includes the person who was the special measures manager for that building immediately before the special measures order relating to the building was discharged.

*Special measures order: further directions*

11 (1) This paragraph applies while a special measures order relating to a higher-risk building is in force.

(2) On an application by a person mentioned in sub-paragraph (3) the tribunal may give directions to the special measures manager for the building or any other person with respect to—

(a) any matter relating to the exercise of the manager's functions, and

(b) any incidental or ancillary matter.

(3) The persons are—

(a) the regulator,

(b) an accountable person for the building, or

(c) the manager.

*Regulator to keep certain matters under review*

12 (1) This paragraph applies while a special measures order relating to a higher-risk building is in force.

(2) The regulator must, from time to time (and at least once every 12 months), review the following matters—

(a) the measures taken by the special measures manager in exercising the manager's functions;

(b) the expenses incurred by the manager in connection with taking those measures;

(c) any payments made by accountable persons for the building to the manager in respect of any of those expenses;

(d) any amounts received by the manager by way of commonhold building safety assessments in relation to the building.

(3) If, on such a review, the regulator considers that any term of the order should be varied, it must make such application under paragraph 14 as it considers appropriate.

*Notification by regulator before applying to vary special measures order*

13 (1) This paragraph applies where the regulator proposes to make an application under paragraph 14 to vary a special measures order relating to a higher-risk building.

(2) The regulator must give a notice (an "initial notice") of the proposal to—

(a) each accountable person for the building,

(b) each resident of the building who is aged 16 or over,

(c) each owner of a residential unit in the building,

(d) any managing agent for the building or any relevant part of the building,

(e) any recognised tenants' association for the building or any part of the building,

(f) any manager appointed under section 24 of the Landlord and Tenant Act in relation to the building or any part of the building,

(g) the fire and rescue authority for the area in which the building is situated,

(h) the local housing authority for the area in which the building is situated,

(i) where any accountable person for the building is a registered provider of social housing, the Regulator of Social Housing, and

(j) where any part of the building contains premises occupied for the purposes of a business, each responsible person (within the meaning of article 3 of the Regulatory Reform (Fire Safety) Order 2005) in relation to those premises.

(3) The initial notice must—

(a) state that the regulator proposes to make an application to vary the special measures order specified in the notice,

(b) specify the reasons for the proposed application,

(c) specify the terms of the order that the regulator proposes to invite the tribunal to make,

(d) specify a period in which recipients of the notice may make representations in response to the notice, and

(e) state that any representations must be in writing to such postal or email address as is specified in the notice.

(4) After the end of the period mentioned in sub-paragraph (3)(d) the regulator must—

(a) decide whether to make the application, and

(b) give a notice (a "final notice") of its decision to the persons mentioned in sub-paragraph (2).

(5) The final notice must—

(a) state whether or not the regulator intends to make the application,

(b) specify the reasons for reaching that decision, and

(c) if the regulator intends to make the application, specify the terms of the order that the regulator intends to invite the tribunal to make.

(6) The regulator must comply with sub-paragraphs (4) and (5) before making the application.

(7) The duty under sub-paragraph (2) or (4)(b) does not apply in relation to a person mentioned in sub-paragraph (2) if the regulator—

(a) is not aware of the person, and

(b) has taken all reasonable steps to ascertain the identity of the persons mentioned in that sub-paragraph.

(8) In this paragraph "relevant part", in relation to a higher-risk building, has the meaning given by paragraph 2(10).

(9) The Secretary of State may by regulations make provision in relation to notices under this paragraph, including in particular provision about—

(a) the form of the notice;

(b) the way in which the notice must be given.

(10) The Secretary of State may by regulations amend the list in sub-paragraph (2).

*Variation or discharge of special measures order*

14 (1) The tribunal may vary or discharge a special measures order relating to a higher-risk building on an application by—

(a) the regulator,

(b) an accountable person for the building, or

(c) the special measures manager for the building.

(2) An application to vary a special measures order so as to change the identity of the manager may only be made by the regulator.

(3) In considering whether to vary or discharge an order the tribunal must have regard to—

(a) the likelihood of variation or discharge of the order resulting in a recurrence of the circumstances which led to the order being made, and

(b) whether it is just and convenient in all the circumstances to vary or discharge the order.

(4) Sub-paragraphs (2) and (3) do not apply on an application where each person mentioned in sub-paragraph (1) agrees to the application (and for this purpose where there is more than one accountable person each accountable person must agree).

(5) Sub-paragraph (4) does not require the agreement of the special measures manager where that person lacks capacity to agree to the application.

(6) Where the order is varied or discharged, the tribunal may give directions to any person with respect to—

(a) any matter relating to the variation or discharge, and

(b) any incidental or ancillary matter.

(7) Where the order is discharged the tribunal must direct the special measures manager to—

(a) prepare a reconciliation account, and

(b) give a copy of the account to—

(i) the regulator, and

(ii) each accountable person for the building.

(8) The tribunal may give a direction under sub-paragraph (6)(a) (at the time the order is discharged or after that time) for the making of a payment—

(a) by an accountable person for the building to the special measures manager, or

(b) by the special measures manager to an accountable person for the building.

(9) In this paragraph—

"reconciliation account" means a document—

(a) setting out, in relation to the period during which the special measures order was in force, a comparison between—

(i) the receipts and expenses of the manager in connection with the exercise of their functions in relation to the building, and

(ii) the credits to, and debits from, all relevant accounts, and

(b) containing a statement explaining any differences;

"relevant account" means an account in which any of the following are (or have been) held—

(a) payments made by an accountable person for the building to the manager;

(b) amounts received by the manager by way of commonhold building safety assessments in relation to the building.

(10) In this paragraph "special measures manager", in relation to a higher-risk building, includes the person who was the special measures manager for that building immediately before the special measures order relating to the building was discharged.

*Notifications about special measures order*

15 (1) The regulator must take all reasonable steps to notify the persons mentioned in sub-paragraph (2) of the making, variation or discharge of a special measures order in relation to a higher-risk building.

(2) The persons are—

(a) each accountable person for the building,

(b) each resident of the building who is aged 16 or over,

(c) each owner of a residential unit in the building,

(d) any managing agent for the building or any relevant part of the building,

(e) any recognised tenants' association for the building or any part of the building,

(f) any manager appointed under section 24 of the Landlord and Tenant Act 1987 in relation to the building or any part of the building,

(g) the fire and rescue authority for the area in which the building is situated,

(h) the local housing authority for the area in which the building is situated,

(i) where any accountable person for the building is a registered provider of social housing, the Regulator of Social Housing, and

(j) where any part of the building contains premises occupied for the purposes of a business, each responsible person (within the meaning of article 3 of the Regulatory Reform (Fire Safety) Order 2005) in relation to those premises.

(3) In this paragraph "relevant part", in relation to a higher-risk building, has the meaning given by paragraph 2(10).

(4) The Secretary of State may by regulations amend the list in sub-paragraph (2).

*Special measures order: change in accountable person etc*

16 (1) Sub-paragraphs (2) and (3) apply where at any time ("the relevant time") during which a special measures order relating to a higher-risk building is in force, an accountable person for the building ("the outgoing person") ceases to be responsible for all or any part of the building ("the relevant part of the building").

(2) From the relevant time the special measures order ceases to apply to the outgoing person in relation to the relevant part of the building.

(3) From the relevant time the special measures order applies to any person who, immediately after the relevant time—

(a) is an accountable person for the building, and

(b) is responsible for the relevant part of the building or any part of the relevant part,

as it applied to the outgoing person in relation to the relevant part or part of the relevant part (as the case may be) immediately before the relevant time.

(4) But sub-paragraphs (2) and (3) do not affect any liability under the order to which the outgoing person became subject before the relevant time.

(5) Where an enactment requires interests, charges or other obligations affecting land to be registered, sub-paragraph (3) has effect whether or not the special measures order is registered.

(6) Nothing in this paragraph affects the powers of the tribunal under paragraph 14 (power to vary special measures order etc).

*Interpretation*

17 In this Schedule—

"commonhold building safety assessment" has the meaning given by paragraph 4;

"local housing authority" has the meaning given by section 261 of the Housing Act 2004;

"managing agent": for the purposes of this Schedule a person (A) is a managing agent for any part of a building if—

(a) A has been appointed to discharge the obligations of a person (B) relating to the management by B of that part of the building, and

(b) B has a legal estate in that part of the building which is—

(i) an estate in fee simple absolute in possession, or;

(ii) a term of years absolute granted for a term of more than 21 years from the date of the grant;

"recognised tenants association" has the meaning given by section 29 of the Landlord and Tenant Act 1985;

"relevant expenses" has the meaning given by paragraph 3;

"special measures manager" has the meaning given by paragraph 1;

"special measures order" has the meaning given by paragraph 1.

## SCHEDULE 8

Section 122

### REMEDIATION COSTS UNDER QUALIFYING LEASES ETC

*Interpretation*

1 (1) In this Schedule—

"associated": see section 121;

"building safety risk" has the meaning given by section 120;

"joint venture" includes a partnership (as defined by section 121);

"prescribed" means prescribed by regulations made by the Secretary of State;

"qualifying lease": see section 119;

"the qualifying time" has the same meaning as in section 119;

"relevant building": see section 117;

"relevant defect": see section 120;

"relevant measure", in relation to a relevant defect, means a measure taken—

(a) to remedy the relevant defect, or

(b) for the purpose of—

(i) preventing a relevant risk from materialising, or

(ii) reducing the severity of any incident resulting from a relevant risk materialising;

"relevant risk" here means a building safety risk that arises as a result of the relevant defect;

"service charge" has the meaning given by section 18 of the Landlord and Tenant Act 1985.

(2) The definition of "service charge" applies in relation to a lease of premises that do not include a dwelling as it applies in relation to a lease of a dwelling.

*No service charge payable for defect for which landlord or associate responsible*

2 (1) This paragraph applies in relation to a lease of any premises in a relevant building.

(2) No service charge is payable under the lease in respect of a relevant measure relating to a relevant defect if a relevant landlord—

(a) is responsible for the relevant defect, or

(b) is associated with a person responsible for a relevant defect.

(3) For the purposes of this paragraph a person is "responsible for" a relevant defect if—

(a) in the case of an initial defect, the person was, or was in a joint venture with, the developer or undertook or commissioned works relating to the defect;

(b) in any other case, the person undertook or commissioned works relating to the defect.

(4) In this paragraph—

"developer" means a person who undertook or commissioned the construction or conversion of the building (or part of the building) with a view to granting or disposing of interests in the building or parts of it;

"initial defect" means a defect which is a relevant defect by virtue of section 120(3)(a);

"relevant landlord" means the landlord under the lease at the qualifying time or any superior landlord at that time.

*No service charge payable if landlord meets contribution condition*

3 (1) No service charge is payable under a qualifying lease in respect of a relevant measure relating to any relevant defect if the landlord under the lease at the qualifying time ("the relevant landlord") met the contribution condition.

(2) The contribution condition is that the landlord group's net worth at the qualifying time was more than N x £2,000,000,

where N is the number of relevant buildings within sub-paragraph (3).

(3) A relevant building is within this sub-paragraph if a member of the landlord group was, at the qualifying time, a landlord under a lease of the relevant building or any part of it.

(4) For the purposes of this paragraph—

(a) "the landlord group" means the relevant landlord and any person associated with the relevant landlord;

(b) the net worth of the landlord group at the qualifying time is to be determined in accordance with regulations made by the Secretary of State.

(5) The Secretary of State may by regulations amend the amount for the time being specified in sub-paragraph (2).

(6) This paragraph does not apply if, at the qualifying time, the relevant landlord was—

(a) a private registered provider of social housing (as to which see section 80 of the Housing and Regeneration Act 2008),

(b) a local authority (as defined by section 30), or

(c) a prescribed person.

*No service charge payable where lease below certain value*

4 (1) No service charge is payable under a qualifying lease in respect of a relevant measure relating to any relevant defect if the value of the qualifying lease at the qualifying time was less than—

(a) £325,000, if the premises demised by the qualifying lease are in Greater London;

(b) £175,000, in any other case.

(2) For the purposes of this paragraph the value of a qualifying lease at the qualifying time is its value determined in accordance with paragraph 6 and regulations made under it.

*Limit on service charge in other cases*

5 (1) A service charge which would otherwise be payable under a qualifying lease in respect of a relevant measure relating to any relevant defect is payable only if (and so far as) the sum of—

(a) the amount of the service charge, and

(b) the total amount of relevant service charges which fell due before the service charge fell due,

does not exceed the permitted maximum.

(2) In this paragraph "relevant service charge" means a service charge under the lease in respect of a relevant measure relating to any relevant defect that—

(a) fell due in the pre-commencement period, or

(b) falls due after commencement.

(3) In sub-paragraph (2) "the pre-commencement period" means the period—

(a) beginning 5 years before commencement or, if later, on the day the relevant person became the tenant under the qualifying lease, and

(b) ending with commencement.

"The relevant person" means the person who was the tenant under the qualifying lease at commencement.

(4) In this paragraph—

"commencement" means the time this paragraph comes into force;

"the permitted maximum": see paragraph 6.

*Paragraph 5: the permitted maximum*

6 (1) In paragraph 5 "the permitted maximum", in relation to a qualifying lease, has the following meaning.

(2) The permitted maximum is (subject to sub-paragraphs (3) to (5))—

(a) if the premises demised by the qualifying lease are in Greater London, £15,000;

(b) otherwise, £10,000.

(3) Where the value of the qualifying lease at the qualifying time exceeded £1,000,000 but did not exceed £2,000,000, the permitted maximum is £50,000.

(4) Where the value of the qualifying lease at the qualifying time exceeded £2,000,000, the permitted maximum is £100,000.

(5) Where the qualifying lease is a shared ownership lease and the tenant's total share was less than 100% at the qualifying time—

(a) the value of the qualifying lease at that time is to be determined as if the tenant's total share at that time was 100%;

(b) the permitted maximum is the tenant's total share (as at that time) of what would otherwise be the permitted maximum.

(6) The Secretary of State may by regulations make provision about the determination of the value of a qualifying lease for the purposes of paragraph 4 and this paragraph.

(7) The regulations may in particular provide that, except in prescribed cases, the value of a qualifying lease at the qualifying time is to be determined by—

(a) ascertaining the consideration given on the latest disposal of the qualifying lease on the open market to have been made before that time, and

(b) if that disposal occurred before 2022, uprating the consideration in accordance with the regulations.

(8) In this paragraph "shared ownership lease" and "total share" have the meaning given by section 7 of the Leasehold Reform, Housing and Urban Development Act 1993.

*Annual limit on service charges*

7 (1) A relevant service charge which would otherwise be payable under a qualifying lease is payable only if (and so far as) the sum of—

(a) the amount of the service charge, and

(b) the total amount of relevant service charges which fell due in the period of 12 months ending with the day on which the service charge fell due,

does not exceed one tenth of the permitted maximum.

(2) In this paragraph—.

"the permitted maximum" means the permitted maximum as defined by paragraph 6 in relation to the lease;

"relevant service charge" means a service charge under a qualifying lease in respect of a relevant measure relating to any relevant defect.

*No service charge payable for cladding remediation*

8 (1) No service charge is payable under a qualifying lease in respect of cladding remediation.

(2) In this paragraph "cladding remediation" means the removal or replacement of any part of a cladding system that—

(a) forms the outer wall of an external wall system, and

(b) is unsafe.

*No service charge payable for legal or professional services relating to liability for relevant defects*

9 (1) No service charge is payable under a qualifying lease in respect of legal or other professional services relating to the liability (or potential liability) of any person incurred as a result of a relevant defect.

(2) In this paragraph the reference to services includes services provided in connection with—

(a) obtaining legal advice,

(b) any proceedings before a court or tribunal,

(c) arbitration, or

(d) mediation.

*Paragraphs 2 to 4, 8 and 9: supplementary*

10 (1) This paragraph supplements paragraphs 2 to 4, 8 and 9 (the "relevant paragraphs").

(2) Where a relevant paragraph provides that no service charge is payable under a lease in respect of a thing—

(a) no costs incurred or to be incurred in respect of that thing (or in respect of that thing and anything else)—

(i) are to be regarded for the purposes of the relevant provisions as relevant costs to be taken into account in determining the amount of a service charge payable under the lease, or

(ii) are to be met from a relevant reserve fund;

(b) any amount payable under the lease, or met from a relevant reserve fund, is limited accordingly (and any necessary adjustment must be made by repayment, reduction of subsequent charges or otherwise).

(3) In this paragraph—

"the relevant provisions" means sections 18 to 30 of the Landlord and Tenant Act 1985 (service charges) and section 42 of the Landlord and Tenant Act 1987 (service charge contributions to be held on trust);

"relevant reserve fund" means—

(a) a trust fund within the meaning of section 42 of the Landlord and Tenant Act 1987,

(b) an express trust of a kind mentioned in subsection (9) of that section, comprising payments made by the tenant under the lease and others, or

(c) any other fund comprising payments made by the tenant under the lease and others, and held for the purposes of meeting costs incurred or to be incurred in respect of the relevant building in question or any part of it (or in respect of that building or part and anything else).

(4) The Secretary of State may by regulations modify the application of this paragraph as it applies in relation to a lease of premises that do not include a dwelling.

*No increase in service charge for other tenants*

11 Where—

(a) an amount ("the original amount") would, apart from this Schedule, be payable by a tenant under a lease of premises in a relevant building, and

(b) a greater amount would (apart from this paragraph) be payable under the lease as a result of this Schedule,

the lease has effect as if the amount payable were the original amount.

*Recovery of service charge amounts from landlords*

12 (1) The Secretary of State may by regulations make provision for and in connection with the recovery, from a prescribed relevant landlord, of any amount that is not recoverable under a lease as a result of this Schedule.

(2) In this paragraph "relevant landlord", in relation to a lease, means the landlord under the lease or any superior landlord.

*Presumption: qualifying lease*

13 (1) This paragraph applies in relation to a lease that meets the conditions in paragraphs (a) to (c) of section 119(2).

(2) The lease is to be treated for the purposes of this Schedule as a qualifying lease unless—

(a) the landlord under the lease has taken all reasonable steps (and any prescribed steps) to obtain a qualifying lease certificate from a tenant under the lease, and

(b) no such certificate has been provided to the landlord.

(3) In this paragraph "qualifying lease certificate" means a certificate, complying with any prescribed requirements, that the condition in section 119(2)(d) was met in relation to the lease at the qualifying time.

(4) The requirements that may be prescribed include requirements as to—

(a) the information to be provided in the certificate,

(b) the form of the certificate, and

(c) the execution of the certificate.

*Presumptions relating to landlord under qualifying lease*

14 (1) The person who was the landlord under a qualifying lease at the qualifying time ("the relevant landlord") is to be treated for the purposes of this Schedule as having met the contribution condition (as defined by paragraph 3) unless the landlord under the lease provides to the tenant under the lease a certificate, complying with any prescribed requirements, that the relevant landlord did not meet that condition.

(2) The Secretary of State may by regulations provide that (in some or all cases) the condition in paragraph 2(2) is to be treated for the purposes of this Schedule as met in relation to a lease to which paragraph 2 applies unless the landlord under the lease provides to the tenant under the lease a certificate that complies with any prescribed requirements.

(3) The requirements that may be prescribed include requirements as to—

(a) the information to be provided in the certificate,

(b) the form of the certificate, and

(c) the execution of the certificate.

*Information from tenants*

15 (1) The Secretary of State may by regulations make provision requiring a tenant under a qualifying lease to give prescribed information or documents to the landlord under the lease or any superior landlord.

(2) The regulations may provide that the information or documents are to be given in a prescribed way.

*Information from landlords*

16 (1) The Secretary of State may by regulations make provision requiring a relevant landlord to give prescribed information or documents to a relevant tenant or other prescribed person.

(2) Information or documents may be prescribed if they relate to any matter with which this Schedule is concerned.

(3) The regulations may require the information or documents to be given in a prescribed way.

(4) The regulations may provide that where a relevant landlord fails to comply with the regulations, prescribed costs—

(a) are not to be regarded as relevant costs to be taken into account in determining the amount of a service charge payable under a relevant lease, and

(b) must not be met from a relevant reserve fund.

(5) The regulations may make provision for and in connection with an application to the First-tier Tribunal for an order—

(a) determining whether a relevant landlord has failed to comply with the regulations, and

(b) if so, requiring the relevant landlord to provide specified information or documents to a specified person by a specified time.

"Specified" here means specified in the order.

(6) Nothing in sub-paragraph (5) limits the effect of regulations made by virtue of sub-paragraph (4).

(7) Information or documents may be specified in an order under sub-paragraph (5) only if the regulations require them to be provided to the specified person.

(8) In this paragraph—

"relevant costs" has the meaning given by section 18 of the Landlord and Tenant Act 1985 (and this applies in relation to a lease of premises that does not include a dwelling as it applies in relation to a lease of a dwelling);

"relevant landlord" means a landlord under a relevant lease;

"relevant lease" means a lease of premises in a relevant building;

"relevant reserve fund" has the meaning given by paragraph 10;

"relevant tenant" means a tenant under a relevant lease.

17 In section 21 of the Landlord and Tenant Act 1985 (service charge information), in subsection (6A) (inserted by section 112), after "2022)" insert "or relevant buildings (as defined by section 117 of that Act)".

*Anti-avoidance*

18 A covenant or agreement (whenever made) is void insofar as it purports to exclude or limit any provision made under this Schedule.

## SCHEDULE 9

Section 137(1)

### THE NEW HOMES OMBUDSMAN SCHEME

*Appointment of the new homes ombudsman*

1 The scheme must include provision about the appointment of the new homes ombudsman.

*Membership*

2 (1) The scheme must include provision about the procedure for becoming and remaining a member of the scheme.

(2) That provision may include—

(a) a requirement to pay a fee;

(b) a requirement to provide information;

(c) a requirement to have internal procedures in place for the handling and resolution of complaints about matters in relation to which complaints may be made under the scheme.

(3) If the scheme includes a requirement mentioned in sub-paragraph (2)(c), it must also include a requirement to publish the procedures.

3 The scheme may provide for different categories of member and the provision mentioned in paragraph 2 (including provision about fees) may differ as between such categories.

*Fees*

4 The fees payable by a member may be calculated by reference to the total of the costs incurred, or to be incurred, in the operation of the scheme (including costs unconnected with the member in question).

5 Where a scheme is maintained by a person other than—

(a) the Secretary of State, or

(b) a person acting on behalf of the Secretary of State,

fees may be set at a level such that the total of all fees payable by members exceeds the total of the costs of operating the scheme.

*Complaints under the scheme: subject matter and procedure*

6 The scheme must include provision about—

(a) the matters in relation to which complaints against members of the scheme may be made under the scheme (which may include complaints about non-compliance with a code of practice issued or approved under section 142), and

(b) the procedure for making complaints under the scheme.

7 The provision mentioned in paragraph 6(b)—

(a) must not include any requirement to pay a fee;

(b) may differ as between different categories of member;

(c) may include provision about the use of any internal procedures a member has in place for the handling or resolution of complaints.

*Complaints under the scheme: investigation and determination*

8 (1) The scheme must include provision about the investigation and determination by the new homes ombudsman of complaints made under the scheme.

(2) That provision must include provision—

(a) requiring the new homes ombudsman, in determining a complaint, to have regard to any code of practice issued or approved under section 142,

(b) for the new homes ombudsman to require members of the scheme to provide information, and

(c) for the new homes ombudsman to require members of the scheme to provide complainants whose complaints are determined to be well-founded with any one or more of the forms of redress in paragraph 9.

9 The forms of redress are—

(a) paying compensation;

(b) making an apology;

(c) providing an explanation;

(d) taking such other action in the interests of the complainant as the new homes ombudsman may specify.

*Enforcement of determinations*

10 (1) The scheme must include provision about the enforcement of determinations made by the new homes ombudsman.

(2) That provision may include provision for the expulsion of a member from the scheme (and the requirement in section 137(1)(a) is not to be read as preventing the new homes ombudsman scheme from including such provision).

(3) If provision described in sub-paragraph (2) is included in the scheme, provision must also be made about the circumstances in which an expelled member can rejoin the scheme.

*Making of recommendations*

11 (1) The scheme must include provision about the making of improvement recommendations by the new homes ombudsman where following the investigation of a complaint the ombudsman identifies widespread or regular unacceptable standards of conduct or standards of quality of work on the part of members of the scheme.

(2) "Improvement recommendations" are recommendations about changes that members may make in order to improve standards of conduct or standards of quality of work.

*Predecessor schemes*

12 The scheme must include provision about the acceptance and handling of complaints transferred from a scheme previously available under section 136 but which is no longer available.

*Complaints about the scheme*

13 The scheme must include provision about how complaints about the operation of the scheme may be made by—

(a) members of the scheme, and

(b) persons who have asked for a complaint to be investigated under the scheme.

*Co-operation*

14 (1) The scheme may include provision about co-operation with persons who exercise functions under other redress schemes and, in particular, provision about arrangements for a person exercising functions under the scheme to do so jointly with a person exercising functions under another redress scheme, including for the making of joint determinations by the new homes ombudsman and an independent person making determinations under another redress scheme.

(2) In sub-paragraph (1), "redress scheme" has the same meaning as in section 137.

*Provision of information*

15 (1) Where the scheme is maintained by a person other than the Secretary of State, the scheme must include provision about the provision of information to the Secretary of State, the Welsh Ministers, the Scottish Ministers and the relevant Northern Ireland department.

(2) In this paragraph, "the relevant Northern Ireland department" means the Northern Ireland department designated for the purposes of this paragraph by the First Minister and deputy First Minister acting jointly.

*Reports*

16 The scheme must include provision about the making of reports on the operation of the scheme.

## SCHEDULE 10

Section 137(8)

AMENDMENTS IN CONNECTION WITH THE NEW HOMES OMBUDSMAN SCHEME

1 The Local Government Act 1974 is amended in accordance with paragraphs 2 to 4.

2 (1) Section 33 (consultation between Local Commissioner and other Commissioners and Ombudsmen) is amended as follows.

(2) In subsection (1)—

(a) after paragraph (bza) insert—

"(bzb) by the new homes ombudsman under the new homes ombudsman scheme (see section 136 of the Building Safety Act 2022),";

(b) in the words after paragraph (c), after "1993" insert ", the Housing Act 1996, the new homes ombudsman scheme".

(3) In subsection (2), after "housing ombudsman," insert "the new homes ombudsman,".

(4) After subsection (3A) insert—

"(3B) If at any stage in the course of conducting an investigation under the new homes ombudsman scheme, the new homes ombudsman forms the opinion that the complaint relates partly to a matter which could be the subject of an investigation under this Part of this Act, the new homes ombudsman must consult with the appropriate Local Commissioner about the complaint and, if the new homes ombudsman considers it necessary, inform the person initiating the complaint of the steps necessary to initiate a complaint under this Part of this Act."

(5) In subsection (4)—

(a) for "or (3A)" substitute ", (3A) or (3B)";

(b) for "or under the Housing Act 1996" substitute ", the Housing Act 1996 or the new homes ombudsman scheme".

3 (1) Section 33ZA (collaborative working between Local Commissioners and others) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (b) omit the final "or";

(b) at the end of paragraph (c) insert "or

(d) the new homes ombudsman,".

(3) In subsection (1A) for "or (c)" substitute ", (c) or (d)".

(4) In subsection (3)—

(a) in paragraph (b) omit the final "or";

(b) at the end of paragraph (c) insert "or

(d) the new homes ombudsman,";

(c) in the words following paragraph (c) for "or (c)" substitute ", (c) or (d)".

4 In section 33ZB (arrangements for provision of administrative and other services), in subsection (4)—

(a) in paragraph (c) omit the final "and";

(b) at the end of paragraph (d) insert—

"(e) the new homes ombudsman, and

(f) the person maintaining the new homes ombudsman scheme under arrangements made pursuant to section 136 of the Building Safety Act 2022."

5 (1) Paragraph 10A of Schedule 2 to the Housing Act 1996 (housing complaints: collaborative working with Local Commissioners) is amended as follows.

(2) In sub-paragraph (1)—

(a) after "Local Commissioner" insert "or the new homes ombudsman";

(b) for "the ombudsman" substitute "the housing ombudsman";
(c) at the end insert ", the new homes ombudsman or both of them."

(3) In sub-paragraph (3)—
(a) after "Local Commissioner" insert "or the new homes ombudsman";
(b) for "the ombudsman", in both places it occurs, substitute "the housing ombudsman";
(c) at the end insert ", the new homes ombudsman or both of them."

(4) In sub-paragraph (4)—
(a) after "Local Commissioner" insert ", the new homes ombudsman (or both)";
(b) at the end insert "(or those persons)".

6 (1) The Public Services Ombudsman (Wales) Act 2019 (anaw 3) is amended as follows.

(2) In section 65(7) (consultation and co-operation with other ombudsmen)—
(a) in the Welsh language text, after paragraph (e) insert—
"(f) yr ombwdsmon cartrefi newydd o dan y cynllun ombwdsmon cartrefi newydd (gweler adran 136 o Ddeddf Diogelwch Adeiladau 2022).";
(b) in the English language text, after paragraph (e) insert—
"(f) the new homes ombudsman under the new homes ombudsman scheme (see section 136 of the Building Safety Act 2022)."

## SCHEDULE 11

Section 146

### CONSTRUCTION PRODUCTS REGULATIONS

*Introductory*

1 (1) The Secretary of State may by regulations make provision in relation to the marketing and supply of construction products in the United Kingdom.

(2) Regulations under this paragraph are called "construction products regulations".

*General safety requirements*

2 (1) Construction products regulations may—
(a) prohibit the marketing or supply of construction products which are not safe products;
(b) impose other requirements for the purpose of securing that construction products which are not safe products are not marketed or supplied;
(c) impose requirements in relation to the marketing or supply of construction products which are safe products.

(2) For the purposes of this paragraph a construction product is a "safe product" if, under normal or reasonably foreseeable conditions of use, and taking into account any matters specified for the purposes of this paragraph by construction products regulations—

(a) the product does not present any risk to the health or safety of persons, or

(b) if it does, the risk is as low as it can be compatibly with using the product.

(3) In this paragraph—

"use" includes storage, transportation or packaging;

"reasonably foreseeable conditions" include reasonably foreseeable circumstances in which the construction product might come under stress (for example, a fire).

*Construction products with designated standards or technical assessments*

3 Construction products regulations may make provision for and in relation to—

(a) designated standards for construction products (see paragraph 4);

(b) technical assessments for construction products (see paragraph 5).

4 (1) Provision under paragraph 3(a) (designated standards) may include provision—

(a) for the designation by the Secretary of State of standards prepared in accordance with the regulations or the 2011 Regulation;

(b) for the designation by the Secretary of State of EU harmonised standards or international standards;

(c) for EU harmonised standards or international standards to be designated standards.

(2) Provision under sub-paragraph (1)(a) may include provision as to—

(a) the persons by whom standards may be proposed;

(b) the procedure by which and persons by whom standards are to be prepared;

(c) the matters to be covered by a standard.

5 (1) Provision under paragraph 3(b) (technical assessments) may include provision as to the procedure by which and persons by whom technical assessments are to be issued.

(2) Provision under sub-paragraph (1) may include provision for assessment bodies to issue technical assessments on the basis of assessment documents developed or adopted by them, and in particular provision—

(a) for the designation of assessment bodies by the Secretary of State;

(b) as to the functions, operation and funding of assessment bodies;

(c) as to the contents of assessment documents and the procedure by which they are developed or adopted.

6 Construction products regulations may—

(a) impose requirements on persons carrying out activities in relation to construction products for which there are designated standards or technical assessments under the regulations (see paragraph 7);

(b) confer powers on relevant authorities to impose requirements on such persons (see paragraph 8).

7 (1) Provision under paragraph 6(a) (imposition of requirements) may include provision for the imposition of requirements relating to—

(a) declarations of performance in respect of products which are or are to be marketed;

(b) the making of other statements or claims in relation to the performance of products which are or are to be marketed;

(c) the marking or packaging of products;
(d) the provision of information, including information about risk, to persons to whom products are supplied;
(e) the monitoring, assessment and verification of product performance, including sample testing;
(f) the storage and transportation of products;
(g) the taking of corrective action, including withdrawal of products from the market and recall of products from persons to whom they have been supplied;
(h) recording and investigating complaints;
(i) the production and retention of documentation or samples;
(j) the notification of risks to relevant authorities;
(k) information which must or may be provided to relevant authorities;
(l) co-operation with relevant authorities;
(m) the appointment of authorised representatives by persons carrying out activities in relation to construction products.

(2) Provision about declarations of performance under sub-paragraph (1)(a) may include provision as to—
(a) the technical documentation to be prepared in relation to a declaration of performance;
(b) the content of a declaration of performance;
(c) the form of a declaration of performance;
(d) how a declaration of performance is to be supplied or made available.

(3) Provision about the marking of products under sub-paragraph (1)(c) may include provision as to—
(a) the form and content of any marking;
(b) circumstances in which products must or must not be marked.

(4) Provision about the monitoring, assessment and verification of product performance under sub-paragraph (1)(e) may include provision as to—
(a) the carrying out of testing and other tasks by approved bodies;
(b) when and how a body may become or cease to be an approved body;
(c) the assessment and monitoring of approved bodies.

(5) Requirements which may be imposed on persons carrying out activities in relation to construction products under paragraph 6(a) may also be imposed on the authorised representatives of such persons.

8 (1) Provision under paragraph 6(b) (conferral of powers) may include provision conferring powers on a relevant authority to impose requirements on persons carrying out activities in relation to construction products in circumstances where—
(a) there has been no failure to comply with requirements imposed under paragraph 6(a), but
(b) in the view of the relevant authority the products nevertheless risk causing death or serious injury to any person.

(2) The powers referred to in sub-paragraph (1) may include powers by notice to—
(a) require a person to warn others of the risks attaching to a product;
(b) require the marking of a product in respect of the risks attaching to it;

(c) suspend for a specified period or prohibit the marketing or supply of a product (or suspend or prohibit the marketing and supply of the product without the consent of a specified person);

(d) require the withdrawal of a product from the market;

(e) require the recall of a product from persons to whom it has been supplied.

(3) Provision under sub-paragraph (2) may include provision for appeals against a notice.

9 Construction products regulations may include any provision—

(a) which is made in the 2011 Regulation or the 2019 or 2020 Regulations immediately after IP completion day, or

(b) which relates to any matter in respect of which provision is made in that Regulation or those Regulations immediately after that time.

*Safety-critical products*

10 (1) For the purposes of this Schedule, "safety-critical products" means construction products which are included in a list contained in construction products regulations.

(2) A construction product may only be included in a list under sub-paragraph (1) if—

(a) in the view of the Secretary of State any failure of the product would risk causing death or serious injury to any person, and

(b) the product is not one for which there are—

(i) designated standards under paragraph 3(a), or

(ii) standards which are designated standards for the purposes of the 2011 Regulation.

(3) Before including a construction product in the list, or amending the list, the Secretary of State must consult such persons as the Secretary of State considers appropriate.

11 (1) Construction products regulations may make provision for and in relation to standards for safety-critical products ("safety-critical standards").

(2) Provision under sub-paragraph (1) may include provision as to—

(a) the persons by whom safety-critical standards may be proposed;

(b) the procedure by which and persons by whom safety-critical standards are to be prepared;

(c) the matters to be covered by a safety-critical standard.

12 Construction products regulations may—

(a) impose requirements on persons carrying out activities in relation to safety-critical products for which there are safety-critical standards under the regulations (see paragraph 13);

(b) confer powers on relevant authorities to impose requirements on such persons (see paragraph 14).

13 Provision under paragraph 12(a) (imposition of requirements) may include any provision referred to in paragraph 7.

14 (1) Provision under paragraph 12(b) (conferral of powers) may include provision conferring powers on a relevant authority to impose requirements on persons carrying out activities in relation to construction products in circumstances where—

(a) there has been no failure to comply with requirements imposed under paragraph 12(a), but

(b) in the view of the relevant authority the products nevertheless risk causing death or serious injury to any person.

(2) The powers referred to in sub-paragraph (1) include powers by notice to—

(a) require a person to warn others of the risks attaching to a product;

(b) require the marking of a product in respect of the risks attaching to it;

(c) suspend for a specified period or prohibit the marketing or supply of a product (or suspend or prohibit the marketing and supply of the product without the consent of a specified person);

(d) require the withdrawal of a product from the market;

(e) require the recall of a product from persons to whom it has been supplied.

(3) Provision under sub-paragraph (2) may include provision for appeals against a notice.

*Enforcement*

15 (1) Construction products regulations may make provision for and in relation to—

(a) monitoring compliance with construction product requirements and investigating suspected non-compliance;

(b) securing compliance with construction product requirements;

(c) sanctions for—

(i) non-compliance or suspected non-compliance with construction product requirements;

(ii) obstruction of, failure to assist or co-operate with, or provision of false or misleading information to, persons carrying out construction product functions.

(2) Provision under sub-paragraph (1)(a) may include—

(a) provision for relevant authorities to carry out, or secure the carrying out of, market surveillance and test purchases;

(b) provision for relevant authorities to enter, inspect and search premises and to seize and retain products or evidence of non-compliance with construction product requirements (including provision for the payment of compensation);

(c) provision requiring the retention and provision of information (including provision for relevant authorities to require the provision of information to them).

(3) Provision under sub-paragraph (1)(b) may include provision conferring powers on a relevant authority by notice to—

(a) require a person to warn others of the risks attaching to a product;

(b) require the marking of a product in respect of the risks attaching to it;

(c) suspend for a specified period or prohibit the marketing or supply of a product (or suspend or prohibit the marketing and supply of the product without the consent of a specified person);

(d) require the withdrawal of a product from the market;

(e) require the recall of a product from persons to whom it has been supplied;

(f) require a person to do or cease to do anything so as to end non-compliance or suspected non-compliance with construction product requirements.

(4) Provision under sub-paragraph (1)(b) may also include—

(a) provision for—

(i) a relevant authority to accept undertakings relating to compliance with construction product requirements instead of taking other enforcement action;

(ii) sanctions for non-compliance or suspected non-compliance with such undertakings;

(b) provision for the forfeiture of products by court order (or, in Scotland, order of the sheriff).

(5) Provision under sub-paragraph (1)(c) or (4)(a)(ii) may include—

(a) provision creating criminal offences;

(b) in relation to England and Wales and Northern Ireland, provision for the prosecution by relevant authorities of criminal offences created under paragraph (a);

(c) provision conferring powers on relevant authorities to impose civil sanctions (including fines).

(6) Provision under sub-paragraph (1)(b) or (c) or (4)(a)(ii) may include provision for appeals against anything done by a relevant authority under that provision.

(7) Provision under sub-paragraph (1) may include any provision—

(a) which is made by the 2013 Regulations, or

(b) which relates to any matter in respect of which provision is made by the 2013 Regulations.

*Costs*

16 (1) Construction products regulations may make provision for a relevant authority to impose charges on a person carrying out activities in relation to construction products, or an authorised representative of such a person, in respect of the exercise of the relevant authority's construction product functions in relation to such a person.

(2) The regulations may include provision about—

(a) who is liable to pay a charge;

(b) the circumstances in which a charge is payable;

(c) the amount of a charge (including how an amount is to be calculated);

(d) reductions and exemptions;

(e) waivers;

(f) how and when a charge is to be paid;

(g) the collection and recovery of payments;

(h) interest payable on outstanding payments;

(i) the resolution of disputes (including appeals).

(3) Provision under this paragraph may confer a discretion on the relevant authority.

*Information*

17 (1) Construction products regulations may, in connection with the exercise by relevant authorities of their construction product functions, make provision for and in relation to—

(a) the provision of information by relevant authorities to—

(i) other relevant authorities, or

(ii) persons specified, or of a description specified, in construction products regulations;

(b) the provision of information to relevant authorities by—

(i) persons specified, or of a description specified, in construction products regulations, or

(ii) other persons identified by relevant authorities.

(2) Provision under sub-paragraph (1) may include provision—

(a) as to the circumstances in which information may or must be provided (which may include circumstances in which the information could not otherwise have been lawfully provided or disclosed);

(b) as to how information may or must be provided;

(c) as to the uses to which information provided may be put;

(d) for the purpose of preventing the further disclosure of information (including provision for the creation of criminal offences);

(e) for the purpose of securing that there is (taking into account any power or duty to provide information under the regulations) no contravention of the data protection legislation.

18 (1) Construction products regulations may make provision for and in relation to the publication by relevant authorities of information held by them in connection with their construction product functions.

(2) Provision under sub-paragraph (1) may include provision as to—

(a) the circumstances in which information may or must be published (which may include circumstances in which the information could not otherwise have been lawfully published);

(b) how, where and in what form information may or must be published.

19 (1) Construction products regulations may make provision prohibiting the disclosure of information held by relevant authorities in connection with their construction product functions.

(2) Provision under sub-paragraph (1) may include provision for the creation of criminal offences.

*General and supplementary*

20 (1) Construction products regulations may make—

(a) different provision for different purposes;

(b) different provision for or in relation to different parts of the United Kingdom;

(c) transitional, transitory, consequential and supplementary provision or savings.

(2) The provision made by paragraphs 2 to 19 does not limit the power conferred by paragraph 1.

21 (1) Construction products regulations may make provision by repealing, amending or re-enacting—

(a) retained EU law (and in particular the 2011 Regulation and the 2013 Regulations);

(b) the 2019 and 2020 Regulations;

(c) any other enactment other than an Act.

(2) Construction products regulations may under paragraph 20(1)(c) make consequential provision amending section 148 (liability relating to construction products), which may in particular include the omission or amendment of subsection (2)(b) and (c) of that section.

22 (1) Where construction products regulations contain provision creating a criminal offence, the provision must have the effect that—

(a) the offence is—

(i) triable summarily only, or

(ii) triable summarily or on indictment,

(b) the offence is punishable only—

(i) with a fine, or

(ii) with a term of imprisonment or a fine (or both),

(c) where the offence is triable summarily only, any fine with which the offence is punishable in Scotland or Northern Ireland does not exceed level 5 on the standard scale,

(d) where the offence is triable summarily or on indictment, any fine with which the offence is punishable on summary conviction in Scotland or Northern Ireland does not exceed the statutory maximum, and

(e) any term of imprisonment with which the offence is punishable on summary conviction does not exceed—

(i) in England and Wales, the relevant period,

(ii) in Scotland, 12 months, and

(iii) in Northern Ireland, 6 months.

(2) In sub-paragraph (1)(e)(i), the "relevant period" means—

(a) in relation to an offence that is triable only summarily—

(i) where the offence is committed before the coming into force of section 281 of the Criminal Justice Act 2003, 6 months, and

(ii) where the offence is committed after that time, 51 weeks;

(b) in relation to an offence that is triable summarily or on indictment—

(i) where the offence is committed before the coming into force of paragraph 24(2) of Schedule 22 to the Sentencing Act 2020, 6 months, and

(ii) where the offence is committed after that time, 12 months.

*Procedure*

23 (1) Construction products regulations are to be made by statutory instrument.

(2) Construction products regulations which contain provision specified in sub-paragraph (3) (with or without other provision) may not be made unless a draft of the instrument containing them has been laid before, and approved by resolution of, each House of Parliament.

(3) The provision referred to in sub-paragraph (2) is—

(a) the first provision to be made under paragraph 10(1) (list of safety-critical products);

(b) provision omitting a construction product from the list of safety-critical products under paragraph 10(1);

(c) provision creating a criminal offence;

(d) provision which repeals or amends the 2011 Regulation or other retained direct principal EU legislation;

(e) provision under paragraph 21(2) (consequential provision relating to liability for construction products).

(4) A statutory instrument containing construction products regulations to which the requirements specified in sub-paragraph (2) do not apply is subject to annulment in pursuance of a resolution of either House of Parliament.

*Interpretation*

24 In this Schedule—

"the 2011 Regulation" means Regulation (EU) No. 305/2011 (regulation laying down harmonised conditions for the marketing of construction products);

"the 2013 Regulations" means the Construction Products Regulations 2013 (S.I. 2013/1387);

"the 2019 Regulations" means the Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465);

"the 2020 Regulations" means the Construction Products (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1359);

"authorised representative" means a person of a description specified in the regulations who is authorised to act on behalf of a person carrying out an activity in relation to construction products;

"construction product" has the meaning specified in construction products regulations;

"construction product functions", in relation to a relevant authority, means—

(a) the authority's functions under construction products regulations, the 2011 Regulation or the 2019 or 2020 Regulations (including functions relating to the provision or receipt of information), and

(b) any other functions of the authority relating to construction product requirements;

"construction product requirements" means requirements imposed by or under construction products regulations, the 2011 Regulation or the 2019 or 2020 Regulations;

"construction products regulations" has the meaning given in paragraph 1(2);

"data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

"EU harmonised standard" means a harmonised standard adopted at any time by a standardisation body of the European Union;

"international standard" means a standard adopted by an international standardising body (which for these purposes has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 16 April 1994, as modified from time to time);

"local authority" means—

(a) a county or district council in England,

(b) a London borough council,

(c) the Common Council of the City of London,

(d) the Council of the Isles of Scilly,

(e) a county or county borough council in Wales,

(f) a council constituted under section 2 of the Local Government etc (Scotland) Act 1994, and

(g) a district council in Northern Ireland;

references to the "marketing" of products are to making them available on the market in the United Kingdom;

"persons carrying out activities in relation to construction products" include (without limitation)—

(a) a manufacturer of construction products,

(b) a person who markets or supplies construction products to others, and

(c) a person who imports construction products into the United Kingdom for use, marketing or supply;

"relevant authority" means—

(a) the Secretary of State or other Minister of the Crown, and

(b) a local authority (including, in England, Wales and Scotland, a local authority in its capacity as a local weights and measures authority);

"requirement" includes a prohibition or restriction;

"safety-critical products" has the meaning given in paragraph 10;

"technical assessment" means a documented assessment of the performance of a construction product.

STATUTORY INSTRUMENTS

# 2022 No. 561 (C. 28)

# BUILDING AND BUILDINGS

## The Building Safety Act 2022 (Commencement No. 1, Transitional and Saving Provisions) Regulations 2022

*Made - - - - 19th May 2022*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 170(2)(b), (4)(c), (5) and (6) of the Building Safety Act 2022(**1**).

### Citation and interpretation

**1.**—(1) These Regulations may be cited as the Building Safety Act 2022 (Commencement No. 1, Transitional and Saving Provisions) Regulations 2022.

(2) In these Regulations—

"the 1984 Act" means the Building Act 1984(**2**); and

"the 2022 Act" means the Building Safety Act 2022.

### Provision coming into force on 28th May 2022

**2.** Section 132 of the 2022 Act (order for information in connection with building liability order) comes into force, for the purposes of making regulations, on 28th May 2022.

### Provisions coming into force on 28th June 2022

**3.** The following provisions of the 2022 Act come into force on 28th June 2022—

(a) section 2(2) and Schedule 1 (amendments of the Health and Safety at Work etc Act 1974(**3**));

(b) section 3 (the regulator: objectives and regulatory principles);

(c) sections 17 and 18 (strategic plan);

(d) section 31, so far as it relates to sections 120D to 120H of the 1984 Act (higher-risk buildings: England);

(**1**) 2022 c. 30.
(**2**) 1984 c. 55.
(**3**) 1974 c. 37.

(e) section 41 (revocation etc of certain provision made under section 2(2) of the European Communities Act 1972(**4**)), in relation to England only;

(f) section 55, so far as it relates to the paragraphs of Schedule 5 (minor and consequential amendments in connection with Part 3 of the 2022 Act) specified in the Schedule to these Regulations, in relation to England only;

(g) section 57 (fees and charges), in relation to England only;

(h) sections 130 and 131 (building liability orders); and

(i) section 132 (order for information in connection with building liability order), for all remaining purposes.

**Provision coming into force on 28th July 2022**

**4.** Section 48 of the 2022 Act (insurance: removal of requirements) comes into force on 28th July 2022, in relation to England only.

**Provision coming into force on 1st October 2022**

**5.** Section 160 of the 2022 Act (housing complaints made to a housing ombudsman) comes into force on 1st October 2022.

**Transitional provision**

**6.** For the purposes of the first strategic plan prepared under section 17 of the 2022 Act, and any revision to that plan under section 18 of the 2022 Act, the term "building functions" in section 17(2) is to be read as including any function which the regulator is satisfied is likely to become a building function during the period to which the plan relates.

**Saving provisions**

**7.**—(1) Notwithstanding the repeal of paragraphs 5 and 9 of Schedule 1 to the 1984 Act by paragraphs 83(3) and (7) of Schedule 5 to the 2022 Act, any provisions of the following regulations (as in force immediately before the coming into force of the repeal) made under paragraphs 5 or 9 of Schedule 1 to the 1984 Act continue in force and have effect as if made under section 105B of the 1984 Act and may be varied or revoked accordingly—

(a) the Building (Inner London) Regulations 1985(**5**);

(b) the Building (Inner London) Regulations 1987(**6**);

(c) the Building (Local Authority Charges) Regulations 2010(**7**);

(d) the Building Regulations 2010(**8**); and

(e) the Building (Approved Inspectors etc.) Regulations 2010(**9**).

(2) Notwithstanding the repeal of section 106(3) of the 1984 Act by paragraph 67 of Schedule 5 to the 2022 Act, section 106(3) continues to have effect in any case where an application under that provision has been made to a magistrates' court before the coming into force of the repeal.

(**4**) 1972 c. 68.
(**5**) S.I. 1985/1936.
(**6**) S.I. 1987/798.
(**7**) S.I. 2010/404.
(**8**) S.I. 2010/2214.
(**9**) S.I. 2010/2215.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Stuart Andrew*
Minister of State
Department of Levelling Up, Housing and Communities

19th May 2022

## SCHEDULE

Regulation 3(f)

### Paragraphs of Schedule 5 to the 2022 Act coming into force in relation to England on 28th June 2022

**1.** Paragraph 1, so far as it relates to the following paragraphs.

**2.** Paragraph 2.

**3.** Paragraph 3.

**4.** Paragraph 4(1), so far as it relates to paragraph 4(2).

**5.** Paragraph 4(2).

**6.** Paragraph 5(1), so far as it relates to paragraph 5(2).

**7.** Paragraph 5(2).

**8.** Paragraph 6.

**9.** Paragraph 9.

**10.** Paragraph 10.

**11.** Paragraph 11(1), so far as it relates to paragraphs 11(2) and 11(3).

**12.** Paragraphs 11(2) and 11(3).

**13.** Paragraph 12(1), so far as it relates to paragraph 12(2).

**14.** Paragraph 12(2).

**15.** Paragraph 13(1), so far as it relates to paragraphs 13(2), 13(5) and 13(6).

**16.** Paragraphs 13(2), 13(5) and 13(6).

**17.** Paragraph 14(1), so far as it relates to paragraphs 14(2), 14(3)(b) and 14(4)(b).

**18.** Paragraphs 14(2), 14(3)(b) and 14(4)(b).

**19.** Paragraph 15(1), so far as it relates to paragraphs 15(2) to 15(5), and 15(9).

**20.** Paragraphs 15(2) to 15(5), and 15(9).

**21.** Paragraph 16.

**22.** Paragraph 22(1), so far as it relates to paragraph 22(8).

**23.** Paragraph 22(8).

**24.** Paragraph 46(1), so far as it relates to paragraph 46(2).

**25.** Paragraph 46(2).

**26.** Paragraph 50.

**27.** Paragraph 51.

**28.** Paragraph 53.

**29.** Paragraph 55(1), so far as it relates to paragraphs 55(4)(a) and 55(6).

**30.** Paragraph 55(4)(a) and 55(6).

**31.** Paragraph 57(1), so far as it relates to paragraph 57(3).

**32.** Paragraph 57(3).

**33.** Paragraph 67.

**34.** Paragraph 71.

**35.** Paragraph 74(1), so far as it relates to paragraph 74(2).

**36.** Paragraph 74(2).

**37.** Paragraph 75.

**38.** Paragraph 76(1), so far as it relates to paragraph 76(3).

**39.** Paragraph 76(3).

**40.** Paragraph 77, so far as it relates to section 120A of the 1984 Act.

**41.** Paragraph 77, so far as it relates to section 120B of the 1984 Act, for the purposes only of regulations under the 1984 Act other than building regulations.

**42.** Paragraph 78.

**43.** Paragraph 81(1), so far as it relates to the definitions of "appropriate national authority", "higher-risk building" and "the regulator" in paragraph 81(2).

**44.** The definitions of "appropriate national authority", "higher-risk building" and "the regulator" in paragraph 81(2).

**45.** Paragraph 82.

**46.** Paragraph 83(1), so far as it relates to—

(a) paragraph 83(2),

(b) paragraph 83(3), so far as it relates to paragraph 5 of Schedule 1 to the 1984 Act,

(c) paragraph 83(7), and

(d) paragraph 83(9).

**47.** Paragraphs 83(2), 83(7) and 83(9), and paragraph 83(3) so far as it relates to paragraph 5 of Schedule 1 to the 1984 Act.

**48.** Paragraph 84(1), so far as it relates to paragraph 84(3).

**49.** Paragraph 84(3).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are the first commencement regulations made under the Building Safety Act 2022 (c. 30) ("the Act").

Regulation 2 of these Regulations brings section 132 of the Act into force on 28th May 2022 for the purposes only of making regulations.

Regulation 3 brings into force a number of provisions on 28th June 2022, namely, section 2(2) of the Act and Schedule 1, which provides for a number of amendments to the Health and Safety at Work etc Act 1974 (c. 37) relating to the Health and Safety Executive becoming the Building Safety

Regulator ("the regulator"); section 3 which provides for the regulator's objectives etc; sections 17 and 18 which make provision in relation to the regulator's strategic plans; section 31, which allows the Secretary of State to define "higher-risk buildings" for the purposes of the Building Act 1984 (c. 55); section 41, which disapplies procedural provisions of the European Union (Withdrawal) Act 2018 (c. 16) in relation to changes to building regulations; section 55 and parts of Schedule 5, which contains consequential and minor amendments to the Building Act 1984; section 57, which creates power (by regulations) to charge fees and impose charges in relation to functions under the Building Act 1984; and sections 130 to 132 which make provision in relation to building liability orders.

Regulation 4 brings into force on 28th July 2022 section 48 of the Act which removes requirements in relation to insurance for approved inspectors from the Building Act 1984.

Regulation 5 brings section 160 of the Act into force on 1st October 2022. This section removes the existing requirement ('the democratic filter') for social housing residents who wish to escalate a complaint from their landlord's complaints process to the Housing Ombudsman to either wait eight weeks or utilise a 'designated person', that is, an MP, Councillor or recognised tenant panel.

Regulation 6 contains transitional provision such that the regulator's first strategic plan, and any revisions to that first plan, can cover matters that are not building functions at the time the plan or revision is prepared but that the regulator considers are likely to become building functions within the period covered by the plan.

Regulation 7 contains saving provision so that regulations made under paragraphs 5 and 9 of Schedule 1 to the Building Act 1984 (the repeals of which paragraphs are commenced, in relation to England, by regulation 2 and the Schedule to these Regulations) continue in force notwithstanding the repeal of those paragraphs. It also saves the jurisdiction of the magistrates' court in relation to disputes under section 106 of the Building Act 1984 where an application has been made to the court prior to the repeal of section 106(3) coming into force.

An impact assessment has been produced in relation to the Act and copies can be obtained at https://publications.parliament.uk/pa/bills/cbill/58-02/0139/BuildingSafetyBillImpactAssessment.pdf or from the Department for Levelling Up, Housing and Communities at 2 Marsham Street, London, SW1P 4DF, United Kingdom.

STATUTORY INSTRUMENTS

# 2022 No. 927 (C. 69)

# BUILDING AND BUILDINGS, ENGLAND

## The Building Safety Act 2022 (Commencement No. 2) Regulations 2022

*Made - - - - 31st August 2022*

The Secretary of State makes these Regulations in exercise of the power conferred by section 170(5) of the Building Safety Act 2022(**1**).

**Citation**

**1.** These Regulations may be cited as the Building Safety Act 2022 (Commencement No. 2) Regulations 2022.

**Provisions coming into force on 1st September 2022**

**2.** Sections 126 to 129 of the Building Safety Act 2022 (building industry schemes and prohibitions on development and building control) come into force on 1st September 2022.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Eddie Hughes*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

31st August 2022

(**1**) 2022 c. 30.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are the second commencement regulations made under the Building Safety Act 2022 (c. 30) ("the Act").

Regulation 2 brings into force sections 126 to 129 of the Act on 1st September 2022. The effect is to commence the powers relating to a scheme for developers and the prohibitions on developing land and building control which may be imposed on persons, including on persons who are eligible to be a member of a scheme established under section 126 but who are not members.

An impact assessment has been produced in relation to the Act and copies can be obtained at https://publications.parliament.uk/pa/bills/cbill/58-02/0139/BuildingSafetyBillImpactAssessment.pdf or from the Department for Levelling Up, Housing and Communities at 2 Marsham Street, London, SW1P 4DF, United Kingdom.

## NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

*(This note is not part of the Regulations)*

The following provisions of the Building Safety Act 2022 have been brought into force by commencement regulations made before the date of these Regulations.

| *Provision* | *Date of Commencement* | *S.I. No.* |
|---|---|---|
| Section 2(2) | 28th June 2022 | S.I. 2022/561 |
| Section 3 | 28th June 2022 | S.I. 2022/561 |
| Section 17 | 28th June 2022 | S.I. 2022/561 |
| Section 18 | 28th June 2022 | S.I. 2022/561 |
| Section 31 (partially) | 28th June 2022 | S.I. 2022/561 |
| Section 41 (partially) | 28th June 2022 | S.I. 2022/561 |
| Section 48 (partially) | 28th July 2022 | S.I. 2022/561 |
| Section 55 (partially) | 28th June 2022 | S.I. 2022/561 |
| Section 57 (partially) | 28th June 2022 | S.I. 2022/561 |
| Sections 130 and 131 | 28th June 2022 | S.I. 2022/561 |
| Section 132 (partially) | 28th May 2022 | S.I. 2022/561 |
| Section 132 (remaining purposes) | 28th June 2022 | S.I. 2022/561 |
| Section 160 | 1st October 2022 | S.I. 2022/561 |
| Schedule 1 | 28th June 2022 | S.I. 2022/561 |
| Schedule 5, paragraphs 1 (partially), 2, 3, 4 (partially), 5 (partially), 6, 9, 10, 11 (partially), 12 (partially), 13 (partially), 14 (partially), 15 (partially), 16, 22 (partially), 46 (partially), 50, | 28th June 2022 | S.I. 2022/561 |

| *Provision* | *Date of Commencement* | *S.I. No.* |
|---|---|---|
| 51, 53, 55 (partially), 57 (partially), 67, 71, 74 (partially), 75, 76 (partially), 77 (partially), 78, 81 (partially), 82, 83 (partially) and 84 (partially). | | |

STATUTORY INSTRUMENTS

# 2022 No. 1210 (C. 95)

# BUILDING AND BUILDINGS, ENGLAND

## The Building Safety Act 2022 (Commencement No. 3 and Transitional Provision) Regulations 2022

*Made - - - - 18th November 2022*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 170(2)(b) and (6) of the Building Safety Act 2022(**1**).

### Citation and interpretation

**1.**—(1) These Regulations may be cited as the Building Safety Act 2022 (Commencement No. 3 and Transitional Provision) Regulations 2022.

(2) In these Regulations "the 2022 Act" means the Building Safety Act 2022.

### Provisions coming into force on 1st December 2022

**2.** The following provisions of the 2022 Act come into force on 1st December 2022—

(a) sections 4(1), (2), (3) and (4) (regulator's duty to facilitate building safety);

(b) sections 9(1) and (2) (building advisory committee); and

(c) section 11 (residents' panel).

### Transitional provision

**3.**—(1) Until the relevant date, the reference in section 4(3)(d) of the 2022 Act to persons upon whom duties are imposed by virtue of paragraph 5B of Schedule 1 to the Building Act 1984(**2**) is to be read as referring to persons who design or carry out building work (as defined in regulation 3 of the Building Regulations 2010(**3**)) in relation to a building, or a proposed building, which is a higher-risk building as defined in section 65 of the 2022 Act.

(2) In this regulation—

"relevant date" means the day on which section 32 of the Building Safety Act 2022 (building control authorities) comes into force, ignoring any commencement of that section for the purpose only of making regulations.

(**1**) 2022 c. 30.
(**2**) 1984 c. 55. Paragraph 5B is inserted into Schedule 1 by section 34 of the 2022 Act.
(**3**) S.I. 2010/2214.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

18th November 2022

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are the third commencement regulations made under the Building Safety Act 2022 (c. 30) ("the Act").

Regulation 2 brings into force on 1st December 2022 sections 4(1) to (4) of the Act, which impose a duty on the regulator to assist specified groups in the improvement of building safety; section 9(1) and (2) of the Act, which requires the regulator to establish a building advisory committee; and section 11, which requires the regulator to establish and maintain a committee of residents of higher-risk buildings to advise it on its functions.

Regulation 3 contains a transitional provision.

An impact assessment has been produced in relation to the Act and copies can be obtained at https://publications.parliament.uk/pa/bills/cbill/58-02/0139/BuildingSafetyBillImpactAssessment.pdf or from the Department for Levelling Up, Housing and Communities at 2 Marsham Street, London, SW1P 4DF, United Kingdom.

## NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

*(This note is not part of the Regulations)*

The following provisions of the Building Safety Act 2022 have been brought into force by commencement regulations made before the date of these Regulations.

| *Provision* | *Date of Commencement* | *S.I. No.* |
|---|---|---|
| Section 2(2) | 28th June 2022 | S.I. 2022/561 |
| Section 3 | 28th June 2022 | S.I. 2022/561 |
| Section 17 | 28th June 2022 | S.I. 2022/561 |
| Section 18 | 28th June 2022 | S.I. 2022/561 |
| Section 31 (partially) | 28th June 2022 | S.I. 2022/561 |
| Section 41 (partially) | 28th June 2022 | S.I. 2022/561 |
| Section 48 (partially) | 28th July 2022 | S.I. 2022/561 |
| Section 55 (partially) | 28th June 2022 | S.I. 2022/561 |
| Section 57 (partially) | 28th June 2022 | S.I. 2022/561 |
| Sections 126 to 129 | 1st September 2022 | S.I. 2022/927 |
| Sections 130 to 131 | 28th June 2022 | S.I. 2022/561 |
| Section 132 (partially) | 28th May 2022 | S.I. 2022/561 |
| Section 132 (remaining purposes) | 28th June 2022 | S.I. 2022/561 |
| Section 160 | 1st October 2022 | S.I. 2022/561 |
| Schedule 1 | 28th June 2022 | S.I. 2022/561 |

| *Provision* | *Date of Commencement* | *S.I. No.* |
|---|---|---|
| Schedule 5, paragraphs 1 (partially), 2, 3, 4 (partially), 5 (partially), 6, 9, 10, 11 (partially), 12 (partially), 13 (partially), 14 (partially), 15 (partially), 16, 22 (partially), 46 (partially), 50, 51, 53, 55 (partially), 57 (partially), 67, 71, 74 (partially), 75, 76 (partially), 77 (partially), 78, 81 (partially), 82, 83 (partially) and 84 (partially). | 28th June 2022 | S.I. 2022/561 |

STATUTORY INSTRUMENTS

# 2023 No. 992 (C. 58)

# BUILDING AND BUILDINGS, ENGLAND

## The Building Act 1984 (Commencement No. 3) (England) Order 2023

*Made - - - - 11th September 2023*

The Secretary of State makes this Order in exercise of the powers conferred by sections 120(1) and 134(1) of the Building Act 1984(**1**).

**Citation**

**1.** This Order may be cited as the Building Act 1984 (Commencement No. 3) (England) Order 2023.

**Provision coming into force on 1st October 2023**

**2.** Section 33 of the Building Act 1984 (tests for conformity with building regulations) comes into force on 1st October 2023.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

11th September 2023

(**1**) 1984 c. 55. Section 33 is amended by paragraph 30 of Schedule 5 to the Building Safety Act 2022 (c. 30), and section 120 is amended by paragraph 76 of that Schedule. Section 134 is amended by paragraph 82 of that Schedule.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force section 33 of the Building Act 1984 (c. 55) so far as relating to England. (By virtue of section 134(1A) only Welsh Ministers have the power to commence section 33 in relation to Wales.) Section 33 makes provision in relation to testing and sampling.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of the Building Act 1984 (c. 55) have been brought into force by a commencement order made before the date of this Order.

| *Provision* | *Date of Commencement* | *S.I. No.* |
|---|---|---|
| Section 50(2) and (3) | 11th November 1985 | S.I. 1985/1602 |
| Paragraph 9 of Schedule 1 | 7th August 1998 | S.I. 1998/1836 |

STATUTORY INSTRUMENTS

# 2023 No. 362 (C. 15)

# BUILDING AND BUILDINGS

## The Building Safety Act 2022 (Commencement No. 4 and Transitional Provisions) Regulations 2023

*Made - - - - 23rd March 2023*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 170(2)(b), (4)(c), (5) and (6) of the Building Safety Act 2022(**1**).

### Citation and interpretation

**1.**—(1) These Regulations may be cited as the Building Safety Act 2022 (Commencement No. 4 and Transitional Provisions) Regulations 2023.

(2) In these Regulations "the 2022 Act" means the Building Safety Act 2022.

### Provisions coming into force on 1st April 2023

**2.**—(1) The following provisions of the 2022 Act come into force on 1st April 2023—

(a) section 5 (duty to keep safety and standard of buildings under review);

(b) section 6 (facilitating improvement in the competence of industry and building inspectors);

(c) section 8 (duty to establish system for giving of building safety information);

(d) section 9(3) (abolition of the Building Regulations Advisory Committee for England);

(e) section 47 (higher-risk building work: public bodies);

(f) section 55 so far as it relates to the paragraphs of Schedule 5 to the 2022 Act (minor and consequential amendments) specified in paragraph (2); and

(g) section 133 (service charges in respect of remediation works), for the purpose of making regulations under sections 20ZA(5A), 20D and 20E of the Landlord and Tenant Act 1985(**2**).

(2) The provisions of Schedule 5 referred to in paragraph (1)(f) are—

(a) paragraph 17;

(b) paragraph 77, for all remaining purposes;

(c) paragraph 85;

(**1**) 2022 c. 30.
(**2**) 1985 c. 70.

(d) paragraph 87; and

(e) paragraph 88.

**Provisions coming into force on 6th April 2023**

**3.**—(1) The following provisions of the 2022 Act come into force on 6th April 2023—

(a) section 12 (committees: power to amend or repeal);

(b) section 13 (local authorities and fire and rescue authorities: assistance etc to regulator);

(c) section 14 (FSO authorised persons: assistance etc to regulator);

(d) section 15 (provision of assistance etc: supplementary);

(e) section 16 (guidance about the provision of assistance);

(f) section 20 (statement of regulator's engagement with residents etc);

(g) section 22 and Schedule 2 (authorised officers);

(h) section 23 (authorised officers: offences);

(i) section 24 (providing false or misleading information to regulator);

(j) section 25 (review by regulator of certain decisions made by it);

(k) section 27 and Schedule 3 (cooperation and information sharing);

(l) section 29 (service of documents);

(m) section 32 (building control authorities), for the purpose of making regulations under sections 91ZB and 91ZC of the Building Act 1984(**3**);

(n) sections 33 to 35 (building regulations, dutyholders and competence);

(o) section 36 (lapse of building control approval etc), for the purpose of making regulations under sections 32 and 53A of, and paragraph 4A(6) of Schedule 4 to, the Building Act 1984;

(p) section 37 (determination of certain applications by appropriate national authority);

(q) section 38 (compliance and stop notices), for the purpose of making regulations under sections 35B, 35C and 35D of the Building Act 1984;

(r) section 39 (breach of building regulations), for the purpose of making regulations under section 35 of the Building Act 1984;

(s) section 42 (regulation of building control profession), for the purpose of making regulations under sections 58C, 58O, 58U, 58V, 58Z4 and 58Z5 of the Building Act 1984;

(t) section 44 (functions exercisable only through, or with advice of, registered building inspectors), for the purpose of making regulations under sections 46A and 54B of the Building Act 1984;

(u) section 46 (higher-risk building work: registered building control approvers), for the purpose of making regulations under sections 52A and 55 of the Building Act 1984;

(v) sections 49 to 53 (plans certificates, cancellation of initial notices etc), for the purpose of making regulations under sections 50, 52, 53, 53B, 53C, 53D, 55, 56A and 56B of, and paragraph 2 of Schedule 4 to, the Building Act 1984;

(w) section 55 so far as it relates to the following paragraphs of Schedule 5 to the 2022 Act (minor and consequential amendments)—

(i) paragraph 40(1), so far as it relates to paragraph 40(3);

(**3**) 1984 c. 55.

(ii) paragraph 40(3);

(iii) paragraph 42(1), so far as it relates to paragraph 42(3);

(iv) paragraph 42(3);

(v) paragraph 80, for the purpose of making regulations under section 125A of the Building Act 1984;

(vi) paragraph 83(1), so far as it relates to paragraph 83(8);

(vii) paragraph 83(8);

(x) section 56 so far as it relates to paragraph 30 of Schedule 6 to the 2022 Act (appeals), for the purpose of making regulations under section 101A of the Building Act 1984;

(y) section 71 (meaning of "occupied" higher-risk building etc);

(z) section 72 (meaning of "accountable person");

(z1) section 73 (meaning "principal accountable person");

(z2) section 74 (part of building for which an accountable person is responsible);

(z3) section 75 (determinations by the tribunal);

(z4) section 78(1), (3), (4) and (5) (registration of higher-risk buildings);

(z5) section 89 (provision of information etc to the regulator, residents and other persons);

(z6) section 107 (enforcement of decisions of the First-tier and Upper Tribunal);

(z7) section 108 (guidance);

(z8) section 109 (cooperation and coordination);

(z9) section 110 (managers appointed under Part 2 of the Landlord and Tenant Act 1987);

(z10) the following provisions of section 112 (implied terms in leases and recovery of safety related costs)—

(i) section 112(1), so far as it relates to the following provisions of section 112;

(ii) section 112(2), so far as it relates to—

(aa) inserting sections 30D and 30I into the Landlord and Tenant Act 1985;

(bb) inserting subsection (2) of section 30F into the Landlord and Tenant Act 1985, for the purposes of that subsection as it applies to section 30D;

(cc) inserting section 30G into the Landlord and Tenant Act 1985, for the purposes of that section as it applies to section 30D;

(iii) section 112(3), for the purpose of inserting section 20F into the Landlord and Tenant Act 1985 for all purposes except in relation to a tenant owned or run building;

(iv) section 112(4) and (5);

(v) section 112(6), for the purpose of inserting the entry for section 30D into section 32 of the Landlord and Tenant Act 1985;

(z11) section 114 (commonholds); and

(z12) sections 144 and 145 (new build home warranties), for the purpose of making regulations.

(2) For the purposes of this regulation—

"resident management company" means a body corporate which is party to a lease of a building where—

(a) the body corporate is limited by guarantee and the members of that body are tenants under leases of dwellings in the building ("leaseholders"), or

(b) the majority of the shares of the body corporate are held by leaseholders;

"tenant owned or run building" means a building or part of a building—

(a) in relation to which a right under Part 1 of the Landlord and Tenant Act 1987(**4**) (tenants' right of first refusal) or Part 3 of that Act (compulsory acquisition by tenants of landlord's interest) has been exercised;

(b) in relation to which the right to collective enfranchisement (within the meaning of Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993(**5**)) has been exercised;

(c) in relation to which the freehold estate in the building or part of the building is solely owned by tenants in the building or part of the building, whether through a corporate structure or otherwise and neither sub-paragraph (a) or (b) applies;

(d) for which a resident management company has obligations under a lease in respect of any duties under Part 4 of the 2022 Act or regulations made under that Part;

(e) in relation to which there is a RTM company (within the meaning of Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002(**6**)).

**Provision coming into force on 1st October 2023**

**4.** Section 156 (amendment of the Regulatory Reform (Fire Safety) Order 2005) of the 2022 Act (except subsection (4)) comes into force on 1st October 2023.

**Transitional provisions**

**5.**—(1) The requirements of section 120B of the Building Act 1984 (inserted by paragraph 77 of Schedule 5 to the 2022 Act) do not apply to any proposal for the making of building regulations(**7**) under that Act where a consultation was carried out in relation to the proposal before 6th April 2023.

(2) The amendments to article 32 of the Regulatory Reform (Fire Safety) Order 2005(**8**) made by section 156(10)(b) and (c) of the 2022 Act do not apply in relation to an offence which was committed before 1st October 2023.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

Lee Rowley, Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

23rd March 2023

(**4**) 1987 c. 31.
(**5**) 1993 c. 28.
(**6**) 2002 c. 15.
(**7**) See section 122 of the Building Act 1984 for the definition of building regulations.
(**8**) S.I. 2005/1541.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are the fourth commencement Regulations made under the Building Safety Act 2022 ("the Act").

Regulation 2 provides for sections 5, 6, 8, 9(3), 47, 55 (partially) and 133 of the Act to come into force on 1st April 2023. In particular, new functions of the building safety regulator are commenced and the Building Regulations Advisory Committee for England is abolished on that date.

Regulation 3 provides for sections 12, 13, 14, 15, 16, 20, 22, 23, 24, 25, 27, 29, 32 (partially), 33, 34, 35, 36 (partially), 37, 38 (partially), 39 (partially), 42 (partially), 44 (partially), 46 (partially), 49 (partially), 50 (partially), 51 (partially), 52 (partially), 53 (partially), 55 (partially), 56 (partially), 71, 72, 73, 74, 75, 78 (partially), 89, 107, 108, 109, 110, 112 (partially), 114, 144 (partially) and 145 (partially) to come into force on 6th April 2023. In particular, regulation 3 commences the provisions in Part 4 of the Act supporting the registration of higher-risk buildings and various regulation-making provisions in the Building Act 1984.

Regulation 4 provides for section 156 (except subsection (4)), which makes amendments to the Regulatory Reform (Fire Safety) Order 2005, to come into force on 1st October 2023.

Regulation 5 makes transitional provisions in relation to commencement of paragraph 77 of Schedule 5 to the Building Safety Act 2022 (which inserts section 120B into the Building Act 1984 (proposals and consultations relating to the regulations made by the Secretary of State)) and in relation to the amendments to the Regulatory Reform (Fire Safety) Order 2005.

## NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

*(This note is not part of the Regulations)*

The following provisions of the Building Safety Act 2022 have been brought into force by commencement Regulations made before the date of these Regulations.

| Provision | Date of Commencement | S.I. No. |
|---|---|---|
| Section 2 (remaining purposes) | 28th June 2022 | S.I. 2022/561 |
| Section 3 | 28th June 2022 | S.I. 2022/561 |
| Section 4 (partially) | 1st December 2022 | S.I. 2022/1210 |
| Section 9 (partially) | 1st December 2022 | S.I. 2022/1210 |
| Section 11 | 1st December 2022 | S.I. 2022/1210 |
| Section 17 | 28th June 2022 | S.I. 2022/561 |
| Section 18 | 28th June 2022 | S.I. 2022/561 |
| Section 31 (partially) | 28th June 2022 | S.I. 2022/561 |
| Section 41 (partially) | 28th June 2022 | S.I. 2022/561 |
| Section 48 (partially) | 28th July 2022 | S.I. 2022/561 |

| Provision | Date of Commencement | S.I. No. |
|---|---|---|
| Section 55 (partially) | 28th June 2022 | S.I. 2022/561 |
| Section 57 (partially) | 28th June 2022 | S.I. 2022/561 |
| Sections 126 to 129 | 1st September 2022 | S.I. 2022/927 |
| Sections 130 and 131 | 28th June 2022 | S.I. 2022/561 |
| Section 132 (partially) | 28th May 2022 | S.I. 2022/561 |
| Section 132 (remaining purposes) | 28th June 2022 | S.I. 2022/561 |
| Section 160 | 1st October 2022 | S.I. 2022/561 |
| Schedule 1 | 28th June 2022 | S.I. 2022/561 |
| Schedule 5, paragraphs 1 (partially), 2, 3, 4 (partially), 5 (partially), 6, 9, 10, 11 (partially), 12 (partially), 13 (partially), 14 (partially), 15 (partially), 16, 22 (partially), 46 (partially), 50, 51, 53, 55 (partially), 57 (partially), 67, 71, 74 (partially), 75, 76 (partially), 77 (partially), 78, 81 (partially), 82, 83 (partially) and 84 (partially). | 28th June 2022 | S.I. 2022/561 |

STATUTORY INSTRUMENTS

# 2023 No. 993 (C. 59)

# BUILDING AND BUILDINGS

## The Building Safety Act 2022 (Commencement No. 5 and Transitional Provisions) Regulations 2023

*Made - - - - 11th September 2023*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 170(2)(b), (4)(c), (5) and (6) of the Building Safety Act 2022(**1**).

### Citation and interpretation

**1.**—(1) These Regulations may be cited as the Building Safety Act 2022 (Commencement No. 5 and Transitional Provisions) Regulations 2023.

(2) In these Regulations—

"the 1984 Act" means the Building Act 1984(**2**);

"the 2022 Act" means the Building Safety Act 2022;

"building control authority" has the meaning given in section 121A of the 1984 Act(**3**);

"building work" has the same meaning as in the Building Regulations 2010(**4**);

"initial notice" has the meaning given in section 47 of the 1984 Act.

### Provisions coming into force on 1st October 2023

**2.** The following provisions of the 2022 Act come into force on 1st October 2023—

(a) section 4 (duty to facilitate building safety), for all remaining purposes;

(b) section 10 (committee on industry competence);

(c) section 19 (annual report about information provided under mandatory reporting requirements);

(d) section 21 (report on certain safety-related matters);

(e) section 26 (right of appeal: requirement for review before appeal);

(**1**) 2022 c. 30.
(**2**) 1984 c. 55.
(**3**) Section 121A was inserted into the 1984 Act by section 32 of the 2022 Act.
(**4**) S.I. 2010/2214 as amended by S.I. 2012/3119, 2013/1959, 2014/110, 2015/767, 2016/285, 2016/1274, 2018/1230, 2021/1391, 2021/1392, 2022/603, 2022/984, 2023/520 and 2023/911.

(f) section 32 (building control authorities), for all remaining purposes;

(g) section 36 (lapse of building control approval etc), for all remaining purposes;

(h) section 38 (compliance and stop notices), for all remaining purposes;

(i) section 39 (breach of building regulations), for all remaining purposes;

(j) section 40 (liability of officers of body corporate etc);

(k) section 42 (regulation of building control profession), so far as it relates to inserting Part 2A into the 1984 Act excluding sections 58H to 58L, 58T to 58W and 58Z1 to 58Z8 of that Act;

(l) section 46 (higher-risk building work: registered building control approvers), for all remaining purposes;

(m) section 54 (functions under Part 3 of Building Act 1984);

(n) section 55 so far as it relates to the following paragraphs of Schedule 5 to the 2022 Act (minor and consequential amendments)—

(i) paragraph 4, for all remaining purposes;

(ii) paragraph 5, for all remaining purposes;

(iii) paragraphs 7 and 8;

(iv) paragraph 11, for all remaining purposes;

(v) paragraph 12, for all remaining purposes;

(vi) paragraph 13, for all remaining purposes;

(vii) paragraph 14, for all remaining purposes;

(viii) paragraph 15, for all remaining purposes;

(ix) paragraphs 18 to 21;

(x) paragraph 22, for all remaining purposes;

(xi) paragraphs 23 to 37;

(xii) paragraph 39;

(xiii) paragraph 40, for all remaining purposes;

(xiv) paragraph 41;

(xv) paragraph 42, for all remaining purposes;

(xvi) paragraph 43;

(xvii) paragraph 44(1), so far as it relates to paragraph 44(2);

(xviii) paragraph 44(2);

(xix) paragraph 45;

(xx) paragraph 46, for all remaining purposes;

(xxi) paragraphs 47 to 49;

(xxii) paragraph 54;

(xxiii) paragraph 55, for all remaining purposes;

(xxiv) paragraph 57, for all remaining purposes;

(xxv) paragraphs 58 to 66;

(xxvi) paragraphs 68 to 70;

(xxvii) paragraphs 72 and 73;

(xxviii) paragraph 74, for all remaining purposes;

(xxix) paragraph 76, for all remaining purposes;

(xxx) paragraph 79;

(xxxi) paragraph 80, for all remaining purposes;

(xxxii) paragraph 81, for all remaining purposes;

(xxxiii) paragraph 83, for all remaining purposes;

(xxxiv) paragraph 84, for all remaining purposes;

(xxxv) paragraph 86;

(xxxvi) paragraph 90;

(o) section 56 (appeals) so far as it relates to the following paragraphs of Schedule 6 to the 2022 Act (appeals and other determinations)—

(i) paragraphs 1 to 29;

(ii) paragraph 30, for all remaining purposes;

(p) section 76 (requirement for completion certificate before occupation);

(q) section 77 (occupation: registration requirement);

(r) section 78 (registration of higher-risk buildings), for all remaining purposes;

(s) section 99 (compliances notices);

(t) section 100 (compliance notices: supplementary);

(u) section 103 (appeals against compliance notice etc);

(v) section 104 (appeals against decisions of the regulator made under this Part);

(w) section 105 (appeals against decisions of the regulator made under regulations);

(x) section 106 (appeals: supplementary);

(y) section 161 (liability of officers of body corporate etc).

**Transitional provisions in relation to plans deposited before 1st October 2023**

**3.**—(1) Subject to paragraph (2), notwithstanding the repeal of section 16 of the 1984 Act by paragraph 20 of Schedule 5 to the 2022 Act, where plans were deposited with a local authority in accordance with section 16 of the 1984 Act before 1st October 2023 then the local authority continues to be the building control authority and the 1984 Act continues to apply in relation to such plans, as if the plans amendments had not been made, until—

(a) the plans are rejected under any provision of the 1984 Act or regulations made under it (as that provision had effect immediately before 1st October 2023),

(b) the plans lapse in accordance with section 32 of the 1984 Act (lapse of building control approval), or

(c) the building work to which the plans relate is completed,

whichever occurs first.

(2) In relation to any case to which Schedule 3 to the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023(**5**) applies then paragraph (1) has effect subject to the provisions of Schedule 3 to those Regulations which are applicable in that case.

(3) Notwithstanding the omission of article 45 of the Regulatory Reform (Fire Safety) Order 2005(**6**) by paragraph 90 of Schedule 5 to the 2022 Act, the requirement to consult under article

(**5**) S.I. 2023/909.
(**6**) S.I. 2005/1541. Article 45 was omitted by paragraph 90 of Schedule 5 to the 2022 Act.

45 continues to apply, as that provision had effect immediately before 1st October 2023, in relation to any plans deposited with a local authority in accordance with section 16 of the 1984 Act before that date.

(4) In this regulation "the plans amendments" means the amendments provided for in section 36 of, and paragraphs 14(8), 15(10), 20, 21(3) and (4), 22(3) to (6), 23(3) and (4), 26(3) and (4), 27(3) to (5), 29, 32(4), (5) and (6)(d), and 79 of Schedule 5 to, the 2022 Act.

**Transitional provisions in relation to building control authority for higher-risk building work before 1st October 2023**

**4.**—(1) Subject to paragraph (4), notwithstanding the insertion of section 91ZA into the 1984 Act by section 32 of the 2022 Act, where plans in relation to higher-risk building work were deposited with a local authority in accordance with section 16 of the 1984 Act before 1st October 2023 then—

(a) section 121A of the 1984 Act has effect in relation to the plans as if the local authority were the building control authority in relation to the building work and not the regulator(**7**), and

(b) the 1984 Act has effect as if the regulator amendments had not been made,

until the plans end date.

(2) Subject to paragraph (4), notwithstanding the amendment of section 47 of the 1984 Act by section 46(1) of the 2022 Act, where an initial notice which relates to higher-risk building work was given to a local authority before 1st October 2023 then the local authority continues to be the building control authority in relation to the notice, as if the section 46(1) of the 2022 Act had not been made, until the notice end date.

(3) Where an amendment notice which relates to higher-risk building work was given to a local authority before 1st October 2023 and the notice has not been rejected, accepted or treated as accepted by that date then, notwithstanding the amendment of section 51A of the 1984 Act(**8**) by section 46(2) of the 2022 Act, the local authority continues to be the building control authority in relation to the notice as if section 46(2) of the 2022 Act had not been made, until the notice is rejected, accepted or treated as accepted and where the amendment notice is not rejected paragraph (2) then applies to the initial notice as varied by the amendment notice.

(4) In relation to any case to which Schedule 3 to the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 applies then paragraph (1) or, as the case may be, paragraph (2) has effect subject to the provisions of Schedule 3 to those Regulations which are applicable in that case.

(5) In this regulation—

"amendment notice" has the meaning in section 51A of the 1984 Act;

"higher-risk building work" means any work for which the regulator would have been the building control authority by virtue of section 91ZA of the 1984 Act had that provision been in force at the time when the initial notice was given or the plans deposited;

"notice end date" means the date when—

(a) the notice is rejected by the local authority in accordance with section 47 of the 1984 Act,

(b) the notice ceases to be in force in accordance with section 47(4)(b)(ii) of that Act,

(c) the notice is cancelled in accordance with section 52 or 52A of that Act(**9**),

(d) the notice lapses in accordance with section 53A of that Act(**10**), or

(**7**) The regulator is defined in section 126 of the 1984 Act, the definition was inserted by paragraph 81 of Schedule 5 to the 2022 Act.
(**8**) Section 51A was inserted by S.I. 1996/1905.
(**9**) Section 52A was inserted into the 1984 Act by section 46 of the 2022 Act.
(**10**) Section 53A was inserted into the 1984 Act by section 36 of the 2022 Act.

(e) the building work to which the notice relates is completed,

whichever occurs first;

"plans end date" means the date when—

(a) the plans are rejected under any provision of the 1984 Act or regulations made under it (as that provision had effect immediately before 1st October 2023),

(b) the plans lapse in accordance with section 32 of the 1984 Act, or

(c) the building work to which the plans relate is completed,

whichever occurs first;

"the regulator amendments" means the amendments provided for in sections 32(1) to (3) and 37 of, and paragraphs 5(3), 11(4), 14(5), 15(8), 18, 21(2), 22(2), 23(2), 24, 25, 26(2), 27(2), 30(4), 32(2) and (6)(b), 33, 34, 35, 37, 39, 55(2), (4)(b) and (5), 57, 58(3)(b) and (4), 61, 62, 63, 64, 65, 66, 68, 69, 70 and 72(4) of Schedule 5 to, the 2022 Act.

**Transitional and saving provisions in relation to lapse of building control etc**

**5.**—(1) Subject to paragraph (2), notwithstanding the commencement of section 36 of the 2022 Act (lapse of building control approval etc)—

(a) section 32 of the 1984 Act continues to apply, as that provision had effect immediately before 1st October 2023, in relation to any plans deposited with a local authority pursuant to section 16 of the 1984 Act before that date;

(b) section 50(8) of the 1984 Act continues to apply, as that provision had effect immediately before 1st October 2023, in relation to any plans certificate given to a local authority and accepted or treated as accepted under section 50 of the 1984 Act before that date;

(c) section 52(5) of the 1984 Act continues to apply, as that provision had effect immediately before 1st October 2023, in relation to any initial notice given to a local authority and accepted or treated as accepted under section 47 of the 1984 Act before that date.

(2) The saving provision set out in paragraph (1)(a) ceases on 6th April 2024 in relation to any plans where the work described in the plans was not started before that date and accordingly section 32 of the 1984 Act (lapse of building control approval), as amended by the 2022 Act, applies from that date but subject to the modifications in paragraph (4).

(3) The saving provisions set out in paragraphs (1)(b) and (1)(c) cease on 6th April 2024 in relation to any initial notice or, as the case may be, any plans certificate where the work described in the notice or certificate was not started before that date and accordingly section 53A of the 1984 Act applies from that date.

(4) Where paragraph (2) applies, section 32 of the 1984 Act (lapse of building control approval) has effect in relation to those plans as if—

(a) subsection (1) provided that the relevant day were the day the plans were deposited;

(b) the reference in subsection (3) to the application having not been made were a reference to the plans having not been deposited;

(c) subsection (4) were omitted.

(5) In this regulation "plans certificate" has the meaning in section 50 of the 1984 Act.

**Transitional and saving provisions in relation to appeals etc**

**6.**—(1) Notwithstanding the commencement of Schedule 6 to the 2022 Act, section 10(6), 19(4), 21(3), (4) and (6), 22(4), 24(2), 25(2) and (5), 36(3), 39, 40(1), 55(1), 62(2), 68(3), 73(2), 75(2) and (3),77(1), 78(7), 85(3), 98, 102, 103 of, or paragraph 3(3) of Schedule 2 to, the 1984 Act continue to

apply, as those provisions had effect immediately before 1st October 2023, in relation to an appeal or application under any of those provisions which was made before that date.

(2) Notwithstanding the commencement of paragraph 20 of Schedule 5 to the 2022 Act, section 16(10) of the 1984 Act continues to apply, as that provision had effect immediately before 1st October 2023, in relation an application for a reference under that provision which was made before that date.

### Transitional and saving provisions in relation to enforcement

**7.**—(1) Notwithstanding the commencement of section 39(1) and (2) of, and paragraph 31 of Schedule 5 to, the 2022 Act, sections 35 and 35A of the 1984 Act(**11**) continue to apply, as those provisions had effect immediately before 1st October 2023, in relation to any information laid before a magistrates' court before that date.

(2) Notwithstanding the commencement of section 39(3) of, and paragraph 32 of Schedule 5 to, the 2022 Act, section 36 of the 1984 Act continues to apply, as that provision had effect immediately before 1st October 2023, in relation to any notice given by a local authority under section 36(1) or (2) of the 1984 Act before that date.

### Transitional provisions in relation to approved inspectors

**8.**—(1) Until 6th April 2024, notwithstanding the amendments in section 46 of the 2022 Act, sections 52A and 55(2A) and (2E) of the 1984 Act have effect as if any reference to a registered building control approver were a reference to an approved inspector.

(2) Until 6th April 2024, notwithstanding the amendments in paragraph 8 of Schedule 6 to the 2022 Act, section 50(2) of the 1984 Act has effect as if any reference to a registered building control approver were a reference to an approved inspector.

(3) Where before 6th April 2024 an approved inspector who gave an initial notice has become a suitably qualified registered building control approver, then with effect from 6th April 2024 any initial notice given by the approved inspector before that date is treated as if it were given instead by that person in their capacity as a registered building control approver.

(4) For the purposes of paragraph (3), a registered building control approver is suitably qualified if the work to which the initial notice relates is within the scope of the registration of the registered building control approver.

(5) Subject to paragraph (6), where an initial notice has been given by an approved inspector before 6th April 2024 and any of the building work described in the initial notice given has not been given a final certificate before 1st October 2024 then, for the purposes of section 47(4)(b)(ii) of the 1984 Act, the initial notice ceases to be in force with effect from 1st October 2024.

(6) Paragraph (5) does not apply to any initial notice which is treated as given by a registered building control approver by virtue of paragraph (3).

(7) In this regulation—

"approved inspector" has the meaning in section 49 of the 1984 Act;

"final certificate" has the meaning in section 51 of the 1984 Act.

(**11**) Section 32A was inserted into the 1984 Act by section 13 of the Climate Change and Sustainable Energy Act 2006 (c. 19) and amended by section 317 of the Housing and Regeneration Act 2008 (c. 17).

**Saving provisions for repeal of powers to make regulations**

**9.** Notwithstanding the repeal of paragraphs 2 to 4B of Schedule 1 to the 1984 Act(**12**) by paragraph 83(3) of Schedule 5 to the 2022 Act, any provisions of the following regulations made under paragraphs 2 to 4B of Schedule 1 to the 1984 Act continue in force and have effect as if made under paragraphs 1A, 1B, 1C, 1D, 1F and 1G of Schedule 1 to the 1984 Act and may be varied or revoked accordingly—

(a) the Building (Local Authority Charges) Regulations 2010(**13**);

(b) the Building Regulations 2010;

(c) the Building (Approved Inspectors etc.) Regulations 2010(**14**).

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

11th September 2023

(**12**) Paragraphs 4A and 4B were inserted into Schedule 1 to the 1984 Act by sections 8 and 9 of the Sustainable and Secure Buildings Act 2004 (c. 22).
(**13**) S.I. 2010/404 as amended by S.I. 2010/2214, 2010/2215 and 2012/3119 and 2023/911.
(**14**) S.I. 2010/2215 as amended by S.I. 2012/3119, 2013/747, 2013/2730, 2014/110, 2014/579, 2016/285, 2016/611, 2018/558, 2021/1391, 2021/1392, 2022/718, 2022/948 and 2023/906.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are the fifth commencement Regulations made under the Building Safety Act 2022 (c. 30) ("the 2022 Act").

Regulation 2 brings into force on 1st October 2023 a number of provisions of the 2022 Act, including amendments to the Building Act 1984 (c.55) ("the 1984 Act") which in particular provide for the building safety regulator (see section 2 of the 2022 Act) to be the building control authority for higher-risk buildings in England. This is achieved by commencing in particular sections 32 and 46 of the 2022 Act. Section 46, for example, makes it unlawful for initial notices and amendment notices to include higher-risk building work. The amendments to the 1984 Act also provide for section 16 (deposit of plans) to be repealed and powers have been inserted into that Act to provide for applications for building control approval instead. The 2022 Act also provides for those appeals etc under the 1984 Act to the magistrates' courts to instead be to the First-tier Tribunal. And the amendments have provided for the determination of disputes under the 1984 Act by the Secretary of State to be made to the regulator. The amendments in section 42 of the 2022 Act (building control profession) have been commenced so far as to enable the regulator to register building inspectors and building control approvers.

Regulations 3 to 9 set out transitional and saving provisions, in particular in relation to plans deposited, initial notices given or appeals made before 1st October 2023.

There are three impact assessments for implementing the changes to the building safety regime, they were published alongside the explanatory memorandum for S.I. 2023/906, 2023/907 and 2023/911 at www.legislation.gov.uk.

## NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

*(This note is not part of the Regulations)*

The following provisions of the Building Safety Act 2022 have been brought into force by commencement regulations made before the date of these Regulations.

| *Provision* | *Date of Commencement* | *S.I. No.* |
|---|---|---|
| Section 2(2) | 28th June 2022 | S.I. 2022/561 |
| Section 3 | 28th June 2022 | S.I. 2022/561 |
| Section 4 (partially) | 1st December 2022 | S.I. 2022/1210 |
| Section 5 | 1st April 2023 | S.I. 2023/362 |
| Section 6 | 1st April 2023 | S.I. 2023/362 |
| Section 8 | 1st April 2023 | S.I. 2023/362 |
| Section 9 (partially) | 1st December 2022 | S.I. 2022/1210 |
| Section 9 (remaining purposes) | 1st April 2023 | S.I. 2023/362 |
| Section 11 | 1st December 2022 | S.I. 2022/1210 |
| Sections 12 to 16 | 6th April 2023 | S.I. 2023/362 |

| *Provision* | *Date of Commencement* | *S.I. No.* |
|---|---|---|
| Section 17 | 28th June 2022 | S.I. 2022/561 |
| Section 18 | 28th June 2022 | S.I. 2022/561 |
| Section 20 | 6th April 2023 | S.I. 2023/362 |
| Sections 22 to 25 | 6th April 2023 | S.I. 2023/362 |
| Section 27 | 6th April 2023 | S.I. 2023/362 |
| Section 29 | 6th April 2023 | S.I. 2023/362 |
| Section 31 | 28th June 2022 | S.I. 2022/561 |
| Section 32 (partially) | 6th April 2023 | S.I. 2023/362 |
| Sections 33 to 35 | 6th April 2023 | S.I. 2023/362 |
| Section 36 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 37 | 6th April 2023 | S.I. 2023/362 |
| Section 38 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 39 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 41 | 28th June 2022 | S.I. 2022/561 |
| Section 42 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 44 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 46 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 47 | 1st April 2023 | S.I. 2023/362 |
| Section 48 | 28th July 2022 | S.I. 2022/561 |
| Sections 49 to 53 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 55 (partially) | 28th June 2022 | S.I. 2022/561 |
| Section 55 (partially) | 1st April 2023 | S.I. 2023/362 |
| Section 55 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 56 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 57 | 28th June 2022 | S.I. 2022/561 |
| Sections 71 to 75 | 6th April 2023 | S.I. 2023/362 |
| Section 78 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 89 | 6th April 2023 | S.I. 2023/362 |
| Sections 107 to 110 | 6th April 2023 | S.I. 2023/362 |
| Section 112 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 114 | 6th April 2023 | S.I. 2023/362 |
| Sections 126 to 129 | 1st September 2022 | S.I. 2022/927 |
| Sections 130 and 131 | 28th June 2022 | S.I. 2022/561 |
| Section 132 (partially) | 28th May 2022 | S.I. 2022/561 |

| *Provision* | *Date of Commencement* | *S.I. No.* |
|---|---|---|
| Section 132 (remaining purposes) | 28th June 2022 | S.I. 2022/561 |
| Section 133 (partially) | 1st April 2023 | S.I. 2023/362 |
| Sections 144 and 145 | 6th April 2023 | S.I. 2023/362 |
| Section 156 | 1st October 2023 | S.I. 2023/362 |
| Section 160 | 1st October 2022 | S.I. 2022/561 |
| Schedule 1 | 28th June 2022 | S.I. 2022/561 |
| Schedule 2 | 6th April 2023 | S.I. 2023/362 |
| Schedule 3 | 6th April 2023 | S.I. 2023/362 |
| Schedule 5, paragraphs 1 (partially), 2, 3, 4 (partially), 5 (partially), 6, 9, 10, 11 to 15 (partially), 16, 22 (partially), 46 (partially), 50, 51, 53, 55 (partially), 57 (partially), 67, 71, 74 (partially), 75, 76 (partially), 77 (partially), 78, 81 (partially), 82, 83 (partially) and 84 (partially). | 28th June 2022 | S.I. 2022/561 |
| Schedule 5, paragraphs 17, 77 (remaining purposes), 85, 87 and 88 | 1st April 2023 | S.I. 2023/362 |
| Schedule 5, paragraphs 40(3), 42(3), 80 (partially) and 83(8) | 6th April 2023 | S.I. 2023/362 |
| Schedule 6, paragraph 30 (partially) | 6th April 2023 | S.I. 2023/362 |

STATUTORY INSTRUMENTS

# 2024 No. 40 (C. 3)

# BUILDING AND BUILDINGS

## The Building Safety Act 2022 (Commencement No. 6) Regulations 2024

*Made - - - - 13th January 2024*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 170(2)(b) of the Building Safety Act 2022(**1**).

### Citation and interpretation

**1.**—(1) These Regulations may be cited as the Building Safety Act 2022 (Commencement No. 6) Regulations 2024.

(2) In these Regulations "the 2022 Act" means the Building Safety Act 2022.

### Provisions coming into force

**2.** The following provisions of the 2022 Act come into force on the day which is three days after the day on which these Regulations are made—

(a) section 79 (occupied building: duty to apply for building assessment certificate);

(b) section 80 (applications for building assessment certificates);

(c) section 81 (building assessment certificates);

(d) section 82 (duty to display building assessment certificate etc);

(e) section 83 (assessment of building safety risks);

(f) section 84 (management of building safety risks);

(g) section 85 (safety case report);

(h) section 86 (notification and provision of report to the regulator);

(i) section 87 (mandatory reporting requirements);

(j) section 88 (keeping information about higher-risk buildings);

(k) section 90 (provision of information etc on change in accountable person);

(l) section 91 (residents' engagement strategy);

(m) section 92 (requests for further information);

(**1**) 2022 c. 30.

(n) section 93 (complaints procedure operated by principal accountable person);

(o) section 94 (complaints procedure operated by the regulator);

(p) section 95 (duties on residents and owners);

(q) section 96 (contravention notices);

(r) section 97 (access to premises);

(s) section 98 (duty on regulator to enforce Part);

(t) section 101 (offence: contravention giving rise to risk of death and serious injury);

(u) section 102 (special measures) and Schedule 7;

(v) section 111 (building safety directors of resident management companies).

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Minister of Sate
Department of Levelling Up, Housing and Communities

13th January 2024

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are the sixth commencement regulations made under the Building Safety Act 2022 (c. 30) ("the Act").

Regulation 2 brings into force various sections in Part 4 of the Act. Namely, sections 79 to 82 which impose requirements with regard to registration of occupied higher-risk buildings and obtaining and displaying a building assessment certificate for such a building; sections 83 to 86 which impose duties with regard to assessing and managing building safety risks, the safety case report and its provision to the regulator; sections 87, 88 and 90 which impose and are in relation to duties to report certain safety information, keeping prescribed information and documents for higher-risk buildings and for sharing that information and documents with various interested parties; sections 91 to 94 which impose requirements in relation to a resident engagement strategy for a higher-risk building, requests by residents for further information or documents about their building, and the complaints procedures to be operated by the principal accountable person and the building safety regulator ("the regulator"); sections 95 to 97 which impose duties on residents and provide for contravention notices when those duties are breached and for access to residential units; sections 98 to 101 which impose requirements in relation to enforcement by the regulator; section 102 (and the accompanying Schedule 7) which creates the special measures regime, an enforcement tool of last resort; and section 111 of the Act makes provisions in relation to articles of associations of resident management companies.

An impact assessment has been produced in relation to the Act and copies can be obtained at https://publications.parliament.uk/pa/bills/cbill/58-02/0139/BuildingSafetyBillImpactAssessment.pdf or from the Department for Levelling Up, Housing and Communities at 2 Marsham Street, London, SW1P 4DF, United Kingdom.

## NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

*(This note is not part of the Regulations)*

The following provisions of the Building Safety Act 2022 have been brought into force by commencement regulations made before the date on which these Regulations are made.

| *Provision* | *Date of Commencement* | *S.I. No.* |
|---|---|---|
| Section 2(2) | 28th June 2022 | S.I. 2022/561 |
| Section 3 | 28th June 2022 | S.I. 2022/561 |
| Section 4 (partially) | 1st December 2022 | S.I. 2022/1210 |
| Section 4 (remaining purposes) | 1st October 2023 | S.I. 2023/993 |
| Section 5 | 1st April 2023 | S.I. 2023/362 |
| Section 6 | 1st April 2023 | S.I. 2023/362 |
| Section 8 | 1st April 2023 | S.I. 2023/362 |
| Section 9 (partially) | 1st December 2022 | S.I. 2022/1210 |
| Section 9 (remaining purposes) | 1st April 2023 | S.I. 2023/362 |

| *Provision* | *Date of Commencement* | *S.I. No.* |
|---|---|---|
| Section 10 | 1st October 2023 | S.I. 2023/993 |
| Section 11 | 1st December 2022 | S.I. 2022/1210 |
| Sections 12 to 16 | 6th April 2023 | S.I. 2023/362 |
| Section 17 | 28th June 2022 | S.I. 2022/561 |
| Section 18 | 28th June 2022 | S.I. 2022/561 |
| Section 19 | 1st October 2023 | S.I. 2023/993 |
| Section 20 | 6th April 2023 | S.I. 2023/362 |
| Section 21 | 1st October 2023 | S.I. 2023/993 |
| Sections 22 to 25 | 6th April 2023 | S.I. 2023/362 |
| Section 26 | 1st October 2023 | S.I. 2023/993 |
| Section 27 | 6th April 2023 | S.I. 2023/362 |
| Section 29 | 6th April 2023 | S.I. 2023/362 |
| Section 31 | 28th June 2022 | S.I. 2022/561 |
| Section 32 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 32 (remaining purposes) | 1st October 2023 | S.I. 2023/993 |
| Sections 33 to 35 | 6th April 2023 | S.I. 2023/362 |
| Section 36 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 36 (remaining purposes) | 1st October 2023 | S.I. 2023/993 |
| Section 37 | 6th April 2023 | S.I. 2023/362 |
| Section 38 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 38 (remaining purposes) | 1st October 2023 | S.I. 2023/993 |
| Section 39 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 39 (remaining purposes) | 1st October 2023 | S.I. 2023/993 |
| Section 41 | 28th June 2022 | S.I. 2022/561 |
| Section 42 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 42 (partially) | 1st October 2023 | S.I. 2023/993 |
| Section 44 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 46 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 46 (remaining purposes) | 1st October 2023 | S.I. 2023/993 |
| Section 47 | 1st April 2023 | S.I. 2023/362 |
| Section 48 | 28th July 2022 | S.I. 2022/561 |
| Sections 49 to 53 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 54 | 1st October 2023 | S.I. 2023/993 |
| Section 55 (partially) | 28th June 2022 | S.I. 2022/561 |

| *Provision* | *Date of Commencement* | *S.I. No.* |
|---|---|---|
| Section 55 (partially) | 1st April 2023 | S.I. 2023/362 |
| Section 55 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 55 (partially) | 1st October 2023 | S.I. 2023/993 |
| Section 56 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 56 (remaining purposes) | 1st October 2023 | S.I. 2023/993 |
| Section 57 | 28th June 2022 | S.I. 2022/561 |
| Sections 71 to 75 | 6th April 2023 | S.I. 2023/362 |
| Sections 76 and 77 | 1st October 2023 | S.I. 2023/993 |
| Section 78 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 78 (remaining purposes) | 1st October 2023 | S.I. 2023/993 |
| Section 89 | 6th April 2023 | S.I. 2023/362 |
| Sections 99 and 100 | 1st October 2023 | S.I. 2023/993 |
| Sections 103 to 106 | 1st October 2023 | S.I. 2023/993 |
| Sections 107 to 110 | 6th April 2023 | S.I. 2023/362 |
| Section 112 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 114 | 6th April 2023 | S.I. 2023/362 |
| Sections 126 to 129 | 1st September 2022 | S.I. 2022/927 |
| Sections 130 and 131 | 28th June 2022 | S.I. 2022/561 |
| Section 132 (partially) | 28th May 2022 | S.I. 2022/561 |
| Section 132 (remaining purposes) | 28th June 2022 | S.I. 2022/561 |
| Section 133 (partially) | 1st April 2023 | S.I. 2023/362 |
| Sections 144 and 145 | 6th April 2023 | S.I. 2023/362 |
| Section 156 | 1st October 2023 | S.I. 2023/362 |
| Section 160 | 1st October 2022 | S.I. 2022/561 |
| Section 161 | 1st October 2023 | S.I. 2023/993 |
| Schedule 1 | 28th June 2022 | S.I. 2022/561 |
| Schedule 2 | 6th April 2023 | S.I. 2023/362 |
| Schedule 3 | 6th April 2023 | S.I. 2023/362 |
| Schedule 5, paragraphs 1 (partially), 2, 3, 4 (partially), 5 (partially), 6, 9, 10, 11 to 15 (partially), 16, 22 (partially), 46 (partially), 50, 51, 53, 55 (partially), 57 (partially), 67, 71, 74 (partially), 75, 76 (partially), 77 (partially), 78, 81 (partially), 82, 83 (partially) and 84 (partially). | 28th June 2022 | S.I. 2022/561 |
| Schedule 5, paragraphs 17, 77 (remaining purposes), 85, 87 and 88 | 1st April 2023 | S.I. 2023/362 |

| *Provision* | *Date of Commencement* | *S.I. No.* |
|---|---|---|
| Schedule 5, paragraphs 40(3), 42(3), 80 (partially) and 83(8) | 6th April 2023 | S.I. 2023/362 |
| Schedule 5, paragraphs 4 (remaining purposes), 5 (remaining purposes), 7, 8, 11 to 15 (remaining purposes), 18 to 21, 22 (remaining purposes), 23 to 37, 39, 40 (remaining purposes), 41, 42 (remaining purposes), 43, 44(2), 45, 46 (remaining purposes), 47 to 49, 54, 55 (remaining purposes), 57 (remaining purposes), 58 to 66, 68 to 70, 72, 73, 74 (remaining purposes), 76 (remaining purposes), 79, 80 and 81 (remaining purposes), 83 and 84 (remaining purposes), 86 and 90. | 1st October 2023 | S.I. 2023/993 |
| Schedule 6, paragraph 30 (partially) | 6th April 2023 | S.I. 2023/362 |
| Schedule 6 (remaining purposes) | 1st October 2023 | S.I. 2023/993 |

STATUTORY INSTRUMENTS

# 2024 No. 104 (C. 7)

# BUILDING AND BUILDINGS

## The Building Safety Act 2022 (Commencement No. 7 and Transitional Provisions) Regulations 2024

*Made - - - - 28th January 2024*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 170(4)(c) and (6) of the Building Safety Act 2022(**1**).

### Citation and interpretation

**1.**—(1) These Regulations may be cited as the Building Safety Act 2022 (Commencement No. 7 and Transitional Provisions) Regulations 2024.

(2) In these Regulations—

"the 1984 Act" means the Building Act 1984(**2**);

"the 2022 Act" means the Building Safety Act 2022;

"building" and "building work" has the same meaning as in the Building Regulations 2010(**3**);

"initial notice" has the meaning given in section 47 of the 1984 Act;

"pre-1st October 2023 work" means building work to which regulation 20(1) of the Building (Approved Inspectors etc. and Review of Decisions) (England) Regulations 2023(**4**) applied immediately before 6th April 2024 provided the work had started before 6th April 2024.

### Provisions coming into force on 6th April 2024

**2.** The following provisions of the 2022 Act come into force on 6th April 2024—

(a) section 42 (regulation of building control profession), for all remaining purposes;

(b) section 43 (transfer of approved inspectors' function to registered building control approvers) and Schedule 4;

(c) section 44 (functions exercisable only through, or with the advice of, registered building inspectors), for all remaining purposes;

(**1**) 2022 c. 30.
(**2**) 1984 c. 55.
(**3**) S.I. 2010/2214 as amended by S.I.s 2012/3119, 2013/1959, 2014/110, 2015/767, 2016/285, 2016/1274, 2018/1230, 2021/1391, 2021/1392, 2022/603, 2022/984, 2023/520 and 2023/911.
(**4**) S.I. 2023/906, which is revoked on 6th April 2024 by the Building (Registered Building Control Approvers etc.) (England) Regulations 2024.

(d) section 45 (default powers of appropriate national authority);

(e) section 49 (plans certificates), for all remaining purposes;

(f) section 50 (cancellation of initial notice), for all remaining purposes;

(g) section 51 (new initial notice), for all remaining purposes;

(h) section 52 (information gathering), for all remaining purposes;

(i) section 53(2), (3)(a)(ii) and (iii) and (3)(b) (information);

(j) section 55 and Schedule 5 so far as they relate to the following paragraphs of that Schedule—

(i) paragraph 1, so far as it relates to paragraphs 44 and 52;

(ii) paragraph 44, for all remaining purposes;

(iii) paragraph 52;

(k) section 58 (levy on applications for building control approval etc).

**Transitional provisions: approved inspectors who became approvers**

**3.**—(1) Subject to paragraph (5), this regulation applies where an approved inspector who gave an initial notice before 6th April 2024 has become a suitably qualified approver in relation to the work described in that notice before that date.

(2) Where this regulation applies then with effect from 6th April 2024 any initial notice given by the approved inspector before 6th April 2024 is to be treated as if it were given instead by that person in their capacity as an approver and the 1984 Act applies in relation to that person in undertaking functions in relation to the work described in the initial notice.

(3) Subject to paragraph (4), for the purposes of this regulation, an approver is suitably qualified in relation to the work described in the initial notice if the building work is of a type within the scope of the registration of the registered building control approver.

(4) Where an approver is suitably qualified in relation to some of the work described in an initial notice then paragraph (2) has effect in relation only to the part of the building work within the scope of the registration and they continue to be treated as an approved inspector, and regulation 4 applies, in relation to the other part of the work described in the initial notice.

(5) This regulation does not apply to higher-risk building work(**5**).

**Transitional provisions: approved inspectors who did not become approvers**

**4.**—(1) Subject to paragraph (5), this regulation applies where an approved inspector who gave an initial notice before 6th April 2024 did not become a suitably qualified approver before that date.

(2) Where this regulation applies then, notwithstanding the repeal of section 49 of the 1984 Act by paragraph 5 of Schedule 4 to the 2022 Act, with effect from 6th April 2024—

(a) in relation to any building work for which the approved inspector is not a suitably qualified approver, they continue to be treated as an approved inspector until 1st October 2024 (unless their approval ends before that date);

(b) no approved inspector continuing to undertake their functions by virtue of this regulation may issue an initial notice on or after 6th April 2024;

(c) Part 2 of the 1984 Act has effect as if—

(i) section 49 of that Act had not been repealed;

(**5**) See the definition of "higher-risk building work" in section 91ZA of the 1984 Act, which was inserted by section 32 of the 2022 Act.

(ii) any reference to a registered building control approver were a reference to an approved inspector.

(3) Subject to paragraph (4), for the purposes of this regulation, a person is not a suitably qualified approver—

(a) if they are not a registered building control approver in relation to any work; or

(b) in relation to the initial notice referred to in paragraph (1), if all of the building work described in the notice is of a type that is not within the scope of the registration of the registered building control approver.

(4) Where an approved inspector has become a registered building control approver before 6th April 2024 but, in relation to the initial notice referred to in paragraph (1), some of the building work described in the notice is of a type that is not within the scope of their registration then paragraph (2) has effect in relation only to the part of the building work not within the scope of the registration.

(5) This regulation does not apply to higher-risk building work.

**Transitional provisions: higher-risk building work regarded as sufficiently progressed**

**5.**—(1) This regulation applies in relation to any initial notice given before 1st October 2023 in respect of higher-risk building work where—

(a) a notice under paragraph 1(4) (notice that work had sufficiently progressed) of Schedule 3 to the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023(**6**) in relation to work to that building was received by a local authority before 6th April 2024, and

(b) the approved inspector who gave the initial notice became an approver before 6th April 2024.

(2) Where this regulation applies then with effect from 6th April 2024 for so long as the initial notice continues in force on or after that date—

(a) the initial notice given by the approved inspector is to be treated as if it were given instead by that person in their capacity as an approver, and

(b) the 1984 Act applies in relation to the approver in respect of the work described in that initial notice as if the amendments in section 51 (new initial notices) of the 2022 Act were omitted.

**Transitional provisions: cases where building work supervised by approved inspector is not completed before October 2024**

**6.**—(1) Subject to paragraph (3), this regulation applies where any initial notice given by an approved inspector was given before 6th April 2024 and the building work, or part of the building work, described in the initial notice has not been given a final certificate before 1st October 2024.

(2) Where this regulation applies then for the purposes of section 47(4)(b)(ii) of the 1984 Act the initial notice ceases to be in force with effect from 1st October 2024.

(3) This regulation does not apply to—

(a) higher-risk building work;

(b) any initial notice or part of an initial notice which is to be treated as given by an approver by virtue of regulation 3 (transitional provisions: approved inspectors who became approvers).

(**6**) S.I. 2023/909.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Minister of State
Department for Levelling Up, Housing and Communities

28th January 2024

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are the seventh commencement Regulations made under the Building Safety Act 2022 (c. 30) ("the 2022 Act").

Regulation 2 brings into force on 6th April 2024 a number of provisions of the 2022 Act, amending the Building Act 1984 (c. 55) ("the 1984 Act"), which in particular provide for the transfer of approved inspectors to become registered building control approvers. This is achieved, in England, by commencing sections 43 of, and Schedule 4 to, the 2022 Act. The amendments to the 1984 Act made by the 2022 Act also provide for plans certificates, cancellation of initial notices and new initial notices. Welsh Ministers have separate powers to commence most of the provisions in Part 3 of the 2022 Act in relation to Wales.

Regulations 3 to 6 set out transitional provisions, in particular to ensure that existing approved inspectors can continue to operate. S.I. 2023/906 and S.I. 2023/909 made transitional provisions in relation to initial notices and approved inspectors which would continue to apply.

There are three impact assessments for implementing the changes to the building safety regime, they were published alongside the explanatory memorandum for S.I.s 2023/906, 2023/907 and 2023/911 at www.legislation.gov.uk.

## NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

*(This note is not part of the Regulations)*

The following provisions of the Building Safety Act 2022 have been brought into force by commencement regulations made before the date on which these Regulations are made.

| *Provision* | *Date of Commencement* | *S.I. No.* |
|---|---|---|
| Section 2(2) | 28th June 2022 | S.I. 2022/561 |
| Section 3 | 28th June 2022 | S.I. 2022/561 |
| Section 4 (partially) | 1st December 2022 | S.I. 2022/1210 |
| Section 4 (remaining purposes) | 1st October 2023 | S.I. 2023/993 |
| Section 5 | 1st April 2023 | S.I. 2023/362 |
| Section 6 | 1st April 2023 | S.I. 2023/362 |
| Section 8 | 1st April 2023 | S.I. 2023/362 |
| Section 9 (partially) | 1st December 2022 | S.I. 2022/1210 |
| Section 9 (remaining purposes) | 1st April 2023 | S.I. 2023/362 |
| Section 10 | 1st October 2023 | S.I. 2023/993 |
| Section 11 | 1st December 2022 | S.I. 2022/1210 |
| Sections 12 to 16 | 6th April 2023 | S.I. 2023/362 |
| Section 17 | 28th June 2022 | S.I. 2022/561 |

| *Provision* | *Date of Commencement* | *S.I. No.* |
|---|---|---|
| Section 18 | 28th June 2022 | S.I. 2022/561 |
| Section 19 | 1st October 2023 | S.I. 2023/993 |
| Section 20 | 6th April 2023 | S.I. 2023/362 |
| Section 21 | 1st October 2023 | S.I. 2023/993 |
| Sections 22 to 25 | 6th April 2023 | S.I. 2023/362 |
| Section 26 | 1st October 2023 | S.I. 2023/993 |
| Section 27 | 6th April 2023 | S.I. 2023/362 |
| Section 29 | 6th April 2023 | S.I. 2023/362 |
| Section 31 | 28th June 2022 | S.I. 2022/561 |
| Section 32 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 32 (remaining purposes) | 1st October 2023 | S.I. 2023/993 |
| Sections 33 to 35 | 6th April 2023 | S.I. 2023/362 |
| Section 36 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 36 (remaining purposes) | 1st October 2023 | S.I. 2023/993 |
| Section 37 | 6th April 2023 | S.I. 2023/362 |
| Section 38 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 38 (remaining purposes) | 1st October 2023 | S.I. 2023/993 |
| Section 39 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 39 (remaining purposes) | 1st October 2023 | S.I. 2023/993 |
| Section 41 | 28th June 2022 | S.I. 2022/561 |
| Section 42 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 42 (partially) | 1st October 2023 | S.I. 2023/993 |
| Section 44 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 46 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 46 (remaining purposes) | 1st October 2023 | S.I. 2023/993 |
| Section 47 | 1st April 2023 | S.I. 2023/362 |
| Section 48 | 28th July 2022 | S.I. 2022/561 |
| Sections 49 to 53 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 54 | 1st October 2023 | S.I. 2023/993 |
| Section 55 (partially) | 28th June 2022 | S.I. 2022/561 |
| Section 55 (partially) | 1st April 2023 | S.I. 2023/362 |
| Section 55 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 55 (partially) | 1st October 2023 | S.I. 2023/993 |
| Section 56 (partially) | 6th April 2023 | S.I. 2023/362 |

| *Provision* | *Date of Commencement* | *S.I. No.* |
|---|---|---|
| Section 56 (remaining purposes) | 1st October 2023 | S.I. 2023/993 |
| Section 57 | 28th June 2022 | S.I. 2022/561 |
| Sections 71 to 75 | 6th April 2023 | S.I. 2023/362 |
| Sections 76 and 77 | 1st October 2023 | S.I. 2023/993 |
| Section 78 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 78 (remaining purposes) | 1st October 2023 | S.I. 2023/993 |
| Sections 79 to 88 | 16th January 2024 | S.I. 2024/40 |
| Section 89 | 6th April 2023 | S.I. 2023/362 |
| Sections 90 to 98 | 16th January 2024 | S.I. 2024/40 |
| Sections 99 and 100 | 1st October 2023 | S.I. 2023/993 |
| Sections 101 to 102 | 16th January 2024 | S.I. 2024/40 |
| Sections 103 to 106 | 1st October 2023 | S.I. 2023/993 |
| Sections 107 to 110 | 6th April 2023 | S.I. 2023/362 |
| Section 111 | 16th January 2024 | S.I. 2024/40 |
| Section 112 (partially) | 6th April 2023 | S.I. 2023/362 |
| Section 114 | 6th April 2023 | S.I. 2023/362 |
| Sections 126 to 129 | 1st September 2022 | S.I. 2022/927 |
| Sections 130 and 131 | 28th June 2022 | S.I. 2022/561 |
| Section 132 (partially) | 28th May 2022 | S.I. 2022/561 |
| Section 132 (remaining purposes) | 28th June 2022 | S.I. 2022/561 |
| Section 133 (partially) | 1st April 2023 | S.I. 2023/362 |
| Sections 144 and 145 | 6th April 2023 | S.I. 2023/362 |
| Section 156 | 1st October 2023 | S.I. 2023/362 |
| Section 160 | 1st October 2022 | S.I. 2022/561 |
| Section 161 | 1st October 2023 | S.I. 2023/993 |
| Schedule 1 | 28th June 2022 | S.I. 2022/561 |
| Schedule 2 | 6th April 2023 | S.I. 2023/362 |
| Schedule 3 | 6th April 2023 | S.I. 2023/362 |
| Schedule 5, paragraphs 1 (partially), 2, 3, 4 (partially), 5 (partially), 6, 9, 10, 11 to 15 (partially), 16, 22 (partially), 46 (partially), 50, 51, 53, 55 (partially), 57 (partially), 67, 71, 74 (partially), 75, 76 (partially), 77 (partially), 78, 81 (partially), 82, 83 (partially) and 84 (partially). | 28th June 2022 | S.I. 2022/561 |
| Schedule 5, paragraphs 17, 77 (remaining purposes), 85, 87 and 88 | 1st April 2023 | S.I. 2023/362 |

| *Provision* | *Date of Commencement* | *S.I. No.* |
|---|---|---|
| Schedule 5, paragraphs 40(3), 42(3), 80 (partially) and 83(8) | 6th April 2023 | S.I. 2023/362 |
| Schedule 5, paragraphs 4 (remaining purposes), 5 (remaining purposes), 7, 8, 11 to 15 (remaining purposes), 18 to 21, 22 (remaining purposes), 23 to 37, 39, 40 (remaining purposes), 41, 42 (remaining purposes), 43, 44(2), 45, 46 (remaining purposes), 47 to 49, 54, 55 (remaining purposes), 57 (remaining purposes), 58 to 66, 68 to 70, 72, 73, 74 (remaining purposes), 76 (remaining purposes), 79, 80 and 81 (remaining purposes), 83 and 84 (remaining purposes), 86 and 90. | 1st October 2023 | S.I. 2023/993 |
| Schedule 6, paragraph 30 (partially) | 6th April 2023 | S.I. 2023/362 |
| Schedule 6 (remaining purposes) | 1st October 2023 | S.I. 2023/993 |
| Schedule 7 | 16th January 2024 | S.I. 2024/40 |

STATUTORY INSTRUMENTS

# 2023 No. 911

# BUILDING AND BUILDINGS, ENGLAND

## The Building Regulations etc. (Amendment) (England) Regulations 2023

| | |
|---|---|
| *Made - - - -* | *9th August 2023* |
| *Laid before Parliament* | *17th August 2023* |
| *Coming into force - -* | *1st October 2023* |

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1, 5(1), 32(6), 34, 35(2), 35B(7), 35D, 91ZB(1), 91ZC(2), (3) and (6) and 101A of, and paragraphs 1A to 1D, 1F to 1I, 5A, 5B, 5C and 10 of Schedule 1 to, the Building Act 1984(**1**) and section 166(1) of the Building Safety Act 2022(**2**).

The Secretary of State has consulted the Building Regulations Advisory Committee for England and such other bodies as appear to be representative of the interests concerned in accordance with section 14(3) of the Building Act 1984(**3**).

## PART 1

### Introduction

**Citation, commencement, extent and interpretation**

**1.**—(1) These Regulations may be cited as the Building Regulations etc. (Amendment) (England) Regulations 2023.

(2) These Regulations come into force on 1st October 2023.

(3) These Regulations extend to England and Wales.

(**1**) 1984 c. 55. Section 1 was amended by section 1(1) of the Sustainable and Secure Buildings Act 2004 (c. 22). Section 32 was amended by section 36 of the Building Safety Act 2022 (c. 30) ("the 2022 Act"). Section 35 was amended by section 39 of the 2022 Act. Sections 35B, 35D and 39A were inserted by section 38 of the 2022 Act. Sections 91ZB and 91ZC were inserted by section 32 of the 2022 Act. Section 101A was inserted by paragraph 30 of Schedule 6 to the 2022 Act. Paragraphs 1A to 1I, 5A, 5B and 5C of Schedule 1 were inserted by sections 33 and 34 of the 2022 Act. Paragraph 10 of Schedule 1 was substituted by paragraph 83(8) of Schedule 5 to the 2022 Act.

(**2**) 2022 c. 30.

(**3**) Under the transitional provisions in regulation 5(1) of S.I. 2023/362 the requirement to consult under section 120B of the Building Act 1984 does not apply to proposals consulted on under section 14(3) of the Building Act 1984 before it was repealed by paragraph 17 of Schedule 5 to the Building Safety Act 2022.

(4) In these Regulations "the 2010 Regulations" means the Building Regulations 2010(**4**).

# PART 2

## Amendment of the Building Regulations 2010

### Amendment of the 2010 Regulations

**2.** The 2010 Regulations are amended in accordance with regulations 3 to 17.

### Amendments to regulation 2

**3.** In regulation 2(1) (interpretation) of the 2010 Regulations—

(a) in the appropriate places insert—

""application for building control approval with full plans" means an application for building control approval(**5**) in accordance with regulations 12(2)(b) and 14;";

""application for a completion certificate" in relation to a higher-risk building work, has the same meaning as "completion certificate application" in regulation 2 of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;";

""business" means a trade, business or other undertaking (whether for profit or not);"

""client" means any person for whom a project is carried out;"

""construction phase" means the period beginning when any building work on a project starts and ending when that project is completed;"

""contractor" means any person (including a client, but not a domestic client) who, in the course of a business, carries out, manages or controls any building work;"

""design work" means design of any building work;"

""designer" means any person (including a client, contractor or other person referred to in Part 2A of these Regulations) who in the course of a business—

(a) carries out any design work, or

(b) arranges for, or instructs, any person under their control to do so;"

""domestic client" means a client for whom a project is being carried out which is not in the course or furtherance of a business of that client;"

""principal contractor" means the contractor appointed under regulation 11D (principal designer and principal contractor) to perform the duties of a principal contractor under these Regulations;"

""principal designer" means the designer appointed under regulation 11D (principal designer and principal contractor) to perform the duties of a principal designer under these Regulations;"

""project" means a project which includes or is intended to include any building work and includes all planning work, design work, management or other work involved in a project until the end of the construction phase;"

""recipient", in relation to a compliance notice or a stop notice, means the person to whom the notice will be or has been given;"

(**4**) S.I. 2010/2214 as amended by S.I. 2012/3119, 2013/1959, 2014/110, 2015/767, 2016/285, 2016/1274, 2018/1230, 2021/1391, 2022/608 and 2023/520. There are other amending instruments, but none is relevant to this instrument.

(**5**) Paragraph 1B of Schedule 1 to the Building Act 1984 (c. 55).

""relevant authority" means—

(a) in cases where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), the regulator(**6**);

(b) in any other case, the local authority for the area in which the building is situated or the proposed building is to be situated;"

""relevant day" means any day excluding Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971;"

""sole contractor" means a person fulfilling the duties of the principal contractor by virtue of regulation 11D(6);"

""sole or lead designer" means a person fulfilling the duties of the principal designer by virtue of regulation 11D(7);";

(b) for definition of "building" substitute—

""building"—

(a) in the application of any provision of these Regulations to the construction of a higher-risk building, has the meaning given in regulation 4 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(**7**);

(b) in any other case, means any permanent or temporary building but not any other kind of structure or erection, and a reference to a building includes a reference to part of a building;";

(c) omit the definition of "full plans".

**Amendments after regulation 2**

**4.** After regulation 2 (interpretation) of the 2010 Regulations insert—

"**Application**

**2A.** Subject to regulation 2B, these Regulations apply to all buildings in England including higher-risk buildings.

**Disapplication of certain procedural requirements of the Building Regulations 2010 in relation to higher-risk building work**

**2B.** The following regulations do not apply to higher-risk building work—

(a) regulation 12 (giving of a building notice or an application for building control approval);

(b) regulation 13 (particulars and plans where a building notice is given);

(c) regulation 14 (applications for building control approval with full plans);

(d) regulations 14A (determination of applications for building control approval with full plans);

(e) regulation 14B (appeal against a local authority's rejection of an application for building control approval);

(**6**) See section 126 of the Building Act 1984 for the definition of "the regulator".
(**7**) S.I. 2023/275.

(f) regulation 14C (appeal against the regulator's rejection of an application for building control approval for work that is not higher-risk building work);

(g) regulation 15 (consultation with sewerage undertaker);

(h) regulation 15A (consultation in relation to fire safety);

(i) regulation 16 (notices in relation to building work);

(j) regulation 17 (completion certificates);

(k) regulation 17A (certificate for building occupied before work is completed);

(l) regulation 18 (unauthorised building work);

(m) regulation 18A (appeal against local authority's refusal to grant certain certificates);

(n) regulation 18B (appeal to regulator in relation to certain decisions);

(o) regulation 19 (supervision of building work otherwise than by local authorities);

(p) regulation 38 (fire safety information);

(q) regulation 39 (information about ventilation);

(r) regulation 40 (information about use of fuel and power);

(s) regulation 40A (information about systems for on-site generation of electricity);

(t) regulation 40B (information about overheating).".

**Amendment to regulation 10 and transitional provision**

**5.**—(1) In regulation 10 (exemption of Mayor's Office for Policing and Crime from procedural requirements) of the 2010 Regulations, for paragraph (2) substitute—

"(2) The Mayor's Office for Policing and Crime is exempt from compliance with these Regulations in so far as the requirements in these Regulations are not substantive requirements in relation to building work that is not higher-risk building work.".

(2) In relation to any building work to a higher-risk building of the Mayor's Office for Policing and Crime, the amendments made by these Regulations do not apply to that building work where it started before 1st October 2023.

(3) In paragraph (2) "building work" has the same meaning as in the 2010 Regulations.

**Amendments relating to dutyholders and competence**

**6.**—(1) After regulation 11 (power to dispense with or relax requirements) of the 2010 Regulations insert the following new Part—

# "PART 2A

## Dutyholders and competence

### CHAPTER 1

### Client

**Suitable arrangements to ensure compliance with requirements etc**

**11A.**—(1) A client must make suitable arrangements for planning, managing and monitoring a project (including allocation of sufficient time and other resources) so as to ensure compliance with all relevant requirements.

(2) Arrangements under paragraph (1) are suitable if—

(a) they ensure that the design work is carried out so that the building work to which the design relates, if built, would be in compliance with all relevant requirements;

(b) they ensure the building work is carried out in accordance with all relevant requirements;

(c) they enable the designers and contractors to cooperate with each other to ensure compliance with all relevant requirements; and

(d) they provide for periodic review of the building work (and the design work) included or to be included in the project so as to identify whether it is higher-risk building work(**8**).

(3) A client must ensure that the arrangements under paragraph (1) are maintained and reviewed throughout the project.

(4) A client must provide building information as soon as is practicable to every designer and contractor on the project.

(5) A client must cooperate with any other person working on or in relation to a project to the extent necessary to enable any person with a duty or function under these Regulations to fulfil that duty or function.

(6) Where there is more than one client in relation to a project—

(a) the clients may agree in writing which of them is to be treated for the purposes of these Regulations as the client;

(b) except for the duties specified in sub-paragraph (c), only the person who agreed to be treated as the client under sub-paragraph (a) is subject to the duties owed by a client under these Regulations;

(c) the duties in the following provisions are owed by all clients—

(i) paragraph (4) to the extent that those duties relate to information in the possession of the client or which is reasonably obtainable by or on behalf of the client;

(ii) paragraph (5); and

(iii) regulation 11B (arrangements as to information: higher-risk building work).

(**8**) Higher-risk building work is defined in section 91ZA of the Building Act 1984 (c. 55) which was inserted into that Act by section 32 of the Building Safety Act 2022 (c. 30).

**Arrangements as to information: higher-risk building work**

**11B.**—(1) A client must make suitable arrangements to ensure information is provided to the designers and contractors working on a project which includes any higher-risk building work to make them aware that the project includes higher-risk building work and the nature of the higher-risk building work.

(2) Paragraph (1) includes a duty to periodically review the building work (and the design work) included or to be included in the project so as to identify whether it is higher-risk building work and to ensure information is provided under paragraph (1) where the work becomes higher-risk building work.

**Domestic clients**

**11C.**—(1) Where the client is a domestic client the duties in regulations 11A(1) to (3) and 11E(2) to (5) must be carried out by—

(a) where there is only one contractor for a project, the contractor;

(b) where there is more than one contractor for a project—

(i) the principal contractor; or

(ii) the principal designer where the client and the principal designer agree in writing the principal designer is to fulfil those duties.

(2) If a domestic client fails to make the appointments required by regulation 11D (principal designer and principal contractor)—

(a) the designer in control of the design phase of the project is the principal designer;

(b) the contractor in control of the construction phase of the project is the principal contractor.

(3) Regulation 11D(5) does not apply to a domestic client.

CHAPTER 2

*Appointment of principal designer and principal contractor etc*

**Principal designer and principal contractor**

**11D.**—(1) Where there is more than one contractor, or it is reasonably foreseeable that more than one contractor will be working on a project, the client must appoint in writing—

(a) a designer with control over the design work as the principal designer for the purposes of these Regulations, and

(b) a contractor with control over the building work as the principal contractor for the purposes of these Regulations.

(2) A client is treated as complying with the requirement in paragraph (1) if, instead of appointing a person for the purposes of these Regulations, they certify, in writing, that the person who is the CDM principal designer, or, as the case may be, the CDM principal contractor, is treated as appointed as the principal designer or, as the case may be, the principal contractor, for the purposes of these Regulations.

(3) The appointments under this regulation must be made—

(a) in relation to a project which includes higher-risk building work for which an application for building control approval must be submitted to the regulator, before that application is submitted;

(b) in relation to any other project, before the construction phase begins.

(4) Where the appointment of a principal designer or the principal contractor ends before the end of the project, as soon as reasonably practicable the client must appoint a new principal designer or new principal contractor, as the case may be, under this regulation.

(5) Where the client fails to appoint a principal designer (or a replacement principal designer) or, as the case may be, a principal contractor (or a replacement principal contractor), the client must fulfil the duties of the principal designer or the principal contractor, as the case may be, under these Regulations until they appoint another person to that role.

(6) Where there is only one contractor working on a project that contractor is to be treated as appointed as the principal contractor and must fulfil the duties of the principal contractor set out in these Regulations.

(7) Where paragraph (6) applies and—

(a) there is only one designer, or it is reasonably foreseeable that there will be only one designer working on a project, that designer must fulfil the duties of the principal designer set out in these Regulations; or

(b) there is more than one designer or it is reasonably foreseeable that there will be more than one designer working on a project at any time—

(i) the designers must agree in writing which designer is to fulfil the duties of the principal designer set out in these Regulations ("the lead designer");

(ii) the lead designer must give a copy of the agreement to the client.

(8) In relation to higher-risk building work, on appointing a principal designer, for each appointment the client must keep a record, in writing, of the steps it took under paragraph (2) to (4) of regulation 11E (considerations before a person carries out work).

(9) In relation to higher-risk building work, on appointing a principal contractor, for each appointment the client must keep a record, in writing, of the steps it took under paragraphs (2), (3) and (5) of regulation 11E (considerations before a person carries out work).

(10) In relation to higher-risk building work, on appointing any other person, the person making the appointment must give to the client (and the client must keep) a record, in writing, of the steps the person making the appointment took under regulation 11E(2) (considerations before a person carries out work).

**Considerations before a person carries out work**

**11E.**—(1) This regulation applies where a person (P) is proposing to use any person (A) to carry out any building work or design work.

(2) Before permitting A to carry out any work—

(a) P must take all reasonable steps to satisfy themself that A—

(i) fulfils the requirements in regulation 11F(1) and (2) (competence: general requirement), or

(ii) is an individual who is in training to fulfil the requirements in regulation 11F(1) and (2) and arrangements have been put in place to supervise A, and

(b) where the work relates to a higher-risk building, P must—

(i) ask A whether a serious sanction has occurred, in relation to them, within the 5 years ending on the date of the appointment; and

(ii) consider any information available to P relating to any misconduct of A (including any serious sanction).

(3) Before permitting A to undertake any work, P must additionally take all reasonable steps to satisfy themselves that A is able to fulfil the duties of regulation 11J (general duty to plan, manage and monitor).

(4) Where A is to be appointed as the principal designer, the client must take all reasonable steps to satisfy themselves that A fulfils the requirements in regulations 11F(1) and (2) (competence: general requirement) and 11G(1) (competence: principal designer) in relation to the design work.

(5) Where A is to be appointed as the principal contractor, the client must take all reasonable steps to satisfy themselves that A fulfils the requirements in regulations 11F(1) and (2) (competence: general requirement) and 11H(1) (competence: principal contractor) in relation to the building work.

(6) Any request to undertake any building work or any design work must not be accepted by A if A does not satisfy the requirements in regulation 11F(1) and (2) (competence: general requirement) at the time of the appointment (except where those requirements do not apply to A by virtue of regulation 11F(3)).

(7) A must not act—

(a) as the principal designer in relation to any design work if A does not satisfy the requirements in regulations 11F(1) and (2) (competence: general requirement) and 11G(1) (competence: principal designer) at the time of the appointment as the principal designer;

(b) as the principal contractor in relation to any building work if A does not satisfy the requirements in regulations 11F(1) and (2) (competence: general requirement) and 11H(1) (competence: principal contractor) at the time of the appointment as the principal contractor.

(8) In this regulation "serious sanction" means—

(a) the issue to A of a compliance notice which referred to contravention or likely contravention of a requirement of Part A (structure) or Part B (fire safety) of Schedule 1;

(b) the issue to A of a stop notice;

(c) the conviction of A for any offence under—

(i) the Act;

(ii) the Health and Safety at Work etc. Act 1974;

(iii) the Building Safety Act 2022;

(iv) the Regulatory Reform (Fire Safety) Order 2005;

(d) a report published by an inquiry under the Inquiries Act 2005 finds that A's action or inaction resulted in one or more deaths or was likely to have been a contravention of any requirement of—

(i) the Act;

(ii) Part A (structure) or Part B (fire safety) of Schedule 1;

(iii) the Health and Safety at Work etc. Act 1974;

(iv) the Building Safety Act 2022;

(v) the Regulatory Reform (Fire Safety) Order 2005.

## CHAPTER 3

*Competence*

**Competence: general requirement**

**11F.**—(1) Any person carrying out any building work or any design work must have—

(a) where the person is an individual, the skills, knowledge, experience and behaviours necessary,

(b) where the person is not an individual, the organisational capability,

to carry out—

(i) the building work in accordance with all relevant requirements;

(ii) the design work so that the building work to which the design relates, if built, would be in accordance with all relevant requirements.

(2) Any person carrying out any building work as a contractor or any design work as a designer must have—

(a) where the person is an individual, the skills, knowledge, experience and behaviours necessary,

(b) where the person is not an individual, the organisational capability,

to fulfil the duties of a contractor or designer, as the case may be, under these Regulations in relation to the work.

(3) The requirements in paragraphs (1) and (2) do not apply to an individual (T) who is in training to fulfil those requirements.

(4) The person who asked T to carry out any building work or, as the case may be, any design work must ensure T is adequately supervised when carrying out the work.

(5) A person who is in training to fulfil the requirements of a principal contractor or a principal designer may not be appointed as a principal contractor or a principal designer.

**Competence: principal designer**

**11G.**—(1) A principal designer must have—

(a) where the person is an individual, the skills, knowledge, experience and behaviours necessary,

(b) where the person is not an individual, the organisational capability,

to fulfil the duties of a principal designer under these Regulations in relation to the design work included in the project.

(2) Where the principal designer (D) is not an individual, D must designate an individual who has the task of managing its functions as the principal designer.

(3) Before making the designation under paragraph (2), D must take all reasonable steps to satisfy themself that the individual to be designated has the skills, knowledge, experience and behaviours necessary to manage the function of principal designer on behalf of D in such a way as to ensure D fulfils the duties of the principal designer under these Regulations in relation to the design work included in the project.

**Competence: principal contractor**

**11H.**—(1) A principal contractor must have—

(a) where the person is an individual, the skills, knowledge, experience and behaviours necessary,

(b) where the person is not an individual, the organisational capability,

to fulfil the duties of a principal contractor under these Regulations in relation to the building work included in the project.

(2) Where the principal contractor (C) is not an individual, C must designate an individual under C's control who has the task of managing its functions as the principal contractor.

(3) Before making the designation under paragraph (2), C must take all reasonable steps to satisfy themself that the individual to be designated has the skills, knowledge, experience and behaviours necessary to manage the function of principal contractor on behalf of C in such a way as to ensure C fulfils the duties of the principal contractor under these Regulations in relation to the building work included in the project.

**Ceasing to be competent: notification**

**11I.**—(1) Where at any time a person (A) ceases to satisfy the requirements in regulation 11F(1), 11F(2), 11G(1) or, as the case may be, 11H(1) in relation to any building work or any design work, A must—

(a) in a case where A is the principal designer or the principal contractor, notify the client;

(b) in a case where there is more than one contractor and A is a designer, notify the person who asked them to carry out the design work and the principal designer;

(c) in a case where there is more than one contractor and A is a contractor, notify the person who asked them to carry out the building work and the principal contractor;

(d) in any other case, notify the person who asked them to carry out the work.

(2) If at the time of the notification under paragraph (1)(b) there is no principal designer appointed, that paragraph has effect as if the reference to the principal designer were a reference to the client.

(3) If at the time of the notification under paragraph (1)(c) there is no principal contractor appointed, that paragraph has effect as if the reference to the principal contractor were a reference to the client.

## CHAPTER 4

*Duties of dutyholders*

**General duty**

**11J.**—(1) Any person carrying out any building work must ensure the work carried out by them (and by any workers under their control) is planned, managed and monitored so as to be in compliance with all relevant requirements.

(2) Any person carrying out any design work must take all reasonable steps to ensure the design work carried out by them (and by any workers under their control) is planned, managed and monitored so that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements.

(3) Any person carrying out any building work must cooperate with the client, designers and contractors (including the principal designer and principal contractor, if any) to the extent necessary to ensure that the work is in compliance with all relevant requirements.

(4) Any person carrying out any design work must cooperate with the client, designers and contractors (including the principal designer and principal contractor, if any) to the extent necessary to ensure that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements.

**Additional duties of designers**

**11K.**—(1) A designer must not start design work unless satisfied that the client is aware of the duties owed by the client for the building work to which the design relates under all relevant requirements.

(2) When carrying out design work the designer must take all reasonable steps to ensure that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements.

(3) In providing a design, a designer must take all reasonable steps to provide sufficient information about the design, construction and maintenance of the building to assist the client, other designers and contractors to comply with all relevant requirements.

(4) Where a designer is carrying out only part of the design of the building work which comprises a project, the designer must consider other design work which directly relates to that building work and report any concerns as to compliance with all relevant requirements to the principal designer.

(5) If requested to do so, a designer must provide advice to the principal designer or the client on whether any work, to which a design they are preparing or modifying relates, is higher-risk building work.

**Additional duties of contractors**

**11L.**—(1) A contractor must not start any building work unless satisfied that the client is aware of the duties owed by the client under all relevant requirements.

(2) A contractor must—

(a) ensure the building work they carry out is in compliance with all relevant requirements; and

(b) provide each worker under their control with appropriate supervision, instructions and information so as to ensure that the building work is in compliance with all relevant requirements.

(3) In relation to building work, a contractor must take all reasonable steps to provide sufficient information about the work to assist the client, other contractors and designers to comply with all relevant requirements.

(4) Where a contractor is carrying out only part of the building work which comprises a project, the contractor must consider other work which directly relates to that building work and report any concerns as to compliance with all relevant requirements to the principal contractor.

(5) If requested to do so, a contractor must provide advice to the principal contractor or the client on whether any work is higher-risk building work.

**Additional duties of a principal designer**

**11M.**—(1) The principal designer must—

(a) plan, manage and monitor the design work during the design phase; and

(b) coordinate matters relating to the design work comprised in the project so that all reasonable steps are taken to ensure that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements.

(2) The principal designer must take all reasonable steps to ensure that—

(a) designers, and any other person involved in relation to design work, cooperate with the client, the principal designer, the principal contractor and each other;

(b) the design work of all designers is coordinated so that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements; and

(c) designers, and any other person involved in relation to design work, comply with the duties under these Regulations.

(3) The principal designer must liaise with the principal contractor and share with the principal contractor any information relevant to—

(a) the planning, management and monitoring of the building work, and

(b) the coordination of building work and design work for the purpose of ensuring compliance with all relevant requirements.

(4) Where the principal contractor provides comments to the principal designer in relation to compliance with the relevant requirements, the principal designer must have regard to those comments.

(5) The principal designer must—

(a) if requested, assist the client in providing information to other designers and contractors;

(b) when the principal designer's appointment ends, no later than 28 days after the end of the appointment, give to the client a document explaining the arrangements it put in place to fulfil the duties under paragraphs (1) to (3).

(6) Where a replacement principal designer is appointed, they must review the arrangements the previous principal designer put in place for fulfilling the duties under paragraphs (1) to (3) so that all reasonable steps are taken to ensure that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements.

**Additional duties of a principal contractor**

**11N.**—(1) The principal contractor must—

(a) plan, manage and monitor the building work during the construction phase, and

(b) coordinate matters relating to the building work comprised in the project to ensure the building work is in compliance with all relevant requirements.

(2) The principal contractor must take all reasonable steps to ensure—

(a) contractors and any other person involved in relation to the building work cooperate with the client, the principal designer, the principal contractor and each other (including any successor in a role);

(b) the building work of all contractors is coordinated so that the work is in compliance with all relevant requirements; and

(c) contractors and any other person involved in relation to building work comply with the duties under these Regulations.

(3) The principal contractor must liaise with the principal designer and share with the principal designer any information relevant to—

(a) the planning, management and monitoring of the design work, and

(b) the coordination of building work and design work for the purpose of ensuring compliance with all relevant requirements.

(4) Where the principal designer provides comments to the principal contractor in relation to compliance with the relevant requirements the principal contractor must have regard to those comments.

(5) The principal contractor must—

(a) if requested, assist the client in providing information to other designers and contractors;

(b) when the principal contractor's appointment ends, no later than 28 days after the end of the appointment, give to the client a document explaining the arrangements it put in place to fulfil the duties under paragraphs (1) to (3).

(6) Where a replacement principal contractor is appointed it must review the arrangements the previous principal contractor put in place for fulfilling the duties under paragraphs (1) to (3) to ensure that the building work is in compliance with all relevant requirements.

**Notification of change of dutyholder**

**11O.**—(1) This paragraph applies where, in relation to any building work, at any time after an application for building control approval is made or a building notice is given the client for a project changes.

(2) Where paragraph (1) applies the new client must give a notice to the relevant authority which includes—

(a) the location of the building work;

(b) the name, address, telephone number and (if available) email address of the new client and the date of they became the client;

(c) the name, address, telephone number and (if available) email address of the previous client and the date they ceased to be the client;

(d) where the notice is given by someone on behalf of the new client, a statement signed by the new client confirming they agree to the notice being made and that the information contained in the notice is correct.

(3) This paragraph applies where, in relation to any building work, at any time after an application for building control approval is made or a building notice is given the client appoints a principal contractor (or sole contractor) or a principal designer (or sole or lead designer).

(4) Subject to paragraph (5), where paragraph (3) applies the client must give a notice to the relevant authority which includes—

(a) the location of the building work;

(b) the name, address, telephone number and (if available) email address of the person appointed (PA) and the date of appointment;

(c) except where PA is the first person appointed to the role, the name, address, telephone number and (if available) email address of the person who held the role before PA ("outgoing dutyholder") and the date their appointment ended;

(d) where the notice is given by someone on behalf of the client, a statement signed by the client confirming they agree to the notice being given and that the information contained in the notice is correct.

(5) Where the client is a domestic client (DC), the following applies instead of paragraph (4)—

(a) an outgoing dutyholder must provide the information referred to in paragraph (4)(c) to the DC within 5 calendar days of the date their appointment ends;

(b) DC must provide the information referred to under paragraph (4)(c) to PA on the date of appointment of PA or as soon as practicable after that date;

(c) subject to paragraph (6), PA must give a notice to the relevant authority which includes—

(i) the location of the building work;

(ii) the name, address, telephone number and (if available) email address of PA and the date of appointment;

(iii) except where PA is the first person appointed to the role, the name, address, telephone number and (if available) email address of the outgoing dutyholder and the date their appointment ended;

(iv) a statement explaining the notice is given on behalf of a domestic client.

(6) Where PA has not received the information required to be provided under paragraph (5)(b) by the time the notice under paragraph (5)(c) is to be given, the statement given by PA under paragraph (5)(c)(iv) must also include an explanation to that effect.

(7) A notice required under paragraph (2), (4) or (5)(c) must be given to the relevant authority within the period of 14 calendar days beginning with the date of the appointment or, as the case may be, the date when the person became the client.

(8) This regulation does not apply to higher-risk building work.

## CHAPTER 5

## General

### Minor work

**11P.** A client is not required to comply with this Part where the building work or design work consists only of work described in Schedule 4.

### Interpretation of this Part

**11Q.**—(1) In this Part—

"the CDM Regulations" means the Construction (Design and Management) Regulations 2015(**9**);

"building information" means information in the client's possession or which is reasonably obtainable by or on behalf of the client, which is relevant to the building work or the design work, including information about—

(a) the work;

(b) planning and management of the project;

(c) issues relating to compliance with any relevant requirement and how they were addressed;

(**9**) S.I. 2015/51.

"CDM principal contractor" means a contractor appointed as principal contractor under the CDM Regulations;

"CDM principal designer" means a designer appointed as principal designer under the CDM Regulations;

"design" includes drawings, design details, specifications and bills of quantities (including specification of articles or substances) relating to a building, and calculations prepared for the purpose of a design;

"design phase" means any period during which design work is carried out for a project and may continue during the construction phase;

"relevant requirements" means, to the extent relevant to the building work or design work in question, the requirements of regulations 4, 6, 7, 8, 22, 23, 25B, 26, 26A, 28, 36, 41(2)(a), 42(2)(a), 43(2)(a), 44A, 44ZA, 44ZC and 44D to 44I and Schedule 1.

(2) References in this Part to an appointment under regulation 11D (principal designer and principal contractor) includes an appointment which is certified under regulation 11D(2).

(3) For the purposes of this Part, "organisational capability" means appropriate management policies, procedures, systems and resources to ensure—

(a) individuals under the control of the organisation who are carrying out any building work or any design work comply with—

(i) regulation 11F(1) and (2) (competence: general requirement),

(ii) in case of the principal designer, regulations 11F(1) and (2) and 11G(1);

(iii) in case of the principal contractor, regulations 11F(1) and (2) and 11H(1);

(b) individuals under the control of the organisation who are in training to develop the necessary skills, knowledge, experience and behaviours are appropriately supervised.

(4) For the purposes of this Part the necessary behaviours include—

(a) compliance with relevant requirements, including refusing to carry out—

(i) any building work which is not in compliance with any relevant requirement;

(ii) any design work if the building work to which the design relates cannot be carried out in compliance with all relevant requirements;

(b) cooperation with other persons in relation to the work;

(c) refusing to carry out work which is beyond their skills, knowledge or experience, and asking for the assistance of other persons where necessary.".

(2) In regulation 16 of the 2010 Regulations—

(a) in paragraph (4) for "notice to that effect" substitute "a notice which complies with paragraph (4A)";

(b) after paragraph (4) insert—

"(4A) The notice under paragraph (4) must include—

(a) the name, address, telephone number and (if available) email address of the client;

(b) the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

(c) a statement that the building work is complete;

(d) a statement, signed by the client, confirming that to the best of the client's knowledge the work complies with all applicable requirements of the building regulations;

(e) a statement given by each principal contractor (or sole contractor) for the work and each principal designer (or sole or lead designer) for the work, signed by the person to which the declaration relates, which includes—

(i) the name, address, telephone number and (if available) email address of that person;

(ii) the dates of their appointment, and

(iii) confirmation—

(aa) in the case of a principal contractor (or sole contractor), that they fulfilled their duties as a principal contractor under Part 2A (dutyholders and competence) of these Regulations;

(bb) in the case of a principal designer (or sole or lead designer), that they fulfilled their duties as a principal designer under Part 2A (dutyholders and competence) of these Regulations.";

(c) in paragraph (5) for "at least 5 days notice" substitute after "a notice which complies with paragraph (5A) at least 5 days";

(d) after paragraph (5) insert—

"(5A) The notice under paragraph (5) must include—

(a) the name, address, telephone number and (if available) email address of the client;

(b) the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

(c) the date when the building or any part of it is to be occupied;

(d) a statement, signed by the client, confirming that to the best of the client's knowledge, regardless of the completion of the current building work, regulation 38 and Part B of Schedule 1 are currently complied with in relation to those parts of the building which are to be occupied before completion of the work;

(e) a statement given by each principal contractor (or sole contractor) for the work and each principal designer (or sole or lead designer) for the work, signed by the person to which the declaration relates, which includes—

(i) the name, address, telephone number and (if available) email address of that person;

(ii) the dates of their appointment, and

(iii) confirmation—

(aa) in the case of a principal contractor (or sole contractor), that they fulfilled their duties as a principal contractor under Part 2A (dutyholders and competence) of these Regulations;

(bb) in the case of a principal designer (or sole or lead designer), that they fulfilled their duties as a principal designer under Part 2A (dutyholders and competence) of these Regulations.".

(3) For regulation 17(2) (completion certificates) of the 2010 Regulations substitute—

"(2) The specified period referred to in paragraph (1) is eight weeks starting from the date that notice is received by the relevant authority in accordance with regulation 16(4).".

**Amendments: deposit of plans and building control authorities etc**

**7.**—(1) In regulation 11 (power to dispense with or relax regulations) of the 2010 Regulations, in paragraph (2), for "local authority" substitute "building control authority".

(2) In regulation 12 (giving a building notice etc) of the 2010 Regulations—

(a) in the heading for "deposit of plans" substitute "an application for building control approval";

(b) in paragraph (2)—

(i) in sub-paragraph (a), for "local authority" substitute "relevant authority";

(ii) in sub-paragraph (b), for "deposit full plans with the local authority" substitute "give an application for building control approval with full plans to the relevant authority";

(c) in paragraphs (3), (4) and (5) for "deposit full plans" substitute "give an application for building control approval with full plans";

(d) in paragraphs (6) and (6A) for "deposit full plans" substitute "an application for building control approval with full plans";

(e) in paragraph (8) for "local authority" substitute "relevant authority".

(3) In regulation 13 (particulars and plans where a building notice is given) of the 2010 Regulations—

(a) in paragraphs (1A), (3) and (5) for "local authority" substitute "relevant authority";

(b) in paragraph (4) for "for the purposes of section 16 of the Act as having been deposited" substitute "as an application for building control approval with full plans".

(4) In regulation 15 (consultation with sewerage undertaker) of the 2010 Regulations—

(a) in paragraph (1) for "full plans have been deposited with the local authority" substitute "an application for building control approval with full plans has been given to the relevant authority";

(b) in paragraph (2)—

(i) for "local authority" substitute "relevant authority";

(ii) for "the plans have been deposited" substitute "the application for building control approval with full plans has been given";

(c) in paragraph (3)—

(i) for "local authority" substitute "relevant authority";

(ii) for "the deposit of full plans" substitute "the giving of an application for building control approval with full plans";

(iii) for "pass plans" substitute "grant the application for building control approval".

(5) In regulation 16 (notices) of the 2010 Regulations—

(a) in paragraphs (1), (2), (3), (3A), (3B), (4), (5), (6) and (7) for "local authority", in each place it occurs, substitute "relevant authority";

(b) in paragraph (8) for "deposit full plans" substitute "an application for building control approval with full plans".

(6) In regulation 17 (completion certificates) of the 2010 Regulations—

(a) in paragraphs (1) and (2) for "local authority" substitute "relevant authority";

(b) after paragraph (5) insert—

"(6) Where the relevant authority is the regulator, it must send a copy of each certificate it gives under this regulation in relation to a building to the local authority for the area in which the building is situated.".

(7) In regulation 17A (certificate for building occupied before work is completed) of the 2010 Regulations(**10**)—

(a) in paragraphs (1) and (2), for "local authority" substitute "relevant authority";

(b) after paragraph (4) insert—

"(5) Where the relevant authority is the regulator, it must send a copy of each certificate it gives under this regulation in relation to a building to the local authority for the area in which the building is situated.".

(8) In regulation 18 (unauthorised building work) of the 2010 Regulations—

(a) in paragraphs (1), (2), (3), (4) and (5) for "local authority", in each place it occurs, substitute "relevant authority";

(b) after paragraph (6) insert—

"(6A) Where the relevant authority is the regulator, it must send a copy of each certificate it gives under this regulation in relation to a building to the local authority for the area in which the building is situated.";

(c) in paragraph (7) for "for the purposes of section 16 of the Act as the deposit of plans" substitute "as an application for building control approval with full plans";

(d) for paragraph (8) substitute—

"(8) In this regulation "unauthorised building work"—

(a) where the relevant authority is the local authority, means building work, other than work in relation to which an initial notice, an amendment notice, a public body's notice or a regulator's notice has effect, which is done without—

(i) a building notice being given to the local authority;

(ii) an application for building control approval with full plans of the work being given to the local authority; or

(iii) a notice of intention to start work being given to the local authority, in accordance with regulation 16(1), where a building notice has been given or an application for building control approval with full plans of the work has been given;

(b) where the relevant authority is the regulator, means building work which is work in relation to which a regulator's notice has effect but which is done without—

(i) a building notice being given to the regulator;

(ii) an application for building control approval with full plans of the work being given to the regulator; or

(iii) a notice of intention to start work being given to the regulator, in accordance with regulation 16(1), where a building notice has been given or an application for building control approval with full plans of the work has been given.".

(9) In regulation 20 (provisions applicable to self-certification schemes) of the 2010 Regulations—

(**10**) Regulation 17A was inserted by S.I. 2012/3119.

(a) in paragraphs (2), (3), (3A) and (3B), for "local authority", in each place it occurs, substitute "building control authority";

(b) after paragraph (6) insert—

"(6A) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice or certificate it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.".

(10) In regulation 20A (provisions applicable to third party certification schemes) of the 2010 Regulations(**11**)—

(a) in paragraphs (2), (4) and (5), for "local authority", in each place it occurs, substitute "building control authority";

(b) after paragraph (7) insert—

"(7A) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice or certificate it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.".

(11) In regulation 25A (consideration of high-efficiency alternative systems for new buildings) of the 2010 Regulations(**12**)—

(a) for paragraph (2) substitute—

"(2) The person carrying out the work must—

(a) where the new building is a higher-risk building, ensure the application for building control approval in relation to the work is accompanied by a notice which states that the analysis referred to in paragraph (1) has been undertaken, is documented, and the documentation is available to the regulator for verification purposes;

(b) in any other case, not later than the beginning of the day before the day on which the work starts, give the building control authority a notice which states that the analysis referred to in paragraph (1) has been undertaken, is documented, and the documentation is available to the authority for verification purposes; and

(c) ensure that a copy of the analysis is available for inspection at all reasonable times on request by an officer of the building control authority.";

(b) in paragraph (3), for "local authority" substitute "building control authority";

(c) after paragraph (3) insert—

"(3A) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.".

(12) In regulation 27 ($CO_2$ emission rate calculations) of the 2010 Regulations—

(a) for paragraphs (2) and (3) substitute—

"(2) The person carrying out the work must—

(a) where the new building is a higher-risk building, ensure the application for building control approval in relation to the work is accompanied by a notice which specifies—

(**11**) Regulation 20A was inserted by S.I. 2018/558.
(**12**) Regulation 25A was inserted by S.I. 2012/3119.

(i) the target $CO_2$ emission rate for the building, calculated and expressed in accordance with the methodology approved pursuant to regulation 24,

(ii) the $CO_2$ emission rate for the building as designed, calculated and expressed in accordance with the methodology approved pursuant to regulation 24, and

(iii) a list of specifications to which the building is to be constructed;

(b) in any other case, not later than the day before the work starts, give the building control authority a notice which specifies the matters set out in paragraphs (i) to (iii) of sub-paragraph (a).

(3) The person carrying out the work must—

(a) where the new building is a higher-risk building, ensure the application for a completion certificate in relation to the work is accompanied by—

(i) a notice which specifies—

(aa) the target $CO_2$ emission rate for the building, calculated and expressed in accordance with the methodology approved pursuant to regulation 24,

(bb) the $CO_2$ emission rate for the building as constructed, calculated and expressed in accordance with the methodology approved pursuant to regulation 24, and

(cc) whether the building has been constructed in accordance with the list of specifications referred to in paragraph (2), and, if not, a list of any changes to those specifications; or

(ii) a certificate of the sort referred to in paragraph (4) accompanied by the information referred to in sub-paragraphs (aa) to (cc) of paragraph (i);

(b) in any other case, not later than five days after the work has been completed, give the building control authority a notice which specifies the matters mentioned in sub-paragraphs (aa) to (cc) of sub-paragraph (a)(i) or a certificate of the sort mentioned in sub-paragraph (a)(ii).";

(b) in paragraph (4) for "local authority" substitute "building control authority";

(c) after paragraph (4) insert—

"(4A) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice or certificate it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.".

(13) In regulation 27A (fabric energy efficiency rate calculations) of the 2010 Regulations(**13**)—

(a) for paragraphs (2) and (3) substitute—

"(2) The person carrying out the work must—

(a) where the dwelling is within a higher-risk building, ensure the application for building control approval in relation to the work is accompanied by a notice which specifies—

(i) the target fabric energy efficiency rate for the dwelling, calculated and expressed in accordance with the methodology approved pursuant to regulation 24,

(**13**) Regulation 27A was inserted by S.I. 2013/1959 and amended by S.I. 2016/285.

(ii) the fabric energy efficiency rate for the dwelling as designed, calculated and expressed in accordance with the methodology approved pursuant to regulation 24, and

(iii) a list of specifications to which the dwelling is to be constructed;

(b) in any other case, not later than the day before the work starts, give the building control authority a notice which specifies the matters set out in paragraphs (i) to (iii) of sub-paragraph (a).

(3) The person carrying out the work must—

(a) where the dwelling is within a higher-risk building, ensure the application for a completion certificate in relation to the work is accompanied by—

(i) a notice which specifies—

(aa) the target fabric energy efficiency rate for the dwelling, calculated and expressed in accordance with the methodology approved pursuant to regulation 24,

(bb) the fabric energy efficiency rate for the dwelling as constructed, calculated and expressed in accordance with the methodology approved pursuant to regulation 24, and

(cc) whether the dwelling has been constructed in accordance with the list of specifications referred to in paragraph (2), and, if not, a list of any changes to those specifications; or

(ii) a certificate of the sort referred to in paragraph (4) accompanied by the information referred to in sub-paragraphs (aa) to (cc) of paragraph (i);

(b) in any other case, not later than five days after the work has been completed, give the building control authority a notice which specifies the matters mentioned in sub-paragraphs (aa) to (cc) of sub-paragraph (a)(i) or a certificate of the sort mentioned in sub-paragraph (a)(ii).";

(b) in paragraph (4), for "local authority" substitute "building control authority";

(c) after paragraph (4) insert—

"(4A) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice or certificate it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.".

(14) In regulation 27C (target primary energy rate calculations for new buildings) of the 2010 Regulations—

(a) for paragraphs (2) and (3) substitute—

"(2) The person carrying out the work must—

(a) where the new building is a higher-risk building, ensure the application for building control approval in relation to the work is accompanied by a notice which specifies—

(i) the target primary energy rate for the building, calculated and expressed in accordance with the methodology approved pursuant to regulation 24,

(ii) the calculated target primary energy rate for the building as designed, calculated and expressed in accordance with the methodology approved pursuant to regulation 24, and

(iii) a list of specifications to which the building is to be constructed;

(b) in any other case, not later than the day before the work starts, give the building control authority a notice which specifies the matters set out in paragraphs (i) to (iii) of sub-paragraph (a).

(3) The person carrying out the work must—

(a) where the new building is a higher-risk building, ensure the application for a completion certificate in relation to the work is accompanied by—

(i) a notice which specifies—

(aa) the target primary energy rate for the building, calculated and expressed in accordance with the methodology approved pursuant to regulation 24,

(bb) the calculated target primary energy rate for the building as constructed, calculated and expressed in accordance with the methodology approved pursuant to regulation 24, and

(cc) whether the building has been constructed in accordance with the list of specifications referred to in paragraph (2), and, if not, a list of any changes to those specifications; or

(ii) a certificate of the sort referred to in paragraph (4) accompanied by the information referred to in sub-paragraphs (aa) to (cc) of paragraph (i);

(b) in any other case, not later than five days after the work has been completed, give the building control authority a notice which specifies the matters mentioned in sub-paragraphs (aa) to (cc) of sub-paragraph (a)(i) or a certificate of the sort mentioned in sub-paragraph (a)(ii).";

(b) in paragraph (4), for "local authority" substitute "building control authority";

(c) after paragraph (4) insert—

"(4A) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice or certificate it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.".

(15) In regulation 37 (wholesome water consumption calculation) of the 2010 Regulations—

(a) in paragraph (1) for "local authority" substitute "building control authority";

(b) for paragraph (2) substitute—

"(2) The person carrying out the work must—

(a) where the dwelling is within a higher-risk building, ensure the notice accompanies the application for a completion certificate in relation to the work;

(b) in any other case, give the notice to the building control authority not later than five days after the work has been completed.

(3) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.".

(16) In regulation 41 (sound insulation testing) of the 2010 Regulations—

(a) in paragraph (2)(b) for "local authority" substitute "building control authority";

(b) for paragraph (3)(b) substitute—

"(b) given—

(i) in the case where the building work is higher-risk building work, to the regulator with the application for a completion certificate in relation to the work;

(ii) in any other case, to the building control authority not later than the date on which the notice required by regulation 16(4) is given.";

(c) after paragraph (3) insert—

"(3A) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each results of testing it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.";

(d) in paragraph (4), for the opening words substitute—

"Where building work consists of the erection of a dwelling-house or a building containing flats, this regulation does not apply to any part of the building in relation to which the person carrying out the building work notifies the building control authority—

(i) in the case of building work which is higher-risk building work, not later than the date on which the application for building control approval for the work is submitted,

(ii) in any other case, not later than the date on which notice of intention to start work is given under regulation 16(1),

that, for the purposes of achieving compliance of the work with paragraph E1 of Schedule 1, the person is using one or more design details approved by Robust Details Limited(**14**), provided that—".

(17) In regulation 42 (mechanical ventilation air flow rate testing) of the 2010 Regulations—

(a) in paragraphs (2) and (3), for "local authority" substitute "building control authority";

(b) after paragraph (3) insert—

"(4) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.".

(18) In regulation 43 (pressure testing) of the 2010 Regulations—

(a) in paragraphs (2), (3) and (4), for "local authority" substitute "building control authority";

(b) after paragraph (5) insert—

"(6) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice or certificate it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.".

(19) In regulation 44 (commissioning) of the 2010 Regulations—

(a) in paragraph (3) for "local authority" substitute "building control authority";

(b) for paragraph (4) substitute—

"(4) The notice must be given—

(a) in the case where the building work is higher-risk building work for which an application for a completion certificate is required, to the regulator with the application;

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(b) in any other case, to the building control authority—

(i) not later than the date on which the notice required by regulation 16(4) is required to be given; or

(ii) where that regulation does not apply, not more than 30 days after completion of the work.

(5) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.".

(20) In regulation 44ZA (commissioning in respect of a system for on-site electricity generation) of the 2010 Regulations—

(a) in paragraph (2), for "local authority" substitute "building control authority";

(b) for paragraph (3) substitute—

"(3) The notice must be given—

(a) in the case where the building work is higher-risk building work for which an application for a completion certificate is required, to the regulator with the application;

(b) in any other case, to the building control authority—

(i) not later than the date on which the notice required by regulation 16(4) is required to be given; or

(ii) where that regulation does not apply, not more than 30 days after completion of the work.

(4) Where the regulator is the building control authority by virtue of section 91ZB of the Act (the regulator: building control authority for other work), it must send a copy of each notice it receives under this regulation in relation to a building to the local authority for the area in which the building is situated.".

(21) In Schedule 1 to the 2010 Regulations, in paragraph RA1(3) for "full plans relating to building work to which this paragraph applies are deposited" substitute "an application for building control approval with full plans relating to building work to which this paragraph applies is given".

(22) In the headings of Schedules 3 and 3A to the 2010 Regulations for "deposit full plans" substitute "an application for building control approval with full plans".

(23) In Schedule 4 to the 2010 Regulations—

(a) in the heading for "deposit full plans" substitute "an application for building control approval with full plans";

(b) in paragraph 1(g)(ii) for "to deposit full plans" substitute "an application for building control approval with full plans";

(c) in paragraph 1(l) for "to deposit full plans" substitute "an application for building control approval with full plans".

**Amendments: applications for building control**

**8.** For regulation 14 of the 2010 Regulations substitute—

"**Applications for building control approval with full plans**

**14.**—(1) An application for building control approval with full plans must be made in writing, signed by the person making the application ("the applicant"), and must include—

(a) the name, address, telephone number and (if available) email address of the applicant;

(b) where the applicant is not the client, the name, address, telephone number and (if available) email address of the client;

(c) where known at the date of the application, the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

(d) a statement—

(i) that the application is an application for building control approval with full plans given under regulation 12(2)(b);

(ii) as to whether the building is a building to which the Regulatory Reform (Fire Safety) Order 2005 applies or will apply after completion of the building work;

(e) where the work consists of work to an existing building, a description of the existing building including—

(i) details of the current use of the building, including the current use of each storey;

(ii) the height of the building;

(iii) the number of storeys in the building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(f) a description of the proposed work, including—

(i) details of the intended use of the building, including the intended use of each storey;

(ii) the height of the building after the proposed work;

(iii) the number of storeys in the building after the proposed work as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(iv) the provision to be made for the drainage of the building;

(v) where paragraph H4 of Schedule 1 imposes a requirement, the precautions to be taken in the building over a drain, sewer or disposal main to comply with the requirements of that paragraph;

(vi) the steps to be taken to comply with any local enactment that applies; and

(vii) a statement setting out—

(aa) the date when it is proposed the work will reach the point when it is to be regarded as commenced in accordance with regulation 46A (lapse of building control approval: commencement of work); and

(bb) where the work does not consist of work to which paragraph (2) or (3) of regulation 46A applies, details of the work which the client considers amounts to 15% of the proposed work.

(2) An application for building control approval with full plans must be accompanied by—

(a) (i) two copies of the full plans, or

(ii) where Part B of Schedule 1 (fire safety) imposes a requirement in relation to proposed building work, four copies of the full plans;

(b) where the application is made by someone on behalf of the client, a statement signed by the client confirming they agree to the application being made and that the information contained in the application is correct.

(3) Plans are only full plans if they consist of—

(a) a description of the proposed building work, renovation or replacement of a thermal element, change to the building's energy status or material change of use;

(b) the plans, particulars and statements required by paragraphs (1), (1A) and (2) of regulation 13;

(c) where paragraph H4 of Schedule 1 imposes a requirement, particulars of the precautions to be taken in building over a drain, sewer or disposal main to comply with the requirements of that paragraph; and

(d) any other plans which are necessary to show that the work would comply with these Regulations.

(4) Paragraph (2)(a)(ii) does not apply where the proposed building work relates only to the erection, extension or material alteration of a dwelling-house or flat.

**Determination of applications for building control approval with full plans**

**14A.**—(1) Subject to paragraph (5), where an application for building control approval with full plans is made in accordance with regulations 12(2)(b) and 14, the relevant authority must grant the application for building control approval unless the application (including the plans or other documents which accompany it)—

(a) does not comply with the requirements of regulation 14 (applications for building control approval with full plans);

(b) is not sufficiently detailed in any respect to allow the relevant authority to determine whether the proposed work would contravene any applicable requirement of the building regulations;

(c) shows that—

(i) the proposed work would contravene any applicable requirement of these Regulations; or

(ii) in a case where details are provided under regulation 14(1)(f)(vii), the work set out in the details would not in the relevant authority's opinion amount to 15% of the work.

(2) If the application for building control approval with full plans (or any plans or other documents which accompany it) is defective or shows that the proposed work would contravene any requirement of these Regulations, the relevant authority may—

(a) reject the application; or

(b) subject to paragraph (4), grant the application for building control approval subject to either or both of the requirements set out in paragraph (3).

(3) The requirements mentioned in paragraph (2) are—

(a) that such modifications as the relevant authority may specify must be made in the full plans, and

(b) that such further plans as the authority may specify must be provided before work to which those plans relate starts.

(4) A relevant authority may only grant an application for building control approval with full plans subject to a requirement in paragraph (3) if the person making the application ("the applicant")—

(a) has requested in writing the authority does so, or

(b) has consented in writing to the authority doing so.

(5) The duty in paragraph (1) is subject to any provision in sections 19 to 25 of the Act which expressly requires or authorises the authority to reject an application for building control approval.

(6) The relevant authority must notify the applicant of the outcome of the application within five weeks beginning with the date the application is received by the relevant authority, or within such longer period as at any time the authority and the applicant agree in writing.

(7) A failure by the relevant authority to notify the applicant in accordance with paragraph (6) is not to be treated as a grant of the application or a rejection of the application.

(8) A notice that the application under paragraph (1) is rejected must give the reasons for the rejection.

(9) A notice that the application is granted subject to a requirement must specify the requirement imposed.

(10) Where the application for building control approval with full plans is successful the effect is that the building control approval is granted.

**Appeal against a local authority's rejection of an application for building control approval**

**14B.**—(1) A person ("the appellant") who has made an application for building control approval with full plans to a local authority may appeal to the regulator against the decision of the local authority to reject the application provided the appeal is made within 21 relevant days beginning with the day after the day on which the local authority notifies the person under regulation 14A(6) (determination of applications for building control approval with full plans).

(2) The regulator may allow an appeal under paragraph (1) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable; or

(d) that the decision was made without following the procedures set out in the Act or regulations made under the Act.

(3) If the regulator allows an appeal it may quash or vary the decision.

(4) A person aggrieved with the decision of the regulator on an appeal under this regulation may appeal that decision to the First-tier Tribunal within 21 relevant days beginning with the day after the day on which the regulator notifies the person of its decision.

(5) The First-tier Tribunal may allow an appeal referred to in paragraph (4) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable; or

(d) that the decision was made without following the procedures set out in the Act or regulations made under the Act.

(6) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

**Appeal against the regulator's rejection of an application for building control approval for work that is not higher-risk building work**

**14C.**—(1) In relation to work for which the regulator is the building control authority pursuant to a regulator's notice, a person ("the appellant") who has made an application for building control approval with full plans to the regulator may appeal to the First-tier Tribunal against the decision of the regulator to reject the application provided the appeal is made within 21 relevant days beginning with the day after the day on which the regulator notifies the person under regulation 14A(6) (determination of applications for building control approval with full plans).

(2) The First-tier Tribunal may allow an appeal referred to in paragraph (1) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable;

(d) that the decision was made without following the procedures set out in the Act or regulations made under the Act.

(3) If the First-tier Tribunal allows an appeal it may quash or vary the decision.".

**Amendments: consultation on applications for building control**

**9.** After regulation 15 of the 2010 Regulations insert—

"**Consultation in relation to fire safety**

**15A.**—(1) This regulation applies where it is proposed—

(a) to erect, extend or make any structural alteration to a building to which the Regulatory Reform (Fire Safety) Order 2005 applies or will apply after completion of the work, or

(b) to change the use of a building to which the Regulatory Reform (Fire Safety) Order 2005 applies or will apply after the change of use,

and, in connection with that proposal, an application for building control approval with full plans is given to a relevant authority.

(2) Subject to paragraph (3), where this regulation applies the relevant authority must consult the enforcing authority before determining the application for building control approval with full plans given to the relevant authority.

(3) The duty to consult imposed by paragraph (2) does not apply where the relevant authority is the enforcing authority.

(4) In this regulation "enforcing authority" has the same meaning as in article 25 of the Regulatory Reform (Fire Safety) Order 2005.".

**Other appeals**

**10.** After regulation 18 (unauthorised building work) of the 2010 Regulations insert—

"**Appeal against refusal to grant certain certificates**

**18A.**—(1) A person ("the appellant") who has—

(a) notified a local authority under regulation 16(4) and the authority has refused to give a certificate under regulation 17 (completion certificates);

(b) notified a local authority under regulation 16(5) and the authority has refused to give a certificate under regulation 17A (certificate for building occupied before work is completed); or

(c) applied to a local authority under regulation 18(2) (unauthorised building work) for a certificate and the authority has refused to give the certificate,

may appeal to the regulator against the decision of the local authority to refuse to provide the certificate provided the appeal is made within 21 relevant days beginning with the day after the day on which the local authority notifies the appellant of the refusal.

(2) The regulator may allow an appeal under paragraph (1) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable; or

(d) that the decision was made without following the procedures set out in the Act or regulations made under that Act.

(3) If the regulator allows an appeal it may quash or vary the decision.

(4) An appellant aggrieved with the decision of the regulator on an appeal under this regulation may appeal that decision to the First-tier Tribunal within 21 relevant days beginning with the day after the day on which the regulator notifies the appellant of its decision.

(5) The First-tier Tribunal may allow an appeal referred to in paragraph (4) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable; or

(d) that the decision was made without following the procedures set out in the Act or regulations made under that Act.

(6) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

**Appeal in relation to sections 20(5) or 39 of the Act**

**18B.**—(1) An appeal to the regulator under section 20(5) of the Act must be made within 21 relevant days beginning with the day after the day on which the local authority notifies the person of its decision.

(2) Where a person who is aggrieved with the decision of the regulator given on an appeal under section 20(5) or 39 of the Act wishes to appeal that decision by virtue of section 43A(3) of the Act they may appeal to the First-tier Tribunal provided the appeal is made within 21 relevant days beginning with the day after the day on which the regulator notifies them of its decision.

(3) The First-tier Tribunal may allow an appeal referred to in paragraph (2) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable; or

(d) that the decision was made without following the procedures set out in the Act or regulations made under that Act.

(4) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

**Appeal to the First-tier Tribunal in relation to certain decisions**

**18C.**—(1) Where, in relation to work which is not higher-risk building work, a person ("the appellant") has—

(a) notified the regulator under regulation 16(4) and the regulator has refused to give a certificate under regulation 17 (completion certificates);

(b) notified the regulator under regulation 16(5) and the regulator has refused to give a certificate under regulation 17A (certificate for building occupied before work is completed); or

(c) applied to the regulator under regulation 18(2) (unauthorised building work) for a certificate and the regulator has refused to give the certificate,

they may appeal to the First-tier Tribunal against the decision of the regulator provided the appeal is made within 21 relevant days beginning with the day after the day on which the regulator notifies the appellant of the refusal.

(2) An appeal to the First-tier Tribunal under section 19(4), 20(5), 21(4), 22(4) or 39 of the Act must be made within 21 relevant days beginning with the day after the day on which the building control authority notifies the person of its decision.

(3) The First-tier Tribunal may allow an appeal referred to in paragraph (1) or (2) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable; or

(d) that the decision was made without following the procedures set out in the Act or regulations made under that Act.

(4) If the First-tier Tribunal allows an appeal referred to in paragraph (1) or (2) it may quash or vary the decision.

**Application to the First-tier Tribunal in relation to certain decisions**

**18D.**—(1) At least five days before making an application to the First-tier Tribunal under section 21(3) or (6), 24(2), 25(2) or (5), 33(6) or 36(3) of the Act the person proposing to make an application ("the applicant") must notify the building control authority of their intention to make the application.

(2) An application to the First-tier Tribunal under section 21(3) or (6), 24(2), 25(2) or (5), 33(6) or 36(3) of the Act must be made within 21 relevant days beginning with the day after the day on which the applicant notifies the building control authority under paragraph (1).

(3) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

**Appeals under section 101A of the Act**

**18E.**—(1) A person aggrieved with the refusal of a local authority to consider an application for building control approval, an initial notice or an amendment notice on the grounds that all or part of the work to which the application or notice relates is higher-risk building work may appeal to the Secretary of State provided the appeal is made within 28 relevant days beginning with the day after the day on which the local authority refuses to consider the application.

(2) An appeal to the Secretary of State under section 101A of the Act must be made in writing, signed by the person who made the original application or one of the persons who gave the original initial notice or amendment notice (in this regulation "the appellant") and must include the following information—

(a) the name, address, telephone number and (if available) email address of the appellant;

(b) a statement explaining why the appellant considers the work proposed in the original application or notice does not include higher-risk building work;

(c) where the appellant is an approved inspector, a statement confirming the client agrees to the appeal being made.

(3) In addition to the information provided for in paragraph (2) the appeal must be accompanied by—

(a) a copy of the original application or notice given to the local authority (including all documentation that accompanied the application or notice);

(b) all the information provided to the local authority in relation to the application or notice;

(c) all the correspondence with the local authority in relation to that application or notice;

(d) a copy of the notice sent to the regulator under paragraph (4).

(4) At least two working days before submitting an appeal under section 101A(2) of the Act the appellant must give notice to the regulator of their intention to do so.

(5) Where the appellant submits an appeal under section 101A of the Act through electronic facilities provided by the Secretary of State for that purpose, they are taken to have consented to the use of electronic communications for all purposes relating to the appeal that are capable of being carried out electronically.

(6) The deemed consent in paragraph (5) may be revoked by the appellant giving the Secretary of State two weeks' notice in writing specifying that the notice is given under this regulation.

(7) An appeal under section 101A of the Act is to be determined by consideration of written representations.

(8) The Secretary of State must give the local authority which refused to consider the original application or notice the opportunity to make written representations in relation to the appeal.

(9) The Secretary of State may give any other person an opportunity to make written representations in relation to the appeal.

(10) The Secretary of State may, by notice in writing, require the local authority in question to provide specified information, or provide copies of specified documents, by the

date specified in the notice (that date must be no fewer than 7 days after the date the notice is given).

(11) Before determining the appeal the Secretary of State may—

(a) hold any meeting with the appellant, the local authority or any other person,

(b) undertake any site visit,

as the Secretary of State considers appropriate.

(12) The Secretary of State must determine the appeal within 8 weeks of the date on which the appeal is received and the decision in relation to the appeal must be given in writing to the appellant.

(13) For the purposes of section 101A(6) of the Act, an appeal to the High Court under section 101A(6) of the Act may be made within 28 relevant days beginning with the day after the day on which the Secretary of State gives the decision to the appellant under paragraph (12).

(14) The Secretary of State may appoint a person to determine the appeal instead of the Secretary of State.

(15) At any time before a person appointed under this regulation has determined the appeal the Secretary of State may—

(a) revoke that person's appointment;

(b) appoint another person to determine the appeal instead.

(16) A person appointed under paragraph (14) has the same powers and duties in relation to determination of an appeal under section 101A of the Act as the Secretary of State and, in particular, where the appeal is determined by a person appointed under this regulation their decision is to be treated as the decision of the Secretary of State.".

**Regulator's notices**

**11.** After regulation 19 (supervision of building work otherwise than by local authorities) of the 2010 Regulations insert—

"**Regulator's notices: description of work and connection**

**19A.** For the purposes of section 91ZB(1) of the Act, a regulator's notice may be given in relation to any building work (which is not higher-risk building work) where—

(a) the client for the building work is proposing to undertake higher-risk building work on the same site;

(b) the regulator's notice includes all the building work to be carried out on the site which is not higher-risk building work; and

(c) the client has appointed the same principal contractor for the building work and the higher-risk building work.

**Regulator's notices: content of notices**

**19B.** A regulator's notice must be in writing and must include—

(a) the name, address, telephone number and (if available) email address of the client for the project to which the notice relates;

(b) a statement that the notice is a regulator's notice under section 91ZB of the Act;

(c) the location of the proposed building work to which the regulator's notice is to apply;

(d) a description of the proposed building work to which the regulator's notice is to apply, including a statement explaining how that work is connected to higher-risk work and the location on the site of that higher-risk building work;

(e) a statement giving the date it is proposed the building work will start and how long it is proposed to take to complete;

(f) a plan to a scale of not less than 1:1250 showing—

(i) the size and position of the building, or the building as extended, and its relationship to adjoining boundaries;

(ii) the boundaries of the curtilage of the building, or the building as extended, and the size, position and use of every other building or proposed building within that curtilage;

(iii) the width and position of any street on or within the boundaries of the curtilage of the building or the building as extended;

(g) a declaration, signed by the client and signed by an employee of the regulator who is authorised to do so, confirming—

(i) the client and the regulator consent to the giving of the notice;

(ii) the proposed building work to which the notice relates includes no higher-risk building work;

(iii) the proposed building work falls within the requirements of regulation 19A (regulator's notices: description of work and connection);

(iv) they understand the proposed building work is to be subject to the procedural requirements of these Regulations.

**Regulator's notices: grounds for rejection**

**19C.**—(1) The following grounds are prescribed for the purposes of section 91ZC(2) of the Act—

(a) the conditions in regulation 19A (regulator's notices: description of work and connection) are not satisfied in relation to the work specified in the notice;

(b) the work specified in the notice is not within the area of the local authority;

(c) that an application for building control approval, an initial notice or a public body's notice has been given in relation to the work (or any part of it);

(d) the notice does not comply with the requirements of regulation 19B (regulator's notices: content of notices).

(2) For the purposes of section 91ZC(3) of the Act a notice of rejection must be given within five days of the day on which the regulator's notice is given.

**Regulator's notices: appeals**

**19D.**—(1) An appeal to the First-tier Tribunal under section 91ZC(4) of the Act must be made within 21 relevant days beginning with the day after the day on which the local authority notifies the person under section 91ZC(3) of the Act.

(2) The First-tier Tribunal may allow an appeal under section 91ZC(4) of the Act only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable; or

(d) that the decision was made without following the procedures set out in the Act or regulations made under that Act.

(3) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

(4) The power of the First-tier Tribunal to award costs does not apply in relation to an appeal under this regulation.

**Regulator's notices: direction**

**19E.**—(1) In relation to work which is the subject of a regulator's notice, the regulator may make a direction as to the way in which any of the following documents are given (which may include specifying cases where they must be given electronically via a website address provided for that purpose by the regulator)—

(a) a building notice under regulation 13 (particulars and plans where a building notice is given);

(b) an application under regulation 14 (applications for building control approval with full plans);

(c) any notice under regulation 16 (notices in relation to building work);

(d) an application under regulation 18 (unauthorised building work);

(e) any documents that are required to accompany any notice or application referred to in sub-paragraph (a) to (d);

(f) a notice under regulation 25A(2), 27(2) or (3), 27A(2) or (3), 27C(2) or (3), 37(1), 38(2B) or (2G), 41(4), 42(2), 43(2), 44(3) and 44ZA(2);

(g) a copy of results under regulation 41(2).

(2) A direction must specify the date on which it comes into effect, which must not be earlier than seven days after it is published.

(3) Where the regulator has made and published a direction in accordance with this regulation, an application (or any document that accompanied the application) of the type mentioned in the direction must, from the date specified in the direction, be given in accordance with the direction.

(4) The regulator may, by a further direction, amend or revoke a direction made under this regulation.

**Regulator's notices: local land charges**

**19F.** The functions of local authorities under the Local Land Charges Act 1975, as they relate to building work for which the regulator is the building control authority by reason of a regulator's notice under section 91ZB of the Building Act 1984, are prescribed for the purposes of paragraph (b) of the definition of "relevant function" in paragraph 2(5) of Schedule 3 to the Building Safety Act 2022.".

**Amendments to regulations 20 and 20A of the 2010 Regulations**

**12.**—(1) In regulation 20 (provisions applicable to self-certification schemes) of the 2010 Regulations, after paragraph (1) insert—

"(1A) Where this regulation applies and the building work in question relates to a higher-risk building, the client must make the person carrying out the work aware that the building is a higher-risk building.".

(2) In regulation 20A (provisions applicable to third party certification schemes) of the 2010 Regulations, after paragraph (1) insert—

"(1A) Where this regulation applies and the building work in question relates to a higher-risk building, the client must make the person carrying out the work aware that the building is a higher-risk building.".

**Amendments to relating to fire safety information**

**13.**—(1) In regulation 38 (fire safety information) of the 2010 Regulations, for paragraph (2) substitute—

"(2) The person carrying out the work must give fire safety information to the responsible person no later than—

(a) where the building, proposed building or extension to which the building work relates is not occupied during the building work, the date of completion of the work or the date of occupation of the building or the extension, whichever is the earlier;

(b) in any other case, the date of completion of the work.

(2A) The responsible person must give the person carrying out the work a notice acknowledging receipt of the fire safety information and confirming the information provided is sufficient to enable them to understand, operate and maintain the building (and the fire safety systems in it) after the building work in question.

(2B) Subject to paragraph (2D), the person carrying out the work must give a notice to the relevant authority—

(a) confirming that they have given the fire safety information to the responsible person pursuant to paragraph (2), and

(b) stating that they have received the notice from the responsible person pursuant to paragraph (2A) or where they have not received the notice, stating the steps taken to obtain the notice from the responsible person and the dates they were taken.

(2C) The notification under paragraph (2B) must be given no later than—

(a) where regulation 20 (provisions applicable to self-certification schemes) applies to the work, 30 days after the date referred to in paragraph (2),

(b) in any other case, five days after the date referred to in paragraph (2).

(2D) Paragraphs (2B) and (2C) do not apply where regulation 20A (provisions applicable to third party certification schemes) applies to the work and instead paragraphs (2E) to (2G) apply.

(2E) Where this paragraph applies, the person carrying out the work must notify the third party certifier appointed under regulation 12(6)(c)—

(a) confirming that they have given the fire safety information to the responsible person pursuant to paragraph (2), and

(b) stating that they have received the notice from the responsible person pursuant to paragraph (2A) or where they have not received the notice, stating the steps taken to obtain the notice from the responsible person and the dates they were taken.

(2F) The notification under paragraph (2E) must be given no later than seven days after the date referred to in paragraph (2).

(2G) Within 30 days of receiving the notification under paragraph (2E) the third party certifier appointed under regulation 12(6)(c) must notify the relevant authority confirming receipt of the notification under paragraph (2E).".

(2) In regulation 17 (completion certificates), in paragraph (1) for "it, a building complies with the relevant provisions" substitute "a building, the relevant provisions have been complied with in relation to the building".

(3) In regulation 17A (certificate for building occupied before work is completed), in sub-paragraph (1)(c) for "those parts of the building which are to be occupied before completion of the work currently comply with regulation 38 and Part B of Schedule 1" substitute "regulation 38 and Part B of Schedule 1 are currently complied with in relation to those parts of the building which are to be occupied before completion of the work".

**Amendments relating to commencement of section 33 of the Building Act 1984**

**14.**—(1) In regulation 19 of the 2010 Regulations—

(a) in paragraph (1), omit ", 45 (testing of building work) and 46 (sampling material)";

(b) omit paragraph (2).

(2) Omit regulations 45 and 46 of the 2010 Regulations.

**Starting on site and commencement of work**

**15.**—(1) In regulation 16 of the 2010 Regulations—

(a) for the heading substitute "Notices in relation to building work";

(b) in paragraph (1)—

(i) for "commence that work" substitute "start that work";

(ii) for "commence work" substitute "start work";

(c) in paragraph (3) for "commence building work" substitute "start work";

(d) after paragraph (3B) insert—

"(3C) Not more than five days after the day on which work is to be regarded as commenced the person carrying out the work must give a notice to that effect to the relevant authority.

(3D) The relevant authority may take such steps, including—

(a) requiring information;

(b) laying open of work for inspection,

as the authority thinks appropriate to check whether the work is to be regarded as commenced.

(3E) If the relevant authority are not satisfied the work is to be regarded as commenced they must give the person carrying out the work a notice to that effect ("rejection notice") within four weeks of the date the notice under paragraph (3C) is given, and the rejection notice must give the reasons for rejection.

(3F) Where a notice is given under paragraph (3C) and the period referred to in paragraph (3E) expires without a rejection notice being given, then the work is to be regarded as commenced.

(3G) If the person carrying out the work accepts the rejection notice they may not give a further notice under paragraph (3C) unless, having regard to the reasons given by the relevant authority, they are satisfied the work is to be regarded as commenced.

(3H) A person who gave the notice under paragraph (3C) may appeal to the First-tier Tribunal against the decision of the relevant authority to reject the notice provided the appeal is made within 21 relevant days beginning with the day after the day on which the relevant authority gives the rejection notice.

(3I) The First-tier Tribunal may allow an appeal under paragraph (3H) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable; or

(d) that the decision was made without following the procedures set out in the Act or regulations made under that Act.

(3J) For the purposes of paragraphs (3C) to (3I) the provisions of regulation 46A (lapse of building control approval: commencement of work) apply to determine whether work is to be regarded as commenced.".

(2) After regulation 46 of the 2010 Regulations insert—

"**Lapse of building control approval: commencement of work**

**46A.**—(1) For the purposes of section 32(6) of the Act (lapse of building control approval) work is to be regarded as commenced in accordance with the following paragraphs.

(2) Where the work consists of the construction of a complex building, work is to be regarded as commenced in relation to that building or the first stage of building work for that building when the foundations supporting the building and the structure of the lowest floor level of that building (but not the other buildings or structures to be supported by those foundations) are completed.

(3) Where the work consists of—

(a) the construction of a building and paragraph (2) does not apply; or

(b) horizontal extension of a building,

work is to be regarded as commenced when the sub-surface structure of the building or the extension including all foundations, any basement level (if any) and the structure of ground floor level is completed.

(4) Where the work consists of any other building work then work is to be regarded as commenced, where a statement under—

(a) regulation 14(1)(f)(vii), or

(b) regulation 12(1)(e)(viii) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023,

sets outs details of the work which the client considers amounts to 15% of the proposed work, when the work detailed in the statement is completed.

(5) In this regulation—

"approved plans" means plans which were part of or accompanied the application for building control approval with full plans of the building work and which was granted building control approval, or plans approved under a requirement imposed on such an approval;

"complex building" means—

(a) a building which is to be constructed on the same foundation plinth or podium as any other building or structure;

(b) a building which has more than one storey below ground level;

(c) a building where it is proposed use is primarily as a public building where the public or a section of the public has access to the building (whether or not on payment) provided that the building has a capacity for 100 or more visitors;

"public building" means—

(a) a shop or shopping centre,

(b) premises where food or drink are sold for consumption on the premises, including a nightclub, social club or dance hall;

(c) a stadium, theatre, cinema, concert hall;

(d) a sports ground;

(e) an exhibition hall or conference centre;

(f) a hospital or premises for the provision of health care.".

**Enforcement provisions**

**16.**—(1) In regulation 47, for sub-paragraph (a) substitute—

"(a) (i) regulation 14A (determination of applications for building control approval with full plans),

(ii) regulation 15A (consultation in relation fire safety),

(iii) regulation 16(3D) (notice as to commencement of work),

(iv) regulation 17 (completion certificates),

(v) regulation 17A (certificate for building occupied before work is completed),

(vi) regulation 18(6A) (appeal against refuse to grant certain certificates),

(vii) regulation 18E(8) and (12) (appeals under section 101A of the Act),

(viii) regulation 19C(2) (regulator's notices: grounds for rejection),

(ix) regulation 19E (regulator's notices: direction),

(x) regulation 20(6A) (provisions applicable to self-certification schemes),

(xi) regulation 20A(7A) (provisions applicable to third party certification schemes),

(xii) regulation 25A(3A) (consideration of high-efficiency alternative systems for new buildings),

(xiii) regulation 27(4A) ($CO_2$ emission rate calculations),

(xiv) regulation 27A(4A) (fabric energy efficiency rate calculations),

(xv) regulation 27C(4A) (target primary energy rate calculations for new buildings),

(xvi) regulation 37(3) (wholesome water consumption calculation),

(xvii) regulation 41(3A) (sound insulation testing),

(xviii) regulation 42(4) (mechanical ventilation air flow rate testing),

(xix) regulation 43(6) (pressure testing),

(xx) regulation 44(5) (commissioning),

(xxi) regulation 44ZA(4) (commissioning in respect of a system for on-site electricity generation),

(xxii) regulation 47B (compliance notices: contents),

(xxiii) regulation 47C (stop notices: contents),

(xxiv) regulation 47D(3) (compliance and stop notices: notification),

(xxv) regulation 47E(2) (compliance and stop notices: withdrawal), and".

(2) After regulation 47 (contravention of certain regulations not to be an offence) of the 2010 Regulations insert—

"**Compliance notices: excluded provisions**

**47A.** The following provisions of these Regulations are prescribed for the purposes of section 35B(7)(a) of the Act as provisions in relation to which a compliance notice(**15**) may not be given—

(a) regulation 14A (determination of applications for building control approval with full plans),

(b) regulation 15A (consultation in relation fire safety),

(c) regulation 16(3D) (notice as to commencement of work),

(d) regulation 17 (completion certificates),

(e) regulation 17A (certificate for building occupied before work is completed),

(f) regulation 18(6A) (appeal against refuse to grant certain certificates),

(g) regulation 18E(8) and (12) (appeals under section 101A of the Act),

(h) regulation 19C(2) (regulator's notices: grounds for rejection),

(i) regulation 19E (regulator's notices: direction),

(j) regulation 20(6A) (provisions applicable to self-certification schemes),

(k) regulation 20A(7A) (provisions applicable to third party certification schemes),

(l) regulation 25A(3A) (consideration of high-efficiency alternative systems for new buildings),

(m) regulation 27(4A) ($CO_2$ emission rate calculations),

(n) regulation 27A(4A) (fabric energy efficiency rate calculations),

(o) regulation 27C(4A) (target primary energy rate calculations for new buildings),

(p) regulation 37(3) (wholesome water consumption calculation),

(q) regulation 41(3A) (sound insulation testing),

(r) regulation 42(4) (mechanical ventilation air flow rate testing),

(s) regulation 43(6) (pressure testing),

(t) regulation 44(5) (commissioning),

(u) regulation 44ZA(4) (commissioning in respect of a system for on-site electricity generation),

(v) regulation 47B (compliance notices: contents),

(w) regulation 47C (stop notices: contents),

(x) regulation 47D(3) (compliance and stop notices: notification),

(y) regulation 47E(2) (compliance and stop notices: withdrawal).

(**15**) See the definition of compliance notice in section 35B(2) of the Building Act 1984, inserted by section 38 of the Building Safety Act 2022.

**Compliance notices: contents**

**47B.**—(1) A compliance notice given by a building control authority must be in writing and state—

(a) that it is a compliance notice under section 35B of the Act;

(b) the date the notice is given;

(c) the name or description of the recipient; and

(d) the consequences of failing to comply with the notice.

(2) A compliance notice must additionally—

(a) describe the issue to which the notice relates;

(b) identify the provision of building regulations, or the requirement imposed by virtue of building regulations, to which the compliance notice relates;

(c) provide details of the nature of the contravention or likely contravention;

(d) state that the notice may be withdrawn by the building control authority;

(e) state that the recipient may apply to the First-tier Tribunal under section 39A(3) of the Act for an extension of the specified period for doing anything set out in the notice and state that any application must be made within 21 relevant days of the date the notice is given;

(f) state that the recipient may appeal to the First-tier Tribunal under section 39A(1) of the Act and state that any appeal must be made within 21 relevant days of the date the notice is given.

(3) A compliance notice must relate to no more than one contravention or likely contravention of building regulations or a requirement imposed by virtue of building regulations.

**Stop notices: contents**

**47C.**—(1) A stop notice given by a building control authority must be in writing and state—

(a) that it is a stop notice under section 35C(1)(a), 35C(1)(b) or, as the case may be, 35C(1)(c) of the Act;

(b) the date the notice is given and whether the notice applies immediately, or where it does not apply immediately, the date when it applies;

(c) the name or description of the recipient; and

(d) the consequences of failing to comply with the notice.

(2) A stop notice must additionally—

(a) describe the issue to which the notice relates;

(b) specify—

(i) in a case within section 35C(1)(a) of the Act, the provision of building regulations or requirement imposed by virtue of building regulations to which the stop notice relates;

(ii) in a case within section 35C(1)(b) of the Act, the compliance notice to which the stop notice relates;

(iii) in a case within section 35C(1)(c) of the Act, the provision of building regulations or requirement imposed by virtue of building regulations to which the stop notice relates;

(c) provide details of the nature of the contravention (including, in a case within section 35C(1)(c) of the Act, the nature of the serious harm that is anticipated);

(d) state that the recipient may appeal to the First-tier Tribunal under section 39A(5) of the Act and state that any appeal must be made within 21 relevant days of the date the notice is given; and

(e) state that the recipient may apply to the First-tier Tribunal under section 39A(6) of the Act for a direction.

(3) A stop notice must relate to—

(a) in a case within section 35C(1)(a) of the Act, no more than one contravention of a prescribed provision of building regulations or requirement imposed by virtue of such a provision;

(b) in a case within section 35C(1)(b) of the Act, no more than one compliance notice;

(c) in a case within section 35C(1)(c) of the Act, no more than one contravention of a provision of building regulations or a requirement imposed by virtue of such a provision.

**Compliance notices and stop notices: giving of notices and notification of others**

**47D.**—(1) Paragraph (2) applies where a compliance notice under section 35B of the Act or a stop notice under section 35C(1) of the Act is to be given in relation to work on a site or premises and another form of service under section 94(1) of the Act is not appropriate.

(2) Where, after reasonable inquiries, the building control authority is satisfied that there is no one to whom a compliance notice or stop notice can be delivered, the notice, or a copy of it, may be affixed to a conspicuous part of the site or premises where the work to which the notice relates is carried out.

(3) Where a building control authority gives a compliance notice or stop notice, the authority must take reasonable steps to notify the following persons as to the giving of the notice—

(a) the client, the principal contractor (or sole contractor) and the principal designer (or sole or lead designer) for the work to which the notice relates;

(b) where the regulator is the building control authority, the local authority for the area in which the building is situated or the proposed building is to be situated;

(c) where the notice relates to a contravention of Part B of Schedule 1 in relation to a building to which the Regulatory Reform (Fire Safety) Order 2005 applies or will apply after completion of the work, the enforcing authority (within the meaning of article 25 of that Order) for the building or the proposed building;

(d) where the client is—

(i) in relation to any work, a private registered provider of social housing,

(ii) in relation to work other than the erection of a new building, any other registered provider of social housing,

the Regulator of Social Housing;

(e) where the client is a landlord in relation to any dwelling contained in the building, the local housing authority for the area in which the building is located; and

(f) where the notice relates to work to an existing higher-risk building, the accountable person who is responsible for the part of the building where the work is carried out.

(4) In this regulation—

"accountable person" has the meaning in given in section 72 of the Building Safety Act 2022;

"the Regulator of Social Housing" is the body established under section 80A of the Housing and Regeneration Act 2008.

**Compliance and stop notices: withdrawal**

**47E.**—(1) A building control authority may withdraw a compliance notice or stop notice.

(2) Where a building control authority withdraws a compliance notice or stop notice it must as soon as reasonably practicable give the recipient a notice in writing to that effect.

**Appeal to the First-tier Tribunal in relation to a compliance notice or stop notice**

**47F.**—(1) An appeal to the First-tier Tribunal under section 39A(1) or (5) of the Act must be made by the relevant date.

(2) The First-tier Tribunal may allow an appeal referred to in paragraph (1) only if it is satisfied that the giving of the compliance notice or stop notice in question was wrong on one or more of the following grounds—

(a) that the notice was given based on an error of fact;

(b) that the giving of the notice was wrong in law;

(c) that the giving of the notice was unreasonable;

(d) that the notice was given without following the procedures set out in the Act or regulations made under that Act (except regulation 47D(3)).

(3) If the First-tier Tribunal allows an appeal referred to in paragraph (1) it may quash or vary the compliance notice or stop notice.

(4) In this regulation the "relevant date" is—

(a) in the case of an appeal under section 39A(1), within 21 relevant days beginning with the date the compliance notice is given; and

(b) in the case of an appeal under section 39A(5), within 21 relevant days beginning with the date the stop notice is given.

**Application to the First-tier Tribunal in relation to extension of the specified period in a compliance notice**

**47G.**—(1) An application to the First-tier Tribunal under section 39A(3) of the Act in relation to a compliance notice must made within 21 relevant days beginning with the date the compliance notice is given.

(2) In deciding the question set out in an application under section 39A(3) of the Act the First-tier Tribunal must consider whether the recipient of the notice has demonstrated they are unable to comply within the specified period and it is reasonable to extend it.

**Application to the First-tier Tribunal for a direction in relation to a stop notice**

**47H.** In deciding the question set out in an application to the First-tier Tribunal under section 39A(6) of the Act in relation to a stop notice, the First-tier Tribunal must consider whether it is fair and proportionate, having regard to any representations made, to give the direction.".

**Other miscellaneous amendments to the 2010 Regulations**

**17.**—(1) In regulation 5 of the 2010 Regulations omit "the purposes of paragraph 8(1)(e) of Schedule 1 to the Act and for".

(2) Regulation 48 of the 2010 Regulations is omitted.

# PART 3

## Amendment of other secondary legislation

**Amendments to the Building (Local Authority Charges) Regulations 2010**

**18.**—(1) The Building (Local Authority Charges) Regulations 2010(**16**) are amended as follows.

(2) In regulation 5(1) (principles of charging scheme)—

(a) in sub-paragraph (a), at the beginning, insert "in relation to Wales,";

(b) after sub-paragraph (a) insert—

"(aa) in relation to England—

(i) the passing or rejection of plans which have been deposited with the local authority, in accordance with section 16 of the Act, before 1st October 2023, or

(ii) the granting or rejection of an application for building control approval in relation to proposed building work in England made to the local authority in accordance with the Principal Regulations,

("a plan charge");";

(c) in sub-paragraph (b), at the beginning, insert "in relation to Wales,";

(d) after sub-paragraph (b) insert—

"(ba) in relation to England, the inspection of building work for which—

(i) plans have been deposited with the local authority, in accordance with section 16 of the Act, before 1st October 2023, or

(ii) an application for building control approval has been granted in accordance with the Principal Regulations,

("an inspection charge");".

(3) In regulation 7(5) (principles of charging scheme: calculating charges) after sub-paragraph (j) insert—

"(ja) whether an application or building notice in relation to building work is in respect of building work which is substantially the same as building work in respect of which an application for building control approval has been granted or building works inspected by the same local authority;".

(4) In regulation 8 (principles of charging scheme as to payment)—

(a) in paragraph (1)—

(i) in sub-paragraph (a) after "deposited with" insert ", or an application for building control approval for the building work is made to,";

(ii) in sub-paragraph (d)—

(**16**) S.I. 2010/404 as amended by S.I. 2010/2215.

(aa) for "first deposited with" substitute "first given to";

(bb) for "have been deposited with" substitute "have been given to";

(cc) for "are or have been deposited" substitute "are or have been given";

(b) in paragraph (2)—

(i) after "are deposited" insert "or an application for building control approval which is made"; and

(ii) after "of the Act" insert "or is not validly made for the purposes of the Principal Regulations";

(c) in paragraph (3) after "plans of building work are deposited" insert ", an application for building control approval is made".

(5) In regulation 11 (refunds and supplementary charges)—

(a) in paragraph (1) after "the Act" insert "or do not give notice of the granting or rejection of an application for building control approval within the period required under the Principal Regulations";

(b) in paragraph (2)—

(i) after "the plans were deposited" insert "or an application for building control approval was made";

(ii) after "in order to comply with section 16 of the Act" insert "or the Principal Regulations";

(c) in paragraph (6) after "plans which are deposited with a local authority under section 16 of the Act" insert "or an application for building control approval which is made to a local authority under the Principal Regulations".

(6) Omit regulation 14 (fees for determination of questions by the Secretary of State).

**Amendments to the Energy Performance of Buildings (England and Wales) Regulations 2012**

**19.**—(1) The Energy Performance of Buildings (England and Wales) Regulations 2012(**17**) are amended as follows.

(2) In regulation 32(1) (disclosure by keeper of register) after sub-paragraph (a) insert—

"(aa) to the building safety regulator for the purposes of its duty under section 91 of the Building Act 1984;".

**Amendments to the Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023**

**20.**—(1) The Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023(**18**) are amended as follows.

(2) In regulation 1 (interpretation)—

(a) for the definition of "building certificate" substitute—

""building certificate" means a completion certificate or, as the case may be, a final certificate in relation to a building;";

(b) for the definition of "building control body" substitute—

(**17**) S.I. 2012/3118.
(**18**) S.I. 2023/315.

""building control body" means—

(a) where the certificate is a completion certificate, the building control authority for the building;

(b) where the certificate is a final certificate, the approved inspector who gave the initial notice to which the final certificate relates;";

(c) in the definition of "completion certificate" after sub-paragraph (a) insert—

"(aa) a certificate issued in accordance with regulation 44 (completion certificate applications: decisions) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;

(ab) where paragraph 5, 10 or 11 of Schedule 3 to the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 applies in relation to a building, a transfer and completion certificate provided for by virtue of modifications set out in paragraph 5(9), 10(4), or, as the case may be, 11(4) of Schedule 3 to those Regulations;".

**Amendments to the Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023**

**21.**—(1) The Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023(**19**) are amended as follows.

(2) In regulation 34 (exception to building control prohibition: emergency repair work)—

(a) in paragraph (2)(b) for "local authority" substitute "relevant authority";

(b) after paragraph (2) insert—

"(3) In this regulation "relevant authority" has the meaning given in regulation 2 of the Building Regulations 2010.".

(3) In regulation 35 (exception to building control prohibition: work to occupied buildings)—

(a) in paragraph (1) after sub-paragraph (a) insert—

"(aa) giving an application for building control approval to a building control authority;";

(b) after paragraph (2) insert—

"(2A) Where an application for building control approval has been given pursuant to paragraph (1), a building control authority is not prohibited from granting a building control approval to the applicable person.";

(c) in paragraph (5) for "local authority" substitute "relevant authority";

(d) in paragraph (7), in the appropriate places insert—

""building control authority" has the meaning given in regulation 2 of the Building Regulations 2010;";

""relevant authority" has the meaning given in regulation 2 of the Building Regulations 2010;".

(4) In regulation 36 (exception to building control prohibitions: purchasers)—

(a) in paragraph (1)(a) for "local authority" substitute "relevant authority";

(b) after paragraph (6) insert—

(**19**) S.I. 2023/753.

"(7) In this regulation "relevant authority" has the meaning given in regulation 2 of the Building Regulations 2010.".

(5) In regulation 37 (exception to building control prohibitions and modification of the Building Regulations 2010: regularisation)—

(a) in paragraph (1) for "local authority" substitute "relevant authority";

(b) after paragraph (2) insert—

"(2A) In this regulation "relevant authority" has the meaning given in regulation 2 of the Building Regulations 2010.".

# PART 4

## Transitional, supplementary and saving provisions

### Transitional and saving provisions

**22.**—(1) The amendments made to the 2010 Regulations by the provisions listed in paragraph (2) do not apply to—

(a) building work which started before the regime start date;

(b) building work in relation to which—

(i) plans were deposited with a local authority pursuant to section 16 of the Act before the regime start date; or

(ii) a building notice has been given to a local authority before the regime start date,

but this sub-paragraph does not apply to building work if on or after the regime start date the plans which were deposited are rejected by the local authority.

(2) The provisions referred to in paragraph (1) are—

(a) regulation 4 (amendments after regulation 2);

(b) regulation 6 (new Part - dutyholders and competence);

(c) regulation 7 (amendments: deposit of plans and building control authorities etc) and the omission of the definition of "full plans" in regulation 3(c);

(d) regulation 8 (amendments: applications for building control);

(e) regulation 9 (amendments: consultation on applications for building control);

(f) regulation 11 (regulator's notices);

(g) regulation 12 (amendments to regulations 20 and 20A of the 2010 Regulations);

(h) regulation 13 (amendments to regulation 38 of the 2010 Regulations);

(i) regulation 15 (starting on site and commencement of work).

(3) The disapplication in paragraph (1) of—

(a) regulation 6 (new Part - dutyholders and competence);

(b) regulation 13 (amendments to regulation 38 of the 2010 Regulations);

(c) the amendments to regulation 16 of the 2010 Regulations in regulation 15 (starting on site and commencement of work),

ceases on 6th April 2024 where the building work has not started by that date.

**Transitional and saving provisions: appeals**

**23.** In relation to any appeal, or any application to a magistrates' court, under Part 1 of the Act which was made before the regime start date, the 2010 Regulations apply without the amendments made by regulation 10 (other appeals).

**Transitional, supplementary and saving provisions: HRBs**

**24.** Except to the extent provided for in Schedule 3 (transitional, supplementary and saving provisions) to the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, regulations 22 and 23 do not apply to higher-risk buildings.

**Interpretation of this Part**

**25.** For the purposes of this Part—

"the Act" means the Building Act 1984;

"building notice" and "building work" have the meanings given in the 2010 Regulations;

"regime start date" means 1st October 2023.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

9th August 2023

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

This instrument is part of a set of Regulations which implement Part 3 of the Building Safety Act 2022.

Section 91ZA of the Building Act 1984, which is to have effect from 1st October 2023, provides for the regulator to be the building control authority in relation to any higher-risk building in England and any proposed higher-risk building.

Part 2 of these Regulations makes a number of amendments to the Building Regulations 2010 (S.I. 2010/2214). Regulation 3 inserts a number of new definitions.

Regulation 4 provides that most of the procedural requirements in the Building Regulations 2010 do not apply in relation to higher-risk buildings. (Instead the procedures set out in the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 apply).

Regulation 5 amends the exemption from requirements other than substantive requirements for the Mayor's Office for Policing and Crime.

Regulation 6 inserts a new Part 2A into the Building Regulations 2010. This new Part sets out the arrangements a client in relation to a project must make, including the appointment in most cases of a principal contractor and a principal designer, and provisions as to the duties and competence of persons working on a project. Regulation 6 also provides that the client must notify the relevant authority where the principal contractor or principal designer in relation to the work changes, and that after completion of the work the client must send a notice to the authority which includes compliance statements as to the work.

Regulation 7 changes a number of references to deposit of plans to applications for building control approval, and a number of references to local authorities to building control authority (which term includes the regulator).

Regulation 8 inserts new provisions, equivalent to those which were in section 16 of the Building Act 1984, in relation to applications for building control approval, and regulation 9 inserts new provision, equivalent to article 45 of the Regulatory Reform (Fire Safety) Order 2005, in relation to consultation on applications.

Regulation 10 makes provision in relation to the procedure for appeals under the Building Act 1984 – Part 3 of the Building Safety Act 2022 provided for a number of new rights of appeal, and moved most appeals from the Secretary of State to the regulator and from the magistrates' court to the First-tier Tribunal.

Regulation 11 makes provision under section 91ZB of the Building Act 1984 in relation to regulator's notices.

Regulation 12 amends regulations 20 and 20A of the Building Regulations 2010 to provide that the client for the project ensures the person carrying out work in relation to a higher-risk building is aware the building is a higher-risk building.

Regulation 13 amends regulation 38 of the Building Regulations 2010 to provide that the responsible person must acknowledge receipt of the fire safety information provided pursuant to regulation 38, and the notice to the building control authority as to handover of fire safety information confirms the information was received by the responsible person.

Regulation 14 omits regulations 45 and 46 of the Building Regulations 2010, this is linked to the commencement of section 33 of the Building Act 1984.

Regulation 15 amends the existing notice of intention to commence works in regulation 16 of the Building Regulations 2010 to become a notice of starting work, and inserts a new requirement to give a notice where work is regarded as commenced and it also sets out the definition of what is to be regarded as commencement of work for the purposes of lapse of building control approval is provided.

Regulation 16 updates the list of provisions whose breach cannot result in prosecution to include a number of the new duties inserted by this instrument, and equivalent provision is made for exclusion from compliance notices. Provision is also made for stop notices and the content of compliance notices, and procedures in relation to them.

Regulation 17 includes the omission of regulation 48 of the Building Regulations 2010 which is consequential on an amendment to section 94 of the Building Act 1984 by the Building Safety Act 2022.

Regulations 18 to 21 make a number of consequential amendments to secondary legislation to replace, for example, a number of references to deposited plans. The regulations amended are: the Building (Local Authority Charges) Regulations 2010 (S.I. 2010/404), the Energy Performance of Buildings (England and Wales) Regulations 2012 (S.I. 2012/3118), the Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023 (S.I. 2023/275) and the Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023 (S.I. 2023/753).

Regulations 22 to 25 make transitional and saving provisions. The Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 also makes transitional and saving provisions in relation to higher-risk buildings.

A full impact assessment of the effect that this instrument will have on the costs to business is published with an Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

STATUTORY INSTRUMENTS

# 2023 No. 906

# BUILDING AND BUILDINGS, ENGLAND

## The Building (Approved Inspectors etc. and Review of Decisions) (England) Regulations 2023

| | |
|---|---|
| *Made - - - -* | *9th August 2023* |
| *Laid before Parliament* | *17th August 2023* |
| *Coming into force - -* | *1st October 2023* |

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1, 35(2), 35B(7), 47(1) and (5), 50(1) and (4), 51(1) and (2), 51A(2) and (6), 52(2), 52A(1), (2) and (4), 53(2) and (4), 53A(6), 54(1) and (5), 58C(5) and 58O(4) of, and paragraphs 1A, 1D, 1F, 1G, 1I and 10 of Schedule 1 to, the Building Act 1984(**1**) and sections 25(1) to (3) and (7) of the Building Safety Act 2022(**2**).

The Secretary of State has consulted the Building Regulations Advisory Committee for England and such other bodies as appear to be representative of the interests concerned in accordance with section 14(3) of the Building Act 1984(**3**) and has consulted the regulator and such other persons as the Secretary of State considers appropriate in accordance with section 7 of the Building Safety Act 2022.

(**1**) 1984 c. 55. Section 1 was amended by section 1(1) of the Sustainable and Secure Buildings Act 2004 (c. 22). Section 35 was amended by section 39 of the Building Safety Act 2022 (c. 30) ("the 2022 Act"). Section 35B was inserted by section 38 of the 2022 Act. Section 51A was inserted by S.I. 1996/1905 and amended by sections 46(2) and 48(3) of, and paragraph 42 of Schedule 5 to, the 2022 Act. Section 52 was amended by paragraph 44 of Schedule 5 to the 2022 Act. Section 52A was inserted by section 46 of the 2022 Act. Section 53(2) was amended by section 36(6) of the 2022 Act. Section 53A was inserted by section 36 of the 2022 Act. Sections 58C and 58O were inserted by section 42 of the 2022 Act. Paragraphs 1A, 1D, 1F, 1G and 1I of Schedule 1 were inserted by section 33 of the 2022 Act. Paragraph 10 of Schedule 1 was substituted by paragraph 83(8) of Schedule 5 to the 2022 Act.

(**2**) 2022 c. 30.

(**3**) Under the transitional provisions in regulation 5(1) of S.I. 2023/362 the requirement to consult under section 120B of the Building Act 1984 does not apply to proposals consulted on under section 14(3) of the Building Act 1984 before it was repealed by paragraph 17 of Schedule 5 to the Building Safety Act 2022.

# PART 1

## Preliminary

### Citation, commencement and extent

**1.**—(1) These Regulations may be cited as the Building (Approved Inspectors etc. and Review of Decisions) (England) Regulations 2023.

(2) These Regulations come into force on 1st October 2023.

(3) These Regulations extend to England and Wales.

### Interpretation

**2.** In these Regulations—

"the Act" means the Building Act 1984;

"the 2022 Act" means the Building Safety Act 2022;

"the Approved Inspectors Regulations" means the Building (Approved Inspectors etc.) Regulations 2010(**4**);

"relevant day" means any day excluding Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971(**5**).

# PART 2

## Registration etc.

### Registration periods

**3.**—(1) For the purposes of section 58C(5) of the Act (registered building inspectors), the prescribed period is four years.

(2) For the purposes of section 58O(4) of the Act (registered building control approvers), the prescribed period is five years.

### Review of regulator's decisions under Part 2A of the Act

**4.**—(1) The following decisions are prescribed(**6**) for the purposes of section 25(1) of the 2022 Act—

(a) a decision not to register an individual as a registered building inspector under section 58C(3) of the Act;

(b) a decision, on the registration of a registered building inspector, for the registration to have effect in relation to work of a description which is different to that requested in the application;

(c) a decision, on the registration of a registered building inspector, for the registration to be subject to a condition;

(**4**) S.I. 2010/2215 as amended by S.I. 2012/3119, S.I. 2013/1959, S.I. 2014/579, S.I. 2015/767, S.I. 2016/285, S.I. 2021/1391, S.I. 2021/1392, S.I. 2022/717, S.I. 2022/984 and S.I. 2023/520. There are other amendments not relevant to this instrument.
(**5**) 1971 c. 80.
(**6**) See section 30 of the Building Safety Act 2022 for the meaning of prescribed in relation to section 25.

(d) a decision not to register a person as a registered building control approver under section 58O(2) of the Act;

(e) a decision, on the registration of a registered building control approver, for the registration to have effect in relation to work of a description which is different to that requested in the application;

(f) a decision, on the registration of a registered building control approver, for the registration to be subject to a condition.

(2) The person prescribed for the purposes of section 25(2) of the 2022 Act in relation to the decisions referred to in paragraph (1) is the person who applied for registration in accordance with section 58D or, as the case may be, section 58P of the Act.

(3) For the purposes of section 25 of the 2022 Act, a person requiring the regulator(**7**) to carry out a review, or a person on their behalf, must give a notice to the regulator in writing within 21 relevant days beginning with the day after the day on which the decision referred to in paragraph (1) is notified to the person, containing the following information—

(a) the name, address, telephone number and (if available) email address for the person giving the notice;

(b) if the person giving the notice is doing so on behalf of a person who falls within the description in paragraph (2), the name and address of that person and a statement that the person giving the notice is authorised to give the notice on behalf of that person;

(c) a statement of the review being sought which—

(i) identifies the decision to be reviewed (including the date of the decision and any reference number included on the decision), and

(ii) sets out the reason the person considers the decision should be reviewed;

(d) any information that is available to the person giving the notice, that may have been relevant to the regulator's original decision but was not available at the time the original decision was made.

(4) The regulator must give the person who required a review a notice setting out the outcome of the review within 28 relevant days beginning with the day after the day on which the person gives a notice under section 25(2) of the 2022 Act.

(5) Where the outcome of a review is to uphold the original decision, the regulator must set out its reasons in the notice required under paragraph (4).

(6) Where the outcome of a review is to vary the decision, the regulator must issue a new decision.

(7) If requested, by the person requiring the review, the regulator must provide a paper copy of the outcome of the review.

**Appeal in relation to reviewed decisions**

**5.**—(1) A person may appeal to the First-tier Tribunal against the decision of the regulator of a kind referred to in regulation 4(1) (review of regulator's decisions under Part 2A of the Act) provided that the appeal is made within 21 relevant days beginning with the day after the day on which the regulator notifies the person under regulation 4(4)(**8**).

(2) The First-tier Tribunal may allow an appeal under paragraph (1) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(**7**) See section 126 of the Building Act 1984 for the definition of "the regulator".
(**8**) Section 26 of the Building Safety Act 2022 provides that a review under section 25 must have concluded before an appeal is made.

(b) that the decision was wrong in law;

(c) that the decision was unreasonable;

(d) that the decision was made without following the procedures set out in the Act or regulations made under the Act.

(3) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

# PART 3

## Amendments of the Approved Inspectors Regulations

### Amendments to the Approved Inspectors Regulations

**6.** The Approved Inspectors Regulations are amended in accordance with regulations in this Part.

### Amendments to regulation 2

**7.** In regulation 2 (interpretation)—

(a) in paragraph (1), in the appropriate place, insert—

""relevant day" means any day excluding Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971."; and

(b) after paragraph (1) insert—

"(1A) In these Regulations "client", "contractor", "designer", "domestic client", "principal contractor", "principal designer", "sole contractor" and "sole or lead designer" have the meanings given in the Principal Regulations.".

### Amendment to regulation 8

**8.** In regulation 8 (functions of approved inspectors) after "7 (materials and workmanship)," insert "Part 2A (dutyholders and competence),".

### New regulation 10A

**9.** After regulation 10 insert—

"**Invalid notices**

**10A.**—(1) This regulation applies where a notice which purports to be an initial notice or amendment notice ("the original notice") is given to a local authority on or after 1st October 2023 and the local authority is satisfied all or part of the work to which the notice relates is higher-risk building work.

(2) Where this regulation applies the local authority must, as soon as reasonably practicable, give a notice to the approved inspector and the person intending to carry out the work (and where that person is not the client, the client) which—

(a) states that the local authority is satisfied the original notice is invalid as it breaches section 47(1), or as the case may be section 51A(1), of the Act by including work that is higher-risk building work; and

(b) explains that—

(i ) the regulator is the building control authority in relation to higher-risk building work; and

(ii ) a right of appeal may be available under section 101A of the Act.".

**Amendments: deposit of plans etc**

**10.**—(1) In regulation 2(1) after the definition of "the Act" insert—

""application for building control approval with full plans" has the meaning given in regulation 2 of the Principal Regulations;".

(2) In regulation 12(5) for "plans were deposited" substitute "an application for building control approval with full plans were submitted or granted".

(3) In regulation 19(4) for "plans deposited" substitute "an application for building control approval with full plans".

(4) In regulation 30(3) omit "and certificates given under section 16(9) of the Act".

**New regulations 16A to 16E etc**

**11.**—(1) After regulation 16 insert—

"**Form of rejection notice and form of notice under section 51C of the Act**

**16A.**—(1) Where a local authority reject a relevant notice or certificate the form set out as form 5A in Schedule 1 must be used.

(2) When giving a notice under section 51C(2) of the Act (change of person intending to carry out work) the form set out as form 5B in Schedule 1 must be used.

(3) In this regulation "relevant notice or certificate" means an initial notice, amendment notice, plans certificate or a final certificate which is given to a local authority on or after 1st October 2023.

**Notice before starting work and further notice when work is "commenced" etc.**

**16B.**—(1) At least two days before the day on which building work starts, the person carrying out the work must give a notice to the approved inspector shown on the initial notice relating to the building work setting out their intention to start the work and the date that work is to start.

(2) Not more than five days after the day on which the work is to be regarded as commenced the person carrying out the work must give a notice to that effect to the approved inspector.

(3) If the approved inspector is not satisfied the work is to be regarded as commenced they must give the person carrying out the work a notice to that effect ("rejection notice") within four weeks of the date the notice under paragraph (2) is given, and the rejection notice must give the reasons for rejection.

(4) Where a notice is given under paragraph (2) and the period referred to in paragraph (3) expires without a rejection notice being given, then the work is to be regarded as commenced.

(5) If the person carrying out the work accepts the rejection notice they may not give a further notice under paragraph (2) unless, having regard to the reasons given by the approved inspector, they are satisfied the work is to be regarded as commenced.

(6) A person who gave the notice under paragraph (2) may appeal to the First-tier Tribunal against the decision of the approved inspector to reject the notice provided the appeal is made

within 21 relevant days beginning with the day after the day on which the approved inspector gives the rejection notice.

(7) The First-tier Tribunal may allow an appeal under paragraph (6) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable;

(d) that the decision was made without following the procedures set out in the Act or regulations made under that Act.

(8) The approved inspector may take such steps, including—

(a) requiring information;

(b) laying open of work for inspection,

as it thinks appropriate to check whether the work is to be regarded as commenced.

(9) For the purposes of paragraphs (2) to (8), the provisions of regulation 16C (lapse of initial notices: commencement of work) apply to determine whether work is to be regarded as commenced.

**Lapse of initial notice: commencement of work**

**16C.**—(1) For the purposes of section 53A(6) of the Act (lapse of initial notice) work is to be regarded as commenced in accordance with the following paragraphs.

(2) Where the work consists of the construction of a complex building, work is to be regarded as commenced in relation to that building or the first stage of building work for that building when the foundations supporting the building and the structure of the lowest floor level of that building (but not the other buildings or structures to be supported by those foundations) are completed.

(3) Where the work consists of—

(a) the construction of a building and paragraph (2) does not apply, or

(b) horizontal extension of a building,

work is to be regarded as commenced when the sub-surface structure of the building or the extension including all foundations, basement levels (if any) and the structure of ground floor level is completed.

(4) Where the work consists of any other building work then work is to be regarded as commenced when the initial work is completed.

(5) In this regulation—

"approved plans" means plans which were part of or accompanied the initial notice, or plans to which a plans certificate referred;

"complex building" means—

(a) a building which is to be constructed on the same foundation plinth or podium as any other building or structure;

(b) a building which has more than one storey below ground level;

(c) a building where it is proposed use is primarily as a public building where the public or a section of the public has access to the building (whether or not on payment) provided that the building has a capacity for 100 or more visitors;

"initial work" means the work set out in the initial notice which the client considers amounts to 15% of all the work described in the initial notice;

"public building" means—

(a) a shop or shopping centre;

(b) premises where food or drink are sold for consumption on the premises, including a nightclub, social club or dance hall;

(c) a stadium, theatre, cinema, concert hall;

(d) a sports ground;

(e) an exhibition hall or conference centre;

(f) a hospital or premises for the provision of health care.

**Notification of dutyholders**

**16D.**—(1) This paragraph applies where, in relation to any building work, the client appoints a principal contractor (or sole contractor) or a principal designer (or sole or lead designer).

(2) Subject to paragraph (3), where paragraph (1) applies the client must give a notice to the approved inspector shown on the initial notice relating to the building work which includes—

(a) the name, address, telephone number and (if available) email address of the person appointed (PA) and the date of appointment;

(b) except where PA is the first person appointed to the role, the name, address, telephone number and (if available) email address of the person who held the role before PA ("outgoing dutyholder") and the date their appointment ended;

(c) where the notice is given by someone on behalf of the client, a statement signed by the client confirming they agree to the notice being made and that the information contained in the notice is correct.

(3) Where the client is a domestic client (DC), the following applies instead of paragraph (2)
—

(a) an outgoing dutyholder must provide the information referred to in paragraph (2)(b) to the DC within 5 calendar days of the date their appointment ends;

(b) DC must provide the information referred to under sub-paragraph (a) to PA on the date of appointment of PA or as soon as practicable after that date;

(c) subject to paragraph (4), PA must give a notice to the approved inspector which includes—

(i ) the name, address, telephone number and (if available) email address of PA and date of appointment;

(ii ) except where PA is the first person appointed to the role, the name, address, telephone number and (if available) email address of the outgoing dutyholder and the date their appointment ended;

(iii ) a statement explaining the notice is given on behalf of a domestic client.

(4) Where the outgoing dutyholder has not received the information required under paragraph (3)(b) by the time the notice under paragraph (3)(c) is to be given and DC does not have the information, the statement given by PA under paragraph (3)(c)(iii) must also include an explanation to that effect.

(5) A notice required under paragraph (2) or (3)(c) must be given to the approved inspector within the period of 14 calendar days beginning with the date of the appointment.

**Compliance declarations**

**16E.** Where building work described in an initial notice is completed the client must give the approved inspector a notice which includes—

(a) the name, address, telephone number and (if available) email address of the client;

(b) the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

(c) a statement that the building work is complete;

(d) a statement, signed by the client, confirming that to the best of the client's knowledge the work complies with all applicable requirements of the building regulations;

(e) a statement given by each principal contractor (or sole contractor) for the work and each principal designer (or sole or lead designer) for the work, signed by the person to which the declaration relates, which includes—

(i) the name, address, telephone number and (if available) email address of that person;

(ii) the dates of their appointment, and

(iii) confirmation—

(aa) in the case of a principal contractor (or sole contractor), that they fulfilled their duties as a principal contractor under Part 2A (dutyholders and competence) of the Principal Regulations;

(bb) in the case of a principal designer (or sole or lead designer), that they fulfilled their duties as a principal designer under Part 2A (dutyholders and competence) of the Principal Regulations.".

(2) In Schedule 1 (forms) to the Approved Inspectors Regulations—

(a) in form 1 (initial notice)—

(i) in paragraph 5, after sub-paragraph (d) insert—

"(e) a statement setting out—

(i ) the date when it is proposed the work will reach the point when it is to be regarded as commenced in accordance with regulation 16C (lapse of initial notice: commencement of work); and

(ii) where the work does not consist of work to which paragraph (2) or (3) of regulation 16C applies, details of the work which the client considers amounts to 15% of the proposed work.";

(b) in form 2 (amendment notice), in paragraph 4, after sub-paragraph (f) insert—

"(g) a statement setting out—

(i ) the date when it is proposed the work will reach the point when it is to be regarded as commenced in accordance with regulation 16C (lapse of initial notice: commencement of work); and

(ii) where the work does not consist of work to which paragraph (2) or (3) of regulation 16C applies, details of the work which the client considers amounts to 15% of the proposed work.";

(c) in form 4 (combined initial notice and plans certificate), in paragraph 5, after sub-paragraph (d) insert—

"(e) a statement setting out—

(i ) the date when it is proposed the work will reach the point when it is to be regarded as commenced in accordance with regulation 16C (lapse of initial notice: commencement of work); and

(ii) where the work does not consist of work to which paragraph (2) or (3) of regulation 16C applies, details of the work which the client considers amounts to 15% of the proposed work.";

(d) in form 5 (final certificate), after paragraph 10 insert—

"**10A.** I have received a statement, from the client for the work described in this final certificate, which is in accordance with regulation 16E(d) of the Regulations.

**10B.** I have received a statement, from each principal contractor (or sole contractor) for the work and each principal designer (or sole or lead designer) for the work described in this final certificate, which is in accordance with regulation 16E(e) of the Regulations.".

(3) In Schedule 2 (grounds for rejecting an initial notice etc) to the Approved Inspectors Regulations—

(a) in paragraph 4, after sub-paragraph (c) insert—

"(ca) a statement setting out the date when work will reach the point when it is to be regarded as commenced and, if applicable, the details of the work which the client considers amounts to 15% of the proposed work;";

(b) after paragraph 11 insert—

"**11A.** Where a statement setting out the details of the work which the client considers amounts to 15% of all the work described in the notice has been provided, the local authority are not satisfied that the work described in the statement amounts to 15% of all the work described in the notice.".

**Amendments to regulation 18**

**12.**—(1) Regulation 18 (cancellation of initial notices) is amended in accordance with the following provisions.

(2) After paragraph (2) insert—

"(2A) An approved inspector who is of the opinion that in relation to any of the work described in an initial notice there has been a contravention of any provision of Part 2A of the Principal Regulations (except regulations 11D(3)(a), 11D(8) and 11D(9)) may give notice in writing to the client specifying—

(a) the requirement of building regulations which in the approved inspector's opinion has not been complied with, and

(b) the location of the work to which the contravention relates.

(2B) A notice of contravention given in accordance with paragraph (2A) must inform the client that if within the prescribed period the client has not effected such alterations to the arrangements for carrying out the work and such improvements to the competence of persons carrying out the work (or as the case may be, the client), the principal contractor or principal designer as may be necessary to ensure the carrying out of the work complies with provisions of the building regulations referred to in paragraph (1), the approved inspector will cancel the initial notice.".

(3) For paragraph (3) substitute—

"(3) The period within which the person carrying out the work or, as the case may be, the client is to remedy the contravention as described in paragraph (2) or (2A) is three months beginning with the day on which the notice is given.".

(4) At the end of regulation 18 insert—

"(7) Form 8A in Schedule 1 is the form of notice to be given by an approved inspector to cancel an initial notice in accordance with section 52A(1) of the Act.

(8) Form 8B in Schedule 1 is the form of notice to be given by a person carrying out or intending to carry out work to cancel an initial notice in accordance with section 52A(2) of the Act.

(9) Form 8C in Schedule 1 is the form of notice to be given by a local authority to cancel an initial notice in accordance with section 52A(4) of the Act.".

**Amendments in relation to fire safety information etc**

**13.**—(1) Regulation 20 (application of regulations) is amended as follows—

(a) in the heading after "37," insert "38,";

(b) in paragraph (1)—

(i) after "37 (wholesome water consumption calculation)," insert "38 (fire safety information),";

(ii) for "local authority" substitute "building control authority or relevant authority";

(c) after paragraph (4) insert—

"(4A) Regulation 38 of the Principal Regulations applies in relation to building work which is the subject of an initial notice as if for paragraph (2) there were substituted—

"(2) The person carrying out the work must give the fire safety information to the responsible person no later than—

(a) the date of completion of the work to which the initial notice relates;

(b) the date of occupation of the building or extension;

(c) the date on which, in accordance with regulation 17(5) of the Building (Approved Inspectors etc.) Regulations 2010, the initial notice ceases to be in force,

whichever is the earlier.".".

(d) in paragraph (5) for "notice of commencement of the work" substitute "notice of intention to start work".

(2) Schedule 1 (forms) is amended as follows—

(a) in form 5 (final certificate) after paragraph 6 insert—

"**6A.** [I confirm the person carrying out the work has notified me to the effect that the fire safety information has been given to the responsible person as required by regulation 38 of the Building Regulations 2010.] **(7A)**."; and

(b) in the Notes to form 5 after note (7) insert—

"(7A) Delete this statement if regulation 38 of the Building Regulations 2010, as modified by regulation 20 of the Building (Approved Inspectors etc.) Regulations 2010, does not apply to the building work to which the final certificate relates.".

(3) In Schedule 4 (grounds for rejecting a final certificate), after paragraph 4 insert—

"**Lack of fire safety information confirmation**

**4A.** Regulation 38 of the Building Regulations 2010, as modified by regulation 20 of the Building (Approved Inspectors etc.) Regulations 2010, applies to the building work to which the final certificate relates and the approved inspector has not provided a confirmation that

the person carrying out the work has notified the approved inspector to the effect that the fire safety information has been given to the responsible person as required by that regulation.".

**Revocation of regulation 29**

**14.** Regulation 29 is omitted.

**Amendments as to appeals under Part 2 of the Act**

**15.** Before regulation 30 insert the following new Part—

# "PART 6A

## Appeals under Part 2 of the Act

**Appeal under section 50(2) of the Act**

**29A.**—(1) An appeal to the regulator under section 50(2) of the Act must be made within 21 relevant days beginning with the day after the day on which the approved inspector refused to give the plans certificate.

(2) Where a person is aggrieved with the decision of the regulator given on an appeal under section 50(2) of the Act wishes to appeal that decision by virtue of section 43A(3) of the Act, they must appeal to the First-tier Tribunal within 21 relevant days beginning with the day after the day on which the regulator notifies them of its decision.

(3) The First-tier Tribunal may allow an appeal referred to in paragraph (2) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable;

(d) that the decision was made without following the procedures set out in the Act or regulations made under that Act.

(4) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

**Appeals under section 55 of the Act**

**29B.**—(1) An appeal to the First-tier Tribunal—

(a) under section 55(1) of the Act;

(b) under section 55(2A) of the Act,

must be made within 21 relevant days beginning with the day after the day on which the local authority notifies the approved inspector of its decision.

(2) The First-tier Tribunal may allow an appeal under paragraph (1)(a) only if it is satisfied that the notice, certificate or report referred to in section 55(1) of the Act was not properly rejected on one or more of the following grounds—

(a) that the rejection was based on an error of fact;

(b) that the rejection was wrong in law;

(c) that the rejection was unreasonable;

(d) that the rejection was made without following the procedures set out in the Act or regulations made under the Act.

(3) The First-tier Tribunal may allow an appeal under paragraph (1)(b) only if it is satisfied that the initial notice was not properly cancelled under section 52A of the Act on one or more of the following grounds—

(a) that the cancellation was based on an error of fact;

(b) that the cancellation was wrong in law;

(c) that the cancellation was unreasonable;

(d) that the cancellation was made without following the procedures set out in the Act or regulations made under the Act.

(4) On determining an appeal under section 55(1) or (2A) of the Act, the First-tier Tribunal must give notice of the decision to—

(a) the person who made the appeal;

(b) the local authority.

(5) On determining an appeal under section 55(2A) of the Act, where the First-tier Tribunal determines—

(a) that an initial notice was properly cancelled, it must additionally notify the regulator of the decision;

(b) that an initial notice was not properly cancelled, it must in the notice referred to in paragraph (4) explain the effect of section 55(2C)(a) to (c) of the Act.".

**Substitution of regulation 31**

**16.** For regulation 31 (contravention of certain regulations not to be an offence) substitute—

"**Contravention of certain regulations not to be an offence etc**

**31.** Each of the regulations, other than regulations 16B(1), (2) and (5) and 19, is prescribed for the purposes of section 35(2) and 35B(7)(a) of the Act.".

**Revocation of regulation 32**

**17.** Regulation 32 (electronic service of documents) is omitted.

**Amendments to Schedule 1**

**18.**—(1) In Schedule 1 (forms) to the Approved Inspectors Regulations—

(a) in form 1 (initial notice)—

(i) in paragraph 3 for "(3)" substitute "(3A)";

(ii) after paragraph 13 insert—

"**13A.** I **(9)** confirm that none of the work to which this notice relates is higher-risk building work.";

(iii) in the Notes at the end of the form, for note (3) substitute—

"(3) Name, address, telephone number and (if available) email address of the approved inspector.

(3A) Name, address, telephone number and (if available) email address of the person intending to carry out the work, and if that person is not the client also the name, address, telephone number and (if available) email address of the client.";

(b) in form 2 (amendment notice), after paragraph 13 insert—

"**13A.** I **(7)** confirm that none of the work to which this notice relates is higher-risk building work.";

(c) in form 3 (plans certificate), after paragraph 11 insert—

"**11A.** I confirm that none of the work to which this certificate relates is higher-risk building work.";

(d) in form 4 (combined initial notice and plans certificate)—

(i) in paragraph 3 for "(4)" substitute "(4A)";

(ii) after paragraph 17 insert—

"**17A.** I **(8)** confirm that none of the work to which this notice relates is higher-risk building work.";

(iii) in the Notes at the end of the form, for note (4) substitute—

"(4) Name, address, telephone number and (if available) email address of the approved inspector.

(4A) Name, address, telephone number and (if available) email address of the person intending to carry out the work, and if that person is not the client also the name, address, telephone number and (if available) email address of the client.";

(e) in form 5 (final certificate) after paragraph 10B insert—

"**10C.** I confirm that none of the work to which this certificate relates is higher-risk building work.";

(f) in form 8, before note (1) in the Notes at the end of the form insert—

"Only use this form where the three year period for the work to be commenced expired before 1st October 2023. With effect from 1st October 2023 under section 53A of the Building Act 1984 (lapse of initial notice) an initial notice lapses automatically if work is not commenced within 3 years from the date the initial notice is given.".

(2) In Schedule 1 (forms) to the Approved Inspectors Regulations, in the appropriate place, insert the new forms set out in the Schedule to these Regulations.

**Amendments to Schedule 2 for gigabit broadband**

**19.** In Schedule 2 (grounds for rejecting an initial notice, an amendment notice, or a plans certificate combined with an initial notice) to the Approved Inspectors Regulations after paragraph 4(d) insert—

"(dd) in the case of an initial notice or amendment notice in relation to the erection of a new dwelling—

(i) a statement giving details of any public electronic communications network in relation to which a connection is to be provided;

(ii) if an exemption in regulation 44ZB of the Principal Regulations is proposed to be relied on, a statement giving details in support of the exemption;

(iii) if regulation 44ZC of those Regulations is proposed to be relied on, a statement giving details of the matters mentioned in regulation 44ZC(6)(a) and (b) of those Regulations and, if paragraph RA1(1)(c)(i) or (ii) of Schedule 1 to those

Regulations is also proposed to be relied on, evidence of the steps taken to establish whether, and if so where, a distribution point for a gigabit-capable public electronic communications network (as defined in regulation 44C of those Regulations) is likely to be installed, in a location relevant for the purposes of paragraph RA1(1)(c) of that Schedule, within the period of two years beginning with the day on which the notice is given.".

# PART 4

## Transitional, supplementary and savings provisions

### Cases where initial notice was given before October 2023

**20.**—(1) Subject to the other provisions of this Part, the amendments made to the Approved Inspectors Regulations by the regulations listed in paragraph (2) do not apply in relation to building work for which an initial notice has been given to a local authority, and which was accepted or treated as accepted under section 47 of the Act, before 1st October 2023.

(2) The regulations referred to in paragraph (1) are—

(a) regulation 8 (amendment to regulation 8);

(b) regulation 11 (new regulations 16A to 16E);

(c) regulation 12(2) and (3) (amendments to regulation 18);

(d) regulation 13 (amendments in relation to fire safety information);

(e) regulation 16 (substitution of regulation 31).

(3) The disapplication of—

(a) regulation 8 (amendment of regulation 8);

(b) the insertion of regulation 16B into the Approved Inspectors Regulations in regulation 11 (new regulations 16A to 16E);

(c) regulation 12(2) and (3) (amendments to regulation 18);

(d) regulation 13 (amendments in relation to fire safety information); and

(e) regulation 16 (substitution of regulation 31),

ceases on 6th April 2024 in relation to an initial notice where the building work described in the initial notice was not started before that date.

### Appeals

**21.** The amendments made by regulation 15 (amendments as to appeals under Part 2 of the Act) do not apply in relation to any appeal under Part 2 of the Act which was made before 1st October 2023.

### Forms

**22.**—(1) The amendments to form 2 (amendment notice) of Schedule 1 to the Approved Inspectors Regulations made by regulation 18(1)(b) (amendments as to Schedule 1) do not apply to any amendment notice(**9**) given on or after 1st October 2023 where the building work to which the initial notice relates includes higher-risk building work, provided the work described in the

(**9**) Section 51A of the Act defines "amendment notice".

amendment notice does not vary any of the work to which the initial notice relates to become higher-risk building work.

(2) The amendments to form 3 (plans certificates) of Schedule 1 to the Approved Inspectors Regulations made by regulation 18(1)(c) (amendments as to Schedule 1) do not apply to any plans certificate given on or after 1st October 2023 in respect of higher-risk building work in relation to which an initial notice was given before 1st October 2023.

(3) The amendments to form 5 (final certificates) of Schedule 1 to the Approved Inspectors Regulations made by regulation 18(1)(e) (amendments as to Schedule 1) do not apply to any final certificate given on or after 1st October 2023 in respect of higher-risk building work in relation to which an initial notice was given before 1st October 2023.

### Approved inspector's initial notices to be treated as notices of registered building control approver on 6th April 2024

**23.**—(1) This regulation applies where an approved inspector who gave an initial notice before 6th April 2024 has become a suitably qualified registered building control approver before that date.

(2) Where this regulation applies then with effect from 6th April 2024 the initial notice given by the approved inspector is treated as if it were given instead by that person in their capacity as a registered building control approver.

(3) For the purposes of this regulation, a registered building control approver is suitably qualified if the building work to which the initial notice relates is within the scope of the registration of the registered building control approver.

### Cases where building work supervised by approved inspector is not completed before October 2024

**24.**—(1) This regulation applies where an initial notice has been given by an approved inspector before 6th April 2024 and any of the building work described in the initial notice given has not been given a final certificate before 1st October 2024.

(2) Where this regulation applies then, for the purposes of section 47(4)(b)(ii) of the Act, the initial notice ceases to be in force with effect from 1st October 2024.

(3) This regulation does not apply to any initial notice which is treated as given by a registered building control approver by virtue of regulation 23 (approved inspector's initial notices to be treated as notices of registered building control approver on 6th April 2024).

### Transitional, supplementary and saving provisions: HRBs

**25.** Except to the extent provided for in Schedule 3 (transitional, supplementary and saving provisions) to the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, regulations 20 to 24 do not apply to the higher-risk buildings.

### Interpretation of this Part

**26.** For the purposes of this Part, "building work" has the meaning given in the Building Regulations 2010(**10**).

(**10**) S.I. 2010/2214.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

9th August 2023

SCHEDULE Regulation 18

New forms to be inserted into Schedule 1 to the Approved Inspectors Regulations

# Form 5A

**The Building (Approved Inspectors etc.) Regulations 2010**

**NOTICE OF REJECTION OF AN INITIAL NOTICE, AMENDMENT NOTICE, PLANS CERTIFICATE OR FINAL CERTIFICATE**

To: **(1)**

1. I am authorised to sign this notice by _____ **(2)**

2. This notice relates to the [initial notice / amendment notice / plans certificate / final certificate] **(3)** received on _____ **(4)**.

3. The local authority hereby rejects the [initial notice / amendment notice / plans certificate / final certificate] **(3)** on the following grounds _____ **(5)**

4. A person aggrieved with this rejection may appeal under section 55(1) of the Building Act 1984. An appeal must be made within 21 days beginning with the day after the day on which this notice is given (ignoring Christmas Day, Good Friday and bank holidays).

Signature

Date

**NOTES**

**(1)** Insert the name and address of the person to whom the notice is given. It must be given to the approved inspector who submitted the notice or certificate and, in the case of an initial notice or amendment notice, also to the person intending to carry out the work (and if that person is not the client also to the client).

**(2)** Insert name and address of the local authority.

**(3)** Delete whichever does not apply.

**(4)** Insert date the notice or certificate was received by the local authority.

**(5)** State which of the grounds set out in Schedule 2, 3, or, as the case may be, 4 to the Building (Approved Inspectors etc.) Regulations 2010 are relied on to reject the notice or certificate.

# Form 5B

**Section 51C of the Building Act 1984**

**The Building (Approved Inspectors etc.) Regulations 2010**

**NOTICE OF CHANGE OF PERSON CARRYING OUT THE WORK**

To: **(1)**

1. This notice proposes a change to the person carrying out the work in relation to the initial notice a copy of which accompanies this notice.

2. I **(2)** am an approved inspector for the purposes of Part 2 of the Building Act 1984 and I gave the initial notice referred to in paragraph 1.

3. We **(2)** and **(3)** propose that the work to which the initial notice relates should be carried out by **(4)**.

| | |
|---|---|
| Signed | Signed |
| Approved inspector | Person intending to carry out the work |
| Date | Date |

**NOTES**

**(1)** Name and address of local authority.

**(2)** Name of the approved inspector.

**(3)** Name of the person intending to carry out the work.

**(4)** Name, address, telephone number and (if available) email address of the person intending to carry out the work, and if that person is not the client also the name, address, telephone number and (if available) email address of the client.

# Form 8A

**Section 52A(1) of the Building Act 1984**

**The Building (Approved Inspectors etc.) Regulations 2010**

**NOTICE OF CANCELLATION OF ALL OR PART OF AN INITIAL NOTICE BY AN APPROVED INSPECTOR WHEN WORK BECOMES HIGHER-RISK BUILDING WORK**

To: **(1)**

1. An initial notice dated **(2)** has been given in relation to work.

2. This notice relates to [the following part of]/[all of] **(3)** that work: **(4)**

3. I am the approved inspector in relation to the initial notice referred to in paragraph 1.

4. I hereby cancel [the part of the initial notice which relates to higher-risk building work referred to in paragraph 2]/[the initial notice] **(3)**.

Signature

Date

**NOTES**

**(1)** Insert the name and address of the person to whom the notice is given. It must be given to the local authority and the person carrying out or intending to carry out the work (and if that person is not the client also to the client).

**(2)** Insert date

**(3)** Delete whichever does not apply.

**(4)** Location and description of the higher-risk building work.

# Form 8B

**Section 52A(2) of the Building Act 1984**

**The Building (Approved Inspectors etc.) Regulations 2010**

**NOTICE OF CANCELLATION OF ALL OR PART OF AN INITIAL NOTICE BY PERSON CARRYING OUT OR INTENDING TO CARRY OUT THE WORK WHEN WORK BECOMES HIGHER-RISK BUILDING WORK**

To: **(1)**

1. An initial notice dated **(2)** has been given in relation to work.

2. This notice relates to [the following part of]/[all of] **(3)** that work: **(4)**

3. I am the person [carrying out]/[intending to carry out] **(3)** the work under the initial notice referred to in paragraph 1.

4. I hereby cancel [the part of the initial notice which relates to higher-risk building work referred to in paragraph 2]/[the initial notice] **(3)**.

Signature

Date

**NOTES**

**(1)** Insert the name and address of the person to whom the notice is given. It must be given to the local authority and the approved inspector (and if the person carrying out the work is not the client also to the client).

**(2)** Insert date

**(3)** Delete whichever does not apply.

**(4)** Location and description of the higher-risk building work.

# Form 8C

**Section 52A(4) of the Building Act 1984**

**The Building (Approved Inspectors etc.) Regulations 2010**

**NOTICE OF CANCELLATION BY LOCAL AUTHORITY OF ALL OR PART OF AN INITIAL NOTICE WHEN WORK BECOMES HIGHER-RISK BUILDING WORK**

To: **(1)**

1. The local authority accepted an initial notice on **(2)** in relation to work.

2. This notice relates to [the following part of]/[all of] **(3)** that work: **(4)**

3. I am authorised to sign this notice by the following local authority: **(5)**

4. It appears to the local authority that the work referred to in paragraph 2 has become higher-risk building work and the local authority hereby cancels [the part of the initial notice which relates to higher-risk building work referred to in paragraph 2]/[the initial notice] **(3)**.

Signature

Date

**NOTES**

**(1)** Insert the name and address of the person to whom the notice is given. It must be given to the approved inspector and the person shown in the initial notice as the person intending to carry out the work (and if that person is not the client also to the client).

**(2)** Insert date

**(3)** Delete whichever does not apply.

**(4)** Location and description of the higher-risk building work.

**(5)** Name and address of the local authority.

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**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

This instrument is part of a number of Regulations which implement Part 3 of the Building Safety Act 2022. That Act inserts section 91ZA into the Building Act 1984. Section 91ZA, which is to

have effect from 1st October 2023, provides for the regulator to be the building control authority in relation to any higher-risk building in England and any proposed higher-risk building. The Act also introduces a new regulatory regime for the building control profession under which approved inspectors will be replaced by registered building control approvers.

Part 2 of these Regulations provide sets out the registration period for registered building inspectors and registered building control approvers, and also specifies those decisions of the regulator, in relation to registration of those inspectors and approvers, which are subject to review under section 25 of the Building Safety Act 2022 and makes provision in relation to appeal following a review.

Part 3 of these Regulations amend the Building (Approved Inspectors etc.) Regulations 2010 (S.I. 2010/2215) ("the 2010 Regulations").

In particular, regulation 8 amends regulation 8 of the 2010 Regulations to add the dutyholder and competence provisions of the Building Regulations 2010 into the list of provisions in relation to which an approved inspector must take reasonable steps to be satisfied is complied with (and regulation 12(2) and (3) introduces a new notice which an approved inspector must send to the person carrying out the work where the inspector is proposing to cancel the initial notice for breach of the dutyholder and compliance provisions).

Regulation 9 sets out that where on or after 1st October 2023 an approved inspector submits an initial notice or amendment notice which the local authority is satisfied includes higher-risk building work (in breach of the new restriction in section 47(1) or 51A(1) of the Building Act 1984) the local authority must send a notice explaining that the notice submitted was invalid.

Regulations 10, 14 and 17 make amendments which are consequential on the repeal of section 16 of the Building Act 1984 and other amendments to that Act.

Regulation 11 inserts new regulations 16A to 16E into the 2010 Regulations: regulation 16A and regulation 20(2) provides a rejection notice, regulation 16B provides for a new notice before starting work and a new notice where work is to be regarded as commenced and a power for the local authority to reject such a notice and the right of appeal against a rejection, regulation 16C sets out when work is to be regarded as commenced for the purposes of lapse of initial notices under section 53A of the Building Act 1984, regulation 16D provides that the client must notify the approved inspector where the principal contractor or principal designer in relation to the work changes, and regulation 16E provides that after completion of the work the client must send a notice to the approved inspector which includes compliance statements as to the work.

Regulation 12(4) and regulation 18(2) provide for new forms to cancel an initial notice under section 52A of the Building Act 1984. Regulation 13 makes amendments in relation to the handover of fire safety information. Regulation 15 makes amendments in relation to appeals. Regulation 16 adds new provision as to contraventions. Regulation 18(1) makes amendments to a number of the forms in the 2010 Regulations, in particular to require a confirmation that the work to which the notice or certificate relates is not higher-risk building work. Regulation 19 amends the grounds in Schedule 2 to the 2010 Regulations in relation to gigabit broadband.

Part 4 of these Regulations makes transitional, supplementary and saving provisions.

A full impact assessment of the effect that this instrument will have on the costs to business is published with an Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

STATUTORY INSTRUMENTS

# 2023 No. 908

# BUILDING AND BUILDINGS

## The Building Safety Act 2022 (Consequential Amendments etc.) Regulations 2023

*Made - - - - 9th August 2023*

*Coming into force in accordance with regulation 1*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 166 and 168(2) of the Building Safety Act 2022(**1**).

A draft of these Regulations was laid before and approved by a resolution of both Houses of Parliament in accordance with section 168(6) of the Building Safety Act 2022.

### Citation, commencement and extent

**1.**—(1) These Regulations may be cited as the Building Safety Act 2022 (Consequential Amendments etc.) Regulations 2023.

(2) These Regulations come into force on the day on which section 32 of the Building Safety Act 2022 (building control authorities) comes into force in relation to England, ignoring any commencement of that section for the purpose only of making regulations.

(3) These Regulations extend to England and Wales.

### Amendments to the London Building Acts (Amendment) Act 1939

**2.**—(1) The London Building Acts (Amendment) Act 1939(**2**) is amended as follows.

(2) In section 4(1) (interpretation)—

(i) omit the definition of "notice is given or plans are deposited";

(ii) insert the following definition in the appropriate place—

> ""notice is given or application for building control approval is made" means a building notice is given or an application for building control approval is made under regulation 12 of the Building Regulations 2010 or an initial notice or public body's notice is given under sections 47(1) or 54(1) of the Building Act 1984;".

(3) In section 82 (duties of district surveyor)—

(**1**) 2022 c. 30.
(**2**) 1939 c. xcvii.

(a) in subsection (2)(a), for "notice is given or plans are deposited" substitute "notice is given or application for building control approval is made";

(b) in subsection (2)(b), for "notice has not been given or plans have not been deposited" substitute "notice has not been given or application for building control approval has not been made".

(4) In section 87(1) (service of notice of objection)—

(a) for "notice is given or plans are deposited" substitute "notice is given or application for building control approval is made";

(b) for "those plans" substitute "that application";

(c) for "a court of summary jurisdiction who" substitute "the First-tier Tribunal which".

(5) In section 88(b) (service of notice of irregularity) for "notice has not been given or plans have not been deposited" substitute "notice has not been given or application for building control approval has not been made".

(6) In section 89(2) (notice of irregularity after completion of building work &c.) for "notice has not been given and plans have not been deposited" substitute "notice has not been given and application for building control approval has not been made".

**Amendments to the County of Merseyside Act 1980**

**3.**—(1) The County of Merseyside Act 1980(**3**) is amended as follows.

(2) In section 2(1) (interpretation) after the definition of "the Act of 1976" insert—

""application for building control approval" means an application in accordance with building regulations for building control approval (as defined in paragraph 1B of Schedule 1 to the Building Act 1984);"

(3) In section 20(1)(a) (safety of stands) for "of which plans, sections, specifications or written particulars must, in the opinion of the local authority, be deposited" substitute "for which an application for building control approval must be made".

(4) In section 55 (access to fire brigade)—

(a) in subsection (1)—

(i) for "plans for the erection or extension of a building are deposited with" substitute "an application for building control approval for the erection or extension of a building is made to";

(ii) for "reject the plans" substitute "reject the application";

(iii) for "plans show" substitute "application shows";

(b) for subsection (4) substitute—

"(4) A person aggrieved by the action of the district council in rejecting an application for building control approval under this section may appeal to the First-tier Tribunal.".

**Amendments to the Cheshire County Council Act 1980**

**4.**—(1) The Cheshire County Council Act 1980(**4**) is amended as follows.

(2) In section 2(1) (interpretation) after the definition of "the Act of 1976" insert—

(**3**) 1980 c. x.
(**4**) 1980 c. xiii.

""application for building control approval" means an application in accordance with building regulations for building control approval (as defined in paragraph 1B of Schedule 1 to the Building Act 1984);".

(3) In section 29(1)(a) (safety of stands) for "of which plans, sections, specifications or written particulars must be deposited" substitute "for which an application for building control approval must be made".

(4) In section 50 (access for fire brigade)—

(a) in subsection (1)—

(i) for "plans for the erection or extension of a building are deposited with" substitute "an application for building control approval for the erection or extension of a building is made to";

(ii) for "reject the plans" substitute "reject the application";

(iii) for "plans show" substitute "application shows";

(b) for subsection (4) substitute—

"(4) A person aggrieved by the action of the district council in rejecting an application for building control approval under this section may appeal to the First-tier Tribunal.".

**Amendments to the West Yorkshire Act 1980**

**5.**—(1) The West Yorkshire Act 1980(**5**) is amended as follows.

(2) In section 2(1) (interpretation) after the definition of "the Act of 1976" insert—

""application for building control approval" means an application in accordance with building regulations for building control approval (as defined in paragraph 1B of Schedule 1 to the Building Act 1984);".

(3) In section 9 (culverting streams before development)—

(a) in subsection (1)—

(i) for "Where plans of any proposed work are" substitute "Where an application for building control approval for any proposed work is";

(ii) for "deposited with" substitute "made to";

(iii) for "passing the plans" substitute "approving the application";

(b) in subsection (3)—

(i) for "plans of any proposed work were deposited with" substitute "an application for building control approval for any proposed work was made to";

(ii) for "appeal to the Secretary of State" substitute "appeal to the building safety regulator";

(iii) for "Section 69 of the Health and Safety at Work etc. Act 1974 (appeals to the Secretary of State)" substitute "Section 43A of the Building Act 1984";

(iv) omit the words from "Provided that" to the end.

(4) In section 56 (orders for insulating new buildings), in subsection (7)—

(a) for "Where plans" substitute "Where an application for building control approval";

(b) for "are, in accordance with building regulations, deposited with" substitute "is, in accordance with building regulations, made to";

(c) for "reject the plans" substitute "reject the application".

(**5**) 1980 c. xiv.

### Amendments to the Highways Act 1980

**6.**—(1) The Highways Act 1980(**6**) is amended as follows.

(2) In section 203 (interpretation of Part XI)—

(a) in subsection (2)(b)(i) after "any land" insert "in Wales";

(b) after subsection (2)(b)(i) insert—

"(ia) any land in England shown as a proposed street on plans with respect to that building which accompany an application for building control approval under building regulations or on an application for planning permission under the Town and Country Planning Act 1990,";

(c) in subsection (3), at the appropriate places insert—

""application for building control approval" means an application in accordance with building regulations for building control approval (as defined in paragraph 1B of Schedule 1 to the Building Act 1984);";

""building safety regulator" means the regulator within the meaning of Part 2 of the Building Safety Act 2022;".

(3) In section 219 (payments to be made by owners of new buildings in respect of street works), in subsection (1)(a), after "a building" insert—

"—

(i) in England for which an application for building control approval must be made, or

(ii) in Wales".

(4) In section 220 (determination of liability for, and amount of, payments)—

(a) in subsection (1)—

(i) after "erection of a building" insert "in Wales";

(ii) omit "(2) or";

(iii) omit "district council or";

(iv) for "subsections (2) and (2A)" substitute "subsection (2A)";

(b) after subsection (1) insert—

"(1A) In a case in England to which section 219 applies the street works authority shall, within 6 weeks from their granting of any required application for building control approval relating to the erection of a building or, in a case to which subsection (2) applies, the granting of such an application by the district council or the building safety regulator, serve a notice on the person by or on whose behalf the application for building control approval was made requiring the payment or the securing under section 219 of a sum specified in the notice.";

(c) for subsection (2) substitute—

"(2) In any case in England to which section 219 may be applicable—

(a) where (outside Greater London) the advance payments code is in force in the whole or any part of a non-metropolitan district, the district council shall within one week from the date of granting the application for building control approval relating to the erection of a building in England in an area in which that code is in force inform the street works authority that the application has been granted; and

(**6**) 1980 c. 66.

(b) where the building safety regulator has granted an application for building control approval relating to the erection of a building in England in an area in which the advance payments code is in force, the regulator shall within one week from the date of granting the application inform the street works authority that the application has been granted.";

(d) in subsections (3), (4), (7) and (8) for "subsection (1)", in each place it occurs, substitute "subsection (1) or (1A)".

(5) In section 223 (determination to cease to have effect when plans not proceeded with)—

(a) in subsection (1) after "erection of a building" insert "in Wales";

(b) after subsection (1) insert—

"(1A) Where, on the granting of an application for building control approval for the erection of a building in England, the amount to be paid or secured under section 219 has been determined under section 220, and subsequently—

(a) by virtue of section 32 of the Building Act 1984 the approval is treated as not having been given, or

(b) before any work has been done in or for the purpose of erecting the building the owner gives notice of their intention not to proceed with the building to—

(i) the building safety regulator, as respect a higher-risk building, or

(ii) the local authority, as respects any other building,

the said determination and any payment made or security given in accordance with it are, unless there have already been carried out or commenced in the street under the private street works code street works in respect of which the owner of the land on which the building was to be erected is liable, of no effect for the purposes of this Part of this Act.";

(c) in subsection (2) after "subsection (1)" insert "or (1A)";

(d) after subsection (5) insert—

"(5A) Where—

(a) a person gives notice in accordance with subsection (1A)(b) of their intention not to proceed with the building and by reason thereof a determination is of no effect, and

(a) subsequently notice is given by the owner of the land that they intend to proceed with the building in accordance with the approval given under the application for building control approval as originally made,

the notice to be served under section 220(1A) by the street works authority shall, in lieu of being served as required by that subsection, be served within one month from the date of the service of the notice of intention to proceed with the building, and section 220 has effect accordingly.";

(e) for the opening words of subsection (6) substitute—

"(5B) As respects England, in any case to which this section may be applicable and one of the events referred to in subsection (5C) takes place—

(a) where the advance payments code is in force in the whole or any part of a non-metropolitan district, the district council shall within one week inform the county council of the happening of the event in question;

(b) where the building safety regulator has granted an application for building control approval relating to the erection of a building in an area in which the advance payments code is in force, the regulator shall within one week inform the street works authority of the happening of the event in question.

(5C) The events mentioned in subsection (5B) are—

(a) the lapse, under section 32 of the Building Act 1984, of a building control approval granted by the district council, or the building safety regulator, as the case may be;

(b) the giving of any notice by an owner of an intention not to proceed with a building in respect of which an application for building control approval was made;

(c) the giving of any notice by an owner of an intention to proceed with the building in accordance with the application for building control approval as originally made.

(6) The following kinds of event are relevant for the purposes of subsection (7)—".

(6) In section 224 (certain matters to be local land charges), in subsection (2)(a), after "section 220(1)" insert ", (1A)".

**Amendments to the Greater Manchester Act 1981**

**7.**—(1) The Greater Manchester Act 1981(**7**) is amended as follows.

(2) In section 2(1) (interpretation) after the definition of "the Act of 1980" insert—

""application for building control approval" means an application in accordance with building regulations for building control approval (as defined in paragraph 1B of Schedule 1 to the Building Act 1984);".

(3) In section 58(1)(a) (safety of stands) for "of which plans, sections, specifications or written particulars must be deposited" substitute "for which an application for building control approval must be made".

(4) In section 63 (access for fire brigade)—

(a) in subsection (1)—

(i) for "plans for the erection or extension of a building are deposited with" substitute "an application for building control approval for the erection or extension of a building is made to";

(ii) for "reject the plans" substitute "reject the application";

(iii) for "plans show" substitute "application shows";

(b) for subsection (4) substitute—

"(4) A person aggrieved by the action of the district council in rejecting an application for building control approval under this section may appeal to the First-tier Tribunal.".

(5) In section 103(7) (order for insulating new buildings)—

(a) for "Where plans" substitute "Where an application for building control approval";

(b) for "are, in accordance with building regulations, deposited with" substitute "is, in accordance with building regulations, made to";

(c) for "reject the plans" substitute "reject the application".

**Amendments to the County of Kent Act 1981**

**8.**—(1) The County of Kent Act 1981(**8**) is amended as follows.

(**7**) 1981 c. ix.
(**8**) 1981 c. xviii.

(2) In section 2(1) (interpretation), after the definition of "the Act of 1980" insert—

""application for building control approval" means an application in accordance with building regulations for building control approval (as defined in paragraph 1B of Schedule 1 to the Building Act 1984);".

(3) In section 53 (access for fire brigade)—

(a) in subsection (1)—

(i) for "plans for the erection or extension of a building are deposited with" substitute "an application for building control approval for the erection or extension of a building is made to";

(ii) for "reject the plans" substitute "reject the application";

(iii) for "plans show" substitute "application shows";

(b) for subsection (4) substitute—

"(4) A person aggrieved by the action of the district council in rejecting an application for building control approval under this section may appeal to the First-tier Tribunal.".

(4) In section 76(7) (orders for insulating new buildings)—

(a) for "Where plans" substitute "Where an application for building control approval";

(b) for "are, in accordance with building regulations, deposited with" substitute "is, in accordance with building regulations, made to";

(c) for "reject the plans" substitute "reject the application".

(5) Omit section 78 (approval of plan to be void after certain interval).

**Amendments to the Staffordshire Act 1983**

**9.**—(1) The Staffordshire Act 1983(**9**) is amended as follows.

(2) In section 2(1) (interpretation) after the definition of "the Act of 1980" insert—

""application for building control approval" means an application in accordance with building regulations for building control approval (as defined in paragraph 1B of Schedule 1 to the Building Act 1984);".

(3) In section 26 (access for fire brigade)—

(a) in subsection (1)—

(i) for "plans for the erection or extension of a building are deposited with" substitute "an application for building control approval for the erection or extension of a building is made to";

(ii) for "reject the plans" substitute "reject the application";

(iii) for "plans show" substitute "application shows";

(b) for subsection (4) substitute—

"(4) A person aggrieved by the action of the district council in rejecting an application for building control approval under this section may appeal to the First-tier Tribunal.".

(4) In section 48(1) (foundations of buildings liable to subsidence)—

(a) for "plans are deposited with" substitute "an application for building control approval is made to";

(b) for "reject the plans" substitute "reject the application";

(**9**) 1983 c. xviii.

(c) for "they show", substitute "it shows".

**Amendments to the Surrey Act 1985**

**10.**—(1) The Surrey Act 1985(**10**) is amended as follows.

(2) In section 2(1) (interpretation) after the definition of "the Act of 1984" insert—

""application for building control approval" means an application in accordance with building regulations for building control approval (as defined in paragraph 1B of Schedule 1 to the Building Act 1984);".

(3) In section 18 (parking places: safety requirements)—

(a) in subsection (2)—

(i) for "plans of" substitute "an application for building control approval for";

(ii) for "are deposited with" substitute "is made to";

(iii) for "plans show" substitute "application shows";

(iv) for "reject the plans" substitute "reject the application";

(b) in subsection (3) for "plans may be passed" substitute "the application for building control approval may be granted";

(c) in subsection (4)—

(i) omit "Section 16(6) to (8) of the Building Act 1984 shall apply to plans mentioned in subsection (2) above as they apply to plans mentioned in those subsections and";

(ii) for "that Act", where it first occurs, substitute "the Building Act 1984";

(d) for subsection (5) substitute—

"(5) A person aggrieved by the action of the district council in rejecting an application for building control approval under this section may appeal to the First-tier Tribunal.";

(e) in subsection (6) for "plans have been passed" substitute "the application for building control approval has been granted";

(f) in subsection (7)—

(i) for "plans, sections, specifications or written particulars deposited" substitute "application for building control approval had to be made";

(ii) for "plans of the work consisting of, or including, the parking place had been deposited" substitute "an application for building control approval of the work consisting of, or including, the parking place had been made";

(g) in subsection (12)—

(i) for "deposit of such plans as are" substitute "the application";

(ii) in paragraph (b), for "plans in respect of any building have been passed" substitute "an application for building control approval in respect of any building has been granted".

(4) In section 19 (fire precautions in large storage buildings)—

(a) in subsection (2)—

(i) for "plans are deposited with" substitute "an application for building control approval is made to";

(ii) for "plans show" substitute "application shows";

(**10**) 1985 c. iii.

(iii) for "reject the plans" substitute "reject the application";

(b) in subsection (3)—

(i) for "plans may be passed" substitute "the application for building control approval may be granted";

(ii) for "those plans are deposited" substitute "that application is made";

(c) in subsection (5)—

(i) omit "Section 16(6) to (8) of the Building Act 1984 shall apply to plans mentioned in subsection (2) above as they apply to plans mentioned in those subsections and";

(ii) for "that Act", where it first occurs, substitute "the Building Act 1984";

(d) for subsection (6) substitute—

"(6) A person aggrieved by the action of the district council under subsection (2) above in rejecting an application for building control approval, or in imposing any conditions, may appeal to the First-tier Tribunal.";

(e) in subsection (7)—

(i) for "plans, sections, specifications or written particulars deposited" substitute "application for building control approval made";

(ii) for "plans of the work consisting of, or including, the building had been so deposited" substitute "an application for building control approval of the work consisting of, or including, the building had been made";

(iii) for "passed the plans" substitute "granted the application".

(5) In section 20 (access for fire brigade)—

(a) in subsection (1)—

(i) for "plans for the erection or extension of a building are deposited with" substitute "an application for building control approval for the erection or extension of a building is made to";

(ii) for "reject the plans" substitute "reject the application";

(iii) for "plans show" substitute "application shows";

(b) in subsection (3)—

(i) omit "Section 16(6) and (7) of the Building Act 1984 shall apply to plans mentioned in subsection (1) above as they apply to plans mentioned in those subsections and";

(ii) for "that Act", where it first occurs, substitute "the Building Act 1984";

(c) for subsection (4) substitute—

"(4) A person aggrieved by the action of the district council in rejecting an application for building control approval under this section may appeal to the First-tier Tribunal.".

### Amendments to the Leicestershire Act 1985

**11.**—(1) The Leicestershire Act 1985(**11**) is amended as follows.

(2) In section 2(1) (interpretation) after the definition of "the Act of 1984" insert—

""application for building control approval" means an application in accordance with building regulations for building control approval (as defined in paragraph 1B of Schedule 1 to the Building Act 1984);".

(**11**) 1985 c. xvii.

(3) In section 21(1)(a) (safety of stands) for "of which plans, sections, specifications or written particulars must be deposited" substitute "for which an application for building control approval must be made".

(4) In section 50 (access for fire brigade)—

(a) in subsection (1)—

(i) for "plans for the erection or extension of a building are deposited with" substitute "an application for building control approval for the erection or extension of a building is made to";

(ii) for "reject the plans" substitute "reject the application";

(iii) for "plans show" substitute "application shows";

(b) in subsection (3), omit "Section 16(6) to (8) and" and "notice of rejection or passing of plans and";

(c) for subsection (4) substitute—

"(4) A person aggrieved by the rejection of an application for building control approval under this section may appeal to the First-tier Tribunal.".

(5) In section 54 (means of escape from fire in certain buildings)—

(a) in subsection (5)—

(i) for "Where plans of a building or of" substitute "Where an application for building control approval for a building or for";

(ii) for "deposited with" substitute "made to";

(iii) for "reject the plans unless they show" substitute "reject the application unless it shows";

(b) for subsection (7) substitute—

"(7) A person aggrieved by the rejection of an application for building control approval under this section may appeal to the First-tier Tribunal.".

**Amendments to the Poole Borough Council Act 1986**

**12.**—(1) The Poole Borough Council Act 1986(**12**) is amended as follows.

(2) In section 2 (interpretation) after the definition of "the Act of 1984" insert—

""application for building control approval" means an application in accordance with building regulations for building control approval (as defined in paragraph 1B of Schedule 1 to the Building Act 1984);".

(3) In section 6(1)(a) (safety of stands) for "of which plans, sections, specifications or written particulars must be deposited" substitute "for which an application for building control approval must be made".

(4) In section 10 (parking places: safety requirements)—

(a) in subsection (2)—

(i) for "plans of any proposed work are deposited with" substitute "an application for a building control approval is made to";

(ii) for "plans show" substitute "application shows";

(iii) for "reject the plans" substitute "reject the application";

(**12**) 1986 c.i.

(b) in subsection (3) for "plans may be passed" substitute "the application for building control approval may be granted";

(c) in subsection (4) omit "Section 16(6) to (8) and" and "notice of rejection or passing of plans and";

(d) for subsection (5) substitute—

"(5) A person aggrieved by the action of the Council under subsection (2) above in rejecting an application for building control approval, or in imposing any conditions, may appeal to the First-tier Tribunal and on an appeal under this section the tribunal may dismiss or allow the appeal or may vary the decision of the Council against which the appeal is made.";

(e) in subsection (6) for "plans have been passed" substitute "the application for building control approval has been granted";

(f) in subsection (7)—

(i) for "plans, sections, specifications or written particulars deposited" substitute "application for building control approval had to be made";

(ii) for "plans of the work consisting of, or including, the parking place has been deposited" substitute "an application for building control approval of the work consisting of, or including, the parking place has been made";

(g) in subsection (12)—

(i) in paragraph (a), for "deposit of such plans as are" substitute "the application";

(ii) in paragraph (b), for "plans in respect of any building have been passed" substitute "an application for building control approval in respect of any building has been granted".

(5) In section 11 (access for fire brigade)—

(a) in subsection (1)—

(i) for "plans for the erection or extension of a building are deposited with" substitute "an application for building control approval for the erection or extension of a building is made to";

(ii) for "reject the plans" substitute "reject the application";

(iii) for "plans show" substitute "application shows";

(b) in subsection (3), omit "Section 16(6) and (7) and" and "notice of rejection or passing of plans and";

(c) for subsection (4) substitute—

"(4) A person aggrieved by the action of the Council in rejecting an application for building control approval under this section may appeal to the First-tier Tribunal.".

(6) In section 13(3) (buildings used for storage of flammable substances) for "plans of the building were deposited" substitute "an application for building control approval in respect of the building was made".

(7) In section 14 (fire precautions in large storage buildings)—

(a) in subsection (2)—

(i) for "plans are deposited with" substitute "an application for building control approval is made to";

(ii) for "plans show" substitute "application shows";

(iii) for "reject the plans" substitute "reject the application";

(b) in subsection (3)—

(i) for "plans may be passed" substitute "the application for building control approval may be granted";

(ii) for "those plans are deposited" substitute "that application is made";

(c) in subsection (5) omit "Section 16(6) to (8) and" and "notice of rejection or passing of plans and";

(d) for subsection (6) substitute—

"(6) A person aggrieved by the action of the Council under subsection (2) above in rejecting an application for building control approval, or in imposing any conditions, may appeal to the First-tier Tribunal and on an appeal under this section the tribunal may dismiss or allow the appeal or may vary the decision of the Council against which the appeal is made.";

(e) in subsection (7)—

(i) for "plans, sections, specifications or written particulars deposited" substitute "application for building control approval made";

(ii) for "plans of the work consisting of, or including, the building had been so deposited" substitute "an application for building control approval of the work consisting of, or including, the building had been made";

(iii) for "passed the plans" substitute "granted the application".

(8) In section 15 (fire precautions in high buildings) —

(a) in subsection (1)—

(i) for "plans are deposited with" substitute "an application for building control approval is made to";

(ii) for "plans show" substitute "application shows";

(iii) for "reject the plans" substitute "reject the application";

(b) in subsection (2) for "plans may be passed" substitute "the application for building control approval may be granted";

(c) in subsection (4) omit "Section 16(6) to (8) and" and "notice of rejection or passing of plans and";

(d) for subsection (5) substitute—

"(5) A person aggrieved by the action of the Council under subsection (1) above in rejecting an application for building control approval, or in imposing any conditions, may appeal to the First-tier Tribunal and on an appeal under this section the tribunal may dismiss or allow the appeal or may vary the decision of the Council against which the appeal is made.".

**Amendments to the Berkshire Act 1986**

**13.**—(1) The Berkshire Act 1986(**13**) is amended as follows.

(2) In section 2(1) (interpretation) after the definition of "the Act of 1984" insert—

""application for building control approval" means an application in accordance with building regulations for building control approval (as defined in paragraph 1B of Schedule 1 to the Building Act 1984);".

(**13**) 1986 c.ii.

(3) In section 28(1)(a) (safety of stands) for "of which plans, sections, specifications or written particulars must be deposited" substitute "for which an application for building control approval must be made".

(4) In section 32 (access for fire brigade)—

(a) in subsection (1)—

(i) for "plans for the erection or extension of a building are deposited with" substitute "an application for building control approval for the erection or extension of a building is made to";

(ii) for "reject the plans" substitute "reject the application";

(iii) for "plans show" substitute "application shows";

(b) in subsection (3) omit "Section 16(7) and (8) and" and "notice of rejection or passing of plans and";

(c) for subsection (4) substitute—

"(4) A person aggrieved by the action of the district council in rejecting an application for building control approval under this section may appeal to the First-tier Tribunal.".

**Amendments to the Plymouth City Council Act 1987**

**14.**—(1) The Plymouth City Council Act 1987(**14**) is amended as follows.

(2) In section 3(1) (interpretation) after the definition of "the Act of 1961" insert—

""application for building control approval" means an application in accordance with building regulations for building control approval (as defined in paragraph 1B of Schedule 1 to the Building Act 1984);".

(3) In section 7(1)(a) (safety of stands) for "of which plans, sections, specifications or written particulars must be deposited" substitute "for which an application for building control approval must be made".

**Amendments to the Essex Act 1987**

**15.**—(1) The Essex Act 1987(**15**) is amended as follows.

(2) In section 2(1) (interpretation) after the definition of "the Act of 1984" insert—

""application for building control approval" means an application in accordance with building regulations for building control approval (as defined in paragraph 1B of Schedule 1 to the Building Act 1984);".

(3) Omit section 7 (approval of plans to be of no effect after certain interval).

(4) In section 13 (access for fire brigade)—

(a) in subsection (1)—

(i) for "plans for the erection or extension of a building are deposited with" substitute "an application for building control approval for the erection or extension of a building is made to";

(ii) for "reject the plans" substitute "reject the application";

(iii) for "plans show" substitute "application shows";

(b) in subsection (3) for "Sections 16 and" substitute "Section";

(**14**) 1987 c. iv.
(**15**) 1987 c. xx.

(c) for subsection (4) substitute—

"(4) A person aggrieved by the action of the district council in rejecting an application for building control approval under this section may appeal to the First-tier Tribunal.".

**Amendment to the Clean Air Act 1993**

**16.** In section 16 (height of other chimneys) of the Clean Air Act 1993(**16**), after subsection (4) insert—

"(4A) In the application of this section to England—

(a) any reference to plans deposited in accordance with building regulations shall be read as a reference to the plans, specifications and other information submitted with an application for building control approval;

(b) any reference to a local authority shall be read as including a reference to the building safety regulator;

(c) any reference to the rejection of plans shall be read as a reference to the rejection of an application for building control approval;

(d) any reference to the notice given under section 16(6) of the Building Act 1984 shall be read as a reference to a notice of rejection of an application for building control approval given in accordance with building regulations,

(4B) In subsection (4A)—

"application for building control approval" means an application in accordance with building regulations for building control approval (as defined in paragraph 1B of Schedule 1 to the Building Act 1984);

"building safety regulator" means the regulator within the meaning of Part 2 of the Building Safety Act 2022.".

**Transitional provision**

**17.**—(1) The amendments in these Regulations do not apply in relation to any building work for which a notice was given or full plans were deposited with a local authority before the date on which these Regulations come into force.

(2) In this regulation—

"building work" and "full plans" have the meanings given in regulation 2 of the Building Regulations 2010(**17**);

"notice" means a building notice given under regulation 12 of the Building Regulations 2010 or an initial notice given under section 47 of the Building Act 1984.

(**16**) 1993 c. 11.
(**17**) S.I. 2010/2214.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

9th August 2023

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make amendments which are consequential on Part 3 of the Building Safety Act 2022 (c. 30) ("the 2022 Act").

Regulations 2 to 16 make consequential amendments to the London Building Acts (Amendment) Act 1939, the County of Merseyside Act 1980, the Cheshire County Council Act 1980, the West Yorkshire Act 1980, the Highways Act 1980, the Greater Manchester Act 1981, the County of Kent Act 1981, the Staffordshire Act 1983, the Surrey Act 1985, the Leicestershire Act 1985, the Poole Borough Council Act 1986, the Berkshire Act 1986, the Plymouth City Council Act 1987, the Essex Act 1987 and the Clean Air Act 1993.

These amendments relate to the repeal by paragraph 20 of Schedule 5 to the 2022 Act of section 16 of the Building Act 1984 (c. 55), which provided for the deposit of plans for proposed building work with local authorities. Section 33 of the 2022 provides for the making of applications for building control approval instead of depositing of plans. Paragraph 1B of Schedule 1 to the Building Act 1984, in particular, makes provision about applications for building control approval. For the most part these amendments replace a reference to deposit of plans with a reference to the making of an application for building control approval.

Regulation 17 makes transitional provisions to ensure the amendments in these Regulations do not affect building work for which a notice is given or plans are deposited under section 16 of the Building Act 1984 before 1st October 2023.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

STATUTORY INSTRUMENTS

# 2023 No. 1052

# BUILDING AND BUILDINGS, ENGLAND

## The Building (Restricted Activities and Functions) (England) Regulations 2023

| | |
|---|---|
| *Made - - - -* | *19th September 2023* |
| *Laid before Parliament* | *29th September 2023* |
| *Coming into force - -* | *6th April 2024* |

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1, 46A and 54B of, and paragraph 10 of Schedule 1 to, the Building Act 1984(**1**).

The Secretary of State has consulted the regulator and such other persons as the Secretary of State considers appropriate in accordance with section 120B(3) of the Building Act 1984.

### Citation, extent, application and commencement

**1.**—(1) These Regulations may be cited as the Building (Restricted Activities and Functions) (England) Regulations 2023.

(2) These Regulations extend to England and Wales and apply in relation to buildings or building work in England.

(3) These Regulations come into force on 6th April 2024.

### Interpretation

**2.** In these Regulations—

"the 1984 Act" means the Building Act 1984;

"the 2010 Regulations" means the Building Regulations 2010(**2**);

"the HRB Regulations" means the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023(**3**);

"building" has the meaning given in the 2010 Regulations(**4**);

(**1**) 1984 c. 55. Sections 46A and 54B were inserted by section 44 of the Building Safety Act 2022 (c. 30). Section 120B was inserted by paragraph 77 of Schedule 5 to the Building Safety Act 2022.
(**2**) S.I. 2010/2214 as amended by S.I. 2012/3119, 2013/1959, 2014/110, 2015/767, 2016/285, 2016/1274, 2018/1230, 2021/1391, 2021/1392, 2022/603, 2022/984, 2023/520 and 2023/911.
(**3**) S.I. 2023/909.
(**4**) The definition of "building" was substituted by S.I. 2023/911.

"building work" has the meaning given in the 2010 Regulations.

**Restricted activities and functions: local authorities**

**3.**—(1) For the purposes of section 46A(1) of the 1984 Act, in relation to local authorities, each of the following activities is prescribed as a restricted activity—

(a) where plans relating to any building work are submitted to a local authority under any provision of the 2010 Regulations, the checking of those plans for compliance with any requirement of the building regulations(**5**) which is applicable to the work;

(b) where an inspection of building work is to be carried out by a local authority for the purpose of checking compliance with any requirement of the building regulations which is applicable to the work, the carrying out of that inspection and scheduling the stages or points for inspections.

(2) For the purposes of section 46A(2) of the 1984 Act, in relation to local authorities, each of the following functions is prescribed as a restricted function—

(a) determining an application for a direction under section 8 of the 1984 Act (relaxation of building regulations)(**6**);

(b) determining an application for building control approval(**7**) under regulation 14A of the 2010 Regulations (determination of applications for building control approval with full plans) including exercising, in relation to such an application, a power in—

(i) section 19(1) of the 1984 Act (use of short-lived materials),

(ii) section 21(4) of the 1984 Act (provision of drainage), or

(iii) section 25(1) of the 1984 Act (provision of water supply);

(c) fixing a period on the expiration of which a building or work must be removed, extending such a period, imposing conditions in relation to a building or varying such conditions, under section 19(2) or (3) of the 1984 Act (use of short-lived materials);

(d) requiring a building to be drained in combination under section 22 of the 1984 Act (drainage of buildings in combination);

(e) giving consent under section 23 of the 1984 Act (provision of facilities for refuse);

(f) giving a notice or granting a certificate under section 25(3) of the 1984 Act (provision of water supply);

(g) giving a certificate under regulation 17 or 17A of the 2010 Regulations (completion certificates and partial completion certificates)(**8**);

(h) deciding, where regulation 18 of the 2010 Regulations (unauthorised building work) applies, whether—

(i) a regularisation certificate under regulation 18 of the 2010 Regulations may be given;

(ii) any reasonable steps are required under regulation 18(3) of the 2010 Regulations;

(i) deciding, where regulation 19(1) of the Building (Approved Inspectors etc.) Regulations 2010(**9**) (partly completed work) applies, whether—

(i) plans given under regulation 19(2)(a) of those Regulations are sufficient to show that the intended work would not contravene any requirement of the 2010 Regulations;

(**5**) See section 122 of the 1984 Act for the definition of "building regulations".
(**6**) Sections 8, 19, 21, 22, 23 and 25 of the 1984 Act were amended by Schedule 5 to the Building Safety Act 2022.
(**7**) See paragraph 1B of Schedule 1 to the 1984 Act for the definition of building control approval. Paragraph 1B was inserted by section 33 of the Building Safety Act 2022. Regulation 14A was inserted into the 2010 Regulations by S.I. 2023/911.
(**8**) Regulation 17A was inserted into the 2010 Regulations by S.I. 2012/3119.
(**9**) S.I. 2010/2215, to which there are amendments not relevant to this instrument.

(ii) an owner should be required to cut into, lay open or pull down any of the work under regulation 19(2)(b) of those Regulations;

(j) exercising any power under section 33 of the 1984 Act (tests for conformity with building regulations);

(k) deciding, for the purposes of section 35 of the 1984 Act (offence of contravening building regulations etc), whether there is a contravention of a provision of the building regulations or a requirement imposed by virtue of any such provision;

(l) giving a compliance notice under section 35B of the 1984 Act (compliance notices)(**10**);

(m) giving a stop notice under section 35C of the 1984 Act (stop notices);

(n) giving a section 36 notice(**11**) or deciding to pull down or remove work or effect alterations in it as deemed necessary under section 36(3) of the 1984 Act;

(o) deciding whether to withdraw a section 36 notice following the giving of a written report under section 37(1)(a) of the 1984 Act;

(p) giving a notice under section 52A(4) of the 1984 Act (cancellation of initial notice)(**12**).

**Restricted functions: the regulator**

**4.**—(1) Subject to paragraph (2), for the purposes of section 46A(2) of the 1984 Act, where the regulator(**13**) is the building control authority in relation to a higher-risk building under section 91ZA of the 1984 Act (building control authorities)(**14**) each of the following functions is prescribed as a restricted function—

(a) determining an application for a direction under section 8 of the 1984 Act (relaxation of building regulations);

(b) determining an application for building control approval under regulation 7 or 15 of the HRB Regulations (building control approval applications) including exercising, in relation to such an application, a power in—

(i) section 19(1) of the 1984 Act (use of short-lived materials),

(ii) section 21(4) of the 1984 Act (provision of drainage), or

(iii) section 25(1) of the 1984 Act (provision of water supply);

(c) giving approval, pursuant to a requirement imposed on a building control approval, that work may proceed beyond a point specified in the requirement;

(d) fixing a period on the expiration of which a building or work must be removed, extending such a period, imposing conditions in relation to a building or varying such conditions, under section 19(2) or (3) of the 1984 Act (use of short-lived materials);

(e) requiring a building to be drained in combination under section 22 of the 1984 Act (drainage of buildings in combination);

(f) giving consent under section 23 of the 1984 Act (provision of facilities for refuse);

(g) giving a notice or granting a certificate under section 25(3) of the 1984 Act (provision of water supply);

(h) determining an application under regulation 24 of the HRB Regulations (change control applications: decisions);

(**10**) Section 35B and 35C were inserted into the 1984 Act by section 38 of the Building Safety Act 2022 (c. 30).
(**11**) See the definition in section 36(4) of the Building Act 1984.
(**12**) Section 52A was inserted into the 1984 Act by section 46 of the Building Safety Act 2022.
(**13**) The Health and Safety Executive is the building safety regulator, see the definition of the regulator in section 126 of the Building Act 1984, the definition was inserted by paragraph 81 of Schedule 5 to the Building Safety Act 2022.
(**14**) Section 91ZA was inserted into the 1984 Act by section 32 of the Building Safety Act 2022.

(i) deciding that a controlled change is a notifiable or major change under regulation 25 of the HRB Regulations (change control: regulator power to specify notifiable changes and major changes);

(j) determining an application under regulation 44 of the HRB Regulations (completion certificate applications: decisions);

(k) determining an application under regulation 45 of the HRB Regulations (partial completion certificates);

(l) determining an application under regulation 47 of the HRB Regulations (regularisation of unauthorised building work);

(m) exercising any power under section 33 of the 1984 Act (tests for conformity with building regulations);

(n) deciding, for the purposes of section 35 of the 1984 Act (offence of contravening building regulations etc), whether there is a contravention of a provision of the building regulations or a requirement imposed by virtue of any such provision;

(o) giving a compliance notice under section 35B of the 1984 Act (compliance notices);

(p) giving a stop notice under section 35C of the 1984 Act (stop notices);

(q) giving a section 36 notice or deciding to pull down or remove work or effect alterations in it as deemed necessary under section 36(3) of the 1984 Act;

(r) deciding whether to withdraw a section 36 notice following the giving of a written report under section 37(1)(a) of the 1984 Act.

(2) In relation to any case which falls within paragraph 9, 10 or 11 of Schedule 3 to the HRB Regulations, reference in paragraph (1) to any provision of the HRB Regulations is to be treated as a reference to that provision as modified, in relation to that particular case, by Schedule 3 to those Regulations.

(3) For the purposes of section 46A(2) of the 1984 Act, where the regulator is the building control authority in relation to building work pursuant to a regulator's notice each of the following functions is prescribed as a restricted function—

(a) determining an application for a direction under section 8 of the 1984 Act (relaxation of building regulations);

(b) determining an application for building control approval under regulation 14A of the 2010 Regulations (determination of applications for building control approval with full plans) including exercising, in relation to such an application, a power in—

(i) section 19(1) of the 1984 Act (use of short-lived materials),

(ii) section 21(4) of the 1984 Act (provision of drainage), or

(iii) section 25(1) of the 1984 Act (provision of water supply);

(c) fixing a period on the expiration of which a building or work must be removed, extending such a period, imposing conditions in relation to a building or varying such conditions, under section 19(2) or (3) of the 1984 Act (use of short-lived materials);

(d) requiring a building to be drained in combination under section 22 of the 1984 Act (drainage of buildings in combination);

(e) giving consent under section 23 of the 1984 Act (provision of facilities for refuse);

(f) giving a notice or granting a certificate under section 25(3) of the 1984 Act (provision of water supply);

(g) giving a certificate under regulation 17 or 17A of the 2010 Regulations (completion certificates and partial completion certificates);

(h) deciding, where regulation 18 of the 2010 Regulations (unauthorised building work) applies, whether—

(i) a regularisation certificate under regulation 18 of those Regulations may be given;

(ii) any reasonable steps are required under regulation 18(3) of those Regulations;

(i) exercising any power under section 33 of the 1984 Act (tests for conformity with building regulations);

(j) deciding, for the purposes of section 35 of the 1984 Act (offence of contravening building regulations etc), whether there is a contravention of a provision of the building regulations or a requirement imposed by virtue of any such provision;

(k) giving a compliance notice under section 35B of the 1984 Act (compliance notices);

(l) giving a stop notice under section 35C of the 1984 Act (stop notices);

(m) giving a section 36 notice or deciding to pull down or remove work or effect alterations in it as deemed necessary under section 36(3) of the 1984 Act;

(n) deciding whether to withdraw a section 36 notice following the giving of a written report under section 37(1)(a) of the 1984 Act.

**Restricted activities and functions: registered building control approvers**

**5.**—(1) For the purposes of section 54B(2) of the 1984 Act each of the following activities is prescribed as a restricted activity—

(a) where an initial notice(**15**), amendment notice(**16**) or plans certificate(**17**) is to be given in relation to any building work, the checking of plans to which the notice or certificate relates for compliance with any requirement of the building regulations which is applicable to the work;

(b) where an inspection of building work is to be carried out by the registered building control approver for the purpose of checking compliance with any requirement of the building regulations which is applicable to the work, the carrying out of that inspection (including scheduling the stages or points for inspections).

(2) For the purposes of section 54B(3) of the 1984 Act each of the following functions is prescribed as a restricted function—

(a) giving an initial notice to a local authority under section 47 of the 1984 Act (initial notices) including an initial notice combined with a plans certificate or a new initial notice under section 53(7) of the 1984 Act (new initial notices);

(b) giving a plans certificate to a local authority under section 50 of the 1984 Act (plans certificates);

(c) giving a final certificate to a local authority under section 51 of the 1984 Act (final certificates);

(d) giving an amendment notice to a local authority under section 51A of the 1984 Act (variation of work to which initial notice relates);

(e) giving a notice under section 52(1)(c), 52(2) or 52A(1) of the 1984 Act (cancellation of initial notice);

(f) giving a transfer certificate and a transfer report to a local authority under section 53B(3) of the 1984 Act (new initial notice: change of registered building control approver).

(**15**) See section 47 of the Building Act 1984 for the definition of "initial notice".
(**16**) See section 51A of the Building Act 1984 for the definition of "amendment notice".
(**17**) See section 50 of the Building Act 1984 for the definition of "plans certificate".

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

19th September 2023

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide a list of the activities and functions of local authorities, the building safety regulator (the Health and Safety Executive) and registered building control approvers which are restricted under sections 46A and 54B of the Building Act 1984 (c. 55). Those sections were inserted into that Act by section 44 of the Building Safety Act 2022 (c. 30).

A restricted function may only be exercised by the body in relation to work once they have received advice from a registered building inspector whose registration has effect in relation to work of that description.

For local authorities, regulation 3(2) gives the list of functions which are restricted functions. For the regulator, regulation 4(1) gives the list of functions which are restricted functions when the regulator is the building control authority in relation to a higher-risk building. And regulation 4(3) gives the list of functions which are restricted when the regulator is acting as the building control authority under a regulator's notice (see section 91ZB of the Building Act 1984). For registered building control approvers, regulation 5(2) gives list of functions which are restricted functions.

A restricted activity, in relation to work of a particular description, may only be carried out by a local authority or a registered building control approver through a registered building inspector whose registration includes work of that description. Regulations 3(1) and 5(1) provide that the two activities which are restricted activities are the checking of plans (whether given to the body with an application or otherwise) and the inspection of building work for compliance with the requirements of the building regulations.

A full impact assessment of the effect that this instrument will have on the costs to business is published with an Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

STATUTORY INSTRUMENTS

# 2023 No. 965

# BUILDING AND BUILDINGS, ENGLAND AND WALES

## The Building Safety (Regulator's Charges) Regulations 2023

| | |
|---|---|
| *Made - - - -* | *5th September 2023* |
| *Laid before Parliament* | *6th September 2023* |
| *Coming into force - -* | *1st October 2023* |

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 28 and 168(2)(a) of the Building Safety Act 2022(**1**) and sections 105B and 120A(2)(a) of the Building Act 1984(**2**).

The Secretary of State makes these Regulations to give effect to proposals made by the regulator(**3**) under section 7(2) of the Building Safety Act 2022 after consulting in accordance with section 7(3) of that Act, and section 120B(1) of the Building Act 1984 after consulting in accordance with section 120B(2) of that Act.

### Citation, extent, application and commencement

**1.**—(1) These Regulations may be cited as the Building Safety (Regulator's Charges) Regulations 2023.

(2) These Regulations extend to England and Wales.

(3) Subject to paragraph (4), these Regulations apply in England.

(4) Regulation 3(2)(s) applies in England and Wales.

(5) These Regulations come into force on 1st October 2023.

### Interpretation

**2.** In these Regulations—

"the 1984 Act" means the Building Act 1984;

"the 2022 Act" means the Building Safety Act 2022;

"chargeable function" means a function set out in regulation 3(2);

(**1**) 2022 c. 30.
(**2**) 1984 c. 55. Sections 105B, 120A and 120B were inserted by section 57 of, and paragraph 77 of Schedule 5 to, the 2022 Act.
(**3**) See definition of regulator in section 2(1) of the 2022 Act.

"charging scheme" means a scheme in which the regulator sets out the charges to be recovered for or in connection with the performance of the chargeable functions;

"the HRB Regulations" means the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023(**4**).

**Chargeable functions**

**3.**—(1) The regulator may recover charges for or in connection with the performance of a chargeable function.

(2) Each of the following functions is a chargeable function—

(a) the determination of an application for building control approval(**5**);

(b) the determination of an application under section 8(3A) of the 1984 Act(**6**);

(c) any action taken by the regulator under subsections (2), (3) or (5)(a) of section 19 of the 1984 Act(**7**);

(d) any action taken by the regulator under subsections (1) or (3) of section 22 of the 1984 Act(**8**);

(e) any action taken by the regulator under section 25(3) of the 1984 Act(**9**);

(f) the exercise by the regulator of its powers under—

(i) subsections (1) and (2) of section 33 of the 1984 Act(**10**);

(ii) section 33(4) of the 1984 Act; or

(iii) regulation 46 of the HRB Regulations or any other regulations made under paragraph 1G of Schedule 1 to the 1984 Act(**11**);

(g) any action taken by the regulator in relation to a notification under regulation 18(3) of the HRB Regulations;

(h) in relation to a change control application—

(i) any notification given by the regulator under regulation 22 of the HRB Regulations;

(ii) the consultation of a person under regulation 23 of the HRB Regulations; or

(iii) the determination of a change control application under regulation 24 of the HRB Regulations;

(i) the determination of—

(i) a partial completion certificate application under regulation 45 of the HRB Regulations; or

(ii) a completion certificate application under regulation 44 of the HRB Regulations;

(j) the determination of a regularisation certificate application under regulation 47 of the HRB Regulations;

(k) any action taken by the regulator—

(**4**) S.I. 2023/909.
(**5**) See definition of building control approval in paragraph 1B(2) of Schedule 1 to the 1984 Act.
(**6**) Section 8 was amended by paragraph 11 of Schedule 5 to the 2022 Act.
(**7**) Section 19 was amended by paragraph 21 of Schedule 5 to the 2022 Act.
(**8**) Section 22 was amended by paragraph 24 of Schedule 5 to the 2022 Act.
(**9**) Section 25 was amended by paragraph 27 of Schedule 5 to the 2022 Act.
(**10**) Section 33 was amended by paragraph 30 of Schedule 5 to the 2022 Act.
(**11**) Paragraph 1G was inserted into Schedule 1 by section 33 of the 2022 Act.

(i) in relation to the giving of a notice under paragraph 2(4), 4(7) (including where paragraph 4(7) is applied by paragraph 8(4)) or 5(7) (including where paragraph 5(7) is applied by paragraph 10(4) or 11(4)) of Schedule 3 to the HRB Regulations;

(ii) in relation to any notice or document submitted to the regulator under paragraph 2(3), 2(5), 4(5) (including where paragraph 4(5) is applied by paragraph 8(4)), 5(5) (including where paragraph 5(5) is applied by paragraph 10(4) or 11(4)), 9(3) or 9(4) of Schedule 3 to the HRB Regulations;

(l) any action taken by the regulator in relation to—

(i) the giving of a regulator's notice under section 91ZB(2) of the 1984 Act(**12**); or

(ii) work for which the regulator is the building control authority under section 91ZB of the 1984 Act;

(m) the registration of a higher-risk building under section 78 of the 2022 Act;

(n) the determination of an application for a building assessment certificate under section 81 of the 2022 Act;

(o) the review of a safety case report prepared by the principal accountable person under section 85 of the 2022 Act;

(p) the determination of an application for registration of a person as a building inspector and maintenance of the register under section 58C of the 1984 Act, including the variation or cancellation of a registration under section 58E of that Act(**13**);

(q) the determination of an application for registration of a person as a building control approver and maintenance of the register under section 58O of the 1984 Act, including the variation or cancellation of a registration under section 58Q of that Act;

(r) the inspection by the regulator of a local authority or a registered building control approver under section 58Z8 of the 1984 Act;

(s) the exercise by an authorised officer of the powers conferred by virtue of Schedule 2 to the 2022 Act;

(t) any action taken by the regulator with a view to or in connection with—

(i) securing compliance with a building enactment(**14**) or a requirement imposed by virtue of such an enactment; or

(ii) the imposition of a sanction in respect of a contravention of a building enactment or requirement imposed by virtue of such an enactment;

(u) the review of a decision of the regulator which, pursuant to section 25 of the 2022 Act, is a prescribed decision;

(v) the conduct of an appeal against a decision or an action of a local authority or registered building control approver under the 1984 Act or regulations made under that Act;

(w) any action taken in order to respond to an appeal against a decision of the regulator.

(3) In this regulation "change control application", "completion certificate application", "partial completion certificate application" and "regularisation certificate application" have the meanings given in the HRB Regulations.

(4) In relation to—

(**12**) Section 91ZB was inserted by section 32 of the 2022 Act.
(**13**) Sections 58C to 58Z8 was inserted by section 42 of the 2022 Act.
(**14**) See definition of building enactment in section 24(2) of the 2022 Act.

(a) any case to which Schedule 3 to the HRB Regulations applies, any reference in paragraph (2) to the HRB Regulations is to be treated as a reference to those Regulations as modified, in relation to that particular case, by Schedule 3 to the HRB Regulations;

(b) any case to which paragraph 5, 10 or 11 of Schedule 3 to the HRB Regulations applies—

(i) any reference to a completion certificate application is to be treated as a reference to an application for a transfer and completion certificate;

(ii) any reference to a partial completion certificate application is to be treated as a reference to an application for a transfer and partial completion certificate.

**Charging scheme**

**4.**—(1) The amount of any charge that is payable under these Regulations must be determined by the regulator in accordance with a scheme made and published by the regulator.

(2) The regulator must ensure that, taking one year with another, the charges payable under the charging scheme as far as possible equate to the costs incurred by the regulator in performing the chargeable functions.

(3) The regulator may amend the charging scheme from time to time.

(4) The regulator must publish the charging scheme or any amendment to the scheme on its website at least seven days before the date on which the scheme or the amendment is to come into effect.

**Charges to be paid by the client**

**5.**—(1) The client must pay the charge for the chargeable functions under sub-paragraphs (a) to (l) of regulation 3(2), which are performed in relation to the client's project.

(2) In this regulation—

"client" means any person for whom a project is carried out; and

"project" means a project that includes or will include any work for which the regulator is the building control authority(**15**) and includes all planning work, design work, management or other work involved in the project until the regulator issues a certificate in relation to the work following its completion.

**Charges to be paid by the principal accountable person etc**

**6.**—(1) The principal accountable person(**16**) for a higher-risk building must pay the charge for the chargeable functions under sub-paragraphs (m) to (o) of regulation 3(2), which are performed in relation to that higher-risk building.

(2) The principal accountable person of a higher-risk building or part of a higher-risk building, must pay the charge for the chargeable functions under sub-paragraphs (c) and (f)(ii) and (iii) of regulation 3(2), which are performed in relation to any part of that building for which a completion certificate or a partial completion certificate has been issued.

(3) Where the chargeable function under sub-paragraph (j) of regulation 3(2) is performed in relation to any part of a higher-risk building for which a completion certificate or a partial completion certificate has been issued then the principal accountable person of the higher-risk building or the accountable person(**17**) of the part of the higher-risk building must pay the charge.

(**15**) See section 121A of the 1984 Act for the definition of building control authority. Section 121A was inserted by section 32 of the 2022 Act.
(**16**) See section 73 of the 2022 Act for the definition of principal accountable person.
(**17**) See section 72 of the 2022 Act for the definition of accountable person.

### Charges for local authorities and the building control profession

**7.**—(1) The person who makes the application must pay the charge for the performance of the chargeable functions under sub-paragraphs (p) or (q) of regulation 3(2), as applicable.

(2) A local authority or a registered building control approver, which is the subject of an inspection under section 58Z8 of the 1984 Act, must pay the charge arising from the performance of the chargeable function under sub-paragraph (r) of regulation 3(2).

### Charges for monitoring and regulatory intervention to ensure compliance

**8.**—(1) Subject to paragraphs (3) and (4), a person must pay the charge arising from the performance of the chargeable functions under sub-paragraphs (s) and (t) of regulation 3(2) if the regulator has reasonable grounds to believe that the person may contravene, is contravening or has contravened a building enactment or a requirement imposed by virtue of a building enactment.

(2) A charge for the performance of a chargeable function under sub-paragraphs (s) or (t) of regulation 3(2) must not include any costs which are connected with a criminal investigation or prosecution and which are incurred, in either case, after the date on which any information is laid by the regulator.

(3) Where a charge is payable under paragraph (1) by—

(a) a person who was acting in their capacity as an employee, that person's employer must pay the charge; or

(b) a resident or owner of a residential unit in an occupied higher-risk building, the principal accountable person for that building must pay the charge.

(4) A charge is not payable under paragraph (1) in relation to an investigation under section 58H, 58T or 58Z3 of the 1984 Act by—

(a) a registered building inspector if the regulator's investigation concludes that they have not breached the code of conduct(**18**) or been guilty of professional misconduct(**19**); or

(b) a registered building control approver if the regulator's investigation concludes that they have not contravened the professional conduct rules(**20**) or the operational standards rules(**21**).

### Charges for reviews and appeals

**9.**—(1) A person who requests a review under section 25 of the 2022 Act must pay the charge for the performance of the chargeable function under regulation 3(2)(u).

(2) If on the conclusion of the review under paragraph (1) the regulator does not uphold their original decision, the regulator—

(a) must refund any charges in relation to the review paid by the person who requested the review; and

(b) must not recover any further charges relating to the review.

(3) A person who makes an appeal must pay the charge for the performance of the chargeable function under regulation 3(2)(v).

(4) If on the conclusion of the appeal under paragraph (3) the regulator determines the appeal in favour of the appellant, the regulator—

(a) must refund any charges in relation to the appeal paid by the appellant; and

(**18**) Prepared and published under section 58F of the 1984 Act.
(**19**) See definition of professional misconduct in section 58H of the 1984 Act.
(**20**) Prepared and published under section 58R of the 1984 Act.
(**21**) Prepared and published under section 58Z of the 1984 Act.

(b) must not recover any further charges relating to the appeal.

(5) A person who makes an appeal must pay the charge for the performance of the chargeable function under regulation 3(2)(w) if—

(a) the person withdraws the appeal; or

(b) the tribunal confirms the decision of the regulator.

**Charges by the regulator in relation to costs of relevant authorities**

**10.**—(1) Where a person is required to pay charges for the performance of a chargeable function under these Regulations, the regulator may also recover charges from that person for any section 13 expenditure.

(2) In this regulation "section 13 expenditure" means any costs paid by the regulator for anything done by a relevant authority (within the meaning of section 13 of the 2022 Act) in connection with the chargeable function as a result of any action taken by the relevant authority to comply with—

(a) a request of the regulator under section 13(1) of the 2022 Act; or

(b) a direction of the regulator under section 13(2) of the 2022 Act.

**Payment of charges etc**

**11.**—(1) Subject to paragraph (3), a person must pay the charge for or in connection with the performance of a chargeable function for which they are liable within 30 days from the date on which the request for payment of that charge is issued to them by the regulator.

(2) Any request for payment under paragraph (1) must include—

(a) a statement of the work done and the costs incurred by the regulator in the performance of the chargeable function;

(b) a statement of any work done and the costs incurred by a relevant authority (within the meaning of section 13 of the 2022 Act) or other person for or in connection with the performance of the chargeable function;

(c) the period to which any statement of work under sub-paragraph (a) relates; and

(d) the provision of the charging scheme under which the charge has been determined.

(3) Where—

(a) an application is submitted to the regulator, and the charging scheme provides for a charge in relation to that application to be paid upfront, the person submitting the application must pay that charge when they submit the application;

(b) a notification or request is sent to the regulator, and in relation to which the charging scheme provides for a charge to be paid upfront, the person sending the notification or request must pay that charge when they send the notification or request.

(4) The regulator may require that the total amount of charges for the performance of a chargeable function is paid before the regulator performs that chargeable function or issues a notification of the outcome of its determination or a certificate, as applicable.

(5) The regulator may refund, in whole or in part, any charge paid.

**Exception for building work solely required for disabled persons**

**12.**—(1) Subject to paragraph (2), in relation to an existing dwelling which is, or is to be, occupied by a disabled person as a permanent residence, the regulator must not recover any charges for building work that is solely—

(a) for the purpose of providing means of access for the disabled person to or from the dwelling or any part of it; or

(b) for the purpose of providing accommodation or facilities designed to secure the greater health, safety, welfare or convenience of the disabled person.

(2) Building work does not fall within paragraph (1)(b) unless the regulator is satisfied that the work consists of—

(a) the adaptation or extension of existing accommodation or an existing facility or the provision of alternative accommodation or an alternative facility where the existing accommodation or facility could not be used by the disabled person or could be used by the disabled person only with assistance; or

(b) the provision or extension of a room which is or will be used solely—

(i) to provide medical treatment to the disabled person that cannot reasonably be carried out in any other room in the dwelling; or

(ii) to store medical equipment for the use of the disabled person; or

(iii) to provide sleeping accommodation for a carer where the disabled person requires 24-hour care.

(3) In relation to an existing building to which members of the public are admitted the regulator must not recover charges for building work that is solely—

(a) for the purpose of providing means of access for disabled persons to or from the building or any part of it; or

(b) for the provision of facilities designed to secure the greater health, safety, welfare or convenience of disabled persons.

(4) In this regulation—

"building"—

(a) where a chargeable function is performed in relation to the construction of a higher-risk building, has the meaning given in regulation 4 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(**22**);

(b) in any other case, has the meaning given in regulation 2 of the Building Regulations 2010(**23**);

"building work" means any higher-risk building work or work for which the regulator is the building control authority pursuant to a regulator's notice(**24**);

"disabled person" means a person who has a disability within the meaning given by section 6 of the Equality Act 2010(**25**);

"dwelling" includes a dwelling-house and a flat, and "dwelling-house" and "flat" have the same meanings as in the Building Regulations 2010.

### Amendment of the Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023

**13.**—(1) The Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023(**26**) is amended as follows.

(**22**) S.I. 2023/275.
(**23**) S.I. 2010/2214.
(**24**) See section 91ZA of the 1984 Act for the definition of "higher-risk building work", section 91ZB for the definition of "regulator's notice" and section 121A of the 1984 Act for the definition of building control authority. Those sections were inserted by section 32 of the 2022 Act.
(**25**) 2010 c. 15.
(**26**) S.I. 2023/315.

(2) Omit regulation 20.

(3) Omit regulation 21.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

5th September 2023

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations set out provisions in relation to charges of the building safety regulator.

Regulation 3 provides that the regulator may recover charges for or in connection with the chargeable functions which are set out in regulation 3(2). Regulation 4 provides that the amount of any charge must be determined by the regulator in accordance with a scheme which the regulator makes and publishes on its website.

Regulations 5 to 10 set out who is required to pay charges for the performance of the chargeable functions.

Regulation 11 sets out when the payment of the charge has to be made.

Regulation 12 provides for an exemption from charges for building work carried out to an existing dwelling solely for disabled persons.

Regulation 13 revokes two regulations relating to fees in the Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023.

A full impact assessment has not been produced for this instrument. There are three impact assessments for implementing the changes to the building safety regime, they were published alongside the explanatory memorandum for S.I.s 2023/906, 2023/907 and 2023/911 at www.legislation.gov.uk.

STATUTORY INSTRUMENTS

# 2023 No. 909

# BUILDING AND BUILDINGS, ENGLAND

## The Building (Higher-Risk Buildings Procedures) (England) Regulations 2023

| | |
|---|---|
| *Made - - - -* | *9th August 2023* |
| *Laid before Parliament* | *17th August 2023* |
| *Coming into force - - - -* | *1st October 2023* |

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1, 2B, 3, 30A(1), (3), (5), (6) and (9), 34, 35(2), 35B(7), 35C(1) and 47(4)(b)(ii) of, and paragraphs 1A to 1I, 5B, 5C and 10 of Schedule 1 to, the Building Act 1984(**1**) and sections 19(2), 25(1) to (3) and (7), 76(5) and 166(1) of , and paragraph 2(5) of Schedule 3 to, the Building Safety Act 2022(**2**).

The Secretary of State has consulted the Building Regulations Advisory Committee for England and such other bodies as appear to be representative of the interests concerned in accordance with section 14(3) of the Building Act 1984(**3**) and has consulted the regulator and such other persons as the Secretary of State considers appropriate in accordance with section 7 of the Building Safety Act 2022.

## PART 1

## Preliminary

### Citation, commencement, extent and application

**1.**—(1) These Regulations may be cited as the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 and come into force on 1st October 2023.

(**1**) 1984 c. 55. Section 1 was amended by section 1(1) to (3) of the Sustainable and Secure Buildings Act 2004 (c. 22), section 37(2) of the Infrastructure Act 2015 (c. 7) and paragraph 2 of Schedule 5 to the Building Safety Act 2022 (the 2022 Act"). Section 2B was inserted by section 42 of the Deregulation Act 2015 (c. 20). Section 30A was inserted by section 37 of the 2022 Act. Section 35 was amended by section 39 of the 2022 Act. Sections 35B and 35C were inserted by section 38 of the 2022 Act. Section 47(4) was amended by sections 36(3) and 46(4) of the 2022 Act. Paragraphs 1A to 1I, 5B and 5C of Schedule 1 were inserted by sections 33 to 35 of the 2022 Act. Paragraph 10 of Schedule 1 was substituted by paragraph 83(8) of Schedule 5 to the 2022 Act.

(**2**) 2022 c. 30.

(**3**) Under the transitional provisions in regulation 5(1) of S.I. 2023/362 the requirement to consult under section 120B of the Building Act 1984 does not apply to proposals consulted on under section 14(3) of the Building Act 1984 before it was repealed by paragraph 17 of Schedule 5 to the Building Safety Act 2022.

(2) These Regulations extend to England and Wales.

(3) These Regulations apply in relation to England only.

**Interpretation**

**2.**—(1) In these Regulations—

"the 1984 Act" means the Building Act 1984;

"the 2022 Act" means the Building Safety Act 2022;

"the 2010 Regulations" means the Building Regulations 2010(**4**);

"active fire safety measures" includes sprinkler systems (including isolating valves and control equipment for that system), smoke control systems (including heating or ventilation and air conditioning systems with a smoke control function), fire or smoke dampers, fire alarm systems, lifts and lift shafts (including evacuation or fire-fighting lifts), and fire main and hydrants;

"agreed document" means—

(a) a description, plan or document in relation to HRB work, stage of HRB work or work to existing HRB that was approved by virtue of regulation 7(8) or (10) (building control approval applications for HRB work or stage of HRB work: decisions) or regulation 15(8) or (10) (building control approval applications for work to existing HRB: decisions), or

(b) where such a description, plan or document is revised—

(i) in relation to a major change, the plan or document that was approved in accordance with regulation 24(8) or (10) (change control applications: decisions);

(ii) in relation to a notifiable change, the version of the plan or document that accompanied the notice to the regulator(**5**) given under regulation 20(1) (change control: notification requirements);

(iii) in relation to a recordable change, the version of the plan or document that was revised in accordance with regulation 18(2)(b) (change control) and in respect of which a record was made in accordance with regulation 18(2)(a);

"building"—

(a) in the application of any provision of these Regulations to the construction of a higher-risk building, has the meaning given in regulation 4 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(**6**);

(b) in any other case, has the same meaning as under the 2010 Regulations;

"building control approval application for HRB work" has the meaning given in regulation 3 (building control approval for HRB work or stage of HRB work);

"building control approval application for a stage of HRB work" has the meaning given in regulation 3 (building control approval for HRB work or stage of HRB work);

"building control approval application for work to existing HRB" has the meaning given in regulation 11 (building control approval for work to existing HRB);

"Building Regulations compliance statement" means a document in accordance with paragraph 4 of Schedule 1;

"change control application" has the meaning given in regulation 18(5) (change control);

(**4**) S.I. 2010/2214 as amended by S.I. 2012/3119, 2013/1959, 2014/110, 2015/767, 2016/285, 2016/1274, 2018/1230, 2021/1391, 2022/608 and 2023/520. There are other amending instruments, but none is relevant to this instrument.

(**5**) See section 126 of the Building Act 1984 for the definition of "the regulator", which was inserted by paragraph 81 of Schedule 5 to the Building Safety Act 2022.

(**6**) S.I. 2023/275.

"change control log" has the meaning given in regulation 19(1) (change control: record-keeping);

"change control plan" means a document in accordance with paragraph 3 of Schedule 1;

"commercial unit" means a part of a building in separate occupation which does not contain a flat or a residential room;

"completion certificate application" has the meaning given in regulation 40 (completion certificate applications);

"competence declaration" means a statement in accordance with paragraph 1 of Schedule 1;

"compliance declaration" means—

(a) where any appointment of a principal contractor (or sole contractor) or principal designer (or sole or lead designer) ends before a completion certificate application is submitted to the regulator, a statement provided in accordance with regulation 29(3) (new principal contractor or principal designer etc: notification);

(b) in any other case, has the meaning given in regulation 40 (completion certificate applications);

"compliance explanation" has the meaning given in regulation 19(2)(g) (change control: record-keeping);

"construction control plan" means a document in accordance with paragraph 2 of Schedule 1;

"controlled change" has the meaning given in regulation 18 (change control);

"exempt work" has the meaning in regulation 57 (exempt work);

"fire and emergency file" means a document in accordance with paragraph 5 of Schedule 1;

"fire safety compliance information" has the meaning given in regulation 12(3) (building control approval applications for work to existing HRB);

"fire safety information" has the meaning in regulation 39 (information to be provided where work is scheme work);

"golden thread information" has the meaning given in regulation 31 (golden thread);

"HRB work" means—

(a) the construction of a higher-risk building(**7**);

(b) work to an existing building that causes it to become a higher-risk building together with any work to the building carried out at the same time as that work;

(c) such work, if any, which is necessary to ensure a building that undergoes a material change of use to become a higher-risk building complies with the applicable requirements listed in regulation 6 of the 2010 Regulations (requirements relating to material change of use) together with any work to the building carried out at the same time as that work;

"major change" has the meaning given in regulation 26 (change control: major changes and notifiable changes);

"mandatory occurrence reporting plan" is a plan describing the mandatory occurrence reporting system;

"mandatory occurrence reporting system" means a system required under regulation 32 (mandatory occurrence reporting system);

"notifiable change" has the meaning given in regulation 26 (change control: major changes and notifiable changes);

(**7**) See the definition of "higher-risk building" in section 120D of the Building Act 1984, which was inserted by 31 of the Building Safety Act 2022.

"passive fire safety measures" includes the cavity barriers, fire door sets, duct dampers, fire shutters and other fire separating elements;

"partial completion certificate application" has the meaning given in regulation 45 (partial completion certificates);

"partial completion strategy" means a document in accordance with paragraph 6 of Schedule 1;

"recordable change" means a controlled change which is neither a major change nor a notifiable change;

"regularisation certificate application" has the meaning given in regulation 47 (regularisation of unauthorised building work);

"relevant day" means any day excluding Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971(**8**);

"relevant person" has the meaning given in regulation 38 (handover of information on completion etc);

"residential room" means a room, or a suite of rooms, which is not a flat and which is used solely by one or more persons to live and sleep and includes a room in a hall of residence or a residential home, but does not include a room in a hospital, or similar establishment, which is used for patient accommodation;

"scheme work" means work to which—

(a) regulation 20 (provisions applicable to self-certification schemes) of the 2010 Regulations applies, or

(b) regulation 20A (provisions applicable to third party certification schemes) of the 2010 Regulations applies.

"work to existing HRB" means any higher-risk building work(**9**) which is not HRB work;

"working day" means any day excluding Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971.

(2) In these Regulations—

(a) "building work", "client", "contractor", "designer", "domestic client", "flat", "material change of use", "principal contractor", "principal designer", "project", "sole contractor" and "sole or lead designer" have the meanings given in 2010 Regulations(**10**);

(b) a reference to appointment as a principal contractor or principal designer is to appointment under regulation 11D (principal designer and principal contractor) of the 2010 Regulations, and that reference includes an appointment which is certified under regulation 11D(2) of those Regulations.

(**8**) 1971 c. 80.

(**9**) See the definition of "higher-risk building work" in section 91ZA of the Building Act 1984 (c. 55), which was inserted by section 32 of the Building Safety Act 2022.

(**10**) The definitions of client, contractor, designer, domestic client, principal contractor, principal designer, project, sole contractor and sole or lead designer, and regulation 11D were inserted into the 2010 Regulations by the Building Regulations etc. (Amendment) (England) Regulations 2023.

# PART 2

## Building control approval

### CHAPTER 1

### New HRBs

**Building control approval for HRB work or stage of HRB work**

**3.** Before any person starts HRB work or starts a stage of HRB work, the client in relation to that work (in this Chapter "the applicant") must—

(a) submit an application for building control approval in relation to the work to the regulator (a "building control approval application for HRB work" or, where the work is done in stages, a "building control approval application for a stage of HRB work") in accordance with regulation 4 (building control approval applications for HRB work or stage of HRB work),

(b) be granted building control approval for the work,

(c) fulfil those requirements, if any, which in accordance with the building control approval must be fulfilled before the work or, as the case maybe, the stage of the work is started, and

(d) notify the regulator of the date on which the work or the stage of the work is to start in accordance with regulation 9(2) (notice before starting on site and further notice when work is "commenced").

**Building control approval applications for HRB work or stage of HRB work**

**4.**—(1) A building control approval application for HRB work must be made in writing, signed by the applicant, and must include—

(a) the name, address, telephone number and (if available) email address of the client;

(b) the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

(c) a statement that the application is made under this regulation;

(d) where HRB work consists of work to an existing building, a description of the existing building including—

(i) details of its current use, including the current use of each storey;

(ii) its height as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(**11**);

(iii) the number of storeys it has as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(e) a description of the proposed HRB work, including—

(i) details of the intended use of the higher-risk building, including the intended use of each storey;

(ii) the height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(**11**) S.I. 2023/275.

(iii) the number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(iv) the number of flats, the number of residential rooms and the number of commercial units it is proposed the higher-risk building will contain;

(v) the provision to be made for the drainage of the higher-risk building;

(vi) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes a requirement, the precautions to be taken in the building over a drain, sewer or disposal main to comply with the requirements of that paragraph;

(vii) the steps to be taken to comply with any local enactment that applies;

(viii) a statement as to when it is proposed the work is to be regarded as commenced in accordance with regulation 46A (lapse of building control approval: commencement of work) of the 2010 Regulations(**12**).

(2) A building control approval application for HRB work must be accompanied by—

(a) a plan to a scale of not less than 1:1250 showing—

(i) the size and position of the building and its relationship to adjoining boundaries;

(ii) the boundaries of the curtilage of the building, and the size, position and use of every other building or proposed building within the curtilage;

(iii) the width and position of any street on or within the boundaries of the curtilage of the building;

(b) (i) such other plans as necessary to show that the HRB work would comply with all applicable requirements of the building regulations(**13**);

(ii) a competence declaration;

(iii) a construction control plan;

(iv) a change control plan;

(v) a mandatory occurrence reporting plan;

(vi) a Building Regulations compliance statement;

(vii) a fire and emergency file;

(viii) where the applicant proposes occupation of part of the building before completion of the HRB work, a partial completion strategy;

(c) where the application is made by someone on behalf of the client, a statement signed by the client confirming they agree to the application being made and that the information contained in the application is correct.

(3) A building control approval application for a stage of HRB work must be made in writing, signed by the applicant, and must—

(a) include the information required by paragraph (1);

(b) where the application relates to the first stage of the work—

(i) be accompanied by a statement ("staged work statement") setting out a detailed description of the first stage and of the subsequent stages of the project (including an estimate of the time when each stage will start);

(**12**) Regulation 46A was inserted into the 2010 Regulations by the Building Regulations etc. (Amendment) (England) Regulations 2023.

(**13**) See the definition in section 122 of the Building Act 1984.

(ii) be accompanied by the documents referred to in paragraph (2) with the following modifications—

(aa) the plans referred to in paragraph (2)(b)(i) are such plans as necessary to show that the work for the first stage would comply with all applicable requirements of the building regulations and a summary of plans for the work beyond that stage;

(bb) the Building Regulations compliance statement referred to in paragraph (2)(b)(vi) must set out the design principles and building standards to be applied to the work for the first stage and a summary of the design principles and building standards to be applied beyond that stage;

(c) where the application relates to a stage after the first stage—

(i) be accompanied by a statement ("subsequent stages statement") setting out a detailed description of the stage to which the application relates and of the other stages of the project (including an estimate of the time when each remaining stage will start);

(ii) be accompanied by the documents referred to in paragraph (2) with the following modifications—

(aa) the plans referred to in paragraph (2)(b)(i) are such plans as necessary to show that the work comprised in the stage to which the application relates would comply with all applicable requirements of the building regulations and a summary of plans for work beyond that stage;

(bb) the Building Regulations compliance statement referred to in paragraph (2)(b)(vi) must set out the design principles and building standards to be applied to the work comprised in the stage to which the application relates and a summary of the design principles and building standards to be applied beyond that stage.

**Building control approval applications for HRB work or stage of HRB work: validity and time limit**

**5.**—(1) Where the regulator receives a building control approval application for HRB work or a building control approval application for a stage of HRB work which is valid the regulator must—

(a) notify the applicant to that effect, and

(b) determine it within 12 weeks beginning with the date the application is received by the regulator or within such longer period as at any time the regulator and the applicant agree in writing.

(2) Where the regulator receives a building control approval application for HRB work or a building control approval application for a stage of HRB work which is not valid the regulator must notify the applicant to that effect giving reasons (and where the applicant is not the client, also give a copy of the notification to the client).

(3) A building control approval application for HRB work or a building control approval application for a stage of HRB work is valid if it complies with regulation 4 (building control approval applications for HRB work or stage of HRB work).

**Building control approval applications for HRB work or stage of HRB work: consultation**

**6.**—(1) Subject to paragraph (5), before determining a building control approval application for HRB work or a building control approval application for a stage of HRB work the regulator must consult—

(a) the enforcing authority (within the meaning of article 25 of the Regulatory Reform (Fire Safety) Order 2005(**14**)) for the proposed higher-risk building, and

(b) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes requirements in relation to the work, the sewerage undertaker for the proposed higher-risk building.

(2) Where the regulator is required to consult a person under this regulation the regulator—

(a) must give the person sufficient plans to show whether the HRB work or the stage of HRB work would, if carried out in accordance with those plans, comply with—

(i) in the case of the enforcing authority, the applicable requirements of Part B (fire safety) of Schedule 1 to the 2010 Regulations, and

(ii) in the case of the sewerage undertaker, the requirements of paragraph H4 of Schedule 1 to the 2010 Regulations;

(b) must not determine the application until the expiry of a period of 15 working days beginning with the date the consultation starts or such longer period as the regulator and the person consulted agree in writing.

(3) In relation to the consultation under paragraph (1)(a) the plans given must include the fire and emergency file.

(4) If all persons consulted express their views before the end of the period referred to in paragraph (2)(b) then the prohibition against determining the application ceases to apply on the day after the date on which their views are received by the regulator.

(5) The regulator is not required to consult under this regulation where it is satisfied following consideration of the application there are sufficient grounds to reject the application.

**Building control approval applications for HRB work or stage of HRB work: decisions**

**7.**—(1) The regulator must grant the building control approval sought in a building control approval application for HRB work or a building control approval application for a stage of HRB work unless the application or any document that accompanied the application—

(a) does not comply with the requirements of regulation 4 (building control approval applications for HRB work or stage of HRB work) or any direction relating to the application or the document given by the regulator under regulation 59 (electronic submission and directions);

(b) is not sufficiently detailed in any respect to allow the regulator to determine whether the HRB work or the stage of HRB work would contravene any applicable requirement of the building regulations;

(c) shows the HRB work or the stage of HRB work would contravene any applicable requirement of the building regulations;

(d) shows the strategies, policies or procedures in relation to the HRB work or the stage of HRB work (including in relation to controlled changes, mandatory occurrence reporting, competence of persons or sharing of information and co-operation) would contravene, or would be likely to contravene, the requirements of—

(i) regulations 18 to 21 and 26 to 29 (changes to documents or persons);

(ii) regulations 31, 38 and 39 (golden thread etc);

(iii) regulations 32 to 37 (mandatory occurrence reporting);

(iv) Part 2A (dutyholders and competence) of the 2010 Regulations.

(2) If one or more of the reasons in paragraph (1) applies, the regulator may—

(**14**) S.I. 2005/1541 to which there are amendments not relevant to this provision.

(a) reject the building control approval application for HRB work or the building control approval application for a stage of HRB work, or

(b) with the written consent of the applicant, grant the building control approval sought in the application subject to one or more requirements.

(3) The types of requirement that may be imposed under paragraph (2)(b) include—

(a) a requirement to provide a specified plan or document, or a revised version of a specified plan or document, within a specified period;

(b) a requirement that work does not proceed beyond a specified point until a specified plan or other document, or a revised version of a specified plan or other document, has been given to, and approved by, the regulator.

(4) The regulator must notify the applicant of the outcome of the application (and where the applicant is not the client, also give a copy of the notification to the client) within the period referred to in regulation 5 (building control approval applications for HRB work or stage of HRB work: validity and time limit).

(5) A notice that the application has been rejected must give the reasons for rejection.

(6) A notice that the building control approval sought in the application has been granted subject to a requirement must specify the requirement imposed.

(7) If requested by the applicant, the regulator must provide a paper copy of the notice of building control approval.

(8) Where a building control approval application for HRB work or a building control approval application for a stage of HRB work is successful the effect is that from the date of the notice under paragraph (4)—

(a) building control approval for the HRB work or, as the case may be, building control approval for the stage of HRB work is granted;

(b) subject to paragraphs (9) and (10)—

(i) the description of the proposed HRB work or, as the case may be, the description of the proposed stage of HRB work,

(ii) the plans of the HRB work or, as the case may be, the plans of the stage of HRB work that accompanied the application, and

(iii) each of the other documents that accompanied the application,

are approved.

(9) Where building control approval has been granted subject to a requirement that a plan or document must be revised, the unrevised plan or document is not approved by paragraph (8)(b).

(10) Where—

(a) building control approval has been granted subject to a requirement that any plan or document must be revised, and

(b) the plan or document is subsequently revised in accordance with the requirement,

then that revised plan or document is approved from the date specified in the approval given by the regulator for the revision.

(11) Where building control approval has been granted subject to a requirement of a type described in paragraph (3)(a), the client must ensure that work does not start before the plan or document is provided.

(12) Where building control approval has been granted subject to a requirement of a type described in paragraph (3)(b)—

(a) the requirement must set out the points specified in relation to the work and the plans or documents which must be approved for each point;

(b) the client must ensure work to which the requirement relates does not proceed beyond the point specified in the requirement until the approval by the regulator in relation to that plan or document has been received.

(13) If requested by the client, the regulator must provide a paper copy of the approval referred to in paragraph (12)(b).

(14) Where the regulator decides not to approve a plan or document under paragraph (12) if requested the regulator must give the reasons for the decision.

**Regulator's power to require notifications etc for HRB work or stage of HRB work**

**8.**—(1) The regulator may, by notice in writing, require a client—

(a) to notify the regulator, within a specified period, when a specified point of the HRB work or a specified point of the stage of HRB work has been reached;

(b) not to cover up specified work for a specified period.

(2) In this regulation "specified" means specified by the regulator in the notice referred to in paragraph (1).

**Notice before starting on site and further notice when work is "commenced"**

**9.**—(1) This regulation applies where building control approval for HRB work or building control approval for a stage of HRB work is granted under regulation 7 (building control approval applications for HRB work or stage of HRB work: decisions).

(2) At least five working days before the day on which the HRB work or the stage of HRB work starts, the client must give a notice to the regulator setting out their intention to start the work and the date that work is to start.

(3) Not more than five working days after the day on which the HRB work is to be regarded as commenced the client must give a notice to that effect to the regulator.

(4) If the regulator is not satisfied the work is to be regarded as commenced it must give the client a notice to that effect ("rejection notice") within four weeks of the date the notice under paragraph (3) is given, and the rejection notice must give the reasons for rejection.

(5) Where a notice is given under paragraph (3) and the period referred to in paragraph (4) expires without a rejection notice being given, then the work is to be regarded as commenced.

(6) If the client accepts the rejection notice they may not give a further notice under paragraph (3) unless, having regard to the reasons given by the regulator, they are satisfied the work is to be regarded as commenced.

(7) The client may appeal to the First-tier Tribunal against the decision of the regulator to reject the notice provided the appeal is made within 21 relevant days beginning with the day after the day on which the regulator gives the rejection notice.

(8) The First-tier Tribunal may allow an appeal under paragraph (7) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable;

(d) that the decision was made without following the procedures set out in the 1984 Act or regulations made under that Act.

(9) Where a notice under paragraph (2) or (3) is given by someone on behalf of the client, the notice must include a statement signed by the client confirming they agree to the notice being given and that the information contained in it is correct.

(10) The regulator may take such steps, including—

(a) requiring information;

(b) laying open of work for inspection,

as it thinks appropriate to check whether the work is to be regarded as commenced.

(11) For the purposes of paragraphs (3) to (10) the provisions of regulation 46A (lapse of building control approval: commencement of work) of the 2010 Regulations apply to determine whether work is to be regarded as commenced.

## CHAPTER 2

## Existing HRBs

### Notification of emergency repairs to existing HRB

**10.**—(1) Where work to existing HRB consists only of emergency repairs and it is not practicable to comply with regulation 11(1) (building control approval for work to existing HRB) before starting the work, the client must—

(a) give a notice to that effect to the regulator, describing the work and the reasons for the urgency as soon as reasonably practicable after the work has started,

(b) send a copy of that notice to the responsible person as soon as reasonably practicable after the work has started, and

(c) submit a regularisation certificate application to the regulator in relation to the work as soon as reasonably practicable after the work is carried out.

(2) In this regulation—

"emergency repairs" means repairs to a building which are necessary to be carried out as a matter of urgency due to the risk to health, safety or welfare of persons in or about the building;

"responsible person" has the meaning given in article 3 of the Regulatory Reform (Fire Safety) Order 2005.

### Building control approval for work to existing HRB

**11.**—(1) Subject to paragraph (2), before any person starts any work to existing HRB the client in relation to that work (in this Chapter "the applicant") must—

(a) submit an application for building control approval in relation to the work to the regulator (a "building control approval application for work to existing HRB") in accordance with regulation 12 (building control approval applications for work to existing HRB);

(b) be granted building control approval for the work;

(c) fulfil those requirements, if any, which in accordance with the building control approval must be fulfilled before the work is started, and

(d) notify the regulator of the date on which the work is to start in accordance with regulation 17(2) (notice before starting on site and further notice when work is "commenced").

(2) The requirements of this regulation do not apply to work to existing HRB which consists only of—

(a) scheme work;

(b) exempt work, or

(c) work to which regulation 10 (notification of emergency repairs to existing HRB) applies.

**Building control approval applications for work to existing HRB**

**12.**—(1) Subject to paragraphs (3) and (4), where a building control approval application for work to existing HRB is required by regulation 11 (building control approval for work to existing HRB), it must be made in writing, signed by the applicant, and must include—

(a) the name, address, telephone number and (if available) email address of the client;

(b) the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

(c) a statement that the application is made under this regulation;

(d) a description of the existing higher-risk building including—

(i) details of its current use, including the current use of each storey;

(ii) its height as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(**15**);

(iii) the number of storeys it has as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(iv) the number of flats, the number of residential rooms and the number of commercial units contained in the higher-risk building;

(e) a description of the proposed work, including—

(i) where the use of any part of the higher-risk building is changing, details of the intended use of each storey;

(ii) where the height of any part of the higher-risk building is changing, the height of the building after the proposed work as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(iii) where the number of storeys in the higher-risk building is changing, the number of storeys as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(iv) where the number of flats or residential rooms in the higher-risk building is changing, the number of flats or residential rooms to be contained in the higher-risk building;

(v) the provision to be made for the drainage of the building or extension;

(vi) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes a requirement, the precautions to be taken in the building over a drain, sewer or disposal main to comply with the requirements of that paragraph;

(vii) the steps to be taken to comply with any local enactment that applies;

(viii) a statement setting out—

(aa) the date when it is proposed the work will reach the point when it is to be regarded as commenced in accordance with regulation 46A (lapse of building control approval: commencement of work) of the 2010 Regulations; and

(**15**) S.I. 2023/275.

(bb) except in cases where paragraph (2) or (3) of regulation 46A of the 2010 Regulations applies, details of the work which the client considers amounts to 15% of the proposed work.

(2) A building control approval application for work to existing HRB must be accompanied by—

(a) a plan to a scale of not less than 1:1250 showing—

(i) the size and position of the building and its relationship to adjoining boundaries;

(ii) the boundaries of the curtilage of the building, or the building as extended, and the size, position and use of every other building or proposed building within the curtilage;

(iii) the width and position of any street on or within the boundaries of the curtilage of the building or the building as extended;

(b) such other plans as necessary to show that the work would comply with all applicable requirements of the building regulations;

(c) additionally, where work to existing HRB is category A work—

(i) a competence declaration;

(ii) a construction control plan;

(iii) a change control plan;

(iv) a mandatory occurrence reporting plan;

(v) a Building Regulations compliance statement;

(vi) a fire and emergency file;

(vii) where the applicant proposes occupation of part of the building before completion of the work, a partial completion strategy;

(d) where the application is made by someone on behalf of the client, a statement signed by the client confirming they agree to the application being made and that the information contained in the application is correct.

(3) For a building control approval application for work to existing HRB where the work consists of category B work, the application must—

(a) be made in writing, signed by the applicant,

(b) subject to paragraph (4), include the matters mentioned in paragraph (1)(a) to (e),

(c) be accompanied by the plans referred to in paragraphs (2)(a) and (2)(b),

(d) where Part B of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the work, include information setting out the fire safety design principles, concepts and standards applied to the development including sufficient plans to show how the work would comply with Part B (fire safety) of Schedule 1 to the 2010 Regulations ("fire safety compliance information"), and

(e) such of the documents listed in paragraph (2)(c) as the applicant considers appropriate.

(4) Where the work consists only of category B work within a flat, the application does not need to include the matters mentioned in paragraph (1)(d).

(5) In relation to an application for work to existing HRB where the work consists of category B work, the regulator may at any time before determining the application, by notice in writing, additionally require the applicant to provide any of the following documents—

(a) a competence declaration;

(b) a construction control plan;

(c) a change control plan;

(d) a mandatory occurrence reporting plan;

(e) a Building Regulations compliance statement;

(f) a fire and emergency file;

(g) a partial completion strategy.

(6) In this regulation—

"category A work" means work falling within any one or more of the following descriptions—

(a) work which increases or decreases the external height or width of the higher-risk building;

(b) work which changes the number of storeys the higher-risk building has (including adding or removing a mezzanine or gallery floor);

(c) work which changes the number of flats or residential rooms contained in the higher-risk building;

(d) work which changes the number of, or width of, the staircases in a higher-risk building or which changes the number of, or width of, any other escape route within the building;

(e) work to the external wall of a higher-risk building excluding work or materials of a description specified in regulation 7(3) of the 2010 Regulations;

(f) work which changes the internal layout of a higher-risk building;

(g) work which affects the passive fire safety measures in the higher-risk building;

(h) work which affects the active fire safety measures in a higher-risk building;

(i) work which affects the common parts of a higher-risk building (including the external wall) not otherwise falling within category A;

"category B work" means work which does not fall within category A.

(7) The requirements of this regulation do not apply to work to existing HRB which consists only of—

(a) scheme work;

(b) exempt work, or

(c) work to which regulation 10 (notification of emergency repairs to existing HRB) applies.

**Building control approval applications for work to existing HRB: validity and time limit**

**13.**—(1) Where the regulator receives a building control approval application for work to existing HRB which is valid the regulator must—

(a) notify the applicant to that effect, and

(b) determine it within 8 weeks beginning with the date the application is received by the regulator or within such longer period as at any time the regulator and the applicant agree in writing.

(2) Where the regulator receives a building control approval application for work to existing HRB which is not valid the regulator must notify the applicant to that effect giving reasons (and where the applicant is not the client, also give a copy of the notification to the client).

(3) A building control approval application for work to existing HRB is valid if it complies with regulation 12 (building control approval applications for work to existing HRB).

**Building control approval applications for work to existing HRB: consultation**

**14.**—(1) Before determining a building control approval application for work to existing HRB the regulator must consult—

(a) where the work is—

(i) category A work, or

(ii) category B work and Part B of Schedule 1 to the 2010 Regulations imposes requirements in relation to the work,

the enforcing authority (within the meaning of article 25 of the Regulatory Reform (Fire Safety) Order 2005(**16**)) for the building, and

(b) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes requirements in relation to the work, the sewerage undertaker for the building.

(2) Where the regulator is required to consult a person under this regulation the regulator—

(a) must give the person sufficient plans to show whether the work to existing HRB would, if carried out in accordance with those plans, comply with—

(i) in the case of the enforcing authority, the applicable requirements of Part B (fire safety) of Schedule 1 to the 2010 Regulations, and

(ii) in the case of the sewerage undertaker, the requirements of paragraph H4 of Schedule 1 to the 2010 Regulations;

(b) must not determine the application until the expiry of a period of 15 working days beginning with the date the consultation starts or such longer period as the regulator and the person consulted agree in writing.

(3) In relation to the consultation under paragraph (1)(a) the plans given must include—

(a) for category A work, the fire and emergency file;

(b) for category B work, the fire safety compliance information.

(4) If all persons consulted express their views before the end of the period referred to in paragraph (2)(b) then the prohibition against determining the application ceases to apply on the day after the date on which their views are received by the regulator.

(5) The regulator is not required to consult under this regulation where it is satisfied following consideration of the application there are sufficient grounds to reject the application.

(6) In this regulation "category A work" and "category B work" have the meanings given in regulation 12 (building control approval applications for work to existing HRB).

**Building control approval applications for work to existing HRB: decisions**

**15.**—(1) The regulator must grant the building control approval sought in a building control approval application for work to existing HRB unless—

(a) the application or any document that accompanied the application (or is provided under regulation 12(5) (building control approval applications for work to existing HRB))—

(i) does not comply with the requirements of regulation 12 (building control approval applications for work to existing HRB) or any direction relating to the application or the document given by the regulator under regulation 59 (electronic submission and directions);

(ii) is not sufficiently detailed in any respect to allow the regulator to determine whether the work would contravene any applicable requirement of the building regulations;

(**16**) S.I. 2005/1541 to which there are amendments not relevant to this provision.

(iii) shows that—

(aa) the proposed work would contravene any applicable requirement of the building regulations;

(bb) in a case where details are provided under regulation 12(1)(e)(viii)(bb), the work set out in the details would not in the regulator's opinion amount to 15% of the work;

(iv) shows the strategies, policies or procedures in relation to the work (including in relation to controlled changes, mandatory occurrence reporting, competence of persons or sharing of information and co-operation) would contravene, or would be likely to contravene, the requirements of—

(aa) regulations 18 to 21 and 26 to 29 (changes to documents or persons);

(bb) regulations 31, 38 and 39 (golden thread etc);

(cc) regulations 32 to 37 (mandatory occurrence reporting);

(dd) Part 2A (dutyholders and competence) of the 2010 Regulations;

(b) when requested pursuant to regulation 12(5) (building control approval applications for work to existing HRB), the applicant failed to provide the document requested.

(2) If one or more of the reasons in paragraph (1) applies, the regulator may—

(a) reject the building control approval application for work to existing HRB, or

(b) with the written consent of the applicant, grant the building control approval sought in the application subject to one or more requirements.

(3) The types of requirement that may be imposed under paragraph (2)(b) include—

(a) a requirement to provide a specified plan or document, or a revised version of a specified plan or document, within a specified period;

(b) a requirement that work does not proceed beyond a specified point until a specified plan or other document, or a revised version of a specified plan or other document, has been given to, and approved by, the regulator.

(4) The regulator must notify the applicant of the outcome of the application (and where the applicant is not the client, also give a copy of the notification to the client) within the period referred to in regulation 13 (building control approval applications for work to existing HRB: validity and time limit).

(5) A notice that the application has been rejected must give the reasons for rejection.

(6) A notice that the building control approval sought in the application has been granted subject to a requirement must specify the requirement imposed.

(7) If requested by the applicant, the regulator must provide a paper copy of the notice of building control approval.

(8) Where a building control approval application for work to existing HRB is successful the effect is that from the date of the notice under paragraph (4)—

(a) building control approval for the work to existing HRB is granted;

(b) subject to paragraphs (9) and (10)—

(i) the description of the proposed work under regulation 12(1)(e) (building control approval applications for work to existing HRB);

(ii) the plans of the work that accompanied the application, and

(iii) each of the other documents that accompanied the application and, in accordance with regulation 12(5) (building control approval applications for work to existing HRB), the regulator required to be provided,

are approved.

(9) Where building control approval has been granted subject to a requirement that a plan or document must be revised, the unrevised plan or document is not approved by paragraph (8)(b).

(10) Where—

(a) building control approval has been granted subject to a requirement that any plan or document must be revised, and

(b) the plan or document is revised in accordance with the requirement,

paragraph (8)(b) applies in relation to the revised plan or document.

(11) Where building control approval has been granted subject to a requirement of a type described in paragraph (3)(a), the client must ensure that work does not start before the plan or document is provided.

(12) Where building control approval has been granted subject to a requirement of a type described in paragraph (3)(b)—

(a) the requirement must set out the points specified in relation to the work and the plans or documents which must be approved for each point;

(b) the client must ensure work does not proceed beyond the point specified in a requirement until the approval by the regulator in relation to that plan or document has been received.

(13) If requested by the client, the regulator must provide a paper copy of the approval referred to in paragraph (12)(b).

(14) Where the regulator decides not to approve a plan or document under paragraph (12) if requested the regulator must give the reasons for the decision.

**Regulator's power to require notifications etc for work to existing HRB**

**16.**—(1) The regulator may, by notice in writing, require a client—

(a) to notify the regulator, within a specified period, when a specified point of the work to existing HRB has been reached;

(b) not to cover up specified work for a specified period.

(2) In this regulation "specified" means specified by the regulator in the notice referred to in paragraph (1).

**Notice before starting on site and further notice when work is "commenced"**

**17.**—(1) This regulation applies where building control approval for work to existing HRB is granted under regulation 15 (building control approval applications for work to existing HRB: decisions).

(2) At least five working days before the day on which the work to existing HRB starts, the client must give a notice to the regulator setting out their intention to start the work and the date that work is to start.

(3) Not more than five working days after the day on which the work to existing HRB is to be regarded as commenced the client must give a notice to that effect to the regulator.

(4) If the regulator is not satisfied the work is to be regarded as commenced it must give the client a notice to that effect ("rejection notice") within four weeks of the date the notice under paragraph (3) is given, and the rejection notice must give the reasons for rejection.

(5) Where a notice is given under paragraph (3) and the period referred to in paragraph (4) expires without a rejection notice being given, then the work is to be regarded as commenced.

(6) If the client accepts the rejection notice they may not give a further notice under paragraph (3) unless, having regard to the reasons given by the regulator, they are satisfied the work is to be regarded as commenced.

(7) The client may appeal to the First-tier Tribunal against the decision of the regulator to reject the notice provided the appeal is made within 21 relevant days beginning with the day after the day on which the regulator gives the rejection notice.

(8) The First-tier Tribunal may allow an appeal under paragraph (7) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable;

(d) that the decision was made without following the procedures set out in the 1984 Act or regulations made under that Act.

(9) Where a notice under paragraph (2) or (3) is given by someone on behalf of the client, the notice must include a statement signed by the client confirming they agree to the notice being given and that the information contained in it is correct.

(10) The regulator may take such steps, including—

(a) requiring information;

(b) laying open of work for inspection,

as it thinks appropriate to check whether the work is to be regarded as commenced.

(11) For the purposes of paragraphs (3) to (10) the provisions of regulation 46A (lapse of building control approval: commencement of work) of the 2010 Regulations apply to determine whether work is to be regarded as commenced.

# PART 3

## Changes before or during construction

### Change control

**18.**—(1) This regulation applies where one or more of the following changes ("controlled change") is proposed—

(a) a change to any current plans of any work or proposed work or the carrying out of work otherwise than in accordance with the current plans;

(b) a change to any stage of HRB work, including adding or removing a stage;

(c) a change to any strategies, policies or procedures described in any current agreed document.

(2) Before any controlled change can be carried out, the client must ensure—

(a) a record is made of the controlled change in accordance with regulation 19 (change control: record-keeping), and

(b) a revised version of any agreed document affected by the controlled change is produced.

(3) Where the controlled change is a notifiable change, the client must notify the regulator in accordance with regulation 20 (change control: notification requirements).

(4) A notifiable change must not be carried out, and the work to which it relates must not start, until the notification referred to in paragraph (3) has occurred.

(5) Where the controlled change is a major change, the client must make an application for building control approval in respect of the change (a "change control application") to the regulator in accordance with regulation 21 (change control applications).

(6) A major change must not be carried out, and the work to which it relates must not start, until the change control application is granted.

(7) Paragraph (8) applies where two or more controlled changes are related to the same change to the building work ("related changes") and at least one of those controlled changes is a major change and at least one is a notifiable change.

(8) Where this paragraph applies—

(a) all the major changes which are related changes may be included in the same change control application,

(b) any notifiable changes which are related changes may also be included in that change control application, and

(c) in relation to any change which is a notifiable change, the requirements of regulation 20 (change control: notification requirements) are satisfied by providing details of the change as part of that application.

(9) Where two or more controlled changes are not related to the same change to the building work they must not be included in the same change control application.

(10) Paragraph (11) applies where a change control application has been submitted in relation to a proposed change ("the main change") and it is proposed another controlled change (excluding a change which is only a recordable change) is to be carried out which is consequential on the main change ("a consequential change") but was not included in an application of the type referred to in paragraph (8).

(11) Where this paragraph applies—

(a) a consequential change which is a notifiable change must not be notified in accordance with regulation 20 (change control: notification requirements);

(b) a change control application in relation to a consequential change which is a major change must not be made in accordance with regulation 21 (change control applications),

until the regulator has notified the client of the outcome of the change control application in relation to the main change.

(12) In this regulation—

"current agreed document" means the document that is an agreed document at the time the controlled change is proposed;

"current plans" means the plans that are an agreed document at the time the controlled change is proposed.

### Change control: record-keeping

**19.**—(1) The principal contractor (or sole contractor) must create and maintain a document for the purposes of recording information in respect of changes to the project ("change control log").

(2) A controlled change must be recorded by entering the following information in the change control log—

(a) the name of the individual recording the change,

(b) a description of the proposed change,

(c) an explanation of the reasons why the change has been proposed,

(d) whether the change is a recordable change, a notifiable change or a major change,

(e) a list of the name and occupation of each person, if any, whose advice was sought in relation to the proposed change and a summary of any advice provided,

(f) an assessment of which agreed document is affected by the proposed change and confirmation that a revised version has been produced in accordance with regulation 18(2)(b) (change control), and

(g) an explanation, in relation to the proposed change, of how—

(i) the HRB work, the stage of HRB work or work to existing HRB will, after the proposed change is carried out, comply with all applicable building regulations, and

(ii) the strategies, policies and procedures in any agreed document (including in relation to controlled changes, mandatory occurrence reporting, competence of persons or sharing of information and co-operation) will, after the proposed change is carried out, comply with the requirements of—

(aa) this regulation and regulations 18, 20, 21 and 26 to 29 (changes to documents or persons);

(bb) regulations 31, 38 and 39 (golden thread etc);

(cc) regulations 32 to 37 (mandatory occurrence reporting);

(dd) Part 2A (dutyholders and competence) of the 2010 Regulations,

(a "compliance explanation").

**Change control: notification requirements**

**20.**—(1) A notice under regulation 18(3) (change control) must be in writing, signed by the client, and must include—

(a) a description of the proposed controlled change,

(b) an explanation of the reasons why the change has been proposed,

(c) a list of the name and occupation of each person, if any, whose advice was sought in relation to the proposed change and a summary of any advice provided,

(d) an assessment of the agreed documents affected by the proposed change,

(e) a compliance explanation in relation to the proposed change, and

(f) where the notification is made by someone on behalf of the client, a statement signed by the client confirming they agree to the notification being given and that the information contained in the application is correct,

and the notice must be accompanied by the revised version of the agreed document produced in accordance with regulation 18(2)(b) (change control).

(2) The regulator may, by notice in writing, require the person giving the notification to provide further information in relation to the proposed controlled change.

(3) Where a notice under paragraph (2) is given to the person giving the notification, the person must provide the information within 10 working days of receipt of the notice.

**Change control applications**

**21.**—(1) A change control application must be made by the client ("the applicant") in writing, signed by the applicant, and must include—

(a) the name, address, telephone number and (if available) email address of the client,

(b) the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer),

(c) a statement that the application is made under this regulation, and

(d) a description of the proposed controlled change.

(2) The application must be accompanied by—

(a) an explanation of the reasons why the change has been proposed,

(b) a list of the name and occupation of each person, if any, whose advice was sought in relation to the proposed change and a summary of any advice provided,

(c) where the change is to the number of flats or residential rooms, plans showing the number of flats or residential rooms it is proposed the higher-risk building will contain,

(d) an assessment of the agreed documents affected by the proposed change,

(e) a compliance explanation in relation to the proposed change, and

(f) where the application is made by someone on behalf of the client, a statement signed by the client confirming they agree to the application being made and that the information contained in the application is correct,

and the application must be accompanied by the revised version of the agreed document produced in accordance with regulation 18(2)(b) (change control).

**Change control applications: validity and time limit**

**22.**—(1) Where the regulator receives a change control application which is valid the regulator must—

(a) notify the applicant to that effect, and

(b) determine it within 6 weeks beginning with the date the application is received by the regulator or within such longer period as at any time the regulator and the applicant agree in writing.

(2) Where the regulator receives a change control application which is not valid the regulator must notify the applicant to that effect giving reasons (and where the applicant is not the client, also give a copy of the notification to the client).

(3) A change control application is valid if it complies with regulation 21 (change control applications).

**Change control applications: consultation**

**23.**—(1) Before determining a change control application relating to a controlled change of a kind described in regulation 18(1)(a) (change control), the regulator must consult—

(a) the enforcing authority (within the meaning of article 25 of the Regulatory Reform (Fire Safety) Order 2005(**17**)) for the building or proposed building where Part B of Schedule 1 to the 2010 Regulations imposes requirements in relation to the work to which the controlled change relates, and

(b) the sewerage undertaker for the building or proposed building where paragraph H4 of Schedule 1 to the 2010 Regulations imposes requirements in relation to the work to which the controlled change relates.

(2) Where the regulator is required to consult a person under this regulation the regulator—

(**17**) S.I. 2005/1541 to which there are amendments not relevant to this provision.

(a) must give the person sufficient plans to show whether the work would, if carried out in accordance with those plans, comply with—

(i) in the case of the enforcing authority, the applicable requirements of Part B (fire safety) of Schedule 1 to the 2010 Regulations, and

(ii) in the case of the sewerage undertaker, the requirements of paragraph H4 of Schedule 1 to the 2010 Regulations;

(b) must not determine the application until the expiry of a period of 10 working days beginning with the date the consultation starts or such longer period as the regulator and the person consulted agree in writing.

(3) In relation to the consultation under paragraph (1)(a) the plans given must include the fire and emergency file or, where the work to which the application relates is category B work, the fire safety compliance information.

(4) If all persons consulted express their views before the end of the period referred to in paragraph (2)(b) then the prohibition against determining the application ceases to apply on the day after the date on which their views are received by the regulator.

(5) The regulator is not required to consult under this regulation where it is satisfied following consideration of the application there are sufficient grounds to reject the application.

(6) In this regulation, "category B work" has the meaning given in regulation 12 (building control approval applications for work to existing HRB).

**Change control applications: decisions**

**24.**—(1) The regulator must grant the building control approval sought in a change control application unless the application or any document that accompanied the application—

(a) does not comply with the requirements of regulation 21 (change control applications) or any direction relating to the application or the document given by the regulator under regulation 59 (electronic submission and directions);

(b) is not sufficiently detailed in any respect to allow the regulator to determine whether the HRB work, the stage of HRB work or work to existing HRB would contravene any applicable requirement of the building regulations;

(c) shows the HRB work, the stage of HRB work or work to existing HRB would contravene any applicable requirement of the building regulations;

(d) shows the strategies, policies or procedures in any agreed document (including in relation to controlled changes, mandatory occurrence reporting, competence of persons or sharing of information and co-operation) would contravene, or would be likely to contravene, the requirements of—

(i) regulations 18 to 21 and 26 to 29 (changes to documents or persons);

(ii) regulations 31, 38 and 39 (golden thread etc);

(iii) regulations 32 to 37 (mandatory occurrence reporting);

(iv) Part 2A (dutyholders and competence) of the 2010 Regulations.

(2) If one or more of the reasons in paragraph (1) applies, the regulator may—

(a) reject the change control application, or

(b) with the written consent of the applicant, grant the building control approval sought in the application subject to one or more requirements.

(3) The types of requirement that may be imposed under paragraph (2)(b) include—

(a) a requirement to provide a specified plan or document, or a revised version of a specified plan or document, within a specified period;

(b) a requirement that work does not proceed beyond a specified point until a specified plan or other document, or a revised version of a specified plan or other document, has been given to, and approved by, the regulator.

(4) The regulator must notify the applicant of the outcome of the change control application (and where the applicant is not the client, also give a copy of the notification to the client) within the period referred to in regulation 22 (change control applications: validity and time limit).

(5) A notice that the application has been rejected must give the reasons for rejection.

(6) A notice that the building control approval sought in the change control application has been granted subject to a requirement must specify the requirement imposed.

(7) If requested by the applicant, the regulator must provide a paper copy of the notice of building control approval.

(8) Where a change control application is successful the effect is that from the date of the notice under paragraph (4)—

(a) building control approval for the HRB work, the stage of HRB work or work to existing HRB is granted;

(b) subject to paragraphs (9) and (10)—

(i) the description of the proposed controlled change, and

(ii) the revised version of the agreed document that accompanied the application,

are approved.

(9) Where building control approval has been granted subject to a requirement that a plan or document must be revised, the unrevised plan or document is not approved by paragraph (8)(b).

(10) Where—

(a) building control approval has been granted subject to a requirement that a plan or document must be revised, and

(b) the plan or document is revised in accordance with the requirement,

paragraph (8)(b) applies in relation to the revised plan or document.

(11) Where building control approval has been granted subject to a requirement of a type described in paragraph (3)(b)—

(a) the client must ensure the work does not proceed beyond the point specified in the requirement until approval by the regulator to the plan or document has been received;

(b) where a request for approval has been received by the regulator it must notify the client of the outcome of the request within 6 weeks beginning with the date the request is received by the regulator or within such longer period as at any time the regulator and the client agree in writing;

(c) a notice that the request has been rejected must give the reasons for rejection, and

(d) if requested by the client, the regulator must provide a paper copy of the approval.

**Change control: regulator power to specify notifiable changes and major changes**

**25.** The regulator may specify that a particular type of controlled change is a notifiable change or a major change, in relation to specified work, by giving notice in writing to that effect to the client, principal contractor (or sole contractor) and the principal designer (or sole or lead designer) for that work.

**Change control: major changes and notifiable changes**

**26.**—(1) In regulations 18 to 25—

"major change" means—

(a) in relation to HRB work or a stage of HRB work—

(i) a change which is a material change of use to any part of a proposed higher-risk building;

(ii) a change of the proposed use of any part of a proposed higher-risk building so that after the change the part of the building is to have a use as a car park or cease to have a use as a car park (whether the car park is for the occupiers of the building or otherwise);

(iii) a change which increases or decreases the external height or width of a proposed higher-risk building;

(iv) a change to the number of storeys in a proposed higher-risk building (including adding or removing a mezzanine or gallery floor);

(v) a change to the structural design or structural loading of the building;

(vi) a change to the number or width of the staircases in a proposed higher-risk building or a change to the length of any other escape route or the number or width of any escape route (including evacuation lift) within the proposed building;

(vii) a change to the external wall of a proposed higher-risk building including a wall tie, wall restraint fixing or support system in the wall;

(viii) a change to any part of the active fire safety measures or passive fire safety measures in a proposed higher-risk building referred to in the fire and emergency file;

(ix) a change to the layout or dimensions of the common parts within a proposed higher-risk building;

(x) subject to paragraph (2), a change of any construction product or building element to be used in or on a proposed higher-risk building such that its replacement is of a lower classification under the reaction to fire classification (within the meaning in regulation 2(6) of the 2010 Regulations(**18**));

(xi) a change to any assumptions made in the design of a proposed higher-risk building as set out in the Building Regulations compliance statement;

(xii) a change proposing occupation of any part of the proposed higher-risk building before all the work is completed;

(xiii) a change to the number of flats, residential rooms or commercial units contained in a proposed higher-risk building;

(b) in relation to work to existing HRB—

(i) a change which is a material change of use to any part of a higher-risk building;

(ii) a change of the use of any part of a higher-risk building so that after the change the part of the building is to have a use as a car park or cease to have a use as a car park (whether the car park is for the occupiers of the building or otherwise);

(iii) a change which increases or decreases the external height or width of a higher-risk building;

(iv) a change to the number of storeys in a higher-risk building (including adding or removing a mezzanine or gallery floor);

(**18**) Paragraph (6) was inserted into regulation 2 of the 2010 Regulations by S.I. 2018/1230 and amended by S.I. 2022/603.

(v) a change to the structural design or structural loading of the building;

(vi) a change to the number or width of the staircases in a higher-risk building or a change to the length of any other escape route or the number or width of any escape route (including evacuation lift) within the building;

(vii) a change to the external wall of a higher-risk building including a wall tie, wall restraint fixing or support system in the wall;

(viii) a change to any part of the active fire safety measures or passive fire safety measures in a higher-risk building referred to in the fire and emergency file;

(ix) a change to the layout or dimensions of the common parts within a higher-risk building;

(x) subject to paragraph (2), a change of any construction product or building element to be used in or on a higher-risk building (or to be used as part of works to a higher-risk building) such that its replacement is of a lower classification under the reaction to fire classification (within the meaning in regulation 2(6) of the 2010 Regulations);

(xi) a change to any assumptions made in the design of a higher-risk building or works to a higher-risk building as set out in the Building Regulations compliance statement;

(xii) where the building or part of a building is not occupied during the work, a change proposing occupation before all the work is completed;

(xiii) a change to the number of flats, residential rooms or commercial units contained in a higher-risk building;

(c) a change specified by the regulator as a major change by notice given in accordance with regulation 25 (change control: regulator power to specify notifiable changes and major changes);

"notifiable change" means—

(a) a change to the construction control plan other than a change to the schedule of appointments contained within it;

(b) a change to the change control plan;

(c) a change to the layout of a flat or a residential room in a proposed higher-risk building or in a higher-risk building;

(d) a change to the number or dimensions of any openings in any wall, ceiling or other building element for any pipe, duct or cable;

(e) a change to the wall tie, wall restraint fixing or support system in any wall or proposed wall (excluding an external wall);

(f) subject to paragraph (2), a change of any construction product or building element to be used in or on a proposed higher-risk building (or to be used as part of works to a higher-risk building) where its replacement is of the same or higher classification under the reaction to fire classification (within the meaning in regulation 2(6) of the 2010 Regulations);

(g) any other change to the fire and emergency file or the fire safety compliance information;

(h) a change specified by the regulator as a notifiable change by notice given in accordance with regulation 25 (change control: regulator power to specify notifiable changes and major changes);

(i) a change to the partial completion strategy;

(j) a change to a staged work statement or a subsequent stages statement (as defined in regulation 4(3)).

(2) Where an agreed document specifies use of a construction product or building element falling within a specified class, the change to another product or element falling within the same design specification is a recordable change.

**New client etc**

**27.**—(1) Subject to paragraphs (4) and (5), if, at any time after building control approval for HRB work, a stage of HRB work or work to existing HRB is granted, a person (in this regulation "C") ceases to be the client in relation to the work they must, not more than 14 days after the date they cease to be the client, provide the new client (in this regulation "N") with—

(a) a copy of the golden thread information;

(b) information (including plans, drawings and other documents) which is sufficient to detail the work comprised in the project;

(c) a document explaining the arrangements made under regulation 11A (suitable arrangements to ensure compliance with requirements etc) of the 2010 Regulations;

(d) a statement, signed by C, which—

(i) provides the date C ceased to be the client, and

(ii) confirms that—

(aa) C has fulfilled their duties as the client under Part 2A (dutyholders and competence) of the 2010 Regulations,

(bb) C has provided a copy of the golden thread information to N, and

(cc) as far as C is aware, on the date they cease to be client, the design work, and the building work (if any has been carried out by that date), complies with all applicable requirements of the building regulations.

(2) Subject to paragraph (3), N must—

(a) within 28 days of the date when N becomes the client, give a notice to the regulator which—

(i) states the date N became the client;

(ii) states the date when C ceased to be the client;

(iii) confirms N has received the documents referred to in paragraph (1);

(iv) confirms N is aware of the requirements imposed on a client by the building regulations;

(v) includes a copy of C's statement under paragraph (1)(d), and

(b) ensure—

(i) a record is made of the change of client in the change control log;

(ii) the construction control plan is revised, in accordance with regulation 18 (change control), to reflect the change.

(3) Where N is not able—

(a) to confirm they have received the documents referred to in paragraph (1), or

(b) to provide a copy of C's statement under paragraph (1)(d),

then the notice sent under paragraph (2)(a) must explain the reasons for not providing the confirmation or not including a copy of the statement.

(4) Where—

(a) a trustee in bankruptcy has been appointed in relation to a client, or

(b) C's property (or any part of it that includes the HRB project) vests in a liquidator under section 145 of the Insolvency Act 1986,

that person (IP) is not to be treated as a new client provided no building work has been carried out since their appointment or vesting, and where IP then disposes of C's property to a new client paragraph (1) applies to IP as if—

(i) sub-paragraphs (c) and (d) (except paragraph (bb)) were omitted, and

(ii) where they are not able to confirm they have the documents referred to in paragraph (1)(a) then the notice sent under paragraph (2) by N must explain the reasons for not providing the confirmation.

(5) Where—

(a) a deputy has been appointed by the Court of Protection in relation to C's property and financial affairs, or

(b) a person has power of attorney in relation to C's property and they intend to act in the capacity of the client,

paragraph (6) applies instead of paragraph (1).

(6) Where paragraph (5) applies, a person who has taken over as the client on behalf of C must, within 28 days of taking any step as a client—

(a) give a notice to the regulator which—

(i) states the date they took over as the client on behalf of C;

(ii) confirms they have—

(aa) a copy of the golden thread information;

(bb) information (including plans, drawings and other documents) which is sufficient to detail the work comprised in the project;

(cc) a document explaining the arrangements made under regulation 11A (suitable arrangements to ensure compliance with requirements etc) of the 2010 Regulations;

(iii) confirms they are aware of the requirements imposed on a client by the building regulations;

(iv) includes a statement, signed by them, which confirms that as far as they are aware, on the date of the notice, the design work, and the building work (if any has been carried by that date), complies with all applicable requirements of the building regulations, and

(b) ensure—

(i) a record is made of them taking over as the client on behalf of C in the change control log;

(ii) the construction control plan is revised, in accordance with regulation 18 (change control), to reflect the change.

(7) Where the person who has taken over as the client on behalf of C is not able to confirm they have the documents referred to in paragraph (6)(a)(ii) or make the statement required by paragraph (6)(a)(iv) then the notice sent under paragraph (6)(a) must explain the reasons for not providing the confirmation or not providing the statement.

(8) Subject to paragraph (9), where C dies, C's personal representative ("PR") must, within 28 days of issue of grant to administer C's estate give a notice to the regulator which—

(a) states the date of issue of grant to administer C's estate,

(b) states the date when C died,

(c) confirms PR has—

(i) a copy of the golden thread information,

(ii) information (including plans, drawings and other documents) which is sufficient to detail the work comprised in the project,

(iii) a document explaining the arrangements made under regulation 11A (suitable arrangements to ensure compliance with requirements etc) of the 2010 Regulations, and

(d) states whether or not PR intends to act as the client in relation to the project.

(9) Where PR is not able to confirm they have the documents referred to in paragraph (8)(c) then the notice sent under paragraph (8) must explain the reasons for not providing the confirmation.

(10) Where PR intends to act as the client in relation the project, PR must comply with paragraph (2) (except paragraphs (iii), (iv) and (v) of sub-paragraph (a)) and in the notice to be provided under paragraph (2) they must additionally confirm they have—

(a) a copy of the golden thread information,

(b) information (including plans, drawings and other documents) which is sufficient to detail the work comprised in the project; and

(c) a document explaining the arrangements made under regulation 11A (suitable arrangements to ensure compliance with requirements etc) of the 2010 Regulations.

(11) Where PR is not able to confirm they have the documents referred to in paragraph (10) then the notice referred to in paragraph (10) must explain the reasons for not providing the confirmation.

(12) For purposes of this regulation a person is to be treated as a new client where a project is carried out for them instead of C but a person is not to be regarded as a new client by reason solely of their purchase of, or their entering into a contract to purchase, a legal interest in a dwelling created or to be created in the higher-risk building.

(13) For the purposes of section 35(2) of the 1984 Act (provisions for which offence does not apply) paragraphs (6) and (8) are prescribed.

(14) The requirements of this regulation do not apply—

(a) to a domestic client; or

(b) to work to existing HRB which consists only of—

(i) scheme work;

(ii) exempt work, or

(iii) work to which regulation 10 (notification of emergency repairs to existing HRB) applies.

**Insolvency etc of the client: notifications**

**28.**—(1) Where the client becomes aware that any of the circumstances referred to in paragraph (2) apply in relation to them, the client must, not more than 14 days after that date, give a notice to the regulator which—

(a) states that they are the client in relation to a project;

(b) states the name and address of the client, and where the person is a company, also the company registration number;

(c) gives details which are sufficient to identify every project of the client which relates to a higher-risk building;

(d) provides so much of the information referred to in the table in rule 1.6 of the Insolvency (England and Wales) Rules 2016 as is known to them (**19**).

(2) The circumstances mentioned in paragraph (1) are—

(a) a moratorium under Part A1 of the Insolvency Act 1986(**20**) has commenced;

(b) a voluntary arrangement for the purposes of Part 1 of the Insolvency Act 1986 has been proposed under that Part of the Act;

(c) a voluntary arrangement for the purposes of Part 8 of the Insolvency Act 1986 has been proposed and has taken effect under that Part of the Act.

(3) Subject to paragraph (5), where a person ("P") described in paragraph (4) is appointed in relation to the client then not more than 14 days after the date P is appointed P must give a notice to the regulator which—

(a) states the name and address of the client in relation to which the appointment relates and gives details which are sufficient to identify every project of the client which relates to a higher-risk building;

(b) identifies the nature of the appointment held by P in relation to the client;

(c) states the name, address, telephone number and email address (if any) of P;

(d) provides so much of the information referred to in the table in rule 1.6 of the Insolvency (England and Wales) Rules 2016 as is known to them.

(4) The persons referred to in paragraph (3) are—

(a) an administrator;

(b) an administrative receiver;

(c) a receiver appointed by the courts or by a mortgagee;

(d) a liquidator;

(e) a trustee in bankruptcy.

(5) Where under section 178 or 315 of the Insolvency Act 1986 any property in relation to a project is disclaimed, the person disclaiming the property must, within the period of 28 days beginning with the date the disclaimer took effect, give the regulator a copy of the notice of disclaimer under rule 19.2 of the Insolvency (England and Wales) Rules 2016.

(6) For the purposes of section 35(2) of the 1984 Act (provisions for which offence does not apply) paragraph (3) is prescribed.

(7) The requirements of this regulation do not apply to a domestic client.

**New principal contractor or principal designer etc: notification**

**29.**—(1) This paragraph applies where, at any time after building control approval for HRB work, a stage of HRB work or work to existing HRB is granted the client appoints a principal contractor (or sole contractor) or principal designer (or sole or lead designer).

(2) Where paragraph (1) applies, the client must give a notice, signed by the client, to the regulator containing—

(a) the name, address, telephone number and (if available) email address of the person appointed,

(**19**) S.I. 2016/1024.
(**20**) 1986 c. 45. Part A1 was inserted by section 1(1) of the Corporate Insolvency and Governance At 2020 (c. 12).

(b) a statement that the client—

(i) has complied with regulation 11E(2)(b) (consideration of past misconduct) of the 2010 Regulations,

(ii) is satisfied in the case of a principal contractor, that the person fulfils the requirements in regulations 11F(1) and (2) and 11H(1) of the 2010 Regulations,

(iii) is satisfied in the case of a principal designer, that the person fulfils the requirements in regulations 11F(1) and (2) and 11G(1) of the 2010 Regulations,

(iv) is satisfied in the case of a sole contractor, or sole or lead designer, that the person fulfils the requirements in regulations 11F(1) and (2) of the 2010 Regulations,

(c) in relation to each principal contractor or principal designer, a copy of the record, in respect of the person, that the client created under regulation 11D(8) or (9) (principal designer and principial contractor) of the 2010 Regulations, and

(d) a declaration as to the truth of the statement referred to in sub-paragraph (b) and of the record (if any) referred to in sub-paragraph (c).

(3) On request from the client, the person who was the principal contractor (or sole contractor) or principal designer (or sole or lead designer), as the case may be, before the appointment referred to in paragraph (1) must give the client a statement in writing, signed and dated by them, which sets out—

(a) their name, address, telephone number and (if available) email address,

(b) the dates of their appointment,

(c) subject to paragraph (d), a certificate that—

(i) in the case of a person who was a principal contractor (or sole contractor), that they have fulfilled their duties as a principal contractor under Part 2A (dutyholders and competence) of the 2010 Regulations,

(ii) in the case of a person who was principal designer (or sole or lead designer), that they have fulfilled their duties as a principal designer under Part 2A (dutyholders and competence) of the 2010 Regulations,

(d) where a person is unable to certify that they have fulfilled their duties, a statement explaining what duties they were unable to fulfil and the reasons for not being able to do so.

(4) The client must ensure the notice under paragraph (2) is accompanied by a copy of a statement provided to them under paragraph (3).

(5) Where, at the date a client gives the notice under paragraph (2), the client is unable to obtain the statement under paragraph (3), the notice under paragraph (2) must be accompanied by a statement by the client explaining the steps the client has taken to obtain the statement together with any reasons the person referred to in paragraph (3) has given for not providing the statement.

(6) The client must give the notice under paragraph (2) together with a copy of the statement referred to in paragraph (3) or, if applicable, a statement referred to in paragraph (5), to the regulator within the period of 14 days beginning with the date of the appointment.

(7) The client must ensure—

(a) a record is made of the change of principal contractor (or sole contractor) or principal designer (or sole or lead designer) in the change control log, and

(b) the construction control plan is revised, in accordance with regulation 18 (change control), to reflect the change.

(8) Where the client is a domestic client (DC), the following applies instead of paragraphs (2) to (7)—

(a) except where the person appointed (PA) is the first person appointed to the role, the person who held the role before PA ("outgoing dutyholder") must, within five days of the date their appointment ends, give the DC a notice which sets out—

(i) their name, address, telephone number and (if available) email address;

(ii) the date their appointment ended;

(iii) subject to paragraph (b), a certificate that—

(aa) in the case of a person who was a principal contractor (or sole contractor), that they fulfilled their duties as a principal contractor under Part 2A (dutyholders and competence) of the 2010 Regulations;

(bb) in the case of a person who was principal designer (or sole or lead designer), that they fulfilled their duties as a principal designer under Part 2A (dutyholders and competence) of the 2010 Regulations;

(b) where the outgoing dutyholder is unable to certify that they fulfilled their duties, a statement explaining what duties they were unable to fulfil and the reasons for not being able to do so;

(c) DC must provide the information referred to under sub-paragraph (a) and, as the case may be, (b) to PA on the date of appointment of PA or as soon as practicable after that date;

(d) subject to paragraph (10), PA must give a notice to the regulator which includes—

(i) the location of the building work;

(ii) the name, address, telephone number and (if available) email address of PA and the date of appointment;

(iii) except where PA is the first person appointed to the role, the name, address, telephone number and (if available) email address of the outgoing dutyholder and the date their appointment ended;

(iv) a statement explaining the notice is given on behalf of a domestic client.

(9) PA must ensure the notice under paragraph (8)(d) is accompanied by a copy of a certificate provided to them under paragraph (8)(a) or a statement provided to them under paragraph (8)(b).

(10) Where PA has not received the information required to be provided under paragraph (8)(c) by the time the notice under paragraph (8)(d) is to be given, the statement given by PA under paragraph (8)(d)(iv) must also include an explanation to that effect.

(11) A notice required under paragraph (8)(d) must be given to the regulator within the period of 14 days beginning with the date of the appointment.

(12) PA must ensure—

(a) a record is made of the change of principal contractor (or sole contractor) or principal designer (or sole or lead designer) in the change control log, and

(b) the construction control plan is revised, in accordance with regulation 18 (change control), to reflect the change.

**Variation of a requirement imposed on a building control approval**

**30.**—(1) In relation to HRB work, a stage of HRB work or work to existing HRB, a client may request, by notice in writing, that the regulator vary a requirement imposed on a building control approval.

(2) A notice under paragraph (1) must be made in writing, signed by the client, and must include—

(a) the name, address, telephone number and (if available) email address of the client,

(b) a statement that the notice is given under this regulation,

(c) a description of the proposed variation,

(d) an explanation of the reasons why the variation is proposed,

(e) a list of the name and occupation of each person, if any, whose advice was sought in relation to the proposed variation and a summary of any advice provided.

(3) Where the notice under paragraph (1) is given by someone on behalf of the client, it must include a statement signed by the client confirming they agree to the notice being given and that the information contained in the application is correct.

(4) Where the regulator receives a notice under paragraph (1) the regulator must determine whether to grant the variation within 28 days of receipt of the notice or within such longer period as at any time the regulator and the person giving the notice agree in writing.

(5) Where the regulator has not determined whether to grant the variation before the expiry of the period provided for in paragraph (4) then the variation is treated as refused by the regulator.

(6) Where a requirement is varied the regulator must give the client a notice setting out the requirement as varied.

(7) If requested by the client, the regulator must provide a paper copy of the notice.

(8) Where the regulator does not agree to the variation the regulator must notify the client giving reasons.

# PART 4

## Golden thread, mandatory occurrence reporting, information handover etc

### Golden thread

**31.**—(1) The arrangements made by a client under regulation 11A (suitable arrangements to ensure compliance with requirements etc) of the 2010 Regulations must include—

(a) where the work is HRB work or a stage of HRB work—

(i) arrangements for an electronic facility to be created and maintained by the client (or someone on their behalf) for the purpose of holding the golden thread information;

(ii) procedures for persons involved with designing or carrying out the work to have access to the facility for the purpose of maintaining the golden thread information in the facility;

(b) where the work is work to existing HRB—

(i) arrangements for an electronic facility which holds the golden thread information to be maintained by the client (or someone on their behalf) for the purpose of updating the golden thread information in relation to the work;

(ii) procedures for persons involved with designing or carrying out the work to have access to the facility for the purpose of maintaining the golden thread information in the facility.

(2) The client must ensure the golden thread information—

(a) is kept in an electronic format,

(b) is capable of being transferred electronically to other persons without the data, information or document in it being lost or corrupted,

(c) is accurate and up to date,

(d) is available in a readable format which is intelligible to the intended readers of the data, and any key needed to understand the data is provided with the data,

(e) is made available as soon as reasonably practicable following a request from a principal designer (or sole or lead designer) or principal contractor (or sole contractor) to enable them to comply with their requirements under the building regulations,

(f) is secure from unauthorised access,

(g) is only changed in accordance with procedures which record the person who made the change and the date of that change, and

(h) as far as is reasonably practicable uses language, terminology and definitions which are consistent.

(3) The principal designer (or sole or lead designer) must ensure designs for the building work produced before a building control approval application for HRB work, a stage of HRB work or work to existing HRB is submitted are provided to the client and the client must ensure, before the construction phase begins (or, in the case of a stage of HRB work, that stage begins), the facility referred to in paragraph (1) is updated to include the design.

(4) Where building control approval for HRB work, a stage of HRB work or work to existing HRB is granted the client must ensure, before the construction phase begins (or, in the case of a stage of HRB work, that stage begins), the facility referred to in paragraph (1) includes—

(a) a copy of the fire statement in relation to the higher-risk building or proposed higher-risk building,

(b) where the work is HRB work or a stage of HRB work, a copy of the plans and each of the other documents for the proposed higher-risk building which are approved under regulation 7(8)(b) (building control approval applications for HRB work or stage of HRB work: decisions) together with all the evidence recorded to show compliance with the applicable requirements of the building regulations, and

(c) where the work is work to existing HRB, a copy of the plans and each of the other documents for the work which are approved under regulation 15(8)(b) (building control approval applications for work to existing HRB: decisions) together with all the evidence recorded to show compliance with the applicable requirements of the building regulations.

(5) Where regulation 10 (notification of emergency repairs to existing HRB) applies in relation the work, the client must ensure a copy of the notice required under regulation 10(1)(a) is included in the facility referred to in paragraph (1).

(6) Where an agreed document is provided or approved under the terms of a requirement imposed on the grant of a building control approval under—

(a) regulation 7 (building control approval applications for HRB work or stage of HRB work: decisions);

(b) regulation 15 (building control approval applications for work to existing HRB: decisions);

(c) regulation 24 (change control applications: decisions),

the client must ensure the facility referred to in paragraph (1) is updated to include a copy of that agreed document as soon as practicable after the document is provided or approved.

(7) Where a controlled change is proposed the client must ensure a copy of the record required to be made under regulation 18(2)(a) (change control) is included in the facility referred to in paragraph (1) as soon as practicable after the change is recorded and where the proposed change is not carried out the facility referred to in paragraph (1) must be updated with a note to that effect.

(8) Where a controlled change is proposed and an agreed document is affected by the change, the client must ensure a copy of the revised version of the document required to be produced under regulation 18(2)(b) (change control) is included in the facility referred to in paragraph (1) as soon as practicable after the revised version is produced and where the proposed change is not carried out the facility referred to in paragraph (1) must be updated with a note to that effect.

(9) Where a notice is given under regulation 29 (new principal contractor or principal designer etc: notification), the client must ensure the facility referred to in paragraph (1) is updated to include a copy of the notice and any statement which accompanied that notice as soon as practicable after the notice is given.

(10) Where a written report is provided to the regulator under regulation 33 (mandatory occurrence reporting: reporting to the regulator), the client must ensure the facility referred to in paragraph (1) is updated to include a copy of that report as soon as practicable after the report is provided.

(11) Where the client proposes to make a completion certificate application or a partial completion certificate application they must ensure the facility referred to in paragraph (1) is updated to include a copy of the proposed application and a copy of each document which it is proposed will accompany the application.

(12) The requirements of this regulation do not apply to work to existing HRB which consists only of—

(a) scheme work, or

(b) exempt work.

(13) In this regulation—

"fire statement" means any statement in relation to the higher-risk building or proposed higher-risk building submitted in accordance with article 9A of the Town and Country Planning (Development Management Procedure) (England) Order 2015(**21**);

"golden thread information" means the information required by this regulation to be included in the facility referred to in paragraph (1), including previous versions of any document which has been updated.

**Mandatory occurrence reporting system**

**32.**—(1) The principal dutyholders(**22**) must—

(a) before the construction phase begins, establish a system which enables as far as is reasonably practicable the prompt reporting of every safety occurrence to the principal dutyholders by reporting persons, and

(b) maintain the system throughout the construction phase.

(2) The principal dutyholders must take reasonable steps to ensure each reporting person is provided with adequate instruction and information on the system established by virtue of paragraph (1) and the incidents or situations that should be reported by the reporting person through the system—

(a) in the case of a designer or contractor, before beginning any work;

(b) in the case of any other person, as soon as reasonably practicable after first entering the site of the work.

(3) The principal contractor (or sole contractor) must ensure an appropriate frequency of inspections of the work for safety occurrences throughout the construction phase.

(4) The principal designer (or sole or lead designer) must ensure an appropriate frequency of inspections of HRB design work for safety occurrences throughout the construction phase.

(5) The requirements of this regulation do not apply to work to existing HRB which consists only of—

(a) exempt work, or

(**21**) S.I. 2015/595. Article 9A was inserted by S.I. 2021/746.
(**22**) See definition in regulation 35 (mandatory occurrence reporting: definitions).

(b) work to which regulation 10 (notification of emergency repairs to existing HRB) applies.

**Mandatory occurrence reporting: reporting to the regulator**

**33.**—(1) Where there is a safety occurrence during the construction phase, a principal dutyholder must follow the reporting procedure on becoming aware of the occurrence.

(2) For the purposes of this regulation, "the reporting procedure" means—

(a) notifying the regulator of the safety occurrence by the quickest practicable means without undue delay, and

(b) providing a written report of the occurrence containing the required information (as set out in paragraph (3)) to the regulator within the period of 10 days beginning with the date the principal dutyholder becomes aware of the safety occurrence.

(3) The required information referred to in paragraph (2) is—

(a) the date and time of the safety occurrence;

(b) the address of the site at which the occurrence happened;

(c) the name, address, telephone number and (if available) an email address of the principal dutyholder making the report;

(d) the type and details of the occurrence (including the nature of the risk);

(e) details of remedial measures or mitigation carried out.

(4) Information provided by a person under the reporting procedure is not admissible in evidence against that person in criminal proceedings except—

(a) in proceedings for an offence under section 35 of the 1984 Act (offence of contravening building regulations etc) relating to breach of the duty in paragraph (1),

(b) in proceedings for an offence under section 24 of the 2022 Act (provision of false or misleading information to regulator),

(c) in proceedings for an offence of perverting the course of justice, or

(d) if in the proceedings—

(i) in giving evidence the person makes a statement inconsistent with the information, and

(ii) evidence as to the information that was provided is adduced, or a question relating to it is asked, by or on behalf of the person.

(5) The requirements of this regulation do not apply to work to existing HRB which consists only of—

(a) exempt work, or

(b) work to which regulation 10 (notification of emergency repairs to existing HRB) applies.

**Mandatory occurrence reporting: defences**

**34.** Where a principal dutyholder has committed an offence under section 35 of the 1984 Act of contravening these Regulations by failing to follow the reporting procedure in relation to a safety occurrence as required by regulation 33 (mandatory occurrence reporting: reporting to the regulator), it is a defence for the principal dutyholder if it reasonably believed that the other principal dutyholder had—

(a) already notified the regulator of the safety occurrence under regulation 33, and

(b) already provided the regulator with a written report of the safety occurrence under regulation 33.

**Mandatory occurrence reporting: definitions**

**35.** In regulations 32 to 34—

"construction phase" means the period of time beginning when the HRB work, a stage of HRB work or work to existing HRB starts and ending when the work is completed;

"HRB design work" means design of any HRB work, stage of HRB work or work to existing HRB;

"principal dutyholders" means the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

"reporting person" means—

(a) any designer (including the principal designer),

(b) any contractor (including the principal contractor), and

(c) any other person who is a periodic visitor on the site of work;

"safety occurrence" means—

(a) in relation to a design, an aspect of the design relating to the structural integrity or fire safety of a higher-risk building that would, if built, meet the risk condition;

(b) otherwise, an incident or situation relating to the structural integrity or fire safety of a higher-risk building that meets the risk condition.

(2) In the definition of "safety occurrence", the "risk condition" is that use of the building in question without the incident or situation being remedied would be likely to present a risk of a significant number of deaths, or serious injury to a significant number of people.

**Mandatory occurrence reporting: regulator's annual report**

**36.** Regulation 33(1) (mandatory occurrence reporting: reporting to the regulator) is prescribed for the purposes of section 19(2)(b) of the 2022 Act.

**Mandatory occurrence reporting: client duty on appointment of principal contractor or principal designer**

**37.** Where, in relation to HRB work, a stage of HRB work or work to existing HRB, the client appoints a principal contractor (or sole contractor) or principal designer (or sole or lead designer), then the client must take all reasonable steps to satisfy itself that the person appointed is able to fulfil the requirements in regulations 32 (mandatory occurrence reporting system) and 33 (mandatory occurrence reporting: reporting to the regulator).

**Handover of information on completion etc**

**38.**—(1) The client for HRB work, a stage of HRB work or work to existing HRB must give—

(a) the BFLO information; and

(b) the specified golden thread information,

to the relevant person no later than the date the work is completed, or where regulation 45 (partial completion certificates) applies no later than the date the part of the building is to be occupied.

(2) The golden thread information given under paragraph (1) must be provided in such a way as to retain the filing structure in which it was kept, including each index, key or other information logically associated with it and in a format which enables the relevant person to read, keep and update the information.

(3) The relevant person must give the client a notice acknowledging receipt of the specified golden thread information which confirms—

(a) they are able to access the information, and

(b) the information provided is sufficient to enable them to understand, operate and maintain the building (and the fire safety systems in it) after the building work.

(4) The requirements of paragraph (1) do not apply to work to existing HRB which consists only of—

(a) scheme work;

(b) exempt work, or

(c) work to which regulation 10 (notification of emergency repairs to existing HRB) applies.

(5) In this regulation—

"BFLO information" means—

(a) where Part B of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the work, the fire safety information;

(b) where paragraph F1(1) of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the work, sufficient information about the building's ventilation system and its maintenance requirements so that the ventilation system can be operated in such a manner as to provide adequate means of ventilation;

(c) where paragraph L1 of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the work, sufficient information about the building, the fixed building services and their maintenance requirements so that the building can be operated in such a manner as to use no more fuel and power than is reasonable in the circumstances;

(d) where paragraph L2 of Schedule 1 to the 2010 Regulations applies in relation to the work, sufficient information about the system for on-site electricity generation in respect of its operation and maintenance requirements so that the system may be operated and maintained in such a manner as to produce the maximum electricity that is reasonable in the circumstances and delivers this electricity to the optimal place for use; and

(e) where Part O of Schedule 1 to the 2010 Regulations applies in relation to the work, sufficient information about the provision made in accordance with Part O so that the systems in place further to Part O can be operated in such a manner as to protect against overheating;

"relevant person" means—

(a) where, after building work is completed, a building is not a higher-risk building for the purposes of Part 4 of the 2022 Act, the responsible person for the building;

(b) in any other case, the accountable person for the part of the building to which the work relates(**23**) and the responsible person (if any) for the building;

"responsible person" has the meaning given in article 3 of the Regulatory Reform (Fire Safety) Order 2005(**24**);

"specified golden thread information" means—

(a) in relation to cases where regulation 45 applies, a copy of —

(i) the partial completion certificate application in relation to the HRB work, the stage of HRB work or, as the case may be, work to existing HRB which the client proposes to make, and

(**23**) Accountable person is defined in section 72 of the Building Safety Act 2022.
(**24**) S.I. 2005/1541 to which there are amendments not relevant to this provision.

(ii) each document which under regulation 45 (partial completion certificate applications) is required to accompany the application;

(b) in relation to any other case, a copy of—

(i) the completion certificate application in relation to the HRB work, the stage of HRB work or, as the case may be, work to existing HRB which the client proposes to make; and

(ii) each document which under regulation 40 (completion certificate applications) is required to accompany the application.

**Information to be provided where work is scheme work**

**39.**—(1) Where work to existing HRB consists only of scheme work and Part B of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the work, the certifier must give the fire safety information to the client and the responsible person no later than—

(a) where the building to which the building work relates is not occupied during the work, the date of completion of the work or the date of occupation of the building, whichever is the earlier;

(b) in any other case, the date of completion of the work.

(2) The responsible person must give the certifier a notice acknowledging receipt of the fire safety information and confirming the information provided is sufficient to enable them to understand, operate and maintain the building (and the fire safety systems in it) after the building work in question and give a copy of that notice at the same time to the client.

(3) The certifier must notify the client—

(a) confirming that they have given fire safety information to the responsible person, and

(b) stating that they have received a notice from the responsible person pursuant to paragraph (2) or where they have not received the notice, stating the steps taken to obtain the notice from the responsible person and the dates they were taken.

(4) The notification under paragraph (3) must be given no later than 7 days after the date referred to in paragraph (1).

(5) Within 30 days of receiving the notification under paragraph (4) the client must notify the regulator confirming receipt of the notification from the certifier.

(6) Where work to existing HRB consists only of scheme work and paragraph F1(1) of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the work, the certifier must, not later than five days after the work has been completed, give sufficient information to the client and the responsible person about the building's ventilation system and its maintenance requirements so that the ventilation system can be operated in such a manner as to provide adequate means of ventilation.

(7) Where work to existing HRB consists only of scheme work and paragraph L1 of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the work, the certifier must, not later than five days after the work has been completed, provide to the client and the responsible person sufficient information about the building, the fixed building services and their maintenance requirements so that the building can be operated in such a manner as to use no more fuel and power than is reasonable in the circumstances.

(8) Where work to existing HRB consists only of scheme work and paragraph L2 of Schedule 1 to the 2010 Regulations applies in relation to the work, the certifier must, not later than five days after the work has been completed, provide to the client and the responsible person sufficient information about the system for on-site electricity generation in respect of its operation and maintenance requirements so that the system may be operated and maintained in such a manner as to produce

the maximum electricity that is reasonable in the circumstances and delivers this electricity to the optimal place for use.

(9) In this regulation—

"certifier" means—

(a) where the work is described in column 1 of the Table in Schedule 3 to the 2010 Regulations and the work is to be carried out by a person described in the corresponding entry in column 2 of that Table, the person carrying out the work;

(b) where the work is described in column 1 of the Table in Schedule 3A to the 2010 Regulations and the work is to be inspected by a person described in the corresponding entry in column 2 of that Table who has been appointed by the person intending to carry out the work, the person inspecting the work;

"fire safety information" means information relating to—

(a) the design and construction of the building and the services, fittings and equipment provided in or in connection with the building;

(b) the design of the material change of use and building work to implement it;

(c) the composition of materials used,

which will assist the responsible person to operate and maintain the building with reasonable safety;

"responsible person" has the meaning given in article 3 of the Regulatory Reform (Fire Safety) Order 2005.

# PART 5

## Completion certificates

### Completion certificate applications

**40.**—(1) An application for a completion certificate in relation to HRB work, a stage of HRB work or work to existing HRB ("a completion certificate application") must be made in writing to the regulator, signed by the client (in this Part "the applicant"), and must include—

(a) the name, address, telephone number and (if available) email address of the client;

(b) the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

(c) a statement that the application is made under this regulation;

(d) a description of the work, as built, including—

(i) the location of the higher-risk building;

(ii) details of the use or intended use of the higher-risk building, including the use or intended use of each storey;

(iii) the height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(**25**);

(iv) the number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(**25**) S.I. 2023/275.

(v) the number of flats, the number of residential rooms and the number of commercial units contained in the higher-risk building;

(vi) the provision made for the drainage of the higher-risk building;

(vii) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes a requirement, the precautions taken in building over a drain, sewer or disposal main to comply with the requirements of that paragraph;

(viii) the steps taken to comply with any local enactment that applies;

(e) a statement, signed by the client, confirming that to the best of the client's knowledge—

(i) in the case of HRB work, the higher-risk building, as built, complies with all applicable requirements of the building regulations;

(ii) in the case of a stage of HRB work, the stage, as built, complies with all applicable requirements of the building regulations;

(iii) in the case of work to existing HRB, the work, as built, complies with all applicable requirements of the building regulations;

(f) a statement, signed by both the client and the relevant person, confirming that the information to be provided to the relevant person in accordance with regulation 38 (handover of information on completion etc) has been given and the relevant person has received the information.

(2) A completion certificate application must be accompanied by—

(a) a notice stating the date on which the building work was completed,

(b) a plan to a scale of not less than 1:1250 showing—

(i) the size and position of the higher-risk building and its relationship to adjoining boundaries;

(ii) the boundaries of the curtilage of the building, and the size, position and use of every other building within the curtilage;

(iii) the width and position of any street on or within the boundaries of the curtilage of the building;

(c) such other plans that are necessary to show that the HRB work, a stage of HRB work or work to existing HRB complied with all applicable requirements of the building regulations;

(d) the following agreed documents—

(i) the construction control plan;

(ii) the change control plan;

(iii) the mandatory occurrence reporting plan;

(iv) the Building Regulations compliance statement;

(v) a fire and emergency file,

or, where regulation 12(3) (building control approval applications for work to existing HRB) applies, such of the documents referred to in paragraphs (i) to (v) as were approved under regulation 15 (building control approval applications for work to existing HRB: decisions);

(e) a copy of the change control log updated to show all the changes for the project required by these Regulations to be included in the log,

(f) subject to paragraph (3), a compliance declaration signed by—

(i) each principal contractor (or sole contractor) for the HRB work, the stage of HRB work or work to existing HRB, and

(ii) each principal designer (or sole or lead designer) for the HRB work, the stage of HRB work or work to existing HRB,

if such a statement was not already provided to the regulator, in relation to that part of the work, under regulation 29 (new principal contractor or principal designer etc: notification);

(g) where the application is made by someone on behalf of the client, a statement signed by the client confirming they agree to the application being made and that the information contained in the application is correct.

(3) Where a client is unable to ensure the person mentioned in paragraph (2)(f) provides a compliance declaration, the completion certificate application must be accompanied by a statement by the client giving the reasons why the declaration has not been provided.

(4) The requirements of this regulation do not apply to work to existing HRB which consists only of—

(a) scheme work;

(b) exempt work, or

(c) work to which regulation 10 (notification of emergency repairs to existing HRB) applies.

(5) In this regulation, "compliance declaration" means a document, signed by the principal contractor (or sole contractor) or the principal designer (or sole or lead designer) to which the declaration relates, that includes—

(a) the name, address, telephone number and (if available) email address of that person;

(b) the dates of their appointment, and

(c) a statement confirming—

(i) in the case of a principal contractor (or sole contractor), that they fulfilled their duties as a principal contractor under Part 2A (dutyholders and competence) of the 2010 Regulations;

(ii) in the case of a principal designer (or sole or lead designer), that they fulfilled their duties as a principal designer under Part 2A (dutyholders and competence) of the 2010 Regulations.

**Completion certificate applications: validity and time limit**

**41.**—(1) Where the regulator receives a completion certificate application in relation to HRB work, a stage of HRB work or work to existing HRB which is valid the regulator must—

(a) notify the applicant to that effect, and

(b) determine it within 8 weeks beginning with the date the application is received by the regulator or within such longer period as at any time the regulator and the applicant agree in writing.

(2) Where the regulator receives a completion certificate application which is not valid the regulator must notify the applicant to that effect giving reasons (and where the applicant is not the client, also give a copy of the notification to the client).

(3) A completion certificate application is valid if it complies with regulation 40 (completion certificate applications).

**Completion certificate applications: consultation**

**42.**—(1) Before determining a completion certificate application the regulator must consult—

(a) where the work to which the application relates is—

(i) HRB work or a stage of HRB work,

(ii) category A work, or

(iii) category B work and Part B of Schedule 1 to the 2010 Regulations imposes requirements in relation to the work,

the enforcing authority (within the meaning of article 25 of the Regulatory Reform (Fire Safety) Order 2005) for the building, and

(b) the sewerage undertaker for the building where paragraph H4 of Schedule 1 to 2010 Regulations imposes requirements in relation to the work to which the application relates.

(2) Where the regulator is required to consult a person under this regulation the regulator—

(a) must give the person sufficient plans to show whether the work, as built, complies with—

(i) in the case of the enforcing authority, the applicable requirements of Part B (fire safety) of Schedule 1 to the 2010 Regulations;

(ii) in the case of the sewerage undertaker, the requirements of paragraph H4 of Schedule 1 to the 2010 Regulations;

(b) must not determine the application until the expiry of a period of 15 working days beginning with the date the consultation starts or such longer period as the regulator and the person consulted agree in writing.

(3) In relation to the consultation under paragraph (1)(a) the plans given must include the fire and emergency file or, where the work to which the application relates is category B work, the fire safety compliance information.

(4) If all persons consulted express their views before the end of the period referred to in paragraph (2)(b) then the prohibition against determining the application ceases to apply on the day after the date on which their views are received by the regulator.

(5) The regulator is not required to consult under this regulation where it is satisfied following consideration of the application there are sufficient grounds to reject the application.

(6) In this regulation, "category A work" and "category B work" have the meanings given in regulation 12 (building control approval applications for work to existing HRB).

**Completion certificate applications: inspection**

**43.** Before determining a completion certificate application the regulator must arrange an inspection of the completed HRB work, stage of HRB work or work to existing HRB for the purpose of assessing whether the work complies with all applicable requirements of the building regulations.

**Completion certificate applications: decisions**

**44.**—(1) The regulator must approve a completion certificate application and issue a completion certificate, if it is satisfied, after taking all reasonable steps, that—

(a) HRB work, stage of HRB work or work to existing HRB is completed and complies with all applicable requirements of the building regulations;

(b) the documents and information listed in regulation 40(2)(a) to (d) (completion certificate applications) and submitted as part of the completion certificate application are complete and accurate;

(c) the information required to be provided to the relevant person in accordance with regulation 38 (handover of information on completion etc) is complete and has been provided.

(2) If the regulator is not satisfied in accordance with paragraph (1) it must reject the completion certificate application.

(3) The regulator must notify the applicant of the outcome of the application (and where the applicant is not the client, also give a copy of the notification to the client) within the period referred to in regulation 41 (completion certificate applications: validity and time limit).

(4) A notice that the application has been rejected must give the reasons for rejection.

(5) If the application is approved the regulator must issue a completion certificate for the higher-risk building at the same time as giving the notice of its decision under paragraph (3).

(6) If requested by the applicant or the relevant person, the regulator must provide a paper copy of the completion certificate.

(7) A certificate issued under this regulation is evidence (but not conclusive evidence) that all applicable requirements of the building regulations have been complied with in relation to the HRB work, the stage of HRB work or, as the case may be, the work to existing HRB.

(8) The certificate must include a statement describing its evidentiary effect, in terms substantially the same as paragraph (7).

(9) When the completion certificate application is approved the client must ensure the relevant person (as defined in regulation 38 (handover of information on completion etc)) is sent—

(a) a copy of the completion certificate application and each of the other documents which accompanied the application, and

(b) a copy of the completion certificate.

**Partial completion certificates**

**45.**—(1) This regulation applies where—

(a) HRB work or a stage of HRB work is being carried out in relation to a building and the building (or any part of it) is to be occupied before completion of the work;

(b) work to existing HRB is being carried out in relation to a building and before completion of the work—

(i) any part of the building which ceased to be occupied in order for the work to be carried out is to be re-occupied, or

(ii) any new unit created by the work is to be occupied before completion of the work.

(2) Where this regulation applies, before the occupation referred to in paragraph (1) the client must make an application for a completion certificate in relation to part of the work for the building ("partial completion certificate application") in writing to the regulator, signed by the client (in this regulation "the applicant"), the application must include—

(a) the name, address, telephone number and (if available) email address of the client;

(b) the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

(c) a statement that the application is made under this regulation;

(d) a plan showing the part of the building to which the application relates indicating the intended use of that part and the location of the flats (if any) to be occupied or residential rooms (if any) to be occupied;

(e) a description of the part of the HRB work, the stage of HRB work or work to existing HRB that remains to be completed after the date on which the application is made;

(f) a description of the part of the HRB work, the stage of HRB work or work to existing HRB to which the application relates, including—

(i) the location of the higher-risk building;

(ii) details of the use or intended use of the higher-risk building, including the use or intended use of each storey;

(iii) the height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(**26**);

(iv) the number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(v) the number of flats, the number of residential rooms and the number of commercial units contained in the higher-risk building;

(vi) the provision made for the drainage of the higher-risk building;

(vii) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes a requirement, the precautions taken in building over a drain, sewer or disposal main to comply with the requirements of that paragraph;

(viii) the steps taken to comply with any local enactment that applies;

(g) a statement, signed by the client, confirming that to the best of the client's knowledge the part of the HRB work, the stage of HRB work or work to existing HRB to which the application relates complies with all applicable requirements of the building regulations;

(h) a statement, signed by both the client and the relevant person, confirming that the information, as at the date on which the application is made, to be provided in accordance with regulation 38 (handover of information on completion etc) has been given and the relevant person has received the information;

(i) a statement ("partial occupation statement") setting out a detailed description of the proposed stages of the work (including an estimate of the time when each stage of the work will start).

(3) A partial completion certificate application must be accompanied by—

(a) a plan to a scale of not less than 1:1250 showing—

(i) the size and position of the higher-risk building, together with the part of the HRB work, the stage of HRB work or work to existing HRB to which the application relates, and the building's relationship to adjoining boundaries;

(ii) the boundaries of the curtilage of the building, and the size, position and use of every other building within the curtilage;

(iii) the width and position of any street on or within the boundaries of the curtilage of the building;

(b) such other plans that are necessary to show that the part of the HRB work, the stage of HRB work or work to existing HRB to which the application relates complied with all applicable requirements of the building regulations;

(c) the following agreed documents—

(i) the construction control plan;

(ii) the change control plan;

(iii) a mandatory occurrence reporting plan;

(iv) the Building Regulations compliance statement;

(**26**) S.I. 2023/275.

(v) a fire and emergency file;

or, where regulation 12(3) (building control approval applications for work to existing HRB) applies, such of the documents referred to in paragraphs (i) to (v) as were approved under regulation 15 (building control approval applications for work to existing HRB: decisions);

(d) a copy of the change control log updated, up to the date on which the application is made, to show all the changes for the project required by these Regulations to be included in the log;

(e) subject to paragraph (4), a compliance declaration signed by—

(i) each principal contractor (or sole contractor) for the HRB work, the stage of HRB work or work to existing HRB, and

(ii) each principal designer (or sole or lead designer) for the HRB work, the stage of HRB work or work to existing HRB,

if such a statement was not already provided to the regulator, in relation to that part of the work, under regulation 29 (new principal contractor or principal designer etc: notification);

(f) a partial completion strategy;

(g) where the application is made by someone on behalf of the client, a statement signed by the client confirming they agree to the application being made and that the information contained in the application is correct.

(4) Where a client is unable to ensure the person mentioned in paragraph (3)(e) provides a compliance declaration, the partial completion certificate application must be accompanied by a statement by the client giving the reasons why the declaration has not been provided.

(5) Where the regulator receives a partial completion certificate application which is valid the regulator must—

(a) notify the applicant to that effect, and

(b) determine it within 8 weeks beginning with the date the application is received by the regulator or within such longer period as at any time the regulator and the applicant agree in writing.

(6) Where the regulator receives a partial completion certificate application which is not valid the regulator must notify the applicant to that effect giving reasons (and where the applicant is not the client, also give a copy of the notification to the client).

(7) A partial completion certificate application is valid if it complies with paragraphs (2) to (4).

(8) Before determining a partial completion certificate application the regulator must—

(a) comply with regulation 42(1) to (3) (completion certificates applications: consultation), as modified by paragraph (9);

(b) comply with regulation 43(1) (completion certificates applications: inspection) as modified by paragraph (9).

(9) Regulations 42 (completion certificates applications: consultation) and 44 (completion certificates applications: inspection) and Schedule 1 have effect with the following modifications—

(a) any reference to as built is to be treated as a reference to as completed at the date on which the application is made;

(b) any reference to HRB work is to be treated as a reference to the part of the HRB work to which the application relates;

(c) any reference to work to existing HRB is to be treated as a reference to the part of work to existing HRB to which the application relates;

(d) any reference to a higher-risk building is to be treated as a reference to the building to which HRB work, the stage to HRB work or work to existing HRB is being carried out.

(10) The regulator must approve the partial completion certificate application and issue a partial completion certificate, if it is satisfied, after taking all reasonable steps, that—

(a) the part of the HRB work or work to existing HRB which the application relates complies with all applicable requirements of the building regulations and the part of the building to be occupied before completion of the HRB work or work to existing HRB complies with all applicable requirements of the building regulations;

(b) the documents and information listed in paragraphs (2) and (3) and submitted as part of the application are complete and accurate;

(c) the information, as at the date on which the application is made, to be provided to the relevant person in accordance with regulation 38 (handover of information on completion etc) has been given.

(11) If the regulator is not satisfied in accordance with paragraph (10) it must reject the partial completion certificate application.

(12) The regulator must notify the applicant of the outcome of the application (and where the applicant is not the client, also give a copy of the notification to the client) within the period referred to in paragraph (5).

(13) A notice that the application has been rejected must give the reasons for rejection.

(14) If the application is approved the regulator must issue a partial completion certificate for the building at the same time as giving the notice of its decision under paragraph (12).

(15) If requested by the applicant or the relevant person, the regulator must provide a paper copy of the partial completion certificate.

(16) A certificate issued under this regulation is evidence (but not conclusive evidence) that all applicable requirements have been complied with in relation to the part of the HRB work or work to existing HRB to which the certificate relates.

(17) The certificate must include a statement describing its evidentiary effect, in terms substantially the same as paragraph (16).

(18) When the partial completion certificate application is approved the client must ensure the relevant person (as defined in regulation 38 (handover of information on completion etc) is sent—

(a) a copy of the partial completion certificate application and each of the other documents which accompanied the application, and

(b) a copy of the partial completion certificate.

(19) The requirements of this regulation do not apply to work to existing HRB which consists only of—

(a) scheme work;

(b) exempt work, or

(c) work to which regulation 10 (notification of emergency repairs to existing HRB) applies.

# PART 6

## Inspections etc, regularisation, review of decisions, appeals and section 30A procedures etc

### Inspections etc

**46.** In relation to any building or proposed building for which the regulator is the building control authority, the regulator may take such steps as it considers appropriate to check compliance with all applicable requirements of the building regulations, including—

(a) requiring information;

(b) requiring the laying open of building work for inspection by the regulator;

(c) requiring an inspection to be undertaken and the record of the inspection provided.

### Regularisation of unauthorised building work

**47.**—(1) This regulation applies where it appears to the regulator that unauthorised building work has been carried out on or after 11th November 1985.

(2) Where this regulation applies, the owner (in this regulation referred to as "the applicant") may make an application in writing to the regulator in relation to the unauthorised building work ("regularisation certificate application").

(3) No regularisation certificate application may be made where unauthorised building work is a major change.

(4) The regularisation certificate application must be accompanied by—

(a) a statement that the application is made in accordance with this regulation,

(b) a description of the unauthorised building work,

(c) a plan of the unauthorised building work,

(d) where the application is made by someone on behalf of the owner, a statement signed by the owner confirming they agree to the application being made and that the information contained in the application is correct.

(5) Where the regulator receives a regularisation certificate application, it may require the applicant to take such steps as the regulator thinks appropriate for the regulator to ascertain whether additional building work may be required in order for the unauthorised building work to secure compliance with all applicable requirements of the building regulations.

(6) Where the regulator is satisfied that additional building work is required to secure that the unauthorised building work satisfies the applicable requirements (taking account of any dispensation or relaxation given in accordance with sections 8 and 9 of, and Schedule 2 to, the 1984 Act) then the regulator must reject the application and accordingly an application for building control approval must be made in relation to the additional building work.

(7) Where the regulator is satisfied, after taking all reasonable steps for that purpose that—

(a) the applicable requirements of the building regulations have been satisfied (taking account of any work carried out and any dispensation or relaxation given in accordance with sections 8 and 9 of, and Schedule 2 to, the 1984 Act), and

(b) no additional building work is required to secure that the unauthorised building work satisfies the applicable requirements (taking account of any such dispensation or relaxation),

the regulator may give a certificate to that effect (in this regulation referred to as "a regularisation certificate").

(8) A regularisation certificate is evidence (but not conclusive evidence) that the applicable requirements of the building regulations specified in the certificate have been complied with in relation to the work specified in the certificate.

(9) Where a regularisation certificate is granted in relation to building work, Parts 2 to 5 of these Regulations cease to apply to that work.

(10) Subject to paragraph (12), where a regularisation certificate is granted the applicant must, no later than five days after the certificate has been received, give the building work information and a copy of the certificate to—

(a) the accountable person who is responsible for the part of the building in relation to which the work described in the certificate relates, and

(b) the responsible person, if any, for the part of the building in relation to which the work described in the certificate relates.

(11) For the purposes of paragraph (10) the "building work information" is—

(a) where Part B of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the unauthorised building work, information relating to—

(i) the design and construction of the building and the services, fittings and equipment provided in or in connection with the building;

(ii) the design of the change of use and building work to implement it;

(iii) the composition of materials used,

which will assist the responsible person to operate and maintain the building with reasonable safety;

(b) where paragraph F1(1) of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the unauthorised building work, sufficient information about the building's ventilation system and its maintenance requirements so that the ventilation system can be operated in such a manner as to provide adequate means of ventilation;

(c) where paragraph L1 of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the unauthorised building work, sufficient information about the building, the fixed building services and their maintenance requirements so that the building can be operated in such a manner as to use no more fuel and power than is reasonable in the circumstances;

(d) where paragraph L2 of Schedule 1 to the 2010 Regulations applies in relation to the unauthorised building work, sufficient information about the system for on-site electricity generation in respect of its operation and maintenance requirements so that the system may be operated and maintained in such a manner as to produce the maximum electricity that is reasonable in the circumstances and delivers this electricity to the optimal place for use;

(e) where Part O of Schedule 1 to the 2010 Regulations applies in relation to the unauthorised building work, sufficient information about the provision made in accordance with Part O so that the systems in place further to Part O can be operated in such a manner as to protect against overheating.

(12) Paragraph (10) does not apply where the applicant is a domestic client.

(13) In this regulation—

"responsible person" has the meaning given in article 3 of the Regulatory Reform (Fire Safety) Order 2005;

"unauthorised building work" means any building work in relation to a higher-risk building which is carried out without—

(a) a building control approval under regulation 7 (building control approval applications for HRB work or stage of HRB work: decisions) or 15 (building control approval applications for work to existing HRB: decisions) being granted by the regulator;

(b) where the building work is a major change, a building control approval under regulation 24 (change control applications: decisions);

(c) where the building work is a notifiable change, a notification under regulation 18(3) (change control),

but work is not unauthorised building work to the extent that it consists only of scheme work or exempt work.

**Review of regulator's decisions**

**48.**—(1) The following decisions of the regulator are prescribed for the purposes of section 25(1) of the 2022 Act—

(a) a decision to reject—

(i) a building control approval application for HRB work;

(ii) a building control approval application for a stage of HRB work;

(iii) a building control approval application for work to existing HRB;

(iv) a change control application;

(v) a completion certificate application;

(vi) a partial completion certificate application;

(vii) a regularisation certificate application;

(b) a decision to specify a controlled change as being a major change or a notifiable change under regulation 25 (change control: regulator power to specify notifiable changes and major changes);

(c) a decision to refuse a request to vary a requirement under regulation 30 (a variation of a requirement imposed on a building control approval).

(2) The persons prescribed for the purposes of section 25(2) of the 2022 Act in relation to the decisions referred to in paragraph (1) are—

(a) in relation to a decision referred to in paragraph (1)(a), the person who made the application or the person on whose behalf the application was made;

(b) in relation to a decision referred to in paragraph (1)(b), any person to whom the regulator gives notice under regulation 25 (change control: regulator power to specify notifiable changes and major changes);

(c) in relation to a decision referred to in paragraph (1)(c), the client who made the request.

(3) For the purposes of section 25 of the 2022 Act, a person requiring the regulator to carry out a review, or a person on their behalf, must give a notice under section 25(2) of the 2022 Act to the regulator in writing within 21 relevant days beginning with the day after the day on which the decision referred to in paragraph (1) is notified to the person.

(4) A notice under section 25(2) of the 2022 Act must contain the following information—

(a) the name, address, telephone number and (if available) email address for the person giving the notice;

(b) if the person giving the notice is doing so on behalf of a person who falls within the description in paragraph (2), the name and address of that person and a statement that the person giving the notice is authorised to give the notice on behalf of that person;

(c) the address and, if applicable, the name of the building to which the decision referred to in paragraph (1) relates;

(d) a statement of the review being sought which—

(i) identifies the decision to be reviewed (including the date of the decision and any reference number included on the decision), and

(ii) sets out the reasons the person considers the decision should be reviewed;

(e) any information that is available to the person giving the notice, that may have been relevant to the regulator's original decision but was not available at the time the original decision was made.

(5) The regulator must notify the person who required a review of the outcome of the review within 13 weeks beginning with the day after the day on which the person gives a notice under section 25(2) of the 2022 Act.

(6) A notice that the review has upheld the decision must give the reasons for that decision.

(7) If the review varies the decision the regulator must issue a new decision.

(8) If requested by the person requiring the review, the regulator must provide a paper copy of the decision of the review.

**Appeal in relation to reviewed decisions**

**49.**—(1) A person may appeal to the First-tier Tribunal against the decision of the regulator of a kind referred to in regulation 48(1) (review of regulator's decisions) provided that the appeal is made within 21 relevant days beginning with the day after the day on which the regulator notifies the person of its decision under regulation 48(5)(**27**).

(2) The First-tier Tribunal may allow an appeal under paragraph (1) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable;

(d) that the decision was made without following the procedures set out in the 1984 Act or regulations made under that Act.

(3) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

**Section 30A prescribed applications**

**50.**—(1) The following applications are prescribed(**28**) for the purposes of section 30A(1) of the 1984 Act, and are accordingly applications that may be determined by the Secretary of State in the circumstances described in that section—

(a) a building control approval application for HRB work;

(b) a building control approval application for a stage of HRB work;

(c) a building control approval application for work to existing HRB;

(d) a change control application;

(e) a completion certificate application;

(f) a partial completion certificate application.

(**27**) Section 26 of the Building Safety Act 2022 provides a decision must be reviewed under section 25 before an appeal is made.
(**28**) See section 126 of the Building Act 1984 for the meaning of "prescribed".

(2) An application may not be made to the Secretary of State under section 30A of the 1984 Act where, in relation to the original application(**29**), the regulator has notified the person who made the original application that the original application is not valid.

**Section 30A applications: procedure**

**51.**—(1) An application under section 30A of the 1984 Act ("section 30A application") must be made in writing to the Secretary of State by the client for the work to which the original application relates (in this Part "the applicant") on a form published by the Secretary of State, together with the documents specified in paragraph (3).

(2) A section 30A application must be made no later than 6 weeks after the day the relevant period(**30**) in relation to the application or request ends.

(3) The documents mentioned in paragraph (1) are—

(a) a copy of the original application given to the regulator (including all documentation that accompanied the application);

(b) all information provided to the regulator in relation to the original application by the applicant;

(c) all correspondence between the applicant and the regulator in relation to that application;

(d) a copy of the notice sent to the regulator under paragraph (4);

(e) where the application is made by someone on behalf of the client, a statement signed by the client confirming they agree to the application being made and that the information contained in the application is correct.

(4) At least two working days before submitting the application under paragraph (1) the applicant must give notice to the regulator of their intention to do so.

**Section 30A applications: electronic submissions**

**52.**—(1) Where an applicant submits a section 30A application through electronic facilities provided by the Secretary of State for that purpose, they are taken to have consented to the use of electronic communications for all purposes relating to the section 30A application that are capable of being carried out electronically.

(2) The deemed consent in paragraph (1) may be revoked by the applicant giving the Secretary of State two weeks' notice in writing specifying that the notice is given under this regulation.

**Section 30A applications: determinations**

**53.**—(1) A section 30A application is to be determined(**31**) by written representations.

(2) The Secretary of State must give the regulator the opportunity to make written representations in relation to a section 30A application.

(3) The Secretary of State may give any other person an opportunity to make written representations in relation to a section 30A application.

(4) The Secretary of State may, by notice in writing, require the regulator to provide specified information, or provide copies of specified documents, by the date specified in the notice (that date must be no fewer than 14 relevant days after the date the notice is given).

(**29**) See section 30A(1) of the Building Act 1984 for the definition of "the original application".
(**30**) See section 30A(9) of the Building Act 1984 (c. 55) for the definition of "relevant period".
(**31**) Section 30A(7) provides that for the purpose of determining a section 30A application the Building Act 1984 and the building regulations (including these Regulations) apply in relation to the Secretary of State as they apply to the regulator.

(5) Before determining a section 30A application, the Secretary of State may hold such meetings with the applicant, the regulator or any other person, and undertake such visits, testing or inspections, as the Secretary of State considers appropriate.

(6) The Secretary of State's decision must be given in writing to the applicant (and where the applicant is not the client, also give a copy of the decision to the client).

(7) A copy of the Secretary of State's decision must be sent to the regulator.

**Section 30A applications: appointed persons**

**54.**—(1) The Secretary of State may appoint a person to determine a section 30A application instead of the Secretary of State.

(2) At any time before a person appointed under this regulation has determined the application the Secretary of State may—

(a) revoke that person's appointment;

(b) appoint another person to determine the application instead.

(3) Where a new appointment is made the consideration of the application in question must be started afresh.

(4) Nothing in paragraph (3) requires any person to be given an opportunity to make fresh representations or modify or withdraw representations previously made.

(5) A person appointed under this regulation has the same powers and duties in relation to determination of a section 30A application as the Secretary of State and, in particular, regulation 53 (section 30A applications: determinations) applies as if references to the Secretary of State in that regulation were references to that person.

(6) Where an application is determined by a person appointed under this regulation their decision is to be treated as the decision of the Secretary of State.

**Deemed rejection of the original application**

**55.** Where, in relation to an application that is prescribed in regulation 50 (section 30A prescribed applications)—

(a) the period under regulation 51 (section 30A applications: procedures) for a person to make a section 30A application has expired without the person making a section 30A application in accordance with that regulation, and

(b) the regulator did not determine the original application(**32**) before the expiry of that period,

then the original application is treated as rejected by the regulator.

**Section 30A applications: appeals**

**56.**—(1) An appeal to the First-tier Tribunal under section 30A(8) of the 1984 Act must be made within 21 relevant days beginning with the day after the day on which the Secretary of State gives the decision to the applicant under regulation 53(6) (section 30A applications: determinations).

(2) The First-tier Tribunal may allow an appeal under paragraph (1) only to if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable;

(**32**) See section 30A(1) of the Building Act 1984 for the definition of "the original application".

(d) that the decision was made without following the procedures set out in the 1984 Act or regulations made under that Act.

(3) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

# PART 7

## Miscellaneous

### Exempt work

**57.** For the purposes of these Regulations, building work which consists only of work of a kind described in Schedule 2 (exempt work) is exempt work.

### Requirement for completion certificate before occupation and transitional cases

**58.**—(1) Each of the following is prescribed as a completion certificate for the purposes of section 76(5) of the 2022 Act—

(a) a completion certificate issued under regulation 44 (completion certificate applications: decisions);

(b) a partial completion certificate issued under regulation 45 (partial completion certificates).

(2) For type A transitional work each of the following is also prescribed as a completion certificate for the purposes of section 76(5) of the 2022 Act—

(a) a completion certificate issued under regulation 17 of the 2010 Regulations;

(b) a partial completion certificate issued under regulation 17A of the 2010 Regulations;

(c) a final certificate given by an approved inspector to a local authority in accordance with the Building (Approved Inspectors etc.) Regulations 2010(**33**) and not rejected by the authority.

(3) For type B transitional work each of the following is also prescribed as a completion certificate for the purposes of section 76(5) of the 2022 Act—

(a) a transfer and completion certificate provided for by the modifications in paragraph 5(9), 10(4), or, as the case may be, 11(4) of Schedule 3;

(b) a transfer and partial completion certificate provided for by the modifications in the paragraph 5(9), 10(4), or, as the case may be, 11(4) of Schedule 3;

(c) a final certificate given by an approved inspector to a local authority in accordance with the Building (Approved Inspectors etc.) Regulations 2010 and not rejected by the authority.

(4) In this regulation—

"type A transitional work" means work of a kind referred to in section 76(1) of the 2022 Act which is—

(a) completed before 1st October 2023 but occupied on or after that date,

(b) completed before 6th April 2024 and paragraph 1 of Schedule 3 (transitional provisions) applied to the work but paragraphs 3 and 4 of that Schedule did not apply, or

(c) completed on or after 6th April 2024 and paragraph 7 of Schedule 3 applied to the work;

(**33**) S.I. 2010/2215 as amended by S.I. 2012/3119, S.I. 2013/1959, S.I. 2014/579, S.I. 2015/767, S.I. 2016/285, S.I. 2021/1391, S.I. 2021/1392, S.I. 2022/717, S.I. 2022/984 and S.I. 2023/520. There are other amendments not relevant to this instrument.

"type B transitional work" means work of a kind referred to in section 76(1) of the 2022 Act which is completed on or after 6th April 2024 and paragraph 5, 10 or 11 of Schedule 3 (transitional provisions) applies.

**Electronic submission and directions**

**59.**—(1) The regulator may make a direction as to the way in which any of the following documents are given (which may include specifying cases where it must be given electronically via a website address provided for that purpose by the regulator)—

(a) a building control approval application for HRB work;

(b) a building control approval application for a stage of HRB work;

(c) a building control approval application for work to existing HRB;

(d) a notice under regulation 9(2), 9(3), 17(2) or 17(3) (notices before starting work and when work is "commenced");

(e) a request for approval under regulation 7(12) or 15(12);

(f) a notification under regulation 8 (regulator's power to require notifications etc for HRB work or stage of HRB work) or regulation 16 (regulator's power to require notifications etc for work to existing HRB);

(g) a notice under regulation 10(1)(a) (emergency repair work);

(h) a notification under regulation 18(3) (change control);

(i) a change control application;

(j) a notice under regulation 27 (new client or change of circumstances for the client);

(k) a notice under regulation 28 (change of circumstances for the client: disclaimer of property);

(l) a notice under regulation 29 (new principal contractor or principal designer etc: notification);

(m) a notice or report under regulation 33 (mandatory occurrence reporting: reporting to the regulator);

(n) a notice under regulation 39(5) (information be provided where work is scheme work);

(o) a completion certificate application;

(p) a partial completion certificate application;

(q) a regularisation certificate application;

(r) a notice under regulation 25A(2), 27(2) or (3), 27A(2) or (3), 27C(2) or (3), 37(1), 41(4), 42(2), 43(2), 44(3) and 44ZA(2) of the 2010 Regulations;

(s) a copy of results under regulation 41(2) of the 2010 Regulations;

(t) a notice of review under section 25 of the 2022 Act;

(u) any documents that are required to accompany any application referred to in sub-paragraph (a) to (c), (i), (o), (p) or (q).

(2) A direction must specify the date on which it comes into effect, which must not be earlier than five working days after the date on which the regulator publishes it.

(3) Where the regulator has made a direction in accordance with this regulation, an application (or any document that accompanied the application), notice or request of the type mentioned in the direction must, from the date specified in the direction, be given in accordance with the direction.

(4) The regulator may, by a further direction, amend or revoke a direction made under this regulation.

**Contraventions by the regulator not to be subject to enforcement**

**60.** The following provisions of these Regulations are prescribed for the purposes of sections 35(2) and 35B(7)(a) of the 1984 Act—

(a) regulation 5 (building control approval applications for HRB work or stage of HRB work: validity and time limit);

(b) regulation 6(1) and (2) (building control approval applications for HRB work or stage of HRB work: consultation);

(c) regulation 7(1), (4) to (7), (13) and (14) (building control approval applications for HRB work or stage of HRB work: decisions);

(d) regulation 9(4) (notice before starting work and further notice when work is "commenced");

(e) regulation 13 (building control approval applications for work to existing HRB: validity and time limit);

(f) regulation 14(1) and (2) (building control approval applications for work to existing HRB: consultation);

(g) regulation 15(1), (4) to (7), (13) and (14) (building control approval applications for work to existing HRB: decisions);

(h) regulation 17(4) (notice before starting work and further notice when work is "commenced");

(i) regulation 22 (change control applications: validity and time limit);

(j) regulation 23(1) and (2) (change control applications: consultation);

(k) regulation 24(1), (4) to (7) and (11)(b) and (d) (change control applications: decisions);

(l) regulation 30(4) and (6) to (8) (variation of a requirement imposed on a building control approval);

(m) regulation 41(1) and (2) (completion certificate applications: validity and time limit);

(n) regulation 42(1) (completion certificate applications: consultation);

(o) regulation 43 (completion certificate applications: inspection);

(p) regulation 44(1) to (6) and (8) (completion certificate applications: decisions);

(q) regulation 45(5), (6), (8), (10) to (15) and (17) (partial completion certificates) except that regulation 45(8) is not prescribed in relation to the regulator consulting a sewerage undertaker;

(r) regulation 47(6) (regularisation of unauthorised building work);

(s) regulation 48(5) to (8) (review of regulator's decisions);

(t) regulation 53 (section 30A applications: determinations);

(u) regulation 54 (section 30A applications: appointed persons);

(v) regulation 59(2) and (4) (electronic submission and directions).

**Provisions in relation to which a stop notice may be given**

**61.** The following provisions are prescribed for the purposes of section 35C(1)(a) of the 1984 Act (stop notices)—

(a) regulation 3 (HRB work not to be started before approval);

(b) regulation 7(12)(b) (HRB work not to proceed until approval under a requirement is received);

(c) regulation 11 (specified work to an existing HRB not to be started before approval);

(d) regulation 15(12)(b) (work to existing HRB not to proceed until approval under a requirement is received);

(e) regulation 18(6) (major change not to be carried out before approval);

(f) regulation 24(11)(a) (major change not to proceed until approval under a requirement is received) but only in relation to a major change (as defined in regulation 26 of those Regulations).

**Local land charges**

**62.** The functions of local authorities under the Local Land Charges Act 1975(**34**), as they relate to higher-risk buildings, are prescribed for the purposes of paragraph (b) of the definition of "relevant function" in paragraph 2(5) of Schedule 3 to the Building Safety Act 2022.

**Consequential amendment to the Regulatory Reform (Fire Safety) Order 2005**

**63.** In article 22A(3) of the Regulatory Reform (Fire Safety) Order 2005(**35**) (provision of information to new responsible person), after sub-paragraph (e) insert—

"(ea) any information given under regulation 38 or 39 of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 (fire safety information);".

**Consequential amendments to the Community Infrastructure Levy Regulations 2010**

**64.**—(1) The Community Infrastructure Levy Regulations 2010(**36**) are amended as follows.

(2) In regulation 2(1) (interpretation) in the definition of "compliance certificate"—

(a) omit "either";

(b) omit "or" at the end of paragraph (a) and insert—

"(aa) regulation 44 (completion certificate applications: decisions) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, or".

**Consequential amendments to the Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023**

**65.**—(1) The Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023(**37**) are amended as follows.

(2) In regulation 33 (building control prohibitions)—

(a) in paragraph (2) after "34," insert "34A,";

(b) in paragraph (4)—

(i) after sub-paragraph (e) insert—

"(ea) an application for a certificate under regulation 40 (completion certificate applications) or regulation 45 (partial completion certificates) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;";

(ii) after sub-paragraph (f) insert—

(**34**) 1975 c. 76.
(**35**) S.I. 2005/1541. Article 22A was inserted by section 156(8) of the Building Safety Act 2022 (c. 30).
(**36**) S.I. 2010/948. The definition of "compliance certificate" was inserted by S.I. 2014/385.
(**37**) S.I. 2023/753.

"(fa) an application for a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;";

(c) in paragraph (6)—

(i) after sub-paragraph (b) insert—

"(ba) a certificate under regulation 44 (completion certificate applications: decisions) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;";

(ii) after sub-paragraph (c) insert—

"(ca) a certificate under regulation 45 (partial completion certificates) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;";

(iii) after sub-paragraph (f) insert—

"(g) a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;";

(d) in paragraph (8)—

(i) after sub-paragraph (f) insert—

"(fa) an application for a certificate under regulation 40 (completion certificate applications) or regulation 45 (partial completion certificates) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;";

(ii) after sub-paragraph (g) insert—

"(h) an application for a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;".

(3) After regulation 34 insert—

"**Exception to building control prohibition: emergency repair work to existing HRB**

**34A.**—(1) Where an applicable person proposes to carry out work to existing HRB which consists of emergency repairs then—

(a) the provision by them of a notice under regulation 10(1)(a) (notification of emergency repairs to existing HRB) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, and

(b) an application for a certificate in relation to that work under regulation 47 (regularisation of unauthorised building work) of those Regulations,

are not to be treated as a breach of the building control prohibition.

(2) Where paragraph (1) applies, the regulator is not prohibited from giving the applicable person a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023.

(3) In this regulation—

"emergency repairs" has the meaning given in regulation 10(2) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;

"the regulator" has the meaning in section 126 of the Building Act 1984;

"work to existing HRB" has the meaning given in regulation 2 of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023.".

(4) In regulation 35 (exception to building control prohibition: work to occupied buildings)—

(a) in paragraph (4)(a)—

(i) after paragraph (i) insert—

"(ia) an application for a certificate under regulation 40 (completion certificate applications) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 in relation to the work;";

(ii) after paragraph (ii) insert—

"(iia) an application for a certificate under regulation 45 (partial completion certificates) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 in relation to the work;";

(b) after paragraph (5) insert—

"(5A) Where paragraph (4) applies, the regulator is not prohibited from giving the applicable person a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023.".

(5) In regulation 36(1) (exception to building control prohibitions: purchasers) after sub-paragraph (a) insert—

"(aa) to permit the issuing by the regulator of a certificate in relation to that work under regulation 44 (completion certificate applications: decisions) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;".

(6) In regulation 37 (exception to building control prohibitions and modification of the Building Regulations 2010: regularisation)—

(a) after paragraph (1) insert—

"(1A) Where the building is a higher-risk building, a relevant purchaser is not prohibited from giving the regulator an application for a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 and the regulator is not prohibited from granting such a certificate.";

(b) after paragraph (3) insert—

"(4) For the purposes of paragraph (1A), regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 is to have effect in relation to an application under that regulation by a relevant purchaser as if any work carried out by an applicable person which was not unauthorised building work (within the meaning set out in that regulation) were treated as if it were unauthorised building work.".

**Transitional, supplementary and saving provisions**

**66.** The transitional, supplementary and saving provisions set out in Schedule 3 have effect.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

9th August 2023

SCHEDULE 1 Regulation 2

Documents

**Competence declaration**

**1.**—(1) A competence declaration is a statement, in relation to work, that contains a declaration in relation to—

(a) a principal designer (or sole or lead designer) for HRB work, a stage of HRB work or work to existing HRB,

(b) a principal contractor (or sole contractor) for HRB work, a stage of HRB work or work to existing HRB, and

(c) any other person appointed (A), in relation to the work, as at the date of the building control approval application for HRB work, a building control approval application for a stage of HRB work or the building control approval application for work to existing HRB.

(2) In relation to a principal designer for HRB work, a stage of HRB work or work to existing HRB, the competence declaration must—

(a) state that the client—

(i) has complied with regulation 11E(2)(b) (consideration of past misconduct) of the 2010 Regulations, and

(ii) having taken all reasonable steps, is satisfied that the principal designer fulfils the requirements in regulations 11F(1) and (2) and 11G(1) of the 2010 Regulations, and

(b) include a declaration as to the truth of that statement.

(3) In relation to a principal contractor for HRB work, a stage of HRB work or work to existing HRB, the competence declaration must—

(a) state that the client—

(i) has complied with regulation 11E(2)(b) (consideration of past misconduct) of the 2010 Regulations, and

(ii) having taken all reasonable steps, is satisfied that the principal contractor fulfils the requirements in regulations 11F(1) and (2) and 11H(1) of the 2010 Regulations, and

(b) include a declaration as to the truth of that statement.

(4) In relation to a sole contractor, or sole or lead designer, the competence declaration must—

(a) state that the client—

(i) has complied with regulation 11E(2)(b) (consideration of past misconduct) of the 2010 Regulations, and

(ii) having taken all reasonable steps, is satisfied that the person fulfils the requirements in regulations 11F(1) and (2) of the 2010 Regulations, and

(b) include a declaration as to the truth of that statement.

(5) In relation to any A, the competence declaration must—

(a) state that the client has been informed by the person appointing A that they have complied with regulation 11E(2)(b) (consideration of past misconduct) of the 2010 Regulations, and

(b) include a declaration as to the truth of that statement.

(6) Any competence declaration must—

(a) be signed by the client, and

(b) where there is more than one contractor for the HRB work, a stage of HRB work or work to existing HRB, include a copy of each record that the client created under regulation 11D(8) or, as the case may be, 11D(9) (principal designer and principal contractor) of the 2010 Regulations.

**Construction control plan**

**2.** A construction control plan must set out—

(a) the strategies, policies and procedures the client has adopted for planning, managing and monitoring the HRB work, a stage of HRB work or work to existing HRB so as to ensure compliance with—

(i) the applicable requirements of the building regulations and to record evidence of that compliance including describing the arrangements the client has adopted to maintain the golden thread information;

(ii) the duties in Chapter 4 (duties of dutyholders) of Part 2A of the 2010 Regulations;

(b) the strategies, policies and procedures the client has adopted to identify, assess and keep under review the competence of the persons carrying out the HRB work, a stage of HRB work or work to existing HRB or involved in the design of the higher-risk building or design of the building work to the higher-risk building, including the procedures to be followed—

(i) to determine whether a serious sanction (as defined in regulation 11E of the 2010 Regulations) has occurred in relation to a person to be appointed;

(ii) to consider any past behaviour in relation to any serious sanction which might call into question the suitability of a person to be appointed;

(iii) if a person in relation to which a serious sanction has occurred is appointed, to prevent a repeat of the behaviour;

(c) the strategies, policies and procedures the client has adopted to support co-operation between designers, contractors and any other persons involved in the HRB work, a stage of HRB work or work to existing HRB, including the sharing of all necessary information;

(d) a schedule of each appointment which has been made as at the date of the application, giving the name of—

(i) the person who the client has appointed as the principal contractor (or sole contractor);

(ii) the person who the client has appointed as the principal designer (or sole or lead designer);

(iii) any other person (excluding individuals except where they are a sole trader) the client has appointed to work on the project;

(iv) any person (excluding individuals except where they are a sole trader) the principal contractor (or sole contractor) has appointed to work on the project, and

(v) any person (excluding individuals except where they are a sole trader) the principal designer (or sole or lead designer) has appointed to work on the project,

and a summary of their responsibilities;

(e) the policies the client has adopted to review the construction control plan.

**Change control plan**

**3.**—(1) A change control plan must set out the strategies, policies and procedures the client has adopted to ensure any controlled change takes place in accordance with regulation 18 (change

control), and to log each controlled change in accordance with regulation 19 (change control: record-keeping) including explaining—

(a) how proposed changes will be identified and to whom they must be reported;

(b) how the impacts of proposed changes are identified and considered;

(c) in relation to proposed changes, the decision-making procedures adopted for agreeing a change including whose advice is to be sought;

(d) how changes are recorded and by when;

(e) the procedure to identify which changes require notification to the regulator and which changes require a change control application;

(f) how the effectiveness of the change control plan will be reviewed by dutyholders periodically.

(2) In this paragraph "dutyholders" means the client, the principal contractor (or sole contractor) and the principal designer (or sole or lead designer).

**Building Regulations compliance statement**

**4.** A Building Regulations compliance statement must set out the approach taken in designing the proposed higher-risk building or in designing the work to be carried out on the higher-risk building and the building standards applied, in particular—

(a) the approach taken in relation to each element of the building and the work to ensure compliance with all applicable requirements of the building regulations, and

(b) the reasons for adopting the approach together with an explanation of why the approach is appropriate and ensures compliance with all applicable requirements of the building regulations.

**Fire and emergency file**

**5.**—(1) A fire and emergency file must set out—

(a) the matters that were considered when assessing how the building safety risks(**38**) identified could impact the higher-risk building or the proposed higher-risk building;

(b) the proposals adopted and the approaches taken in relation to designing the proposed higher-risk building or the building work to the higher-risk building to ensure compliance with the applicable requirements of the building regulations relating to the building safety risks;

(c) the measures, strategies and policies it is proposed the owner of the higher-risk building should adopt in order to manage and maintain the higher-risk building or the proposed higher-risk building to ensure anyone in it can be safely evacuated in an emergency, including any assumptions made as to the intended occupiers of the building and their likely characteristics and behaviours.

(2) The measures, strategies and policies referred to in sub-paragraph (1) must include—

(a) a plan which sets out the requirements of the fire and rescue service for the area in relation to access to the higher-risk building and water supply for fire-fighting;

(b) a report which—

(i) where the HRB work, a stage of HRB work or work to existing HRB has not started, demonstrates how compliance with the applicable requirements of the building regulations relating to the building safety risks is to be achieved;

(**38**) See section 120G(5) of the Building Act 1984 for the definition of "building safety risk".

(ii) where the HRB work, a stage of HRB work or work to existing HRB is completed, demonstrates how compliance with the applicable requirements of the building regulations relating to the building safety risks was achieved.

**Partial completion strategy**

**6.** A partial completion strategy must explain—

(a) the proposals adopted in designing for occupation of each part of the building or the proposed building to be completed to ensure compliance with the applicable requirements of the building regulations;

(b) the measures, strategies and policies it is proposed the owner of the building should adopt in order to manage and maintain each such part of the building or the proposed building;

(c) any assumptions made in those measures, strategies and proposals as to the intended occupiers of each such part of the building or the proposed building and their likely characteristics and behaviours, and the intended management or maintenance of each such part of the building or the proposed building.

## SCHEDULE 2

Regulation 57

Exempt work

**1.** Work consisting of—

(a) in relation to an existing fixed building service, which is not a fixed internal or external lighting system—

(i) replacing any part which is not a combustion appliance,

(ii) adding an output device, or

(iii) adding a control device,

where testing and adjustment of the work is not possible or would not affect the use by the fixed building service of no more fuel and power than is reasonable in the circumstances;

(b) providing a self-contained fixed building service, which is not a fixed internal or external lighting system, where—

(i) it is not a combustion appliance (other than a fixed flueless gas cooker),

(ii) any electrical work associated with its provision does not consist of—

(aa) the installation of a new circuit;

(bb) the replacement of a consumer unit;

(cc) any addition or alteration to existing circuits in a special location;

(iii) testing and adjustment is not possible or would not affect its energy efficiency, and

(iv) in the case of a mechanical ventilation appliance, the appliance is not installed in a room containing an open-flued combustion appliance whose combustion products are discharged through a natural draught flue;

(c) replacing an external door (where the door together with its frame has not more than 50% of its internal face area glazed);

(d) in existing buildings other than dwellings, providing fixed internal lighting where no more than $100m^2$ of the floor area of the building is to be served by the lighting;

(e) replacing—

(i) a sanitary convenience with one that uses no more water than the one it replaces,

(ii) a washbasin, sink or bidet,

(iii) a fixed bath,

(iv) a shower,

(v) a rainwater gutter, or

(vi) a rainwater downpipe,

where the work does not include any work to underground drainage, and includes no work to the hot or cold water system or above ground drainage, which may prejudice the health or safety of any person on completion of the work;

(f) in relation to an existing cold water supply—

(i) replacing any part,

(ii) adding an output device, or

(iii) adding a control device;

(g) providing a hot water storage system that has a storage vessel with a capacity not exceeding 15 litres, where any electrical work associated with its provision does not consist of—

(i) the installation of a new circuit;

(ii) the replacement of a consumer unit;

(iii) any addition or alteration to existing circuits in a special location;

(h) installation of thermal insulation in a roof space or loft space where—

(i) the work consists solely of the installation of such insulation, and

(ii) the work is not carried out in order to comply with any requirement of the 2010 Regulations.

**2.** Installation of thermal insulation to suspended timber floors where the work—

(a) consists of the installation of such insulation only, and

(b) the work is not carried out in order to comply with any requirements of the 2010 Regulations.

**3.** For the purposes of this Schedule—

"fixed building service" has the meaning given in regulation 2(1) of the 2010 Regulations;

"self-contained" in relation to a fixed building service means consisting of a single appliance and any associated controls which is neither connected to, nor forms part of, any other fixed building service;

"special location" means—

(a) within a room containing a bath or shower, the space surrounding a bath tap or shower head, where the space extends—

(i) vertically from the finished floor level to—

(aa) a height of 2.25 metres, or

(bb) the position of the shower head where it is attached to a wall or ceiling at a point higher than 2.25 metres from that level, and

(ii) horizontally—

(aa) where there is a bath tub or shower tray, from the edge of the bath tub or shower tray to a distance of 0.6 metres, or

(bb) where there is no bath tub or shower tray, from the centre point of the shower head where it is attached to the wall or ceiling to a distance of 1.2 metres, or

(b) a room containing a swimming pool or sauna heater.

SCHEDULE 3 Regulation 66

Transitional, supplementary and saving provisions

# PART 1

## Transitional etc provisions

### October 2023: HRB work and work to existing HRB

**1.**—(1) Subject to sub-paragraph (5) and the requirements of paragraphs 2 and 4 to 11, this paragraph applies where before 1st October 2023—

(a) an initial notice, in relation to HRB work or work to existing HRB for a particular building, has been given to a local authority and before that date is accepted or deemed to be accepted under section 47 of the 1984 Act, or

(b) full plans, in relation to HRB work or work to existing HRB to a particular building, were deposited with a local authority.

(2) Where this paragraph applies, notwithstanding the commencement of section 32 of the Building Safety Act 2022, on 1st October 2023 the local authority for the area continues to be the building control authority(**39**) in relation to the higher-risk building and accordingly the duties and functions of local authorities under section 91 of the 1984 Act(**40**) continue to apply in relation to that work as if it were not higher-risk building work.

(3) Where this paragraph applies—

(a) in a case where full plans have been deposited—

(i) Parts 2 to 6 of these Regulations do not apply to that work, and

(ii) the 2010 Regulations continue to apply to that work, including the amendments made to the 2010 Regulations by the Building Regulations etc. (Amendment) (England) Regulations 2023, but subject to Part 4 (transitional, supplementary and saving provisions) of the Building Regulations etc. (Amendment) (England) Regulations 2023;

(b) in a case where an initial notice has been given—

(i) Parts 2 to 6 of these Regulations do not apply to that work, and

(ii) the 2010 Regulations and the Building (Approved Inspectors etc.) Regulations 2010 continue to apply to the work, including the amendments made to those Regulations by the Building Regulations etc. (Amendment) (England) Regulations 2023 and the Building (Approved Inspectors etc. and Review of Decisions) (England) Regulations 2023 but subject to Part 4 (transitional, supplementary and saving provisions) of the Building Regulations etc. (Amendment) (England) Regulations 2023 and Part

(**39**) See section 121A of the Building Act 1984 for the definition of "building control authority", which was inserted by section 32 of the Building Safety Act 2022 (c. 30).
(**40**) 1984 c. 55. Section 91 is amended by section 32 of the Building Safety Act 2022 (c. 30).

4 (transitional, supplementary and saving provisions) of the Building (Approved Inspectors etc. and Review of Decisions) (England) Regulations 2023.

(4) In addition to the continuing application of the provisions referred to in sub-paragraph (3), not more than five working days after the day on which the work is to be regarded as sufficiently progressed the person carrying out the work must give a notice to that effect to the local authority and where sub-paragraph (1)(a) applies in relation to the work, give a copy of the notice to the approved inspector.

(5) Sub-paragraphs (1) to (4) cease to apply in relation to the work where before 6th April 2024—

(a) the approval for the work lapses by virtue of section 32 of the 1984 Act (as that provision had effect immediately before 1st October 2023), or

(b) the initial notice for the work, or the part of that notice which relates to the higher-risk building, is cancelled under section 52(5) of the 1984 Act (as that provision had effect immediately before 1st October 2023),

and paragraph 3 applies instead to the work.

(6) For the purposes of this paragraph work is to be regarded as sufficiently progressed—

(a) where the building work consists of the construction of a higher-risk building, when the pouring of concrete for—

(i) the permanent placement of the trench, pad or raft foundations, or

(ii) the permanent placement of piling,

for that building has started;

(b) where the building work consists of work to an existing building, when that work has started;

(c) where the building work consists of a material change of use of a building, when work to effect that change of use has started.

(7) Where the work consists of work in relation to more than one higher-risk building then sub-paragraph (4) applies to each building separately.

**From October 2023: cases where full plans are rejected**

**2.**—(1) This paragraph applies where, in relation to work to a particular building, full plans were deposited with a local authority before 1st October 2023 and in accordance with any provision of Part 1 of the 1984 Act or a local enactment the local authority has rejected those plans on or after that date ("the rejection date").

(2) Where this paragraph applies then with effect from the rejection date the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly—

(a) the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the higher-risk building or any proposed higher-risk building;

(b) Parts 2 to 6 of these Regulations apply to any HRB work or work to existing HRB from the rejection date with the modifications provided in this paragraph except that regulation 47 (regularisation) does not apply in relation to any work carried out before the rejection date and accordingly any reference to a regularisation certificate in Parts 2 to 6 of these Regulations is to be ignored, and

(c) the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from the rejection date.

(3) Within 10 working days of the rejection date the person intending to carry out the work must give a notice to the regulator setting out—

(a) the name, address, telephone number and (if available) email address of the person intending to carry out the work;

(b) details of the work to be carried out;

(c) details of any existing building on the site, including the height of any existing building, the number of storeys contained in it and the use of each storey (regulations 5 and 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(**41**) have effect in determining the height and the number of storeys in a building);

(d) details of the intended use of the higher-risk building, including the intended use of each storey;

(e) the height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(f) the number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(g) where the work is HRB work or is work to existing HRB which changes the number of residential or commercial units in the building, the proposed number of flats, number of residential rooms and number of commercial units to be contained in the higher-risk building;

(h) details of the work which has been carried out together with a summary of the inspections undertaken by the local authority in relation to the work.

(4) Where any work was carried out before the rejection date the person who carried out the work or the owner must comply with any notice from the regulator requiring them within a reasonable time to cut into, lay open or pull down so much of the work as prevents the regulator from ascertaining whether the work contravenes any requirement of the building regulations.

(5) Where any work was carried out before the rejection date ("the HRB project") and on or after that date a building control approval application for HRB work or a building control approval application for work to existing HRB is submitted to the regulator in respect of the HRB project, then in addition to the requirements of regulation 4 the person who carried out the work must provide the regulator with such plans as are necessary to show the work already carried out complies with all applicable requirements of the building regulations.

**October 2023 to April 2024: cases where building control approval lapses before 6th April 2024**

**3.**—(1) This paragraph applies where, by virtue of paragraph 1(5)(a) or (b), paragraph 1(1) to (4) ceases to apply in relation to work.

(2) Where this paragraph applies then with effect from the date paragraph 1(1) to (4) ceases to apply in relation to the work ("the cessation date") the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly—

(a) the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the higher-risk building or any proposed higher-risk building;

(b) these Regulations apply to any of the work from the cessation date, and

(c) the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from the cessation date.

(**41**) S.I. 2023/275.

**October 2023 to April 2024: cases of not sufficiently progressed work where an initial notice is cancelled before 6th April 2024**

**4.**—(1) This paragraph applies where—

(a) the initial notice for the work, or the part of that notice which relates to the higher-risk building, ceases to be in force by virtue of any provision of Part 2 of the 1984 Act (except section 52(5)) on a date before 6th April 2024 ("the cancellation date"), and

(b) a notice under paragraph 1(4) (notice that work had sufficiently progressed) in relation to that work was not received by a local authority before the cancellation date.

(2) Where this paragraph applies—

(a) if a plans certificate or final certificate relating to the work (or any part of the work) has been accepted before the cancellation date then with effect from that date the certificate ceases to have effect;

(b) accordingly Parts 2 to 6 of these Regulations apply to the work from the cancellation date with the modifications provided for in paragraph (8);

(c) subject to paragraph (d), the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from the cancellation date;

(d) regulation 11(3) of the 2010 Regulations does not apply and accordingly the regulator may exercise the power in section 8(3A) of the 1984 Act(**42**) to dispense with or relax any requirement of the 2010 Regulations.

(3) Where this paragraph applies then with effect from the cancellation date the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the work to the higher-risk building (but not in relation to any other work specified in the initial notice).

(4) Where this paragraph applies, not more than five working days after the cancellation date the person which was shown on the initial notice as the approved inspector must—

(a) give a notice to the person intending to carry out the work explaining the initial notice, or such part of the initial notice which applies to the higher-risk building, is no longer in force and the effect of sub-paragraphs (2), (3) and (5), and

(b) give a copy of the notice to the local authority.

(5) Within 10 working days of the cancellation date the person intending to carry out the work must give a notice to the regulator setting out—

(a) their name, address, telephone number and (if available) email address;

(b) the location of the building;

(c) details of the work to be carried out;

(d) the height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(e) the number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023, and

(f) a description of any work which was carried out before the cancellation date (including details of the work in relation to which a final certificate was given and not rejected) and details of any inspections undertaken by the approved inspector in relation to that work.

(**42**) Subsection (3A) was inserted by paragraph 11(4) of Schedule 5 to the Building Safety Act 2022 (c. 30).

(6) With effect from the cancellation date no further building work in relation to the work described in the initial notice ("HRB project") may be carried out until the date when the person intending to carry out building work has received confirmation in writing from the regulator that an application for building control approval made to the regulator in relation to that work is valid ("validation date").

(7) Where any building work was carried out before the cancellation date then—

(a) the person who carried out the work or the owner must comply with any notice from the regulator requiring them within a reasonable time to cut into, lay open or pull down so much of the work as prevents the regulator from ascertaining whether the work contravenes any requirement of the building regulations;

(b) in addition to the other documents which are required to accompany the application for building control approval, the person must provide the regulator with such plans as are necessary to show the work already carried out complies with all applicable requirements of the building regulations.

(8) Where the application for building control approval in relation to the HRB project is rejected by the regulator then with effect from the date the rejection is notified to the applicant ("rejection date") no further building work in relation to the HRB project may be carried out until a building control approval is granted in relation to the building.

(9) Parts 2 to 6 of these Regulations have effect in relation to the HRB project—

(a) from the cancellation date as if—

(i) regulation 5(1)(b) (building control applications: for HRB work or stage of HRB work: validity and time limit) and regulation 13(1)(b) (building control applications: for work to existing HRB: validity and time limit) were omitted;

(ii) in relation to any change control which is proposed or occurs between the cancellation date and the date application for building control approval is determined by the regulator, Part 3 (change control) required the change to be recordable in the change control log;

(iii) regulation 47 (regularisation) does not apply in relation to any work carried out before the cancellation date and accordingly any reference to a regularisation certificate in Parts 2 to 6 of these Regulations in relation to such work is to be ignored;

(iv) regulations 50 to 56 (section 30A applications) did not apply in relation to the application for building control approval for the HRB project, and

(b) additionally, from the validation date until the rejection date, as if regulation 3 did not prevent work in the HRB project to be started before an application for building control approval for the work is submitted.

**October 2023 to April 2024: cases of sufficiently progressed work where an initial notice is cancelled before 6th April 2024**

**5.**—(1) This paragraph applies where—

(a) a notice under paragraph 1(4) (notice that work had sufficiently progressed) in relation to that work was received by a local authority before 6th April 2024, and

(b) the initial notice for the work, or the part of that notice which relates to the higher-risk building, ceases to be in force by virtue of any provision of Part 2 of the 1984 Act on a date before 6th April 2024 ("the cancellation date").

(2) Where this paragraph applies—

(a) if a final certificate relating to the work (or any part of the work which relates to the higher-risk building) has been accepted before the cancellation date then with effect from that

date the function of enforcing building regulations that is conferred on the regulator by section 91(3) of the 1984 Act is not exercisable in relation to that work;

(b) if a plans certificate relating to the work (or any part of the work which relates to the higher-risk building) has been accepted before the cancellation date then with effect from the notice date the certificate ceases to have effect;

(c) accordingly Parts 2 to 6 of these Regulations apply to the work from the cancellation date with the modifications provided for in paragraph (9);

(d) subject to paragraph (e), the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from the cancellation date;

(e) regulation 11(3) of the 2010 Regulations does not apply and accordingly the regulator may exercise the power in section 8(3A) of the 1984 Act to dispense with or relax any requirement of the 2010 Regulations.

(3) Where this paragraph applies then with effect from the cancellation date the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the work to the higher-risk building (but not in relation to any other work specified in the initial notice).

(4) Where this paragraph applies, not more than five working days after the cancellation date the person which was shown on the initial notice as the approved inspector must—

(a) give a notice to the person intending to carry out the work explaining the initial notice, or such part of the initial notice which applies to the higher-risk building, is no longer in force and the effect of sub-paragraphs (2), (3) and (5), and

(b) give a copy of the notice to the local authority.

(5) Within 10 working days of the cancellation date the person intending to carry out the work must give a notice to the regulator setting out—

(a) the information referred to in paragraph 4(5), and

(b) in relation to any work for which a final certificate was given and not rejected, a description of the work covered by the final certificate.

(6) With effect from the cancellation date no further building work in relation to the work described in the initial notice ("HRB project") may be carried out until the date when the person intending to carry out building work has submitted an application for building control approval for HRB work or an application for building control approval for work to existing HRB in relation to the work and received confirmation in writing from the regulator that an application for building control approval made to the regulator in relation to that work is valid ("validation date").

(7) In relation to building work carried out before the cancellation date then—

(a) the person who carried out the work or the owner must comply with any notice from the regulator requiring them within a reasonable time to cut into, lay open or pull down so much of the work as prevents the regulator from ascertaining whether the work contravenes any requirement of the building regulations;

(b) in addition to the other documents which are required to accompany the application for building control approval, the person must provide the regulator with such plans as are necessary to show the work already carried out complies with all applicable requirements of the building regulations.

(8) Where the application for building control approval in relation to the HRB project is rejected by the regulator then with effect from the date the rejection is notified to the applicant ("rejection date") no further building work in relation to the HRB project may be carried out until a building control approval is granted in relation to the building.

(9) Parts 2 to 6 of these Regulations have effect in relation to the work as if—

(a) in Part 2—

(i) in relation to any work for which a final certificate was previously given before the cancellation date and not rejected—

(aa) paragraphs (1)(e)(viii), (2)(b) and (3) of regulation 4 (building control approval applications for HRB work or stage of HRB work) and paragraphs (1)(e)(viii), (2)(c) and (5) of regulation 12 (building control approval applications for work to existing HRB) were omitted,

(bb) in addition to the requirements of regulation 4 and, as the case may be, regulation 12, the person which carried out the work must provide the regulator with such plans as are necessary to show the work already carried out complies with all applicable requirements of the building regulations, together with a copy of the final certificate;

(cc) regulation 5(1)(b) (building control applications: for HRB work or stage of HRB work: validity and time limit) and regulation 13(1)(b) (building control applications: for work to existing HRB: validity and time limit) were omitted;

(ii) in relation to any other work in the HRB project—

(aa) paragraphs (iii) to (viii) of regulation 4(2)(b) (building control approval applications for HRB work or stage of HRB work) and paragraphs (ii) to (vi) of regulation 12(2)(c) and (5) (building control approval applications for work to existing HRB) were omitted;

(bb) regulation 5(1)(b) (building control applications: for HRB work or stage of HRB work: validity and time limit) and regulation 13(1)(b) (building control applications: for work to existing HRB: validity and time limit) were omitted;

(b) regulations 18 to 26 (change control) were omitted;

(c) paragraphs (2)(b), (6)(b) and (8)(c) of regulation 27 (new client etc) were omitted;

(d) any references to golden thread information in regulation 27 were references to fire safety information;

(e) paragraph (7) of regulation 29 (new principal contractor or principal designer) were omitted;

(f) regulation 31 (golden thread) were omitted;

(g) regulations 32 to 37 (mandatory occurrence reporting) were omitted;

(h) any references to golden thread information in regulation 38 were references to fire safety information;

(i) in Part 5 (completion certificates), in relation to any work (including any work carried out before the cancellation date which is included in a completion certificate application)—

(i) any references to "completion certificate" were references to "transfer and completion certificate";

(ii) any references to "partial completion certificate" were references to "transfer and partial completion certificate";

(iii) paragraph (2)(d) of regulation 40 (completion certificate applications) were omitted;

(iv) paragraph (3)(c) of regulation 45 (partial completion certificates) were omitted;

(j) any reference in regulations 40(1)(f) (completion certificate applications), 44(1)(c) (completion certificate applications: decisions) and 45(2)(h) and (10)(c) (partial

completion certificates) to providing information to the relevant person in accordance with regulation 38 (handover of information on completion etc) were a reference to providing fire safety information to the relevant person;

(k) any reference in regulations 4, 6, 12 and 42 to a "fire and emergency file" were a reference to a document setting out the fire safety design principles, concepts and standards applied to the development including sufficient plans to show how the work would comply with Part B (fire safety) of Schedule 1 to the 2010 Regulations in relation to the higher-risk building or proposed higher-risk building;

(l) regulation 46 (inspections etc) were omitted in relation to any work described in a final certificate;

(m) regulation 47 (regularisation) were omitted in relation to any work carried out before the cancellation date and accordingly any reference to a regularisation certificate in Parts 2 to 6 of these Regulations is to be ignored in relation to that work;

(n) in regulations 48 (review of regulator's decisions), 50 (section 30A prescribed applications) and 51 (section 30A applications: procedure)—

(i) any reference to completion certificate application were a reference to an application for a transfer and completion certificate, and

(ii) any reference to partial completion certificate application were a reference to an application for a transfer and partial completion certificate;

(o) regulations 50 to 56 (section 30A applications) were omitted in relation to the application for building control approval for the HRB project.

**From April 2024: local authority to notify regulator where work has not sufficiently progressed**

**6.**—(1) No later than 6th March 2024, each local authority must give the regulator a notice stating in respect of each relevant building for which it has not by that date received a notice under paragraph 1(4)—

(a) the name and address of the building;

(b) the name, address, telephone number and (if available) email address of the person carrying out the work;

(c) details of the intended use of the higher-risk building, including the intended use of each storey;

(d) the proposed height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(**43**);

(e) the proposed number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(f) the proposed number of flats, number of residential rooms and number of commercial units proposed to be contained in the higher-risk building;

(g) the provision to be made for the drainage of the building;

(h) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes a requirement, the precautions to be taken in the building over a drain, sewer or disposal main to comply with the requirements of that paragraph;

(i) the steps to be taken to comply with any local enactment that applies;

(**43**) S.I. 2023/275.

(j) details of the work which has been carried out together with a summary of the inspections undertaken by the local authority in relation to the work.

(2) In this paragraph a "relevant building" is a building in relation to which paragraph 1(1)(b) applies.

**From April 2024: cases where work is to be regarded as sufficiently progressed**

**7.**—(1) This paragraph applies where—

(a) a notice under paragraph 1(4) (notice that work had sufficiently progressed) in relation to work to that building was received by a local authority before 6th April 2024, and

(b) in any case where an initial notice was given in relation to the work, the approved inspector which gave the initial notice has become a registered building control approver before 6th April 2024.

(2) Where this paragraph applies, with effect from 6th April 2024—

(a) in a case where full plans have been deposited—

(i) Parts 2 to 6 of these Regulations continue not to apply to that work, and

(ii) the 2010 Regulations continue to apply to the work but subject to Part 4 (transitional, supplementary and saving provisions) of the Building Regulations etc. (Amendment) (England) Regulations 2023;

(b) in a case where an initial notice was given in relation to the work by an approved inspector then for so long as the initial notice continues in force—

(i) the initial notice given by the approved inspector is treated as if it were given instead by that person in their capacity as a registered building control approver,

(ii) Parts 2 to 6 of these Regulations continue not to apply to that work, and

(iii) the 2010 Regulations and the Building (Approved Inspectors etc.) Regulations 2010 continue to apply to the work, but subject to Part 4 (transitional, supplementary and saving provisions) of the Building Regulations etc. (Amendment) (England) Regulations 2023 and Part 4 (transitional, supplementary and saving provisions) of the Building (Approved Inspectors etc. and Review of Decisions) (England) Regulations 2023.

(3) Where this paragraph applies then with effect from 6th April 2024 the local authority for the area, and not the regulator, continues to be the building control authority in relation to the higher-risk building and accordingly the duties and functions of local authorities under section 91 of the 1984 Act continue to apply in relation to the work.

**From April 2024: cases of work not sufficiently progressed with an initial notice**

**8.**—(1) This paragraph applies where, in relation to work to a particular building, paragraph 1 applies in respect of work for which an initial notice was in force, but a notice under paragraph 1(4) (notice that work had sufficiently progressed) was not received by a local authority in relation to the building before 6th April 2024.

(2) Where this paragraph applies—

(a) for the purposes of section 47(4)(b)(ii) of the 1984 Act the initial notice, or such part of the initial notice which applies to the higher-risk building, ceases to be in force with effect from 6th April 2024;

(b) if a plans certificate or final certificate relating to the work (or any part of the work) has been accepted before 6th April 2024 then with effect from that date the certificate ceases to have effect;

(c) subject to paragraph (d), the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from that date;

(d) regulation 11(3) of the 2010 Regulations does not apply and accordingly the regulator may exercise the power in section 8(3A) of the 1984 Act to dispense with or relax any requirement of the 2010 Regulations.

(3) Where this paragraph applies, with effect from 6th April 2024 the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the work to the higher-risk building (but not in relation to any other work specified in the initial notice).

(4) The provisions of paragraph 4(4) to (9) also apply but as if any reference to the cancellation date were a reference to 6th April 2024.

**From April 2024: cases of work not sufficiently progressed with full plans**

**9.**—(1) This paragraph applies where in relation to work to a particular building paragraph 1 applies in respect of work for which full plans were deposited but a notice under paragraph 1(4) (notice that work had sufficiently progressed) was not received by a local authority in relation to the building before 6th April 2024.

(2) Where this paragraph applies, with effect from 6th April 2024 the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the work to the higher-risk building (but not in relation to any other work specified in the full plans).

(3) Where this paragraph applies the person intending to carry out the work must, within 4 weeks beginning with 6th April 2024, give to the regulator a notice setting out—

(a) the name and address of the building;

(b) the name, address, telephone number and (if available) email address of the client, the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

(c) details of the work to be carried out;

(d) details of the intended use of the higher-risk building, including the intended use of each storey;

(e) the proposed height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(f) the proposed number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(g) the proposed number of flats, number of residential rooms and number of commercial units to be contained in the higher-risk building;

(h) the provision to be made for the drainage of the building;

(i) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes a requirement, the precautions to be taken in the building over a drain, sewer or disposal main to comply with the requirements of that paragraph;

(j) the steps to be taken to comply with any local enactment that applies;

(k) details of the work which has been carried out together with a summary of the inspections undertaken by the local authority in relation to the work.

(4) The notice under sub-paragraph (3) must be accompanied by—

(a) a plan to a scale of not less than 1:1250 showing—

(i) the size and position of the proposed building and its relationship to adjoining boundaries;

(ii) the boundaries of the curtilage of the building, and the size, position and use of every other building or proposed building within the curtilage;

(iii) the width and position of any street on or within the boundaries of the curtilage of the building;

(b) where work has started, a copy of the notice given to the local authority under regulation 16(1) (commencement notice) of the 2010 Regulations;

(c) such other documents or plans which were provided to the local authority by the person intending to carry out the work for the purpose of demonstrating the compliance of the work or the proposed work with applicable requirements of the building regulations;

(d) a statement setting out—

(i) any conditions imposed on the full plans;

(ii) any changes (including any conditions related to the changes), agreed with the local authority, to the full plans;

(iii) any work carried out otherwise than in accordance with the full plans (including otherwise than in accordance with any condition impose on the plans);

(e) copy of any report produced by the local authority in relation to each inspection of the work together with a copy of any notes and photographs relating to the inspections;

(f) a statement setting out details of any enforcement action taken by the local authority in relation to the work.

(5) The person intending to carry out the work must give a copy of the notice to the local authority.

(6) Where this paragraph applies, with effect from 6th April 2024—

(a) the 2010 Regulations continue to apply to the work, but subject to—

(i) Part 4 (transitional, supplementary and saving provisions) of the Building Regulations etc. (Amendment) (England) Regulations 2023;

(ii) the modifications set out in paragraph (7);

(b) subject to the modifications in paragraph (c), additionally the following provisions of these Regulations apply in relation to the work—

(i) regulation 8 (regulator's power to require notifications etc for HRB work or stage of HRB work);

(ii) where work has not started, regulation 9(2) (notice before work);

(iii) regulation 9(3) (notice when work has commenced);

(iv) regulation 16 (regulator's power to require notifications etc for work to existing HRB);

(v) where work has not started, regulation 17(2) (notice before work);

(vi) regulation 17(3) (notice when work has commenced);

(vii) regulations 18 (except paragraphs (3) and (4)), and 19 to 29 (change control etc) but as if—

(aa) any reference to an agreed document were a reference to the full plans;

(bb) sub-paragraphs (xi) and (xii) in paragraph (a), and sub-paragraphs (xi) and (xii) in paragraph (b), of the definition of "major change" in regulation 26 were omitted;

(cc) paragraphs (a) and (b) of the definition of "notifiable change" in regulation 26 were omitted;

(viii) regulation 31 (golden thread), but as if regulation 31(1) required the client to establish the electronic facility—

(aa) within 45 days beginning with 6th April 2024, or

(bb) before a completion certificate application or a partial completion certificate application is submitted,

whichever occurs first;

(ix) regulation 32 (mandatory occurrence reporting system), but as if the reference to establishing the system before the construction phase begins were a reference to establishing it within 10 days beginning with 6th April 2024;

(x) regulations 33 to 37 (mandatory occurrence reporting) but as if any reference to an agreed document is to be treated as a reference to the full plans;

(xi) regulations 38 and 39 (handover of information on completion etc);

(xii) regulation 40 (completion certificate applications) but as if paragraphs (i), (ii) and (iii) of paragraph (2)(d) were omitted;

(xiii) regulations 41 to 44 (completion certificates etc);

(xiv) regulation 45 (partial completion certificate applications) but as if paragraphs (i), (ii) and (iii) of paragraph (3)(c) were omitted;

(xv) regulation 46 (inspections etc);

(xvi) regulations 48 to 56 (reviews and appeals etc) but only to the extent those provisions apply in relation to a change control application or completion certificate application or a partial completion certificate application;

(xvii) regulation 58 (requirement for completion certificate before occupation);

(xviii) regulation 59 (electronic submission and directions);

(c) any reference in regulations 23, 26, 40, 42 and 45 to a "fire and emergency file" were a reference to a document setting out the fire safety design principles, concepts and standards applied to the development including sufficient plans to show how the work would comply with Part B (fire safety) of Schedule 1 to the 2010 Regulations in relation to the higher-risk building or proposed higher-risk building.

(7) The 2010 Regulations have effect with the following modifications—

(a) as if any reference in any provision to a local authority, however so expressed, were a reference to the regulator;

(b) as if regulations 16(3) to (5), 17, 17A, 18, 18A, 18B, 38, 39, 40, 40A and 40B of the 2010 Regulations were omitted.

(8) Where the regulator receives any document under sub-paragraph (6) it may, by notice in writing, require the client—

(a) to provide further information specified in the notice by the time specified in the notice;

(b) to take such steps (including tests) as are specified in the notice by the time specified in the notice to demonstrate the work will comply with all applicable requirements of the building regulations.

(9) Where a notice is given to the client under sub-paragraph (8), that person must not start or, as the case may be, continue the work to which the notice relates for a period of 10 days beginning on the day after the day on which the notice is received.

**From April 2024: cases where work has sufficiently progressed but approved inspector is not a registered building control approver**

**10.**—(1) This paragraph applies where—

(a) paragraph 1 applies in relation to a particular building in respect of work for which an initial notice was in force on 6th April 2024 but the approved inspector which gave the notice was not a registered building control approver on that date, and

(b) a notice under paragraph 1(4) (notice that work had sufficiently progressed) in relation to that work was received by a local authority before 6th April 2024.

(2) Where this paragraph applies—

(a) for the purposes of section 47(4)(b)(ii) of the 1984 Act the initial notice or, such part of the notice which relates to the higher-risk building, ceases to be in force with effect from 6th April 2024;

(b) if a final certificate relating to the work (or any part of the work which relates to the higher-risk building) has been accepted before 6th April 2024 then with effect from the notice date the function of enforcing building regulations that is conferred on the regulator by section 91(3) of the 1984 Act is not exercisable in relation to that work;

(c) if a plans certificate relating to the work (or any part of the work which relates to the higher-risk building) has been accepted before 6th April 2024 then with effect from the notice date the certificate ceases to have effect;

(d) accordingly Parts 2 to 6 of these Regulations apply to the work from 6th April 2024 with the modifications provided for in paragraph 5(9) (as applied by paragraph (4));

(e) subject to paragraph (f), the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from that date;

(f) regulation 11(3) of the 2010 Regulations does not apply and accordingly the regulator may exercise the power in section 8(3A) of the 1984 Act to dispense with or relax any requirement of the 2010 Regulations.

(3) Where this paragraph applies, with effect from 6th April 2024 the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the work to the higher-risk building (but not in relation to any other work specified in the initial notice).

(4) The provisions of paragraph 5(4) to (9) also apply but as if any reference to the cancellation date were a reference to 6th April 2024.

**From April 2024: cases where work has sufficiently progressed and then initial notice ceases**

**11.**—(1) This paragraph applies where—

(a) paragraph 1 applies in relation to a particular building in respect of work for which an initial notice was in force on 6th April 2024;

(b) a notice under paragraph 1(4) (notice that work had sufficiently progressed) in relation to that work was received by a local authority before 6th April 2024;

(c) the initial notice for the work, or such part of the notice which relates to the higher-risk building, ceases to be in force by virtue of any provision of Part 2 of the 1984 Act on a date after 6th April 2024 ("the cancellation date").

(2) Where this paragraph applies—

(a) if a final certificate relating to the work (or any part of the work which relates to the higher-risk building) has been accepted before the cancellation date then with effect from the notice date the function of enforcing building regulations that is conferred on the regulator by section 91(3) of the 1984 Act is not exercisable in relation to that work;

(b) if a plans certificate relating to the work (or any part of the work which relates to the higher-risk building) has been accepted before the cancellation date then with effect from the notice date the certificate ceases to have effect;

(c) accordingly Parts 2 to 6 of these Regulations apply to the work from the cancellation date with the modifications provided for in paragraph 5(9) (as applied by paragraph (4));

(d) subject to paragraph (e), the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from that date;

(e) regulation 11(3) of the 2010 Regulations does not apply and accordingly the regulator may exercise the power in section 8(3A) of the 1984 Act to dispense with or relax any requirement of the 2010 Regulations.

(3) Where this paragraph applies, with effect from the cancellation date the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the work to the higher-risk building (but not in relation to any other work specified in the initial notice).

(4) The provisions of paragraph 5(4) to (9) also apply.

# PART 2

## Enforcement and interpretation

**Contravention of certain provisions not to be an offence etc**

**12.**—(1) The following provisions of this Schedule are prescribed for the purposes of section 35(2) of the 1984 Act as provisions in relation to which section 35(1) does not apply—

(a) paragraphs 4(4) and 5(4) (including as applied by paragraphs 15(4) and 16(4)) (duties of approved inspectors);

(b) paragraph 6 (from April 2024: local authority to notify regulator where work has not sufficiently progressed).

(2) The following provisions of this Schedule are prescribed for the purposes of section 35B(7)(a) of the 1984 Act as provisions in relation to which a compliance notice(**44**) may not be given—

(a) paragraphs 4(4) and 5(4) (including as applied by paragraphs 15(4) and 16(4)) (duties of approved inspectors);

(b) paragraph 6 (from April 2024: local authority to notify regulator where work has not sufficiently progressed).

(**44**) See the definition of "compliance notice" in section 35B(2) of the Building Act 1984, as inserted by section 38(1) of the Building Safety Act 2022.

**Interpretation**

**13.**—(1) For the purposes of this Schedule—

"initial notice" is a notice given under section 47 of the 1984 Act;

"full plans" means plans deposited with a local authority for the purposes of section 16 of the 1984 Act in accordance with regulations 12(2)(b) and 14 of the 2010 Regulations (as those provisions had effect immediately before 1st October 2023).

(2) Subject to sub-paragraph (3), any reference to work to which an initial notice relates is to be construed as a reference to that work as varied by an amendment notice given under section 51A of the 1984 Act(**45**) which has been accepted.

(3) Sub-paragraph (2) does not apply where the amendment notice under section 51A of the 1984 Act is given on or after 1st October 2023 and is such that the work as varied becomes higher-risk building work.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

This instrument is part of a number of Regulations which implement Part 3 of the Building Safety Act 2022 (c. 30).

Section 91ZA of the Building Act 1984 (as inserted by section 32 of the Building Safety Act 2022, which is to come into force on 1st October 2023, provides for the regulator to be the building control authority in relation to any higher-risk building in England and any proposed higher-risk building.

The requirements in the Building Regulations 2010 continue to apply to higher-risk buildings. Amendments (to be made elsewhere) to those Regulations disapply most of the procedural requirements in those Regulations, consequently procedures in this instrument apply instead.

Part 2 of these Regulations sets out the procedures for applying for building control approval in relation to higher-risk buildings. Applications must be submitted to the regulator giving the information required and accompanied by the plans and documents required. Building control approval may, with the applicant's consent, be subject to a requirement, for example, to not progress beyond a specified point without agreement of the regulator or that more detailed plans or documents could be approved by the regulator at a later date.

Part 3 of these Regulations sets out the change control process where any document relating to the work which was approved by the regulator at the application stage (or subsequently under a requirement or a change control) is to be changed. And provision is also made in this Part for change to the client, principal contractor or principal designer, insolvency etc of a client and variation of a requirement imposed on a building control approval.

Part 4 of these Regulations sets out provisions in relation the golden thread information, mandatory occurrence reporting and the handover of information on completion of the work.

Part 5 of these Regulations sets out the procedures for applying for a completion certificate in relation to higher-risk buildings. Applications must be submitted to the regulator giving the information

(**45**) Section 51A was inserted by S.I. 1996/1905 and amended by sections 46(2) and 48(3) of, and paragraph 42(3) of Schedule 5 to, the Building Safety Act 2022.

required and accompanied by the plans and documents required. Provision is also made for partial completion certificates where it is proposed a building (or part of a building) is occupied before all of the higher-risk building work is completed.

Part 6 of these Regulations sets out provision relating to inspections, testing and sampling, regularisation of unauthorised work, review by the regulator of its decisions, and appeals in relation to reviewed decisions and the procedure under section 30A of the Building Act 1984 (which provides that a request can be made to the Secretary of State for determination of an application where the regulator has not made a decision within the time limit prescribed).

Part 7 of these Regulations defines exempt work, gives the regulator the power by direction to require an application to be sent to it via a specified method, and also sets out those provisions in relation to which a stop notice under section 35C of that Act may be given. Part 7 also includes consequential amendments to the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541); the Community Infrastructure Levy Regulations 2010 (S.I. 2010/948); and the Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023 (S.I. 2023/753). Schedule 3 to these Regulations sets out transitional, supplementary and saving provisions in relation to projects for higher-risk building work for which plans were deposited or initial notices given before 1st October 2023.

A full impact assessment of the effect that this instrument will have on the costs to business is published with an Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

STATUTORY INSTRUMENTS

# 2024 No. 110

# BUILDING AND BUILDINGS, ENGLAND

## The Building (Registered Building Control Approvers etc.) (England) Regulations 2024

| | |
|---|---|
| *Made - - - -* | *28th January 2024* |
| *Laid before Parliament* | *1st February 2024* |
| *Coming into force - - - -* | *6th April 2024* |

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 1(1), 2A, 34, 35(2), 35B(7), 47(1) to (5), 50(1A), (1D), (4), (6), (7) and (7A), 51(1) and (2), 51A(2), (3), (5) and (6), 52(1), (2), (3), (5A) and (7), 52A(1), (2) and (4), 53(2), (4), (4B), (4C) and (7), 53A(6), 53B(5), 53C(3), 53D(2), (3) and (5), 56(1), 58C(5), 58O(4), 58U(4), 58V(4) and 92(2) of, and paragraphs 1, 1A, 1D, 1F, 1G, 1I, 5B, 7, 8 and 10 of Schedule 1 to, the Building Act 1984(**1**) and sections 25(1) to (3) and (7), 41 and 166(1) of the Building Safety Act 2022(**2**).

In accordance with section 120B(3) of the Building Act 1984(**3**) and section 7(4) of the Building Safety Act 2022, the Secretary of State has consulted the building safety regulator and such other persons as the Secretary of State considers appropriate.

(**1**) 1984 c. 55. Section 1 was amended by section 1 of the Sustainable and Secure Buildings Act 2004 (c.22); section 2A was inserted by section 4 of that Act; section 35 was amended by section 39 of the Building Safety Act 2022 (c. 30) (“the 2022 Act”); section 35B was inserted by section 38 of the 2022 Act. Section 47(1) was amended by section 8 of the Sustainable and Secure Buildings Act 2004 and S.I. 1996/1905; section 50(1A), (1D) and (7A) were inserted by section 49 of the 2022 Act; section 51(1) was substituted, section 51A was inserted and section 52(1) was amended, by S.I. 1996/1905; section 51A was also amended by sections 46(2) and 48(3) of, and paragraph 42 of Schedule 5 to, the 2022 Act; section 52(2) was amended by section 8 of the Sustainable and Secure Buildings Act 2004; section 52(5A) was inserted by section 50(5) of the 2022 Act; section 52A was inserted by section 46 of the 2022 Act; section 53 was amended by sections 36(6) and 52(1) of the 2022 Act; section 53A was inserted by section 36 of the 2022 Act; section 56(1) was amended by S.I. 1996/1905; sections 58C, 58O, 58U and 58V were inserted by section 42 of the 2022 Act. Section 120B was inserted by paragraph 77 of Schedule 5 to the 2022 Act. Paragraphs 1A, 1D, 1F, 1G, 1I and 5B of Schedule 1 were inserted by sections 33 and 34 of the 2022 Act; paragraph 7 of Schedule 1 was amended by section 3 of that Act and by section 11 of the Climate Change and Sustainable Energy Act 2006 (c. 19); paragraph 8 of Schedule 1 was amended by section 3 of the Sustainable and Secure Buildings Act 2004 and by section 40 of the Flood and Water Management Act 2010 (c. 29); paragraph 10 of Schedule 1 was substituted by paragraph 83(8) of Schedule 5 to the 2022 Act. See section 126 for the definition of “prescribed”.

(**2**) 2022 c. 30.

(**3**) Under the transitional provisions in regulation 5(1) of S.I. 2023/362 the requirement to consult under section 120B of the Building Act 1984 does not apply to proposals consulted on under section 14(3) of the Building Act 1984 before it was repealed by paragraph 17 of Schedule 5 to the Building Safety Act 2022.

# PART 1

## General

### Citation, extent, application and commencement

**1.**—(1) These Regulations may be cited as the Building (Registered Building Control Approvers etc.) (England) Regulations 2024.

(2) These Regulations extend to England and Wales and apply in England only.

(3) These Regulations come into force on 6th April 2024.

### Interpretation

**2.**—(1) In these Regulations—

"the 1984 Act" means the Building Act 1984;

"the 2022 Act" means the Building Safety Act 2022;

"the 2010 Regulations" means the Building Regulations 2010(**4**);

"application for building control approval with full plans" has the same meaning as given in the 2010 Regulations;

"approver" means a registered building control approver(**5**);

"building" has the same meaning as given in the 2010 Regulations;

"building work" has the same meaning as given in the 2010 Regulations;

"controlled service or fitting" means a service or fitting in relation to which Part G, H, J or L of Schedule 1 to the 2010 Regulations imposes a requirement;

"dwelling-house" does not include a flat or a building containing a flat;

"flat" means separate and self-contained premises constructed or adapted for use for residential purposes and forming part of a building from some other part of which it is divided horizontally;

"FSO building" has the meaning given in regulation 9 (consultation with the fire and rescue authority);

"material alteration" has the same meaning as given in the 2010 Regulations;

"material change of use" has the same meaning as given in the 2010 Regulations;

"new dwelling" includes a dwelling that is formed by a material change of use of a building within the meaning of regulation 5(a), (b) or (g) of the 2010 Regulations;

"optional requirement" has the meaning given in regulation 2(1) of the 2010 Regulations;

"relevant day" means any day excluding Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971;

"working day" means any period of 24 hours commencing at midnight and excludes Saturdays, Sundays, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971(**6**).

(**4**) S.I. 2010/2214 as amended by S.I. 2012/3119, 2013/1959, 2014/110, 2015/767, 2016/285, 2016/1274, 2018/1230, 2021/1391, 2022/608, 2023/520 and 2023/911. There are other amending instruments, but none is relevant to this instrument.

(**5**) For the definition of "registered building control approver" see section 58N of the Building Act 1984, which was inserted by section 42 of the Building Safety Act 2022.

(**6**) 1971 c. 80.

(2) In these Regulations "client", "contractor", "designer", "domestic client", "principal contractor", "principal designer", "sole contractor" and "sole or lead designer" have the meanings given in the 2010 Regulations.

(3) Where any provision in these Regulations requires the use of a numbered form in Schedule 1, a form substantially to the like effect may be used.

(4) Any reference in these Regulations to the carrying out of work includes a reference to the making of a material change of use.

(5) Any reference in these Regulations to an initial notice(**7**) (whether or not combined with a plans certificate(**8**)) is to be construed as a reference to that initial notice as amended by an amendment notice(**9**) which has been accepted by a local authority.

# PART 2

## Registered building control approvers

### Independence of approvers

**3.**—(1) Approvers must have no professional or financial interest in the work they supervise.

(2) A person ("P") is regarded as having a professional or financial interest in the work described in any notice or certificate given under these Regulations if—

(a) P is or has been responsible for the design or construction of any of the work in any capacity,

(b) P or any nominee of P's is a member, officer or employee of a company or other body which has a professional or financial interest in the work, or

(c) P is a partner or is in the employment of a person who has a professional or financial interest in the work.

(3) For the purposes of this regulation—

(a) P is treated as having a professional or financial interest in the work even if P has that interest only as trustee for the benefit of some other person,

(b) in the case of married persons or civil partners living together, the interest of one spouse or partner is, if known to the other, deemed to be also an interest of the other.

(4) For the purposes of this regulation the following are not to be regarded as a professional or financial interest—

(a) involvement in the work as an approver,

(b) entitlement to any fee paid for P's function as an approver,

(c) entitlement to any fee paid for an employee of P carrying out a function as a registered building inspector(**10**), and

(d) potential liability to pay any sum if a claim is made under the insurance cover provided for the purposes of the 1984 Act.

(**7**) For the definition of "initial notice" see section 47 of the Building Act 1984.
(**8**) For the definition of "plans certificate" see section 50 of the Building Act 1984.
(**9**) For the definition of "amendment notice" see section 51A of the Building Act 1984.
(**10**) For the definition of "registered building inspector" see section 58B of the Building Act 1984, which was inserted by section 42 of the Building Safety Act 2022.

**Functions of approvers**

**4.**—(1) For so long as an initial notice continues in force, the approver who gave the notice must take such steps (which may include the making of tests of building work and the taking of samples of material) as are reasonable to enable the approver to be satisfied within the limits of professional skill and care that the provisions specified in paragraph (2) (as modified by regulation 5 (modifications of 2010 Regulations etc.)) are complied with.

(2) The provisions referred to in paragraph (1) are—

(a) in the 2010 Regulations—

(i) regulation 4 (requirements relating to building work),

(ii) regulation 6 (requirements relating to material change of use),

(iii) regulation 7 (materials and workmanship),

(iv) Part 2A (dutyholders and competence),

(v) regulation 20 (provisions applicable to self-certification schemes),

(vi) regulation 20A (provisions applicable to third party certification schemes),

(vii) regulation 22 (requirements relating to a change to energy status),

(viii) regulation 23 (requirements relating to thermal elements),

(ix) regulation 25A (consideration of high-efficiency alternative systems for new buildings),

(x) regulation 26 ($CO_2$ emission rates for new buildings),

(xi) regulation 26A (fabric energy efficiency rates for new buildings),

(xii) regulation 26C (target primary energy rates for new buildings),

(xiii) regulation 27 ($CO_2$ emission rate calculations),

(xiv) regulation 27A (fabric energy efficiency rate calculations),

(xv) regulation 27C (target primary energy rate calculations for new buildings),

(xvi) regulation 28 (consequential improvements to energy performance),

(xvii) regulation 36 (water efficiency of new dwellings),

(xviii) regulation 37 (wholesome water consumption calculation,

(xix) regulation 38 (fire safety information),

(xx) regulation 39 (information about ventilation),

(xxi) regulation 40 (information about use of fuel and power),

(xxii) regulation 40A (information about systems for on-site generation of electricity),

(xxiii) regulation 40B (information about overheating),

(xxiv) regulation 41 (sound insulation testing),

(xxv) regulation 42 (mechanical ventilation air flow rate testing),

(xxvi) regulation 43 (pressure testing),

(xxvii) regulation 44 (commissioning),

(xxviii) regulation 44ZA (commissioning in respect of a system for on-site electricity generation),

(xxix) regulation 44D (application of paragraph S1 of Schedule 1),

(xxx) regulation 44E (application of paragraph S2 of Schedule 1),

(xxxi) regulation 44F (application of paragraph S3 of Schedule 1),

(xxxii) regulation 44G (application of paragraph S4 of Schedule 1),

(xxxiii) regulation 44H (application of paragraph S5 of Schedule 1),

(xxxiv) regulation 44I (application of paragraph S6 of Schedule 1),

(xxxv) regulation 44J (minimum standards of an electric vehicle charge point), and

(b) in the Energy Performance of Buildings (England and Wales) Regulations 2012(**11**), regulation 7A (energy performance certificates on construction).

**Modifications of 2010 Regulations etc.**

**5.**—(1) The 2010 Regulations apply with the modifications in paragraphs (2) to (11).

(2) Subject to paragraph (3), regulations 20 (provisions applicable to self-certification schemes), 20A (provisions applicable to third party certification schemes), 25A (consideration of high-efficiency alternative systems for new buildings), 42 (mechanical ventilation air flow rate testing) and 43 (pressure testing) apply in relation to building work which is the subject of an initial notice as if references to the building control authority were references to the approver.

(3) The modification in paragraph (2) does not apply to the reference to building control authority in regulation 20(6A), 20A(7A), 25A(3A), 42(4) or 43(6).

(4) Regulation 27 ($CO_2$ emission rate calculations) applies in relation to building work which is the subject of an initial notice as if—

(a) references to the building control authority, except in regulation 27(4A), were references to the approver, and

(b) in paragraph (3), after "work has been completed," there were inserted "or, if earlier, the date on which, in accordance with regulation 19 (events causing initial notice to cease to be in force) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024, the initial notice ceases to be in force".

(5) Regulation 27A (fabric energy efficiency rate calculations) applies in relation to building work which is the subject of an initial notice as if—

(a) references to the building control authority, except in regulation 27A(4A), were references to the approver, and

(b) in paragraph (3), after "work has been completed," there were inserted "or, if earlier, the date on which, in accordance with regulation 19 (events causing initial notice to cease to be in force) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024, the initial notice ceases to be in force".

(6) Regulation 27C (target primary energy rate calculations for new buildings) applies in relation to building work which is the subject of an initial notice as if—

(a) references to the building control authority, except in regulation 27C(4A), were references to the approver, and

(b) in paragraph (3), after "work has been completed," there were inserted "or, if earlier, the date on which, in accordance with regulation 19 (events causing initial notice to cease to be in force) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024, the initial notice ceases to be in force".

(7) Regulation 37 (wholesome water consumption calculation) applies in relation to building work which is the subject of an initial notice as if—

(a) references to the building control authority, except in regulation 37(3), were references to the approver, and

(**11**) S.I. 2012/3118. Regulation 7A was inserted by S.I. 2016/284.

(b) in paragraph (2), after "work has been completed" there were inserted ", or, if earlier, the date on which, in accordance with regulation 19 (events causing initial notice to cease to be in force) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024, the initial notice ceases to be in force".

(8) Regulation 38 (fire safety information) applies in relation to building work which is the subject of an initial notice as if—

(a) references to the relevant authority were references to the approver, and

(b) for paragraph (2) there were substituted—

"(2) The person carrying out the work must give the fire safety information to the responsible person no later than—

(a) the date of completion of the work to which the initial notice relates;

(b) the date of occupation of the building or extension;

(c) the date on which, in accordance with regulation 19 (events causing initial notice to cease to be in force) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024, the initial notice ceases to be in force,

whichever is the earlier.".

(9) Regulation 41 (sound insulation testing) applies in relation to building work which is the subject of an initial notice as if—

(a) references to the building control authority, except in regulation 41(3A), were references to the approver, and

(b) for paragraph (3)(b) there were substituted—

"(b) given to the registered building control approver in accordance with paragraph (2)(b) not later than five days after completion of the work to which the initial notice relates.";

(c) in paragraph (4), for "regulation 16(1)" there were substituted "regulation 15(1) (notice before starting work) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024,".

(10) Regulation 44 (commissioning) applies in relation to building work which is the subject of an initial notice as if—

(a) references to the building control authority, except in regulation 44(5), were references to the approver, and

(b) for paragraph (4) there were substituted—

"(4) The notice must be given to the registered building control approver—

(a) subject to sub-paragraphs (b) and (c), not later than five days after completion of the work to which the initial notice relates;

(b) where regulation 19 (events causing initial notice to cease to be in force) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 applies, not later than the date on which the initial notice ceases to be in force or, if earlier, the end of the period referred to in sub-paragraph (a);

(c) where regulation 20 (provisions applicable to self-certification schemes) applies by virtue of regulation 4 (functions of approvers) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024, not later than the date on which the notice or certificate required by regulation 20 must be given.".

(11) Regulation 44ZA (commissioning in respect of a system for on-site electricity generation) applies in relation to building work which is the subject of an initial notice as if—

(a) references to the building control authority, except in regulation 44ZA(4), were references to the approver, and

(b) for paragraph (3) there were substituted—

"(3) The notice must be given to the registered building control approver—

(a) subject to sub-paragraphs (b) and (c), not later than five days after completion of the work to which the initial notice relates;

(b) where regulation 19 (events causing initial notice to cease to be in force) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 applies, not later than the date on which the initial notice ceases to be in force or, if earlier, the end of the period referred to in sub-paragraph (a);

(c) where regulation 20 (provisions applicable to self-certification schemes) applies by virtue of regulation 4 (functions of approvers) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024, not later than the date on which the notice or certificate required by regulation 20 must be given.".

(12) Regulation 7A of the Energy Performance of Buildings (England and Wales) Regulations 2012 applies in relation to building work which is the subject of an initial notice as if—

(a) references to the local authority were references to the approver, and

(b) in paragraph (3), after "work has been completed" there were inserted ", or, if earlier, the date on which, in accordance with regulation 19 (events causing initial notice to cease to be in force) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024, the initial notice ceases to be in force.".

# PART 3

## Notices and certificates etc.

### Form, grounds and period for rejecting initial notice

**6.**—(1) The prescribed form of an initial notice(**12**)—

(a) which is not combined with a plans certificate, is form 1 in Schedule 1, or

(b) which is combined with a plans certificate, is form 4 in Schedule 1.

(2) An initial notice must be accompanied by the plans and documents described in the relevant form prescribed by paragraph (1).

(3) The grounds on which a local authority must reject an initial notice are those prescribed in Schedule 2 and the form to be used for rejecting an initial notice (whether combined with a plans certificate or otherwise) is form 7 in Schedule 1.

(4) The period within which a local authority may give notice of rejection of an initial notice is five working days beginning with the day on which the notice is given.

### Invalid notices or certificates

**7.**—(1) Paragraph (2) applies where a document which purports to be an initial notice, amendment notice, plans certificate or final certificate ("the original document") is given to a local authority and

(**12**) For the definition of "initial notice" see section 47 of the Building Act 1984.

the local authority is satisfied that all or part of the work to which the original document relates is higher-risk building work(**13**).

(2) Where this paragraph applies the local authority must, as soon as is reasonably practicable, give a notice to the approver and the person intending to carry out the work (and where that person is not the client, the client) and the form to be used for the notice is form 6 in Schedule 1.

(3) Where a document which purports to be an initial notice, amendment notice, plans certificate or final certificate ("the original document") is given to a local authority and the local authority is satisfied that all or part of the work to which the original document relates is outside the scope of the approver's registration then the authority must, as soon as is reasonably practicable, give a notice to the approver and the person intending to carry out the work (and where that person is not the client, the client) and the form to be used for the notice is form 6 in Schedule 1.

(4) Where a document which purports to be an initial notice ("the original notice") is given to a local authority and the local authority is satisfied that the original notice is given in breach of section 53D(5) of the 1984 Act then the authority must, as soon as is reasonably practicable, give a notice to the approver and the person intending to carry out the work (and where that person is not the client, the client) and the form to be used for the notice is form 6 in Schedule 1.

**Form, grounds and period for rejecting amendment notice**

**8.**—(1) The prescribed form of an amendment notice(**14**) is form 2 in Schedule 1.

(2) An amendment notice must be accompanied by the plans and documents described in the form prescribed by paragraph (1).

(3) The grounds on which a local authority must reject an amendment notice are those prescribed in paragraphs 1 to 11 of Schedule 2 and the form to be used for rejecting an amendment notice is form 7 in Schedule 1.

(4) The period within which a local authority may give notice of rejection of an amendment notice is five working days beginning with the day on which the notice is given.

**Consultation with the fire and rescue authority**

**9.**—(1) This regulation applies where an initial notice is to be given or has been given in relation to the erection, extension or material alteration of an FSO building or in relation to building work in connection with a relevant change of use of a building and Part B of Schedule 1 to the 2010 Regulations imposes requirements in relation to the work.

(2) Where this regulation applies, the approver must consult the fire and rescue authority—

(a) before, or as soon as practicable after, giving an initial notice in relation to the work,

(b) before, or as soon as practicable after, giving a relevant amendment notice in relation to the work,

(c) before giving a plans certificate (whether or not combined with an initial notice), and

(d) before giving a final certificate.

(3) An approver required by paragraph (2) to consult the fire and rescue authority must give to the fire and rescue authority—

(a) in a case where the approver is consulting them in connection with an initial notice or an amendment notice, sufficient plans to show whether the work would, if carried out

(**13**) See the definition of "higher-risk building work" in section 91ZA of the Building Act 1984, which was inserted by section 32 of the Building Safety Act 2022.
(**14**) For the definition of "amendment notice" see section 51A of the Building Act 1984.

in accordance with those plans, comply with the applicable requirements of Part B of Schedule 1 to the 2010 Regulations, and

(b) in a case where the approver is consulting them in connection with the giving of a plans certificate, a copy of the plans in relation to which the approver intends to give the certificate.

(4) An approver required by paragraph (2) to consult the fire and rescue authority—

(a) must have regard to any views expressed by the authority, and

(b) must not give a plans certificate or a final certificate until 15 working days have elapsed from the day on which the approver consulted the authority, unless the authority have expressed their views to the approver before the expiry of that period.

(5) Where a local enactment would, if an application for building control approval with full plans were submitted or granted in accordance with building regulations, require the local authority to consult the fire and rescue authority before or during the carrying out of any work, the approver must consult the fire and rescue authority in a manner similar to that required by the enactment.

(6) In this regulation—

"FSO building" is a building or any part of it to which the Regulatory Reform (Fire Safety) Order 2005(**15**) applies, or will apply after the completion of building work;

"relevant change of use" is a material change of use where, after the change of use takes place, the Regulatory Reform (Fire Safety) Order 2005 will apply, or continue to apply, to the building or any part of it;

"relevant amendment notice" is an amendment notice where any of the work specified in the initial notice, as varied by the amendment notice, being work which could not have been carried out under the original notice ("additional work"), concerns the erection, extension or material alteration of an FSO building or is building work in connection with a relevant change of use of a building and Part B of Schedule 1 to the 2010 Regulations imposes requirements in relation to the additional work.

**Consultation with the sewerage undertaker**

**10.**—(1) This regulation applies where an initial notice or amendment notice is to be given or has been given in respect of work in relation to which paragraph H4 of Schedule 1 to the 2010 Regulations imposes requirements.

(2) Where this regulation applies, the approver must consult the sewerage undertaker—

(a) before, or as soon as practicable after, giving an initial notice in relation to the work,

(b) before, or as soon as practicable after, giving an amendment notice in relation to the work,

(c) before giving a plans certificate (whether or not combined with an initial notice), and

(d) before giving a final certificate.

(3) An approver required by paragraph (2) to consult the sewerage undertaker must give to the sewerage undertaker—

(a) in a case where the approver is consulting them in connection with an initial notice or an amendment notice, sufficient plans to show whether the work would, if carried out in accordance with those plans, comply with the applicable requirements of paragraph H4 of Schedule 1 to the 2010 Regulations, and

(**15**) S.I. 2005/1541.

(b) in a case where the approver is consulting them in connection with the giving of a plans certificate, a copy of the plans in relation to which the approver intends to give the certificate.

(4) An approver required by paragraph (2) to consult the sewerage undertaker—

(a) must have regard to any views expressed by the undertaker, and

(b) must not give a plans certificate or a final certificate until 15 working days have elapsed from the day on which the approver consulted the undertaker, unless the undertaker have expressed their views to the approver before the expiry of that period.

(5) In this regulation "sewerage undertaker" means a person appointed under section 6 of the Water Industry Act 1991(**16**) for the area in which the building is, or is to be, situated.

**Plans certificate**

**11.**—(1) The prescribed form of a plans certificate(**17**)—

(a) which is not combined with an initial notice, is form 3 in Schedule 1; or

(b) which is combined with an initial notice, is form 4 in Schedule 1.

(2) The grounds on which a local authority must reject a plans certificate which is not combined with an initial notice are those prescribed in Schedule 3 and the form to be used for rejecting a plans certificate is form 7 in Schedule 1.

(3) The grounds on which a local authority must reject a plans certificate combined with an initial notice are those prescribed in Schedules 2 and 3 and the form to be used for rejecting a plans certificate is form 7 in Schedule 1.

(4) The period within which a local authority may give notice of rejection of a plans certificate (whether or not combined with an initial notice) is five working days beginning on the day on which the certificate is given.

**Effect of plans certificate**

**12.** If an initial notice ceases to be in force as described in section 47(4)(b) of the 1984 Act (cancellation etc. of initial notice) and the conditions in section 53(2) of the 1984 Act (plans certificate given, accepted and not rescinded) are satisfied, the local authority may not—

(a) give a notice under section 36(1) of the 1984 Act (removal or alteration of work which contravenes building regulations), or

(b) institute proceedings under section 35 of the 1984 Act for a contravention of building regulations,

in relation to any work described in the certificate which has been carried out in accordance with the plans to which the certificate relates.

**Form, grounds and period for rejecting final certificate**

**13.**—(1) The prescribed form of a final certificate(**18**) is form 5 in Schedule 1.

(2) The grounds on which a local authority must reject a final certificate are those prescribed in Schedule 4 and the form to be used for rejecting a final certificate is form 7 in Schedule 1.

(3) The period within which a local authority may give notice of rejection of a final certificate is ten working days beginning with the day on which the certificate is given.

(**16**) 1991 c. 56.
(**17**) For the definition of "plans certificate" see section 50 of the Building Act 1984.
(**18**) For the definition of "final certificate" see section 51 of the Building Act 1984.

(4) A final certificate given by an approver to a local authority in accordance with these Regulations is evidence (but not conclusive evidence) that the requirements specified in the certificate have been complied with.

**Form of notice under section 51C of the 1984 Act**

**14.** When giving a notice under section 51C(2) of the 1984 Act (change of person intending to carry out work) the form set out as form 8 in Schedule 1 must be used.

**Notice before starting work and further notice when work is "commenced" etc.**

**15.**—(1) At least two working days before the day on which building work starts, the person carrying out the work must give a notice to the approver shown on the initial notice relating to the building work setting out their intention to start the work and the date that work is to start.

(2) Not more than five working days after the day on which the work is to be regarded as commenced the person carrying out the work must give a notice to that effect to the approver.

(3) If the approver is not satisfied the work is to be regarded as commenced they must give the person carrying out the work a notice to that effect ("rejection notice") within four weeks of the date the notice under paragraph (2) is given, and the rejection notice must give the reasons for rejection.

(4) Where a notice is given under paragraph (2) and the period referred to in paragraph (3) expires without a rejection notice being given, then the work is to be regarded as commenced.

(5) If the person carrying out the work accepts the rejection notice they may not give a further notice under paragraph (2) unless, having regard to the reasons given by the approver, they are satisfied the work is to be regarded as commenced.

(6) A person who gave the notice under paragraph (2) may appeal to the First-tier Tribunal against the decision of the approver to reject the notice provided the appeal is made within 21 relevant days beginning with the day after the day on which the approver gives the rejection notice.

(7) The First-tier Tribunal may allow an appeal under paragraph (6) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact,

(b) that the decision was wrong in law,

(c) that the decision was unreasonable,

(d) that the decision was made without following the procedures set out in the 1984 Act or regulations made under the 1984 Act.

(8) The approver may take such steps, including—

(a) requiring information;

(b) laying open of work for inspection, as it thinks appropriate to check whether the work is to be regarded as commenced.

(9) For the purposes of paragraphs (2) to (8), the provisions of regulation 16 (lapse of initial notices: commencement of work) apply to determine whether work is to be regarded as commenced.

**Lapse of initial notice: commencement of work**

**16.**—(1) For the purposes of section 53A(6) of the 1984 Act (lapse of initial notice) work is to be regarded as commenced in accordance with the following paragraphs.

(2) Where the work consists of the construction of a complex building, work is to be regarded as commenced in relation to that building or the first stage of building work for that building when the

foundations supporting the building and the structure of the lowest floor level of that building (but not the other buildings or structures to be supported by those foundations) are completed.

(3) Where the work consists of—

(a) the construction of a building and paragraph (2) does not apply, or

(b) the horizontal extension of a building,

work is to be regarded as commenced when the sub-surface structure of the building or the extension including all foundations, basement levels (if any) and the structure of ground floor level is completed.

(4) Where the work consists of any other building work then work is to be regarded as commenced when the initial work is completed.

(5) In this regulation—

"approved plans" means plans which were part of or accompanied the initial notice, or plans to which a plans certificate referred;

"complex building" means—

(a) a building which is to be constructed on the same foundation plinth or podium as any other building or structure,

(b) a building which has more than one storey below ground level,

(c) a building where its proposed use is primarily as a public building where the public or a section of the public has access to the building (whether or not on payment) provided that the building has a capacity for 100 or more visitors;

"initial work" means the work set out in the initial notice which the client considers amounts to 15% of all the work described in the initial notice;

"public building" means—

(a) a shop or shopping centre;

(b) premises where food or drink are sold for consumption on the premises, including a nightclub, social club or dance hall;

(c) a stadium, theatre, cinema, concert hall;

(d) a sports ground;

(e) an exhibition hall or conference centre;

(f) a hospital or premises for the provision of health care.

**Notification of dutyholders**

**17.**—(1) This paragraph applies where, in relation to any building work, the client appoints a principal contractor (or sole contractor) or a principal designer (or sole or lead designer).

(2) Subject to paragraph (3), where paragraph (1) applies the client must give a notice to the approver shown on the initial notice relating to the building work which includes—

(a) the name, address, telephone number and (if available) email address of the person appointed (PA) and the date of appointment,

(b) except where PA is the first person appointed to the role, the name, address, telephone number and (if available) email address of the person who held the role before PA ("outgoing dutyholder") and the date their appointment ended,

(c) where the notice is given by someone on behalf of the client, a statement signed by the client confirming they agree to the notice being made and that the information contained in the notice is correct.

(3) Where the client is a domestic client (DC), the following applies instead of paragraph (2)—

(a) an outgoing dutyholder must provide the information referred to in paragraph (2)(b) to the DC within five days of the day on which their appointment ends;

(b) DC must provide the information referred to under sub-paragraph (a) to PA on the date of appointment of PA or as soon as practicable after that date;

(c) subject to paragraph (4), PA must give a notice to the approver which includes—

(i) the name, address, telephone number and (if available) email address of PA and date of appointment;

(ii) except where PA is the first person appointed to the role, the name, address, telephone number and (if available) email address of the outgoing dutyholder and the date on which their appointment ended;

(iii) a statement explaining the notice is given on behalf of a domestic client.

(4) Where the outgoing dutyholder has not received the information required under paragraph (3)(b) by the time the notice under paragraph (3)(c) is to be given and DC does not have the information, the statement given by PA under paragraph (3)(c)(iii) must also include an explanation to that effect.

(5) A notice required under paragraph (2) or (3)(c) must be given to the approver within the period of 14 days beginning with the date of the appointment.

**Compliance declarations**

**18.** Where building work described in an initial notice is completed the client must give the approver a notice which includes—

(a) the name, address, telephone number and (if available) email address of the client;

(b) the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

(c) a statement that the building work is complete;

(d) a statement, signed by the client, confirming that to the best of the client's knowledge the work complies with all applicable requirements of the building regulations;

(e) a statement given by each principal contractor (or sole contractor) for the work and each principal designer (or sole or lead designer) for the work, signed by the person to which the declaration relates, which includes—

(i) the name, address, telephone number and (if available) email address of that person,

(ii) the dates of their appointment, and

(iii) confirmation—

(aa) in the case of a principal contractor (or sole contractor), that they fulfilled their duties as a principal contractor under Part 2A (dutyholders and competence) of the 2010 Regulations;

(bb) in the case of a principal designer (or sole or lead designer), that they fulfilled their duties as a principal designer under Part 2A (dutyholders and competence) of the 2010 Regulations.

**Events causing initial notice to cease to be in force**

**19.**—(1) Where a final certificate given in respect of work described in an initial notice is rejected, the initial notice ceases to be in force in relation to the work described in the final certificate on the expiry of a period of four weeks beginning with the date on which notice of rejection is given.

(2) Paragraph (3) applies where work described in an initial notice includes the erection, extension or material alteration of a building, and—

(a) the building or, as the case may be, the extension or any part of the building which has been materially altered is occupied, and

(b) no final certificate is given.

(3) The initial notice ceases to be in force in relation to the building, extension or part of a building which is occupied—

(a) if the building is an FSO building, except where it contains only flats and common parts for those flats, on the expiry of a period of four weeks beginning with the date of occupation, and

(b) in any other case, on the expiry of a period of eight weeks beginning with the date of occupation.

(4) Where work described in an initial notice involves a material change of use of a building, and—

(a) no final certificate is given, and

(b) that change of use takes place,

the initial notice ceases to be in force in relation to that change of use on the expiry of a period of eight weeks beginning with the day on which the change of use takes place.

(5) In any other case where no final certificate is given, an initial notice ceases to be in force on the expiry of a period of eight weeks beginning with the day on which the work described in the initial notice is substantially completed.

(6) An initial notice does not cease to be in force by virtue of paragraphs (2) and (3) because part of a building or extension is occupied if a final certificate has been accepted in respect of that part.

(7) A local authority may extend any period referred to in this regulation either before or after its expiry.

**Cancellation of initial notices: forms etc.**

**20.**—(1) Form 9 in Schedule 1 is the form of notice to be given, by an approver, to cancel an initial notice in accordance with section 52(1) of the 1984 Act(**19**) based on a condition in section 52(1)(a) to (e) of the 1984 Act.

(2) Form 10 in Schedule 1 is the form of notice to be given, by a person carrying out or intending to carry out work, to cancel an initial notice in accordance with section 52(3) of the 1984 Act based on a condition in section 52(3)(a) of the 1984 Act.

(3) Form 11 in Schedule 1 is the form of notice to be given, by a local authority, to cancel an initial notice in accordance with section 52(5A) of the 1984 Act(**20**) based on a condition in section 52(5B)(a) to (d) of the 1984 Act.

(4) Form 12 in Schedule 1 is the form of notice a local authority must give to the person shown in the initial notice as the registered building control approver under section 52(7) of the 1984 Act.

(5) Form 13 in Schedule 1 is the form of notice to be given, by an approver, to cancel an initial notice in accordance with section 52A(1) of the 1984 Act.

(6) Form 14 in Schedule 1 is the form of notice to be given, by a person carrying out or intending to carry out work, to cancel an initial notice in accordance with section 52A(2) of the 1984 Act.

(**19**) Subsections (1)(d) and (e) were inserted into section 52 of the Building Act 1984 by section 50 of the Building Safety Act 2022.
(**20**) Subsection (5A) was inserted into section 52 of the Building Act 1984 by section 50 of the Building Safety Act 2022.

(7) Form 15 in Schedule 1 is the form of notice to be given, by a local authority, to cancel an initial notice in accordance with section 52A(4) of the 1984 Act.

(8) Form 16 in Schedule 1 is the form of notice to be given, by a local authority, to cancel an initial notice in accordance with section 53D(2) of the 1984 Act.

(9) Form 17 in Schedule 1 is the form of notice to be given, by a person carrying out or intending to carry out work, to cancel an initial notice in accordance with section 53D(3) of the 1984 Act.

**Cancellation of initial notice: notice of contravention of building regulations**

**21.**—(1) Except where paragraph (3) applies, where an approver is of the opinion that an initial notice should be cancelled under section 52(1)(c) of the 1984 Act for contravention of any provision of building regulations (including for contravention of any provision in Part 2A of the 2010 Regulations except regulation 11D(3)(a), (8) and (9)) the approver must first give notice in writing to the person carrying out the work (C) or, in the case of contravention of any provision in Part 2A of the 2010 Regulations, the client specifying—

(a) the requirement of building regulations which in the approver's opinion has not been complied with, and

(b) the location of the work which contravenes that requirement.

(2) Except in a case where the contravention is of any provision in Part 2A of the 2010 Regulations, a notice given in accordance with paragraph (1) must inform C that if, by the end of the period specified in paragraph (4), C has neither pulled down nor removed the work nor effected such alterations in it as may be necessary to make it comply with building regulations, the approver will cancel the initial notice.

(3) Where the contravention to which the notice under paragraph (1) relates is of a provision in Part 2A of the 2010 Regulations then the notice given in accordance with paragraph (1) must inform the client that the approver will cancel the initial notice if, by the end of the period specified in paragraph (4), the client has not effected such alterations to the arrangements for carrying out the work and such improvements to the competence of persons carrying out the work (or as the case may be, the client), the principal contractor or principal designer as may be necessary to ensure the carrying out of the work complies with provisions of the building regulations referred to in the notice.

(4) The period within which the person carrying out the work or, as the case may be, the client is to remedy the contravention is three months beginning with the working day on which the notice under paragraph (1) is given.

# PART 4

## Transfer of projects back to local authority

**Local authority powers in relation to partly completed work**

**22.**—(1) This paragraph applies where—

(a) any part of the work described in an initial notice has been carried out,

(b) the initial notice has ceased to be in force by reason of regulation 19 (events causing initial notice to cease to be in force) or has been cancelled by notice under section 52 or 53D of the 1984 Act, and

(c) no other initial notice relating to that part of the work has been accepted.

(2) Where paragraph (1) applies, the owner must—

(a) on being given reasonable notice by the local authority, provide them with—

(i) sufficient plans of the work carried out, in respect of which no final certificate has been given, to show whether any part of that work would, if carried out in accordance with the plans, contravene any provision of the 2010 Regulations, and

(ii) where a plans certificate was given and not rejected in respect of any such part of the work, a copy of the plans to which it relates; and

(b) comply with any notice in writing from the local authority requiring the owner within a reasonable time to cut into, lay open or pull down so much of the work as prevents the local authority from ascertaining whether any work in relation to which there is no final certificate contravenes any requirement in the 2010 Regulations.

(3) Where paragraph (1) applies and work in relation to a building has begun but not been completed, a person who intends to carry out further work in relation to the partly completed work must give the local authority sufficient plans to show that the intended work will not contravene any requirement in the 2010 Regulations, including such plans of any part of the work already carried out as may be necessary to show that the intended work can be carried out without contravening any such requirement.

(4) Plans given to a local authority in accordance with paragraph (3) are not to be regarded as an application for building control approval with full plans.

**Periods within which information on work to which an initial notice relates must be provided**

**23.**—(1) For the purposes of section 53(4B) of the 1984 Act, the period within which a person shown in the initial notice as the registered building control approver (P) is required to give information to the local authority is 21 days beginning with the day on which the local authority gives P a notice under section 53(4A).

(2) For the purposes of section 53(4C) of the 1984 Act, the period within P is required to give information to the person carrying out or intending to carry out the work (C) is—

(a) 21 days beginning with the day on which the local authority gave P a notice under section 53(4A), or

(b) in relation to information requested by C pursuant to section 53(4C)(c), 21 days beginning with the date on which C gives P a notice under section 53(4C)(c).

# PART 5

## Transfer of projects to another approver

**Section 53(7): prescribed provision**

**24.** For the purposes of section 53(7)(a) of the 1984 Act, section 52(1)(a) of the 1984 Act is prescribed.

**Information to be included in transfer certificates**

**25.** For the purposes of section 53B(5) of the 1984 Act, a transfer certificate must contain the following information—

(a) a statement describing the original work and the unfinished work(**21**);

(**21**) See section 53(7) of the Building Act 1984 for the definition of "original work" and section 53B(9) for the definition of "unfinished work". Subsection (7) of section 53 was substituted, and section 53B was inserted, by section 50 of the Building Safety Act 2022.

(b) a statement describing all the steps the approver has taken to determine, in accordance with section 53B(2) of the 1984 Act, whether the unfinished work contravenes any provision of the building regulations, in particular listing—

(i) each inspection or laying open of the work undertaken;

(ii) each report of any inspection or laying open of work produced;

(iii) any other assessment of the work which was considered;

(c) a statement setting out the name and address of the registered building inspector from whom advice was obtained under section 54B(3) of the 1984 Act before giving the transfer certificate;

(d) a declaration, signed and dated by the approver, confirming—

(i) the approver has inspected the unfinished work;

(ii) the approver has determined that, as at the date of the transfer certificate, the unfinished work does not contravene any provision of the building regulations;

(iii) each report or assessment referred to the statement under paragraph (b) has been included in the transfer report given under section 53B of the 1984 Act;

(iv) the approver has obtained advice from a registered building inspector under section 54B(3) of the 1984 Act before giving the transfer certificate, and

(v) the approver has received the agreement of the person carrying out or intending to carry out the work to submit the transfer certificate and transfer report.

**Grounds for rejecting a transfer certificate and transfer report**

**26.** The grounds on which a local authority may reject a transfer certificate and transfer report are those prescribed in Schedule 5.

**Cases where a further initial notice may be given after cancellation of an initial notice under section 53D**

**27.**—(1) For the purposes of section 53D(5) of the 1984 Act, the following circumstances are prescribed—

(a) the approver has cancelled the initial notice under section 52(1)(a) of the 1984 Act;

(b) the person carrying out or intending to carry out the work has cancelled the initial notice under section 53D(3) of the 1984 Act because they were satisfied the approver was unable to carry out (or continue to carry out) their functions with respect to any of the work to which the initial notice relates;

(c) the approver is given a specified disciplinary order during the relevant period (as defined in section 53B(7) of the 1984 Act).

(2) In this regulation a "specified disciplinary order" means—

(a) any disciplinary order under section 58U(2)(b) of the 1984 Act (variation of registration) such that the approver is no longer able to carry out their functions with respect to any of the work to which the initial notice relate;

(b) any disciplinary order under section 58U(2)(c) of the 1984 Act (suspension of registration) excluding any suspension which is as a consequence of functions in relation to the unfinished work or work for the person carrying out the work;

(c) any disciplinary order under section 58U(2)(d) of the 1984 Act (cancellation of registration) excluding any cancellation which is as a consequence of functions in relation to the unfinished work or work for the person carrying out the work;

(d) an order under section 58V of the 1984 Act (interim suspension for suspected serious contravention) excluding any interim suspension which is as a consequence of functions in relation to the unfinished work or work for the person carrying out the work.

# PART 6

## Appeals under Part 2 of the 1984 Act

**Appeal under section 50(2) of the 1984 Act**

**28.**—(1) An appeal to the regulator under section 50(2) of the 1984 Act must be made within 21 relevant days beginning with the day after the day on which the approver refused to give the plans certificate.

(2) Where a person is aggrieved with the decision of the regulator given on an appeal under section 50(2) of the 1984 Act and wishes to appeal that decision by virtue of section 43A(3) of the 1984 Act, they must appeal to the First-tier Tribunal within 21 relevant days beginning with the day after the day on which the regulator notifies them of its decision.

(3) The First-tier Tribunal may allow an appeal referred to in paragraph (2) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact,

(b) that the decision was wrong in law,

(c) that the decision was unreasonable,

(d) that the decision was made without following the procedures set out in the 1984 Act or regulations made under the 1984 Act.

(4) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

**Appeals under section 55 of the 1984 Act**

**29.**—(1) An appeal to the First-tier Tribunal—

(a) under section 55(1) of the 1984 Act;

(b) under section 55(2A) of the 1984 Act,

must be made within 21 relevant days beginning with the day after the day on which the local authority notifies the approver of its decision.

(2) The First-tier Tribunal may allow an appeal under paragraph (1)(a) only if it is satisfied that the notice, certificate or report referred to in section 55(1) of the 1984 Act was not properly rejected on one or more of the following grounds—

(a) that the rejection was based on an error of fact,

(b) that the rejection was wrong in law,

(c) that the rejection was unreasonable,

(d) that the rejection was made without following the procedures set out in the 1984 Act or regulations made under the 1984 Act.

(3) The First-tier Tribunal may allow an appeal under paragraph (1)(b) only if it is satisfied that the initial notice was not properly cancelled under section 52A of the 1984 Act on one or more of the following grounds—

(a) that the cancellation was based on an error of fact,

(b) that the cancellation was wrong in law,

(c) that the cancellation was unreasonable,

(d) that the cancellation was made without following the procedures set out in the 1984 Act or regulations made under the 1984 Act.

(4) On determining an appeal under section 55(1) or (2A) of the 1984 Act, the First-tier Tribunal must give notice of the decision to—

(a) the person who made the appeal;

(b) the local authority.

(5) On determining an appeal under section 55(2A) of the 1984 Act, where the First-tier Tribunal determines—

(a) that an initial notice was properly cancelled, it must additionally notify the regulator of the decision;

(b) that an initial notice was not properly cancelled, it must in the notice referred to in paragraph (4) explain the effect of section 55(2C)(a) to (c) of the 1984 Act.

# PART 7

## Registers of notices etc. and registration of approvers

### Register of notices and certificates

**30.**—(1) The register which local authorities must keep under section 56 of the 1984 Act must contain the information set out in paragraph (2) with respect to—

(a) initial notices, amendment notices or notices under section 51C of the 1984 Act which are currently in force, and

(b) plans certificates, transfer certificates and transfer reports or final certificates which have been accepted or are presumed to have been accepted.

(2) The information to be registered is—

(a) the description of the work to which the notice or certificate relates and of the location of the work,

(b) the name and address of any person who signed the notice or certificate, and

(c) the date on which the notice or certificate was accepted or was presumed to have been accepted.

(3) A register must include an index for enabling a person to trace any entry in the register by reference to the address of the land to which the notice or certificate relates.

(4) The information prescribed in paragraph (2) must be entered in the register as soon as practicable and in any event within 14 working days of the date the notice or certificate in question is given.

### Registration periods

**31.**—(1) For the purposes of section 58C(5) of the 1984 Act (registered building inspectors), the prescribed period is four years.

(2) For the purposes of section 58O(4) of the 1984 Act (registered building control approvers), the prescribed period is five years.

**Notices to local authorities on disciplinary matters in relation to approvers**

**32.**—(1) For the purposes of section 58U(4) of the 1984 Act, the following cases are prescribed—

(a) where the disciplinary order provides for a variation to a person's registration;

(b) where the disciplinary order provides for a suspension of a person's registration, regardless of the length of the suspension;

(c) where the disciplinary order provides for a cancellation of a person's registration.

(2) For the purposes of section 58V(4) of the 1984 Act, the following cases are prescribed—

(a) where the order provides for a suspension of a person's registration, regardless of the length of the suspension;

(b) where such an order is revoked.

(3) For the purposes of section 58Z4(5) of the 1984 Act, the following cases are prescribed—

(a) any improvement notice given to a registered building control approver;

(b) where such a notice order is revoked.

**Review of regulator's decisions under Part 2A of the 1984 Act**

**33.**—(1) The following decisions are prescribed(**22**) for the purposes of section 25(1) of the 2022 Act—

(a) a decision not to register an individual as a registered building inspector under section 58C(3) of the 1984 Act;

(b) a decision, on the registration of a registered building inspector, for the registration to have effect in relation to work of a description which is different to that requested in the application;

(c) a decision, on the registration of a registered building inspector, for the registration to be subject to a condition;

(d) a decision not to register a person as a registered building control approver under section 58O(2) of the 1984 Act;

(e) a decision, on the registration of a registered building control approver, for the registration to have effect in relation to work of a description which is different to that requested in the application;

(f) a decision, on the registration of a registered building control approver, for the registration to be subject to a condition.

(2) The person prescribed for the purposes of section 25(2) of the 2022 Act in relation to the decisions referred to in paragraph (1) is the person who applied for registration in accordance with section 58D or, as the case may be, section 58P of the 1984 Act.

(3) For the purposes of section 25 of the 2022 Act, a person requiring the regulator(**23**) to carry out a review, or a person on their behalf, must give a notice to the regulator in writing within 21 relevant days beginning with the day after the day on which the decision referred to in paragraph (1) is notified to the person, containing the following information—

(a) the name, address, telephone number and (if available) email address for the person giving the notice;

(**22**) See section 30 of the Building Safety Act 2022 for the meaning of prescribed in relation to section 25.
(**23**) See section 126 of the Building Act 1984 for the definition of "the regulator".

(b) if the person giving the notice is doing so on behalf of a person who falls within the description in paragraph (2), the name and address of that person and a statement that the person giving the notice is authorised to give the notice on behalf of that person;

(c) a statement of the review being sought which—

(i) identifies the decision to be reviewed (including the date of the decision and any reference number included on the decision), and

(ii) sets out the reason the person considers the decision should be reviewed;

(d) any information that is available to the person giving the notice, that may have been relevant to the regulator's original decision but was not available at the time the original decision was made.

(4) The regulator must give the person who required a review a notice setting out the outcome of the review within 28 relevant days beginning with the day after the day on which the person gives a notice under section 25(2) of the 2022 Act.

(5) Where the outcome of a review is to uphold the original decision, the regulator must set out its reasons in the notice required under paragraph (4).

(6) Where the outcome of a review is to vary the decision, the regulator must issue a new decision.

(7) If requested, by the person requiring the review, the regulator must provide a paper copy of the outcome of the review.

**Appeal in relation to reviewed decisions**

**34.**—(1) A person may appeal to the First-tier Tribunal against the decision of the regulator of a kind referred to in regulation 33(1) (review of regulator's decisions under Part 2A of the 1984 Act) provided that the appeal is made within 21 relevant days beginning with the day after the day on which the regulator notifies the person under regulation 33(4)(**24**).

(2) The First-tier Tribunal may allow an appeal under paragraph (1) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact,

(b) that the decision was wrong in law,

(c) that the decision was unreasonable,

(d) that the decision was made without following the procedures set out in the 1984 Act or regulations made under the 1984 Act.

(3) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

# PART 8

## Miscellaneous

**Contravention of certain regulations not to be an offence or be subject to a compliance notice**

**35.** Each of these Regulations, other than regulations 17 (notification of dutyholders), 18 (compliance declarations) and 22 (local authority powers in relation to partly completed work), is prescribed for the purposes of sections 35(2) and 35B(7)(a) of the 1984 Act.

(**24**) Section 26 of the Building Safety Act 2022 provides that a review under section 25 must have concluded before an appeal is made.

### Consequential amendments to the Regulatory Reform (Fire Safety) Order 2005 and transitional provision

**36.**—(1) The Regulatory Reform (Fire Safety) Order 2005(**25**) is amended in accordance with the following paragraphs.

(2) In article 30(5)(c) after "the approved inspector" insert "or registered building control approver".

(3) In article 46(3) for "an approved inspector within the meaning of section 49 of the Building Act 1984" substitute "a registered building control approver within the meaning of section 58N of the Building Act 1984".

(4) The amendment in paragraph (3) does not apply in relation to a person who, by virtue of regulation 46 of these Regulations or a provision of Schedule 3 to the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023(**26**), continues in the capacity of an approved inspector on or after 6th April 2024.

### Consequential amendments to the Building (Local Authority Charges) Regulations 2010

**37.**—(1) The Building (Local Authority Charges) Regulations 2010(**27**) are amended as follows.

(2) In regulation 2 in the appropriate place insert ""the RBCA Regulations" means the Building (Registered Building Control Approvers etc.) (England) Regulations 2024;".

(3) In regulation 5(1)(d) at the beginning insert "in relation to Wales," and after that sub-paragraph, before "and", insert—

"(da) in relation to England, the consideration of building work reverting to local authority control under the RBCA Regulations (a "reversion charge");".

(4) In regulation 8(1)(d) at the beginning insert "in relation to Wales," and after that sub-paragraph insert—

"(da) in relation to England, any reversion charge shall be payable for building work in relation to a building—

(i) which has been substantially completed before plans are first given to the authority in accordance with regulation 22(2)(a) of the RBCA Regulations, or

(ii) in respect of which plans for further building work have been given to the authority in accordance with regulation 22(3) of the RBCA Regulations,

on the first occasion on which those plans are or have been given;".

### Amendments to the Building Regulations 2010 and transitional provision

**38.**—(1) The Building Regulations 2010(**28**) are amended as follows.

(2) In regulation 12(7) for "regulation 19 of the Building (Approved Inspectors etc.) Regulations 2010" substitute "regulation 22 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024".

(3) In regulation 14(3)(b) for "and (2)" substitute ", (2) and (2A)".

(4) In regulation 18E(2)(c) for "an approved inspector" substitute "a registered building control approver".

(5) In regulation 41(3A) for "each results of testing" substitute "the results of the testing".

(**25**) S.I. 2005/1541 to which there are amendments not relevant to this instrument.
(**26**) S.I. 2023/909.
(**27**) S.I. 2010/404 to which there are amendments not relevant to this instrument.
(**28**) S.I. 2010/2214. Regulations 12, 41, and 47 were amended by, regulations 18E and 47A were inserted by, and regulation 14 was substituted by S.I. 2023/911. There are other amendments not relevant to this instrument.

(6) In regulation 47(a)—

(a) in paragraph (iii) after "(3D)" insert "and (3E)";

(b) in paragraph (vi) for "(appeal against refuse to grant certain certificates)" substitute "(unauthorised building work)".

(7) In regulation 47A—

(a) in sub-paragraph (c) after "(3D)" insert "and (3E)";

(b) in sub-paragraph (f) for "(appeal against refuse to grant certain certificates)" substitute "(unauthorised building work)".

(8) The amendment in paragraph (4) does not apply in relation to a person who, by virtue of regulation 46 of these Regulations or a provision of Schedule 3 to the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, continues in the capacity of an approved inspector on or after 6th April 2024.

**Consequential amendment to the Energy Performance of Buildings (England and Wales) Regulations 2012 and transitional provision**

**39.**—(1) In regulation 32(1)(c) of the Energy Performance of Buildings (England and Wales) Regulations 2012(**29**) for "an approved inspector for the purposes of the inspector's" substitute "a registered building control approver for the purposes of the approver's".

(2) The amendment in paragraph (1) does not apply in relation to a person who, by virtue of regulation 46 of these Regulations or a provision of Schedule 3 to the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, continues in the capacity of an approved inspector on or after 6th April 2024.

**Consequential amendments to the Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023**

**40.** In regulation 1(3) of the Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023(**30**), in the definition of "building control body", after "approved inspector" insert "or, as the case may be, registered building control approver".

**Consequential amendments to the Building (Restricted Activities and Functions) (England) Regulations 2023**

**41.** In regulation 3(2)(i) of the Building (Restricted Activities and Functions) (England) Regulations 2023(**31**)—

(a) for "regulation 19(1) of the Building (Approved Inspectors etc.) Regulations 2010 (partly completed work)" substitute "regulation 22(1) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 (local authority powers in relation to partly completed work)" ;

(b) for "regulation 19(2)(a)" substitute "regulation 22(2)(a)";

(c) for "regulation 19(2)(b)" substitute "regulation 22(2)(b)".

(**29**) S.I. 2012 /3118 to which there are amendments not relevant to this instrument.
(**30**) S.I. 2023/315.
(**31**) S.I. 2023/1052.

**Amendments to the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023**

**42.**—(1) The Building (Higher-Risk Buildings Procedures) (England) Regulations 2023(**32**) are amended as follows.

(2) After regulation 27(13) insert—

"(13A) For the purposes of section 35B(7)(a) of the 1984 Act (provisions for which compliance notice may not be given) paragraphs (6) and (8) are prescribed.".

(3) After regulation 28(6) insert—

"(6A) For the purposes of section 35B(7)(a) of the 1984 Act (provisions for which compliance notice may not be given) paragraph (3) is prescribed.".

**Revocations**

**43.** The following provisions are revoked—

(a) as respects England—

(i) the Building (Approved Inspectors etc.) Regulations 2010(**33**);

(ii) regulations 34 to 44 of the Building Regulations &c. (Amendment) Regulations 2012(**34**);

(iii) regulation 6 of the Building Regulations &c. (Amendment) Regulations 2013(**35**);

(iv) regulation 10 of the Building Regulations &c. (Amendment) (No. 2) Regulations 2013(**36**);

(v) regulation 3 of the Building Regulations &c. (Amendment) Regulations 2014(**37**);

(vi) regulation 3 of the Building Regulations &c. (Amendment) Regulations 2015(**38**);

(vii) regulation 3 of the Building Regulations &c. (Amendment) Regulations 2016(**39**);

(b) regulation 14 to 16 of the Building Regulations etc. (Amendment) (England) Regulations 2021(**40**);

(c) regulation 3 of the Building Regulations etc. (Amendment) (England) (No. 2) Regulations 2021(**41**);

(d) the Building (Approved Inspectors etc.) (Amendment) (England) Regulations 2022(**42**);

(e) paragraph 9 of the Schedule to the Building etc. (Amendment) (England) (No. 2) Regulations 2022(**43**);

(f) the Building (Approved Inspectors etc. and Review of Decisions) (England) Regulations 2023(**44**).

(**32**) S.I. 2023/909.
(**33**) S.I. 2010/2215.
(**34**) S.I. 2012/3119.
(**35**) S.I. 2013/181.
(**36**) S.I. 2013/1959.
(**37**) S.I. 2014/579.
(**38**) S.I. 2015/767.
(**39**) S.I. 2016/285.
(**40**) S.I. 2021/1391.
(**41**) S.I. 2021/1392.
(**42**) S.I. 2022/718.
(**43**) S.I. 2022/984.
(**44**) S.I. 2023/906.

**Transitional provisions: approved inspectors who became approvers**

**44.**—(1) Subject to paragraph (6), this regulation applies where an approved inspector who gave an initial notice before 6th April 2024 has become a suitably qualified approver in relation to the work described in that notice before that date.

(2) Where this regulation applies then with effect from 6th April 2024 any initial notice given by the approved inspector before 6th April 2024 is to be treated as if it were given instead by that person in their capacity as an approver and these Regulations apply with the modifications in paragraph (3) in relation to that person in undertaking functions in relation to the work described in the initial notice.

(3) The modifications referred to in paragraph (2) are that these Regulations have effect as if—

(a) in regulation 4 (functions of approvers), paragraph (4)(a)(iv) (Part 2A) were omitted;

(b) in relation to any pre-1st October 2023 work—

(i) regulations 15 to 18 were omitted;

(ii) where an amendment notice is given by the approver to vary the work described in the initial notice referred to in paragraph (1), in paragraph 4 of form 2 (amendment notice) in Schedule 1, sub-paragraph (g) were omitted;

(iii) where a final certificate is given by the approver in relation to the work described in the initial notice referred to in paragraph (1), paragraphs 11 and 12 of form 5 (final certificates) in Schedule 1 were omitted.

(4) Subject to paragraph (5), for the purposes of this regulation, an approver is suitably qualified in relation to the work described in the initial notice referred to if the building work is of a type within the scope of the registration of the registered building control approver.

(5) Where an approver is suitably qualified in relation to some of the work described in an initial notice then paragraph (2) has effect in relation only to the part of the building work within the scope of the registration and they continue to be treated as an approved inspector, and regulation 45 (transitional provisions: approved inspectors who did not become approvers) applies, in relation to the other part of the work described in the initial notice.

(6) This regulation does not apply to higher-risk building work(**45**).

**Transitional provisions: approved inspectors who did not become approvers**

**45.**—(1) Subject to paragraph (6), this regulation applies where an approved inspector who gave an initial notice before 6th April 2024 did not become a suitably qualified approver before that date.

(2) Where this regulation applies then, notwithstanding the revocations in regulation 43 (revocations), with effect from 6th April 2024, in relation to any building work in the initial notice referred to in paragraph (1) for which the approved inspector is not a suitably qualified approver, the AI Regulations continue to have effect until 1st October 2024 with the modifications in paragraph (3).

(3) The modifications referred to in paragraph (2) are that the AI Regulations have effect as if—

(a) the approved inspector were not permitted to give an initial notice on or after 6th April 2024 and accordingly regulation 10 (form, grounds and period for rejecting initial notices) and forms 1 and 4 (initial notice and combined initial notice) in Schedule 1 (forms) were omitted;

(b) in regulation 8 (functions of approvers) the reference to "Part 2A (dutyholders and competence)" were omitted;

(**45**) See the definition of "higher-risk building work" in section 91ZA of the Building Act 1984, which was inserted by section 32 of the Building Safety Act 2022.

(c) in relation to pre-1st October 2023 work—

(i) regulations 16B to 16E were omitted;

(ii) where an amendment notice is given by the approved inspector to vary the work described in the initial notice referred to in paragraph (1), in paragraph 4 of form 2 (amendment notice) in Schedule 1, sub-paragraph (g) were omitted;

(iii) where a final certificate is given by the approved inspector in relation to the work described in the initial notice referred to in paragraph (1), paragraphs 10A and 10B of form 5 (final certificates) in Schedule 1 were omitted.

(4) Subject to paragraph (5), for the purposes of this regulation, a person is not a suitably qualified approver—

(a) if they are not a registered building control approver in relation to any work, or

(b) in relation to the initial notice referred to in paragraph (1), if all of the building work described in the notice is of a type that is not within the scope of the registration of the registered building control approver.

(5) Where an approved inspector has become a registered building control approver before 6th April 2024 but, in relation to the initial notice referred to in paragraph (1), some of the building work described in the notice is of a type that is not within the scope of their registration then paragraph (2) has effect in relation only to the part of the building work not within the scope of the registration.

(6) This regulation does not apply to higher-risk building work.

**Transitional provisions: higher-risk building work regarded as sufficiently progressed**

**46.**—(1) This regulation applies in relation to any initial notice given before 1st October 2023 in respect of higher-risk building work where—

(a) a notice under paragraph 1(4) (notice that work had sufficiently progressed) of Schedule 3 to the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023(**46**) in relation to work to that building was received by a local authority before 6th April 2024, and

(b) the approved inspector who gave the initial notice became an approver before 6th April 2024.

(2) Where this regulation applies then with effect from 6th April 2024 for so long as the initial notice continues in force on or after that date—

(a) the initial notice given by the approved inspector is to be treated as if it were given instead by that person in their capacity as an approver,

(b) these Regulations apply in relation to the approver in respect of the work described in that initial notice with the modifications in paragraph (4), and

(c) Parts 2 to 6 of, and paragraph 7 of Schedule 3 to, the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 do not apply to the work.

(3) In cases where this regulation applies and the work described in the initial notice referred to in paragraph (1) is completed on or after 6th April 2024 then, with effect from that date, regulation 58 of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 has effect as if for paragraphs (2) to (4) there were substituted—

"(2) In relation to regulation 46 transitional work, a final certificate given by a registered building control approver to a local authority in accordance with the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 and not rejected by the

(**46**) S.I. 2023/909.

authority is also prescribed as a completion certificate for the purposes of section 76(5) of the 2022 Act.

(3) In this regulation "regulation 46 transitional work" means work of a kind referred to in section 76(1) of the 2022 Act which is completed on or after 6th April 2024 and regulation 46 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 (transitional provisions: higher-risk building work regarded as sufficiently progressed) applied to the work.".

(4) The modifications referred to in paragraph (2) are that these Regulations have effect as if—

(a) in regulation 4 (functions of approvers), paragraph (4)(a)(iv) (Part 2A) were omitted;

(b) in regulation 15 (notices), paragraphs (2) to (9) were omitted;

(c) regulations 16 to 18 were omitted;

(d) where an amendment notice is given by the approver to vary the work described in the initial notice referred to in paragraph (1) and provided the amendment notice does not vary any of the work to become higher-risk building work then—

(i) regulation 7 (invalid notices or certificates) did not apply in relation to that amendment notice;

(ii) in paragraph 4 of form 2 (amendment notice) in Schedule 1, sub-paragraph (g) were omitted;

(iii) in paragraph 11 of form 2 (amendment notice) in Schedule 1—

(aa) the words "and that the work described in this notice is within the scope of its registration" were omitted;

(bb) sub-paragraph (c) were omitted;

(e) where a plans certificate is given by the approver in relation to the work described in the initial notice referred to in paragraph (1)—

(i) regulation 7 (invalid notices or certificates) did not apply in relation to the plans certificate;

(ii) in paragraph 2 of form 3 (plans certificates) in Schedule 1, the words "and that the work described in this certificate is within the scope of its registration" were omitted;

(iii) in paragraph 9 of form 3 (plans certificates) in Schedule 1, sub-paragraph (d) were omitted;

(f) where a final certificate is given by the approver in relation to the work described in the initial notice referred to in paragraph (1)—

(i) regulation 7 (invalid notices or certificates) did not apply in relation to the final certificate;

(ii) in paragraph 2 of form 5 (final certificates) in Schedule 1, sub-paragraph (b) were omitted;

(iii) paragraphs 11, 12 and 14 of form 5 (final certificates) in Schedule 1 were omitted;

(g) where the initial notice referred to in paragraph (1) is cancelled, Part 5 (transfer of projects to another approver) were omitted;

(h) where the building work described in the initial notice started before 6th April 2024, Part 5 (transfer of projects to another approver) were omitted.

**Transitional provisions: cases where building work supervised by approved inspector is not completed before October 2024**

**47.**—(1) Subject to paragraph (3), this regulation applies where an initial notice was given by an approved inspector under section 47 of the 1984 Act before 6th April 2024 and the building work, or part of the building work, described in the initial notice has not been given a final certificate before 1st October 2024.

(2) Where this regulation applies then for the purposes of section 47(4)(b)(ii) of the 1984 Act the initial notice ceases to be in force with effect from 1st October 2024.

(3) This regulation does not apply to—

(a) higher-risk building work;

(b) any initial notice or part of an initial notice which is to be treated as given by an approver by virtue of regulation 44 (transitional provisions: approved inspectors who became approvers).

**Interpretation of Part 8**

**48.** In this Part—

"AI Regulations" means the Building (Approved Inspectors etc.) Regulations 2010;

"approved inspector" has the meaning given in section 49 of the Building Act 1984 (as that section had effect immediately before 6th April 2024);

"building" and "building work" have the meanings given in regulation 2(1) of the 2010 Regulations;

"pre-1st October 2023 work" means building work to which regulation 20(1) of the Building (Approved Inspectors etc. and Review of Decisions) (England) Regulations 2023 applied immediately before 6th April 2024 provided the work had started before 6th April 2024.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Minister of State
Department for Levelling Up, Housing and Communities

28th January 2024

SCHEDULE 1 Regulations 6, 7, 8, 11, 13, 14 and 20

Forms

# Form 1

## Section 47 of the Building Act 1984

## The Building (Registered Building Control Approvers etc.) (England) Regulations 2024

### INITIAL NOTICE

To: **(1)**

**1.** This notice relates to the following work: **(2)**

**2.** The registered building control approver in relation to the work is: **(3)**

**3.** The person intending to carry out the work is: **(4)**

**4.** The work [does][does not]**(5)** concern a new dwelling. **(6)**

**5.** With this notice are the following documents, which are those relevant to the work described in this notice **(7)**—

(a) in the case of the erection or extension of a building, a plan to a scale of not less than 1:1250 showing the boundaries and location of the site and, where the work includes the construction of a new drain or private sewer, a statement—

(i) as to the appropriate location of any proposed connection to be made to a sewer, or

(ii) if no connection is to be made to a sewer, as to the proposals for the discharge of the proposed drain or private sewer including the location of any septic tank and associated secondary treatment system, or of any wastewater treatment system or any cesspool;

(b) in the case of a new dwelling—

(i) a statement whether or not one or more, and if so which, of the following optional requirements applies to the building work—

(aa) regulation 36(2)(b) (optional water efficiency requirement of 110 litres per person per day) of the Building Regulations 2010,

(bb) requirement M4(2) (category 2 - accessible and adaptable dwellings) of Schedule 1 to the Building Regulations 2010,

(cc) requirement M4(3) (category 3 - wheelchair user dwellings) of Schedule 1 to the Building Regulations 2010, or

(ii) a statement that planning permission has not yet been granted for the work, and that the information required by paragraph (i) will be supplied as soon as is reasonably practicable after that permission is granted **(8)**;

(c) a statement of any local enactment relevant to the work, and of the steps to be taken to comply with it;

(d) in the case of the erection of a dwelling, or a building that is to contain one or more dwellings—

(i) a statement giving details of any public electronic communications network in relation to which a connection is to be provided,

(ii) if an exemption in regulation 44ZB of the Building Regulations 2010 is proposed to be relied on, a statement giving details in support of the exemption,

(iii) if regulation 44ZC of the Building Regulations 2010 is proposed to be relied on, a statement giving details of the matters mentioned in regulation 44ZC(6)(a) and (b) of those Regulations and, if paragraph RA1(1)(c)(i) or (ii) of Schedule 1 to those Regulations is also proposed to be relied on, evidence of the steps taken to establish whether, and if so where, a distribution point for a gigabit-capable public electronic communications network (as defined by regulation 44C of those Regulations) is likely to be installed, in a location relevant for the purposes of paragraph RA1(1)(c) of that Schedule, within the period of two years beginning with the day on which the notice is given;

(e) a statement setting out—

(i) the date when it is proposed the work will reach the point when it is to be regarded as commenced in accordance with regulation 16 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024; and

(ii) where the work does not consist of work to which paragraph (2) or (3) of regulation 16 of those Regulations applies, details of the work which the client considers amounts to 15% of the proposed work.

**6.** **(9)** hereby declares it does not, and will not while this notice is in force, have any professional or financial interest in the work described. **(10)**

**7.** The registered building control approver [will][will not] **(11)** be obliged to consult the fire and rescue authority by regulation 9 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024.

**8.** [**(9)** hereby undertakes to consult the fire and rescue authority before giving—

(a) a plans certificate in accordance with section 50 of the Building Act 1984, or

(b) a final certificate in accordance with section 51 of that Act,

in respect of any of the work described above.] **(12)**

**9.** The registered building control approver [will][will not] **(13)** be obliged to consult the sewerage undertaker by regulation 10 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024.

**10.** [**(9)** hereby undertakes to consult the sewerage undertaker before giving—

(a) a plans certificate in accordance with section 50 of the Building Act 1984, or

(b) a final certificate in accordance with section 51 of that Act,

in respect of any of the work described above.] **(12)**

**11. (9)** hereby confirms—

(a) it is a registered building control approver for the purposes of Part 2 of the Building Act 1984 and that the work described in this notice is within the scope of its registration;

(b) it is aware of the obligations imposed on it by Part 2 of the Building Act 1984 and by regulation 4 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024;

(c) none of the work to which this notice relates is higher-risk building work;

(d) the building to which the work relates [is][will be][is not][will not be]**(14)** an FSO building;

(e) [it has obtained advice from **(15)**, a registered building inspector, before submitting this notice.]**(16)**

| | |
|---|---|
| Signature | Signature |
| On behalf of **(9)** | On behalf of **(17)** |
| Date | Date |

**NOTES**

(1): Name and address of local authority.

(2): Location and description of the work, including the use of any building to which the work relates.

(3): Name, address, telephone number and (if available) email address of the registered building control approver.

(4): Name, address, telephone number and (if available) email address of the person intending to carry out the work, and if that person is not the client also the name, address, telephone number and (if available) email address of the client.

(5): Delete as appropriate.

(6): A new dwelling includes a dwelling that is formed by a material change of use of a building (within the meaning of regulation 5(a), (b) or (g) of the Building Regulations 2010).

(7): The local authority may reject this notice on grounds set out in Schedule 2 to the Building (Registered Building Control Approvers etc.) (England) Regulations 2024. The grounds include failure to provide relevant documents. The documents listed in paragraph 5 relevant to the work described must therefore be sent with this notice. Delete any sub-paragraph of paragraph 5 that does not apply.

(8): The information may be supplied in an amendment notice given in accordance with section 51A of the Building Act 1984.

(9): Name of the registered building control approver.

(10): *See* regulation 3 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 for the requirements as to professional and financial interests.

(11): Delete as appropriate. *See* regulation 9 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 for the requirements as to consultation with the fire and rescue authority. If the approver is required to consult the fire and rescue authority the declaration in paragraph 8 must be made.

(12): Delete this statement if it does not apply.

(13): Delete as appropriate. *See* regulation 10 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 for the requirements as to consultation with the sewerage undertaker. If the approver is required to consult the sewerage authority the declaration in paragraph 10 must be made.

(14): Delete as appropriate. *See* regulation 9 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 for the definition of FSO building.

(15): Name of the registered building inspector.

(16): Delete this statement where the registered building control approver is itself a registered building inspector.

(17): Name of person intending to carry out the work.

# Form 2

## Section 51A of the Building Act 1984

## The Building (Registered Building Control Approvers etc.) (England) Regulations 2024

### AMENDMENT NOTICE

To: **(1)**

**1.** This notice amends the initial notice, a copy of which accompanies this notice.

**2.** This notice amends the work to which an initial notice relates in the following manner: **(2)**

**3.** The work [does][does not]**(3)** concern a new dwelling. **(4)**

**4.** With this notice are the following documents, which are those relevant to the work described in this notice **(5)**—

(a) a copy of the original initial notice;

(b) either—

(i) a statement to the effect that all plans submitted with the original initial notice remain unchanged, or

(ii) all amended plans, and a statement that any plans not included remain unchanged;

(c) in the case of the erection or extension of a building, a plan to a scale of not less than 1:1250 showing the boundaries and location of the site and, where the work includes the construction of a new drain or private sewer, a statement—

(i) as to the appropriate location of any proposed connection to be made to a sewer, or

(ii) if no connection is to be made to a sewer, as to the proposals for the discharge of the proposed drain or private sewer including the location of any septic tank and associated secondary treatment system, or of any wastewater treatment system or any cesspool;

(d) in the case of a new dwelling—

(i) a statement whether or not one or more, and if so which, of the following optional requirements applies to the building work as varied—

(aa) regulation 36(2)(b) (optional water efficiency requirement of 110 litres per person per day) of the Building Regulations 2010,

(bb) requirement M4(2) (category 2 - accessible and adaptable dwellings) of Schedule 1 to the Building Regulations 2010,

(cc) requirement M4(3) (category 3 - wheelchair user dwellings) of Schedule 1 to the Building Regulations 2010, or

(ii) a statement that planning permission has not yet been granted for the work, and that the information required by paragraph (i) will be supplied as soon as is reasonably practicable after that permission is granted **(6)**;

(e) a statement of any local enactment relevant to the work, and of the steps to be taken to comply with it;

(f) in the case of the erection of a dwelling, or a building that is to contain one or more dwellings—

(i) a statement giving details of any public electronic communications network in relation to which a connection is to be provided,

(ii) if an exemption in regulation 44ZB of the Building Regulations 2010 is proposed to be relied on, a statement giving details in support of the exemption, and

(iii) if regulation 44ZC of the Building Regulations 2010 is proposed to be relied on, a statement giving details of the matters mentioned in regulation 44ZC(6)(a) and (b) of those Regulations and, if paragraph RA1(1)(c)(i) or (ii) of Schedule 1 to those Regulations is also proposed to be relied on, evidence of the steps taken to establish whether, and if so where, a distribution point for a gigabit-capable public electronic communications network (as defined by regulation 44C of those Regulations) is likely to be installed, in a location relevant for the purposes of paragraph RA1(1)(c) of that Schedule, within the relevant 2-year period (as defined by paragraph RA1(3) of that Schedule);

(g) a statement setting out—

(i) the date when it is proposed the work will reach the point when it is to be regarded as commenced in accordance with regulation 16 (lapse of initial notice: commencement of work) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024; and

(ii) where the work does not consist of work to which paragraph (2) or (3) of regulation 16 of those Regulations applies, details of the work which the client considers amounts to 15% of the proposed work.

**5.** **(7)** hereby declares it does not, and will not while this notice is in force, have any professional or financial interest in the work described.**(8)**

**6.** [**(7)** hereby declares it is satisfied that plans relating to the work described above have been submitted to it, and that they neither are defective nor show work which, if carried out in accordance with them, would contravene any provision of the building regulations.]**(9)**

**7.** The registered building control approver [will][will not]**(10)** be obliged to consult the fire and rescue authority by regulation 9 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024.

**8.**[**(7)** hereby undertakes to consult the fire and rescue authority before giving—

(a) a plans certificate in accordance with section 50 of the Building Act 1984, or

(b) a final certificate in accordance with section 51 of that Act,

in respect of any of the work described above.] **(9)**

**9.** The registered building control approver [will][will not]**(11)** be obliged to consult the sewerage undertaker by regulation 10 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024.

**10.** [**(7)** hereby undertakes to consult the sewerage undertaker before giving—

(a) a plans certificate in accordance with section 50 of the Building Act 1984, or

(b) a final certificate in accordance with section 51 of that Act,

in respect of any of the work described above.] **(9)**

**11.** **(7)** hereby confirms—

(a) it is a registered building control approver for the purposes of Part 2 of the Building Act 1984 and that the work described in this notice is within the scope of its registration;

(b) it is aware of the obligations imposed on it by Part 2 of the Building Act 1984 and by regulation 4 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024;

(c) none of the work to which this notice relates is higher-risk building work;

(d) the building to which the work relates [is][will be][is not][will not be]**(12)** an FSO building;

(e) [it has obtained advice from **(13)**, a registered building inspector, before submitting this notice.]**(14)**

| | |
|---|---|
| Signature | Signature |
| On behalf of **(7)** | On behalf of **(15)** |
| Date | Date |

**NOTES**

(1): Name and address of local authority.

(2): Location and description of the work, including the use of any building to which the work relates.

(3): Delete as appropriate.

(4): A new dwelling includes a dwelling that is formed by a material change of use of a building within the meaning of regulation 5(a), (b) or (g) of the Building Regulations 2010).

(5): The local authority may reject this notice on grounds set out in Schedule 2 to the Building (Registered Building Control Approvers etc.) (England) Regulations 2024. The grounds include failure to provide relevant documents. The documents listed in paragraph 4 relevant to the work described must therefore be sent with this notice. Delete any sub-paragraph of paragraph 4 that does not apply.

(6): The information may be supplied in a further amendment notice given in accordance with section 51A of the Building Act 1984.

(7): Name of the registered building control approver.

(8): *See* regulation 3 (independence of approvers) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 for the requirements as to professional and financial interests.

(9): Delete this statement if it does not apply.

(10): Delete as appropriate. *See* regulation 9 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 for the requirements as to consultation with the fire and rescue authority. If the approver is required to consult the fire and rescue authority the declaration in paragraph 8 must be made.

(11): Delete as appropriate. *See* regulation 10 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 for the requirements as to consultation with the sewerage undertaker. If the approver is required to consult the sewerage authority the declaration in paragraph 10 must be made.

(12): Delete as appropriate. *See* regulation 9 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 for the definition of FSO building.

(13): Name of registered building inspector.

(14): Delete this statement where the registered building control approver is itself a registered building inspector.

(15): Name of person intending to carry out the work.

# Form 3

## Section 50 of the Building Act 1984

## The Building (Registered Building Control Approvers etc.) (England) Regulations 2024

### PLANS CERTIFICATE

**1.** This certificate relates to the following work: **(1)**

**2.** **(2)** hereby confirms it is a registered building control approver for the purposes of Part 2 of the Building Act 1984 and that the work described in this certificate is within the scope of its registration and that the above work is [the whole][part]**(3)** of the work described in an initial notice given by it and dated **(4)**.

**3.** The work [does][does not]**(3)** concern a new dwelling. **(5)**

**4.** [In the case of a new dwelling for which planning permission has been granted, [no optional requirement in the Building Regulation 2010 applies][one or more of the following optional requirements applies to the work, namely—**(6)**

(a) regulation 36(2)(b) (optional water efficiency requirement of 110 litres per person per day) of the Building Regulations 2010,

(b) requirement M4(2) (category 2 - accessible and adaptable dwellings) of Schedule 1 to the Building Regulations 2010,

(c) requirement M4(3) (category 3 - wheelchair user dwellings) of Schedule 1 to the Building Regulations 2010.]] **(7)**

**5.** [In the case of a new dwelling for which planning permission has not been granted, this plans certificate relates only to such part of the work to which no requirement under regulation 36 of, or requirements M4 (1), (2) or (3) of Schedule 1 to, the Building Regulations 2010 may apply**.**] **(7)**

**6.** **(2)** hereby confirms—

(a) plans of the work specified above have been submitted to it, and

(b) it is satisfied that the plans neither are defective nor show that work carried out in accordance with them would contravene any provision of building regulations.

**7.** **(2)** hereby declares it has had no professional or financial interest **(8)** in the work described since giving the initial notice referred to in paragraph 2. **(7)**

**8.** **(2)** hereby confirms—

(a) [it has consulted the fire and rescue authority in accordance with regulation 9 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024;] **(7)**

(b) [it has consulted the sewerage undertaker in accordance with regulation 10 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024;] **(7)**

(c) [it has obtained advice from **(9)**, a registered building inspector, before submitting this notice;] **(10)**

(d) none of the work to which this certificate relates is higher-risk building work;

(e) the building to which the work relates [is][will be][is not][will not be]**(11)** an FSO building.

**9.** The plans to which this certificate relates bear the following date and reference number: **(12)**

Signature

On behalf of **(2)**

Date

**NOTES**

(1): Location and description of the work, including the use of any building to which the work relates.

(2): Name of the registered building control approver.

(3): Delete as appropriate.

(4): Insert date.

(5): A new dwelling includes a dwelling that is formed by a material change of use of a building within the meaning of regulation 5(a), (b) or (g) of the Building Regulations 2010). If the work does concern a new dwelling the statement in either paragraph 4 or 5 must be given.

(6): Delete the optional requirements that do not apply to the work.

(7): Delete this statement if it does not apply.

(8): *See* regulation 3 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 for the requirements as to professional and financial interests.

(9): Name of registered building inspector.

(10): Delete this statement where the registered building control approver is itself a registered building inspector.

(11): Delete as appropriate. *See* regulation 9 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 for the definition of FSO building.

(12): Insert the date and reference number.

# Form 4

## Sections 47 and 50 of the Building Act 1984

## The Building (Registered Building Control Approvers etc.) (England) Regulations 2024

### COMBINED INITIAL NOTICE AND PLANS CERTIFICATE (1)

To: **(2)**

**1.** This notice relates to the following work: **(3)**

**2.** The registered building control approver in relation to the work is: **(4)**

**3.** The person intending to carry out the work is: **(5)**

**4.** The work [does][does not] **(6)** concern a new dwelling. **(7)**

**5.** With this notice are the following documents, which are those relevant to the work described in this notice **(8)**—

(a) in the case of the erection or extension of a building, a plan to a scale of not less than 1:1250 showing the boundaries and location of the site and, where the work includes the construction of a new drain or private sewer, a statement—

(i) as to the appropriate location of any proposed connection to be made to a sewer, or

(ii) if no connection is to be made to a sewer, as to the proposals for the discharge of the proposed drain or private sewer including the location of any septic tank and associated secondary treatment system, or of any wastewater treatment system or any cesspool;

(b) in the case of a new dwelling—

(i) a statement whether or not one or more, and if so which, of the following optional requirements applies to the building work—

(aa) regulation 36(2)(b) (optional water efficiency requirement of 110 litres per person per day) of the Building Regulations 2010,

(bb) requirement M4(2) (category 2 - accessible and adaptable dwellings) of Schedule 1 to the Building Regulations 2010,

(cc) requirement M4(3) (category 3 - wheelchair user dwellings) of Schedule 1 to the Building Regulations 2010, or

(ii) a statement that planning permission has not yet been granted for the work, and that the information required by paragraph (i) will be supplied as soon as is reasonably practicable after that permission is granted;

(c) a statement of any local enactment relevant to the work, and of the steps to be taken to comply with it;

(d) in the case of the erection of a dwelling, or a building that is to contain one or more dwellings—

(i) a statement giving details of any public electronic communications network in relation to which a connection is to be provided,

(ii) if an exemption in regulation 44ZB of the Building Regulations 2010 is proposed to be relied on, a statement giving details in support of the exemption, and

(iii) if regulation 44ZC of the Building Regulations 2010 is proposed to be relied on, a statement giving details of the matters mentioned in regulation 44ZC(6)(a) and (b) of those Regulations and, if paragraph RA1(1)(c)(i) or (ii) of Schedule 1 to those Regulations is also proposed to be relied on, evidence of the steps taken to establish whether, and if so where, a distribution point for a gigabit-capable public electronic communications network (as defined by regulation 44C of those Regulations) is likely to be installed, in a location relevant for the purposes of paragraph RA1(1)(c), within the period of two years beginning with the day on which the notice is given;

(e) a statement setting out—

(i) the date when it is proposed the work will reach the point when it is to be regarded as commenced in accordance with regulation 16 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024; and

(ii) where the work does not consist of work to which paragraph (2) or (3) of regulation 16 of those Regulations applies, details of the work which the client considers amounts to 15% of the proposed work.

**6. (9)** hereby declares it has had no professional or financial interest **(10)** in the work described.**(11)**

**7. (9)** hereby confirms—

(a) plans of the work specified above have been submitted to it, and

(b) it is satisfied that the plans neither are defective nor show that work carried out in accordance with them would contravene any provision of building regulations.

**8.** The registered building control approver [is][is not] **(12)** obliged to consult the fire and rescue authority by regulation 9 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024.

**9.** [**(9)** hereby confirms it has consulted the fire and rescue authority in accordance with regulation 10 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024.] **(11)**

**10.** [**(9)** hereby undertakes to consult the fire and rescue authority before giving a final certificate in accordance with section 51 of the Building Act 1984 in respect of any of the work described above.] **(11)**

**11.** The registered building control approver [is][is not] **(13)** obliged to consult the sewerage undertaker by regulation 9 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024.

**12.** [**(9)** hereby confirms it has consulted the sewerage undertaker in accordance with regulation 10 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024.]**(11)**

**13.** [**(9)** hereby undertakes to consult the sewerage undertaker before giving a final certificate in accordance with section 51 of that Act in respect of any of the work described above.] **(11)**

**14.** The plans to which this certificate relates bear the following date and reference number: **(14)**

**15.** **(9)** hereby confirms—

(a) it is a registered building control approver for the purposes of Part 2 of the Building Act 1984 and that the work described in this notice is within the scope of its registration;

(b) it is aware of the obligations imposed on it by Part 2 of the Building Act 1984 and by regulation 4 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024;

(c) none of the work to which this notice relates is higher-risk building work;

(d) the building to which the work relates [is][will be][is not][will not be]**(15)** an FSO building;

(e) [it has obtained advice from **(16)**, a registered building inspector, before submitting this notice.]**(17)**

| | |
|---|---|
| Signature | Signature |
| On behalf of **(9)** | On behalf of **(18)** |
| Date | Date |

**NOTES**

(1): If the work concerns a new dwelling but planning permission has not yet been granted, this form cannot be used and Form 1 (initial notice) and Form 3 (plans certificate) have to be given separately.

(2): Name and address of local authority.

(3): Location and description of the work, including the use of any building to which the work relates.

(4): Name, address, telephone number and (if available) email address of registered building control approver.

(5): Name, address, telephone number and (if available) email address of person intending to carry out the work, and if that person is not the client also the name, address, telephone number and (if available) email address of the client.

(6): Delete as appropriate.

(7): A new dwelling includes a dwelling that is formed by a material change of use of a building within the meaning of regulation 5(a), (b) or (g) of the Building Regulations 2010).

(8): The local authority may reject this notice on grounds set out in Schedules 2 and 3 to the Building (Registered Building Control Approvers etc.) (England) Regulations 2024. The grounds include failure to provide relevant documents. The documents listed in paragraph 5 relevant to the work described must therefore be sent with this notice. Delete any sub-paragraph of paragraph 5 that does not apply.

(9): Name of the registered building control approver.

(10): *See* regulation 3 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 for the requirements as to professional and financial interests.

(11): Delete this statement if it does not apply.

(12): Delete whichever does not apply. If the registered building control approver is obliged to consult the fire and rescue authority, the declaration either in paragraph 9 or in paragraph 10 must be made.

(13): Delete whichever does not apply. If the registered building control approver is obliged to consult the sewerage undertaker, the declaration either in paragraph 12 or in paragraph 13 must be made.

(14): Insert the date and reference number.

(15): Delete as appropriate. *See* regulation 9 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 for the definition of FSO building.

(16): Name of registered building inspector.

(17): Delete this statement where the registered building control approver is itself a registered building inspector.

(18): Name of person intending to carry out the work.

# Form 5

## Section 51 of the Building Act 1984

## The Building (Registered Building Control Approvers etc.) (England) Regulations 2024

### FINAL CERTIFICATE

**1.** This certificate relates to the following work: **(1)**

**2.** **(2)** hereby confirms—

(a) it is a registered building control approver for the purposes of Part 2 of the Building Act 1984;

(b) the work described in this certificate is within the scope of its registration; and

(c) the above work is [the whole / part] **(3)** of the work described in an initial notice given by it and dated **(4)** [and amended on **(4)**] **(3)**.

**3.** The work [does / does not] **(3)** concern a new dwelling. **(5)**

**4.** [No optional requirement in the Building Regulation 2010 applies to the work.] **(6)**

**5.** [One or more of the following optional requirements applies to the work, namely—**(7)**

(a) regulation 36(2)(b) (optional water efficiency requirement of 110 litres per person per day) of the Building Regulations 2010,

(b) requirement M4(2) (category 2 - accessible and adaptable dwellings) of Schedule 1 to the Building Regulations 2010,

(c) requirement M4(3) (category 3 - wheelchair user dwellings) of Schedule 1 to the Building Regulations 2010.]] **(6)**

**6.** **(2)** hereby confirms—

(a) the work described above has been completed, and

(b) it has performed the functions assigned to it by regulation 4 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024.

**7.** [**(2)** hereby confirms the person carrying out the work has notified it to the effect that the fire safety information has been given to the responsible person as required by regulation 38 of the Building Regulations 2010, as modified by regulation 5 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024.] (**8**)

**8.** [A final certificate has now been issued in respect of all the work described in the initial notice referred to in paragraph 2.] **(6)**

**9.** **(2)** hereby declares it has had no professional or financial interest **(9)** in the work described since giving the initial notice referred to in paragraph 2. **(6)**

**10. (2)** hereby confirms it has received a statement, from the client for the work described in this final certificate, which is in accordance with regulation 18(d) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024.

**11. (2)** hereby confirms it has received a statement, from each principal contractor (or sole contractor) for the work and from each principal designer (or sole or lead designer) for the work described in this final certificate, which is in accordance with regulation 18(e) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024.

**12.** [**(2)** hereby confirms it has consulted the fire and rescue authority in accordance with regulation 9 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024.] **(6)**

**13. (2)** hereby confirms that none of the work to which this certificate relates is higher-risk building work.

**14. (2)** hereby confirms it has obtained advice from **(10)**, a registered building inspector, before submitting this notice. **(11)**

**15.** This certificate is evidence (but not conclusive evidence) that the requirements specified in it have been complied with.

Signature

On behalf of **(2)**

Date

**NOTES**
(1): Location and description of the work, including the use of any building to which the work relates.

(2): Name of the registered building control approver.
(3): Delete as appropriate.
(4): Insert date.

(5): A new dwelling includes a dwelling that is formed by a material change of use of a building within the meaning of regulation 5(a), (b) or (g) of the Building Regulations 2010). If the work does concern a new dwelling the statement in either paragraph 4 or 5 must be given.

(6): Delete this statement if it does not apply.

(7): Delete the optional requirements that do not apply to the work.

(8) Delete this statement if regulation 38 of the Building Regulations 2010, as modified by regulation 5 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024, does not apply to the building work to which the final certificate relates.

(9): *See* regulation 3 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 for the requirements as to professional and financial interests.

(10): Name of registered building inspector.
(11): Delete this statement where the registered building control approver is itself a registered building inspector.

# Form 6

## The Building (Registered Building Control Approvers etc.) (England) Regulations 2024

### NOTICE OF INVALID NOTICE OR CERTIFICATE

To: **(1)**

**1.** I am authorised to sign this notice by _____ **(2)**.

**2.** This notice relates to the purported [initial notice][amendment notice][plans certificate][final certificate]**(3)** received on _____ **(4)**.

**3.** The local authority is satisfied the purported [notice][certificate]**(3)** is invalid because [all or part of the work to which it relates is higher-risk building work]**(5)** [all or part of the work to which it relates is outside the scope of the registration of the registered building control approver]**(6)** [it was given in breach of section 53D(5) of the Building Act 1984]**(7)**.

**4.** [The regulator is the building control authority in relation to higher-risk buildings under section 91ZA(1) of the Building Act 1984. A right of appeal may be available under section 101A of the Building Act 1984 where a local authority refuses to consider an initial notice or an amendment notice on the ground that all or part of the work to which the notice relates is higher-risk building work.]**(5)**

Signature

Date

**NOTES**

(1) Insert the name and address of the person to whom the notice is given. It must be given to the approver who gave the notice or certificate and also to the person intending to carry out the work (and if that person is not the client, also to the client).

(2) Insert name and address of the local authority.

(3) Delete whichever does not apply.

(4) Insert date the notice or certificate was received by the local authority.

(5) Delete if regulation 7(1) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 does not apply to the purported notice or certificate.

(6) Delete if regulation 7(3) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 does not apply to the purported notice or certificate.

(7) Delete if regulation 7(4) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 does not apply to the purported notice or certificate.

# Form 7

## The Building (Registered Building Control Approvers etc.) (England) Regulations 2024

### NOTICE OF REJECTION OF AN INITIAL NOTICE, AMENDMENT NOTICE, PLANS CERTIFICATE OR FINAL CERTIFICATE

To: **(1)**

**1.** I am authorised to sign this notice by _____ **(2)**.

**2.** This notice relates to the [initial notice][amendment notice][plans certificate][final certificate]**(3)** received on _____ **(4)**.

**3.** The local authority hereby rejects the [initial notice][amendment notice][plans certificate][final certificate]**(3)** on the following grounds _____ **(5).**

**4.** A person aggrieved with this rejection may appeal under section 55(1) of the Building Act 1984. An appeal must be made within 21 days beginning with the day after the day on which this notice is given (ignoring Christmas Day, Good Friday and bank holidays).

Signature

Date

**NOTES**

(1) Insert the name and address of the person to whom the notice is given. It must be given to the approver who gave the notice or certificate and, in the case of an initial notice or amendment notice, also to the person intending to carry out the work (and if that person is not the client also to the client).

(2) Insert name and address of the local authority.

(3) Delete whichever does not apply.

(4) Insert date the notice or certificate was received by the local authority.

(5) State which of the grounds set out in Schedule 2, 3, or, as the case maybe, 4 to the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 are relied on to reject the notice or certificate.

# Form 8

## Section 51C of the Building Act 1984

## The Building (Registered Building Control Approvers etc.) (England) Regulations 2024

### NOTICE OF CHANGE OF PERSON CARRYING OUT THE WORK

To: **(1)**

**1.** This notice proposes a change of the person carrying out the work in relation to the initial notice a copy of which accompanies this notice.

**2.** It is proposed that the work to which the initial notice relates should be carried out by **(2)**.

| | |
|---|---|
| Signature | Signature |
| On behalf of ***(3)*** | On behalf of ***(4)*** |
| Date | Date |

**NOTES**

(1) Name and address of local authority.

(2) Name, address, telephone number and (if available) email address of the person intending to carry out the work, and if that person is not the client also the name, address, telephone number and (if available) email address of the client.

(3) Name of the registered building control approver.

(4) Name of the person intending to carry out the work.

# Form 9

## Section 52(1)(a), (b), (c), (d) or (e) of the Building Act 1984

## The Building (Registered Building Control Approvers etc.) (England) Regulations 2024

### NOTICE OF CANCELLATION BY REGISTERED BUILDING CONTROL APPROVER

To: **(1)**

**1.** This notice relates to the following work: **(2)**

**2.** An initial notice dated **(3)** has been given and the above work was specified in it.

**3. (4)** hereby confirms it is a registered building control approver for the purposes of Part 2 of the Building Act 1984 in respect of that work.

**4. (4)** hereby cancels the initial notice.

**5.** [**(4)** hereby confirms it gave notice in accordance with regulation 21 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 and the recipient of the notice failed to remedy the contravention within the prescribed period. The contravention is: ] **(5)**

Signature

On behalf of **(4)**

Date

**NOTES**
(1): Insert name and address of the person to whom the notice is given. It must be given to the local authority and the person carrying out or intending to carry out the work.

(2): Location and description of the work, including the use of the building to which the work relates.

(3): Insert date.

(4): Name of the registered building control approver.

(5): Delete this statement if it does not apply. If it applies, specify the provision(s) of the building regulations (including the specific requirement) which is contravened.

# Form 10

## Section 52(3) of the Building Act 1984

## The Building (Registered Building Control Approvers etc.) (England) Regulations 2024

### NOTICE OF CANCELLATION BY PERSON CARRYING OUT THE WORK

To: **(1)**

**1.** This notice relates to the following work: **(2)**

**2.** An initial notice dated **(3)** has been given and the above work was specified in it.

**3. (4)** hereby confirms it is the person [carrying out][intending to carry out] **(5)** the work.

**4. (4)** hereby cancel the initial notice.

Signature

On behalf of ***(4)***

Date

**NOTES**

(1) Insert name and address of the person to whom the notice is given. It must be given to the local authority and, if practicable, the registered building control approver.

(2) Location and description of the work, including the use of the building to which the work relates.

(3) Insert date.

(4) Name of person carrying out or intending to carry out the work.

(5) Delete as appropriate.

# Form 11

## Section 52(5A) of the Building Act 1984

## The Building (Registered Building Control Approvers etc.) (England) Regulations 2024

### NOTICE OF CANCELLATION BY LOCAL AUTHORITY

To: **(1)**

**1.** This notice relates to the following work: **(2)**

**2.** I am authorised to sign this notice by the following local authority: **(3)**

**3.** The local authority accepted an initial notice on **(4)** and the work described above was specified in it.

**4.** [The local authority gave to the person shown in the initial notice as the registered building control approver a notice under section 52(7) of the Building Act 1984, in accordance with regulation 20(4) of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024, and the authority [has had regard to the representations received][has received no representations]**(5)**] **(6)**.

**5.** It appears to the local authority that a condition under section 52(5B) of the Building Act 1984, namely [section 52(5B)[(a)][(b)][(c)][(d)]]**(5)**, is satisfied.

**6.** The local authority hereby cancels the initial notice.

Signature

Date

**NOTES**

(1) Insert the name and address of the person to whom the notice is given. It must be given to the person shown on the initial notice as the registered building control approver and the person shown on the initial notice as the person intending to carry out the work.

(2) Location and description of the work, including the use of any building to which the work relates.

(3) Name and address of the local authority.

(4) Insert date.

(5) Delete whichever does not apply.

(6) Delete this statement if cancellation is based on a condition in section 52(5B)(c) or (d) of the Building Act 1984.

# Form 12

## Section 52(7) of the Building Act 1984

## The Building (Registered Building Control Approvers etc.) (England) Regulations 2024

### NOTICE OF PROPOSED CANCELLATION

To: **(1)**

**1.** This notice relates to the following work: **(2)**

**2.** I am authorised to sign this notice by the following local authority: **(3)**

**3.** The local authority accepted an initial notice on **(4)** and the above work was specified in it.

**4.** The local authority is proposing to cancel the initial notice under section 52(5A) of the Building Act 1984 based on a condition in section 52(5B)[(a)][(b)]**(5)** of that Act as it appears that condition is satisfied.

**5.** If you wish to make any representations on the proposed cancellation you must make them before: **(6).**

Signature

Date

**NOTES**
(1) Insert the name and address of the person to whom the notice is given. It must be given to the registered building control approver.

(2) Location and description of the work, including the use of any building to which the work relates.

(3) Name and address of the local authority.

(4) Insert date.

(5) Delete whichever does not apply.

(6) Insert date on which the local authority proposes to cancel the initial notice.

# Form 13

## Section 52A(1) of the Building Act 1984

## The Building (Registered Building Control Approvers etc.) (England) Regulations 2024

### NOTICE OF CANCELLATION BY REGISTERED BUILDING CONTROL APPROVER WHERE WORK HAS BECOME HIGHER-RISK BUILDING WORK

To: **(1)**

**1.** An initial notice dated **(2)** has been given in relation to work.

**2.** This notice relates to [the following part of][all of]**(3)** that work: **(4)**

**3. (5)** hereby confirms it is the registered building control approver in relation to the initial notice referred to in paragraph 1.

**4. (5)** hereby cancels [the part of the initial notice which relates to higher-risk building work referred to in paragraph 2][the initial notice] **(3)**.

Signature

On behalf of **(5)**

Date

**NOTES**
(1) Insert the name and address of the person to whom the notice is given. It must be given to the local authority and the person carrying out or intending to carry out the work.

(2) Insert date.

(3) Delete whichever does not apply.

(4) Location and description of the higher-risk building work.

(5) Name of registered building control approver.

# Form 14

## Section 52A(2) of the Building Act 1984

## The Building (Registered Building Control Approvers etc.) (England) Regulations 2024

### NOTICE OF CANCELLATION BY PERSON CARRYING OUT OR INTENDING TO CARRY OUT WORK WHERE WORK HAS BECOME HIGHER-RISK BUILDING WORK

To: **(1)**

**1.** An initial notice dated **(2)** has been given in relation to work.

**2.** This notice relates to [the following part of][all of]**(3)** that work: **(4)**

**3.** I am the person [carrying out][intending to carry out]**(3)** the work referred to in paragraph 1.

**4.** I hereby cancel [the part of the initial notice which relates to higher-risk building work referred to in paragraph 2][the initial notice]**(3)**.

Signature

Date

**NOTES**

(1) Insert the name and address of the person to whom the notice is given. It must be given to the local authority and the registered building control approver (and if the person carrying out the work is not the client also to the client).

(2) Insert date.

(3) Delete whichever does not apply.

(4) Location and description of the higher-risk building work.

# Form 15

## Section 52A(4) of the Building Act 1984

## The Building (Registered Building Control Approvers etc.) (England) Regulations 2024

### NOTICE OF CANCELLATION BY LOCAL AUTHORITY WHERE WORK HAS BECOME HIGHER-RISK BUILDING WORK

To: **(1)**

**1.** The local authority accepted an initial notice on **(2)** in relation to work.

**2.** This notice relates to [the following part of][all of]**(3)** that work: **(4)**

**3.** I am authorised to sign this notice by the following local authority: **(5)**

**4.** It appears to the local authority that the work referred to in paragraph 2 has become higher-risk building work and the local authority hereby cancels [the part of the initial notice which relates to higher-risk building work referred to in paragraph 2][the initial notice]**(3)**.

Signature

Date

**NOTES**

(1) Insert the name and address of the person to whom the notice is given. It must be given to the registered building control approver and the person shown in the initial notice as the person intending to carry out the work.

(2) Insert date.

(3) Delete whichever does not apply.

(4) Location and description of the higher-risk building work.

(5) Name and address of the local authority.

# Form 16

## Section 53D(2) of the Building Act 1984

## The Building (Registered Building Control Approvers etc.) (England) Regulations 2024

### NOTICE OF CANCELLATION BY LOCAL AUTHORITY OF WORK WHERE NO TRANSFER CERTIFICATE AND TRANSFER REPORT IS GIVEN

To: **(1)**

**1.** The local authority accepted an initial notice on **(2)** in relation to work.

**2.** I am authorised to sign this notice by the following local authority: **(3)**

**3.** [The local authority has rejected the transfer certificate and transfer report][It appears to the local authority that no transfer certificate and transfer report has been given]**(4)** in relation to the initial notice referred to in paragraph 1 and the local authority hereby cancels the initial notice.

Signature

Date

**NOTES**
(1) Insert the name and address of the person to whom the notice is given. It must be given to the registered building control approver and the person shown in the initial notice as the person intending to carry out the work.

(2) Insert date.

(3) Name and address of the local authority.

(4) Delete whichever does not apply.

## Form 17

## Section 53D(3) of the Building Act 1984

## The Building (Registered Building Control Approvers etc.) (England) Regulations 2024

### NOTICE OF CANCELLATION BY PERSON CARRYING OUT THE WORK

To: **(1)**
**1.** This notice relates to the following work: **(2)**

**2.** An initial notice dated **(3)** has been given and the above work was specified in it.

**3.** **(4)** hereby confirms it is the person [carrying out][intending to carry out] **(5)** the work.

**4.** **(4)** hereby cancel the initial notice.

Signature

On behalf of **(4)**

Date

**NOTES**
(1) Insert name and address of the person to whom the notice is given. It must be given to the local authority and, if practicable, the registered building control approver.

(2) Location and description of the work, including the use of the building to which the work relates.

(3) Insert date.

(4) Name of person carrying out or intending to carry out the work.

(5) Delete as appropriate.

## SCHEDULE 2

Regulations 6, 8 and 11

### Grounds for Rejecting an Initial Notice, an Amendment Notice or a Plans Certificate Combined with an Initial Notice

**Form**

**1.** The notice is not in the prescribed form.

**Wrong local authority**

**2.** No part of the work described in the notice is to be carried out in the area of the local authority to whom the notice has been given.

**Capacity of approver**

**3.** The person who signed the notice as an approver is not an approver on the date the notice is rejected or if they are an approver on that date, their registration does not include all the work described in the notice.

**4.** Additionally, in the case of an amendment notice, the person who signed the amendment notice as an approver is not the approver who gave the initial notice.

**Breach of section 54B**

**5.** The person specified in the notice as the registered building inspector who gave advice in relation to that notice—

(a) was not a registered building inspector on the date the notice was submitted; or

(b) was a registered building inspector on that date but their registration did not include all the work described in the notice.

**Information about the proposed work**

**6.** Neither the notice nor the accompanying plans and documents include—

(a) the location and a description of the work, including the use of any building to which the work relates;

(b) information needed by the local authority to decide whether the notice is to be rejected on ground 10 or 11;

(c) information as to whether or not the work concerns a new dwelling;

(d) a statement setting out the date when work will reach the point when it is to be regarded as commenced and, if applicable, the details of the work which the client considers amounts to 15% of the proposed work;

(e) in the case of an initial notice or an amendment notice in relation to a new dwelling, either—

(i) a statement whether or not one or more, and if so which, of the following optional requirements applies to the building work—

(aa) regulation 36(2)(b) (optional water efficiency requirement of 110 litres per person per day),

(bb) Schedule 1 Part M optional requirement M4(2) (category 2- accessible and adaptable dwellings),

(cc) Schedule 1 Part M optional requirement M4(3) (category 3- wheelchair user dwellings), or

(ii) a statement that planning permission has not yet been granted for the work, and that the information required by sub-paragraph (i) will be supplied as soon as is reasonably practicable after that permission is granted;

(f) in the case of an initial notice or amendment notice in relation to the erection of a new dwelling—

(i) a statement giving details of any public electronic communications network in relation to which a connection is to be provided;

(ii) if an exemption in regulation 44ZB of the 2010 Regulations is proposed to be relied on, a statement giving details in support of the exemption;

(iii) if regulation 44ZC of those Regulations is proposed to be relied on, a statement giving details of the matters mentioned in regulation 44ZC(6)(a) and (b) of those Regulations and, if paragraph RA1(1)(c)(i) or (ii) of Schedule 1 to those Regulations is also proposed to be relied on, evidence of the steps taken to establish whether, and if so where, a distribution point for a gigabit-capable public electronic communications network (as defined in regulation 44C of those Regulations) is likely to be installed, in a location relevant for the purposes of paragraph RA1(1)(c) of that Schedule, within the period of two years beginning with the day on which the notice is given;

(g) in the case of a plans certificate combined with an initial notice, a statement in accordance with sub-paragraph (e)(i).

**Fire and rescue authority**

**7.** The approver is obliged by regulation 9 to consult the fire and rescue authority before giving a plans certificate or final certificate, and the notice does not contain an undertaking to do so.

**Sewerage undertaker**

**8.** The approver is obliged by regulation 10 to consult the sewerage undertaker before giving a plans certificate or final certificate, and the notice does not contain an undertaking to do so.

**Independence**

**9.** The notice does not contain a declaration by the approver that the approver does not, and while the initial notice is in force will not, have any professional or financial interest in that work.

**Drain connection**

**10.** In the case of the erection or extension of a building, the local authority considers that, in order to comply with the requirements of Part H of Schedule 1 to the 2010 Regulations, a proposed drain or private sewer must discharge to an existing sewer, but the statement accompanying the notice does not describe such an arrangement.

**Local enactments**

**11.** The local authority is not satisfied that the work described will comply with any local enactment which requires or authorises them to reject an application for building control approval submitted in accordance with building regulations.

**Commencement of work**

**12.** Where a statement setting out the details of the work which the client considers amounts to 15% of all the work described in the notice has been provided, the local authority is not satisfied that the work described in the statement amounts to 15% of all the work described in the notice.

**Earlier notice**

**13.**—(1) Except where sub-paragraph (2) applies, an initial notice ("an earlier notice") has already been given in respect of any part of the work described in the notice.

(2) The ground in sub-paragraph (1) does not apply if—

(a) an earlier notice has ceased to be in force and the local authority has taken no positive step to supervise the work described in it; or

(b) the notice is accompanied by an undertaking by the approver who gave an earlier notice to the effect that the approver will cancel that notice as soon as the initial notice under consideration is accepted.

## SCHEDULE 3

Regulation 11

Grounds for rejecting a plans certificate or plans certificate combined with an initial notice

**Form**

**1.** The certificate is not in the prescribed form.

**Wrong building control authority**

**2.** No part of the work described in the plans certificate is to be carried out in the area of the local authority to whom the certificate has been given.

**Work**

**3.** The certificate does not describe the work to which it relates.

**Optional requirements**

**4.** The certificate does not contain—

(a) information whether or not the work concerns a new dwelling; or

(b) in the case of a new dwelling, information whether or not one or more, and if so which, of the following optional requirements applies to the building work—

(i) regulation 36(2)(b) (optional water efficiency requirement of 110 litres per person per day),

(ii) Schedule 1 Part M optional requirement M4(2) (category 2- accessible and adaptable dwellings),

(iii) Schedule 1 Part M optional requirement M4(3) (category 3- wheelchair user dwellings); or

(c) in the case of a plans certificate relating to a new dwelling, a statement that it relates only to such part of the work to which no requirement under regulation 36 of, or requirements M4(1), (2) or (3) of Schedule 1 to, the Building Regulations 2010 may apply.

**Plans**

**5.** The certificate does not specify the plans to which it relates.

**No initial notice**

**6.** Except where the plans certificate is combined with an initial notice, no initial notice was in force with respect to the work described in the certificate at the time the certificate was given.

**Capacity of approver**

**7.** An initial notice was in force with respect to the work described in the certificate at the time the certificate was given, but—

(a) the certificate is not signed by the approver who gave the initial notice,

(b) the person who signed the certificate is not an approver on the date the notice is rejected, or

(c) where they are an approver, their registration does not include all the work described in the certificate.

**Breach of section 54B**

**8.** The person specified in the certificate as the registered building inspector who gave advice in relation to that certificate—

(a) was not a registered building inspector on the date the certificate was submitted, or

(b) was a registered building inspector on that date but their registration did not include all the work described in the certificate.

**Fire and rescue authority**

**9.** The approver was obliged by regulation 9 to consult the fire and rescue authority before giving the certificate, but the certificate does not contain a declaration that the approver has consulted them in accordance with that regulation.

**Sewerage undertaker**

**10.** The approver was obliged by regulation 10 to consult the sewerage undertaker before giving the certificate, but the certificate does not contain a declaration that the approver has consulted them in accordance with that regulation.

**Independence**

**11.** The certificate does not contain a declaration by the approver that the approver has not since giving the initial notice in question had any professional or financial interest in that work.

## SCHEDULE 4

Regulation 13

Grounds for rejecting a final certificate

**Form**

**1.** The certificate is not in the prescribed form.

**Wrong building control authority**

**2.** No part of the work described in the final certificate was carried out in the area of the local authority to whom the certificate has been given.

**Work**

**3.** The certificate does not describe the work to which it relates.

**Optional requirements**

**4.** The certificate does not contain information—

(a) whether or not the work concerns a new dwelling; or

(b) in the case of a new dwelling, information whether or not one or more, and if so which, of the following optional requirements applies to the building work—

(i) regulation 36(2)(b) (optional water efficiency requirement of 110 litres per person per day),

(ii) Schedule 1 Part M optional requirement M4(2) (category 2- accessible and adaptable dwellings),

(iii) Schedule 1 Part M optional requirement M4(3) (category 3- wheelchair user dwellings).

**No initial notice**

**5.** No initial notice was in force with respect to the work described in the certificate at the time the certificate was given.

**No plans certificate**

**6.** The work described in the final certificate relates to an FSO building and no plans certificate was given with respect to the work.

**Capacity of approver**

**7.** An initial notice was in force with respect to the work described in the certificate at the time the certificate was given, but—

(a) the certificate is not signed by the approver who gave the initial notice,

(b) the person who signed the certificate is not an approver on the date the certificate is rejected, or

(c) where they are an approver, their registration does not include all the work described in the certificate.

**Breach of section 54B**

**8.** The person specified in the certificate as the registered building inspector who gave advice in relation to that certificate—

(a) was not a registered building inspector on the date the certificate was submitted, or

(b) was a registered building inspector on that date but their registration did not include all the work described in the certificate.

**Lack of fire safety information confirmation**

**9.** Regulation 38 of the Building Regulations 2010, as modified by regulation 5 (modifications of the 2010 Regulations), applies to the building work to which the final certificate relates and the approver has not provided a confirmation that the person carrying out the work has notified the approver to the effect that the fire safety information has been given to the responsible person as required by that regulation.

**Independence**

**10.** The certificate does not contain a declaration by the approver that the approver has not since giving that notice had any professional or financial interest in that work.

## SCHEDULE 5

Regulation 26

Grounds for rejecting a transfer certificate and transfer report

**Required information**

**1.** The transfer certificate does not include the information required by regulation 25 (information to be included in transfer certificates).

**Wrong local authority**

**2.** No part of the unfinished work described in the transfer certificate is to be carried out in the area of the local authority to whom the transfer certificate has been given.

**No initial notice**

**3.** No new initial notice under section 53(7)(a) of the 1984 Act was in force with respect to the work described in the transfer certificate at the time the transfer certificate was given.

**Capacity of approver**

**4.** A new initial notice was in force with respect to the unfinished work described in the transfer certificate at the time the certificate was given, but—

(a) the certificate is not signed by the approver who gave the new initial notice,

(b) the person who signed the certificate is not an approver on the date the certificate is rejected, or

(c) where they are an approver, their registration does not include all the work described in the certificate.

**Breach of section 54B**

**5.** The person specified in the certificate as the registered building inspector who gave advice in relation to that certificate—

(a) was not a registered building inspector on the date the certificate was submitted; or

(b) was a registered building inspector on that date but their registration did not include all the work described in the certificate.

**Earlier notice**

**6.**—(1) Except where sub-paragraph (2) applies, a new initial notice under section 53(7)(a) of the 1984 Act ("an earlier notice") has already been given in respect of any part of the unfinished work described in the notice.

(2) The ground in sub-paragraph (1) does not apply if—

(a) an earlier notice has ceased to be in force and the local authority has taken no positive step to supervise the work described in it, or

(b) the notice is accompanied by an undertaking by the approver who gave an earlier notice to the effect that the approver will cancel that notice as soon as the initial notice under consideration is accepted.

**Local authority action**

**7.**—(1) The local authority has given a section 36 notice, a compliance notice or a stop notice in relation to the unfinished work(**47**).

(2) The local authority received an application in relation to the whole or part of the unfinished work in accordance with regulation 18 of the 2010 Regulations.

(3) The local authority has otherwise taken any positive step to supervise the unfinished work.

**Failure to provide information requested**

**8.** The approver has been given a request under section 53C(4) of the 1984 Act but failed to provide the information within the period referred to in that section.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke, in relation to England, the Building (Approved Inspectors etc.) Regulations 2010 (S.I. 2010/2215) ("the AI Regulations") with the amendments to those Regulations made by S.I. 2015/767, 2016/285, 2021/1391, 2021/1392, 2022/718 and 2023/906. They also revoke and include in this instrument provisions relating to the registration and review in regulations 3 to 5 of the Building (Approved Inspectors, Review of Decisions) (England) Regulations 2023 (S.I. 2023/906).

Section 47 of the Building Act 1984 (c. 55) ("the 1984 Act") provides that the responsibility for inspecting plans and building work for compliance with building regulations may, at the option of the person intending to carry out the work, be given to a registered building control approver ("approver") instead of to the local authority.

Part 2 of these Regulations makes provision about the supervision of building work by approvers, including the independence of approvers, their functions and how provisions of the Building Regulations 2010 (S.I. 2010/2214) are modified in their application to approvers.

Regulation 3 derives from regulation 9 of the AI Regulations.

Regulation 4 derives from regulation 8 of the AI Regulations.

Regulation 5 derives from regulation 20 of the AI Regulations.

Part 3 of these Regulations makes provision in relation to procedural requirements, including the forms to be used for initial notices, amendment notices, plans certificates and final certificates, the grounds for rejecting these notices and certificates, the period for rejecting them, consultation requirements.

(**47**) See sections 35B(2), 35C(3) and 36(4) of the Building Act 1984 for definitions of "compliance notice", "stop notice" and "section 36 notice" and section 53B(9) of the Building Act 1984 for the definition of "unfinished work".

Regulation 6 and forms 1 and 6 derive from regulation 10 of, and forms 1 and 5A in Schedule 1 to, the AI Regulations. Schedule 2 derives from Schedule 2 to the AI Regulations.

Regulation 7 derives from regulation 10A of the AI Regulations.

Regulation 8 and form 2 derive from regulation 11 of, and form 2 in Schedule 1 to, the AI Regulations.

Regulation 9 derives from regulation 12 of the AI Regulations.

Regulation 10 derives from regulation 13 of the AI Regulations.

Regulation 11 and forms 3 and 4 derive from regulation 14 of, and forms 3 and 4 in Schedule 1 to, the AI Regulations. Schedule 3 derives from Schedule 3 to the AI Regulations.

Regulation 12 derives from regulation 15 of the AI Regulations.

Regulation 13 and form 5 derive from regulation 16 of, and form 5 in Schedule 1 to, the AI Regulations. Schedule 4 derives from Schedule 4 to the AI Regulations.

Regulation 14 and form 7 derive from regulation 16A of, and form 5B in Schedule 1 to, the AI Regulations.

Regulation 15 derives from regulation 16B of the AI Regulations.

Regulation 16 derives from regulation 16C of the AI Regulations.

Regulation 17 derives from regulation 16D of the AI Regulations.

Regulation 18 derives from regulation 16E of the AI Regulations.

Regulation 19 derives from regulation 17 of the AI Regulations.

Regulations 20 and 21 and forms 8 to 10 and 12 to 14 derive from regulation 18 and forms 6, 7, 8, 8A, 8B, 8C in Schedule 1 to, the AI Regulations. Regulation 20 provides for new form 11 which is the form of notice a local authority must give under section 52(7) of the 1984 Act; new forms 15, 16 and 17 which are the notices to be used to cancel an initial notice where a plans certificate is required and has not been given; new forms 18 and 19 which are the notices to be used to cancel an initial notice under section 53D(2) and (3) of the 1984 Act.

Part 4 of these Regulations sets out the procedures where building work reverts to a local authority on an initial notice ceasing to be in force.

Regulation 22 derives from regulation 19 of the AI Regulations.

Part 5 of these Regulations makes new provision for where an initial notice ceases to be in force and a new registered building control approver is appointed. In particular regulation 25 makes provision as to the content of a transfer certificate and regulation 26 and Schedule 5 set out the grounds for rejecting a transfer certificate and transfer report.

Part 6 of these Regulations sets out provisions relating to appeals under sections 50 and 55 of the 1984 Act.

Regulation 28 derives from regulation 29A of the AI Regulations.

Regulation 29 derives from regulation 29B of the AI Regulations.

Part 7 of these Regulations provides in regulation 30 for the content of local registers of notices and certificates, regulation 31 provides for the length of registration periods for registered building control approvers and registered building inspectors, regulation 32 sets out new provision as to when copies of disciplinary sanctions issued against approvers must be sent to local authorities in England and regulations 33 and 34 makes provisions as to the decisions in Part 2A which may be reviewed and the right of appeal and procedure for an appeal following a review.

Regulation 30 derives from regulation 30 of the AI Regulations.

Regulation 31 derives from regulation 3 of S.I. 2023/906.

Regulation 33 derives from regulation 4 of S.I. 2023/906.

Regulation 34 derives from regulation 5 of S.I. 2023/906.

Part 8 of these Regulations contains miscellaneous provisions including a number of consequential amendments to other instruments, the revocations mentioned above and transitional provisions relating to those revocations.

Regulation 35 derives from regulation 31 of the AI Regulations.

A full impact assessment of the effect that this instrument will have on the costs to business is published with an Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

*This Statutory Instrument has been made in consequence of defects in S.I. 2024/110 and is being issued free of charge to all known recipients of that Statutory Instrument.*

STATUTORY INSTRUMENTS

# 2024 No. 474

# BUILDING AND BUILDINGS, ENGLAND

## The Building (Registered Building Control Approvers etc.) (England) (Amendment) Regulations 2024

| | |
|---|---|
| *Made - - - -* | *at 1.25 p.m. on 5th April 2024* |
| *Laid before Parliament* | *at 2.50 p.m. on 5th April 2024* |
| *Coming into force* | |
| *Regulations 1 and 2(1) and (5) to (7)* | *6th April 2024* |
| *Regulation 2(2) to (4)* | *30th April 2024* |

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1(1), 47(1) 50(6), 51(1) and (2), 53D(5) and 58Z4(5) of, and paragraphs 1A and 10 of Schedule 1 to, the Building Act 1984(**1**).

In accordance with section 120B(3) of the Building Act 1984(**2**) the Secretary of State has consulted the Health and Safety Executive and such persons as the Secretary of State considers appropriate.

### Citation, commencement and extent

**1.**—(1) These Regulations may be cited as the Building (Registered Building Control Approvers etc.) (England) (Amendment) Regulations 2024.

(**1**) 1984 c. 55. Section 1 was amended by section 1 of the Sustainable and Secure Buildings Act 2004 (c. 22) ("the 2004 Act") and by paragraph 2 of Schedule 5 to the Building Safety Act 2022 (c. 30) ("the 2022 Act"). See section 126 of the Building Act 1984 (as amended by paragraph 81 of Schedule 5 to the 2022 Act) for the meaning of "appropriate national authority" in section 1. Section 47(1) was amended by section 8 of the 2004 Act, S.I. 1996/1905 and sections 43, 46 and 48 of and Schedule 4 to the 2022 Act. The amendments made by section 43 of and Schedule 4 to the 2022 come into force on 6th April 2024. Section 51(1) was substituted by S.I. 1996/1905 and was amended by paragraph 7 of Schedule 4 to the 2022 Act. Section 53D was inserted by section 51 of the 2022 Act. Section 58Z4 was inserted by section 42 of the 2022 Act. See section 126 of the Building Act 1984 for the meaning of "prescribed" and section 1(2) for the meaning of "building regulations". Paragraph 1A of Schedule 1 was inserted by section 33 of the 2022 Act. Paragraph 10 of Schedule 1 was substituted by paragraph 83(8) of Schedule 5 to the 2022 Act.

(**2**) Section 120B was inserted by paragraph 77 of Schedule 5 to the 2022 Act. See the definition of "the regulator" at section 126 of the Building Act 1984, by virtue of which the Health and Safety Executive is the regulator.

(2) These Regulations come into force on 6th April 2024 subject to paragraph (3).

(3) Paragraphs (2) to (4) of regulation 2 come into force on 30th April 2024.

(4) These Regulations extend to England and Wales.

**Amendment of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024**

**2.**—(1) The Building (Registered Building Control Approvers etc.) (England) Regulations 2024(**3**) are amended as follows.

(2) In regulation 4(2)(a)(xviii) after "calculation" insert ")".

(3) In regulation 27(2)(a) for "relate" substitute "relates".

(4) In regulation 32 (notices to local authorities on disciplinary matters in relation to approvers) for paragraph (3) substitute—

"(3) For the purposes of section 58Z4(5) of the 1984 Act, the following cases are prescribed—

(a) any improvement notice given to a registered building control approver;

(b) where such a notice order is revoked.".

(5) In regulation 44 (transitional provisions: approved inspectors who became approvers), in paragraph (3)(b)(iii), for "paragraphs 11 and 12" substitute "paragraphs 10 and 11".

(6) In regulation 46 (transitional provisions: higher-risk building work regarded as sufficiently progressed), in paragraph (4)(f)(iii) for "paragraphs 11, 12 and 14" substitute "paragraphs 10, 11 and 13".

(7) In Schedule 4 (grounds for rejecting a final certificate) omit paragraph 6 (no plans certificate).

*Lee Rowley*
Minister of State
Department for Levelling Up, Housing and Communities

at 1.25 p.m. on 5th April 2024

(**3**) S.I. 2024/110.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make miscellaneous corrections to the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 (S.I. 2024/110).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

STATUTORY INSTRUMENTS

# 2023 No. 275

# BUILDING AND BUILDINGS, ENGLAND

## The Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023

| | |
|---|---|
| *Made - - - -* | *6th March 2023* |
| *Coming into force - -* | *6th April 2023* |

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 120A(2) and (3) and 120D(2), (3) and (4) of the Building Act 1984 ("the 1984 Act")(**1**), and sections 65(2) and (3) and 168(2) and (3) of the Building Safety Act 2022 ("the 2022 Act")(**2**).

In accordance with section 120E(1)(**3**) of the 1984 Act and section 66(1) of the 2022 Act, the Secretary of State has consulted the Health and Safety Executive(**4**) and such persons as the Secretary of State considers appropriate.

In accordance with section 120F(2)(**5**) of the 1984 Act the Secretary of State has asked the Health and Safety Executive for advice under section 120H(1)(**6**) of that Act and in accordance with section 67(2) of the 2022 Act the Secretary of State has asked the Health and Safety Executive for advice under section 70(1) of that Act.

In accordance with section 120F(3) of the 1984 Act and section 67(3) of the 2022 Act the Secretary of State has carried out a cost-benefit analysis and published it(**7**).

In accordance with section 120A(7)(b) of the 1984 Act and section 168(6)(b) of the 2022 Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

(**1**) 1984 c. 55. Section 120A was inserted by Schedule 5 to the Building Safety Act 2022 (c. 30) ("the 2022 Act") and section 120D was inserted by section 31 of that Act.
(**2**) 2022 c. 30.
(**3**) Section 120E was inserted by section 31 of the 2022 Act.
(**4**) The Health and Safety Executive is "the regulator". See the definitions of "the regulator" at section 126 of the Building Act 1984 and section 115 of the 2022 Act.
(**5**) Section 120F was inserted by section 31 of the 2022 Act.
(**6**) Section 120H was inserted by section 31 of the 2022 Act.
(**7**) The cost benefit analysis is available at https://www.gov.uk/government/publications/the-higher-risk-buildings-descriptions-and-supplementary-provisions-regulations-2023-cost-benefit-analysis. A paper copy can be requested by writing to the Building Safety Programme in the Department of Levelling Up, Housing and Communities at 2 Marsham Street, London, SW1P 4DF.

### Citation, commencement, extent and interpretation

**1.**—(1) These Regulations may be cited as the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023 and come into force on 6th April 2023.

(2) These Regulations extend to England and Wales.

(3) In these Regulations—

"the 1984 Act" means the Building Act 1984;

"the 2022 Act" means the Building Safety Act 2022;

"building" has the meaning given in regulation 4;

"care home" means a care home within the meaning of section 3 of the Care Standards Act 2000(**8**);

"ground level", in relation to a building, means—

(a) where the level of the surface of the ground on which the building is situated is uniform, the level of the surface of the ground immediately adjacent to the building; or

(b) where the level of the surface of the ground on which the building is situated is not uniform, the level of the lowest part of the surface of the ground adjacent to the building;

"His Majesty's forces" has the same meaning as in the Armed Forces Act 2006(**9**);

"hospital" means a building which—

(a) is a hospital within the meaning of section 275 of the National Health Service Act 2006(**10**), and

(b) has at least one bed intended for use by a person admitted to the premises for an overnight stay;

"residential unit" means—

(a) a dwelling, or

(b) any other unit of living accommodation;

"secure residential institution" means an institution used for the provision of secure residential accommodation, including as a prison, young offenders institution, detention centre, secure training centre, custody centre, short term holding centre or secure local authority accommodation;

"structure" means a roofed construction with walls;

"visiting force" has the same meaning as it does for the purposes of any provision of Part 1 of the Visiting Forces Act 1952(**11**).

### Specified descriptions of building under section 120D of the Building Act 1984

**2.** The following descriptions of building are specified for the purposes of section 120D(2)(b) of the 1984 Act—

(a) a building which contains at least two residential units;

(b) a care home;

(c) a hospital.

(**8**) 2000 c. 14.
(**9**) See section 374 of the Armed Forces Act 2006 (c. 52).
(**10**) 2006 c. 41.
(**11**) 1952 c. 67. See section 12 of that that Act.

**Application of regulations 4, 5 and 6**

**3.** Regulations 4, 5 and 6 apply for the purposes of section 120D of the 1984 Act and section 65 of the 2022 Act.

**Meaning of "building"**

**4.**—(1) Subject to paragraph (2), where a structure is not attached to any other structure, that structure is a "building".

(2) Subject to paragraph (5), where a structure that is not attached to any other structure contains one or more independent sections, each independent section is a "building".

(3) Subject to paragraph (4), where two or more structures are attached, that set of structures are a "building".

(4) Subject to paragraph (5), where two or more structures that are attached contains one or more independent sections, each independent section is a "building".

(5) Paragraphs (2) and (4) do not apply while a building is being constructed or proposed to be constructed.

(6) An "independent section" is a section that—

(a) has access, which can be reached from anywhere in the section, for persons to enter and exit the wider building; and

(b) either—

(i) has no access to any other section of the wider building; or

(ii) only has access to another section of the wider building which does not contain a residential unit.

(7) "Access" means a doorway, archway or similar opening but does not include a doorway, archway or similar opening intended for exceptional use including emergency use or use for the purpose of maintenance.

(8) The "wider building" means—

(a) in relation to a section of a structure that is not attached to any other structure, that structure;

(b) in relation to a section within two or more structures that are attached, that set of structures.

(9) Where a section is a "building" pursuant to paragraphs (2) or (4), any plant room containing equipment for the provision of services to that section is to be considered as part of that building.

(10) The rule in paragraph (9) does not apply to the reference to "building" in sub-paragraphs (i) and (ii) of section 73(1) of the 2022 Act and in section 73(2) of that Act.

**Determining height of a building**

**5.**—(1) Subject to paragraph (2), the height of a building is to be measured from ground level to the top of the floor surface of the top storey of the building (ignoring any storey which is a roof-top machinery or roof-top plant area or consists exclusively of roof-top machinery or roof-top plant rooms).

(2) Where the top storey is not directly above the lowest part of the surface of the ground adjacent to the building, the height of the building is to be measured vertically from the lowest part of the surface of the ground adjacent to the building to the point which is a horizontal projection from the top of the floor surface of the top storey of the building (ignoring any storey which is a roof-top machinery or roof-top plant area or consists exclusively of roof-top machinery or roof-top plant rooms).

### Storeys

**6.**—(1) Subject to paragraph (2), when determining the number of storeys a building has the following is to be ignored—

(a) any storey which is below ground level;

(b) any storey which is a roof-top machinery or roof-top plant area or consists exclusively of roof-top machinery or roof-top plant rooms; and

(c) any storey consisting of a gallery with an internal floor area that is less than 50% of the internal floor area of the largest storey vertically above or below it which is not below ground level.

(2) Where a section is a building pursuant to regulation 4(2) or (4), any storey directly beneath the building which is not below ground level is to be counted in determining the number of storeys the building has.

(3) A storey is treated as below ground level if any part of the finished surface of the ceiling of the storey is below the ground level immediately adjacent to that part of the building.

### Exclusions from the definition of "higher-risk building"

**7.**—(1) For the purposes of section 120D of the 1984 Act a "higher-risk building" does not include a building of a description specified in paragraph (2).

(2) The following descriptions of building are specified for the purposes of paragraph (1)—

(a) a building that comprises entirely of—

(i) a secure residential institution;

(ii) a hotel;

(iii) military barracks;

(b) a building that contains living accommodation provided by the Ministry of Defence (either alone or in combination with other accommodation);

(c) a building that contains living accommodation (either alone or in combination with other accommodation) for—

(i) His Majesty's forces;

(ii) any visiting force or an international headquarters or defence organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964(**12**).

**8.**—(1) For the purposes of section 65 of the 2022 Act a "higher-risk building" does not include a building of a description specified in paragraph (2).

(2) The following descriptions of building are specified for the purposes of paragraph (1)—

(a) a building that comprises entirely of—

(i) a care home;

(ii) a hospital;

(iii) a secure residential institution;

(iv) a hotel;

(v) military barracks;

(**12**) 1964 c. 5. Designations can be made under section 1(1).

(b) a building that contains living accommodation provided by the Ministry of Defence (either alone or in combination with other accommodation);

(c) a building that contains living accommodation (either alone or in combination with other accommodation) for—

(i) His Majesty's forces;

(ii) any visiting force or an international headquarters or defence organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

6th March 2023

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations determine which buildings will be subject to the new more stringent safety regime established by the Building Safety Act 2022 ("the 2022 Act"). They do so by supplementing and completing the definitions of "higher-risk building" at section 120D of the Building Act 1984 ("the 1984 Act") (inserted by section 31 of the 2022 Act) and section 65 of the 2022 Act. The 1984 Act makes provision about the design of, and building work carried out in respect of, "higher-risk buildings". The 2022 Act makes provision about safety management in occupied "higher-risk buildings".

Regulation 2 specifies descriptions of building considered "higher-risk buildings" for the purpose of section 120D of the 1984 Act.

Regulation 4 defines "building". It sets out the circumstances in which structures that are joined will be considered one "building" and also the circumstances in which a section of a wider structure or set of structures will be considered a "building" for the purpose of the new regime.

Regulations 5 and 6 set out how the height and number of storeys of a building is to be determined.

Regulations 7 and 8 exclude certain types of building from the definition of a "higher-risk building". The same types of building are excluded for both parts of the new regime apart from care homes and hospitals which are excluded from the definition of "higher-risk building" in the 2022 Act but not in the 1984 Act.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary sector or community bodies is foreseen.

STATUTORY INSTRUMENTS

# 2023 No. 315

# BUILDING AND BUILDINGS, ENGLAND

## The Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023

| | |
|---|---|
| *Made - - - -* | *9th March 2023* |
| *Laid before Parliament* | *14th March 2023* |
| *Coming into force - -* | *6th April 2023* |

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 25(1) to (3) and (7), 28(1), (2) and (4), 78(4) and (5), and 168(2) and (4) of the Building Safety Act 2022(**1**).

In accordance with section 7(4) of the Building Safety Act 2022, the Secretary of State has consulted the regulator(**2**) and such other persons as the Secretary of State considers appropriate.

No consultation by the Secretary of State is required in relation to regulations 20 and 21 of these Regulations because the regulator made proposals for them to the Secretary of State, under section 7(2) of the Building Safety Act 2022.

## PART 1

## General

### Citation, commencement, extent, application and interpretation

**1.**—(1) These Regulations may be cited as the Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023 and come into force on 6th April 2023.

(2) These Regulations extend to England and Wales and apply to England only.

(3) In these Regulations—

"the 2022 Act" means the Building Safety Act 2022;

"AP" means accountable person(**3**);

(**1**) 2022 c. 30.
(**2**) See section 2 of the Building Safety Act 2022 ("the 2022 Act") for the meaning of "the regulator".
(**3**) See section 72 of the 2022 Act for the meaning of 'accountable person'.

"building certificate" means, in relation to a building—

(a) a completion certificate issued by the local authority for the area in which the building is situated, or

(b) a final certificate given in accordance with regulations made under section 1 of the Building Act 1984(**4**) and not rejected by the local authority;

"building control body" in relation to a building certificate, means the local authority or approved inspector who gives the certificate;

"change of use" has the same meaning as in The Town and Country Planning (Use Classes) Order 1987(**5**);

"completed" in relation to a building means—

(a) in the case of a newly built higher-risk building(**6**), when the construction of that building is completed;

(b) in the case of a building which was not a higher-risk building when built and which becomes a higher-risk building following a change of use, when the change of use occurs that causes that building to become a higher-risk building;

(c) in the case of a building which was not a higher-risk building when built and which becomes a higher-risk building following works which cause it to become a higher-risk building, when those works are completed;

"completion certificate" means—

(a) a certificate issued in accordance with regulation 17 (completion certificates) of the Building Regulations 2010(**7**),

(b) a certificate issued in accordance with the equivalent provision of earlier regulations made under section 1 of the Building Act 1984 or section 4 of the Public Health Act 1961(**8**), or

(c) a certificate issued under an equivalent provision of byelaws made under section 61 of the Public Health Act 1936(**9**);

"final certificate" has the same meaning as in section 51 of the Building Act 1984(**10**);

"leaseholder" means a tenant under a lease of a dwelling in a building;

"PAP" means principal accountable person(**11**);

"the register" means the register of higher-risk buildings(**12**);

"registration information" means the information described in regulations 11 to 17, 18(1)(a) to (c) and (2) and 19;

"relevant day" means any day other than Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales(**13**);

"start date" means the day on which section 32 of the 2022 Act (building control authorities) comes into force in relation to England, ignoring any commencement of that section for the purpose only of making regulations;

(**4**) 1984 c. 55.
(**5**) S.I. 1987/764.
(**6**) See section 65 of the 2022 Act for the meaning of 'higher-risk building'.
(**7**) S.I. 2010/2214 as amended by S.I. 2012/3119 and 2016/285.
(**8**) 1961 c. 64.
(**9**) 1936 c. 49.
(**10**) Section 51 has been amended by the Deregulation (Building) (Initial Notices and Final Certificates) Order 1996 (S.I. 1996/1905), article 4.
(**11**) See section 73 of the 2022 Act for the meaning of 'principal accountable person'.
(**12**) See section 78 of the 2022 Act for the meaning of "the register".
(**13**) 1971 c. 80.

"transitional building" means a higher-risk building in relation to which section 91ZA(1) of the Building Act 1984(**14**) does not apply (by virtue of regulations made under paragraph 10 of Schedule 1 to the Building Act 1984) on the day the application for registration of that building is submitted.

**Direction to be made by regulator**

**2.**—(1) The regulator(**15**) may make a direction as to the way in which any of the following must be given to it—

(a) provision of information with regard to a change to registration information, or copy certificate, to the regulator in accordance with regulation 4,;

(b) a request made in accordance with regulation 7 to remove a building from the register;

(c) an application under section 78(1) of the 2022 Act to register a higher-risk building;

(d) a request made in accordance with regulation 22 to withdraw an application for registration;

(e) a notice given in accordance with regulation 23 to review a decision by the regulator.

(2) The direction may include a requirement to give the information via a website address provided for that purpose by the regulator.

(3) The regulator must publish any direction under this regulation on its website and make it available for inspection at its principal offices during normal office hours.

(4) The regulator may, by a further direction, amend or revoke a direction made under this regulation.

# PART 2

## The Register of Higher-Risk Buildings

**Content**

**3.** The register must contain the following information in relation to each higher-risk building on the register—

(a) the registration information,

(b) any copy certificate required in regulation 18(1)(d),

(c) the date of issue of any building assessment certificate(**16**), and

(d) where applicable, the date that any special measures order(**17**) is made or discharged.

**Updating information**

**4.** The PAP must provide to the regulator, within the period of 14 relevant days beginning with the day that the PAP becomes aware of a change—

(a) any change to the registration information provided to the regulator,

(b) any copy certificate required in regulation 18(1)(d) of these Regulations, where a certificate becomes available that is more recent than the one provided to the regulator.

(**14**) Section 91ZA was inserted by section 32 of the Building Safety Act 2022. Paragraph 10 was substituted by paragraph 83(8) of Schedule 5 to the Building Safety Act 2022.
(**15**) See section 2 of the 2022 Act for meaning of the "regulator".
(**16**) See definition of "building assessment certificate" in section 81(1)(a) of the 2022 Act.
(**17**) See definition of "special measures order" in paragraph 1 of Schedule 7 of the 2022 Act.

**5.** The regulator must update the register, as it considers necessary, within the period of 14 relevant days beginning with the relevant day that—

(a) the regulator receives information or copy certificate pursuant regulation 4;

(b) the regulator gives a building assessment certificate;

(c) the regulator receives any information pursuant to regulations made under section 90(4) (provision of information etc on change in accountable person) of the 2022 Act;

(d) a special measures order is made or discharged.

**Circumstances for removing a building entry**

**6.** The regulator may remove a higher-risk building from the register where—

(a) a PAP makes a written request to the regulator in accordance with regulation 7, or

(b) there is no request, on the regulator's own initiative.

**Request of PAP to remove a building entry**

**7.**—(1) Where a PAP for a building considers that the building is or will not be occupied or the building is or will not be a higher-risk building, the PAP must make a request to the regulator to remove the building from the register.

(2) With regard to any request that the PAP makes in accordance with paragraph (1) the PAP must include—

(a) their name, address and contact details,

(b) an explanation of why the PAP considers that the building is not or will not be occupied or the building is or will not be a higher-risk building, and

(c) where there is more than one AP for the building, a declaration confirming that all other APs for the building have been sent a copy of the request(**18**).

**Notice of removal of building entry**

**8.**—(1) Where the regulator decides to remove a building from the register ("the removal") the regulator must, before effecting the removal, give notice of its decision to all APs for the building.

(2) A notice under paragraph (1) may be in electronic form and must—

(a) be in writing,

(b) give a summary of the reasons for the removal, and

(c) inform the recipient of the notice of the right to a review of and appeal against the removal decision(**19**).

**Duty-holders**

**9.**—(1) In relation to regulations 6 and 7, "PAP" includes a person who would be a PAP for the building if the building were a higher-risk building.

(2) In relation to regulation 8 of these Regulations, "AP" includes a person who would be an AP for the building if the building were a higher-risk building.

(**18**) See section 109 (cooperation and coordination) of the 2022 Act.
(**19**) See sections 25 and 26 (reviews and appeals) and sections 104 to 107 (appeals etc.) of the 2022 Act.

# PART 3

## Applications for Registration

### Applications for registration

**10.** An application to register a higher-risk building must—

(a) contain the information set out in regulations 11 to 17, 18(1)(a) to (c) and (2), and 19,

(b) be accompanied by any document required by regulation 18(1)(d).

### AP details where there is one AP for the building

**11.** Where there is only one AP for the building, the details relating to the AP of the building as follows—

(a) their name;

(b) an address in England and Wales at which notices (including notices in proceedings) may be served on them;

(c) their email address;

(d) their telephone number.

### AP details where there is more than one AP for the building

**12.** Where there is more than one AP for the building—

(a) confirmation of who is the PAP,

(b) details for which part of the building each AP is responsible(**20**), and

(c) the details relating to each AP of the building as follows—

(i) their name;

(ii) an address in England and Wales at which notices (including notices in proceedings) may be served on them;

(iii) their email address;

(iv) their telephone number.

### PAP organisation type

**13.**—(1) For a PAP that is not an individual, whether the PAP is—

(a) a local authority within the meaning set out in section 1 of the Local Government Act 2000(**21**),

(b) a private registered provider of social housing(**22**),

(c) a registered provider of social housing(**23**),

(d) a commonhold association as defined by section 1 of the Commonhold and Leasehold Reform Act 2002(**24**),

(**20**) See section 74 of the 2022 Act for "part of a building for which an accountable person is responsible".
(**21**) 2000 c. 22. Section 1 of the act has been amended by the Local Government and Public Involvement in Health Act 2007 (c. 28) and by the Local Government (Wales) Measure 2011 (c. 4).
(**22**) See definition of "private registered provider of social housing" at Schedule 1 of the Interpretation Act 1978 (c. 30).
(**23**) See definition of "registered provider of social housing", ibid.
(**24**) 2002 c. 15. Section 1 of the act has been amended by the Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941).

(e) a resident management company,

(f) a right to manage company as defined by section 73(**25**) of the Commonhold and Leasehold Reform Act 2002, or

(g) where the PAP is not an authority or body of a type listed in sub-paragraphs (a) to (f), details of the type of organisation that it is.

(2) For the purpose of this regulation, "resident management company" means a body corporate which is party to a lease of a building where—

(a) the body corporate is limited by guarantee and the members of that body are tenants under leases of dwellings in the building ("leaseholders"), or

(b) the majority of the shares of the body corporate are held by leaseholders.

**Details of person making application on behalf of PAP**

**14.** If the PAP authorises a person to make the registration application on their behalf—

(a) confirmation from that person that they are authorised by that PAP, to act on that PAP's behalf, and

(b) the name and address of that person.

**Details of single point of contact**

**15.** If the PAP or person making the application on behalf of the PAP is not an individual, the name and address of the individual who will act as a single point of contact for the PAP for the purposes of the registration application.

**Description of building**

**16.** With regard to the higher-risk building—

(a) the address, postcode and, if applicable, name of the building,

(b) the number of residential units(**26**) it contains,

(c) the height, in metres, of the building as determined in accordance with regulations made under section 65(2) of the 2022 Act,

(d) the number of storeys on or above ground level as determined in accordance with regulations made under section 65(2) of the 2022 Act, and

(e) the year in which the building was completed.

**Building control: for a building completed before start date**

**17.**—(1) In relation to a building which was completed before the start date—

(a) the date of the building certificate for the completed building,

(b) the reference number of the certificate, and

(c) the name of the building control body who gave the certificate.

(2) Where the PAP does not hold any of the information in a paragraph (1) they must provide an explanation to the regulator setting out the steps that the PAP has taken to obtain the information.

(**25**) Section 73 has been amended by the Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941) and by the Finance Act 2003 (c. 14).
(**26**) See definition of "residential unit" in section 115 of the 2022 Act.

**Building control: for a building completed on or after start date and a transitional building**

**18.**—(1) In relation to a building which was completed on or after the start date and is a transitional building—

(a) the date of the building certificate issued in relation to the building,

(b) the reference number of the certificate,

(c) the name of the building control body who gave certificate, and

(d) a copy of the certificate.

(2) It is sufficient to provide the most recent building certificate where more than one building certificate has been issued for the same part of the building.

**Building control: for a building completed on or after start date and not a transitional building**

**19.** In relation to a building which was completed on or after the start date but is not a transitional building—

(a) the reference number for the building, issued by the regulator, and

(b) the date that the building certificate was issued.

**Prescribed fee**

**20.**—(1) The regulator may charge a fee of £251 to the PAP in relation to that PAP's application to register a higher-risk building.

(2) The fee must be paid at the time an application is made.

(3) Where an application is withdrawn the regulator may refund the fee in whole or in part.

**Effect of failure to pay fee**

**21.** The regulator must not register a higher-risk building unless the fee for the application has been paid.

**Withdrawing an application**

**22.**—(1) The circumstance in which an application for registration of a higher-risk building may be withdrawn is where—

(a) the PAP makes a request to the regulator to withdraw the application regarding the building for which they are the PAP, and

(b) that request is made in writing and sets out the reason for the request.

(2) In this regulation the PAP includes the person who would be the PAP if the building were a higher-risk building.

# PART 4

## Review of Decisions of the Regulator

**Regulator decision: review**

**23.**—(1) The following decisions of the regulator are prescribed for the purposes of section 25(1)(**27**) of the 2022 Act—

(a) a decision not to register a higher-risk building further to an application;

(b) a decision to remove a building from the register(**28**);

(c) a decision to refuse to remove a building from the register;

(d) a decision to refuse an application for a building assessment certificate(**29**);

(e) a decision to give a direction for assessment of building safety risks pursuant to section 83(2)(c) of the 2022 Act.

(2) The persons prescribed for the purposes of section 25(2) of the 2022 Act are—

(a) in relation to a decision under paragraph (1)(a), (b), (d) or (e) an affected person within the meaning in section 104(4) of the 2022 Act;

(b) in relation to a decision under paragraph (1)(c), an AP for the higher-risk building (or person who would be an AP for the building if the building were a higher-risk building).

(3) The prescribed period for giving a notice to the regulator is within 21 relevant days beginning with the day on which the decision is made.

(4) The prescribed information to be contained in a notice ("the notice") is—

(a) details for the person giving the notice as follows—

(i) their name;

(ii) an address in England and Wales at which notices (including notices in proceedings) may be served on them;

(iii) their email address;

(iv) their telephone number;

(b) the name and address of any person authorised to give the notice on behalf of a person set out at paragraph (3);

(c) the address, postcode, and if applicable, the name of the building to which the relevant decision relates;

(d) a summary of the review being sought that—

(i) identifies the decision for review, and

(ii) sets out the reason for the review;

(e) any new information that is available to the person giving the notice, that may have been relevant to the regulator's original decision and was not available at the time the original decision was made;

(f) confirmation that any other AP for the same building to which the decision relates has been given a copy of the notice.

(5) The period prescribed for the purposes of section 25(7) of the 2022 Act, is within 28 relevant days beginning with the day that the regulator receives the notice.

(**27**) Section 25 of the 2022 Act is entitled "review by regulator of certain decisions made by it".
(**28**) See section 78(3) of the 2022 Act for provision regarding a decision to remove a building from the register.
(**29**) See section 81 of the 2022 Act for provision regarding a decision as to whether or not to issue a building assessment certificate.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

9th March 2023

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision about the register of higher-risk buildings held by the building safety regulator ("the regulator"). These Regulations make provision about making an application for registration of a higher-risk building including the associated fee and withdrawing that application. They also set out further provisions about decisions of the regulator that may be subject to a review under section 25 of the Building Safety Act 2022 ("the 2022 Act").

Regulation 2 in Part 1 sets out how a direction by the regulator may determine how information is given to the regulator with respect to making or withdrawing a registration application, provision of information updating the register, requesting to remove a higher-risk building from the register or requiring the regulator to carry out a review of its own decision. The direction may require information to be submitted electronically and may be revoked and amended.

Part 2 of the Regulations makes provision about the register of higher-risk buildings. Regulation 3 makes provision for the content of the regulator's register of higher-risk buildings. Regulations 4 and 5 set out the requirements on the principal accountable person ("PAP") and regulator in relation to keeping that register up to date. Regulations 6 to 8 set out the procedure for removing a building entry from the register.

Part 3 of the Regulations makes provision about the application for registration of a higher-risk building. Regulations 10 to 17, 18(1)(a) to (c) and (2) and 19 set out the 'registration information' to be contained in the application and regulation 18(1)(d) sets out any copy certificate that must accompany an application. The registration information requirements include details about contact information for each accountable person ("AP") for that building, a description of the building, and information in relation to building control approvals for that building.

Regulations 20 and 21 make provision for the regulator to charge a registration fee to the PAP at the time the application for registration is made, otherwise the regulator will not register the higher-risk building. Regulation 20 also provides that any refund of the registration fee upon a withdrawal of application, will be at the regulator's discretion.

Regulation 22 provides for the circumstance in which a registration application may be withdrawn and the procedure for requesting a withdrawal.

In Part 4, regulation 23 supplements section 25 of the 2022 Act. It sets out, among other things, which regulator decisions may be the subject of a review, the persons who can give notice to the regulator requiring the review, the period of time in which the person must send that notice and by when the regulator must notify the outcome of the review. It also sets out what must be contained in the notice sent to the regulator requesting the review.

A full impact assessment of the effect that this instrument will have on the costs to business and is published with an Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

STATUTORY INSTRUMENTS

# 2023 No. 396

# BUILDING AND BUILDINGS, ENGLAND

## The Higher-Risk Buildings (Key Building Information etc.) (England) Regulations 2023

| | |
|---|---|
| *Made - - - -* | *26th March 2023* |
| *Coming into force - -* | *6th April 2023* |

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 74, 89(1) and (2) and 168(2) and (4) of the Building Safety Act 2022(**1**).

In accordance with section 7(4) of the Building Safety Act 2022, the Secretary of State has consulted the building safety regulator and such other persons as the Secretary of State considers appropriate.

A draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

**Citation, commencement, extent, application and interpretation**

**1.**—(1) These Regulations may be cited as the Higher-Risk Buildings (Key Building Information etc.) (England) Regulations 2023 and come into force on 6th April 2023.

(2) These Regulations extend to England and Wales and apply to England only.

(3) In these Regulations—

"the 2022 Act" means the Building Safety Act 2022;

"ancillary building" in relation to a higher-risk building means any structure or section that is attached to but does not form part of that higher-risk building;

"AP" means accountable person(**2**);

"external wall" has the meaning in regulation 2(6) of the Building Regulations 2010(**3**);

"ground level" means—

(a) where the level of the surface of the ground on which the building is situated is uniform, the level of the surface of the ground immediately adjacent to the building, or

(b) where the level of the surface of the ground on which the building is situated is not uniform, the level of the lowest part of the surface of the ground adjacent to the building;

(**1**) 2022 c. 30.
(**2**) See section 72 of the Building Safety 2022 Act ("the 2022 Act") for the meaning of 'accountable person'.
(**3**) S.I. 2010/2214. Relevant amendments to regulation 2(6) are made by S.I. 2018/1230 and 2022/603.

"PAP" means principal accountable person(**4**);

"storey" includes any gallery floor that is a floor open to the storey below and whose internal floor area is at least 50% of the internal floor area of the largest storey vertically above or below it (excluding any floor below ground level);

"storey below ground level" means a storey where any part of the finished surface of the ceiling of the storey is below the ground level immediately adjacent to that part of the building.

**Key building information as prescribed information**

**2.** The prescribed information ("key building information") is information as set out in regulations 3 to 18.

**Key building information: ancillary building**

**3.** Whether the higher-risk building has any ancillary building and whether that ancillary building is a higher-risk building(**5**).

**Key building information: use**

**4.**—(1) The principal use of—

(a) the higher-risk building,

(b) any ancillary building,

(c) any outbuilding,

(d) any storey below ground level in the higher-risk building.

(2) "Outbuilding" in relation to a higher-risk building means any permanent or temporary building, whether or not attached to the higher-risk building but not forming part of it, that is used for purposes incidental to the enjoyment of the higher-risk building.

**5.**—(1) The subordinate use of—

(a) the higher-risk building, save in respect of a residential unit(**6**) in that higher-risk building,

(b) any ancillary building,

(c) any storey below ground level in the higher-risk building.

(2) "Subordinate use" means any use other than the principal use.

**6.** Whether since its construction there has been a change to the principal use of the higher-risk building.

**7.**—(1) "Use" must be described using the following categories—

(a) residential (dwellings),

(b) residential (institutional),

(c) residential (other),

(d) office,

(e) shop and commercial,

(f) assembly and recreation,

(**4**) See section 73 of the 2022 Act for the meaning of 'principal accountable person'.
(**5**) See section 65 of the 2022 Act for definition of "higher-risk building".
(**6**) See section 115 of the 2022 Act for definition of "residential unit".

(g) industrial, or

(h) storage and other non-residential

(2) For the purposes of interpreting the categories in paragraph (1) regard must be had to Table 0.1 "Classification of purpose groups" of Approved Document B (Fire safety) volume 1: Dwellings (2019 edition incorporating 2020 and 2022 amendments) that came into force on 1 December 2022(**7**).

**Key building information: materials**

**8.** With regard to the external wall of the higher-risk building—

(a) a description of the material used in its composition, and

(b) if there is more than one material, what percentage of the whole does each material constitute.

**9.** If there is insulation of the external wall—

(a) a description of the material used in the composition of that insulation, and

(b) if there is more than one material, what percentage of the whole does each material constitute.

**10.** With regard to the roof of the higher-risk building—

(a) the main material used in the composition of the part of the roof that provides a waterproof covering,

(b) whether there is a separate layer of insulation, and

(c) whether the roof plane is pitched or flat or a combination of both.

**Key building information: fixture on external wall**

**11.** With regard to any fixture attached to the external wall or roof of the higher-risk building—

(a) the type of fixture, and

(b) the main material from which the fixture is composed.

**Key building information: structure**

**12.** With regard to the structure of the higher-risk building—

(a) the main material used, and

(b) the type of structural design the building has in order to comply with Part A (Structure) of Schedule 1 to the Building Regulations 2010(**8**).

**Key building information: storeys and staircases**

**13.** The number of storeys below ground level that are in the higher-risk building.

**14.** In relation to staircases—

(a) the number of staircases that the higher-risk building has, and

(b) how many of those staircases serve, as part of the same flight of stairs, the storey at ground level and every storey above it.

(**7**) Copies of the Approved Document are available from https://www.gov.uk/government/collections/approved-documents, or RIBA, https://www.ribabookshops.com/.

(**8**) Relevant amendments are made by S.I. 2015/767, 2016/490, 2021/1391, 2021/1392, 2022/564 and 2022/984.

**Key building information: energy**

**15.** The type of energy supply to the higher-risk building.

**16.** The type of energy storage system of the higher-risk building.

**Key building information: emergency planning**

**17.** A description of the type of evacuation strategy that is in place for the higher-risk building.

**18.**—(1) A list of the fire and smoke control equipment within the higher-risk building, save for that provided by a resident for their own use.

(2) Where in the building the equipment is located.

**Key building information duties**

**19.** The PAP must provide to the regulator(**9**) key building information for each higher-risk building for which they are the PAP.

**20.** The key building information for a higher-risk building must be submitted within 28 days of the PAP submitting an application for registration of that higher-risk building(**10**).

**21.** The PAP must notify the regulator of any change to the key building information within 28 days of the PAP becoming aware of the change.

**22.** If there is more than one AP for a higher-risk building each AP must, for the part of the building for which they are responsible(**11**), provide the PAP with—

(a) notice and details of any change to the key building information within 28 days of the AP becoming aware of the change,

(b) if requested by the PAP, key building information as soon as reasonably practicable from the date of request from the PAP.

**23.** A submission of, or notification about, key building information to the regulator may be made by a person authorised on behalf of the PAP for that building.

**Provision of key building information to the regulator**

**24.** The key building information to be provided to the regulator must be in electronic form.

**Direction by regulator**

**25.**—(1) The regulator may make a direction as to the way in which key building information must be given.

(2) The direction may include a requirement to give the information via a website address provided for that purpose by the regulator.

(3) The regulator must publish any direction under this regulation on its website and make it available for inspection at its principal offices during normal office hours.

(4) The regulator may, by a further direction, amend or revoke a direction made under this regulation.

(**9**) See section 2 of the 2022 Act for meaning of "regulator".
(**10**) See section 77 of the 2022 Act for the registration requirement in an occupied higher-risk building.
(**11**) See regulations 26 to 30 of these Regulations for provision under section 74 of the 2022 Act.

**Part of the building for which an AP is responsible: buildings with only one AP**

**26.**—(1) If a higher-risk building has only one AP and the AP is a commonhold association, the AP is responsible for the following parts of the building—

(a) the common parts of the building,

(b) any commonhold unit,

(c) any balcony, and

(d) any other part of the building to which the Regulatory Reform (Fire Safety Order) 2005(**12**) does not apply.

(2) If a higher-risk building has only one AP and the AP is not a commonhold association, the AP is responsible for the following parts of the building—

(a) the common parts of a building,

(b) any residential unit,

(c) any balcony, and

(d) any other part of the building to which the Regulatory Reform (Fire Safety Order) 2005 does not apply.

(3) The common parts of the building are defined by—

(a) section 25(1) (definition) of the Commonhold and Leasehold Reform Act 2002(**13**) in relation to paragraph (1), and

(b) section 72(6) of the 2022 Act in relation to paragraph (2)

(4) In this regulation "commonhold association" means as defined under Part 1 of the Commonhold and Leasehold Reform Act 2002.

**Buildings with more than one AP**

**27.** If a higher-risk building has more than one AP, the parts of the building for which an AP is responsible is determined by reference to regulations 28 to 30.

**28.** An AP is responsible for the part of the common parts of the building for which they hold a legal estate in possession or a repairing obligation.

**29.** An AP who holds a legal estate in possession in or a repairing obligation in relation to any part of the exterior of the building, is responsible for any balcony attached to that part of the exterior.

**30.**—(1) If an AP has the right to let or (excluding a residential unit let on a long lease(**14**)) lets a residential unit in the building, the AP is responsible for that unit.

(2) If a residential unit is let under a long lease, the AP responsible for the unit is—

(a) the lessor in relation to the long lease, or

(b) where, by virtue of section 72 of the 2022 Act, the lessor in relation to the long lease is not an AP, the AP responsible for the part of the common parts that adjoins or is nearest to the main entrance door of the unit.

(3) For this regulation, the residential unit is treated as including any garden, yard, garage, outhouse, or other appurtenance that is—

(a) within the higher-risk building,

(b) for the use, benefit and enjoyment of a resident of that unit, and

(**12**) S.I. 2005/1541. Relevant amendments are made by the Fire Safety Act 2010 (c. 24).
(**13**) 2002 c. 15.
(**14**) See section 115 of the 2022 Act for the definition of 'long lease'.

(c) not a part subject to regulations 28 and 29.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

26th March 2023

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations set out what constitutes 'key building information' in respect of higher-risk buildings; the duties and provisions in relation to submitting key building information; and sets out how to determine for which parts of a higher-risk building an accountable person ("AP") is responsible under Part 4 of the Building Safety Act 2022 ("the 2022 Act").

Regulation 2 sets out what information is prescribed under section 89(1) of the 2022 Act as 'key building information'.

Regulations 3 to 18 set out what information is 'key building information'. Amongst other things, it clarifies information that is required in relation to structures that do not form part of the higher-risk building but are attached or an outbuilding of it; information that is required in relation to the use of the building; information in relation to materials used and fixtures in certain parts; and information relating to structure and staircases.

Regulations 21 to 23 set out the duties on a principal accountable person ("PAP") and AP. These duties include providing or enabling key building information to be submitted to the regulator and keeping information up to date. These regulations also provide a time frame for carrying out the duties by reference to an application for registration or upon the AP or PAP becoming aware of any changes to the information.

Regulations 24 and 27 make provision about the form and way key building information is given to the regulator. Regulation 24 mandates that the information should be submitted in electronic form. Regulation 25 includes provision for the regulator to make a direction specifying in further detail how the information is to be submitted.

Regulation 26 sets out what parts of a higher-risk building an AP is responsible for, for the purposes of section 74 of the 2022 Act, where there the building has only one AP.

Regulations 29 to 30 set out what parts of a higher-risk building an AP is responsible, for the purposes of section 74 of the 2022 Act, where the building has more than one AP. Regulation 28 provides that an AP who holds a legal estate in possession in or a repairing obligation in relation to common part as defined by section 72 of the 2022 Act is responsible for that part of the common parts. Regulation 29 provides which AP is responsible for a balcony on the exterior wall. Regulation 30 makes provision in relation to residential units that are let, or the AP has a right to let, under a long lease as defined by section 115 of the 2022 Act.

A full impact assessment has not been produced for this instrument as no significant impact on the private, voluntary sector or public sector is foreseen.

STATUTORY INSTRUMENTS

# 2023 No. 504

# BUILDING AND BUILDINGS

## The Building (Public Bodies and Higher-Risk Building Work) (England) Regulations 2023

*Made - - - - 24th April 2023*

*Coming into force in accordance with regulation 1*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 54A of the Building Act 1984(**1**).

The Secretary of State has consulted the regulator and other persons in accordance with section 120B(3) of the Building Act 1984.

A draft of these Regulations was laid before and approved by a resolution of both Houses of Parliament in accordance with section 120A(7) of the Building Act 1984.

### Citation, commencement and extent

**1.**—(1) These Regulations may be cited as the Building (Public Bodies and Higher-Risk Building Work) (England) Regulations 2023.

(2) These Regulations come into force on the day on which section 32 of the Building Safety Act 2022 (building control authorities) comes into force in relation to England, ignoring any commencement of that section for the purpose only of making regulations.

(3) These Regulations extend to England and Wales.

### Amendment to section 5 of the Building Act 1984

**2.** In section 5 of the Building Act 1984(**2**), after subsection (3) insert—

"(3A) In relation to higher-risk building work in England—

(a) exemptions under subsection (1) have no effect (and accordingly bodies must comply with requirements applicable to such work, whether substantive or not), and

(**1**) 1984 c. 55. Section 54A is inserted by section 47 of the Building Safety Act 2022 (c. 30). Sections 120A and 120B are inserted by paragraph 77 of Schedule 5 to that Act.

(**2**) Section 5 is amended by paragraphs 7 and 8 of Schedule 5 to the Building Safety Act 2022. There are amendments to section 54 which are not relevant to this instrument.

(b) subsection (3) has no effect (and accordingly the provisions mentioned in that subsection are not disapplied or otherwise affected by it in relation to such work).".

**Amendment to section 54 of the Building Act 1984**

**3.** In section 54 of the Building Act 1984, after subsection (1) insert—

"(1A) A public body's notice is of no effect to the extent that it relates to higher-risk building work in England (and accordingly Schedule 4 does not have effect in relation to such work).".

**Amendment to Schedule 4 to the Building Act 1984**

**4.**—(1) Schedule 4 to the Building Act 1984 is amended as follows.

(2) In paragraph 1(1) for "the occurrence of, or the expiry of a prescribed period of time beginning on the date of such event as may be prescribed" substitute—

"—

(a) the occurrence of, or the expiry of a prescribed period of time beginning on the date of such event as may be prescribed, or

(b) it is cancelled, in whole or part, by a notice under paragraph 1A (work in England reassessed as higher-risk building work)".

(3) After paragraph 1 insert—

"**Cancellation of a public body's notice where work to a building in England becomes higher-risk building work**

**1A.**—(1) Sub-paragraph (2) applies where—

(a) a public body's notice relating to a building in England is in force, and

(b) it appears to the public body that some or all of the work in relation to which that notice has effect has become higher-risk building work.

(2) Where this sub-paragraph applies the public body must, as soon as is reasonably practicable—

(a) cancel the relevant part of the public body's notice by notice in the prescribed form given to the local authority concerned, and

(b) give a copy of that notice to the regulator.

(3) Sub-paragraph (4) applies where—

(a) a public body's notice relating to a building in England is in force, and

(b) it appears to the local authority concerned that some or all of the work in relation to which that notice has effect has become higher-risk building work.

(4) Where this sub-paragraph applies the local authority must, as soon as is reasonably practicable—

(a) cancel the relevant part of the public body's notice by notice in the prescribed form given to the public body, and

(b) give a copy of that notice to the regulator.

(5) Where a notice is given under sub-paragraph (2) or (4) (a "cancellation notice")—

(a) the part of the public body's notice to which the cancellation notice relates is cancelled with effect from the day after the day on which the cancellation notice is given, and

(b) a new public body's notice may not be given in relation to any of the work to which the cancelled part of the public body's notice related.

(6) Where a public body fails to—

(a) give to a local authority a notice that the body is required to give by sub-paragraph (2);

(b) give to the regulator a copy of a notice that the body is required to give by sub-paragraph (2),

then on becoming aware of the failure the regulator may, by notice in writing, impose a penalty of £7,500, which is recoverable by the regulator as a debt.

(7) Before imposing a penalty under sub-paragraph (6) the regulator must—

(a) give the public body a notice of its intention to impose the penalty; and

(b) have regard to any representations made by the public body during the period referred to in sub-paragraph (8).

(8) The regulator must not give a notice under sub-paragraph (6) imposing a penalty on a public body until a period of 14 days beginning with the day after the day on which the notice under sub-paragraph (7) is given has expired.

(9) A public body may appeal to the tribunal against the decision of the regulator to impose a penalty under sub-paragraph (6) provided that the appeal is made within a period of 21 days beginning with the day after the day on which the regulator gives a notice to the body imposing the penalty.

(10) On an appeal the tribunal—

(a) must determine whether the decision to impose the penalty was based on an error of fact, wrong in law or unreasonable, and

(b) may confirm, quash or vary the decision.

(11) In this paragraph "the relevant part of the public body's notice" means so much of the public body's notice (whether all or part of it) as relates to work that has become higher-risk building work.

**Effect of public body's notice ceasing to be in force where work becomes higher-risk building work**

**1B.**—(1) This paragraph applies where a public body's notice ceases to be in force, whether in whole or in part, by virtue of paragraph 1A.

(2) If, before the day on which the relevant part of the public body's notice ceased to be in force, a public body's final certificate under paragraph 3 of this Schedule—

(a) was given in respect of part of the work to which the relevant part of the public body's notice relates, and

(b) was accepted by the local authority,

the fact that the relevant part of the public body's notice has ceased to be in force does not affect the continuing operation of paragraph 3(3) of this Schedule in relation to that part of the work.

(3) The building control authority in relation to any of the uncertified work is the regulator.

(4) In sub-paragraph (3), the "uncertified work" means any of the work—

(a) to which the relevant part of the public body's notice relates, and

(b) in respect of which no public body's final certificate has been accepted by the local authority as mentioned in sub-paragraph (2).

(5) Sections 91(3) (duties of the regulator) and 121A(1) (meaning of "building control authority") apply as if, in each case, the reference to section 91ZA or 91ZB were a reference to section 91ZA, 91ZB or this paragraph.

(6) In any case where this paragraph applies, the reference in subsection (4) of section 36 to the date of the completion of the work in question has effect, in relation to a notice under subsection (1) of that section, as if it were a reference to the date on which the relevant part of the public body's notice ceased to be in force.

(7) In this paragraph "the relevant part of the public body's notice" means so much of the public body's notice (whether all or part of it) as was cancelled by a notice under paragraph 1A of this Schedule.

**Appeals against cancellation of a public body's notice by a local authority**

**1C.**—(1) Where a local authority cancels a public body's notice, in whole or in part, by giving a notice (a "cancellation notice") under paragraph 1A(4) of this Schedule the public body may appeal to the tribunal within 21 days of the day the notice is given under that paragraph.

(2) On an appeal under sub-paragraph (1), the tribunal must determine whether the relevant part of the public body's notice was properly cancelled.

(3) In a case where the tribunal determines that the relevant part of the public body's notice was not properly cancelled—

(a) the determination does not have the effect of reinstating the relevant part of the public body's notice;

(b) paragraph 1B(2) and (6) of this Schedule continue to apply in relation to the relevant part of the public body's notice;

(c) the tribunal may give such directions as it considers appropriate in consequence of the determination (which may include giving directions to the regulator).

(4) In this paragraph the "relevant part of the public body's notice" means so much of the public body's notice (whether all or part of it) as was subject to the cancellation notice.".

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

24th April 2023

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make amendments to the Building Act 1984 in connection with higher-risk building work carried out by local authorities and any other public bodies. A number of new definitions, such as higher-risk building, higher-risk building work, the tribunal and the regulator are inserted into the Building Act 1984 by Building Safety Act 2022 (c. 30). See section 126 of the Building Act 1984 for these definitions.

Regulation 2 amends section 5 of the Building Act 1984 to provide that, as respects England, an exemption granted under that section has no effect in relation to higher-risk building work. The effect of this provision is to ensure that such building work will be supervised by the building safety regulator.

Regulation 3 amends section 54 of the Building Act 1984 to provide that, as respects England, that public bodies notices may not include any higher-risk building work. The effect of this provision is to ensure that such building work will be supervised by the building safety regulator.

Regulation 4 amends Schedule 4 to the Building Act 1984 to provide that the whole or part of a public body's notice may be cancelled where work to a building in England which is specified in such a notice becomes higher-risk building work. Provision inserted into Schedule 4 also explains the effect of the cancellation and the grounds for appealing against a decision of a local authority to cancel such a public body's notice.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

STATUTORY INSTRUMENTS

# 2023 No. 909

# BUILDING AND BUILDINGS, ENGLAND

## The Building (Higher-Risk Buildings Procedures) (England) Regulations 2023

| | |
|---|---|
| *Made - - - -* | *9th August 2023* |
| *Laid before Parliament* | *17th August 2023* |
| *Coming into force - - - -* | *1st October 2023* |

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1, 2B, 3, 30A(1), (3), (5), (6) and (9), 34, 35(2), 35B(7), 35C(1) and 47(4)(b)(ii) of, and paragraphs 1A to 1I, 5B, 5C and 10 of Schedule 1 to, the Building Act 1984(**1**) and sections 19(2), 25(1) to (3) and (7), 76(5) and 166(1) of , and paragraph 2(5) of Schedule 3 to, the Building Safety Act 2022(**2**).

The Secretary of State has consulted the Building Regulations Advisory Committee for England and such other bodies as appear to be representative of the interests concerned in accordance with section 14(3) of the Building Act 1984(**3**) and has consulted the regulator and such other persons as the Secretary of State considers appropriate in accordance with section 7 of the Building Safety Act 2022.

## PART 1

## Preliminary

### Citation, commencement, extent and application

**1.**—(1) These Regulations may be cited as the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 and come into force on 1st October 2023.

(**1**) 1984 c. 55. Section 1 was amended by section 1(1) to (3) of the Sustainable and Secure Buildings Act 2004 (c. 22), section 37(2) of the Infrastructure Act 2015 (c. 7) and paragraph 2 of Schedule 5 to the Building Safety Act 2022 (the 2022 Act"). Section 2B was inserted by section 42 of the Deregulation Act 2015 (c. 20). Section 30A was inserted by section 37 of the 2022 Act. Section 35 was amended by section 39 of the 2022 Act. Sections 35B and 35C were inserted by section 38 of the 2022 Act. Section 47(4) was amended by sections 36(3) and 46(4) of the 2022 Act. Paragraphs 1A to 1I, 5B and 5C of Schedule 1 were inserted by sections 33 to 35 of the 2022 Act. Paragraph 10 of Schedule 1 was substituted by paragraph 83(8) of Schedule 5 to the 2022 Act.

(**2**) 2022 c. 30.

(**3**) Under the transitional provisions in regulation 5(1) of S.I. 2023/362 the requirement to consult under section 120B of the Building Act 1984 does not apply to proposals consulted on under section 14(3) of the Building Act 1984 before it was repealed by paragraph 17 of Schedule 5 to the Building Safety Act 2022.

(2) These Regulations extend to England and Wales.

(3) These Regulations apply in relation to England only.

**Interpretation**

**2.**—(1) In these Regulations—

"the 1984 Act" means the Building Act 1984;

"the 2022 Act" means the Building Safety Act 2022;

"the 2010 Regulations" means the Building Regulations 2010(**4**);

"active fire safety measures" includes sprinkler systems (including isolating valves and control equipment for that system), smoke control systems (including heating or ventilation and air conditioning systems with a smoke control function), fire or smoke dampers, fire alarm systems, lifts and lift shafts (including evacuation or fire-fighting lifts), and fire main and hydrants;

"agreed document" means—

(a) a description, plan or document in relation to HRB work, stage of HRB work or work to existing HRB that was approved by virtue of regulation 7(8) or (10) (building control approval applications for HRB work or stage of HRB work: decisions) or regulation 15(8) or (10) (building control approval applications for work to existing HRB: decisions), or

(b) where such a description, plan or document is revised—

(i) in relation to a major change, the plan or document that was approved in accordance with regulation 24(8) or (10) (change control applications: decisions);

(ii) in relation to a notifiable change, the version of the plan or document that accompanied the notice to the regulator(**5**) given under regulation 20(1) (change control: notification requirements);

(iii) in relation to a recordable change, the version of the plan or document that was revised in accordance with regulation 18(2)(b) (change control) and in respect of which a record was made in accordance with regulation 18(2)(a);

"building"—

(a) in the application of any provision of these Regulations to the construction of a higher-risk building, has the meaning given in regulation 4 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(**6**);

(b) in any other case, has the same meaning as under the 2010 Regulations;

"building control approval application for HRB work" has the meaning given in regulation 3 (building control approval for HRB work or stage of HRB work);

"building control approval application for a stage of HRB work" has the meaning given in regulation 3 (building control approval for HRB work or stage of HRB work);

"building control approval application for work to existing HRB" has the meaning given in regulation 11 (building control approval for work to existing HRB);

"Building Regulations compliance statement" means a document in accordance with paragraph 4 of Schedule 1;

"change control application" has the meaning given in regulation 18(5) (change control);

(**4**) S.I. 2010/2214 as amended by S.I. 2012/3119, 2013/1959, 2014/110, 2015/767, 2016/285, 2016/1274, 2018/1230, 2021/1391, 2022/608 and 2023/520. There are other amending instruments, but none is relevant to this instrument.

(**5**) See section 126 of the Building Act 1984 for the definition of "the regulator", which was inserted by paragraph 81 of Schedule 5 to the Building Safety Act 2022.

(**6**) S.I. 2023/275.

"change control log" has the meaning given in regulation 19(1) (change control: record-keeping);

"change control plan" means a document in accordance with paragraph 3 of Schedule 1;

"commercial unit" means a part of a building in separate occupation which does not contain a flat or a residential room;

"completion certificate application" has the meaning given in regulation 40 (completion certificate applications);

"competence declaration" means a statement in accordance with paragraph 1 of Schedule 1;

"compliance declaration" means—

(a) where any appointment of a principal contractor (or sole contractor) or principal designer (or sole or lead designer) ends before a completion certificate application is submitted to the regulator, a statement provided in accordance with regulation 29(3) (new principal contractor or principal designer etc: notification);

(b) in any other case, has the meaning given in regulation 40 (completion certificate applications);

"compliance explanation" has the meaning given in regulation 19(2)(g) (change control: record-keeping);

"construction control plan" means a document in accordance with paragraph 2 of Schedule 1;

"controlled change" has the meaning given in regulation 18 (change control);

"exempt work" has the meaning in regulation 57 (exempt work);

"fire and emergency file" means a document in accordance with paragraph 5 of Schedule 1;

"fire safety compliance information" has the meaning given in regulation 12(3) (building control approval applications for work to existing HRB);

"fire safety information" has the meaning in regulation 39 (information to be provided where work is scheme work);

"golden thread information" has the meaning given in regulation 31 (golden thread);

"HRB work" means—

(a) the construction of a higher-risk building(**7**);

(b) work to an existing building that causes it to become a higher-risk building together with any work to the building carried out at the same time as that work;

(c) such work, if any, which is necessary to ensure a building that undergoes a material change of use to become a higher-risk building complies with the applicable requirements listed in regulation 6 of the 2010 Regulations (requirements relating to material change of use) together with any work to the building carried out at the same time as that work;

"major change" has the meaning given in regulation 26 (change control: major changes and notifiable changes);

"mandatory occurrence reporting plan" is a plan describing the mandatory occurrence reporting system;

"mandatory occurrence reporting system" means a system required under regulation 32 (mandatory occurrence reporting system);

"notifiable change" has the meaning given in regulation 26 (change control: major changes and notifiable changes);

(**7**) See the definition of "higher-risk building" in section 120D of the Building Act 1984, which was inserted by 31 of the Building Safety Act 2022.

"passive fire safety measures" includes the cavity barriers, fire door sets, duct dampers, fire shutters and other fire separating elements;

"partial completion certificate application" has the meaning given in regulation 45 (partial completion certificates);

"partial completion strategy" means a document in accordance with paragraph 6 of Schedule 1;

"recordable change" means a controlled change which is neither a major change nor a notifiable change;

"regularisation certificate application" has the meaning given in regulation 47 (regularisation of unauthorised building work);

"relevant day" means any day excluding Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971(**8**);

"relevant person" has the meaning given in regulation 38 (handover of information on completion etc);

"residential room" means a room, or a suite of rooms, which is not a flat and which is used solely by one or more persons to live and sleep and includes a room in a hall of residence or a residential home, but does not include a room in a hospital, or similar establishment, which is used for patient accommodation;

"scheme work" means work to which—

(a) regulation 20 (provisions applicable to self-certification schemes) of the 2010 Regulations applies, or

(b) regulation 20A (provisions applicable to third party certification schemes) of the 2010 Regulations applies.

"work to existing HRB" means any higher-risk building work(**9**) which is not HRB work;

"working day" means any day excluding Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971.

(2) In these Regulations—

(a) "building work", "client", "contractor", "designer", "domestic client", "flat", "material change of use", "principal contractor", "principal designer", "project", "sole contractor" and "sole or lead designer" have the meanings given in 2010 Regulations(**10**);

(b) a reference to appointment as a principal contractor or principal designer is to appointment under regulation 11D (principal designer and principal contractor) of the 2010 Regulations, and that reference includes an appointment which is certified under regulation 11D(2) of those Regulations.

(**8**) 1971 c. 80.

(**9**) See the definition of "higher-risk building work" in section 91ZA of the Building Act 1984 (c. 55), which was inserted by section 32 of the Building Safety Act 2022.

(**10**) The definitions of client, contractor, designer, domestic client, principal contractor, principal designer, project, sole contractor and sole or lead designer, and regulation 11D were inserted into the 2010 Regulations by the Building Regulations etc. (Amendment) (England) Regulations 2023.

# PART 2

## Building control approval

### CHAPTER 1

### New HRBs

**Building control approval for HRB work or stage of HRB work**

**3.** Before any person starts HRB work or starts a stage of HRB work, the client in relation to that work (in this Chapter "the applicant") must—

(a) submit an application for building control approval in relation to the work to the regulator (a "building control approval application for HRB work" or, where the work is done in stages, a "building control approval application for a stage of HRB work") in accordance with regulation 4 (building control approval applications for HRB work or stage of HRB work),

(b) be granted building control approval for the work,

(c) fulfil those requirements, if any, which in accordance with the building control approval must be fulfilled before the work or, as the case maybe, the stage of the work is started, and

(d) notify the regulator of the date on which the work or the stage of the work is to start in accordance with regulation 9(2) (notice before starting on site and further notice when work is "commenced").

**Building control approval applications for HRB work or stage of HRB work**

**4.**—(1) A building control approval application for HRB work must be made in writing, signed by the applicant, and must include—

(a) the name, address, telephone number and (if available) email address of the client;

(b) the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

(c) a statement that the application is made under this regulation;

(d) where HRB work consists of work to an existing building, a description of the existing building including—

(i) details of its current use, including the current use of each storey;

(ii) its height as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(**11**);

(iii) the number of storeys it has as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(e) a description of the proposed HRB work, including—

(i) details of the intended use of the higher-risk building, including the intended use of each storey;

(ii) the height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(**11**) S.I. 2023/275.

(iii) the number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(iv) the number of flats, the number of residential rooms and the number of commercial units it is proposed the higher-risk building will contain;

(v) the provision to be made for the drainage of the higher-risk building;

(vi) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes a requirement, the precautions to be taken in the building over a drain, sewer or disposal main to comply with the requirements of that paragraph;

(vii) the steps to be taken to comply with any local enactment that applies;

(viii) a statement as to when it is proposed the work is to be regarded as commenced in accordance with regulation 46A (lapse of building control approval: commencement of work) of the 2010 Regulations(**12**).

(2) A building control approval application for HRB work must be accompanied by—

(a) a plan to a scale of not less than 1:1250 showing—

(i) the size and position of the building and its relationship to adjoining boundaries;

(ii) the boundaries of the curtilage of the building, and the size, position and use of every other building or proposed building within the curtilage;

(iii) the width and position of any street on or within the boundaries of the curtilage of the building;

(b) (i) such other plans as necessary to show that the HRB work would comply with all applicable requirements of the building regulations(**13**);

(ii) a competence declaration;

(iii) a construction control plan;

(iv) a change control plan;

(v) a mandatory occurrence reporting plan;

(vi) a Building Regulations compliance statement;

(vii) a fire and emergency file;

(viii) where the applicant proposes occupation of part of the building before completion of the HRB work, a partial completion strategy;

(c) where the application is made by someone on behalf of the client, a statement signed by the client confirming they agree to the application being made and that the information contained in the application is correct.

(3) A building control approval application for a stage of HRB work must be made in writing, signed by the applicant, and must—

(a) include the information required by paragraph (1);

(b) where the application relates to the first stage of the work—

(i) be accompanied by a statement ("staged work statement") setting out a detailed description of the first stage and of the subsequent stages of the project (including an estimate of the time when each stage will start);

(**12**) Regulation 46A was inserted into the 2010 Regulations by the Building Regulations etc. (Amendment) (England) Regulations 2023.

(**13**) See the definition in section 122 of the Building Act 1984.

(ii) be accompanied by the documents referred to in paragraph (2) with the following modifications—

(aa) the plans referred to in paragraph (2)(b)(i) are such plans as necessary to show that the work for the first stage would comply with all applicable requirements of the building regulations and a summary of plans for the work beyond that stage;

(bb) the Building Regulations compliance statement referred to in paragraph (2)(b)(vi) must set out the design principles and building standards to be applied to the work for the first stage and a summary of the design principles and building standards to be applied beyond that stage;

(c) where the application relates to a stage after the first stage—

(i) be accompanied by a statement ("subsequent stages statement") setting out a detailed description of the stage to which the application relates and of the other stages of the project (including an estimate of the time when each remaining stage will start);

(ii) be accompanied by the documents referred to in paragraph (2) with the following modifications—

(aa) the plans referred to in paragraph (2)(b)(i) are such plans as necessary to show that the work comprised in the stage to which the application relates would comply with all applicable requirements of the building regulations and a summary of plans for work beyond that stage;

(bb) the Building Regulations compliance statement referred to in paragraph (2)(b)(vi) must set out the design principles and building standards to be applied to the work comprised in the stage to which the application relates and a summary of the design principles and building standards to be applied beyond that stage.

**Building control approval applications for HRB work or stage of HRB work: validity and time limit**

**5.**—(1) Where the regulator receives a building control approval application for HRB work or a building control approval application for a stage of HRB work which is valid the regulator must—

(a) notify the applicant to that effect, and

(b) determine it within 12 weeks beginning with the date the application is received by the regulator or within such longer period as at any time the regulator and the applicant agree in writing.

(2) Where the regulator receives a building control approval application for HRB work or a building control approval application for a stage of HRB work which is not valid the regulator must notify the applicant to that effect giving reasons (and where the applicant is not the client, also give a copy of the notification to the client).

(3) A building control approval application for HRB work or a building control approval application for a stage of HRB work is valid if it complies with regulation 4 (building control approval applications for HRB work or stage of HRB work).

**Building control approval applications for HRB work or stage of HRB work: consultation**

**6.**—(1) Subject to paragraph (5), before determining a building control approval application for HRB work or a building control approval application for a stage of HRB work the regulator must consult—

(a) the enforcing authority (within the meaning of article 25 of the Regulatory Reform (Fire Safety) Order 2005(**14**)) for the proposed higher-risk building, and

(b) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes requirements in relation to the work, the sewerage undertaker for the proposed higher-risk building.

(2) Where the regulator is required to consult a person under this regulation the regulator—

(a) must give the person sufficient plans to show whether the HRB work or the stage of HRB work would, if carried out in accordance with those plans, comply with—

(i) in the case of the enforcing authority, the applicable requirements of Part B (fire safety) of Schedule 1 to the 2010 Regulations, and

(ii) in the case of the sewerage undertaker, the requirements of paragraph H4 of Schedule 1 to the 2010 Regulations;

(b) must not determine the application until the expiry of a period of 15 working days beginning with the date the consultation starts or such longer period as the regulator and the person consulted agree in writing.

(3) In relation to the consultation under paragraph (1)(a) the plans given must include the fire and emergency file.

(4) If all persons consulted express their views before the end of the period referred to in paragraph (2)(b) then the prohibition against determining the application ceases to apply on the day after the date on which their views are received by the regulator.

(5) The regulator is not required to consult under this regulation where it is satisfied following consideration of the application there are sufficient grounds to reject the application.

**Building control approval applications for HRB work or stage of HRB work: decisions**

**7.**—(1) The regulator must grant the building control approval sought in a building control approval application for HRB work or a building control approval application for a stage of HRB work unless the application or any document that accompanied the application—

(a) does not comply with the requirements of regulation 4 (building control approval applications for HRB work or stage of HRB work) or any direction relating to the application or the document given by the regulator under regulation 59 (electronic submission and directions);

(b) is not sufficiently detailed in any respect to allow the regulator to determine whether the HRB work or the stage of HRB work would contravene any applicable requirement of the building regulations;

(c) shows the HRB work or the stage of HRB work would contravene any applicable requirement of the building regulations;

(d) shows the strategies, policies or procedures in relation to the HRB work or the stage of HRB work (including in relation to controlled changes, mandatory occurrence reporting, competence of persons or sharing of information and co-operation) would contravene, or would be likely to contravene, the requirements of—

(i) regulations 18 to 21 and 26 to 29 (changes to documents or persons);

(ii) regulations 31, 38 and 39 (golden thread etc);

(iii) regulations 32 to 37 (mandatory occurrence reporting);

(iv) Part 2A (dutyholders and competence) of the 2010 Regulations.

(2) If one or more of the reasons in paragraph (1) applies, the regulator may—

(**14**) S.I. 2005/1541 to which there are amendments not relevant to this provision.

(a) reject the building control approval application for HRB work or the building control approval application for a stage of HRB work, or

(b) with the written consent of the applicant, grant the building control approval sought in the application subject to one or more requirements.

(3) The types of requirement that may be imposed under paragraph (2)(b) include—

(a) a requirement to provide a specified plan or document, or a revised version of a specified plan or document, within a specified period;

(b) a requirement that work does not proceed beyond a specified point until a specified plan or other document, or a revised version of a specified plan or other document, has been given to, and approved by, the regulator.

(4) The regulator must notify the applicant of the outcome of the application (and where the applicant is not the client, also give a copy of the notification to the client) within the period referred to in regulation 5 (building control approval applications for HRB work or stage of HRB work: validity and time limit).

(5) A notice that the application has been rejected must give the reasons for rejection.

(6) A notice that the building control approval sought in the application has been granted subject to a requirement must specify the requirement imposed.

(7) If requested by the applicant, the regulator must provide a paper copy of the notice of building control approval.

(8) Where a building control approval application for HRB work or a building control approval application for a stage of HRB work is successful the effect is that from the date of the notice under paragraph (4)—

(a) building control approval for the HRB work or, as the case may be, building control approval for the stage of HRB work is granted;

(b) subject to paragraphs (9) and (10)—

(i) the description of the proposed HRB work or, as the case may be, the description of the proposed stage of HRB work,

(ii) the plans of the HRB work or, as the case may be, the plans of the stage of HRB work that accompanied the application, and

(iii) each of the other documents that accompanied the application,

are approved.

(9) Where building control approval has been granted subject to a requirement that a plan or document must be revised, the unrevised plan or document is not approved by paragraph (8)(b).

(10) Where—

(a) building control approval has been granted subject to a requirement that any plan or document must be revised, and

(b) the plan or document is subsequently revised in accordance with the requirement,

then that revised plan or document is approved from the date specified in the approval given by the regulator for the revision.

(11) Where building control approval has been granted subject to a requirement of a type described in paragraph (3)(a), the client must ensure that work does not start before the plan or document is provided.

(12) Where building control approval has been granted subject to a requirement of a type described in paragraph (3)(b)—

(a) the requirement must set out the points specified in relation to the work and the plans or documents which must be approved for each point;

(b) the client must ensure work to which the requirement relates does not proceed beyond the point specified in the requirement until the approval by the regulator in relation to that plan or document has been received.

(13) If requested by the client, the regulator must provide a paper copy of the approval referred to in paragraph (12)(b).

(14) Where the regulator decides not to approve a plan or document under paragraph (12) if requested the regulator must give the reasons for the decision.

**Regulator's power to require notifications etc for HRB work or stage of HRB work**

**8.**—(1) The regulator may, by notice in writing, require a client—

(a) to notify the regulator, within a specified period, when a specified point of the HRB work or a specified point of the stage of HRB work has been reached;

(b) not to cover up specified work for a specified period.

(2) In this regulation "specified" means specified by the regulator in the notice referred to in paragraph (1).

**Notice before starting on site and further notice when work is "commenced"**

**9.**—(1) This regulation applies where building control approval for HRB work or building control approval for a stage of HRB work is granted under regulation 7 (building control approval applications for HRB work or stage of HRB work: decisions).

(2) At least five working days before the day on which the HRB work or the stage of HRB work starts, the client must give a notice to the regulator setting out their intention to start the work and the date that work is to start.

(3) Not more than five working days after the day on which the HRB work is to be regarded as commenced the client must give a notice to that effect to the regulator.

(4) If the regulator is not satisfied the work is to be regarded as commenced it must give the client a notice to that effect ("rejection notice") within four weeks of the date the notice under paragraph (3) is given, and the rejection notice must give the reasons for rejection.

(5) Where a notice is given under paragraph (3) and the period referred to in paragraph (4) expires without a rejection notice being given, then the work is to be regarded as commenced.

(6) If the client accepts the rejection notice they may not give a further notice under paragraph (3) unless, having regard to the reasons given by the regulator, they are satisfied the work is to be regarded as commenced.

(7) The client may appeal to the First-tier Tribunal against the decision of the regulator to reject the notice provided the appeal is made within 21 relevant days beginning with the day after the day on which the regulator gives the rejection notice.

(8) The First-tier Tribunal may allow an appeal under paragraph (7) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable;

(d) that the decision was made without following the procedures set out in the 1984 Act or regulations made under that Act.

(9) Where a notice under paragraph (2) or (3) is given by someone on behalf of the client, the notice must include a statement signed by the client confirming they agree to the notice being given and that the information contained in it is correct.

(10) The regulator may take such steps, including—

(a) requiring information;

(b) laying open of work for inspection,

as it thinks appropriate to check whether the work is to be regarded as commenced.

(11) For the purposes of paragraphs (3) to (10) the provisions of regulation 46A (lapse of building control approval: commencement of work) of the 2010 Regulations apply to determine whether work is to be regarded as commenced.

## CHAPTER 2

## Existing HRBs

### Notification of emergency repairs to existing HRB

**10.**—(1) Where work to existing HRB consists only of emergency repairs and it is not practicable to comply with regulation 11(1) (building control approval for work to existing HRB) before starting the work, the client must—

(a) give a notice to that effect to the regulator, describing the work and the reasons for the urgency as soon as reasonably practicable after the work has started,

(b) send a copy of that notice to the responsible person as soon as reasonably practicable after the work has started, and

(c) submit a regularisation certificate application to the regulator in relation to the work as soon as reasonably practicable after the work is carried out.

(2) In this regulation—

"emergency repairs" means repairs to a building which are necessary to be carried out as a matter of urgency due to the risk to health, safety or welfare of persons in or about the building;

"responsible person" has the meaning given in article 3 of the Regulatory Reform (Fire Safety) Order 2005.

### Building control approval for work to existing HRB

**11.**—(1) Subject to paragraph (2), before any person starts any work to existing HRB the client in relation to that work (in this Chapter "the applicant") must—

(a) submit an application for building control approval in relation to the work to the regulator (a "building control approval application for work to existing HRB") in accordance with regulation 12 (building control approval applications for work to existing HRB);

(b) be granted building control approval for the work;

(c) fulfil those requirements, if any, which in accordance with the building control approval must be fulfilled before the work is started, and

(d) notify the regulator of the date on which the work is to start in accordance with regulation 17(2) (notice before starting on site and further notice when work is "commenced").

(2) The requirements of this regulation do not apply to work to existing HRB which consists only of—

(a) scheme work;

(b) exempt work, or

(c) work to which regulation 10 (notification of emergency repairs to existing HRB) applies.

**Building control approval applications for work to existing HRB**

**12.**—(1) Subject to paragraphs (3) and (4), where a building control approval application for work to existing HRB is required by regulation 11 (building control approval for work to existing HRB), it must be made in writing, signed by the applicant, and must include—

(a) the name, address, telephone number and (if available) email address of the client;

(b) the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

(c) a statement that the application is made under this regulation;

(d) a description of the existing higher-risk building including—

(i) details of its current use, including the current use of each storey;

(ii) its height as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(**15**);

(iii) the number of storeys it has as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(iv) the number of flats, the number of residential rooms and the number of commercial units contained in the higher-risk building;

(e) a description of the proposed work, including—

(i) where the use of any part of the higher-risk building is changing, details of the intended use of each storey;

(ii) where the height of any part of the higher-risk building is changing, the height of the building after the proposed work as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(iii) where the number of storeys in the higher-risk building is changing, the number of storeys as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(iv) where the number of flats or residential rooms in the higher-risk building is changing, the number of flats or residential rooms to be contained in the higher-risk building;

(v) the provision to be made for the drainage of the building or extension;

(vi) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes a requirement, the precautions to be taken in the building over a drain, sewer or disposal main to comply with the requirements of that paragraph;

(vii) the steps to be taken to comply with any local enactment that applies;

(viii) a statement setting out—

(aa) the date when it is proposed the work will reach the point when it is to be regarded as commenced in accordance with regulation 46A (lapse of building control approval: commencement of work) of the 2010 Regulations; and

(**15**) S.I. 2023/275.

(bb) except in cases where paragraph (2) or (3) of regulation 46A of the 2010 Regulations applies, details of the work which the client considers amounts to 15% of the proposed work.

(2) A building control approval application for work to existing HRB must be accompanied by—

(a) a plan to a scale of not less than 1:1250 showing—

(i) the size and position of the building and its relationship to adjoining boundaries;

(ii) the boundaries of the curtilage of the building, or the building as extended, and the size, position and use of every other building or proposed building within the curtilage;

(iii) the width and position of any street on or within the boundaries of the curtilage of the building or the building as extended;

(b) such other plans as necessary to show that the work would comply with all applicable requirements of the building regulations;

(c) additionally, where work to existing HRB is category A work—

(i) a competence declaration;

(ii) a construction control plan;

(iii) a change control plan;

(iv) a mandatory occurrence reporting plan;

(v) a Building Regulations compliance statement;

(vi) a fire and emergency file;

(vii) where the applicant proposes occupation of part of the building before completion of the work, a partial completion strategy;

(d) where the application is made by someone on behalf of the client, a statement signed by the client confirming they agree to the application being made and that the information contained in the application is correct.

(3) For a building control approval application for work to existing HRB where the work consists of category B work, the application must—

(a) be made in writing, signed by the applicant,

(b) subject to paragraph (4), include the matters mentioned in paragraph (1)(a) to (e),

(c) be accompanied by the plans referred to in paragraphs (2)(a) and (2)(b),

(d) where Part B of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the work, include information setting out the fire safety design principles, concepts and standards applied to the development including sufficient plans to show how the work would comply with Part B (fire safety) of Schedule 1 to the 2010 Regulations ("fire safety compliance information"), and

(e) such of the documents listed in paragraph (2)(c) as the applicant considers appropriate.

(4) Where the work consists only of category B work within a flat, the application does not need to include the matters mentioned in paragraph (1)(d).

(5) In relation to an application for work to existing HRB where the work consists of category B work, the regulator may at any time before determining the application, by notice in writing, additionally require the applicant to provide any of the following documents—

(a) a competence declaration;

(b) a construction control plan;

(c) a change control plan;

(d) a mandatory occurrence reporting plan;

(e) a Building Regulations compliance statement;

(f) a fire and emergency file;

(g) a partial completion strategy.

(6) In this regulation—

"category A work" means work falling within any one or more of the following descriptions—

(a) work which increases or decreases the external height or width of the higher-risk building;

(b) work which changes the number of storeys the higher-risk building has (including adding or removing a mezzanine or gallery floor);

(c) work which changes the number of flats or residential rooms contained in the higher-risk building;

(d) work which changes the number of, or width of, the staircases in a higher-risk building or which changes the number of, or width of, any other escape route within the building;

(e) work to the external wall of a higher-risk building excluding work or materials of a description specified in regulation 7(3) of the 2010 Regulations;

(f) work which changes the internal layout of a higher-risk building;

(g) work which affects the passive fire safety measures in the higher-risk building;

(h) work which affects the active fire safety measures in a higher-risk building;

(i) work which affects the common parts of a higher-risk building (including the external wall) not otherwise falling within category A;

"category B work" means work which does not fall within category A.

(7) The requirements of this regulation do not apply to work to existing HRB which consists only of—

(a) scheme work;

(b) exempt work, or

(c) work to which regulation 10 (notification of emergency repairs to existing HRB) applies.

**Building control approval applications for work to existing HRB: validity and time limit**

**13.**—(1) Where the regulator receives a building control approval application for work to existing HRB which is valid the regulator must—

(a) notify the applicant to that effect, and

(b) determine it within 8 weeks beginning with the date the application is received by the regulator or within such longer period as at any time the regulator and the applicant agree in writing.

(2) Where the regulator receives a building control approval application for work to existing HRB which is not valid the regulator must notify the applicant to that effect giving reasons (and where the applicant is not the client, also give a copy of the notification to the client).

(3) A building control approval application for work to existing HRB is valid if it complies with regulation 12 (building control approval applications for work to existing HRB).

**Building control approval applications for work to existing HRB: consultation**

**14.**—(1) Before determining a building control approval application for work to existing HRB the regulator must consult—

(a) where the work is—

(i) category A work, or

(ii) category B work and Part B of Schedule 1 to the 2010 Regulations imposes requirements in relation to the work,

the enforcing authority (within the meaning of article 25 of the Regulatory Reform (Fire Safety) Order 2005(**16**)) for the building, and

(b) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes requirements in relation to the work, the sewerage undertaker for the building.

(2) Where the regulator is required to consult a person under this regulation the regulator—

(a) must give the person sufficient plans to show whether the work to existing HRB would, if carried out in accordance with those plans, comply with—

(i) in the case of the enforcing authority, the applicable requirements of Part B (fire safety) of Schedule 1 to the 2010 Regulations, and

(ii) in the case of the sewerage undertaker, the requirements of paragraph H4 of Schedule 1 to the 2010 Regulations;

(b) must not determine the application until the expiry of a period of 15 working days beginning with the date the consultation starts or such longer period as the regulator and the person consulted agree in writing.

(3) In relation to the consultation under paragraph (1)(a) the plans given must include—

(a) for category A work, the fire and emergency file;

(b) for category B work, the fire safety compliance information.

(4) If all persons consulted express their views before the end of the period referred to in paragraph (2)(b) then the prohibition against determining the application ceases to apply on the day after the date on which their views are received by the regulator.

(5) The regulator is not required to consult under this regulation where it is satisfied following consideration of the application there are sufficient grounds to reject the application.

(6) In this regulation "category A work" and "category B work" have the meanings given in regulation 12 (building control approval applications for work to existing HRB).

**Building control approval applications for work to existing HRB: decisions**

**15.**—(1) The regulator must grant the building control approval sought in a building control approval application for work to existing HRB unless—

(a) the application or any document that accompanied the application (or is provided under regulation 12(5) (building control approval applications for work to existing HRB))—

(i) does not comply with the requirements of regulation 12 (building control approval applications for work to existing HRB) or any direction relating to the application or the document given by the regulator under regulation 59 (electronic submission and directions);

(ii) is not sufficiently detailed in any respect to allow the regulator to determine whether the work would contravene any applicable requirement of the building regulations;

(**16**) S.I. 2005/1541 to which there are amendments not relevant to this provision.

(iii) shows that—

(aa) the proposed work would contravene any applicable requirement of the building regulations;

(bb) in a case where details are provided under regulation 12(1)(e)(viii)(bb), the work set out in the details would not in the regulator's opinion amount to 15% of the work;

(iv) shows the strategies, policies or procedures in relation to the work (including in relation to controlled changes, mandatory occurrence reporting, competence of persons or sharing of information and co-operation) would contravene, or would be likely to contravene, the requirements of—

(aa) regulations 18 to 21 and 26 to 29 (changes to documents or persons);

(bb) regulations 31, 38 and 39 (golden thread etc);

(cc) regulations 32 to 37 (mandatory occurrence reporting);

(dd) Part 2A (dutyholders and competence) of the 2010 Regulations;

(b) when requested pursuant to regulation 12(5) (building control approval applications for work to existing HRB), the applicant failed to provide the document requested.

(2) If one or more of the reasons in paragraph (1) applies, the regulator may—

(a) reject the building control approval application for work to existing HRB, or

(b) with the written consent of the applicant, grant the building control approval sought in the application subject to one or more requirements.

(3) The types of requirement that may be imposed under paragraph (2)(b) include—

(a) a requirement to provide a specified plan or document, or a revised version of a specified plan or document, within a specified period;

(b) a requirement that work does not proceed beyond a specified point until a specified plan or other document, or a revised version of a specified plan or other document, has been given to, and approved by, the regulator.

(4) The regulator must notify the applicant of the outcome of the application (and where the applicant is not the client, also give a copy of the notification to the client) within the period referred to in regulation 13 (building control approval applications for work to existing HRB: validity and time limit).

(5) A notice that the application has been rejected must give the reasons for rejection.

(6) A notice that the building control approval sought in the application has been granted subject to a requirement must specify the requirement imposed.

(7) If requested by the applicant, the regulator must provide a paper copy of the notice of building control approval.

(8) Where a building control approval application for work to existing HRB is successful the effect is that from the date of the notice under paragraph (4)—

(a) building control approval for the work to existing HRB is granted;

(b) subject to paragraphs (9) and (10)—

(i) the description of the proposed work under regulation 12(1)(e) (building control approval applications for work to existing HRB);

(ii) the plans of the work that accompanied the application, and

(iii) each of the other documents that accompanied the application and, in accordance with regulation 12(5) (building control approval applications for work to existing HRB), the regulator required to be provided,

are approved.

(9) Where building control approval has been granted subject to a requirement that a plan or document must be revised, the unrevised plan or document is not approved by paragraph (8)(b).

(10) Where—

(a) building control approval has been granted subject to a requirement that any plan or document must be revised, and

(b) the plan or document is revised in accordance with the requirement,

paragraph (8)(b) applies in relation to the revised plan or document.

(11) Where building control approval has been granted subject to a requirement of a type described in paragraph (3)(a), the client must ensure that work does not start before the plan or document is provided.

(12) Where building control approval has been granted subject to a requirement of a type described in paragraph (3)(b)—

(a) the requirement must set out the points specified in relation to the work and the plans or documents which must be approved for each point;

(b) the client must ensure work does not proceed beyond the point specified in a requirement until the approval by the regulator in relation to that plan or document has been received.

(13) If requested by the client, the regulator must provide a paper copy of the approval referred to in paragraph (12)(b).

(14) Where the regulator decides not to approve a plan or document under paragraph (12) if requested the regulator must give the reasons for the decision.

**Regulator's power to require notifications etc for work to existing HRB**

**16.**—(1) The regulator may, by notice in writing, require a client—

(a) to notify the regulator, within a specified period, when a specified point of the work to existing HRB has been reached;

(b) not to cover up specified work for a specified period.

(2) In this regulation "specified" means specified by the regulator in the notice referred to in paragraph (1).

**Notice before starting on site and further notice when work is "commenced"**

**17.**—(1) This regulation applies where building control approval for work to existing HRB is granted under regulation 15 (building control approval applications for work to existing HRB: decisions).

(2) At least five working days before the day on which the work to existing HRB starts, the client must give a notice to the regulator setting out their intention to start the work and the date that work is to start.

(3) Not more than five working days after the day on which the work to existing HRB is to be regarded as commenced the client must give a notice to that effect to the regulator.

(4) If the regulator is not satisfied the work is to be regarded as commenced it must give the client a notice to that effect ("rejection notice") within four weeks of the date the notice under paragraph (3) is given, and the rejection notice must give the reasons for rejection.

(5) Where a notice is given under paragraph (3) and the period referred to in paragraph (4) expires without a rejection notice being given, then the work is to be regarded as commenced.

(6) If the client accepts the rejection notice they may not give a further notice under paragraph (3) unless, having regard to the reasons given by the regulator, they are satisfied the work is to be regarded as commenced.

(7) The client may appeal to the First-tier Tribunal against the decision of the regulator to reject the notice provided the appeal is made within 21 relevant days beginning with the day after the day on which the regulator gives the rejection notice.

(8) The First-tier Tribunal may allow an appeal under paragraph (7) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable;

(d) that the decision was made without following the procedures set out in the 1984 Act or regulations made under that Act.

(9) Where a notice under paragraph (2) or (3) is given by someone on behalf of the client, the notice must include a statement signed by the client confirming they agree to the notice being given and that the information contained in it is correct.

(10) The regulator may take such steps, including—

(a) requiring information;

(b) laying open of work for inspection,

as it thinks appropriate to check whether the work is to be regarded as commenced.

(11) For the purposes of paragraphs (3) to (10) the provisions of regulation 46A (lapse of building control approval: commencement of work) of the 2010 Regulations apply to determine whether work is to be regarded as commenced.

# PART 3

## Changes before or during construction

### Change control

**18.**—(1) This regulation applies where one or more of the following changes ("controlled change") is proposed—

(a) a change to any current plans of any work or proposed work or the carrying out of work otherwise than in accordance with the current plans;

(b) a change to any stage of HRB work, including adding or removing a stage;

(c) a change to any strategies, policies or procedures described in any current agreed document.

(2) Before any controlled change can be carried out, the client must ensure—

(a) a record is made of the controlled change in accordance with regulation 19 (change control: record-keeping), and

(b) a revised version of any agreed document affected by the controlled change is produced.

(3) Where the controlled change is a notifiable change, the client must notify the regulator in accordance with regulation 20 (change control: notification requirements).

(4) A notifiable change must not be carried out, and the work to which it relates must not start, until the notification referred to in paragraph (3) has occurred.

(5) Where the controlled change is a major change, the client must make an application for building control approval in respect of the change (a "change control application") to the regulator in accordance with regulation 21 (change control applications).

(6) A major change must not be carried out, and the work to which it relates must not start, until the change control application is granted.

(7) Paragraph (8) applies where two or more controlled changes are related to the same change to the building work ("related changes") and at least one of those controlled changes is a major change and at least one is a notifiable change.

(8) Where this paragraph applies—

(a) all the major changes which are related changes may be included in the same change control application,

(b) any notifiable changes which are related changes may also be included in that change control application, and

(c) in relation to any change which is a notifiable change, the requirements of regulation 20 (change control: notification requirements) are satisfied by providing details of the change as part of that application.

(9) Where two or more controlled changes are not related to the same change to the building work they must not be included in the same change control application.

(10) Paragraph (11) applies where a change control application has been submitted in relation to a proposed change ("the main change") and it is proposed another controlled change (excluding a change which is only a recordable change) is to be carried out which is consequential on the main change ("a consequential change") but was not included in an application of the type referred to in paragraph (8).

(11) Where this paragraph applies—

(a) a consequential change which is a notifiable change must not be notified in accordance with regulation 20 (change control: notification requirements);

(b) a change control application in relation to a consequential change which is a major change must not be made in accordance with regulation 21 (change control applications),

until the regulator has notified the client of the outcome of the change control application in relation to the main change.

(12) In this regulation—

"current agreed document" means the document that is an agreed document at the time the controlled change is proposed;

"current plans" means the plans that are an agreed document at the time the controlled change is proposed.

### Change control: record-keeping

**19.**—(1) The principal contractor (or sole contractor) must create and maintain a document for the purposes of recording information in respect of changes to the project ("change control log").

(2) A controlled change must be recorded by entering the following information in the change control log—

(a) the name of the individual recording the change,

(b) a description of the proposed change,

(c) an explanation of the reasons why the change has been proposed,

(d) whether the change is a recordable change, a notifiable change or a major change,

(e) a list of the name and occupation of each person, if any, whose advice was sought in relation to the proposed change and a summary of any advice provided,

(f) an assessment of which agreed document is affected by the proposed change and confirmation that a revised version has been produced in accordance with regulation 18(2)(b) (change control), and

(g) an explanation, in relation to the proposed change, of how—

(i) the HRB work, the stage of HRB work or work to existing HRB will, after the proposed change is carried out, comply with all applicable building regulations, and

(ii) the strategies, policies and procedures in any agreed document (including in relation to controlled changes, mandatory occurrence reporting, competence of persons or sharing of information and co-operation) will, after the proposed change is carried out, comply with the requirements of—

(aa) this regulation and regulations 18, 20, 21 and 26 to 29 (changes to documents or persons);

(bb) regulations 31, 38 and 39 (golden thread etc);

(cc) regulations 32 to 37 (mandatory occurrence reporting);

(dd) Part 2A (dutyholders and competence) of the 2010 Regulations,

(a "compliance explanation").

**Change control: notification requirements**

**20.**—(1) A notice under regulation 18(3) (change control) must be in writing, signed by the client, and must include—

(a) a description of the proposed controlled change,

(b) an explanation of the reasons why the change has been proposed,

(c) a list of the name and occupation of each person, if any, whose advice was sought in relation to the proposed change and a summary of any advice provided,

(d) an assessment of the agreed documents affected by the proposed change,

(e) a compliance explanation in relation to the proposed change, and

(f) where the notification is made by someone on behalf of the client, a statement signed by the client confirming they agree to the notification being given and that the information contained in the application is correct,

and the notice must be accompanied by the revised version of the agreed document produced in accordance with regulation 18(2)(b) (change control).

(2) The regulator may, by notice in writing, require the person giving the notification to provide further information in relation to the proposed controlled change.

(3) Where a notice under paragraph (2) is given to the person giving the notification, the person must provide the information within 10 working days of receipt of the notice.

**Change control applications**

**21.**—(1) A change control application must be made by the client ("the applicant") in writing, signed by the applicant, and must include—

(a) the name, address, telephone number and (if available) email address of the client,

(b) the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer),

(c) a statement that the application is made under this regulation, and

(d) a description of the proposed controlled change.

(2) The application must be accompanied by—

(a) an explanation of the reasons why the change has been proposed,

(b) a list of the name and occupation of each person, if any, whose advice was sought in relation to the proposed change and a summary of any advice provided,

(c) where the change is to the number of flats or residential rooms, plans showing the number of flats or residential rooms it is proposed the higher-risk building will contain,

(d) an assessment of the agreed documents affected by the proposed change,

(e) a compliance explanation in relation to the proposed change, and

(f) where the application is made by someone on behalf of the client, a statement signed by the client confirming they agree to the application being made and that the information contained in the application is correct,

and the application must be accompanied by the revised version of the agreed document produced in accordance with regulation 18(2)(b) (change control).

**Change control applications: validity and time limit**

**22.**—(1) Where the regulator receives a change control application which is valid the regulator must—

(a) notify the applicant to that effect, and

(b) determine it within 6 weeks beginning with the date the application is received by the regulator or within such longer period as at any time the regulator and the applicant agree in writing.

(2) Where the regulator receives a change control application which is not valid the regulator must notify the applicant to that effect giving reasons (and where the applicant is not the client, also give a copy of the notification to the client).

(3) A change control application is valid if it complies with regulation 21 (change control applications).

**Change control applications: consultation**

**23.**—(1) Before determining a change control application relating to a controlled change of a kind described in regulation 18(1)(a) (change control), the regulator must consult—

(a) the enforcing authority (within the meaning of article 25 of the Regulatory Reform (Fire Safety) Order 2005(**17**)) for the building or proposed building where Part B of Schedule 1 to the 2010 Regulations imposes requirements in relation to the work to which the controlled change relates, and

(b) the sewerage undertaker for the building or proposed building where paragraph H4 of Schedule 1 to the 2010 Regulations imposes requirements in relation to the work to which the controlled change relates.

(2) Where the regulator is required to consult a person under this regulation the regulator—

(**17**) S.I. 2005/1541 to which there are amendments not relevant to this provision.

(a) must give the person sufficient plans to show whether the work would, if carried out in accordance with those plans, comply with—

(i) in the case of the enforcing authority, the applicable requirements of Part B (fire safety) of Schedule 1 to the 2010 Regulations, and

(ii) in the case of the sewerage undertaker, the requirements of paragraph H4 of Schedule 1 to the 2010 Regulations;

(b) must not determine the application until the expiry of a period of 10 working days beginning with the date the consultation starts or such longer period as the regulator and the person consulted agree in writing.

(3) In relation to the consultation under paragraph (1)(a) the plans given must include the fire and emergency file or, where the work to which the application relates is category B work, the fire safety compliance information.

(4) If all persons consulted express their views before the end of the period referred to in paragraph (2)(b) then the prohibition against determining the application ceases to apply on the day after the date on which their views are received by the regulator.

(5) The regulator is not required to consult under this regulation where it is satisfied following consideration of the application there are sufficient grounds to reject the application.

(6) In this regulation, "category B work" has the meaning given in regulation 12 (building control approval applications for work to existing HRB).

**Change control applications: decisions**

**24.**—(1) The regulator must grant the building control approval sought in a change control application unless the application or any document that accompanied the application—

(a) does not comply with the requirements of regulation 21 (change control applications) or any direction relating to the application or the document given by the regulator under regulation 59 (electronic submission and directions);

(b) is not sufficiently detailed in any respect to allow the regulator to determine whether the HRB work, the stage of HRB work or work to existing HRB would contravene any applicable requirement of the building regulations;

(c) shows the HRB work, the stage of HRB work or work to existing HRB would contravene any applicable requirement of the building regulations;

(d) shows the strategies, policies or procedures in any agreed document (including in relation to controlled changes, mandatory occurrence reporting, competence of persons or sharing of information and co-operation) would contravene, or would be likely to contravene, the requirements of—

(i) regulations 18 to 21 and 26 to 29 (changes to documents or persons);

(ii) regulations 31, 38 and 39 (golden thread etc);

(iii) regulations 32 to 37 (mandatory occurrence reporting);

(iv) Part 2A (dutyholders and competence) of the 2010 Regulations.

(2) If one or more of the reasons in paragraph (1) applies, the regulator may—

(a) reject the change control application, or

(b) with the written consent of the applicant, grant the building control approval sought in the application subject to one or more requirements.

(3) The types of requirement that may be imposed under paragraph (2)(b) include—

(a) a requirement to provide a specified plan or document, or a revised version of a specified plan or document, within a specified period;

(b) a requirement that work does not proceed beyond a specified point until a specified plan or other document, or a revised version of a specified plan or other document, has been given to, and approved by, the regulator.

(4) The regulator must notify the applicant of the outcome of the change control application (and where the applicant is not the client, also give a copy of the notification to the client) within the period referred to in regulation 22 (change control applications: validity and time limit).

(5) A notice that the application has been rejected must give the reasons for rejection.

(6) A notice that the building control approval sought in the change control application has been granted subject to a requirement must specify the requirement imposed.

(7) If requested by the applicant, the regulator must provide a paper copy of the notice of building control approval.

(8) Where a change control application is successful the effect is that from the date of the notice under paragraph (4)—

(a) building control approval for the HRB work, the stage of HRB work or work to existing HRB is granted;

(b) subject to paragraphs (9) and (10)—

(i) the description of the proposed controlled change, and

(ii) the revised version of the agreed document that accompanied the application,

are approved.

(9) Where building control approval has been granted subject to a requirement that a plan or document must be revised, the unrevised plan or document is not approved by paragraph (8)(b).

(10) Where—

(a) building control approval has been granted subject to a requirement that a plan or document must be revised, and

(b) the plan or document is revised in accordance with the requirement,

paragraph (8)(b) applies in relation to the revised plan or document.

(11) Where building control approval has been granted subject to a requirement of a type described in paragraph (3)(b)—

(a) the client must ensure the work does not proceed beyond the point specified in the requirement until approval by the regulator to the plan or document has been received;

(b) where a request for approval has been received by the regulator it must notify the client of the outcome of the request within 6 weeks beginning with the date the request is received by the regulator or within such longer period as at any time the regulator and the client agree in writing;

(c) a notice that the request has been rejected must give the reasons for rejection, and

(d) if requested by the client, the regulator must provide a paper copy of the approval.

**Change control: regulator power to specify notifiable changes and major changes**

**25.** The regulator may specify that a particular type of controlled change is a notifiable change or a major change, in relation to specified work, by giving notice in writing to that effect to the client, principal contractor (or sole contractor) and the principal designer (or sole or lead designer) for that work.

**Change control: major changes and notifiable changes**

**26.**—(1) In regulations 18 to 25—

"major change" means—

(a) in relation to HRB work or a stage of HRB work—

(i) a change which is a material change of use to any part of a proposed higher-risk building;

(ii) a change of the proposed use of any part of a proposed higher-risk building so that after the change the part of the building is to have a use as a car park or cease to have a use as a car park (whether the car park is for the occupiers of the building or otherwise);

(iii) a change which increases or decreases the external height or width of a proposed higher-risk building;

(iv) a change to the number of storeys in a proposed higher-risk building (including adding or removing a mezzanine or gallery floor);

(v) a change to the structural design or structural loading of the building;

(vi) a change to the number or width of the staircases in a proposed higher-risk building or a change to the length of any other escape route or the number or width of any escape route (including evacuation lift) within the proposed building;

(vii) a change to the external wall of a proposed higher-risk building including a wall tie, wall restraint fixing or support system in the wall;

(viii) a change to any part of the active fire safety measures or passive fire safety measures in a proposed higher-risk building referred to in the fire and emergency file;

(ix) a change to the layout or dimensions of the common parts within a proposed higher-risk building;

(x) subject to paragraph (2), a change of any construction product or building element to be used in or on a proposed higher-risk building such that its replacement is of a lower classification under the reaction to fire classification (within the meaning in regulation 2(6) of the 2010 Regulations(**18**));

(xi) a change to any assumptions made in the design of a proposed higher-risk building as set out in the Building Regulations compliance statement;

(xii) a change proposing occupation of any part of the proposed higher-risk building before all the work is completed;

(xiii) a change to the number of flats, residential rooms or commercial units contained in a proposed higher-risk building;

(b) in relation to work to existing HRB—

(i) a change which is a material change of use to any part of a higher-risk building;

(ii) a change of the use of any part of a higher-risk building so that after the change the part of the building is to have a use as a car park or cease to have a use as a car park (whether the car park is for the occupiers of the building or otherwise);

(iii) a change which increases or decreases the external height or width of a higher-risk building;

(iv) a change to the number of storeys in a higher-risk building (including adding or removing a mezzanine or gallery floor);

(**18**) Paragraph (6) was inserted into regulation 2 of the 2010 Regulations by S.I. 2018/1230 and amended by S.I. 2022/603.

(v) a change to the structural design or structural loading of the building;

(vi) a change to the number or width of the staircases in a higher-risk building or a change to the length of any other escape route or the number or width of any escape route (including evacuation lift) within the building;

(vii) a change to the external wall of a higher-risk building including a wall tie, wall restraint fixing or support system in the wall;

(viii) a change to any part of the active fire safety measures or passive fire safety measures in a higher-risk building referred to in the fire and emergency file;

(ix) a change to the layout or dimensions of the common parts within a higher-risk building;

(x) subject to paragraph (2), a change of any construction product or building element to be used in or on a higher-risk building (or to be used as part of works to a higher-risk building) such that its replacement is of a lower classification under the reaction to fire classification (within the meaning in regulation 2(6) of the 2010 Regulations);

(xi) a change to any assumptions made in the design of a higher-risk building or works to a higher-risk building as set out in the Building Regulations compliance statement;

(xii) where the building or part of a building is not occupied during the work, a change proposing occupation before all the work is completed;

(xiii) a change to the number of flats, residential rooms or commercial units contained in a higher-risk building;

(c) a change specified by the regulator as a major change by notice given in accordance with regulation 25 (change control: regulator power to specify notifiable changes and major changes);

"notifiable change" means—

(a) a change to the construction control plan other than a change to the schedule of appointments contained within it;

(b) a change to the change control plan;

(c) a change to the layout of a flat or a residential room in a proposed higher-risk building or in a higher-risk building;

(d) a change to the number or dimensions of any openings in any wall, ceiling or other building element for any pipe, duct or cable;

(e) a change to the wall tie, wall restraint fixing or support system in any wall or proposed wall (excluding an external wall);

(f) subject to paragraph (2), a change of any construction product or building element to be used in or on a proposed higher-risk building (or to be used as part of works to a higher-risk building) where its replacement is of the same or higher classification under the reaction to fire classification (within the meaning in regulation 2(6) of the 2010 Regulations);

(g) any other change to the fire and emergency file or the fire safety compliance information;

(h) a change specified by the regulator as a notifiable change by notice given in accordance with regulation 25 (change control: regulator power to specify notifiable changes and major changes);

(i) a change to the partial completion strategy;

(j) a change to a staged work statement or a subsequent stages statement (as defined in regulation 4(3)).

(2) Where an agreed document specifies use of a construction product or building element falling within a specified class, the change to another product or element falling within the same design specification is a recordable change.

**New client etc**

**27.**—(1) Subject to paragraphs (4) and (5), if, at any time after building control approval for HRB work, a stage of HRB work or work to existing HRB is granted, a person (in this regulation "C") ceases to be the client in relation to the work they must, not more than 14 days after the date they cease to be the client, provide the new client (in this regulation "N") with—

(a) a copy of the golden thread information;

(b) information (including plans, drawings and other documents) which is sufficient to detail the work comprised in the project;

(c) a document explaining the arrangements made under regulation 11A (suitable arrangements to ensure compliance with requirements etc) of the 2010 Regulations;

(d) a statement, signed by C, which—

(i) provides the date C ceased to be the client, and

(ii) confirms that—

(aa) C has fulfilled their duties as the client under Part 2A (dutyholders and competence) of the 2010 Regulations,

(bb) C has provided a copy of the golden thread information to N, and

(cc) as far as C is aware, on the date they cease to be client, the design work, and the building work (if any has been carried out by that date), complies with all applicable requirements of the building regulations.

(2) Subject to paragraph (3), N must—

(a) within 28 days of the date when N becomes the client, give a notice to the regulator which—

(i) states the date N became the client;

(ii) states the date when C ceased to be the client;

(iii) confirms N has received the documents referred to in paragraph (1);

(iv) confirms N is aware of the requirements imposed on a client by the building regulations;

(v) includes a copy of C's statement under paragraph (1)(d), and

(b) ensure—

(i) a record is made of the change of client in the change control log;

(ii) the construction control plan is revised, in accordance with regulation 18 (change control), to reflect the change.

(3) Where N is not able—

(a) to confirm they have received the documents referred to in paragraph (1), or

(b) to provide a copy of C's statement under paragraph (1)(d),

then the notice sent under paragraph (2)(a) must explain the reasons for not providing the confirmation or not including a copy of the statement.

(4) Where—

(a) a trustee in bankruptcy has been appointed in relation to a client, or

(b) C's property (or any part of it that includes the HRB project) vests in a liquidator under section 145 of the Insolvency Act 1986,

that person (IP) is not to be treated as a new client provided no building work has been carried out since their appointment or vesting, and where IP then disposes of C's property to a new client paragraph (1) applies to IP as if—

(i) sub-paragraphs (c) and (d) (except paragraph (bb)) were omitted, and

(ii) where they are not able to confirm they have the documents referred to in paragraph (1)(a) then the notice sent under paragraph (2) by N must explain the reasons for not providing the confirmation.

(5) Where—

(a) a deputy has been appointed by the Court of Protection in relation to C's property and financial affairs, or

(b) a person has power of attorney in relation to C's property and they intend to act in the capacity of the client,

paragraph (6) applies instead of paragraph (1).

(6) Where paragraph (5) applies, a person who has taken over as the client on behalf of C must, within 28 days of taking any step as a client—

(a) give a notice to the regulator which—

(i) states the date they took over as the client on behalf of C;

(ii) confirms they have—

(aa) a copy of the golden thread information;

(bb) information (including plans, drawings and other documents) which is sufficient to detail the work comprised in the project;

(cc) a document explaining the arrangements made under regulation 11A (suitable arrangements to ensure compliance with requirements etc) of the 2010 Regulations;

(iii) confirms they are aware of the requirements imposed on a client by the building regulations;

(iv) includes a statement, signed by them, which confirms that as far as they are aware, on the date of the notice, the design work, and the building work (if any has been carried by that date), complies with all applicable requirements of the building regulations, and

(b) ensure—

(i) a record is made of them taking over as the client on behalf of C in the change control log;

(ii) the construction control plan is revised, in accordance with regulation 18 (change control), to reflect the change.

(7) Where the person who has taken over as the client on behalf of C is not able to confirm they have the documents referred to in paragraph (6)(a)(ii) or make the statement required by paragraph (6)(a)(iv) then the notice sent under paragraph (6)(a) must explain the reasons for not providing the confirmation or not providing the statement.

(8) Subject to paragraph (9), where C dies, C's personal representative ("PR") must, within 28 days of issue of grant to administer C's estate give a notice to the regulator which—

(a) states the date of issue of grant to administer C's estate,

(b) states the date when C died,

(c) confirms PR has—

(i) a copy of the golden thread information,

(ii) information (including plans, drawings and other documents) which is sufficient to detail the work comprised in the project,

(iii) a document explaining the arrangements made under regulation 11A (suitable arrangements to ensure compliance with requirements etc) of the 2010 Regulations, and

(d) states whether or not PR intends to act as the client in relation to the project.

(9) Where PR is not able to confirm they have the documents referred to in paragraph (8)(c) then the notice sent under paragraph (8) must explain the reasons for not providing the confirmation.

(10) Where PR intends to act as the client in relation the project, PR must comply with paragraph (2) (except paragraphs (iii), (iv) and (v) of sub-paragraph (a)) and in the notice to be provided under paragraph (2) they must additionally confirm they have—

(a) a copy of the golden thread information,

(b) information (including plans, drawings and other documents) which is sufficient to detail the work comprised in the project; and

(c) a document explaining the arrangements made under regulation 11A (suitable arrangements to ensure compliance with requirements etc) of the 2010 Regulations.

(11) Where PR is not able to confirm they have the documents referred to in paragraph (10) then the notice referred to in paragraph (10) must explain the reasons for not providing the confirmation.

(12) For purposes of this regulation a person is to be treated as a new client where a project is carried out for them instead of C but a person is not to be regarded as a new client by reason solely of their purchase of, or their entering into a contract to purchase, a legal interest in a dwelling created or to be created in the higher-risk building.

(13) For the purposes of section 35(2) of the 1984 Act (provisions for which offence does not apply) paragraphs (6) and (8) are prescribed.

(14) The requirements of this regulation do not apply—

(a) to a domestic client; or

(b) to work to existing HRB which consists only of—

(i) scheme work;

(ii) exempt work, or

(iii) work to which regulation 10 (notification of emergency repairs to existing HRB) applies.

**Insolvency etc of the client: notifications**

**28.**—(1) Where the client becomes aware that any of the circumstances referred to in paragraph (2) apply in relation to them, the client must, not more than 14 days after that date, give a notice to the regulator which—

(a) states that they are the client in relation to a project;

(b) states the name and address of the client, and where the person is a company, also the company registration number;

(c) gives details which are sufficient to identify every project of the client which relates to a higher-risk building;

(d) provides so much of the information referred to in the table in rule 1.6 of the Insolvency (England and Wales) Rules 2016 as is known to them (**19**).

(2) The circumstances mentioned in paragraph (1) are—

(a) a moratorium under Part A1 of the Insolvency Act 1986(**20**) has commenced;

(b) a voluntary arrangement for the purposes of Part 1 of the Insolvency Act 1986 has been proposed under that Part of the Act;

(c) a voluntary arrangement for the purposes of Part 8 of the Insolvency Act 1986 has been proposed and has taken effect under that Part of the Act.

(3) Subject to paragraph (5), where a person ("P") described in paragraph (4) is appointed in relation to the client then not more than 14 days after the date P is appointed P must give a notice to the regulator which—

(a) states the name and address of the client in relation to which the appointment relates and gives details which are sufficient to identify every project of the client which relates to a higher-risk building;

(b) identifies the nature of the appointment held by P in relation to the client;

(c) states the name, address, telephone number and email address (if any) of P;

(d) provides so much of the information referred to in the table in rule 1.6 of the Insolvency (England and Wales) Rules 2016 as is known to them.

(4) The persons referred to in paragraph (3) are—

(a) an administrator;

(b) an administrative receiver;

(c) a receiver appointed by the courts or by a mortgagee;

(d) a liquidator;

(e) a trustee in bankruptcy.

(5) Where under section 178 or 315 of the Insolvency Act 1986 any property in relation to a project is disclaimed, the person disclaiming the property must, within the period of 28 days beginning with the date the disclaimer took effect, give the regulator a copy of the notice of disclaimer under rule 19.2 of the Insolvency (England and Wales) Rules 2016.

(6) For the purposes of section 35(2) of the 1984 Act (provisions for which offence does not apply) paragraph (3) is prescribed.

(7) The requirements of this regulation do not apply to a domestic client.

**New principal contractor or principal designer etc: notification**

**29.**—(1) This paragraph applies where, at any time after building control approval for HRB work, a stage of HRB work or work to existing HRB is granted the client appoints a principal contractor (or sole contractor) or principal designer (or sole or lead designer).

(2) Where paragraph (1) applies, the client must give a notice, signed by the client, to the regulator containing—

(a) the name, address, telephone number and (if available) email address of the person appointed,

(**19**) S.I. 2016/1024.
(**20**) 1986 c. 45. Part A1 was inserted by section 1(1) of the Corporate Insolvency and Governance At 2020 (c. 12).

(b) a statement that the client—

(i) has complied with regulation 11E(2)(b) (consideration of past misconduct) of the 2010 Regulations,

(ii) is satisfied in the case of a principal contractor, that the person fulfils the requirements in regulations 11F(1) and (2) and 11H(1) of the 2010 Regulations,

(iii) is satisfied in the case of a principal designer, that the person fulfils the requirements in regulations 11F(1) and (2) and 11G(1) of the 2010 Regulations,

(iv) is satisfied in the case of a sole contractor, or sole or lead designer, that the person fulfils the requirements in regulations 11F(1) and (2) of the 2010 Regulations,

(c) in relation to each principal contractor or principal designer, a copy of the record, in respect of the person, that the client created under regulation 11D(8) or (9) (principal designer and principial contractor) of the 2010 Regulations, and

(d) a declaration as to the truth of the statement referred to in sub-paragraph (b) and of the record (if any) referred to in sub-paragraph (c).

(3) On request from the client, the person who was the principal contractor (or sole contractor) or principal designer (or sole or lead designer), as the case may be, before the appointment referred to in paragraph (1) must give the client a statement in writing, signed and dated by them, which sets out—

(a) their name, address, telephone number and (if available) email address,

(b) the dates of their appointment,

(c) subject to paragraph (d), a certificate that—

(i) in the case of a person who was a principal contractor (or sole contractor), that they have fulfilled their duties as a principal contractor under Part 2A (dutyholders and competence) of the 2010 Regulations,

(ii) in the case of a person who was principal designer (or sole or lead designer), that they have fulfilled their duties as a principal designer under Part 2A (dutyholders and competence) of the 2010 Regulations,

(d) where a person is unable to certify that they have fulfilled their duties, a statement explaining what duties they were unable to fulfil and the reasons for not being able to do so.

(4) The client must ensure the notice under paragraph (2) is accompanied by a copy of a statement provided to them under paragraph (3).

(5) Where, at the date a client gives the notice under paragraph (2), the client is unable to obtain the statement under paragraph (3), the notice under paragraph (2) must be accompanied by a statement by the client explaining the steps the client has taken to obtain the statement together with any reasons the person referred to in paragraph (3) has given for not providing the statement.

(6) The client must give the notice under paragraph (2) together with a copy of the statement referred to in paragraph (3) or, if applicable, a statement referred to in paragraph (5), to the regulator within the period of 14 days beginning with the date of the appointment.

(7) The client must ensure—

(a) a record is made of the change of principal contractor (or sole contractor) or principal designer (or sole or lead designer) in the change control log, and

(b) the construction control plan is revised, in accordance with regulation 18 (change control), to reflect the change.

(8) Where the client is a domestic client (DC), the following applies instead of paragraphs (2) to (7)—

(a) except where the person appointed (PA) is the first person appointed to the role, the person who held the role before PA ("outgoing dutyholder") must, within five days of the date their appointment ends, give the DC a notice which sets out—

(i) their name, address, telephone number and (if available) email address;

(ii) the date their appointment ended;

(iii) subject to paragraph (b), a certificate that—

(aa) in the case of a person who was a principal contractor (or sole contractor), that they fulfilled their duties as a principal contractor under Part 2A (dutyholders and competence) of the 2010 Regulations;

(bb) in the case of a person who was principal designer (or sole or lead designer), that they fulfilled their duties as a principal designer under Part 2A (dutyholders and competence) of the 2010 Regulations;

(b) where the outgoing dutyholder is unable to certify that they fulfilled their duties, a statement explaining what duties they were unable to fulfil and the reasons for not being able to do so;

(c) DC must provide the information referred to under sub-paragraph (a) and, as the case may be, (b) to PA on the date of appointment of PA or as soon as practicable after that date;

(d) subject to paragraph (10), PA must give a notice to the regulator which includes—

(i) the location of the building work;

(ii) the name, address, telephone number and (if available) email address of PA and the date of appointment;

(iii) except where PA is the first person appointed to the role, the name, address, telephone number and (if available) email address of the outgoing dutyholder and the date their appointment ended;

(iv) a statement explaining the notice is given on behalf of a domestic client.

(9) PA must ensure the notice under paragraph (8)(d) is accompanied by a copy of a certificate provided to them under paragraph (8)(a) or a statement provided to them under paragraph (8)(b).

(10) Where PA has not received the information required to be provided under paragraph (8)(c) by the time the notice under paragraph (8)(d) is to be given, the statement given by PA under paragraph (8)(d)(iv) must also include an explanation to that effect.

(11) A notice required under paragraph (8)(d) must be given to the regulator within the period of 14 days beginning with the date of the appointment.

(12) PA must ensure—

(a) a record is made of the change of principal contractor (or sole contractor) or principal designer (or sole or lead designer) in the change control log, and

(b) the construction control plan is revised, in accordance with regulation 18 (change control), to reflect the change.

**Variation of a requirement imposed on a building control approval**

**30.**—(1) In relation to HRB work, a stage of HRB work or work to existing HRB, a client may request, by notice in writing, that the regulator vary a requirement imposed on a building control approval.

(2) A notice under paragraph (1) must be made in writing, signed by the client, and must include—

(a) the name, address, telephone number and (if available) email address of the client,

(b) a statement that the notice is given under this regulation,

(c) a description of the proposed variation,

(d) an explanation of the reasons why the variation is proposed,

(e) a list of the name and occupation of each person, if any, whose advice was sought in relation to the proposed variation and a summary of any advice provided.

(3) Where the notice under paragraph (1) is given by someone on behalf of the client, it must include a statement signed by the client confirming they agree to the notice being given and that the information contained in the application is correct.

(4) Where the regulator receives a notice under paragraph (1) the regulator must determine whether to grant the variation within 28 days of receipt of the notice or within such longer period as at any time the regulator and the person giving the notice agree in writing.

(5) Where the regulator has not determined whether to grant the variation before the expiry of the period provided for in paragraph (4) then the variation is treated as refused by the regulator.

(6) Where a requirement is varied the regulator must give the client a notice setting out the requirement as varied.

(7) If requested by the client, the regulator must provide a paper copy of the notice.

(8) Where the regulator does not agree to the variation the regulator must notify the client giving reasons.

# PART 4

## Golden thread, mandatory occurrence reporting, information handover etc

### Golden thread

**31.**—(1) The arrangements made by a client under regulation 11A (suitable arrangements to ensure compliance with requirements etc) of the 2010 Regulations must include—

(a) where the work is HRB work or a stage of HRB work—

(i) arrangements for an electronic facility to be created and maintained by the client (or someone on their behalf) for the purpose of holding the golden thread information;

(ii) procedures for persons involved with designing or carrying out the work to have access to the facility for the purpose of maintaining the golden thread information in the facility;

(b) where the work is work to existing HRB—

(i) arrangements for an electronic facility which holds the golden thread information to be maintained by the client (or someone on their behalf) for the purpose of updating the golden thread information in relation to the work;

(ii) procedures for persons involved with designing or carrying out the work to have access to the facility for the purpose of maintaining the golden thread information in the facility.

(2) The client must ensure the golden thread information—

(a) is kept in an electronic format,

(b) is capable of being transferred electronically to other persons without the data, information or document in it being lost or corrupted,

(c) is accurate and up to date,

(d) is available in a readable format which is intelligible to the intended readers of the data, and any key needed to understand the data is provided with the data,

(e) is made available as soon as reasonably practicable following a request from a principal designer (or sole or lead designer) or principal contractor (or sole contractor) to enable them to comply with their requirements under the building regulations,

(f) is secure from unauthorised access,

(g) is only changed in accordance with procedures which record the person who made the change and the date of that change, and

(h) as far as is reasonably practicable uses language, terminology and definitions which are consistent.

(3) The principal designer (or sole or lead designer) must ensure designs for the building work produced before a building control approval application for HRB work, a stage of HRB work or work to existing HRB is submitted are provided to the client and the client must ensure, before the construction phase begins (or, in the case of a stage of HRB work, that stage begins), the facility referred to in paragraph (1) is updated to include the design.

(4) Where building control approval for HRB work, a stage of HRB work or work to existing HRB is granted the client must ensure, before the construction phase begins (or, in the case of a stage of HRB work, that stage begins), the facility referred to in paragraph (1) includes—

(a) a copy of the fire statement in relation to the higher-risk building or proposed higher-risk building,

(b) where the work is HRB work or a stage of HRB work, a copy of the plans and each of the other documents for the proposed higher-risk building which are approved under regulation 7(8)(b) (building control approval applications for HRB work or stage of HRB work: decisions) together with all the evidence recorded to show compliance with the applicable requirements of the building regulations, and

(c) where the work is work to existing HRB, a copy of the plans and each of the other documents for the work which are approved under regulation 15(8)(b) (building control approval applications for work to existing HRB: decisions) together with all the evidence recorded to show compliance with the applicable requirements of the building regulations.

(5) Where regulation 10 (notification of emergency repairs to existing HRB) applies in relation the work, the client must ensure a copy of the notice required under regulation 10(1)(a) is included in the facility referred to in paragraph (1).

(6) Where an agreed document is provided or approved under the terms of a requirement imposed on the grant of a building control approval under—

(a) regulation 7 (building control approval applications for HRB work or stage of HRB work: decisions);

(b) regulation 15 (building control approval applications for work to existing HRB: decisions);

(c) regulation 24 (change control applications: decisions),

the client must ensure the facility referred to in paragraph (1) is updated to include a copy of that agreed document as soon as practicable after the document is provided or approved.

(7) Where a controlled change is proposed the client must ensure a copy of the record required to be made under regulation 18(2)(a) (change control) is included in the facility referred to in paragraph (1) as soon as practicable after the change is recorded and where the proposed change is not carried out the facility referred to in paragraph (1) must be updated with a note to that effect.

(8) Where a controlled change is proposed and an agreed document is affected by the change, the client must ensure a copy of the revised version of the document required to be produced under regulation 18(2)(b) (change control) is included in the facility referred to in paragraph (1) as soon as practicable after the revised version is produced and where the proposed change is not carried out the facility referred to in paragraph (1) must be updated with a note to that effect.

(9) Where a notice is given under regulation 29 (new principal contractor or principal designer etc: notification), the client must ensure the facility referred to in paragraph (1) is updated to include a copy of the notice and any statement which accompanied that notice as soon as practicable after the notice is given.

(10) Where a written report is provided to the regulator under regulation 33 (mandatory occurrence reporting: reporting to the regulator), the client must ensure the facility referred to in paragraph (1) is updated to include a copy of that report as soon as practicable after the report is provided.

(11) Where the client proposes to make a completion certificate application or a partial completion certificate application they must ensure the facility referred to in paragraph (1) is updated to include a copy of the proposed application and a copy of each document which it is proposed will accompany the application.

(12) The requirements of this regulation do not apply to work to existing HRB which consists only of—

(a) scheme work, or

(b) exempt work.

(13) In this regulation—

"fire statement" means any statement in relation to the higher-risk building or proposed higher-risk building submitted in accordance with article 9A of the Town and Country Planning (Development Management Procedure) (England) Order 2015(**21**);

"golden thread information" means the information required by this regulation to be included in the facility referred to in paragraph (1), including previous versions of any document which has been updated.

**Mandatory occurrence reporting system**

**32.**—(1) The principal dutyholders(**22**) must—

(a) before the construction phase begins, establish a system which enables as far as is reasonably practicable the prompt reporting of every safety occurrence to the principal dutyholders by reporting persons, and

(b) maintain the system throughout the construction phase.

(2) The principal dutyholders must take reasonable steps to ensure each reporting person is provided with adequate instruction and information on the system established by virtue of paragraph (1) and the incidents or situations that should be reported by the reporting person through the system—

(a) in the case of a designer or contractor, before beginning any work;

(b) in the case of any other person, as soon as reasonably practicable after first entering the site of the work.

(3) The principal contractor (or sole contractor) must ensure an appropriate frequency of inspections of the work for safety occurrences throughout the construction phase.

(4) The principal designer (or sole or lead designer) must ensure an appropriate frequency of inspections of HRB design work for safety occurrences throughout the construction phase.

(5) The requirements of this regulation do not apply to work to existing HRB which consists only of—

(a) exempt work, or

(**21**) S.I. 2015/595. Article 9A was inserted by S.I. 2021/746.
(**22**) See definition in regulation 35 (mandatory occurrence reporting: definitions).

(b) work to which regulation 10 (notification of emergency repairs to existing HRB) applies.

**Mandatory occurrence reporting: reporting to the regulator**

**33.**—(1) Where there is a safety occurrence during the construction phase, a principal dutyholder must follow the reporting procedure on becoming aware of the occurrence.

(2) For the purposes of this regulation, "the reporting procedure" means—

(a) notifying the regulator of the safety occurrence by the quickest practicable means without undue delay, and

(b) providing a written report of the occurrence containing the required information (as set out in paragraph (3)) to the regulator within the period of 10 days beginning with the date the principal dutyholder becomes aware of the safety occurrence.

(3) The required information referred to in paragraph (2) is—

(a) the date and time of the safety occurrence;

(b) the address of the site at which the occurrence happened;

(c) the name, address, telephone number and (if available) an email address of the principal dutyholder making the report;

(d) the type and details of the occurrence (including the nature of the risk);

(e) details of remedial measures or mitigation carried out.

(4) Information provided by a person under the reporting procedure is not admissible in evidence against that person in criminal proceedings except—

(a) in proceedings for an offence under section 35 of the 1984 Act (offence of contravening building regulations etc) relating to breach of the duty in paragraph (1),

(b) in proceedings for an offence under section 24 of the 2022 Act (provision of false or misleading information to regulator),

(c) in proceedings for an offence of perverting the course of justice, or

(d) if in the proceedings—

(i) in giving evidence the person makes a statement inconsistent with the information, and

(ii) evidence as to the information that was provided is adduced, or a question relating to it is asked, by or on behalf of the person.

(5) The requirements of this regulation do not apply to work to existing HRB which consists only of—

(a) exempt work, or

(b) work to which regulation 10 (notification of emergency repairs to existing HRB) applies.

**Mandatory occurrence reporting: defences**

**34.** Where a principal dutyholder has committed an offence under section 35 of the 1984 Act of contravening these Regulations by failing to follow the reporting procedure in relation to a safety occurrence as required by regulation 33 (mandatory occurrence reporting: reporting to the regulator), it is a defence for the principal dutyholder if it reasonably believed that the other principal dutyholder had—

(a) already notified the regulator of the safety occurrence under regulation 33, and

(b) already provided the regulator with a written report of the safety occurrence under regulation 33.

**Mandatory occurrence reporting: definitions**

**35.** In regulations 32 to 34—

"construction phase" means the period of time beginning when the HRB work, a stage of HRB work or work to existing HRB starts and ending when the work is completed;

"HRB design work" means design of any HRB work, stage of HRB work or work to existing HRB;

"principal dutyholders" means the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

"reporting person" means—

(a) any designer (including the principal designer),

(b) any contractor (including the principal contractor), and

(c) any other person who is a periodic visitor on the site of work;

"safety occurrence" means—

(a) in relation to a design, an aspect of the design relating to the structural integrity or fire safety of a higher-risk building that would, if built, meet the risk condition;

(b) otherwise, an incident or situation relating to the structural integrity or fire safety of a higher-risk building that meets the risk condition.

(2) In the definition of "safety occurrence", the "risk condition" is that use of the building in question without the incident or situation being remedied would be likely to present a risk of a significant number of deaths, or serious injury to a significant number of people.

**Mandatory occurrence reporting: regulator's annual report**

**36.** Regulation 33(1) (mandatory occurrence reporting: reporting to the regulator) is prescribed for the purposes of section 19(2)(b) of the 2022 Act.

**Mandatory occurrence reporting: client duty on appointment of principal contractor or principal designer**

**37.** Where, in relation to HRB work, a stage of HRB work or work to existing HRB, the client appoints a principal contractor (or sole contractor) or principal designer (or sole or lead designer), then the client must take all reasonable steps to satisfy itself that the person appointed is able to fulfil the requirements in regulations 32 (mandatory occurrence reporting system) and 33 (mandatory occurrence reporting: reporting to the regulator).

**Handover of information on completion etc**

**38.**—(1) The client for HRB work, a stage of HRB work or work to existing HRB must give—

(a) the BFLO information; and

(b) the specified golden thread information,

to the relevant person no later than the date the work is completed, or where regulation 45 (partial completion certificates) applies no later than the date the part of the building is to be occupied.

(2) The golden thread information given under paragraph (1) must be provided in such a way as to retain the filing structure in which it was kept, including each index, key or other information logically associated with it and in a format which enables the relevant person to read, keep and update the information.

(3) The relevant person must give the client a notice acknowledging receipt of the specified golden thread information which confirms—

(a) they are able to access the information, and

(b) the information provided is sufficient to enable them to understand, operate and maintain the building (and the fire safety systems in it) after the building work.

(4) The requirements of paragraph (1) do not apply to work to existing HRB which consists only of—

(a) scheme work;

(b) exempt work, or

(c) work to which regulation 10 (notification of emergency repairs to existing HRB) applies.

(5) In this regulation—

"BFLO information" means—

(a) where Part B of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the work, the fire safety information;

(b) where paragraph F1(1) of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the work, sufficient information about the building's ventilation system and its maintenance requirements so that the ventilation system can be operated in such a manner as to provide adequate means of ventilation;

(c) where paragraph L1 of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the work, sufficient information about the building, the fixed building services and their maintenance requirements so that the building can be operated in such a manner as to use no more fuel and power than is reasonable in the circumstances;

(d) where paragraph L2 of Schedule 1 to the 2010 Regulations applies in relation to the work, sufficient information about the system for on-site electricity generation in respect of its operation and maintenance requirements so that the system may be operated and maintained in such a manner as to produce the maximum electricity that is reasonable in the circumstances and delivers this electricity to the optimal place for use; and

(e) where Part O of Schedule 1 to the 2010 Regulations applies in relation to the work, sufficient information about the provision made in accordance with Part O so that the systems in place further to Part O can be operated in such a manner as to protect against overheating;

"relevant person" means—

(a) where, after building work is completed, a building is not a higher-risk building for the purposes of Part 4 of the 2022 Act, the responsible person for the building;

(b) in any other case, the accountable person for the part of the building to which the work relates(**23**) and the responsible person (if any) for the building;

"responsible person" has the meaning given in article 3 of the Regulatory Reform (Fire Safety) Order 2005(**24**);

"specified golden thread information" means—

(a) in relation to cases where regulation 45 applies, a copy of —

(i) the partial completion certificate application in relation to the HRB work, the stage of HRB work or, as the case may be, work to existing HRB which the client proposes to make, and

(**23**) Accountable person is defined in section 72 of the Building Safety Act 2022.
(**24**) S.I. 2005/1541 to which there are amendments not relevant to this provision.

(ii) each document which under regulation 45 (partial completion certificate applications) is required to accompany the application;

(b) in relation to any other case, a copy of—

(i) the completion certificate application in relation to the HRB work, the stage of HRB work or, as the case may be, work to existing HRB which the client proposes to make; and

(ii) each document which under regulation 40 (completion certificate applications) is required to accompany the application.

**Information to be provided where work is scheme work**

**39.**—(1) Where work to existing HRB consists only of scheme work and Part B of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the work, the certifier must give the fire safety information to the client and the responsible person no later than—

(a) where the building to which the building work relates is not occupied during the work, the date of completion of the work or the date of occupation of the building, whichever is the earlier;

(b) in any other case, the date of completion of the work.

(2) The responsible person must give the certifier a notice acknowledging receipt of the fire safety information and confirming the information provided is sufficient to enable them to understand, operate and maintain the building (and the fire safety systems in it) after the building work in question and give a copy of that notice at the same time to the client.

(3) The certifier must notify the client—

(a) confirming that they have given fire safety information to the responsible person, and

(b) stating that they have received a notice from the responsible person pursuant to paragraph (2) or where they have not received the notice, stating the steps taken to obtain the notice from the responsible person and the dates they were taken.

(4) The notification under paragraph (3) must be given no later than 7 days after the date referred to in paragraph (1).

(5) Within 30 days of receiving the notification under paragraph (4) the client must notify the regulator confirming receipt of the notification from the certifier.

(6) Where work to existing HRB consists only of scheme work and paragraph F1(1) of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the work, the certifier must, not later than five days after the work has been completed, give sufficient information to the client and the responsible person about the building's ventilation system and its maintenance requirements so that the ventilation system can be operated in such a manner as to provide adequate means of ventilation.

(7) Where work to existing HRB consists only of scheme work and paragraph L1 of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the work, the certifier must, not later than five days after the work has been completed, provide to the client and the responsible person sufficient information about the building, the fixed building services and their maintenance requirements so that the building can be operated in such a manner as to use no more fuel and power than is reasonable in the circumstances.

(8) Where work to existing HRB consists only of scheme work and paragraph L2 of Schedule 1 to the 2010 Regulations applies in relation to the work, the certifier must, not later than five days after the work has been completed, provide to the client and the responsible person sufficient information about the system for on-site electricity generation in respect of its operation and maintenance requirements so that the system may be operated and maintained in such a manner as to produce

the maximum electricity that is reasonable in the circumstances and delivers this electricity to the optimal place for use.

(9) In this regulation—

"certifier" means—

(a) where the work is described in column 1 of the Table in Schedule 3 to the 2010 Regulations and the work is to be carried out by a person described in the corresponding entry in column 2 of that Table, the person carrying out the work;

(b) where the work is described in column 1 of the Table in Schedule 3A to the 2010 Regulations and the work is to be inspected by a person described in the corresponding entry in column 2 of that Table who has been appointed by the person intending to carry out the work, the person inspecting the work;

"fire safety information" means information relating to—

(a) the design and construction of the building and the services, fittings and equipment provided in or in connection with the building;

(b) the design of the material change of use and building work to implement it;

(c) the composition of materials used,

which will assist the responsible person to operate and maintain the building with reasonable safety;

"responsible person" has the meaning given in article 3 of the Regulatory Reform (Fire Safety) Order 2005.

# PART 5

## Completion certificates

### Completion certificate applications

**40.**—(1) An application for a completion certificate in relation to HRB work, a stage of HRB work or work to existing HRB ("a completion certificate application") must be made in writing to the regulator, signed by the client (in this Part "the applicant"), and must include—

(a) the name, address, telephone number and (if available) email address of the client;

(b) the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

(c) a statement that the application is made under this regulation;

(d) a description of the work, as built, including—

(i) the location of the higher-risk building;

(ii) details of the use or intended use of the higher-risk building, including the use or intended use of each storey;

(iii) the height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(**25**);

(iv) the number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(**25**) S.I. 2023/275.

(v) the number of flats, the number of residential rooms and the number of commercial units contained in the higher-risk building;

(vi) the provision made for the drainage of the higher-risk building;

(vii) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes a requirement, the precautions taken in building over a drain, sewer or disposal main to comply with the requirements of that paragraph;

(viii) the steps taken to comply with any local enactment that applies;

(e) a statement, signed by the client, confirming that to the best of the client's knowledge—

(i) in the case of HRB work, the higher-risk building, as built, complies with all applicable requirements of the building regulations;

(ii) in the case of a stage of HRB work, the stage, as built, complies with all applicable requirements of the building regulations;

(iii) in the case of work to existing HRB, the work, as built, complies with all applicable requirements of the building regulations;

(f) a statement, signed by both the client and the relevant person, confirming that the information to be provided to the relevant person in accordance with regulation 38 (handover of information on completion etc) has been given and the relevant person has received the information.

(2) A completion certificate application must be accompanied by—

(a) a notice stating the date on which the building work was completed,

(b) a plan to a scale of not less than 1:1250 showing—

(i) the size and position of the higher-risk building and its relationship to adjoining boundaries;

(ii) the boundaries of the curtilage of the building, and the size, position and use of every other building within the curtilage;

(iii) the width and position of any street on or within the boundaries of the curtilage of the building;

(c) such other plans that are necessary to show that the HRB work, a stage of HRB work or work to existing HRB complied with all applicable requirements of the building regulations;

(d) the following agreed documents—

(i) the construction control plan;

(ii) the change control plan;

(iii) the mandatory occurrence reporting plan;

(iv) the Building Regulations compliance statement;

(v) a fire and emergency file,

or, where regulation 12(3) (building control approval applications for work to existing HRB) applies, such of the documents referred to in paragraphs (i) to (v) as were approved under regulation 15 (building control approval applications for work to existing HRB: decisions);

(e) a copy of the change control log updated to show all the changes for the project required by these Regulations to be included in the log,

(f) subject to paragraph (3), a compliance declaration signed by—

(i) each principal contractor (or sole contractor) for the HRB work, the stage of HRB work or work to existing HRB, and

(ii) each principal designer (or sole or lead designer) for the HRB work, the stage of HRB work or work to existing HRB,

if such a statement was not already provided to the regulator, in relation to that part of the work, under regulation 29 (new principal contractor or principal designer etc: notification);

(g) where the application is made by someone on behalf of the client, a statement signed by the client confirming they agree to the application being made and that the information contained in the application is correct.

(3) Where a client is unable to ensure the person mentioned in paragraph (2)(f) provides a compliance declaration, the completion certificate application must be accompanied by a statement by the client giving the reasons why the declaration has not been provided.

(4) The requirements of this regulation do not apply to work to existing HRB which consists only of—

(a) scheme work;

(b) exempt work, or

(c) work to which regulation 10 (notification of emergency repairs to existing HRB) applies.

(5) In this regulation, "compliance declaration" means a document, signed by the principal contractor (or sole contractor) or the principal designer (or sole or lead designer) to which the declaration relates, that includes—

(a) the name, address, telephone number and (if available) email address of that person;

(b) the dates of their appointment, and

(c) a statement confirming—

(i) in the case of a principal contractor (or sole contractor), that they fulfilled their duties as a principal contractor under Part 2A (dutyholders and competence) of the 2010 Regulations;

(ii) in the case of a principal designer (or sole or lead designer), that they fulfilled their duties as a principal designer under Part 2A (dutyholders and competence) of the 2010 Regulations.

**Completion certificate applications: validity and time limit**

**41.**—(1) Where the regulator receives a completion certificate application in relation to HRB work, a stage of HRB work or work to existing HRB which is valid the regulator must—

(a) notify the applicant to that effect, and

(b) determine it within 8 weeks beginning with the date the application is received by the regulator or within such longer period as at any time the regulator and the applicant agree in writing.

(2) Where the regulator receives a completion certificate application which is not valid the regulator must notify the applicant to that effect giving reasons (and where the applicant is not the client, also give a copy of the notification to the client).

(3) A completion certificate application is valid if it complies with regulation 40 (completion certificate applications).

**Completion certificate applications: consultation**

**42.**—(1) Before determining a completion certificate application the regulator must consult—

(a) where the work to which the application relates is—

(i) HRB work or a stage of HRB work,

(ii) category A work, or

(iii) category B work and Part B of Schedule 1 to the 2010 Regulations imposes requirements in relation to the work,

the enforcing authority (within the meaning of article 25 of the Regulatory Reform (Fire Safety) Order 2005) for the building, and

(b) the sewerage undertaker for the building where paragraph H4 of Schedule 1 to 2010 Regulations imposes requirements in relation to the work to which the application relates.

(2) Where the regulator is required to consult a person under this regulation the regulator—

(a) must give the person sufficient plans to show whether the work, as built, complies with—

(i) in the case of the enforcing authority, the applicable requirements of Part B (fire safety) of Schedule 1 to the 2010 Regulations;

(ii) in the case of the sewerage undertaker, the requirements of paragraph H4 of Schedule 1 to the 2010 Regulations;

(b) must not determine the application until the expiry of a period of 15 working days beginning with the date the consultation starts or such longer period as the regulator and the person consulted agree in writing.

(3) In relation to the consultation under paragraph (1)(a) the plans given must include the fire and emergency file or, where the work to which the application relates is category B work, the fire safety compliance information.

(4) If all persons consulted express their views before the end of the period referred to in paragraph (2)(b) then the prohibition against determining the application ceases to apply on the day after the date on which their views are received by the regulator.

(5) The regulator is not required to consult under this regulation where it is satisfied following consideration of the application there are sufficient grounds to reject the application.

(6) In this regulation, "category A work" and "category B work" have the meanings given in regulation 12 (building control approval applications for work to existing HRB).

**Completion certificate applications: inspection**

**43.** Before determining a completion certificate application the regulator must arrange an inspection of the completed HRB work, stage of HRB work or work to existing HRB for the purpose of assessing whether the work complies with all applicable requirements of the building regulations.

**Completion certificate applications: decisions**

**44.**—(1) The regulator must approve a completion certificate application and issue a completion certificate, if it is satisfied, after taking all reasonable steps, that—

(a) HRB work, stage of HRB work or work to existing HRB is completed and complies with all applicable requirements of the building regulations;

(b) the documents and information listed in regulation 40(2)(a) to (d) (completion certificate applications) and submitted as part of the completion certificate application are complete and accurate;

(c) the information required to be provided to the relevant person in accordance with regulation 38 (handover of information on completion etc) is complete and has been provided.

(2) If the regulator is not satisfied in accordance with paragraph (1) it must reject the completion certificate application.

(3) The regulator must notify the applicant of the outcome of the application (and where the applicant is not the client, also give a copy of the notification to the client) within the period referred to in regulation 41 (completion certificate applications: validity and time limit).

(4) A notice that the application has been rejected must give the reasons for rejection.

(5) If the application is approved the regulator must issue a completion certificate for the higher-risk building at the same time as giving the notice of its decision under paragraph (3).

(6) If requested by the applicant or the relevant person, the regulator must provide a paper copy of the completion certificate.

(7) A certificate issued under this regulation is evidence (but not conclusive evidence) that all applicable requirements of the building regulations have been complied with in relation to the HRB work, the stage of HRB work or, as the case may be, the work to existing HRB.

(8) The certificate must include a statement describing its evidentiary effect, in terms substantially the same as paragraph (7).

(9) When the completion certificate application is approved the client must ensure the relevant person (as defined in regulation 38 (handover of information on completion etc)) is sent—

(a) a copy of the completion certificate application and each of the other documents which accompanied the application, and

(b) a copy of the completion certificate.

**Partial completion certificates**

**45.**—(1) This regulation applies where—

(a) HRB work or a stage of HRB work is being carried out in relation to a building and the building (or any part of it) is to be occupied before completion of the work;

(b) work to existing HRB is being carried out in relation to a building and before completion of the work—

(i) any part of the building which ceased to be occupied in order for the work to be carried out is to be re-occupied, or

(ii) any new unit created by the work is to be occupied before completion of the work.

(2) Where this regulation applies, before the occupation referred to in paragraph (1) the client must make an application for a completion certificate in relation to part of the work for the building ("partial completion certificate application") in writing to the regulator, signed by the client (in this regulation "the applicant"), the application must include—

(a) the name, address, telephone number and (if available) email address of the client;

(b) the name, address, telephone number and (if available) email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

(c) a statement that the application is made under this regulation;

(d) a plan showing the part of the building to which the application relates indicating the intended use of that part and the location of the flats (if any) to be occupied or residential rooms (if any) to be occupied;

(e) a description of the part of the HRB work, the stage of HRB work or work to existing HRB that remains to be completed after the date on which the application is made;

(f) a description of the part of the HRB work, the stage of HRB work or work to existing HRB to which the application relates, including—

(i) the location of the higher-risk building;

(ii) details of the use or intended use of the higher-risk building, including the use or intended use of each storey;

(iii) the height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(**26**);

(iv) the number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(v) the number of flats, the number of residential rooms and the number of commercial units contained in the higher-risk building;

(vi) the provision made for the drainage of the higher-risk building;

(vii) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes a requirement, the precautions taken in building over a drain, sewer or disposal main to comply with the requirements of that paragraph;

(viii) the steps taken to comply with any local enactment that applies;

(g) a statement, signed by the client, confirming that to the best of the client's knowledge the part of the HRB work, the stage of HRB work or work to existing HRB to which the application relates complies with all applicable requirements of the building regulations;

(h) a statement, signed by both the client and the relevant person, confirming that the information, as at the date on which the application is made, to be provided in accordance with regulation 38 (handover of information on completion etc) has been given and the relevant person has received the information;

(i) a statement ("partial occupation statement") setting out a detailed description of the proposed stages of the work (including an estimate of the time when each stage of the work will start).

(3) A partial completion certificate application must be accompanied by—

(a) a plan to a scale of not less than 1:1250 showing—

(i) the size and position of the higher-risk building, together with the part of the HRB work, the stage of HRB work or work to existing HRB to which the application relates, and the building's relationship to adjoining boundaries;

(ii) the boundaries of the curtilage of the building, and the size, position and use of every other building within the curtilage;

(iii) the width and position of any street on or within the boundaries of the curtilage of the building;

(b) such other plans that are necessary to show that the part of the HRB work, the stage of HRB work or work to existing HRB to which the application relates complied with all applicable requirements of the building regulations;

(c) the following agreed documents—

(i) the construction control plan;

(ii) the change control plan;

(iii) a mandatory occurrence reporting plan;

(iv) the Building Regulations compliance statement;

(**26**) S.I. 2023/275.

(v) a fire and emergency file;

or, where regulation 12(3) (building control approval applications for work to existing HRB) applies, such of the documents referred to in paragraphs (i) to (v) as were approved under regulation 15 (building control approval applications for work to existing HRB: decisions);

(d) a copy of the change control log updated, up to the date on which the application is made, to show all the changes for the project required by these Regulations to be included in the log;

(e) subject to paragraph (4), a compliance declaration signed by—

(i) each principal contractor (or sole contractor) for the HRB work, the stage of HRB work or work to existing HRB, and

(ii) each principal designer (or sole or lead designer) for the HRB work, the stage of HRB work or work to existing HRB,

if such a statement was not already provided to the regulator, in relation to that part of the work, under regulation 29 (new principal contractor or principal designer etc: notification);

(f) a partial completion strategy;

(g) where the application is made by someone on behalf of the client, a statement signed by the client confirming they agree to the application being made and that the information contained in the application is correct.

(4) Where a client is unable to ensure the person mentioned in paragraph (3)(e) provides a compliance declaration, the partial completion certificate application must be accompanied by a statement by the client giving the reasons why the declaration has not been provided.

(5) Where the regulator receives a partial completion certificate application which is valid the regulator must—

(a) notify the applicant to that effect, and

(b) determine it within 8 weeks beginning with the date the application is received by the regulator or within such longer period as at any time the regulator and the applicant agree in writing.

(6) Where the regulator receives a partial completion certificate application which is not valid the regulator must notify the applicant to that effect giving reasons (and where the applicant is not the client, also give a copy of the notification to the client).

(7) A partial completion certificate application is valid if it complies with paragraphs (2) to (4).

(8) Before determining a partial completion certificate application the regulator must—

(a) comply with regulation 42(1) to (3) (completion certificates applications: consultation), as modified by paragraph (9);

(b) comply with regulation 43(1) (completion certificates applications: inspection) as modified by paragraph (9).

(9) Regulations 42 (completion certificates applications: consultation) and 44 (completion certificates applications: inspection) and Schedule 1 have effect with the following modifications—

(a) any reference to as built is to be treated as a reference to as completed at the date on which the application is made;

(b) any reference to HRB work is to be treated as a reference to the part of the HRB work to which the application relates;

(c) any reference to work to existing HRB is to be treated as a reference to the part of work to existing HRB to which the application relates;

(d) any reference to a higher-risk building is to be treated as a reference to the building to which HRB work, the stage to HRB work or work to existing HRB is being carried out.

(10) The regulator must approve the partial completion certificate application and issue a partial completion certificate, if it is satisfied, after taking all reasonable steps, that—

(a) the part of the HRB work or work to existing HRB which the application relates complies with all applicable requirements of the building regulations and the part of the building to be occupied before completion of the HRB work or work to existing HRB complies with all applicable requirements of the building regulations;

(b) the documents and information listed in paragraphs (2) and (3) and submitted as part of the application are complete and accurate;

(c) the information, as at the date on which the application is made, to be provided to the relevant person in accordance with regulation 38 (handover of information on completion etc) has been given.

(11) If the regulator is not satisfied in accordance with paragraph (10) it must reject the partial completion certificate application.

(12) The regulator must notify the applicant of the outcome of the application (and where the applicant is not the client, also give a copy of the notification to the client) within the period referred to in paragraph (5).

(13) A notice that the application has been rejected must give the reasons for rejection.

(14) If the application is approved the regulator must issue a partial completion certificate for the building at the same time as giving the notice of its decision under paragraph (12).

(15) If requested by the applicant or the relevant person, the regulator must provide a paper copy of the partial completion certificate.

(16) A certificate issued under this regulation is evidence (but not conclusive evidence) that all applicable requirements have been complied with in relation to the part of the HRB work or work to existing HRB to which the certificate relates.

(17) The certificate must include a statement describing its evidentiary effect, in terms substantially the same as paragraph (16).

(18) When the partial completion certificate application is approved the client must ensure the relevant person (as defined in regulation 38 (handover of information on completion etc) is sent—

(a) a copy of the partial completion certificate application and each of the other documents which accompanied the application, and

(b) a copy of the partial completion certificate.

(19) The requirements of this regulation do not apply to work to existing HRB which consists only of—

(a) scheme work;

(b) exempt work, or

(c) work to which regulation 10 (notification of emergency repairs to existing HRB) applies.

# PART 6

## Inspections etc, regularisation, review of decisions, appeals and section 30A procedures etc

### Inspections etc

**46.** In relation to any building or proposed building for which the regulator is the building control authority, the regulator may take such steps as it considers appropriate to check compliance with all applicable requirements of the building regulations, including—

(a) requiring information;

(b) requiring the laying open of building work for inspection by the regulator;

(c) requiring an inspection to be undertaken and the record of the inspection provided.

### Regularisation of unauthorised building work

**47.**—(1) This regulation applies where it appears to the regulator that unauthorised building work has been carried out on or after 11th November 1985.

(2) Where this regulation applies, the owner (in this regulation referred to as "the applicant") may make an application in writing to the regulator in relation to the unauthorised building work ("regularisation certificate application").

(3) No regularisation certificate application may be made where unauthorised building work is a major change.

(4) The regularisation certificate application must be accompanied by—

(a) a statement that the application is made in accordance with this regulation,

(b) a description of the unauthorised building work,

(c) a plan of the unauthorised building work,

(d) where the application is made by someone on behalf of the owner, a statement signed by the owner confirming they agree to the application being made and that the information contained in the application is correct.

(5) Where the regulator receives a regularisation certificate application, it may require the applicant to take such steps as the regulator thinks appropriate for the regulator to ascertain whether additional building work may be required in order for the unauthorised building work to secure compliance with all applicable requirements of the building regulations.

(6) Where the regulator is satisfied that additional building work is required to secure that the unauthorised building work satisfies the applicable requirements (taking account of any dispensation or relaxation given in accordance with sections 8 and 9 of, and Schedule 2 to, the 1984 Act) then the regulator must reject the application and accordingly an application for building control approval must be made in relation to the additional building work.

(7) Where the regulator is satisfied, after taking all reasonable steps for that purpose that—

(a) the applicable requirements of the building regulations have been satisfied (taking account of any work carried out and any dispensation or relaxation given in accordance with sections 8 and 9 of, and Schedule 2 to, the 1984 Act), and

(b) no additional building work is required to secure that the unauthorised building work satisfies the applicable requirements (taking account of any such dispensation or relaxation),

the regulator may give a certificate to that effect (in this regulation referred to as "a regularisation certificate").

(8) A regularisation certificate is evidence (but not conclusive evidence) that the applicable requirements of the building regulations specified in the certificate have been complied with in relation to the work specified in the certificate.

(9) Where a regularisation certificate is granted in relation to building work, Parts 2 to 5 of these Regulations cease to apply to that work.

(10) Subject to paragraph (12), where a regularisation certificate is granted the applicant must, no later than five days after the certificate has been received, give the building work information and a copy of the certificate to—

(a) the accountable person who is responsible for the part of the building in relation to which the work described in the certificate relates, and

(b) the responsible person, if any, for the part of the building in relation to which the work described in the certificate relates.

(11) For the purposes of paragraph (10) the "building work information" is—

(a) where Part B of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the unauthorised building work, information relating to—

(i) the design and construction of the building and the services, fittings and equipment provided in or in connection with the building;

(ii) the design of the change of use and building work to implement it;

(iii) the composition of materials used,

which will assist the responsible person to operate and maintain the building with reasonable safety;

(b) where paragraph F1(1) of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the unauthorised building work, sufficient information about the building's ventilation system and its maintenance requirements so that the ventilation system can be operated in such a manner as to provide adequate means of ventilation;

(c) where paragraph L1 of Schedule 1 to the 2010 Regulations imposes a requirement in relation to the unauthorised building work, sufficient information about the building, the fixed building services and their maintenance requirements so that the building can be operated in such a manner as to use no more fuel and power than is reasonable in the circumstances;

(d) where paragraph L2 of Schedule 1 to the 2010 Regulations applies in relation to the unauthorised building work, sufficient information about the system for on-site electricity generation in respect of its operation and maintenance requirements so that the system may be operated and maintained in such a manner as to produce the maximum electricity that is reasonable in the circumstances and delivers this electricity to the optimal place for use;

(e) where Part O of Schedule 1 to the 2010 Regulations applies in relation to the unauthorised building work, sufficient information about the provision made in accordance with Part O so that the systems in place further to Part O can be operated in such a manner as to protect against overheating.

(12) Paragraph (10) does not apply where the applicant is a domestic client.

(13) In this regulation—

"responsible person" has the meaning given in article 3 of the Regulatory Reform (Fire Safety) Order 2005;

"unauthorised building work" means any building work in relation to a higher-risk building which is carried out without—

(a) a building control approval under regulation 7 (building control approval applications for HRB work or stage of HRB work: decisions) or 15 (building control approval applications for work to existing HRB: decisions) being granted by the regulator;

(b) where the building work is a major change, a building control approval under regulation 24 (change control applications: decisions);

(c) where the building work is a notifiable change, a notification under regulation 18(3) (change control),

but work is not unauthorised building work to the extent that it consists only of scheme work or exempt work.

**Review of regulator's decisions**

**48.**—(1) The following decisions of the regulator are prescribed for the purposes of section 25(1) of the 2022 Act—

(a) a decision to reject—

(i) a building control approval application for HRB work;

(ii) a building control approval application for a stage of HRB work;

(iii) a building control approval application for work to existing HRB;

(iv) a change control application;

(v) a completion certificate application;

(vi) a partial completion certificate application;

(vii) a regularisation certificate application;

(b) a decision to specify a controlled change as being a major change or a notifiable change under regulation 25 (change control: regulator power to specify notifiable changes and major changes);

(c) a decision to refuse a request to vary a requirement under regulation 30 (a variation of a requirement imposed on a building control approval).

(2) The persons prescribed for the purposes of section 25(2) of the 2022 Act in relation to the decisions referred to in paragraph (1) are—

(a) in relation to a decision referred to in paragraph (1)(a), the person who made the application or the person on whose behalf the application was made;

(b) in relation to a decision referred to in paragraph (1)(b), any person to whom the regulator gives notice under regulation 25 (change control: regulator power to specify notifiable changes and major changes);

(c) in relation to a decision referred to in paragraph (1)(c), the client who made the request.

(3) For the purposes of section 25 of the 2022 Act, a person requiring the regulator to carry out a review, or a person on their behalf, must give a notice under section 25(2) of the 2022 Act to the regulator in writing within 21 relevant days beginning with the day after the day on which the decision referred to in paragraph (1) is notified to the person.

(4) A notice under section 25(2) of the 2022 Act must contain the following information—

(a) the name, address, telephone number and (if available) email address for the person giving the notice;

(b) if the person giving the notice is doing so on behalf of a person who falls within the description in paragraph (2), the name and address of that person and a statement that the person giving the notice is authorised to give the notice on behalf of that person;

(c) the address and, if applicable, the name of the building to which the decision referred to in paragraph (1) relates;

(d) a statement of the review being sought which—

(i) identifies the decision to be reviewed (including the date of the decision and any reference number included on the decision), and

(ii) sets out the reasons the person considers the decision should be reviewed;

(e) any information that is available to the person giving the notice, that may have been relevant to the regulator's original decision but was not available at the time the original decision was made.

(5) The regulator must notify the person who required a review of the outcome of the review within 13 weeks beginning with the day after the day on which the person gives a notice under section 25(2) of the 2022 Act.

(6) A notice that the review has upheld the decision must give the reasons for that decision.

(7) If the review varies the decision the regulator must issue a new decision.

(8) If requested by the person requiring the review, the regulator must provide a paper copy of the decision of the review.

**Appeal in relation to reviewed decisions**

**49.**—(1) A person may appeal to the First-tier Tribunal against the decision of the regulator of a kind referred to in regulation 48(1) (review of regulator's decisions) provided that the appeal is made within 21 relevant days beginning with the day after the day on which the regulator notifies the person of its decision under regulation 48(5)(**27**).

(2) The First-tier Tribunal may allow an appeal under paragraph (1) only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable;

(d) that the decision was made without following the procedures set out in the 1984 Act or regulations made under that Act.

(3) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

**Section 30A prescribed applications**

**50.**—(1) The following applications are prescribed(**28**) for the purposes of section 30A(1) of the 1984 Act, and are accordingly applications that may be determined by the Secretary of State in the circumstances described in that section—

(a) a building control approval application for HRB work;

(b) a building control approval application for a stage of HRB work;

(c) a building control approval application for work to existing HRB;

(d) a change control application;

(e) a completion certificate application;

(f) a partial completion certificate application.

(**27**) Section 26 of the Building Safety Act 2022 provides a decision must be reviewed under section 25 before an appeal is made.
(**28**) See section 126 of the Building Act 1984 for the meaning of "prescribed".

(2) An application may not be made to the Secretary of State under section 30A of the 1984 Act where, in relation to the original application(**29**), the regulator has notified the person who made the original application that the original application is not valid.

**Section 30A applications: procedure**

**51.**—(1) An application under section 30A of the 1984 Act ("section 30A application") must be made in writing to the Secretary of State by the client for the work to which the original application relates (in this Part "the applicant") on a form published by the Secretary of State, together with the documents specified in paragraph (3).

(2) A section 30A application must be made no later than 6 weeks after the day the relevant period(**30**) in relation to the application or request ends.

(3) The documents mentioned in paragraph (1) are—

(a) a copy of the original application given to the regulator (including all documentation that accompanied the application);

(b) all information provided to the regulator in relation to the original application by the applicant;

(c) all correspondence between the applicant and the regulator in relation to that application;

(d) a copy of the notice sent to the regulator under paragraph (4);

(e) where the application is made by someone on behalf of the client, a statement signed by the client confirming they agree to the application being made and that the information contained in the application is correct.

(4) At least two working days before submitting the application under paragraph (1) the applicant must give notice to the regulator of their intention to do so.

**Section 30A applications: electronic submissions**

**52.**—(1) Where an applicant submits a section 30A application through electronic facilities provided by the Secretary of State for that purpose, they are taken to have consented to the use of electronic communications for all purposes relating to the section 30A application that are capable of being carried out electronically.

(2) The deemed consent in paragraph (1) may be revoked by the applicant giving the Secretary of State two weeks' notice in writing specifying that the notice is given under this regulation.

**Section 30A applications: determinations**

**53.**—(1) A section 30A application is to be determined(**31**) by written representations.

(2) The Secretary of State must give the regulator the opportunity to make written representations in relation to a section 30A application.

(3) The Secretary of State may give any other person an opportunity to make written representations in relation to a section 30A application.

(4) The Secretary of State may, by notice in writing, require the regulator to provide specified information, or provide copies of specified documents, by the date specified in the notice (that date must be no fewer than 14 relevant days after the date the notice is given).

(**29**) See section 30A(1) of the Building Act 1984 for the definition of "the original application".
(**30**) See section 30A(9) of the Building Act 1984 (c. 55) for the definition of "relevant period".
(**31**) Section 30A(7) provides that for the purpose of determining a section 30A application the Building Act 1984 and the building regulations (including these Regulations) apply in relation to the Secretary of State as they apply to the regulator.

(5) Before determining a section 30A application, the Secretary of State may hold such meetings with the applicant, the regulator or any other person, and undertake such visits, testing or inspections, as the Secretary of State considers appropriate.

(6) The Secretary of State's decision must be given in writing to the applicant (and where the applicant is not the client, also give a copy of the decision to the client).

(7) A copy of the Secretary of State's decision must be sent to the regulator.

**Section 30A applications: appointed persons**

**54.**—(1) The Secretary of State may appoint a person to determine a section 30A application instead of the Secretary of State.

(2) At any time before a person appointed under this regulation has determined the application the Secretary of State may—

(a) revoke that person's appointment;

(b) appoint another person to determine the application instead.

(3) Where a new appointment is made the consideration of the application in question must be started afresh.

(4) Nothing in paragraph (3) requires any person to be given an opportunity to make fresh representations or modify or withdraw representations previously made.

(5) A person appointed under this regulation has the same powers and duties in relation to determination of a section 30A application as the Secretary of State and, in particular, regulation 53 (section 30A applications: determinations) applies as if references to the Secretary of State in that regulation were references to that person.

(6) Where an application is determined by a person appointed under this regulation their decision is to be treated as the decision of the Secretary of State.

**Deemed rejection of the original application**

**55.** Where, in relation to an application that is prescribed in regulation 50 (section 30A prescribed applications)—

(a) the period under regulation 51 (section 30A applications: procedures) for a person to make a section 30A application has expired without the person making a section 30A application in accordance with that regulation, and

(b) the regulator did not determine the original application(**32**) before the expiry of that period,

then the original application is treated as rejected by the regulator.

**Section 30A applications: appeals**

**56.**—(1) An appeal to the First-tier Tribunal under section 30A(8) of the 1984 Act must be made within 21 relevant days beginning with the day after the day on which the Secretary of State gives the decision to the applicant under regulation 53(6) (section 30A applications: determinations).

(2) The First-tier Tribunal may allow an appeal under paragraph (1) only to if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable;

(**32**) See section 30A(1) of the Building Act 1984 for the definition of "the original application".

(d) that the decision was made without following the procedures set out in the 1984 Act or regulations made under that Act.

(3) If the First-tier Tribunal allows an appeal it may quash or vary the decision.

# PART 7

## Miscellaneous

### Exempt work

**57.** For the purposes of these Regulations, building work which consists only of work of a kind described in Schedule 2 (exempt work) is exempt work.

### Requirement for completion certificate before occupation and transitional cases

**58.**—(1) Each of the following is prescribed as a completion certificate for the purposes of section 76(5) of the 2022 Act—

(a) a completion certificate issued under regulation 44 (completion certificate applications: decisions);

(b) a partial completion certificate issued under regulation 45 (partial completion certificates).

(2) For type A transitional work each of the following is also prescribed as a completion certificate for the purposes of section 76(5) of the 2022 Act—

(a) a completion certificate issued under regulation 17 of the 2010 Regulations;

(b) a partial completion certificate issued under regulation 17A of the 2010 Regulations;

(c) a final certificate given by an approved inspector to a local authority in accordance with the Building (Approved Inspectors etc.) Regulations 2010(**33**) and not rejected by the authority.

(3) For type B transitional work each of the following is also prescribed as a completion certificate for the purposes of section 76(5) of the 2022 Act—

(a) a transfer and completion certificate provided for by the modifications in paragraph 5(9), 10(4), or, as the case may be, 11(4) of Schedule 3;

(b) a transfer and partial completion certificate provided for by the modifications in the paragraph 5(9), 10(4), or, as the case may be, 11(4) of Schedule 3;

(c) a final certificate given by an approved inspector to a local authority in accordance with the Building (Approved Inspectors etc.) Regulations 2010 and not rejected by the authority.

(4) In this regulation—

"type A transitional work" means work of a kind referred to in section 76(1) of the 2022 Act which is—

(a) completed before 1st October 2023 but occupied on or after that date,

(b) completed before 6th April 2024 and paragraph 1 of Schedule 3 (transitional provisions) applied to the work but paragraphs 3 and 4 of that Schedule did not apply, or

(c) completed on or after 6th April 2024 and paragraph 7 of Schedule 3 applied to the work;

(**33**) S.I. 2010/2215 as amended by S.I. 2012/3119, S.I. 2013/1959, S.I. 2014/579, S.I. 2015/767, S.I. 2016/285, S.I. 2021/1391, S.I. 2021/1392, S.I. 2022/717, S.I. 2022/984 and S.I. 2023/520. There are other amendments not relevant to this instrument.

"type B transitional work" means work of a kind referred to in section 76(1) of the 2022 Act which is completed on or after 6th April 2024 and paragraph 5, 10 or 11 of Schedule 3 (transitional provisions) applies.

**Electronic submission and directions**

**59.**—(1) The regulator may make a direction as to the way in which any of the following documents are given (which may include specifying cases where it must be given electronically via a website address provided for that purpose by the regulator)—

(a) a building control approval application for HRB work;

(b) a building control approval application for a stage of HRB work;

(c) a building control approval application for work to existing HRB;

(d) a notice under regulation 9(2), 9(3), 17(2) or 17(3) (notices before starting work and when work is "commenced");

(e) a request for approval under regulation 7(12) or 15(12);

(f) a notification under regulation 8 (regulator's power to require notifications etc for HRB work or stage of HRB work) or regulation 16 (regulator's power to require notifications etc for work to existing HRB);

(g) a notice under regulation 10(1)(a) (emergency repair work);

(h) a notification under regulation 18(3) (change control);

(i) a change control application;

(j) a notice under regulation 27 (new client or change of circumstances for the client);

(k) a notice under regulation 28 (change of circumstances for the client: disclaimer of property);

(l) a notice under regulation 29 (new principal contractor or principal designer etc: notification);

(m) a notice or report under regulation 33 (mandatory occurrence reporting: reporting to the regulator);

(n) a notice under regulation 39(5) (information be provided where work is scheme work);

(o) a completion certificate application;

(p) a partial completion certificate application;

(q) a regularisation certificate application;

(r) a notice under regulation 25A(2), 27(2) or (3), 27A(2) or (3), 27C(2) or (3), 37(1), 41(4), 42(2), 43(2), 44(3) and 44ZA(2) of the 2010 Regulations;

(s) a copy of results under regulation 41(2) of the 2010 Regulations;

(t) a notice of review under section 25 of the 2022 Act;

(u) any documents that are required to accompany any application referred to in sub-paragraph (a) to (c), (i), (o), (p) or (q).

(2) A direction must specify the date on which it comes into effect, which must not be earlier than five working days after the date on which the regulator publishes it.

(3) Where the regulator has made a direction in accordance with this regulation, an application (or any document that accompanied the application), notice or request of the type mentioned in the direction must, from the date specified in the direction, be given in accordance with the direction.

(4) The regulator may, by a further direction, amend or revoke a direction made under this regulation.

**Contraventions by the regulator not to be subject to enforcement**

**60.** The following provisions of these Regulations are prescribed for the purposes of sections 35(2) and 35B(7)(a) of the 1984 Act—

(a) regulation 5 (building control approval applications for HRB work or stage of HRB work: validity and time limit);

(b) regulation 6(1) and (2) (building control approval applications for HRB work or stage of HRB work: consultation);

(c) regulation 7(1), (4) to (7), (13) and (14) (building control approval applications for HRB work or stage of HRB work: decisions);

(d) regulation 9(4) (notice before starting work and further notice when work is "commenced");

(e) regulation 13 (building control approval applications for work to existing HRB: validity and time limit);

(f) regulation 14(1) and (2) (building control approval applications for work to existing HRB: consultation);

(g) regulation 15(1), (4) to (7), (13) and (14) (building control approval applications for work to existing HRB: decisions);

(h) regulation 17(4) (notice before starting work and further notice when work is "commenced");

(i) regulation 22 (change control applications: validity and time limit);

(j) regulation 23(1) and (2) (change control applications: consultation);

(k) regulation 24(1), (4) to (7) and (11)(b) and (d) (change control applications: decisions);

(l) regulation 30(4) and (6) to (8) (variation of a requirement imposed on a building control approval);

(m) regulation 41(1) and (2) (completion certificate applications: validity and time limit);

(n) regulation 42(1) (completion certificate applications: consultation);

(o) regulation 43 (completion certificate applications: inspection);

(p) regulation 44(1) to (6) and (8) (completion certificate applications: decisions);

(q) regulation 45(5), (6), (8), (10) to (15) and (17) (partial completion certificates) except that regulation 45(8) is not prescribed in relation to the regulator consulting a sewerage undertaker;

(r) regulation 47(6) (regularisation of unauthorised building work);

(s) regulation 48(5) to (8) (review of regulator's decisions);

(t) regulation 53 (section 30A applications: determinations);

(u) regulation 54 (section 30A applications: appointed persons);

(v) regulation 59(2) and (4) (electronic submission and directions).

**Provisions in relation to which a stop notice may be given**

**61.** The following provisions are prescribed for the purposes of section 35C(1)(a) of the 1984 Act (stop notices)—

(a) regulation 3 (HRB work not to be started before approval);

(b) regulation 7(12)(b) (HRB work not to proceed until approval under a requirement is received);

(c) regulation 11 (specified work to an existing HRB not to be started before approval);

(d) regulation 15(12)(b) (work to existing HRB not to proceed until approval under a requirement is received);

(e) regulation 18(6) (major change not to be carried out before approval);

(f) regulation 24(11)(a) (major change not to proceed until approval under a requirement is received) but only in relation to a major change (as defined in regulation 26 of those Regulations).

**Local land charges**

**62.** The functions of local authorities under the Local Land Charges Act 1975(**34**), as they relate to higher-risk buildings, are prescribed for the purposes of paragraph (b) of the definition of "relevant function" in paragraph 2(5) of Schedule 3 to the Building Safety Act 2022.

**Consequential amendment to the Regulatory Reform (Fire Safety) Order 2005**

**63.** In article 22A(3) of the Regulatory Reform (Fire Safety) Order 2005(**35**) (provision of information to new responsible person), after sub-paragraph (e) insert—

"(ea) any information given under regulation 38 or 39 of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 (fire safety information);".

**Consequential amendments to the Community Infrastructure Levy Regulations 2010**

**64.**—(1) The Community Infrastructure Levy Regulations 2010(**36**) are amended as follows.

(2) In regulation 2(1) (interpretation) in the definition of "compliance certificate"—

(a) omit "either";

(b) omit "or" at the end of paragraph (a) and insert—

"(aa) regulation 44 (completion certificate applications: decisions) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, or".

**Consequential amendments to the Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023**

**65.**—(1) The Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023(**37**) are amended as follows.

(2) In regulation 33 (building control prohibitions)—

(a) in paragraph (2) after "34," insert "34A,";

(b) in paragraph (4)—

(i) after sub-paragraph (e) insert—

"(ea) an application for a certificate under regulation 40 (completion certificate applications) or regulation 45 (partial completion certificates) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;";

(ii) after sub-paragraph (f) insert—

(**34**) 1975 c. 76.
(**35**) S.I. 2005/1541. Article 22A was inserted by section 156(8) of the Building Safety Act 2022 (c. 30).
(**36**) S.I. 2010/948. The definition of "compliance certificate" was inserted by S.I. 2014/385.
(**37**) S.I. 2023/753.

"(fa) an application for a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;";

(c) in paragraph (6)—

(i) after sub-paragraph (b) insert—

"(ba) a certificate under regulation 44 (completion certificate applications: decisions) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;";

(ii) after sub-paragraph (c) insert—

"(ca) a certificate under regulation 45 (partial completion certificates) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;";

(iii) after sub-paragraph (f) insert—

"(g) a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;";

(d) in paragraph (8)—

(i) after sub-paragraph (f) insert—

"(fa) an application for a certificate under regulation 40 (completion certificate applications) or regulation 45 (partial completion certificates) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;";

(ii) after sub-paragraph (g) insert—

"(h) an application for a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;".

(3) After regulation 34 insert—

"**Exception to building control prohibition: emergency repair work to existing HRB**

**34A.**—(1) Where an applicable person proposes to carry out work to existing HRB which consists of emergency repairs then—

(a) the provision by them of a notice under regulation 10(1)(a) (notification of emergency repairs to existing HRB) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, and

(b) an application for a certificate in relation to that work under regulation 47 (regularisation of unauthorised building work) of those Regulations,

are not to be treated as a breach of the building control prohibition.

(2) Where paragraph (1) applies, the regulator is not prohibited from giving the applicable person a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023.

(3) In this regulation—

"emergency repairs" has the meaning given in regulation 10(2) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;

"the regulator" has the meaning in section 126 of the Building Act 1984;

"work to existing HRB" has the meaning given in regulation 2 of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023.".

(4) In regulation 35 (exception to building control prohibition: work to occupied buildings)—

(a) in paragraph (4)(a)—

(i) after paragraph (i) insert—

"(ia) an application for a certificate under regulation 40 (completion certificate applications) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 in relation to the work;";

(ii) after paragraph (ii) insert—

"(iia) an application for a certificate under regulation 45 (partial completion certificates) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 in relation to the work;";

(b) after paragraph (5) insert—

"(5A) Where paragraph (4) applies, the regulator is not prohibited from giving the applicable person a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023.".

(5) In regulation 36(1) (exception to building control prohibitions: purchasers) after sub-paragraph (a) insert—

"(aa) to permit the issuing by the regulator of a certificate in relation to that work under regulation 44 (completion certificate applications: decisions) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;".

(6) In regulation 37 (exception to building control prohibitions and modification of the Building Regulations 2010: regularisation)—

(a) after paragraph (1) insert—

"(1A) Where the building is a higher-risk building, a relevant purchaser is not prohibited from giving the regulator an application for a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 and the regulator is not prohibited from granting such a certificate.";

(b) after paragraph (3) insert—

"(4) For the purposes of paragraph (1A), regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 is to have effect in relation to an application under that regulation by a relevant purchaser as if any work carried out by an applicable person which was not unauthorised building work (within the meaning set out in that regulation) were treated as if it were unauthorised building work.".

**Transitional, supplementary and saving provisions**

**66.** The transitional, supplementary and saving provisions set out in Schedule 3 have effect.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

9th August 2023

SCHEDULE 1 Regulation 2

Documents

**Competence declaration**

**1.**—(1) A competence declaration is a statement, in relation to work, that contains a declaration in relation to—

(a) a principal designer (or sole or lead designer) for HRB work, a stage of HRB work or work to existing HRB,

(b) a principal contractor (or sole contractor) for HRB work, a stage of HRB work or work to existing HRB, and

(c) any other person appointed (A), in relation to the work, as at the date of the building control approval application for HRB work, a building control approval application for a stage of HRB work or the building control approval application for work to existing HRB.

(2) In relation to a principal designer for HRB work, a stage of HRB work or work to existing HRB, the competence declaration must—

(a) state that the client—

(i) has complied with regulation 11E(2)(b) (consideration of past misconduct) of the 2010 Regulations, and

(ii) having taken all reasonable steps, is satisfied that the principal designer fulfils the requirements in regulations 11F(1) and (2) and 11G(1) of the 2010 Regulations, and

(b) include a declaration as to the truth of that statement.

(3) In relation to a principal contractor for HRB work, a stage of HRB work or work to existing HRB, the competence declaration must—

(a) state that the client—

(i) has complied with regulation 11E(2)(b) (consideration of past misconduct) of the 2010 Regulations, and

(ii) having taken all reasonable steps, is satisfied that the principal contractor fulfils the requirements in regulations 11F(1) and (2) and 11H(1) of the 2010 Regulations, and

(b) include a declaration as to the truth of that statement.

(4) In relation to a sole contractor, or sole or lead designer, the competence declaration must—

(a) state that the client—

(i) has complied with regulation 11E(2)(b) (consideration of past misconduct) of the 2010 Regulations, and

(ii) having taken all reasonable steps, is satisfied that the person fulfils the requirements in regulations 11F(1) and (2) of the 2010 Regulations, and

(b) include a declaration as to the truth of that statement.

(5) In relation to any A, the competence declaration must—

(a) state that the client has been informed by the person appointing A that they have complied with regulation 11E(2)(b) (consideration of past misconduct) of the 2010 Regulations, and

(b) include a declaration as to the truth of that statement.

(6) Any competence declaration must—

(a) be signed by the client, and

(b) where there is more than one contractor for the HRB work, a stage of HRB work or work to existing HRB, include a copy of each record that the client created under regulation 11D(8) or, as the case may be, 11D(9) (principal designer and principal contractor) of the 2010 Regulations.

**Construction control plan**

**2.** A construction control plan must set out—

(a) the strategies, policies and procedures the client has adopted for planning, managing and monitoring the HRB work, a stage of HRB work or work to existing HRB so as to ensure compliance with—

(i) the applicable requirements of the building regulations and to record evidence of that compliance including describing the arrangements the client has adopted to maintain the golden thread information;

(ii) the duties in Chapter 4 (duties of dutyholders) of Part 2A of the 2010 Regulations;

(b) the strategies, policies and procedures the client has adopted to identify, assess and keep under review the competence of the persons carrying out the HRB work, a stage of HRB work or work to existing HRB or involved in the design of the higher-risk building or design of the building work to the higher-risk building, including the procedures to be followed—

(i) to determine whether a serious sanction (as defined in regulation 11E of the 2010 Regulations) has occurred in relation to a person to be appointed;

(ii) to consider any past behaviour in relation to any serious sanction which might call into question the suitability of a person to be appointed;

(iii) if a person in relation to which a serious sanction has occurred is appointed, to prevent a repeat of the behaviour;

(c) the strategies, policies and procedures the client has adopted to support co-operation between designers, contractors and any other persons involved in the HRB work, a stage of HRB work or work to existing HRB, including the sharing of all necessary information;

(d) a schedule of each appointment which has been made as at the date of the application, giving the name of—

(i) the person who the client has appointed as the principal contractor (or sole contractor);

(ii) the person who the client has appointed as the principal designer (or sole or lead designer);

(iii) any other person (excluding individuals except where they are a sole trader) the client has appointed to work on the project;

(iv) any person (excluding individuals except where they are a sole trader) the principal contractor (or sole contractor) has appointed to work on the project, and

(v) any person (excluding individuals except where they are a sole trader) the principal designer (or sole or lead designer) has appointed to work on the project,

and a summary of their responsibilities;

(e) the policies the client has adopted to review the construction control plan.

**Change control plan**

**3.**—(1) A change control plan must set out the strategies, policies and procedures the client has adopted to ensure any controlled change takes place in accordance with regulation 18 (change

control), and to log each controlled change in accordance with regulation 19 (change control: record-keeping) including explaining—

(a) how proposed changes will be identified and to whom they must be reported;

(b) how the impacts of proposed changes are identified and considered;

(c) in relation to proposed changes, the decision-making procedures adopted for agreeing a change including whose advice is to be sought;

(d) how changes are recorded and by when;

(e) the procedure to identify which changes require notification to the regulator and which changes require a change control application;

(f) how the effectiveness of the change control plan will be reviewed by dutyholders periodically.

(2) In this paragraph "dutyholders" means the client, the principal contractor (or sole contractor) and the principal designer (or sole or lead designer).

**Building Regulations compliance statement**

**4.** A Building Regulations compliance statement must set out the approach taken in designing the proposed higher-risk building or in designing the work to be carried out on the higher-risk building and the building standards applied, in particular—

(a) the approach taken in relation to each element of the building and the work to ensure compliance with all applicable requirements of the building regulations, and

(b) the reasons for adopting the approach together with an explanation of why the approach is appropriate and ensures compliance with all applicable requirements of the building regulations.

**Fire and emergency file**

**5.**—(1) A fire and emergency file must set out—

(a) the matters that were considered when assessing how the building safety risks(**38**) identified could impact the higher-risk building or the proposed higher-risk building;

(b) the proposals adopted and the approaches taken in relation to designing the proposed higher-risk building or the building work to the higher-risk building to ensure compliance with the applicable requirements of the building regulations relating to the building safety risks;

(c) the measures, strategies and policies it is proposed the owner of the higher-risk building should adopt in order to manage and maintain the higher-risk building or the proposed higher-risk building to ensure anyone in it can be safely evacuated in an emergency, including any assumptions made as to the intended occupiers of the building and their likely characteristics and behaviours.

(2) The measures, strategies and policies referred to in sub-paragraph (1) must include—

(a) a plan which sets out the requirements of the fire and rescue service for the area in relation to access to the higher-risk building and water supply for fire-fighting;

(b) a report which—

(i) where the HRB work, a stage of HRB work or work to existing HRB has not started, demonstrates how compliance with the applicable requirements of the building regulations relating to the building safety risks is to be achieved;

(**38**) See section 120G(5) of the Building Act 1984 for the definition of "building safety risk".

(ii) where the HRB work, a stage of HRB work or work to existing HRB is completed, demonstrates how compliance with the applicable requirements of the building regulations relating to the building safety risks was achieved.

**Partial completion strategy**

**6.** A partial completion strategy must explain—

(a) the proposals adopted in designing for occupation of each part of the building or the proposed building to be completed to ensure compliance with the applicable requirements of the building regulations;

(b) the measures, strategies and policies it is proposed the owner of the building should adopt in order to manage and maintain each such part of the building or the proposed building;

(c) any assumptions made in those measures, strategies and proposals as to the intended occupiers of each such part of the building or the proposed building and their likely characteristics and behaviours, and the intended management or maintenance of each such part of the building or the proposed building.

## SCHEDULE 2

Regulation 57

Exempt work

**1.** Work consisting of—

(a) in relation to an existing fixed building service, which is not a fixed internal or external lighting system—

(i) replacing any part which is not a combustion appliance,

(ii) adding an output device, or

(iii) adding a control device,

where testing and adjustment of the work is not possible or would not affect the use by the fixed building service of no more fuel and power than is reasonable in the circumstances;

(b) providing a self-contained fixed building service, which is not a fixed internal or external lighting system, where—

(i) it is not a combustion appliance (other than a fixed flueless gas cooker),

(ii) any electrical work associated with its provision does not consist of—

(aa) the installation of a new circuit;

(bb) the replacement of a consumer unit;

(cc) any addition or alteration to existing circuits in a special location;

(iii) testing and adjustment is not possible or would not affect its energy efficiency, and

(iv) in the case of a mechanical ventilation appliance, the appliance is not installed in a room containing an open-flued combustion appliance whose combustion products are discharged through a natural draught flue;

(c) replacing an external door (where the door together with its frame has not more than 50% of its internal face area glazed);

(d) in existing buildings other than dwellings, providing fixed internal lighting where no more than $100m^2$ of the floor area of the building is to be served by the lighting;

(e) replacing—

(i) a sanitary convenience with one that uses no more water than the one it replaces,

(ii) a washbasin, sink or bidet,

(iii) a fixed bath,

(iv) a shower,

(v) a rainwater gutter, or

(vi) a rainwater downpipe,

where the work does not include any work to underground drainage, and includes no work to the hot or cold water system or above ground drainage, which may prejudice the health or safety of any person on completion of the work;

(f) in relation to an existing cold water supply—

(i) replacing any part,

(ii) adding an output device, or

(iii) adding a control device;

(g) providing a hot water storage system that has a storage vessel with a capacity not exceeding 15 litres, where any electrical work associated with its provision does not consist of—

(i) the installation of a new circuit;

(ii) the replacement of a consumer unit;

(iii) any addition or alteration to existing circuits in a special location;

(h) installation of thermal insulation in a roof space or loft space where—

(i) the work consists solely of the installation of such insulation, and

(ii) the work is not carried out in order to comply with any requirement of the 2010 Regulations.

**2.** Installation of thermal insulation to suspended timber floors where the work—

(a) consists of the installation of such insulation only, and

(b) the work is not carried out in order to comply with any requirements of the 2010 Regulations.

**3.** For the purposes of this Schedule—

"fixed building service" has the meaning given in regulation 2(1) of the 2010 Regulations;

"self-contained" in relation to a fixed building service means consisting of a single appliance and any associated controls which is neither connected to, nor forms part of, any other fixed building service;

"special location" means—

(a) within a room containing a bath or shower, the space surrounding a bath tap or shower head, where the space extends—

(i) vertically from the finished floor level to—

(aa) a height of 2.25 metres, or

(bb) the position of the shower head where it is attached to a wall or ceiling at a point higher than 2.25 metres from that level, and

(ii) horizontally—

(aa) where there is a bath tub or shower tray, from the edge of the bath tub or shower tray to a distance of 0.6 metres, or

(bb) where there is no bath tub or shower tray, from the centre point of the shower head where it is attached to the wall or ceiling to a distance of 1.2 metres, or

(b) a room containing a swimming pool or sauna heater.

SCHEDULE 3 Regulation 66

Transitional, supplementary and saving provisions

# PART 1

## Transitional etc provisions

### October 2023: HRB work and work to existing HRB

**1.**—(1) Subject to sub-paragraph (5) and the requirements of paragraphs 2 and 4 to 11, this paragraph applies where before 1st October 2023—

(a) an initial notice, in relation to HRB work or work to existing HRB for a particular building, has been given to a local authority and before that date is accepted or deemed to be accepted under section 47 of the 1984 Act, or

(b) full plans, in relation to HRB work or work to existing HRB to a particular building, were deposited with a local authority.

(2) Where this paragraph applies, notwithstanding the commencement of section 32 of the Building Safety Act 2022, on 1st October 2023 the local authority for the area continues to be the building control authority(**39**) in relation to the higher-risk building and accordingly the duties and functions of local authorities under section 91 of the 1984 Act(**40**) continue to apply in relation to that work as if it were not higher-risk building work.

(3) Where this paragraph applies—

(a) in a case where full plans have been deposited—

(i) Parts 2 to 6 of these Regulations do not apply to that work, and

(ii) the 2010 Regulations continue to apply to that work, including the amendments made to the 2010 Regulations by the Building Regulations etc. (Amendment) (England) Regulations 2023, but subject to Part 4 (transitional, supplementary and saving provisions) of the Building Regulations etc. (Amendment) (England) Regulations 2023;

(b) in a case where an initial notice has been given—

(i) Parts 2 to 6 of these Regulations do not apply to that work, and

(ii) the 2010 Regulations and the Building (Approved Inspectors etc.) Regulations 2010 continue to apply to the work, including the amendments made to those Regulations by the Building Regulations etc. (Amendment) (England) Regulations 2023 and the Building (Approved Inspectors etc. and Review of Decisions) (England) Regulations 2023 but subject to Part 4 (transitional, supplementary and saving provisions) of the Building Regulations etc. (Amendment) (England) Regulations 2023 and Part

(**39**) See section 121A of the Building Act 1984 for the definition of "building control authority", which was inserted by section 32 of the Building Safety Act 2022 (c. 30).
(**40**) 1984 c. 55. Section 91 is amended by section 32 of the Building Safety Act 2022 (c. 30).

4 (transitional, supplementary and saving provisions) of the Building (Approved Inspectors etc. and Review of Decisions) (England) Regulations 2023.

(4) In addition to the continuing application of the provisions referred to in sub-paragraph (3), not more than five working days after the day on which the work is to be regarded as sufficiently progressed the person carrying out the work must give a notice to that effect to the local authority and where sub-paragraph (1)(a) applies in relation to the work, give a copy of the notice to the approved inspector.

(5) Sub-paragraphs (1) to (4) cease to apply in relation to the work where before 6th April 2024—

(a) the approval for the work lapses by virtue of section 32 of the 1984 Act (as that provision had effect immediately before 1st October 2023), or

(b) the initial notice for the work, or the part of that notice which relates to the higher-risk building, is cancelled under section 52(5) of the 1984 Act (as that provision had effect immediately before 1st October 2023),

and paragraph 3 applies instead to the work.

(6) For the purposes of this paragraph work is to be regarded as sufficiently progressed—

(a) where the building work consists of the construction of a higher-risk building, when the pouring of concrete for—

(i) the permanent placement of the trench, pad or raft foundations, or

(ii) the permanent placement of piling,

for that building has started;

(b) where the building work consists of work to an existing building, when that work has started;

(c) where the building work consists of a material change of use of a building, when work to effect that change of use has started.

(7) Where the work consists of work in relation to more than one higher-risk building then sub-paragraph (4) applies to each building separately.

**From October 2023: cases where full plans are rejected**

**2.**—(1) This paragraph applies where, in relation to work to a particular building, full plans were deposited with a local authority before 1st October 2023 and in accordance with any provision of Part 1 of the 1984 Act or a local enactment the local authority has rejected those plans on or after that date ("the rejection date").

(2) Where this paragraph applies then with effect from the rejection date the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly—

(a) the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the higher-risk building or any proposed higher-risk building;

(b) Parts 2 to 6 of these Regulations apply to any HRB work or work to existing HRB from the rejection date with the modifications provided in this paragraph except that regulation 47 (regularisation) does not apply in relation to any work carried out before the rejection date and accordingly any reference to a regularisation certificate in Parts 2 to 6 of these Regulations is to be ignored, and

(c) the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from the rejection date.

(3) Within 10 working days of the rejection date the person intending to carry out the work must give a notice to the regulator setting out—

(a) the name, address, telephone number and (if available) email address of the person intending to carry out the work;

(b) details of the work to be carried out;

(c) details of any existing building on the site, including the height of any existing building, the number of storeys contained in it and the use of each storey (regulations 5 and 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(**41**) have effect in determining the height and the number of storeys in a building);

(d) details of the intended use of the higher-risk building, including the intended use of each storey;

(e) the height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(f) the number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(g) where the work is HRB work or is work to existing HRB which changes the number of residential or commercial units in the building, the proposed number of flats, number of residential rooms and number of commercial units to be contained in the higher-risk building;

(h) details of the work which has been carried out together with a summary of the inspections undertaken by the local authority in relation to the work.

(4) Where any work was carried out before the rejection date the person who carried out the work or the owner must comply with any notice from the regulator requiring them within a reasonable time to cut into, lay open or pull down so much of the work as prevents the regulator from ascertaining whether the work contravenes any requirement of the building regulations.

(5) Where any work was carried out before the rejection date ("the HRB project") and on or after that date a building control approval application for HRB work or a building control approval application for work to existing HRB is submitted to the regulator in respect of the HRB project, then in addition to the requirements of regulation 4 the person who carried out the work must provide the regulator with such plans as are necessary to show the work already carried out complies with all applicable requirements of the building regulations.

**October 2023 to April 2024: cases where building control approval lapses before 6th April 2024**

**3.**—(1) This paragraph applies where, by virtue of paragraph 1(5)(a) or (b), paragraph 1(1) to (4) ceases to apply in relation to work.

(2) Where this paragraph applies then with effect from the date paragraph 1(1) to (4) ceases to apply in relation to the work ("the cessation date") the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly—

(a) the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the higher-risk building or any proposed higher-risk building;

(b) these Regulations apply to any of the work from the cessation date, and

(c) the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from the cessation date.

(**41**) S.I. 2023/275.

**October 2023 to April 2024: cases of not sufficiently progressed work where an initial notice is cancelled before 6th April 2024**

**4.**—(1) This paragraph applies where—

(a) the initial notice for the work, or the part of that notice which relates to the higher-risk building, ceases to be in force by virtue of any provision of Part 2 of the 1984 Act (except section 52(5)) on a date before 6th April 2024 ("the cancellation date"), and

(b) a notice under paragraph 1(4) (notice that work had sufficiently progressed) in relation to that work was not received by a local authority before the cancellation date.

(2) Where this paragraph applies—

(a) if a plans certificate or final certificate relating to the work (or any part of the work) has been accepted before the cancellation date then with effect from that date the certificate ceases to have effect;

(b) accordingly Parts 2 to 6 of these Regulations apply to the work from the cancellation date with the modifications provided for in paragraph (8);

(c) subject to paragraph (d), the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from the cancellation date;

(d) regulation 11(3) of the 2010 Regulations does not apply and accordingly the regulator may exercise the power in section 8(3A) of the 1984 Act(**42**) to dispense with or relax any requirement of the 2010 Regulations.

(3) Where this paragraph applies then with effect from the cancellation date the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the work to the higher-risk building (but not in relation to any other work specified in the initial notice).

(4) Where this paragraph applies, not more than five working days after the cancellation date the person which was shown on the initial notice as the approved inspector must—

(a) give a notice to the person intending to carry out the work explaining the initial notice, or such part of the initial notice which applies to the higher-risk building, is no longer in force and the effect of sub-paragraphs (2), (3) and (5), and

(b) give a copy of the notice to the local authority.

(5) Within 10 working days of the cancellation date the person intending to carry out the work must give a notice to the regulator setting out—

(a) their name, address, telephone number and (if available) email address;

(b) the location of the building;

(c) details of the work to be carried out;

(d) the height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(e) the number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023, and

(f) a description of any work which was carried out before the cancellation date (including details of the work in relation to which a final certificate was given and not rejected) and details of any inspections undertaken by the approved inspector in relation to that work.

(**42**) Subsection (3A) was inserted by paragraph 11(4) of Schedule 5 to the Building Safety Act 2022 (c. 30).

(6) With effect from the cancellation date no further building work in relation to the work described in the initial notice ("HRB project") may be carried out until the date when the person intending to carry out building work has received confirmation in writing from the regulator that an application for building control approval made to the regulator in relation to that work is valid ("validation date").

(7) Where any building work was carried out before the cancellation date then—

(a) the person who carried out the work or the owner must comply with any notice from the regulator requiring them within a reasonable time to cut into, lay open or pull down so much of the work as prevents the regulator from ascertaining whether the work contravenes any requirement of the building regulations;

(b) in addition to the other documents which are required to accompany the application for building control approval, the person must provide the regulator with such plans as are necessary to show the work already carried out complies with all applicable requirements of the building regulations.

(8) Where the application for building control approval in relation to the HRB project is rejected by the regulator then with effect from the date the rejection is notified to the applicant ("rejection date") no further building work in relation to the HRB project may be carried out until a building control approval is granted in relation to the building.

(9) Parts 2 to 6 of these Regulations have effect in relation to the HRB project—

(a) from the cancellation date as if—

(i) regulation 5(1)(b) (building control applications: for HRB work or stage of HRB work: validity and time limit) and regulation 13(1)(b) (building control applications: for work to existing HRB: validity and time limit) were omitted;

(ii) in relation to any change control which is proposed or occurs between the cancellation date and the date application for building control approval is determined by the regulator, Part 3 (change control) required the change to be recordable in the change control log;

(iii) regulation 47 (regularisation) does not apply in relation to any work carried out before the cancellation date and accordingly any reference to a regularisation certificate in Parts 2 to 6 of these Regulations in relation to such work is to be ignored;

(iv) regulations 50 to 56 (section 30A applications) did not apply in relation to the application for building control approval for the HRB project, and

(b) additionally, from the validation date until the rejection date, as if regulation 3 did not prevent work in the HRB project to be started before an application for building control approval for the work is submitted.

**October 2023 to April 2024: cases of sufficiently progressed work where an initial notice is cancelled before 6th April 2024**

**5.**—(1) This paragraph applies where—

(a) a notice under paragraph 1(4) (notice that work had sufficiently progressed) in relation to that work was received by a local authority before 6th April 2024, and

(b) the initial notice for the work, or the part of that notice which relates to the higher-risk building, ceases to be in force by virtue of any provision of Part 2 of the 1984 Act on a date before 6th April 2024 ("the cancellation date").

(2) Where this paragraph applies—

(a) if a final certificate relating to the work (or any part of the work which relates to the higher-risk building) has been accepted before the cancellation date then with effect from that

date the function of enforcing building regulations that is conferred on the regulator by section 91(3) of the 1984 Act is not exercisable in relation to that work;

(b) if a plans certificate relating to the work (or any part of the work which relates to the higher-risk building) has been accepted before the cancellation date then with effect from the notice date the certificate ceases to have effect;

(c) accordingly Parts 2 to 6 of these Regulations apply to the work from the cancellation date with the modifications provided for in paragraph (9);

(d) subject to paragraph (e), the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from the cancellation date;

(e) regulation 11(3) of the 2010 Regulations does not apply and accordingly the regulator may exercise the power in section 8(3A) of the 1984 Act to dispense with or relax any requirement of the 2010 Regulations.

(3) Where this paragraph applies then with effect from the cancellation date the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the work to the higher-risk building (but not in relation to any other work specified in the initial notice).

(4) Where this paragraph applies, not more than five working days after the cancellation date the person which was shown on the initial notice as the approved inspector must—

(a) give a notice to the person intending to carry out the work explaining the initial notice, or such part of the initial notice which applies to the higher-risk building, is no longer in force and the effect of sub-paragraphs (2), (3) and (5), and

(b) give a copy of the notice to the local authority.

(5) Within 10 working days of the cancellation date the person intending to carry out the work must give a notice to the regulator setting out—

(a) the information referred to in paragraph 4(5), and

(b) in relation to any work for which a final certificate was given and not rejected, a description of the work covered by the final certificate.

(6) With effect from the cancellation date no further building work in relation to the work described in the initial notice ("HRB project") may be carried out until the date when the person intending to carry out building work has submitted an application for building control approval for HRB work or an application for building control approval for work to existing HRB in relation to the work and received confirmation in writing from the regulator that an application for building control approval made to the regulator in relation to that work is valid ("validation date").

(7) In relation to building work carried out before the cancellation date then—

(a) the person who carried out the work or the owner must comply with any notice from the regulator requiring them within a reasonable time to cut into, lay open or pull down so much of the work as prevents the regulator from ascertaining whether the work contravenes any requirement of the building regulations;

(b) in addition to the other documents which are required to accompany the application for building control approval, the person must provide the regulator with such plans as are necessary to show the work already carried out complies with all applicable requirements of the building regulations.

(8) Where the application for building control approval in relation to the HRB project is rejected by the regulator then with effect from the date the rejection is notified to the applicant ("rejection date") no further building work in relation to the HRB project may be carried out until a building control approval is granted in relation to the building.

(9) Parts 2 to 6 of these Regulations have effect in relation to the work as if—

(a) in Part 2—

(i) in relation to any work for which a final certificate was previously given before the cancellation date and not rejected—

(aa) paragraphs (1)(e)(viii), (2)(b) and (3) of regulation 4 (building control approval applications for HRB work or stage of HRB work) and paragraphs (1)(e)(viii), (2)(c) and (5) of regulation 12 (building control approval applications for work to existing HRB) were omitted,

(bb) in addition to the requirements of regulation 4 and, as the case may be, regulation 12, the person which carried out the work must provide the regulator with such plans as are necessary to show the work already carried out complies with all applicable requirements of the building regulations, together with a copy of the final certificate;

(cc) regulation 5(1)(b) (building control applications: for HRB work or stage of HRB work: validity and time limit) and regulation 13(1)(b) (building control applications: for work to existing HRB: validity and time limit) were omitted;

(ii) in relation to any other work in the HRB project—

(aa) paragraphs (iii) to (viii) of regulation 4(2)(b) (building control approval applications for HRB work or stage of HRB work) and paragraphs (ii) to (vi) of regulation 12(2)(c) and (5) (building control approval applications for work to existing HRB) were omitted;

(bb) regulation 5(1)(b) (building control applications: for HRB work or stage of HRB work: validity and time limit) and regulation 13(1)(b) (building control applications: for work to existing HRB: validity and time limit) were omitted;

(b) regulations 18 to 26 (change control) were omitted;

(c) paragraphs (2)(b), (6)(b) and (8)(c) of regulation 27 (new client etc) were omitted;

(d) any references to golden thread information in regulation 27 were references to fire safety information;

(e) paragraph (7) of regulation 29 (new principal contractor or principal designer) were omitted;

(f) regulation 31 (golden thread) were omitted;

(g) regulations 32 to 37 (mandatory occurrence reporting) were omitted;

(h) any references to golden thread information in regulation 38 were references to fire safety information;

(i) in Part 5 (completion certificates), in relation to any work (including any work carried out before the cancellation date which is included in a completion certificate application)—

(i) any references to "completion certificate" were references to "transfer and completion certificate";

(ii) any references to "partial completion certificate" were references to "transfer and partial completion certificate";

(iii) paragraph (2)(d) of regulation 40 (completion certificate applications) were omitted;

(iv) paragraph (3)(c) of regulation 45 (partial completion certificates) were omitted;

(j) any reference in regulations 40(1)(f) (completion certificate applications), 44(1)(c) (completion certificate applications: decisions) and 45(2)(h) and (10)(c) (partial

completion certificates) to providing information to the relevant person in accordance with regulation 38 (handover of information on completion etc) were a reference to providing fire safety information to the relevant person;

(k) any reference in regulations 4, 6, 12 and 42 to a "fire and emergency file" were a reference to a document setting out the fire safety design principles, concepts and standards applied to the development including sufficient plans to show how the work would comply with Part B (fire safety) of Schedule 1 to the 2010 Regulations in relation to the higher-risk building or proposed higher-risk building;

(l) regulation 46 (inspections etc) were omitted in relation to any work described in a final certificate;

(m) regulation 47 (regularisation) were omitted in relation to any work carried out before the cancellation date and accordingly any reference to a regularisation certificate in Parts 2 to 6 of these Regulations is to be ignored in relation to that work;

(n) in regulations 48 (review of regulator's decisions), 50 (section 30A prescribed applications) and 51 (section 30A applications: procedure)—

(i) any reference to completion certificate application were a reference to an application for a transfer and completion certificate, and

(ii) any reference to partial completion certificate application were a reference to an application for a transfer and partial completion certificate;

(o) regulations 50 to 56 (section 30A applications) were omitted in relation to the application for building control approval for the HRB project.

**From April 2024: local authority to notify regulator where work has not sufficiently progressed**

**6.**—(1) No later than 6th March 2024, each local authority must give the regulator a notice stating in respect of each relevant building for which it has not by that date received a notice under paragraph 1(4)—

(a) the name and address of the building;

(b) the name, address, telephone number and (if available) email address of the person carrying out the work;

(c) details of the intended use of the higher-risk building, including the intended use of each storey;

(d) the proposed height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(**43**);

(e) the proposed number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(f) the proposed number of flats, number of residential rooms and number of commercial units proposed to be contained in the higher-risk building;

(g) the provision to be made for the drainage of the building;

(h) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes a requirement, the precautions to be taken in the building over a drain, sewer or disposal main to comply with the requirements of that paragraph;

(i) the steps to be taken to comply with any local enactment that applies;

(**43**) S.I. 2023/275.

(j) details of the work which has been carried out together with a summary of the inspections undertaken by the local authority in relation to the work.

(2) In this paragraph a "relevant building" is a building in relation to which paragraph 1(1)(b) applies.

**From April 2024: cases where work is to be regarded as sufficiently progressed**

**7.**—(1) This paragraph applies where—

(a) a notice under paragraph 1(4) (notice that work had sufficiently progressed) in relation to work to that building was received by a local authority before 6th April 2024, and

(b) in any case where an initial notice was given in relation to the work, the approved inspector which gave the initial notice has become a registered building control approver before 6th April 2024.

(2) Where this paragraph applies, with effect from 6th April 2024—

(a) in a case where full plans have been deposited—

(i) Parts 2 to 6 of these Regulations continue not to apply to that work, and

(ii) the 2010 Regulations continue to apply to the work but subject to Part 4 (transitional, supplementary and saving provisions) of the Building Regulations etc. (Amendment) (England) Regulations 2023;

(b) in a case where an initial notice was given in relation to the work by an approved inspector then for so long as the initial notice continues in force—

(i) the initial notice given by the approved inspector is treated as if it were given instead by that person in their capacity as a registered building control approver,

(ii) Parts 2 to 6 of these Regulations continue not to apply to that work, and

(iii) the 2010 Regulations and the Building (Approved Inspectors etc.) Regulations 2010 continue to apply to the work, but subject to Part 4 (transitional, supplementary and saving provisions) of the Building Regulations etc. (Amendment) (England) Regulations 2023 and Part 4 (transitional, supplementary and saving provisions) of the Building (Approved Inspectors etc. and Review of Decisions) (England) Regulations 2023.

(3) Where this paragraph applies then with effect from 6th April 2024 the local authority for the area, and not the regulator, continues to be the building control authority in relation to the higher-risk building and accordingly the duties and functions of local authorities under section 91 of the 1984 Act continue to apply in relation to the work.

**From April 2024: cases of work not sufficiently progressed with an initial notice**

**8.**—(1) This paragraph applies where, in relation to work to a particular building, paragraph 1 applies in respect of work for which an initial notice was in force, but a notice under paragraph 1(4) (notice that work had sufficiently progressed) was not received by a local authority in relation to the building before 6th April 2024.

(2) Where this paragraph applies—

(a) for the purposes of section 47(4)(b)(ii) of the 1984 Act the initial notice, or such part of the initial notice which applies to the higher-risk building, ceases to be in force with effect from 6th April 2024;

(b) if a plans certificate or final certificate relating to the work (or any part of the work) has been accepted before 6th April 2024 then with effect from that date the certificate ceases to have effect;

(c) subject to paragraph (d), the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from that date;

(d) regulation 11(3) of the 2010 Regulations does not apply and accordingly the regulator may exercise the power in section 8(3A) of the 1984 Act to dispense with or relax any requirement of the 2010 Regulations.

(3) Where this paragraph applies, with effect from 6th April 2024 the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the work to the higher-risk building (but not in relation to any other work specified in the initial notice).

(4) The provisions of paragraph 4(4) to (9) also apply but as if any reference to the cancellation date were a reference to 6th April 2024.

**From April 2024: cases of work not sufficiently progressed with full plans**

**9.**—(1) This paragraph applies where in relation to work to a particular building paragraph 1 applies in respect of work for which full plans were deposited but a notice under paragraph 1(4) (notice that work had sufficiently progressed) was not received by a local authority in relation to the building before 6th April 2024.

(2) Where this paragraph applies, with effect from 6th April 2024 the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the work to the higher-risk building (but not in relation to any other work specified in the full plans).

(3) Where this paragraph applies the person intending to carry out the work must, within 4 weeks beginning with 6th April 2024, give to the regulator a notice setting out—

(a) the name and address of the building;

(b) the name, address, telephone number and (if available) email address of the client, the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

(c) details of the work to be carried out;

(d) details of the intended use of the higher-risk building, including the intended use of each storey;

(e) the proposed height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(f) the proposed number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

(g) the proposed number of flats, number of residential rooms and number of commercial units to be contained in the higher-risk building;

(h) the provision to be made for the drainage of the building;

(i) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes a requirement, the precautions to be taken in the building over a drain, sewer or disposal main to comply with the requirements of that paragraph;

(j) the steps to be taken to comply with any local enactment that applies;

(k) details of the work which has been carried out together with a summary of the inspections undertaken by the local authority in relation to the work.

(4) The notice under sub-paragraph (3) must be accompanied by—

(a) a plan to a scale of not less than 1:1250 showing—

(i) the size and position of the proposed building and its relationship to adjoining boundaries;

(ii) the boundaries of the curtilage of the building, and the size, position and use of every other building or proposed building within the curtilage;

(iii) the width and position of any street on or within the boundaries of the curtilage of the building;

(b) where work has started, a copy of the notice given to the local authority under regulation 16(1) (commencement notice) of the 2010 Regulations;

(c) such other documents or plans which were provided to the local authority by the person intending to carry out the work for the purpose of demonstrating the compliance of the work or the proposed work with applicable requirements of the building regulations;

(d) a statement setting out—

(i) any conditions imposed on the full plans;

(ii) any changes (including any conditions related to the changes), agreed with the local authority, to the full plans;

(iii) any work carried out otherwise than in accordance with the full plans (including otherwise than in accordance with any condition impose on the plans);

(e) copy of any report produced by the local authority in relation to each inspection of the work together with a copy of any notes and photographs relating to the inspections;

(f) a statement setting out details of any enforcement action taken by the local authority in relation to the work.

(5) The person intending to carry out the work must give a copy of the notice to the local authority.

(6) Where this paragraph applies, with effect from 6th April 2024—

(a) the 2010 Regulations continue to apply to the work, but subject to—

(i) Part 4 (transitional, supplementary and saving provisions) of the Building Regulations etc. (Amendment) (England) Regulations 2023;

(ii) the modifications set out in paragraph (7);

(b) subject to the modifications in paragraph (c), additionally the following provisions of these Regulations apply in relation to the work—

(i) regulation 8 (regulator's power to require notifications etc for HRB work or stage of HRB work);

(ii) where work has not started, regulation 9(2) (notice before work);

(iii) regulation 9(3) (notice when work has commenced);

(iv) regulation 16 (regulator's power to require notifications etc for work to existing HRB);

(v) where work has not started, regulation 17(2) (notice before work);

(vi) regulation 17(3) (notice when work has commenced);

(vii) regulations 18 (except paragraphs (3) and (4)), and 19 to 29 (change control etc) but as if—

(aa) any reference to an agreed document were a reference to the full plans;

(bb) sub-paragraphs (xi) and (xii) in paragraph (a), and sub-paragraphs (xi) and (xii) in paragraph (b), of the definition of "major change" in regulation 26 were omitted;

(cc) paragraphs (a) and (b) of the definition of "notifiable change" in regulation 26 were omitted;

(viii) regulation 31 (golden thread), but as if regulation 31(1) required the client to establish the electronic facility—

(aa) within 45 days beginning with 6th April 2024, or

(bb) before a completion certificate application or a partial completion certificate application is submitted,

whichever occurs first;

(ix) regulation 32 (mandatory occurrence reporting system), but as if the reference to establishing the system before the construction phase begins were a reference to establishing it within 10 days beginning with 6th April 2024;

(x) regulations 33 to 37 (mandatory occurrence reporting) but as if any reference to an agreed document is to be treated as a reference to the full plans;

(xi) regulations 38 and 39 (handover of information on completion etc);

(xii) regulation 40 (completion certificate applications) but as if paragraphs (i), (ii) and (iii) of paragraph (2)(d) were omitted;

(xiii) regulations 41 to 44 (completion certificates etc);

(xiv) regulation 45 (partial completion certificate applications) but as if paragraphs (i), (ii) and (iii) of paragraph (3)(c) were omitted;

(xv) regulation 46 (inspections etc);

(xvi) regulations 48 to 56 (reviews and appeals etc) but only to the extent those provisions apply in relation to a change control application or completion certificate application or a partial completion certificate application;

(xvii) regulation 58 (requirement for completion certificate before occupation);

(xviii) regulation 59 (electronic submission and directions);

(c) any reference in regulations 23, 26, 40, 42 and 45 to a "fire and emergency file" were a reference to a document setting out the fire safety design principles, concepts and standards applied to the development including sufficient plans to show how the work would comply with Part B (fire safety) of Schedule 1 to the 2010 Regulations in relation to the higher-risk building or proposed higher-risk building.

(7) The 2010 Regulations have effect with the following modifications—

(a) as if any reference in any provision to a local authority, however so expressed, were a reference to the regulator;

(b) as if regulations 16(3) to (5), 17, 17A, 18, 18A, 18B, 38, 39, 40, 40A and 40B of the 2010 Regulations were omitted.

(8) Where the regulator receives any document under sub-paragraph (6) it may, by notice in writing, require the client—

(a) to provide further information specified in the notice by the time specified in the notice;

(b) to take such steps (including tests) as are specified in the notice by the time specified in the notice to demonstrate the work will comply with all applicable requirements of the building regulations.

(9) Where a notice is given to the client under sub-paragraph (8), that person must not start or, as the case may be, continue the work to which the notice relates for a period of 10 days beginning on the day after the day on which the notice is received.

**From April 2024: cases where work has sufficiently progressed but approved inspector is not a registered building control approver**

**10.**—(1) This paragraph applies where—

(a) paragraph 1 applies in relation to a particular building in respect of work for which an initial notice was in force on 6th April 2024 but the approved inspector which gave the notice was not a registered building control approver on that date, and

(b) a notice under paragraph 1(4) (notice that work had sufficiently progressed) in relation to that work was received by a local authority before 6th April 2024.

(2) Where this paragraph applies—

(a) for the purposes of section 47(4)(b)(ii) of the 1984 Act the initial notice or, such part of the notice which relates to the higher-risk building, ceases to be in force with effect from 6th April 2024;

(b) if a final certificate relating to the work (or any part of the work which relates to the higher-risk building) has been accepted before 6th April 2024 then with effect from the notice date the function of enforcing building regulations that is conferred on the regulator by section 91(3) of the 1984 Act is not exercisable in relation to that work;

(c) if a plans certificate relating to the work (or any part of the work which relates to the higher-risk building) has been accepted before 6th April 2024 then with effect from the notice date the certificate ceases to have effect;

(d) accordingly Parts 2 to 6 of these Regulations apply to the work from 6th April 2024 with the modifications provided for in paragraph 5(9) (as applied by paragraph (4));

(e) subject to paragraph (f), the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from that date;

(f) regulation 11(3) of the 2010 Regulations does not apply and accordingly the regulator may exercise the power in section 8(3A) of the 1984 Act to dispense with or relax any requirement of the 2010 Regulations.

(3) Where this paragraph applies, with effect from 6th April 2024 the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the work to the higher-risk building (but not in relation to any other work specified in the initial notice).

(4) The provisions of paragraph 5(4) to (9) also apply but as if any reference to the cancellation date were a reference to 6th April 2024.

**From April 2024: cases where work has sufficiently progressed and then initial notice ceases**

**11.**—(1) This paragraph applies where—

(a) paragraph 1 applies in relation to a particular building in respect of work for which an initial notice was in force on 6th April 2024;

(b) a notice under paragraph 1(4) (notice that work had sufficiently progressed) in relation to that work was received by a local authority before 6th April 2024;

(c) the initial notice for the work, or such part of the notice which relates to the higher-risk building, ceases to be in force by virtue of any provision of Part 2 of the 1984 Act on a date after 6th April 2024 ("the cancellation date").

(2) Where this paragraph applies—

(a) if a final certificate relating to the work (or any part of the work which relates to the higher-risk building) has been accepted before the cancellation date then with effect from the notice date the function of enforcing building regulations that is conferred on the regulator by section 91(3) of the 1984 Act is not exercisable in relation to that work;

(b) if a plans certificate relating to the work (or any part of the work which relates to the higher-risk building) has been accepted before the cancellation date then with effect from the notice date the certificate ceases to have effect;

(c) accordingly Parts 2 to 6 of these Regulations apply to the work from the cancellation date with the modifications provided for in paragraph 5(9) (as applied by paragraph (4));

(d) subject to paragraph (e), the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from that date;

(e) regulation 11(3) of the 2010 Regulations does not apply and accordingly the regulator may exercise the power in section 8(3A) of the 1984 Act to dispense with or relax any requirement of the 2010 Regulations.

(3) Where this paragraph applies, with effect from the cancellation date the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the work to the higher-risk building (but not in relation to any other work specified in the initial notice).

(4) The provisions of paragraph 5(4) to (9) also apply.

# PART 2

## Enforcement and interpretation

**Contravention of certain provisions not to be an offence etc**

**12.**—(1) The following provisions of this Schedule are prescribed for the purposes of section 35(2) of the 1984 Act as provisions in relation to which section 35(1) does not apply—

(a) paragraphs 4(4) and 5(4) (including as applied by paragraphs 15(4) and 16(4)) (duties of approved inspectors);

(b) paragraph 6 (from April 2024: local authority to notify regulator where work has not sufficiently progressed).

(2) The following provisions of this Schedule are prescribed for the purposes of section 35B(7)(a) of the 1984 Act as provisions in relation to which a compliance notice(**44**) may not be given—

(a) paragraphs 4(4) and 5(4) (including as applied by paragraphs 15(4) and 16(4)) (duties of approved inspectors);

(b) paragraph 6 (from April 2024: local authority to notify regulator where work has not sufficiently progressed).

(**44**) See the definition of "compliance notice" in section 35B(2) of the Building Act 1984, as inserted by section 38(1) of the Building Safety Act 2022.

**Interpretation**

**13.**—(1) For the purposes of this Schedule—

"initial notice" is a notice given under section 47 of the 1984 Act;

"full plans" means plans deposited with a local authority for the purposes of section 16 of the 1984 Act in accordance with regulations 12(2)(b) and 14 of the 2010 Regulations (as those provisions had effect immediately before 1st October 2023).

(2) Subject to sub-paragraph (3), any reference to work to which an initial notice relates is to be construed as a reference to that work as varied by an amendment notice given under section 51A of the 1984 Act(**45**) which has been accepted.

(3) Sub-paragraph (2) does not apply where the amendment notice under section 51A of the 1984 Act is given on or after 1st October 2023 and is such that the work as varied becomes higher-risk building work.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

This instrument is part of a number of Regulations which implement Part 3 of the Building Safety Act 2022 (c. 30).

Section 91ZA of the Building Act 1984 (as inserted by section 32 of the Building Safety Act 2022, which is to come into force on 1st October 2023, provides for the regulator to be the building control authority in relation to any higher-risk building in England and any proposed higher-risk building.

The requirements in the Building Regulations 2010 continue to apply to higher-risk buildings. Amendments (to be made elsewhere) to those Regulations disapply most of the procedural requirements in those Regulations, consequently procedures in this instrument apply instead.

Part 2 of these Regulations sets out the procedures for applying for building control approval in relation to higher-risk buildings. Applications must be submitted to the regulator giving the information required and accompanied by the plans and documents required. Building control approval may, with the applicant's consent, be subject to a requirement, for example, to not progress beyond a specified point without agreement of the regulator or that more detailed plans or documents could be approved by the regulator at a later date.

Part 3 of these Regulations sets out the change control process where any document relating to the work which was approved by the regulator at the application stage (or subsequently under a requirement or a change control) is to be changed. And provision is also made in this Part for change to the client, principal contractor or principal designer, insolvency etc of a client and variation of a requirement imposed on a building control approval.

Part 4 of these Regulations sets out provisions in relation the golden thread information, mandatory occurrence reporting and the handover of information on completion of the work.

Part 5 of these Regulations sets out the procedures for applying for a completion certificate in relation to higher-risk buildings. Applications must be submitted to the regulator giving the information

(**45**) Section 51A was inserted by S.I. 1996/1905 and amended by sections 46(2) and 48(3) of, and paragraph 42(3) of Schedule 5 to, the Building Safety Act 2022.

required and accompanied by the plans and documents required. Provision is also made for partial completion certificates where it is proposed a building (or part of a building) is occupied before all of the higher-risk building work is completed.

Part 6 of these Regulations sets out provision relating to inspections, testing and sampling, regularisation of unauthorised work, review by the regulator of its decisions, and appeals in relation to reviewed decisions and the procedure under section 30A of the Building Act 1984 (which provides that a request can be made to the Secretary of State for determination of an application where the regulator has not made a decision within the time limit prescribed).

Part 7 of these Regulations defines exempt work, gives the regulator the power by direction to require an application to be sent to it via a specified method, and also sets out those provisions in relation to which a stop notice under section 35C of that Act may be given. Part 7 also includes consequential amendments to the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541); the Community Infrastructure Levy Regulations 2010 (S.I. 2010/948); and the Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023 (S.I. 2023/753). Schedule 3 to these Regulations sets out transitional, supplementary and saving provisions in relation to projects for higher-risk building work for which plans were deposited or initial notices given before 1st October 2023.

A full impact assessment of the effect that this instrument will have on the costs to business is published with an Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

*This Statutory Instrument has been made in part to correct errors in S.I. 2023/315 and is being issued free of charge to all known recipients of that Statutory Instrument.*

STATUTORY INSTRUMENTS

# 2023 No. 907

# BUILDING AND BUILDINGS, ENGLAND

## The Higher-Risk Buildings (Management of Safety Risks etc) (England) Regulations 2023

*Made - - - - 9th August 2023*

*Laid before Parliament 17th August 2023*

*Coming into force in accordance with regulation 1(2)*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 25(2) and (3), 78(4) and (5), 80(1)(b) and (c) and (2), 81(6), 82(1)(a), 84(3), 85(3), 86(3), 87(1), (2) and (5), 88(1) and (2), 89(2), 90(3) and (4), 91(1)(b) and (c), (4)(c) and (6), 92(3), 93(2) and (3), 96(6), 100(1) and (2), 105 and 168(2) and (4) of, the Building Safety Act 2022(**1**).

In accordance with section 7(4) of the Building Safety Act 2022, the Secretary of State has consulted the regulator(**2**) and such other persons as the Secretary of State considers appropriate.

## PART 1

### General

**Citation, commencement, extent and application**

**1.**—(1) These Regulations may be cited as the Higher-Risk Buildings (Management of Safety Risks etc) (England) Regulations 2023.

(2) These Regulations come into force at the same time as section 83 of the 2022 Act comes into force.

(3) These Regulations extend to England and Wales and apply to England only.

**Interpretation**

**2.** In these Regulations—

(**1**) 2022 c. 30; see section 115 of the 2022 Act for the definition of "prescribed".
(**2**) See sections 2 and 115 of the 2022 Act for the definition of "the regulator".

"the 2022 Act" means the Building Safety Act 2022;

"AP" means accountable person(**3**);

"PAP" means principal accountable person(**4**);

"the register" means the register of higher-risk buildings held by the regulator pursuant to section 78 of the 2022 Act.

# PART 2

## Higher-Risk Buildings

### Building assessment certificates

**3.**—(1) The information about the mandatory occurrence reporting system prescribed for the purposes of section 80(1)(b) of the 2022 Act is information, whether contained in the safety case report or not, which demonstrates compliance with section 87(5) of the 2022 Act.

(2) The information demonstrating compliance with duties under section 89 of the 2022 Act prescribed for the purposes of section 80(1)(c) of the 2022 Act is a statement by the PAP confirming that each AP has complied with the obligations contained in regulations made under section 89 of the 2022 Act, including the obligation to notify the regulator of any change to information provided within 28 days of the PAP becoming aware of the change, in accordance with regulation 21 of the Higher-Risk Buildings (Key Building Information etc) (England) Regulations 2023(**5**).

(3) The regulator may make a direction as to the way in which an application under section 79(1) of the 2022 Act is to be made, which may include a requirement to make the application via a website address provided for that purpose by the regulator.

(4) The regulator must publish a direction under paragraph (3) on its website and make it available for inspection at its principal offices during normal office hours.

(5) An application under section 79(1) of the 2022 Act must include the following—

(a) the address, postcode and, if applicable, name of the building;

(b) the name of the PAP;

(c) the registration number given to the building on the register;

(d) a description of any changes to the information relating to the building contained on the register, including the date those changes occurred;

(e) details of any compliance notice given under section 99 of the 2022 Act and in force in relation to the building.

(6) A building assessment certificate(**6**) must contain the following—

(a) the address, postcode and, if applicable, name of the building;

(b) the name of the PAP;

(c) the names of any other AP;

(d) the date of issue of the certificate;

(e) the registration number given to the building on the register;

(f) the signature of a person authorised by the regulator to sign the certificate;

(**3**) See section 72 of the 2022 Act for the definition of "accountable person".
(**4**) See section 73 of the 2022 Act for the definition of "principal accountable person".
(**5**) S.I. 2023/396.
(**6**) See section 81(1)(a) of the 2022 Act for the definition of "building assessment certificate".

(g) a statement that, at the time of issue of the certificate, the regulator was satisfied that all relevant duties were being complied with.

(7) A notice under section 81(3)(b) and (4) of the 2022 Act—

(a) must be copied to any person who is an AP for any part of the building to which the notice relates;

(b) must contain the following—

(i) the date the decision to which the notice relates was made,

(ii) a brief description of the contravention of the duty that gave rise to the decision under section 81(3)(b) of the 2022 Act to refuse to issue a certificate,

(iii) if the notice is given under section 81(4) of the 2022 Act, the period within which the PAP may remedy the contravention,

(iv) information about the right to request a review of the decision.

(8) The information prescribed for the purposes of section 82(1)(a) of the 2022 Act is the address, telephone number and email address of the PAP and any other AP for the building.

(9) The form of a notice prescribed for the purposes of section 82(1)(a) of the 2022 Act is that the notice is in writing and legible when displayed.

**Management of building safety risks: prescribed principles**

**4.**—(1) The principles prescribed for the purposes of section 84(3) of the 2022 Act are to—

(a) avoid building safety risks(**7**);

(b) evaluate building safety risks that cannot be avoided, including identifying the proportionate measures required to address, reduce, mitigate and control the risks;

(c) combat building safety risks at source by introducing proportionate measures to address, reduce, mitigate and control the risk at the earliest opportunity;

(d) ensure suitable and proportionate systems are in place for the effective inspection, testing and maintenance of the efficacy of measures taken;

(e) give collective protective measures priority over individual protective measures;

(f) adapt to technical progress;

(g) where reasonable to do so, replace the dangerous with the non-dangerous or less dangerous;

(h) consider the impacts on residents and carry out engagement with residents;

(i) give appropriate instructions and information to employees and persons working on or in the building;

(j) ensure that any person responsible for or assisting with compliance with a duty in or under Part 4 of the 2022 Act has the relevant competence.

(2) A person has the relevant competence—

(a) where the person is an individual, if that person has the skills, knowledge, experience and behaviours necessary to perform the functions for which they are responsible in a satisfactory manner;

(b) where the person is not an individual, if that person has the organisational capability to ensure that the functions for which it is responsible are performed in a satisfactory manner.

(**7**) See section 62 of the 2022 Act for the definition of "building safety risk".

(3) An individual who is in training is deemed to have the relevant competence for a function if that individual is adequately supervised by a person with the relevant competence when performing the function.

**Safety case reports**

**5.**—(1) A PAP must include the following information in a safety case report(**8**)—

(a) the registration number given to the building on the register;

(b) a brief description of the building and its wider environment;

(c) a description of the possible scenarios of building safety risks that have been identified by each AP through the risk assessment process under section 83 of the 2022 Act, the likelihood of those risks materialising and the assessment of the likely consequences if they do materialise;

(d) a description of how the steps taken by each AP demonstrate compliance with the obligations under section 84 of the 2022 Act;

(e) a description summarising the system for managing safety for the building including but not limited to details of—

(i) how safety measures are tested and maintained,

(ii) the policies and procedures in place for managing works to the building, including for assuring the competence of designers and contractors appointed, quality of materials used and assessment and management of building safety risks whilst works are in progress;

(f) a description of emergency plans in place for the building including but not limited to—

(i) a description of equipment in place to allow emergency services to respond to an emergency,

(ii) details of the information provided to emergency services to support their emergency response planning,

(iii) a description of the expectation with regard to residents and how they are to respond to emergency situations.

(2) The safety case report must be kept in electronic form.

(3) A notification to the regulator under section 86(1) of the 2022 Act of a revised safety case report must include—

(a) an overview of the main revisions to the safety case report; and

(b) an explanation why the revision has been made.

(4) The regulator may make a direction as to the way in which a safety case report or a notification under section 86(1) of the 2022 Act is to be given, which may include a requirement to give the report or notification via a website address provided for that purpose by the regulator.

(5) The regulator must publish a direction under paragraph (4) on its website and make it available for inspection at its principal offices during normal office hours.

**Mandatory reporting requirements**

**6.**—(1) The circumstances prescribed for the purposes of section 87(1) of the 2022 Act are that a safety occurrence has taken place in the part of the building for which the AP is responsible.

(2) The information prescribed for the purposes of that subsection is as follows—

(**8**) See section 85(1) of the 2022 Act for the definition of "safety case report".

(a) a notice that the safety occurrence has taken place, containing a brief description of the nature of the safety occurrence and the address of the building in which it took place;

(b) a report containing—

(i) the date and time of the safety occurrence,

(ii) the date and time the safety occurrence was first notified to the regulator,

(iii) the date of submission of the report to the regulator,

(iv) the address of the building at which the safety occurrence took place,

(v) the name, address, telephone number and email address of the AP making the report,

(vi) the details of the safety occurrence, including—

(aa) whether any persons were injured or killed as a result of the safety occurrence,

(bb) details of any recent building work,

(cc) details of how the safety occurrence was discovered,

(vii) a description of the measures taken to mitigate or remedy the safety occurrence,

(viii) details of any wider impact or other considerations.

(3) The time prescribed for the purposes of that subsection is as follows—

(a) the AP must give the notice mentioned in paragraph (2)(a) as soon as reasonably practicable after the occurrence has taken place;

(b) the AP must give the report mentioned in paragraph (2)(b) within the period of 10 days beginning with the day on which the safety occurrence came to the AP's attention.

(4) The requirements for a mandatory occurrence reporting system with which a PAP must comply for the purposes of section 87(5) of the 2022 Act are—

(a) that there is a single reporting system for the building;

(b) that the system enables—

(i) the reporting and recording of incidents and situations by individuals to the AP;

(ii) the recording of incidents and situations identified by the AP;

(iii) the timely assessment of reports or records of incidents and situations to determine whether they constitute a safety occurrence;

(iv) the notification and reporting of safety occurrences to the regulator within the required periods;

(c) that the system is accessible to all residents and other users of the building;

(d) that there are regular reviews of the system to ensure that it remains effective.

(5) In this regulation—

"safety occurrence" means an incident or situation relating to the structural integrity of, or spread of fire in, a higher-risk building that meets the risk condition;

"the risk condition" is met in relation to a part of a building if the use of that part of the building without the incident or situation being remedied would be likely to present a risk of a significant number of deaths, or serious injury to a significant number of people.

**Keeping of information and documents**

**7.**—(1) The standards prescribed for the keeping of information under section 88(1) of the 2022 Act are that the information—

(a) is kept in an electronic format which ensures it is capable of being transferred electronically to other persons without the data in it being lost or corrupted;

(b) is accurate;

(c) is intelligible to the intended readers of the data, and any key needed to understand the data is provided with the data;

(d) is kept in such a manner as to be accessible as soon as reasonably practicable in response to a request from any person specified in section 89(1) of the 2022 Act or prescribed by regulations made under that subsection;

(e) is secure from unauthorised access; and

(f) is only changed in accordance with procedures which record the person who made the change and the date of that change.

(2) The standards prescribed for the keeping of copies of documents under section 88(2) of the 2022 Act are that the documents—

(a) are kept in an electronic format capable of being transferred to other persons without the data in them being lost or corrupted;

(b) are kept in such a manner as to be accessible promptly in response to a request from any person specified in section 89(1) of the 2022 Act or prescribed by regulations made under that subsection;

(c) are secure from unauthorised access; and

(d) are only changed in accordance with procedures which record the person who made the change and the date of that change.

**Provision of information to the regulator, residents etc**

**8.**—(1) For the purposes of section 89(2)(a) of the 2022 Act, an AP must give information and copies of documents prescribed under section 89(1) of that Act to the persons specified in section 89(1)(a) or (b) or (subject to paragraph (2)), prescribed by regulations made under paragraph (e) of that subsection, as soon as reasonably practicable after the information or document has been created or updated, or where there is a requirement for the recipient to request the information or document, as soon as reasonably practicable after the request is made.

(2) In the case of a client whose project is carried out, whether in full or in part, in relation to a higher-risk building, the obligation to give the information and copies of documents arises as soon as reasonably practicable after the client gives written notice to the AP that a project is taking place in the building and which provides a name, address and email address for the supply of prescribed information and documents.

(3) In paragraph (2)—

"client" means any person for whom a project is carried out;

"project" means a project which includes or is intended to include any building work and includes all planning work, design work, management or other work involved in a project until the end of the construction phase.

(4) In paragraph (3)—

"building work" has the same meaning as in regulation 3 of the Building Regulations 2010(**9**).

"construction phase" means the period beginning when any building work on a project starts and ending when that project is completed.

(**9**) S.I. 2010/2214.

(5) For the purposes of section 89(2)(b) and (c) of the 2022 Act, an AP must give information and copies of documents prescribed under section 89(1) of the 2022 Act electronically and in a format that the recipient can access to—

(a) other APs for the building; and

(b) subject to paragraph (6), any persons prescribed by regulations made under section 89(1)(e) of the 2022 Act.

(6) Nothing in paragraph (5) applies in relation to the owner of a residential unit in a higher-risk building where an AP of that building has given a contravention notice to any person residing in that residential unit (and accordingly section 29 of the 2022 Act applies in relation to the giving of information and copies of documents to such an owner).

(7) For the purposes of section 89(2)(a) of the 2022 Act, an AP must give information and documents prescribed under section 89(1) of the 2022 Act to any resident of the building—

(a) where a higher-risk building becomes occupied, as soon as reasonably practicable after the building becomes occupied, or if later, the time when the person became an AP for the building;

(b) where a new resident moves into a higher-risk building, as soon as reasonably practicable after the AP becomes aware that the resident has moved in;

(c) where prescribed information previously given to a resident has become out of date, as soon as reasonably practicable after the AP has become aware that the information has become out of date.

(8) For the purposes of section 89(2)(a) of the 2022 Act, an AP must give information and documents prescribed under section 89(1) of the 2022 Act to any non-resident owner of residential units—

(a) as soon as reasonably practicable after the AP becomes aware that the person has taken ownership of a residential unit in the building;

(b) where the prescribed information is a copy of a contravention notice given to any person residing in the residential unit owned by the person, as soon as reasonably practicable after that notice has been given;

(c) where prescribed information previously given to an owner of a residential unit has become out of date, as soon as reasonably practicable after the AP has become aware that the information is out of date.

(9) For the purposes of section 89(2)(b) and (c) of the 2022 Act, information and documents given to residents and non-resident owners of residential units must be—

(a) in writing;

(b) in a form which allows the recipients to understand the content and aims of the information or document given, including explanations of technical language used, or with plain English summaries of complex or technical provisions;

(c) displayed in common parts of the building where the prescribed information consists of—

(i) the process for reporting a building safety risk as regards the building,

(ii) how to make a relevant complaint(**10**),

(iii) the identity of and the address, telephone number and email address of—

(aa) the PAP for the building,

(bb) any other AP for the building,

(**10**) See section 93(4) of the 2022 Act for the definition of "relevant complaint".

(cc) any person who is a responsible person within the meaning of article 3 of the Regulatory Reform (Fire Safety) Order 2005(**11**) in relation to the building,

(iv) any person the PAP has appointed for administrative purposes as a single point of contact in regard to resident communication to contact to request further building safety information,

(v) the list of types of further information that a resident can request and the process for making such a request.

(10) The obligation in paragraph (9)(c) to display prescribed information is without prejudice to the obligation to give prescribed information specified in that sub-paragraph to residents of the building in accordance with section 29 of the 2022 Act.

**Provision of information etc on changes in AP**

**9.**—(1) For the purposes of section 90(3)(a) of the 2022 Act, information and copies of documents prescribed under section 90(2) of the 2022 Act must be given as soon as reasonably practicable after the relevant time(**12**).

(2) For the purposes of section 90(3)(b) of the 2022 Act, information and copies of documents prescribed under section 90(2) of the 2022 Act must be—

(a) given electronically without the data in it being lost or corrupted;

(b) intelligible to the recipient, with any key needed to understand the data being provided.

(3) The following information is prescribed for the purposes of section 90(4) of the 2022 Act—

(a) the outgoing person's(**13**) name;

(b) the building or part of the building for which the outgoing person was responsible;

(c) the registration number given to the building on the register;

(d) the date that the outgoing person ceased to be responsible for the building or part of the building;

(e) the name, address, telephone number and email address of any person who has become responsible for the building or part of the building for which the outgoing person has ceased to be responsible and a description of the part of the building for which any such person is responsible.

(4) The regulator may make a direction as to the way in information specified in paragraph (3) must be given to it, which may include a requirement to give the information or copy documents via a website address provided for that purpose by the regulator.

(5) The regulator must publish a direction under paragraph (4) on its website and make it available for inspection at its principal offices during normal office hours.

**Residents' engagement strategy**

**10.**—(1) For the purposes of section 91(1)(b) of the 2022 Act, the PAP must review the residents' engagement strategy(**14**)—

(a) at least every two years, and in any event within a reasonable period following the conclusion of a consultation under section 91(1)(c) of the 2022 Act;

(**11**) S.I. 2005/1541.
(**12**) See section 90(1) for the definition of "the relevant time".
(**13**) See section 90(1) for the definition of "outgoing person".
(**14**) See section 91(1)(a) of the 2022 Act for the definition of "residents' engagement strategy".

(b) within a reasonable period after a mandatory occurrence report in relation to the building is submitted to the regulator under section 87 of the 2022 Act;

(c) within a reasonable period after the completion of significant material alterations to the building unless the impact of the significant material alterations has been considered as part of a review that has been carried out pursuant to sub-paragraph (a) or (b) within the previous two years.

(2) For the purposes of paragraph (1)(c), "significant material alterations" include—

(a) work which increases or decreases the external height or width of the building;

(b) work which changes the number of storeys the building has (including adding or removing a mezzanine or gallery floor);

(c) work which changes the number of residential units contained in the building;

(d) work which changes the number of, or width of, the staircases in the building or which changes the number of, or width of, any other escape routes within the building;

(e) work to the external wall of the building excluding work which consists only of materials of a description specified in regulation 7(3) of the Building Regulations 2010 becoming part of the wall;

(f) work which changes the internal layout of the building.

(3) The circumstances prescribed for the purposes of section 91(1)(c) of the 2022 Act are that—

(a) a residents' engagement strategy has first been prepared pursuant to section 91(1)(a) of the 2022 Act; or

(b) there has been a revision to the residents' engagement strategy, except where that revision was made in consequence of responses to a consultation under section 91(1)(c) of the 2022 Act.

(4) For the purposes of paragraph (3)(a), where a building becomes occupied in stages, the requirement under section 91(1)(c) of the 2022 Act to consult in prescribed circumstances is met if the PAP carries out consultation in stages corresponding to the occupation of the building, or if the PAP considers it appropriate, at a point where a majority of relevant persons(**15**) are able to participate.

(5) The persons prescribed for the purposes of section 91(1)(c) of the 2022 Act are any APs for the building other than the PAP.

(6) The persons prescribed for the purposes of section 91(4)(c) of the 2022 Act are any APs for the building other than the PAP.

(7) A residents' engagement strategy must contain the following—

(a) a requirement that the PAP must inform residents when works resulting from a building safety decision(**16**) will be carried out, and the purpose of the works;

(b) unless works are required to commence on an emergency basis and it would be impracticable to consult relevant persons(**17**), where works taking place for a period of more than one day arising from a building safety decision will limit access to any part of a building, or otherwise cause a nuisance to residents, a requirement that the PAP must consult relevant persons about—

(i) the days and times when works are to take place, and

(ii) how to mitigate disruption to relevant persons from the works;

(**15**) See section 91(7) of the 2022 Act for the definition of "relevant persons".
(**16**) See section 91(2) of the 2022 Act for the definition of "building safety decision".
(**17**) See section 91(7) of the 2022 Act for the definition of "relevant persons".

(c) a requirement that the PAP must give due consideration to the responses to any consultation;

(d) provision for the keeping of records of reviews carried out by the PAP;

(e) provision for setting out in writing to residents how consultations are to be carried out on the residents' engagement strategy and on building safety decisions.

(8) Consultations under section 91 of the 2022 Act must—

(a) include appropriate and reasonable methodologies which may include digital, postal or in-person events;

(b) involve the taking of reasonable steps to ensure that any relevant person likely to be affected by the matter to which the consultation relates is aware of the consultation;

(c) be for a reasonable period, and in the case of a consultation on the residents' engagement strategy, for a period of no less than 3 weeks.

**Requests for further information**

**11.** For the purposes of section 92(3) of the 2022 Act the AP must provide information or copies of documents requested—

(a) in writing; and

(b) in a form which allows the recipients to understand the content and aims of the information or document given, including where reasonable to do so, explanations of technical language used, or with plain English summaries of complex or technical provisions.

**PAP complaints procedures**

**12.**—(1) The complaints system established by a PAP under section 93 of the 2022 Act ("the system") must secure the matters specified in the following paragraphs.

(2) The PAP must publish a complaints policy which explains—

(a) what amounts to a relevant complaint(**18**);

(b) how a relevant complaint may be made;

(c) how a relevant complaint will be dealt with;

(d) how a complainant can make representations and comments on any findings during an investigation;

(e) the expected timeframes for investigation and determination of a relevant complaint;

(f) the address, telephone number and email address of the regulator and details of the right and manner in which to take a relevant complaint to the regulator where an agreed outcome cannot be reached between the PAP and complainant;

(g) details of how compliance with the Equality Act 2010(**19**) is secured, such as by giving examples of the types of reasonable adjustment which may be made;

(h) details of how personal data is processed.

(3) Any complaint which is a relevant complaint, made to any AP for the building, is dealt with under the system.

(4) There is an effective process for the prioritisation of relevant complaints taking account of the level of risk involved.

(5) All complaints are dealt with in an impartial and fair manner under the system.

(**18**) See section 93(4) of the 2022 Act for a definition of "relevant complaint".
(**19**) 2010 c. 15.

(6) Any question as to whether a complaint is a relevant complaint is determined under the system or if necessary referred to the regulator for final determination of that question.

(7) Any person is able to make a relevant complaint.

(8) A complaint may be made via any reasonable method, including in particular any method agreed between the PAP and relevant persons, as that expression is defined in section 91 of the 2022 Act, as to the manner in which complaints should be made.

(9) A complainant may be assisted by another person in the making of a complaint and in responding to the investigation of a complaint.

(10) A complaint which is a relevant complaint is dealt with under the system, irrespective of whether the complaint identifies that it is a relevant complaint or specifies that it is a matter to be dealt with under the system.

(11) Any complaint is acknowledged as soon as reasonably practicable.

(12) If a complaint is accepted by the PAP as a relevant complaint, that the complainant is informed of that fact.

(13) If a complaint is not accepted by the PAP as a relevant complaint, that the complainant is given reasons for that decision and informed of the right to take the issue to the regulator for final determination.

(14) A relevant complaint may be rejected for consideration under the system if it consists of a complaint which has already been determined or which is under consideration following a complaint by the same complainant.

(15) All complaints are dealt with in a timely manner and the complainant is given information about the timeframe for responding to and taking action in response to the complaint, including details of any changes to the timeframe communicated, with reasons for any such changes.

(16) A procedure exists for reconsidering the first substantive response to a relevant complaint where the complainant requests reconsideration.

(17) All responses to a complaint include details of how that response may be challenged including—

(a) in the case of a first substantive response to a relevant complaint, details of how the complainant may ask the PAP to reconsider that response; and

(b) in the case of any subsequent substantive response to a relevant complaint, details of the right to refer the complaint to the regulator, and how the complainant can do so.

(18) A procedure exists for referral of a complaint to the regulator where—

(a) there is an absence of agreement between the PAP and any APs for the building as to the appropriate response to the complaint; and

(b) the complainant consents to the referral.

(19) All responses to the complainant are in writing and in a form which allows the recipient to understand the content of the information given, including explanations of technical language used, or with plain English summaries of complex or technical provisions.

(20) A substantive response to a complaint—

(a) addresses all material points relating to the relevant complaint;

(b) gives reasons for decisions;

(c) gives details of any action undertaken;

(d) gives details of any action planned, including a timeframe for that action to begin and be completed.

**Contravention notices**

**13.**—(1) A contravention notice given under section 96(2) of the 2022 Act must contain—

(a) details of any statutory provision which it is alleged the relevant person(**20**) has contravened;

(b) details of any previous communication between the appropriate accountable person(**21**) and the relevant person relating to the alleged contravention;

(c) details of any guidance issued by the regulator which is relevant to the alleged contravention;

(d) where any steps are specified under section 96(3)(b) of the 2022 Act, an explanation why the appropriate accountable person considers that the steps should be taken;

(e) where a sum is specified under section 96(4) of the 2022 Act, an explanation why the sum is required and evidence of the amount specified;

(f) details of the complaints procedure operated by the PAP under section 93 of the 2022 Act available to the relevant person to dispute all or part of the contravention notice;

(g) the name and contact details of the AP giving the contravention notice.

(2) A contravention notice must be—

(a) in writing; and

(b) in a form which allows the relevant person to understand the content and aims of the notice, including explanations of technical language used, or with plain English summaries of complex or technical provisions.

**Compliance notices**

**14.**—(1) A compliance notice given under section 99 of the 2022 Act must be in writing and state—

(a) that it is a compliance notice given under section 99 of the 2022 Act;

(b) the date on which the compliance notice is given;

(c) the name and address of the AP to whom the compliance notice is given;

(d) details of the relevant requirement(**22**) which it is alleged the AP has contravened;

(e) details of the nature of the contravention;

(f) the building or part of the building in which the contravention of the relevant requirement is alleged to have occurred;

(g) if specified that the compliance notice is an urgent action notice(**23**), the reasons why the regulator considers it appropriate to so specify;

(h) the consequences of contravention of the compliance notice;

(i) that the compliance notice may be withdrawn by the regulator at any time;

(j) details of the right to appeal to the tribunal(**24**) under section 103(1) of the 2022 Act, including the following details—

(i) the period within which any appeal must be made,

(**20**) See section 96(10) of the 2022 Act for the definition of "relevant person".
(**21**) See section 96(10) of the 2022 Act for the definition of "appropriate accountable person".
(**22**) See section 99(7) of the 2022 Act for the definition of "relevant requirement".
(**23**) See section 99(4) of the 2022 Act for the definition of "urgent action notice".
(**24**) Section 115 of the 2022 Act defines "the tribunal" as "the First-tier Tribunal".

(ii) the right to apply to the tribunal under section 103(4)(a) of the 2022 Act for a direction where it is specified in the notice that it is an urgent action notice,

(iii) the right to apply to the tribunal under section 103(5) of the 2022 Act for an extension of the period for the doing of any thing specified to be done in the compliance notice.

(2) A compliance notice may not relate to the contravention of more than one relevant requirement.

(3) Where the compliance notice relates to the contravention of a relevant requirement that is a requirement on the PAP, the regulator must give the compliance notice to the PAP, and give a copy of the compliance notice to all other APs for the building.

(4) Where the compliance notice relates to the contravention of a relevant requirement that is a requirement on an AP pertaining to the part of a building for which that AP is responsible, the regulator must give the compliance notice to that AP, and give a copy of the compliance notice to all other APs for the building, including the PAP.

(5) The regulator may withdraw a compliance notice at any time.

(6) Where the regulator withdraws a compliance notice, it must as soon as reasonably practicable give the recipient of the compliance notice a notice in writing to that effect.

**Appeals against decisions to refuse to remove buildings from the register**

**15.**—(1) A decision to refuse a request under regulation 7(1) of the Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023 (request to regulator to remove building from register)(**25**) is prescribed for the purposes of section 105(1) of the 2022 Act.

(2) The person prescribed for the purposes of section 105(2) of the 2022 Act is an AP for the building or any person who would be an AP for the building if the building were a higher-risk building.

(3) The grounds of appeal prescribed for the purposes of section 105(3) of the 2022 Act are—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable.

# PART 3

## Minor Amendments

**Amendment of Regulations**

**16.** The Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023 are amended as follows—

(a) for regulation 2(1)(a), substitute—

"(a) information with regard to a change to registration information or copy certificate in accordance with regulation 4;";

(b) in regulation 4(b), omit "of these Regulations";

(c) in regulation 5(a)—

(**25**) S.I. 2023/315.

(i) after "or" insert "a",

(ii) after "pursuant" insert "to";

(d) in regulation 8—

(i) for paragraph (1) substitute—

"(1) Where the regulator makes a decision to remove a building from the register, or to refuse a request to remove a building from the register ("a removal decision"), the regulator must give a notice of the removal decision to all the APs for the building.",

(ii) in paragraph (2)(b), after "removal" insert "decision",

(iii) after paragraph (2) insert—

"(3) A notice under paragraph (2) must be served as soon as reasonably practicable after a removal decision is made, and in any event before effecting any removal.";

(e) in regulation 9(2), omit "of these Regulations";

(f) in regulation 13(2)(a), for "tenants under leases of dwellings in the building ("leaseholders")" substitute "leaseholders";

(g) in regulation 23—

(i) in paragraph (1)(c), after "refuse" insert "a request",

(ii) in paragraph (2)—

(aa) in sub-paragraph (a), for "under" substitute "of the regulator mentioned in",

(bb) in sub-paragraph (b), for "under" substitute "of the regulator mentioned in",

(iii) in paragraph (3), after "period" insert "for the purposes of section 25(2) of the 2022 Act",

(iv) in paragraph (4), after "information" insert "for the purposes of section 25(3)(a) of the 2022 Act".

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

9th August 2023

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which apply to England only, make largely administrative provision in relation to the management of safety risks in higher-risk buildings. Higher-risk building is defined in sections 65 to 70 of the Building Safety Act 2022 ("the 2022 Act").

In Part 2—

Regulation 3 makes provision in relation to building assessment certificates.

Regulation 4 prescribes the principles in accordance with which an accountable person must act in taking steps relating to building safety risks.

Regulation 5 makes provision in relation to safety case reports.

Regulation 6 makes provision in relation to requirements to make reports to the Building Safety Regulator relating to building safety risks.

Regulation 7 prescribes standards for the keeping of information and documents about higher-risk buildings.

Regulations 8 and 9 makes provision about the provision of information to the Building Safety Regulator and others.

Regulations 10 and 11 make provision about the involvement of residents of higher-risk buildings in relation to building safety risks.

Regulation 12 makes provision in relation to complaints procedures relating to building safety risks.

Regulation 13 makes provision in relation to contravention notices which may be served by accountable persons in relation to contravention of duties under section 95 of the 2022 Act.

Regulation 14 makes provision in relation to compliance notices which may be served on accountable persons by the Building Safety Regulator.

Regulation 15 creates a right of appeal to the First-tier Tribunal against a decision of the Building Safety Regulator to refuse to remove a building from the register of higher-risk buildings.

Part 3 makes minor amendments to the Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023.

An impact assessment of the effect that this instrument will have on the costs to business is published with an explanatory memorandum alongside the instrument on www.legislation.gov.uk.

STATUTORY INSTRUMENTS

# 2024 No. 41

# BUILDING AND BUILDINGS, ENGLAND

## The Higher-Risk Buildings (Keeping and Provision of Information etc.) (England) Regulations 2024

*Made - - - - 13th January 2024*

*Coming into force in accordance with regulation 1(1)*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 120A(2)(b) and (3) and 120D(3) and (4)(c) of the Building Act 1984 ("the 1984 Act")(**1**) and sections 65(2) and (3)(c), 74, 88, 89(1), (2), (3) and (4), 90(2) and (5), 92(1), (4) and (5) and 168(2), (3) and (4) of the Building Safety Act 2022 ("the 2022 Act")(**2**).

In accordance with section 7(4) of the 2022 Act, the Secretary of State has consulted the regulator(**3**) and such other persons as the Secretary of State considers appropriate.

In accordance with section 120F(2) of the 1984 Act the Secretary of State has asked the regulator for advice under section 120H(1) of that Act and in accordance with section 67(2) of the 2022 Act the Secretary of State has asked the regulator for advice under section 70(1) of that Act.

In accordance with section 120F(3) of the 1984 Act and section 67(3) of the 2022 Act the Secretary of State has carried out a cost-benefit analysis and published it(**4**).

A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament in accordance with section 120A(7) of the 1984 Act and section 168(6) of the 2022 Act.

(**1**) 1984 c. 55. Section 120A was inserted by Schedule 5 to the Building Safety 2022 Act ("the 2022 Act"), and sections 120D, 120F and 120H were inserted by section 31 of the 2022 Act.
(**2**) 2022 c. 30.
(**3**) See section 115 of the Act 2022 for the meaning of "the regulator".
(**4**) The cost-benefit analysis is available at https://www.gov.uk/government/publications/amendment-to-the-higher-risk-buildings-regulations-2023-cost-benefit-analysis-statement A paper copy can be requested by writing to the Building Safety Programme in the Department of Levelling Up, Housing and Communities at 2 Marsham Street, London, SW1P 4DF.

# PART 1

## General

### Citation, commencement, extent and application

**1.**—(1) These Regulations may be cited as the Higher-Risk Buildings (Keeping and Provision of Information etc.) (England) Regulations 2024 and come into force at the same time as section 83 of the 2022 Act comes into force.

(2) These Regulations extend to England and Wales and apply in relation to England only.

### Interpretation

**2.** In these Regulations—

"the 2022 Act" means the Building Safety Act 2022;

"the 2010 Regulations" means the Building Regulations 2010(**5**);

"the Fire Safety Regulations" means the Fire Safety (England) Regulations 2022(**6**);

"AP" means accountable person(**7**);

"AP client" has the meaning given in regulation 17(6);

"building work" has the same meaning as in regulation 3 of the 2010 Regulations;

"client" means any person for whom a project is carried out;

"construction phase" means the period beginning when any building work on a project starts and ending when that project is completed;

"evacuation information" has the meaning given in paragraph 7(3) of Schedule 1;

"fabric of the building" means a part of the building that forms, with other parts, the structure of the building including in particular any wall, roof, floor, stairs, doors, windows, plumbing, central heating systems, electrical wiring and lighting systems;

"fire and rescue authority" means a fire and rescue authority, within the meaning of Part 1 of the Fire and Rescue Services Act 2004(**8**), for an area in England;

"fire risk assessment" means the record of an assessment by the RP further to the requirement in article 9 (risk assessment) of the Regulatory Reform (Fire Safety) Order 2005(**9**);

"fire safety management measure" means any equipment, device or materials (whether or not a fixture or part of the fabric of the building) that—

(a) exists for any of the following purposes—

(i) preventing fire outbreak and spread in the building;

(ii) reducing the spread of smoke from fire;

(iii) reducing the severity of any fire outbreak and spread in the building;

(iv) aiding or enabling evacuation of the building;

(b) is located in any part of the higher-risk building, and

(c) is not a measure provided by a resident for their own use;

(**5**) S.I. 2010/2214 as amended by S.I. 2012/3119, 2013/1959, 2014/110, 2015/767, 2016/285, 2016/1274, 2018/1230, 2021/1391, 2022/608 and 2023/520. There are other amending instruments, but none is relevant to this instrument.
(**6**) S.I. 2022/547.
(**7**) See section 72 of the 2022 Act for the meaning of "accountable person".
(**8**) 2004 c. 21.
(**9**) S.I. 2005/1541.

"golden thread information" has the meaning given in regulation 4(3);

"higher-risk building work" has the same meaning as in section 91ZA of the Building Act 1984(**10**);

"material change of use" has the meaning given in regulation 5 of the 2010 Regulations;

"PAP" means principal accountable person(**11**);

"plans" has the same meaning as in section 126 of the Building Act 1984(**12**);

"project" means a project which includes or is intended to include any higher-risk building work, or work to the wider building of a higher-risk building, and includes all planning work, design work, management or other work involved in a project until the end of the construction phase;

"the register" means the register of higher-risk buildings held by the regulator pursuant to section 78 of the 2022 Act;

"relevant landlord" means the owner of a residential unit(**13**) in a higher-risk building where an AP for that building has given a contravention notice(**14**) to any person residing in that residential unit;

"relevant RP" means any person who is a RP for a higher-risk building and, where applicable, for the wider building of a higher-risk building, but who is not also an AP for the same higher-risk building;

"resident client" means a client who is also a resident of the higher-risk building to which their project relates;

"RP" means the responsible person under article 3 of the Regulatory Reform (Fire Safety) Order 2005;

"scheme work" means work to which—

(a) regulation 20 (provisions applicable to self-certification schemes) of the 2010 Regulations applies, or

(b) regulation 20A (provisions applicable to third party certification schemes) of the 2010 Regulations applies;

"wider building" has the same meaning as in regulation 4(8) of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(**15**).

**Direction to be made by regulator**

**3.**—(1) The information prescribed by regulation 5 must be given to the regulator in a way specified in a direction made by the regulator.

(2) A direction must specify the date on which it comes into effect, which must not be earlier than five working days after the date on which the regulator publishes it.

(3) The regulator must publish any direction under this regulation on its website.

(4) The regulator may, by a further direction, amend or revoke a direction made under this regulation.

(**10**) 1984 c. 55. Section 91ZA was inserted by section 32 of the 2022 Act. See section 65 of the 2022 Act for the meaning of "higher-risk building".
(**11**) See section 73 of the 2022 Act for the meaning of "principal accountable person".
(**12**) 1984 c. 55.
(**13**) See section 115 of the 2022 Act for the meaning of "residential unit".
(**14**) See section 96(3) of the 2022 Act for the meaning of a "contravention notice".
(**15**) S.I. 2023/275.

# PART 2

## Keeping information about higher-risk buildings

### Golden thread information

**4.**—(1) The information and documents prescribed for the purposes of section 88(1) and (2) of the 2022 Act (together "the golden thread information") are set out in Schedule 1(**16**).

(2) If there is more than one AP for a higher-risk building, each AP is responsible for keeping such of the information or copies of such of the documents set out in Schedule 1 as relate to the part of the building for which that AP is responsible(**17**).

# PART 3

## Prescribed persons and provision of information

### Provision of information to the regulator

**5.**—(1) Where an appointment referred to in paragraph (2) is made in relation to an AP, the AP must provide the following information to the regulator—

(a) their own name and the address of each higher-risk building for which they are responsible as an AP,

(b) where the AP is a company, the company registration number,

(c) the name and description of the appointment of that office-holder or person appointed as set out in paragraph (2), and

(d) a postal address, and a telephone number or email address for that office-holder or person appointed as set out in paragraph (2).

(2) The appointments mentioned in paragraph (1) are—

(a) the appointment of a monitor in relation to a moratorium that has taken effect pursuant to Part A1 of the Insolvency Act 1986(**18**);

(b) the appointment of a supervisor in relation to a voluntary arrangement that has been approved pursuant to Part 1 or 8 of the Insolvency Act 1986;

(c) the appointment of an administrator pursuant to Schedule B1 to the Insolvency Act 1986;

(d) the appointment of a receiver under Part 3 of the Insolvency Act 1986(**19**) or section 109 of the Law of Property Act 1925(**20**);

(e) the appointment of a liquidator under Part 4 or 5 (which make provision regarding winding up) of the Insolvency Act 1986;

(f) the appointment of a trustee in bankruptcy(**21**) pursuant to Part 9 of the Insolvency Act 1986;

(**16**) The standards in accordance with which the information and documents must be kept are prescribed in the Higher-Risk Building (Management of Safety Risks) (England) Regulations 2023, S.I. 2023/907.
(**17**) See section 74 of the 2022 Act and regulations 26 to 30 of the Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023, S.I. 2023/315 as amended by regulation 21 of these Regulations.
(**18**) Part A1 was inserted by section 1(1) of the Corporate Insolvency and Governance Act 2020 (c. 12).
(**19**) See section 29 of the Insolvency Act 1986 for the definition of "receiver" and "administrative receiver" in relation to their appointment under that Act.
(**20**) 1925 c. 20.
(**21**) See sections 291A and 296 of the Insolvency Act 1986 in relation to the appointment of a trustee in bankruptcy.

(g) the appointment of a housing administrator pursuant to the making of a housing administration order under section 99 of the Housing and Planning Act 2016(**22**).

(3) In this regulation—

"housing administrator" has the meaning given in section 95(2) of the Housing and Planning Act 2016;

"liquidator" means a liquidator within the meaning of Part 4 or Part 5 of the Insolvency Act 1986(**23**);

"monitor" has the meaning given in section A54(1) of the Insolvency Act 1986;

"supervisor" has the meaning given in section 263(2) of the Insolvency Act 1986 (where the supervisor is the supervisor of an individual voluntary arrangement) and the meaning given in section 7(2) of the same Act (where the supervisor is the supervisor of a company voluntary arrangement).

**Provision of information and documents to another AP for the higher-risk building**

**6.**—(1) Subject to paragraph (2) and regulations 17 and 18, where there is more than one AP for a higher-risk building each AP for that building must provide to every other AP for that building the golden thread information that that AP is required to keep for that building.

(2) The duty in paragraph (1) does not require an AP to—

(a) provide to another AP any information or document obtained from that AP where that information or document is up to date, or

(b) provide to another AP any information or document that is kept by the AP but to which the other AP has access and has been notified of this in writing by the AP.

**Provision of information and documents to residents of the building**

**7.**—(1) Subject to paragraph (2) and regulation 18, an AP for a higher-risk building must provide to each person who is aged 16 or over and who resides in the part of the building for which that AP is responsible the information or a copy of a document prescribed in Schedule 2.

(2) The duty in paragraph (1) does not require an AP to provide information or documents to a person where the AP—

(a) is not aware that the person resides in that part of the building, and

(b) has taken all reasonable steps to make themselves aware of who resides in residential units in that part of the building.

**Provision of information and documents to owners of residential units in the building**

**8.** Subject to regulation 18, an AP for a higher-risk building must take all reasonable steps to provide to each owner of a residential unit in the part of the building for which that AP is responsible the information or a copy of a document prescribed in Schedule 2.

**Provision of documents to relevant landlord etc**

**9.**—(1) A relevant landlord is prescribed for the purposes of section 89(1)(e) of the 2022 Act.

(**22**) 2016 c. 22.
(**23**) 1986 c. 45.

(2) Subject to regulation 17, where an AP has given a contravention notice(**24**) to a person who resides in, but is not the owner of, a residential unit in a higher-risk building, the AP must take all reasonable steps to provide a copy of that notice to the relevant landlord.

**Provision of information and documents to client etc**

**10.**—(1) Subject to paragraph (5) and regulations 15, 17 and 18, in relation to any project, the client for the project is prescribed for the purposes of section 89(1)(e) of the 2022 Act.

(2) An AP for a higher-risk building must provide to the client for a project which relates to the part of the building for which the AP is responsible any information that the AP must keep pursuant to section 88(1) of the 2022 Act which falls within any of the following provisions in Schedule 1 to these Regulations—

(a) paragraph 6 (fire safety management) where the information relates to the part of the building specified in the notice;

(b) paragraph 9 (structural risks) where the information relates to the part of the building specified in the notice except where the client has previously given the information to that AP and the information has not changed since it was given;

(c) paragraph 10 (management of building safety risks) where the information relates to the part of the building specified in the notice;

(d) paragraph 11 (building design) where the information relates to the part of the building specified in the notice.

(3) An AP for a higher-risk building must provide to the client for a project which relates to the part of the building for which the AP is responsible a copy of any document which that AP must keep pursuant to section 88(2) of the 2022 Act which falls within any of the following provisions in Schedule 1 to these Regulations—

(a) paragraph 22 (fire safety management) where the document relates to the part of the building specified in the notice;

(b) paragraph 24 (structural risks) where the document relates to the part of the building specified in the notice except where the client has previously given the document to that AP and it is the same version of the document as the version that was given;

(c) paragraph 27(a) (plans) where the plan relates to the part of the building specified in the notice.

(4) For the purposes of paragraph (3)(c), it is sufficient for the AP to provide part or a collection of parts of a plan where that part or collection of parts relate to the entire part of the building specified in the notice for which an AP has responsibility.

(5) This regulation only applies in relation to a client where the client—

(a) is not an AP for the building to which the project relates, and

(b) has given notice in writing to the AP that—

(i) confirms that they are a client,

(ii) provides a brief description of the project including details of the parts of the higher-risk building to which it relates, and

(iii) provides their name, address, and (if available) email address.

(6) In this regulation "notice" means a notice given in accordance with paragraph (5)(b).

(**24**) See section 96 of the 2022 Act in relation to contravention notices.

**Provision of information and documents to relevant RP etc**

**11.**—(1) Subject to regulations 17 and 18, a relevant RP is prescribed for the purposes of section 89(1)(e) of the 2022 Act.

(2) An AP for a higher-risk building must provide to each relevant RP of that building any information and a copy of any document which relates to the part of the building for which the AP is responsible and that the AP must keep pursuant to section 88 of the 2022 Act and which falls within the following provisions of Schedule 1 to these Regulations—

(a) paragraphs 6(1) and 22 (fire safety management);

(b) paragraph 7(2) (evacuation);

(c) paragraph 27 (plans).

(3) An AP who is also the PAP for a building must provide to each relevant RP of that building—

(a) a copy of the safety case report(**25**) for that building;

(b) any information that an AP is required to keep pursuant to section 88 of the 2022 Act which falls within paragraph 7(1) (evacuation) of Schedule 1 to these Regulations.

(4) Paragraph (2) does not apply to any information that the relevant RP has previously given to the AP and that has not changed since it was given.

(5) Paragraph (2) does not apply to any document that the relevant RP has previously given to the AP and is the same version of the document as the version that was given.

**Provision of information and documents to a fire and rescue authority etc**

**12.**—(1) Subject to regulation 18, the fire and rescue authority for the area in which a higher-risk building is situated is prescribed for the purposes of section 89(1)(e) of the 2022 Act.

(2) An AP for a higher-risk building who is also the PAP for that building must provide to the fire and rescue authority for the area in which that building is situated—

(a) the information that the PAP is required to keep pursuant to—

(i) paragraph 4(1) (key building information) of Schedule 1;

(ii) paragraph 7(1) (evacuation) of Schedule 1;

(b) the documents that the PAP is required to keep pursuant to paragraph 20(1) (refusal of building assessment certification application) of Schedule 1;

(c) the safety case report for that building.

(3) An AP for a higher-risk building must provide to the fire and rescue authority for the area in which that building is situated—

(a) the information that the AP is required to keep pursuant to—

(i) paragraph 7(2) (evacuation) of Schedule 1;

(ii) paragraph 8 (Fire Safety Regulations information) of Schedule 1;

(iii) paragraph 11 (building design) of Schedule 1;

(b) the documents that the AP is required to keep pursuant to—

(i) paragraph 23 (Fire Safety Regulations information) of Schedule 1;

(ii) paragraph 27(a) (plans) of Schedule 1;

(iii) paragraph 31 (contravention notices) of Schedule 1.

(**25**) See section 85(1) of the 2022 Act for the definition of "safety case report".

(4) Where the fire and rescue authority for the area in which a higher-risk building is situated makes a written request to an AP for the higher-risk building to be provided with any information or a copy of a document that the AP is responsible for keeping as golden thread information, the AP must provide to that fire and rescue authority the information and a copy of the document requested.

**Provision of information and documents etc on change in AP**

**13.** Subject to regulation 17, the information and documents prescribed for the purposes of section 90(2) of the 2022 Act are the golden thread information that the outgoing person was, immediately before the relevant time(**26**), required to keep under regulation 4 by virtue of being an AP for the higher-risk building and, where applicable, was, immediately before the relevant time, required to keep under regulation 4 by virtue of being the PAP for the higher-risk building.

**Resident engagement: requests for further information**

**14.** Subject to regulations 16, 17 and 18, the information and documents prescribed for the purposes of section 92(1) of the 2022 Act are the information and documents specified in Schedule 3 to these Regulations.

# PART 4

## Limitations in relation to the duty to provide information or documents

**Exception for security: provision of documents to a client**

**15.**—(1) The duty under regulation 10(3)(b) does not apply to any security sensitive material in a document described in paragraph 24(1) (structural risks) of Schedule 1 that an AP would otherwise be required to provide to a resident client.

(2) Material is "security sensitive" where—

(a) it relates to a building, to land or to any other thing found in or on a building or land, where that building, land or other thing is not part of the higher-risk building or contained in it, or

(b) it is about a part of the higher-risk building for which the AP is responsible pursuant to section 74 (part of the building for which an AP is responsible) of the 2022 Act or it is about anything contained in such a part, and—

(i) it relates to a relevant safety item(**27**), and

(ii) it discloses how the item operates or how to interfere with its intended function.

**Exception for security: requests for further information by a resident or owner of a residential unit**

**16.**—(1) The duty under section 92(2) of the 2022 Act does not apply to any security sensitive information, or to any security sensitive material in a document, that falls within any of the following provisions of Schedule 1—

(a) paragraph 16(1)(a) and 16(2)(a) (completion and partial completion of works);

(b) paragraph 24(1) (structural risks);

(c) paragraph 25 (building safety risk assessment);

(d) paragraph 26 (management of building safety risks);

(**26**) See section 90(1) of the 2022 Act for the definition of "relevant time".
(**27**) See section 95(4) of the 2022 for the meaning of "relevant safety item".

(e) paragraph 27 (plans).

(2) Information or material is "security sensitive" where—

(a) it relates to a building, to land or to any other thing found in or on a building or land, where that building, land or other thing is not part of the higher-risk building or contained in it, or

(b) it is about a part of the higher-risk building for which the AP is responsible pursuant to section 74 (part of the building for which an AP is responsible) of the 2022 Act or it is about anything contained in such a part, and—

(i) it relates to a relevant safety item(**28**), and

(ii) it discloses how the item operates or how to interfere with its intended function.

**Exception for commercial sensitivity**

**17.**—(1) This regulation applies in relation to the following—

(a) the duty of an AP under regulation 6 to provide information or documents to another AP,

(b) the duty of an AP under regulation 10 to provide information or documents to a client,

(c) the duty of an AP or a PAP under regulation 11 to provide information or documents to a relevant RP,

(d) the duty of an outgoing person under regulation 13 to provide information or documents to an AP or a PAP, and

(e) the duty of an AP under regulation 14 to provide information or documents to a resident or owner of a residential unit.

(2) Subject to paragraphs (4) and (5), the duties specified in paragraph (1) do not apply to any information or material in a document that is commercially sensitive.

(3) For the purposes of this regulation, information or material within a document is commercially sensitive where it is not in the public domain at the time that the AP or outgoing person complies with a duty referred to in paragraph (1), and where it discloses—

(a) customer identities that are confidential to the AP, the outgoing person or a third party,

(b) marketing and product development strategies and analysis that are confidential to the AP, the outgoing person or a third party,

(c) supplier identities that are confidential to the AP, the outgoing person or a third party,

(d) cost, price or other quantitative data that is confidential and relates to the operations of the AP's or outgoing person's organisation or to the operations of a third party,

(e) data or information covered by commercial confidentiality or non-disclosure agreements, or

(f) any other trade secret of the AP, outgoing person, or a third party.

(4) Paragraph (2) does not apply to any information or material in a document that is significant for managing building safety.

(5) Paragraph (2) does not apply to a duty to provide—

(a) a building assessment certificate(**29**) for a higher-risk building,

(b) the most recent written notice given by the regulator in accordance with section 81(3)(b)(**30**) (building assessment certificates) of the 2022 Act,

(**28**) See section 95(4) of the 2022 Act for the meaning of "relevant safety item".
(**29**) See section 81(1)(a) of the 2022 Act for the definition of "building assessment certificate".
(**30**) Section 81(3)(b) of the 2022 Act requires the regulator to notify the PAP of any refusal of an application for a building assessment certificate.

(c) information kept under paragraph 3 (registration) of Schedule 1,

(d) information kept under paragraph 4 (key building information) of Schedule 1,

(e) any list kept under paragraph 6(1)(a) (fire safety management) of Schedule 1,

(f) information kept under paragraph 7 (evacuation) of Schedule 1,

(g) information kept under paragraph 8 (Fire Safety Regulations information) of Schedule 1,

(h) any list kept under paragraph 9(1) (structural risks) of Schedule 1,

(i) information kept under paragraph 11 (building design) of Schedule 1,

(j) information kept under paragraph 14 (complaints) of Schedule 1,

(k) any certificate kept under paragraph 16 (completion and partial completion of works) of Schedule 1,

(l) any document kept under paragraph 18 (registration) of Schedule 1,

(m) any document kept under paragraph 23 (Fire Safety Regulations information) of Schedule 1, or

(n) any document kept under paragraph 30 (complaints) of Schedule 1.

(6) In this regulation—

"AP client" means a client that—

(a) is not a resident client, or

(b) is a resident client of a higher-risk building and is an AP for the same higher-risk building;

"confidential" means—

(a) in the case of information held by an AP, or any document or part of a document created by the AP, the information, document or part of a document in relation to which the AP has expressly recorded that it is to be treated as confidential;

(b) in the case of information or a document or part of a document provided to the AP by another person, the information, document or part of a document provided in relation to which that other person has notified that AP that it is to be treated as confidential;

"information or material that is significant for managing building safety" means information or material given to—

(a) a person who is not an AP for a higher-risk building but is a resident, an owner of a residential unit or a resident client of the higher-risk building, that is necessary to enable them to understand the building safety risks(**31**) and how those risks to their higher-risk building are being managed by the PAP and any AP for their higher-risk building;

(b) an AP, a relevant RP, or an AP client, that is necessary to enable them to identify, assess or manage a building safety risk in the higher-risk building or to understand how this is being done by another person who has responsibilities in relation to fire or structural safety for that higher-risk building;

"trade secret" means information, whether or not contained in a document or part of a document, which is not generally known or readily accessible to an AP, a RP or an AP client and has commercial value because it is secret.

**Exception for personal data**

**18.**—(1) Subject to paragraph (6), this regulation applies in relation to—

(a) the duties under regulations 6 to 8 and 10 to 12, and

(**31**) See section 62(1) of the 2022 Act for the definition of "building safety risk".

(b) an AP's duty to a resident or owner of a residential unit under section 92(2) of the 2022 Act and pursuant to regulation 14.

(2) Paragraph (4) applies where regulation 7, 8, 10 or 14 would require an AP to share personal data with someone, other than the data subject, who is—

(a) a resident,

(b) an owner of a residential unit, or

(c) a resident client who is not an AP for the same higher-risk building.

(3) Paragraph (5) applies where regulation 6, 10, 11 or 12 would require an AP or PAP to share personal data with someone, other than the data subject, who is—

(a) another AP for the same higher-risk building,

(b) a relevant RP,

(c) an AP client, or

(d) a fire and rescue authority.

(4) Where this paragraph applies, the AP is not required to provide any personal data that is not permitted personal data.

(5) Where this paragraph applies, the AP or PAP is not required to provide any personal data unless it is—

(a) permitted personal data, or

(b) significant for managing building safety.

(6) This regulation does not apply to any information or material in a document that an AP or PAP is required to give to a fire and rescue authority pursuant to regulation 12, where the information or document is—

(a) information kept under paragraph 6 (fire safety management) of Schedule 1;

(b) information kept under paragraph 7 (evacuation) of Schedule 1; or

(c) a document kept under paragraph 22 (fire safety management) of Schedule 1.

(7) In this regulation—

"permitted personal data" means any personal data that a PAP must display in accordance with section 82(1) of the 2022 Act;

"significant for managing building safety" means any information or material within a document that is necessary to enable the AP, PAP, relevant RP, AP client or fire and rescue authority to identify, assess or manage a building safety risk in the higher-risk building or to understand how this is being done by another who has responsibilities in relation to fire or structural safety for that higher-risk building.

**Limitation of liability for disclosure of information**

**19.** Where an AP, PAP or outgoing person discloses information in accordance with Parts 3 and 4 of these Regulations, the disclosure of information does not breach—

(a) any obligation of confidence owed by that AP, PAP or outgoing person in relation to that information;

(b) any other restriction on the disclosure of information (however imposed outside of these Regulations).

# PART 5

## Amendment to the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023

**Exclusions from the definition of "higher-risk building"**

**20.**—(1) The Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023(**32**) are amended as follows.

(2) In regulation 7, for paragraph (2) substitute—

"(2) The following descriptions of building are specified for the purposes of paragraph (1)—

(a) a building that consists entirely of—

(i) a secure residential institution;

(ii) a hotel;

(iii) military barracks;

(iv) living accommodation provided by the Ministry of Defence;

(v) living accommodation for—

(aa) His Majesty's forces;

(bb) any visiting force or international headquarters or defence organisation designated for the purpose of the International Headquarters and Defence Organisations Act 1964;

(b) a building, that is used for residential and non-residential purposes, in which all the living accommodation is provided by the Ministry of Defence.".

(3) In regulation 8, for paragraph (2) substitute—

"(2) The following descriptions of building are specified for the purposes of paragraph (1)—

(a) a building that consists entirely of—

(i) a care home;

(ii) a hospital;

(iii) a secure residential institution;

(iv) a hotel;

(v) military barracks;

(vi) living accommodation provided by the Ministry of Defence;

(vii) living accommodation for—

(aa) His Majesty's forces;

(bb) any visiting force or international headquarters or defence organisation designated for the purpose of the International Headquarters and Defence Organisations Act 1964;

(b) a building, that is used for residential and non-residential purposes, in which all the living accommodation is provided by the Ministry of Defence.".

(**32**) S.I. 2023/275.

# PART 6

## Amendment to the Higher-Risk Buildings (Key Building Information etc.) (England) Regulations 2023

**Buildings with more than one AP**

**21.**—(1) The Higher-Risk Buildings (Key Building Information etc.) (England) Regulations 2023(**33**) are amended as follows.

(2) In regulation 27 for "30" substitute "31".

(3) After regulation 30 insert—

"**31.** An AP for a higher-risk building who is the PAP for that building is responsible for any part of that higher-risk building—

(a) which is not the responsibility of another AP by virtue of regulations 28 to 30, and

(b) to which the Regulatory Reform (Fire Safety Order) 2005 does not apply.".

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Minister of State
Department for Levelling Up, Housing and Communities

13th January 2024

(**33**) S.I. 2023/396.

## SCHEDULE 1

Regulation 4

### Golden thread information

**Information to be kept by accountable persons**

**1.** The information described in paragraphs 2 to 14 is prescribed under section 88(1) of the 2022 Act.

**Building compliance: scheme work**

**2.** In relation to work to the higher-risk building that consists only of scheme work, the fire safety information which the client of that scheme work is required to give to any RP for that higher-risk building pursuant to the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023(**34**).

**Registration**

**3.**—(1) Where a higher-risk building has been registered(**35**), the most up to date registration information for that building.

(2) The information prescribed in sub-paragraph (1) is only prescribed for the AP that is also the PAP for the higher-risk building.

(3) In sub-paragraph (1) "registration information" has the meaning given in regulation 1(3) of the Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023(**36**).

**Key building information**

**4.**—(1) Where an application for registration in relation to a higher-risk building has been made and 28 days have elapsed since that application was made, the key building information for the building that is given by the PAP to the regulator pursuant to regulations 19 and 21 of the Higher-Risk Buildings (Key Building Information etc.) (England) Regulations 2023.

(2) The information in sub-paragraph (1) is only prescribed for the AP that is also the PAP for the higher-risk building.

**Building assessment certification application**

**5.**—(1) Where an application has been made for a building assessment certificate in relation to a higher-risk building—

(a) the information that is contained in the most recent application made, pursuant to section 80 (applications for building assessment certificates) of the 2022 Act or regulations made under that section, and

(b) any information that the PAP provides further to a request by the regulator, following receipt of that application, to support the regulator's assessment under section 81 (building assessment certificates) of the 2022 Act.

(2) Any information prescribed in sub-paragraph (1) is only prescribed for the AP that is also the PAP for the higher-risk building.

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(**34**) S.I. 2023/909.
(**35**) See section 78 of the 2022 Act as to the registration of higher-risk buildings.
(**36**) S.I. 2023/315.

**Fire safety management**

**6.** A list identifying each fire safety management measure, and a record of where each of those measures is located.

**Evacuation**

**7.**—(1) Where an evacuation strategy has been produced in relation to a building—

(a) the evacuation strategy and evacuation information for the part of the higher-risk building for which the AP is responsible; and

(b) only where the AP is also the PAP for the higher-risk building, the evacuation strategy and evacuation information for the higher-risk building as a whole.

(2) In sub-paragraph (1)—

"evacuation information" means information for a person in a higher-risk building about the steps to take to prevent and mitigate risks to themselves and other persons in relation to the spread of fire or structural failure in any part of that building which includes—

(a) a description of the procedures to be followed and steps to be taken by persons in the building,

(b) a description of when and in what circumstances a person should evacuate the building, and

(c) information about any fire safety management measure that may assist a person to evacuate the building;

"evacuation strategy" has the same meaning as in regulation 9 of the Fire Safety Regulations(**37**).

**Fire Safety Regulations information**

**8.** Where regulation 4 of the Fire Safety Regulations imposes a requirement in relation to a higher-risk building, any information required under regulation 4(3)(a) and (b) of those Regulations.

**Structural risks**

**9.**—(1) A list identifying each structural safety measure in the building.

(2) In sub-paragraph (1) "structural safety measure" means, in relation to a building safety risk of a type referred to in section 62(1)(b) of the 2022 Act in respect of the building or any part of it, anything that—

(a) has been put in place for the purpose of preventing or reducing the severity of any structural failure in the higher-risk building, and

(b) has not been provided by a resident for their own use.

**Management of building safety risks**

**10.** In relation to the management of any building safety risk where it relates to the part of the building for which the AP is responsible—

(a) the schedule of any maintenance and repairs that are planned in relation to any equipment, device or materials (whether or not a fixture or part of the fabric of the building), by or on

(**37**) For an explanation of "evacuation strategy" see paragraph "What we have done" in the "Fact sheet: information to residents (regulation 9)" at https://www.gov.uk/government/publications/fire-safety-england-regulations-2022/fact-sheet-information-to-residents-regulation-9.

behalf of any AP for the building pursuant, whether in full or in part, to complying with section 84(1) (management of building safety risks) of the 2022 Act;

(b) where an inspection has been undertaken in relation to any building safety risk to the higher-risk building and a report of the outcome of the inspection has been produced, the most recent report.

**Building design**

**11.** Any information recorded as part of the planning, design or construction of the higher-risk building (or part of the building), which relates to the approach taken in designing the building (or part of the building), including in particular—

(a) any design code applied, as provided for in the National Planning Policy Framework (published on 27 March 2012 and as updated on 20 July 2021(**38**));

(b) any British or International building standard applied to and complied with in its construction;

(c) any description as to the intention of the design used in its construction.

**Mandatory reporting requirements**

**12.** In relation to a report under a mandatory occurrence reporting system(**39**) for the higher-risk building where no more than 7 years have passed since the day that the AP created or received the report—

(a) any information provided to the regulator by the AP in accordance with section 87(1) (mandatory reporting requirements) of the 2022 Act or regulations made under that section, and

(b) a description in summary of any steps taken by the AP in response to that report.

**Resident engagement**

**13.** Any information which an AP is required to give to a resident of the higher-risk building or an owner of a residential unit in the higher-risk building, pursuant to regulations 7 or 8 and Schedule 2.

**Complaints**

**14.** In relation to a relevant complaint(**40**) made to a PAP where no more than 7 years have passed since the day that the PAP received the complaint, a description, in summary of—

(a) the information contained in the complaint,

(b) any steps taken by any AP for the higher-risk building in response to the complaint,

(c) any involvement of the regulator in relation to or in response to the complaint, and

(d) the outcome of the complaint.

**Documents to be kept by accountable person**

**15.** The documents specified in paragraphs 16 to 31 are prescribed under section 88(2) of the Act.

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(**38**) A copy of the National Planning Policy Framework is available from https://www.gov.uk/government/publications/national-planning-policy-framework--2 or is available for inspection at the principal office of the Department of Levelling Up, Housing and Communities at 2 Marsham Street, London SW1P 4DF during normal office hours.

(**39**) See section 87(6) of the 2022 Act for the definition of "mandatory occurrence reporting system".

(**40**) See section 93(4) of the 2022 Act for the definition of "relevant complaint".

**Completion and partial completion of works**

**16.**—(1) Where a completion certificate application by a client has been approved by the regulator, the documents are—

(a) the completion certificate application and any document which accompanied the application, and

(b) the completion certificate.

(2) Where a partial completion certificate application by a client has been approved by the regulator, the documents are—

(a) the partial completion certificate application and any document which accompanied the application, and

(b) the partial completion certificate.

(3) In sub-paragraphs (1) and (2) "completion certificate application" and "partial completion certificate application" have the same meanings as in the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023(**41**).

**Building compliance: scheme work**

**17.**—(1) Subject to sub-paragraph (2), in relation to work to the higher-risk building that consists only of scheme work, the document is any certificate that the person carrying out the work is required to give to the client as "the occupier", in accordance with regulations 20(3)(a) and 20A(4)(a) of the 2010 Regulations.

(2) Where the work to the higher-risk building updates previous work of the same nature to the same part of the building, the certificate which is given in relation to that updating work is the prescribed document and the previous certificate is not.

**Registration**

**18.**—(1) Where a higher-risk building has been registered, the document is any certificate that the PAP for the building is required to give to the regulator pursuant to regulations 4(b) and 18(1)(d) of the Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023.

(2) For the purposes of sub-paragraph (1), where more than one certificate has been given for the same part of the higher-risk building, only the most recent certificate is prescribed.

(3) The document prescribed in sub-paragraph (1) is only prescribed for the AP that is also the PAP for the higher-risk building.

**Building assessment certification application**

**19.**—(1) Where an application has been made for a building assessment certificate in relation to a higher-risk building, the documents are—

(a) any document that accompanied the most recent application made in accordance with section 80 (applications for building assessment certificates) of the 2022 Act or regulations made under it, and

(b) any document that the PAP provided further to a request by the regulator, following receipt of that application, to support the regulator's assessment under section 81 (building assessment certificates) of the 2022 Act.

(**41**) See regulation 40 (completion certificate applications) and regulation 45 (partial completion applications).

(2) Any document prescribed in sub-paragraph (1) is only prescribed for the AP that is also the PAP for the higher-risk building.

**Refusal of building assessment certification application**

**20.**—(1) Where the regulator has given a notice in relation to a higher-risk building under section 81(3)(b) (building assessment certificates) of the 2022 Act and no more than 7 years have passed since the day that the PAP for the building received it, the document is that notice.

(2) The document in sub-paragraph (1) is only prescribed for the AP that is also the PAP for the higher-risk building.

**Building assessment certificate**

**21.** Where the AP is also the PAP for a higher-risk building, the document is the most recent building assessment certificate in relation to the higher-risk building.

**Fire safety management**

**22.** The documents are the most recent version of any document created or received by an AP, in relation to the part of the higher-risk building for which it is responsible, where that document was created for the purpose of—

(a) complying with article 9 of the Regulatory Reform (Fire Safety) Order 2005, and

(b) managing the risk of fire spread in any part of the higher-risk building.

**Fire Safety Regulations information**

**23.**—(1) Where regulation 5 or 6 of the Fire Safety Regulations imposes a requirement in relation to a higher-risk building, the documents are—

(a) the record of the design and materials of the external walls required by regulation 5 of those Regulations, and

(b) the floor plans (including the single page building plan) required by regulation 6 of those Regulations.

(2) Where a new version of a document referred to in sub-paragraph (1) is produced the previous version ceases to be prescribed under sub-paragraph (1).

**Structural risks**

**24.**—(1) The documents are—

(a) any statement or report giving an assurance that an assessment of structural risks for a higher-risk building, whether for the whole or any part of the building is not necessary;

(b) any statement, assessment or report evaluating the structural risks to the higher-risk building, where any assessment of structural risks to a higher-risk building has been undertaken, whether for the whole or any part of the building.

(2) For the purposes of sub-paragraph (1), it is sufficient to keep only the most recent statement, assessment or report where—

(a) there is more than one report in relation to the same part of the higher-risk building, and

(b) the most recent report contains all the information necessary to enable any AP for the higher-risk building to identify, assess or manage building safety risks under Part 4 of the 2022 Act in respect of that building.

**Building safety risk assessment**

**25.** Any report that contains an up to date assessment of any building safety risk to the higher-risk building as a whole or to any part of that building for which the AP is responsible.

**Management of building safety risks**

**26.** In relation to the management of any building safety risk that relates to the part of a higher-risk building for which the AP is responsible, the documents are—

(a) the safety case report(**42**) for the building,

(b) a record of any maintenance of and any repairs undertaken to any equipment, device or materials (whether or not a fixture or part of the fabric of the building), which were planned by or on behalf of any AP for the building to comply with section 84(1) (management of building safety risks) of the 2022 Act, where no more than 7 years have passed since the day on which the record was created, and

(c) the most recent version of any document, relating to a building safety risk to the higher-risk building, that was created for the purpose, whether in full or in part, of enabling the effective planning, organisation, monitoring, control and review of steps taken with regard to managing building safety risks in the higher-risk building pursuant to section 84(5) of the 2022 Act.

**Plans**

**27.** Any plan, in relation to a higher-risk building for which the AP is responsible, of—

(a) the current construction of the building;

(b) the building when it was first constructed.

**Mandatory reporting requirements**

**28.** In relation to a report under a mandatory occurrence reporting system for the higher-risk building where no more than 7 years have passed since the day that the report was received or created by the AP, the documents are any document which describes the detailed arrangements for such reporting.

**Resident engagement**

**29.** Any document which an AP is required to give to a resident of the higher-risk building or an owner of a residential unit in the higher-risk building, pursuant to regulations 7 or 8 and Schedule 2.

**Complaints**

**30.**—(1) In relation to recurring complaints, where no more than 7 years have passed since the day that the most recent complaint was received by the PAP, the documents are any log that records either or both of the following—

(a) the subject and nature of the recurring complaint, and

(b) the date that the recurring complaint was made.

(2) In sub-paragraph (1) "recurring complaint" means any relevant complaint(**43**) made to a PAP that is made in relation to the same person or in relation to the same, or substantially the same, issue as an earlier complaint.

(**42**) See section 85(1) of the 2022 Act for the definition of "safety case report".
(**43**) See section 93 of the 2022 Act for the meaning of "relevant complaint".

**Contravention notices**

**31.** Any contravention notice given by an AP pursuant to section 96 (contravention notices) of the 2022 Act where no more than 5 years have passed since the day that the notice was given.

## SCHEDULE 2

Regulations 7 and 8

AP provision of information and documents to a resident or an owner of a residential unit

**Information relating to the prevention and mitigation of building safety risks**

**1.**—(1) A summary, which is to include an evaluation of the level of risk to residents of the higher-risk building, of the most up to date fire risk assessment for each part of the higher-risk building.

(2) A summary of the safety case report which must include the following information—

(a) a description of any assessment of a building safety risk in the report,

(b) a description of the steps taken or planned to be taken to manage any identified building safety risk, and

(c) an evaluation of how effectively any identified building safety risk is being or is planned to be managed.

(3) The following information—

(a) how a resident and owners of residential units may take active steps in relation to their residential unit to—

(i) prevent a building safety risk materialising, and

(ii) reduce the severity of any incident resulting from the risk materialising,

(b) how and to whom a resident or owner of a residential unit may report a building safety risk relating to their building, and

(c) the duties on residents and owners of residential units under section 95 (duties on residents and owners) of the 2022 Act.

(4) Information in relation to a higher-risk building setting out—

(a) the location of any fire escape routes, fire doors and other aids;

(b) a list of the fire and smoke control equipment for that building, save for that provided by a resident for their own use;

(c) where the fire and smoke control equipment is located;

(d) instructions for use of the fire and smoke control equipment by residents, where it is intended for use by residents;

(e) evacuation information for the building.

(5) In this paragraph "aid" means any of the following—

(a) a fire or smoke alarm;

(b) emergency lighting;

(c) a fire alarm activation device;

(d) any other piece of equipment provided by an RP or AP for the higher-risk building and kept in the building for the primary purpose of assisting evacuation of the higher-risk building in the event of a building safety related emergency.

**Information relating to the duty-holders, regulator and other persons**

**2.**—(1) A summary explaining the role and duties of each relevant person in relation to the higher-risk building.

(2) An explanation of how the responsibilities of each of those relevant persons differ.

(3) The name and telephone number of each of those relevant persons.

(4) The email address and a postal address in England and Wales at which notices (including notices in proceedings) may be served on each of those relevant persons.

(5) For the purposes of this paragraph, the following are relevant persons—

(a) the regulator,

(b) the PAP for the higher-risk building,

(c) the AP responsible for the part of the higher-risk building in which the resident's or owner's residential unit is located,

(d) any RP responsible for any part of the higher-risk building, and

(e) any person the PAP has appointed for administrative purposes as a single point of contact in regard to resident communication.

**Information and documents relating to the rights of residents and owners of residential units**

**3.**—(1) The most up to date version of the residents' engagement strategy(**44**).

(2) An up to date list of the information and documents that an AP is required to provide to a resident of a residential unit and an owner of a residential unit in accordance with section 89 of the 2022 Act and any regulations made under that section.

(3) Details of the information and documents copies of which a resident or an owner of a residential unit may request in accordance with section 92 of the 2022 Act, including—

(a) a list of information that may be requested,

(b) a list of the documents copies of which may be requested, and

(c) the procedure that the resident or owner must follow when making a request.

(4) Information to explain the AP's legal duty to provide requested information and requested copies of documents in a form that is accessible(**45**).

(5) Where information or a copy of a document is requested pursuant to section 92(1) of the 2022 Act but is not provided by the AP, the reason for not providing the information or a copy of the document.

(6) The up to date complaints system procedure established and operated for the higher-risk building by the PAP pursuant to section 93 (complaints procedure operated by PAP) of the 2022 Act, setting out—

(a) the circumstances in which a relevant complaint(**46**) to the PAP may be made,

(b) the procedure for making a complaint,

(c) what steps the PAP is required to take to resolve any issues raised in a complaint,

(d) how the person making a complaint ("the complainant") will be kept informed of the steps being taken by or on behalf of the PAP to resolve any issue raised in their complaint, and

(**44**) See section 91(1) of 2022 Act for the definition of a "residents' engagement strategy".
(**45**) See requirements under regulation 11 of the Higher-Risk Buildings (Management of Safety Risks) (England) Regulations 2023 (S.I. 2023/907) and section 20 of the Equality Act 2010 (c. 15).
(**46**) See section 93 of the 2022 Act for the definition of "relevant complaint".

(e) what further action the complainant may take if they are not satisfied that the steps taken by the PAP have resolved an issue raised in their complaint.

(7) A summary of the circumstances in which a resident or owner may make a relevant complaint to the regulator and any policy the regulator has published in relation to its complaints procedure established pursuant to section 94 (complaints procedure operated by the regulator) of the 2022 Act.

## SCHEDULE 3

Regulation 14

### Resident engagement: requests for further information

**Information and documents prescribed**

**1.**—(1) The information prescribed is—

(a) where any information is set out partially in the safety case report(**47**), the full information to which that partial information relates,

(b) any assessment in the safety case report of the building safety risks made under section 83 (assessment of building safety risks) of the 2022 Act by an AP for the higher-risk building,

(c) any information in relation to steps taken under section 84 (management of building safety risks) of that Act by an AP for the higher-risk building, and

(d) a summary of any representations made to the most recent consultation carried out pursuant to section 91(1)(c) (residents' engagement strategy) of the 2022 Act.

(2) The documents prescribed are—

(a) up to date fire risk assessments for each part of the higher-risk building;

(b) the most up to date version of the safety case report for the building;

(c) where in the most up to date version of the safety case report—

(i) an extract of any evidence is relied on in the report, the document containing the whole of that evidence;

(ii) any document is referenced in the report, that document;

(d) a copy of any order and written reasons of any determination made by the tribunal(**48**) in relation to any PAP for the higher-risk building, pursuant to section 75(1)(b) and (2) (determinations by the tribunal) of the 2022 Act;

(e) any record of a decision, together with reasons for the decision, about whether to revise the resident engagement strategy pursuant to section 91(1)(b) (residents' engagement strategy) of the 2022 Act.

(**47**) See section 85(1) of the 2022 Act for the definition of "safety case report".
(**48**) See section 115 of the 2022 Act for definition of "the tribunal".

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

This instrument is part of a set of Regulations which implement Part 4 of the Building Safety Act 2022 ("the 2022 Act"). These Regulations make provision about what information and documents the principal accountable person ("PAP") and any other accountable person ("AP") for a higher-risk building must keep in relation to that higher-risk building. The term "higher-risk building" is defined in section 65(1) of the 2022 Act as a building in England that is at least 18 metres in height, or has at least 7 storeys, and contains at least 2 residential units. The definition is supplemented by the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023 (S.I. 2023/275).

An AP is a duty-holder responsible for the building safety of an occupied higher-risk building further to provisions in Part 4 of the 2022 Act. An AP is a PAP where there is only one AP for a higher-risk building; where there is more than one AP, the PAP is the AP responsible for the structure and exterior of the higher-risk building, as set out in section 73(1) of the 2022 Act.

The information and documents that must be kept by an AP for a higher-risk building, as provided for in Schedule 1 to the Regulations, are together known as the "golden thread information". These Regulations make provision about which information or copies of documents from the golden thread information a PAP or an AP must share with various persons who have an interest in the higher-risk building. The persons in question are listed in section 89(1) of the 2022 Act and are the building safety regulator ("the regulator"), any other APs for the same higher-risk building and the residents of and owners of flats in the higher-risk building. These Regulations prescribe further persons to whom an AP must provide information or copies of documents from the golden thread information, namely the clients for projects of building work in the higher-risk building and any wider building (as defined by regulation 4(8) of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023) in relation to that higher-risk building; the landlord of any tenant in the higher-risk building to whom a contravention notice(**49**) has been given; the Responsible Persons for the higher-risk building and for any wider building in relation to that higher-risk building who are not also APs; and the fire and rescue authority for the area in which the higher-risk building is located. These Regulations also makes provision about what information and copies of documents must be provided to an incoming AP or PAP upon a change of an AP or PAP in the higher-risk building, pursuant to section 90(2) of the 2022 Act.

The Higher-Risk Buildings (Management of Safety Risks) (England) Regulations 2023 (S.I. 2023/907) make provision for the standards in accordance with which an AP must keep golden thread information and explain when the golden thread information must be given and in what form.

Regulation 3 in Part 1 sets out how a direction by the regulator will provide how information is to be given to the regulator pursuant to regulation 5.

Regulation 4 in Part 2 refers to the provision at Schedule 1 of the prescribed information and copies of documents that are required to be kept by an AP for a higher-risk building. This regulation also provides that this information and these documents together are to be known as the golden thread information.

In Part 3, regulations 5, 6, 9, and 10 to 13 set out the information and documents that a PAP or an AP is required to give to various non-resident persons with an interest in or duties in relation to the higher-risk building, including where a new AP takes over responsibility for part of a higher-risk building.

(**49**) See section 96 of the 2022 Act for provision relating to contravention notices.

Regulations 7 and 8 make provision for residents and owners of flats in the higher-risk building to be given certain information and copies of documents by an AP in accordance with what is set out in Schedule 2. Regulation 14 and Schedule 3 together set out the information and documents that an AP is required to provide to a resident and owner of a flat in a higher-risk building where a request has been made by that resident or flat owner for that information or document.

Part 4 sets out where an AP may rely on an exception to certain duties to provide specified information or a specific part of a document pursuant to certain provisions in these Regulations. These exceptions relate to the content and substance of the information or document and make detailed provision in relation to material that may pose a security risk if disclosed, commercially sensitive or confidential material, and material that contains personal data. Regulation 19 sets out the circumstances where the AP's liability for breach of any duty of confidence or other restriction on the disclosure of information, howsoever imposed, is excepted where it occurs as a result of compliance with Parts 3 and 4 of these Regulations.

Part 5 amends the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023 (S.I. 2023/275). The amendments alter which buildings with uses related to the military are exempt from being higher-risk buildings.

Part 6 amends the Higher-Risk Buildings (Key Building Information etc.) (England) Regulations 2023 to provide for the PAP being responsible for part of a building for which those Regulations do not already assign responsibility, by reference to parts of a higher-risk building to which the Regulatory Reform (Fire Safety Order) 2005 (S.I. 2005/1541) does not apply.

A full impact assessment of the effect that this instrument, together with the Building (Higher-Risk Buildings) (Management of Safety Risks) (England) Regulations 2023 (S.I. 2023/907), will have on the costs to business is published with an Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

STATUTORY INSTRUMENTS

# 2022 No. 1388

# ARCHITECTS

## The Architects (Fees, Electronic Communications and Miscellaneous Amendments) Regulations 2022

| | |
|---|---|
| *Made - - - -* | *20th December 2022* |
| *Laid before Parliament* | *21st December 2022* |
| *Coming into force - -* | *31st January 2023* |

The Secretary of State makes the following Regulations—

(a) in exercise of the powers conferred by section 24A of and paragraph 24 of Schedule 1 to the Architects Act 1997(**1**);

(b) as the appropriate Minister in exercise of the powers conferred by section 8 and section 9(6) of the Electronic Communications Act 2000(**2**); and

(c) in exercise of the powers conferred by section 12(3) of and paragraph 12 of Schedule 4 to the European Union (Withdrawal Agreement) Act 2020(**3**)(**4**).

In accordance with paragraph 24(1) of Schedule 1 to the Architects Act 1997 the Secretary of State has consulted the Architects Registration Board and other such persons and bodies as the Secretary of State thought fit.

In accordance with section 8(3) of the Electronic Communications Act 2000, the Secretary of State considers that the authorisation of the use of electronic communication(**5**) by these Regulations is such that the extent (if any) to which records of things done for that purpose will be available will be no less satisfactory in cases where use is made of electronic communications than in other cases.

### Citation, commencement, extent and application

**1.**—(1) These Regulations may be cited as the Architects (Fees, Electronic Communications and Miscellaneous Amendments) Regulations 2022 and come into force on 31st January 2023.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

(3) These Regulations apply in England and Wales, Scotland and Northern Ireland.

(**1**) 1997 c. 22. Section 24A was inserted by section 159 of the Building Safety Act 2022 (c. 20).
(**2**) 2000 c. 7. See section 9(1) of the Electronic Communications Act 2000 for the meaning of "the appropriate minister".
(**3**) 2020 c. 1.
(**4**) See section 12(4) of the European Union (Withdrawal Agreement) Act 2020 for the meaning of "professional qualification provisions" and section 12(8) for the meaning of "appropriate authority".
(**5**) See section 15 of the Electronic Communications Act 2000 for the meaning of "electronic communication".

**Fees**

**2.**—(1) The Board(**6**) may charge a fee in respect of the following services—

(a) prescribing a qualification under section 4(1)(a) of the Act;

(b) providing any document or information about a person whose name is entered on the Register(**7**);

(c) preparing or arranging any test prescribed under section 4(1A) of the Act.

(2) In respect of fees for the services in paragraph (1) the Board may prescribe—

(a) who is liable to pay the fee;

(b) how the fee is to be calculated;

(c) how the fee is to be paid.

(3) The Board may prescribe different fees for different cases.

(4) The amount of a fee charged under paragraph (1) must not exceed the reasonable costs of providing the service, taking one year with another.

(5) In this regulation "the Act" means the Architects Act 1997.

**Amendments to the Architects Act 1997**

**3.**—(1) The Architects Act 1997 is amended as follows.

(2) In section 24—

(a) after subsection (1) insert—

"(1A) Any notice required to be served by section 11(a) is to be sent by post as a registered letter.";

(b) in subsection (2)—

(i) omit "11(a),";

(ii) for "sent by post as a registered letter." substitute—

"sent—

(a) by post as a registered letter, or

(b) in accordance with subsection (4)."

(c) after subsection (2) insert—

"(3) Where a notice or document required to be served by or for the purposes of this Act is sent to a person in accordance with subsection (4), it is to be treated as having been served on the person unless the contrary is proved—

(a) if the notice or document is sent on a working day, on the day on which it is sent, or

(b) if the notice or document is sent on a day which is not a working day, on the next working day.

(4) A notice or document is sent to a person in accordance with this subsection if—

(a) it is sent by a prescribed electronic communications method,

(b) where rules made by the Board make such provision as is described in subsection (8), the method is prescribed for the purpose of serving a notice or document of that description, and

(**6**) The Board is the Architects Registration Board, see section 25 of the Architects Act 1997 ("the Act").
(**7**) The Register is the register of architects provided for by section 3 of the Act, see section 25 of the Act.

(c) the conditions mentioned in subsection (5) are satisfied in relation to the sending of the notice or document.

(5) The conditions referred to in subsection (4)(c) are—

(a) that the person to whom the notice or document is sent has agreed with a relevant body that a notice or document of that description may be served by that method and the agreement has not been withdrawn in accordance with subsection (6) before the notice or document is sent;

(b) that, if that method consists of or involves sending an email to the person, the email is sent to an email address specified by the person for the purposes of the agreement.

(6) A person who has agreed to be served by a prescribed electronic communications method may give notice withdrawing the agreement to any of the relevant bodies.

(7) A withdrawal under subsection (6) takes effect five working days after the day on which the notice is received by the relevant body.

(8) Rules made by the Board under this section prescribing electronic communications methods may prescribe different methods for the purpose of serving different descriptions of notices or documents.

(9) In this section—

"electronic communications method" means a method of sending a notice or document that uses electronic communications (within the meaning of the Electronic Communications Act 2000);

"relevant body" means the Board, the Registrar or a committee of the Board;

"working day" means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom."

(3) In paragraph 19 of Schedule 1—

(a) omit sub-paragraph (1);

(b) in sub-paragraph (2) omit "Subject to that," and after "determined by the Board" insert "and may include persons who are not members of the Board".

**Amendment to the Architects Act 1997 (Amendment) (EU Exit) Regulations 2019**

**4.**—(1) The Architects Act 1997 (Amendment) (EU Exit) Regulations 2019(**8**) are amended as follows.

(2) In regulation 37(2)—

(a) at the start of sub-paragraph (b) insert "subject to sub-paragraph (c),"

(b) after sub-paragraph (b) insert—

"(c) where the qualifying applicant is a UK or Swiss national, sub-paragraph (b) only applies in relation to—

(i) an application for registration made before the end of the period of four years beginning with IP completion day; and,

(ii) any appeal made under section 22 of the 1997 Act in relation to such an application.".

(**8**) S.I. 2019/717, as amended by S.I. 2020/1038.

Signed by authority of the Secretary of State for Levelling Up, Communities and Housing

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

20th December 2022

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision concerning the operation of the Architects Registration Board ("the ARB") and the implementation, with respect to architects, of the agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on citizens' rights following the withdrawal of the United Kingdom from the European Union and the Free Movement of Persons Agreement (the "Swiss Citizens Rights Agreement").

Regulation 2 gives the ARB the ability to charge fees for certain services. The fees charged must not exceed the reasonable costs of providing the service, to be calculated taking one year with another so that if costs vary from year to year the fees need not.

Regulation 3 makes amendments to the Architects Act 1997 to facilitate the use of electronic communication by the ARB and changes the rules around membership of committees it establishes.

Regulation 4 amends the Architects Act 1997 (Amendment) (EU Exit) Regulations 2019 to implement fully the professional qualifications provisions of the Swiss Citizens Rights Agreement in respect of architects.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

STATUTORY INSTRUMENTS

# 2023 No. 50

# ARCHITECTS

## The Architects Act 1997 (Amendment) Regulations 2023

*Made - - - - 17th January 2023*
*Coming into force in accordance with regulations 1(2) and 1(3)*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 4, 6 and 13(1) of the Professional Qualifications Act 2022 ("the 2022 Act")(**1**).

In accordance with section 15 of the 2022 Act, the Secretary of State has consulted the Architects Registration Board which is a regulator of the architectural profession and likely to be affected by these Regulations.

In accordance with section 17(1) and (3) of the 2022 Act, the Secretary of State has consulted the Department of Finance in Northern Ireland and published a report on the consultation. The report complies with the requirements of section 17(5) and, in accordance with section 17(4), was published after the Department of Finance agreed to the description included in the report for the purposes of section 17(5).

In accordance with section 18(1) of the 2022 Act, a draft of this instrument has been laid before Parliament and approved by resolution of each House of Parliament.

### Citation, commencement, extent and interpretation

**1.**—(1) These Regulations may be cited as the Architects Act 1997 (Amendment) Regulations 2023.

(2) Regulations 1 and 2 come into force on the day after the day on which these Regulations are made.

(3) All other regulations come into force 21 days after the day on which these Regulations are made.

(4) These Regulations extend to England and Wales, Scotland and Northern Ireland.

(5) In these Regulations "the Act" means the Architects Act 1997(**2**).

(**1**) 2022 c. 20. See section 16 for the definition of "appropriate national authority" and section 19 for the definitions of "regulator" and "regulated profession".
(**2**) 1997 c. 22.

### Amendment of Part 1 (The Architects Registration Board)

**2.**—(1) Part 1 of the Act is amended as follows.

(2) After section 1 (the Board) insert—

"**Authorisation for Board to enter into regulator recognition agreements**

**1AA.** The Board is authorised to enter into regulator recognition agreements in respect of architects.".

### Amendment of Part 2 (Registration Etc)

**3.**—(1) Part 2 of the Act is amended as follows.

(2) In section 4 (registration: general)(**3**) omit subsections (2A) and (7).

(3) Omit section 4A (registration: European qualifications)(**4**).

(4) In section 6 (registration: further procedural requirements)(**5**)—

(a) omit subsections (3A) and (3B);

(b) in subsection (4A), for paragraph (a) substitute—

"(a) in the case of an application by a person who in making the application relies on section 4(1)(a), within three months beginning with the date on which the application is made;".

(5) In section 6A (issuing of certificates of architectural education)(**6**), in subsection (1)—

(a) omit paragraph (a);

(b) omit "does meet those conditions,".

(6) Omit section 10 (disqualification in a relevant European State)(**7**).

### Amendment of Part 5 (General and Supplementary)

**4.**—(1) Part 5 of the Act is amended as follows.

(2) In section 22 (appeals to the court)(**8**)—

(a) omit subsection (1)(d);

(b) in subsection (2) omit ", (d)";

(c) for subsection (4) substitute—

"(4) Where an appeal under subsection (1)(b) is made by a person who, in applying for registration in pursuance of section 4, relied on subsection (1)(a) of that section, the appeal must be made within six months beginning with the day on which the person's application for the registration is made.".

(3) In section 22B (administrative co-operation)(**9**)—

(a) for the heading, substitute "Professional-regulation information";

(**3**) Section 4 was amended by section 11(4) of the Professional Qualifications Act 2022, by section 158(3) of the Building Safety Act 2022 (c. 30), and by S.I. 2008/1331, 2011/2008 and 2019/717.
(**4**) Section 4A was inserted by S.I. 2008/1331 and amended by S.I. 2019/717.
(**5**) Section 6 was amended by S.I. 2008/1331, 2019/717.
(**6**) Section 6A was inserted by S.I. 2008/1331 and amended by S.I. 2019/717.
(**7**) Section 10 was amended by S.I. 2008/1331, 2019/717.
(**8**) Section 22 was substituted by S.I. 2008/1331 and relevant amendments were made by section 158(7) of the Building Safety Act 2022, and by S.I. 2019/717.
(**9**) Section 22B was inserted by S.I. 2008/1331 and amended by S.I. 2019/717.

(b) omit subsections (1) and (2);

(c) in subsection (4) omit—

(i) "a competent authority of a relevant European State or";

(ii) paragraph (b) and the "and" before it;

(d) in subsection (5)—

(i) for "functions" substitute "function";

(ii) for "subsections (1)(b) and (4)(a)" substitute "subsection (4)(a)".

(4) Omit section 22C (confidentiality)(**10**).

(5) In section 24 (service of documents), in subsection (2) omit "10(2),".

(6) In section 25(1) (interpretation)(**11**)—

(a) omit the definitions of "competent authority", "the Directive", "disqualifying decision", "relevant European State", "the Swiss Agreement" and "third country";

(b) after the definition of "the Registrar" insert—

""regulator recognition agreement" has the meaning given by section 4 of the Professional Qualification Act 2022".

**Saving provision**

**5.** Where an application for registration made in reliance of section 4(2A) of the Act is received by the Architects Registration Board before the day on which this regulation comes into force, any provision made by or under the Act continues to apply in relation to the application (including any appeal arising from it) as if the amendments made to the Act by these Regulations had not been made.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

17th January 2023

(**10**) Section 22C was inserted by S.I. 2008/1331 and amended by S.I. 2019/717.
(**11**) Section 25(1) was amended by S.I. 2002/2482, 2008/1331, 2014/4, 2019/810, 717.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Architects Act 1997 ("the Act") (c. 22) to remove retained EU law and to allow the Architects Registration Board ("the Board") to enter into regulator recognition agreements.

Regulation 2 inserts new section 1AA into the Act which authorises the Board to enter into regulator recognition agreements. The phrase 'regulator recognition agreement' is defined by section 4 of the Professional Qualifications Act 2022 (c. 20) and means an agreement between a UK regulator of a profession and the overseas regulator of a corresponding profession which is about the recognition of professional qualifications or experience.

Regulation 3 removes section 4(2A) and (4A) from the Act. These were the provisions that gave effect to the EU system of mutual recognition of professional qualifications in relation to architects by providing that if a person had the qualifications and experience necessary to practice architecture in EEA states or Switzerland, they could register with the Board and practice in the UK. The regulation also removes related provisions in Part 2 of the Act. For example it omits section 6A(1)(a) which allowed the Board to confirm that a person's training met minimum EU standards. It also omits section 10 from the Act which made provision about persons who were disqualified as architects in EEA states or Switzerland.

Regulation 4 makes amendments to Part 5 of the Act in consequence of the removal of the automatic recognition of EEA and Swiss qualifications.

Regulation 5 provides that the amendments made by these Regulations do not apply to an application for registration made in reliance of section 4(2A) before regulation 5 comes into force. For those applications, the Act applies without the amendments made by these Regulations.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

*This Statutory Instrument has been made in part in consequence of a defect in S.I. 2022/1388 and is being issued free of charge to all known recipients of that Statutory Instrument.*

STATUTORY INSTRUMENTS

# 2023 No. 229

# BUILDING AND BUILDINGS ARCHITECTS

## The Building Safety Act 2022 (Consequential Amendments and Prescribed Functions) and Architects Act 1997 (Amendment) Regulations 2023

| | |
|---|---|
| *Made - - - -* | *27th February 2023* |
| *Laid before Parliament* | *1st March 2023* |
| *Coming into force - -* | *1st April 2023* |

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 3(5) and 166(1) of the Building Safety Act 2022(**1**) and paragraph 24 of Schedule 1 to the Architects Act 1997(**2**).

In respect of the provision at regulation 4, in accordance with section 7(4) of the Building Safety Act 2022 the Secretary of State has consulted the regulator(**3**) and such other persons as the Secretary of State considers appropriate.

In respect of the provision at regulation 5, in accordance with paragraph 24(1) of Schedule 1 to the Architects Act 1997 the Secretary of State has consulted the Architects Registration Board and such other persons or bodies as the Secretary of State thinks fit.

### Citation, commencement and extent

**1.**—(1) These Regulations may be cited as the Building Safety Act 2022 (Consequential Amendments and Prescribed Functions) and Architects Act 1997 (Amendment) Regulations 2023 and come into force on 1st April 2023.

(2) Subject to paragraph (3), these Regulations extend to England and Wales, Scotland and Northern Ireland.

(3) Regulation 4 extends to England and Wales.

(**1**) 2022 c. 30.
(**2**) 1997 c. 22.
(**3**) See section 2(1) of the Building Safety Act 2022 for the definition of "regulator" for the purposes of Part 2 of that Act.

### Amendments to the Welsh Ministers (Transfer of Functions) (No. 2) Order 2009

**2.**—(1) The Welsh Ministers (Transfer of Functions) (No. 2) Order 2009(**4**) is amended as follows.

(2) In article 8 (amendments to section 14 of the Building Act 1984: the Building Regulations Advisory Committee for England) omit paragraphs (2), (3) and (4).

(3) Omit article 9 (transitional provision for members of the predecessor Building Regulations Advisory Committee).

(4) Omit article 10 (amendment to the Parliamentary Commissioner Act 1967 to refer to the Building Regulations Advisory Committee for England).

### Amendment to the Freedom of Information (Additional Public Authorities) Order 2010

**3.** In Part 2 of the Schedule to the Freedom of Information (Additional Public Authorities) Order 2010(**5**), omit the entry for the Building Regulations Advisory Committee for England.

### Further functions of the regulator

**4.** For the purposes of section 3(5) of the Building Safety Act 2022, the functions of the Health and Safety Executive as statutory consultee in relation to the fire safety of higher-risk buildings or proposed higher-risk buildings under, or under any instrument made under—

(a) the Town and Country Planning Act 1990(**6**), and

(b) section 54 of the Planning and Compulsory Purchase Act 2004(**7**),

are prescribed as functions of the regulator.

### Amendment to the Architects Act 1997

**5.** In Schedule 1 to the Architects Act 1997, omit paragraph 20.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

27th February 2023

(**4**) S.I. 2009/3019.
(**5**) S.I. 2010/937.
(**6**) 1990 c. 8.
(**7**) 2004 c. 5.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 9(3) of the Building Safety Act 2022 (c. 30) abolishes the Building Regulations Advisory Committee for England. The Building Regulations Advisory Committee for Wales will remain. Regulations 2 and 3 of these Regulations consequentially remove references to the Building Regulations Advisory Committee for England.

Regulation 4 prescribes as functions of the regulator, the Health and Safety Executive ("HSE"), certain functions of HSE as statutory consultee under town and country planning legislation. These are added to the functions of the regulator under or by virtue of the Building Act 1984 (c. 55) or the Building Safety Act 2022 to include them in the meaning of "building function" in Part 2 of the Building Safety Act 2022.

Regulation 5 amends Schedule 1 to the Architects Act 1997 to omit paragraph 20. The amendment is a consequence of amendments made to paragraph 19 of that Schedule by the Architects (Fees, Electronic Communications and Miscellaneous Amendments) Regulations 2022, S.I. 2022/1388.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

STATUTORY INSTRUMENTS

# 2022 No. 711

# BUILDING AND BUILDINGS, ENGLAND
# LANDLORD AND TENANT, ENGLAND

## The Building Safety (Leaseholder Protections) (England) Regulations 2022

| | |
|---|---|
| *Made - - - -* | *28th June 2022* |
| *Laid before Parliament* | *29th June 2022* |
| *Coming into force - -* | *20th July 2022* |

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 117(3)(c), 121(12), 124(6) and 132(1) of, and paragraphs 3(4)(b) and (6)(c), 6(6) and (7), 10(4), 14(1) and (2) and 16 of Schedule 8 to, the Building Safety Act 2022(**1**).

### Citation, commencement, extent and application, and interpretation

**1.**—(1) These Regulations may be cited as the Building Safety (Leaseholder Protections) (England) Regulations 2022 and come into force on 20th July 2022.

(2) These Regulations extend to England and Wales and apply in England only.

(3) In these Regulations—

"the Act" means the Building Safety Act 2022;

"current landlord" of a building means a person who is the landlord under a qualifying lease(**2**) of that building;

"leaseholder" means a tenant under a lease of a dwelling in a building;

"remediation service charge" means a service charge(**3**) which includes a charge in respect of a relevant measure(**4**) relating to any relevant defect(**5**);

"RMC" means a body corporate limited by guarantee which is party to a lease of a building where—

(a) the members of that body are leaseholders, or

(**1**) 2022 c. 30. See paragraph 1(1) for the definition of "prescribed".
(**2**) See section 119 of the Building Safety Act 2022 ("the Act") for the definition of "qualifying lease".
(**3**) See (by virtue of paragraph 1 of Schedule 8 to the Act) the meaning of "service charge" given by section 18 of the Landlord and Tenant Act 1985 (c. 70).
(**4**) See paragraph 1 of Schedule 8 to the Act for the definition of "relevant measure".
(**5**) See section 120 of the Act for the definition of "relevant defect".

(b) the majority of the shares of that body are held by leaseholders; and

"RTM company" has the same meaning as in the Commonhold and Leasehold Reform Act 2002(**6**).

**Buildings which are not relevant buildings: leaseholder owned buildings**

**2.** For the purposes of section 117(3)(c) of the Act the freehold estate in the building or part of the building is leaseholder owned where—

(a) the freehold estate is solely owned by tenants in the building, whether through a corporate structure or otherwise; and

(b) paragraphs (a), (b) and (d) of section 117(3) of the Act do not apply in relation to the building.

**Modification of section 121(2) to (5) of the Act for certain associated persons**

**3.**—(1) In the definition of "the landlord group" in paragraph 3(4)(a) of Schedule 8 to the Act, the reference to a person associated with the relevant landlord is modified in accordance with paragraph (2).

(2) For the purposes of paragraph 3 of Schedule 8 to the Act, a person is not to be considered associated with the relevant landlord where they would only be associated by virtue of section 121(4), (5) or (6)(a) of the Act.

**Application of section 124 of the Act (remediation contribution orders) to other buildings**

**4.**—(1) Section 124 of the Act applies in relation to a building that would, but for section 117(3) of the Act, be a relevant building(**7**), with the modifications set out in paragraphs (2) and (3).

(2) The following may not be specified as a body corporate or partnership for the purposes of section 124(3) —

(a) a landlord under a lease of the relevant building or any part of it where that landlord is a company owned in part or in full by a majority of residential leaseholders of the building;

(b) a person who was such a landlord at the qualifying time; or

(c) a commonhold association, within the meaning of section 34 of the Commonhold and Leasehold Reform Act 2002.

(3) Section 124(5) applies as if, in the definition of "interested person", after sub-paragraph (d) there were inserted—

"(da) a special measures manager, within the meaning of paragraph 4(2) of Schedule 7;".

**Determination of net worth of landlord group**

**5.**—(1) For the purposes of paragraph 3 of Schedule 8 to the Act, the net worth of the landlord group at the qualifying time is determined in accordance with this regulation.

(2) Where the relevant landlord(**8**) is a private or public limited company(**9**) the net worth is calculated according to the following formula—

Net Worth = Total Assets – Total Liabilities – Intangible Assets

(**6**) 2002 c. 15. See sections 71 to 74.
(**7**) See section 117(2) of the Act for the definition of "relevant building".
(**8**) See paragraph 3 of Schedule 8 to the Act for the definition of "relevant landlord" in relation to meeting the contribution condition
(**9**) See Part 1 (sections 3 and 4) of the Companies Act 2006 for definitions of "private", "public", and "limited" companies.

(3) In determining net worth of a landlord group(**10**) in accordance with paragraph (2)—

(a) the "total assets", "total liabilities" and "intangible assets" of the relevant landlord and landlord group are to be determined from the most recent audited or filed accounts for that group audited or filed after 14 February 2017 but before 14 February 2022;

(b) subject to paragraph (3)(c) below, a copy of the accounts as set out in paragraph (3)(a) above must be provided to the leaseholder under regulation 6(5)(b);

(c) where audited accounts are not available, the landlord may produce as evidence for the landlord's certificate according to regulation 6 the accounts which have most recently been filed at the relevant companies' registry for the country in which the company is registered;

(d) where the accounts referred to in this paragraph are not prepared in pounds sterling, the value of any asset or liabilities must be converted using the Bank of England daily spot rate for the respective currency on 14 February 2022;

(4) Where the relevant landlord itself comprises more than one person—

(i) Those persons jointly shall be the relevant landlord;

(ii) The total net worth of the relevant landlord should be taken as the sum of the net worth of each person and their associates; and

(iii) The number of relevant buildings(**11**) is the total number of relevant buildings owned either leasehold or freehold by each person and their associates.

(5) Where the relevant landlord is an individual, the net worth is calculated according to the following formula—

Net worth = Assets - Liabilities

(6) In determining the net worth of a landlord group in accordance with paragraph (5), the "assets" and "liabilities" of a landlord includes those of the landlord's spouse or civil partner at the qualifying time(**12**).

**Landlord's certificate**

**6.**—(1) A current landlord must provide a certificate (a "landlord's certificate") to a leaseholder in each of the following circumstances—

(a) when the current landlord makes a demand to a leaseholder for the payment of a remediation service charge;

(b) within four weeks of receipt of notification from the leaseholder that the leasehold interest is to be sold;

(c) within four weeks of becoming aware (either themselves or by notification from another person) of a relevant defect not covered by a previous landlord's certificate; or

(d) within four weeks of being requested to do so by the leaseholder.

(2) The landlord's certificate under paragraph (1) must—

(a) be in the form set out in Schedule 1,

(b) confirm whether or not the relevant landlord (as defined in paragraph 3(1) to Schedule 8 of the Act) met the contribution condition under paragraph 3 of that Schedule,

(**10**) See paragraph 3(4)(a) for the definition of "the landlord group".
(**11**) See section 117 of the Act for the definition of "relevant building".
(**12**) See section 119(2)(d) for the definition of "the qualifying time".

(c) confirm whether or not the relevant landlord (as defined in paragraph 2(4) to Schedule 8 of the Act), met the condition in paragraph 2(2) of that Schedule 8 and was responsible for(**13**) the relevant defect or was associated with a person responsible for a relevant defect,

(d) contain the information referred to in paragraph (3),

(e) be accompanied by the evidence set out in paragraph (4),

(f) be signed by the person who is the current landlord on the date the certificate is completed.

(3) The evidence is—

(a) where the relevant landlord is part of a landlord group(**14**), details of the corporate structure of the group, setting out—

(i) the companies which make up the landlord group,

(ii) the beneficial owner of each company in the group, and

(iii) if the beneficial owner of the group or any company comprised in the group is, or includes, a trust foundation or arrangement of a similar character, details of the trust and the trustees;

(b) the names of all the directors of each company in that group and directors of each corporate trustee, including in each case nominee and shadow directors or any person occupying the position of director by whatever name called;

(c) the name of any other person or persons who has the right to exercise or does exercise significant control or influence directly or indirectly over the group;

(d) details of the type of trust if any, the law to which it is subject and where it is tax resident; and

(e) in relation to trusts with an interest in the shares of any company comprised in the group—

(i) details of the economic settlor,

(ii) the named beneficiaries or class of beneficiaries and protector, and

(iii) any other person who has the right to exercise or does exercise significant influence or control directly or indirectly over the trust.

(4) The landlord certificate must be accompanied by—

(a) the set of company accounts for the relevant landlord (in accordance with regulation 5) and, where the relevant landlord is part of a landlord group, for each company in the landlord group;

(b) a statement from a chartered accountant or finance director of the landlord company—

(i) setting out the net worth of the relevant landlord and, where the relevant landlord is part of a landlord group, of each company in the landlord group;

(ii) confirming the net worth is calculated in accordance with regulation 5 and paragraph 3 of Schedule 8 to the Act (the "net worth calculation");

(iii) confirming the net worth calculations accurately represents the net worth of the relevant landlord (and, where the relevant landlord is part of a landlord group, of each of the companies in the landlord group);

(c) documents or receipts that demonstrate that the relevant building was constructed or converted before the relevant period(**15**) and details of any relevant works(**16**) which were carried out in the relevant period;

(**13**) See paragraph 2(3) of Schedule 8 to the Act for the definition of "responsible for".
(**14**) See paragraph 3(4) of Schedule 8 to the Act for the definition of "the landlord group".
(**15**) See section 120(3) of the Act for the definition of "relevant period".
(**16**) See section 120(3) of the Act for the definition of "relevant works".

(d) evidence (where applicable) that—

(i) the person who undertook works relating to the relevant defect or commissioned those works was not the relevant landlord and was not associated with the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act) together with confirmation of the identity of the person who did undertake such works, and

(ii) where those works were commissioned or undertaken by a joint venture, proof the relevant landlord was not party to that joint venture, together with details of the persons who were parties to the joint venture;

(e) details of any relevant defects and any works carried out to the relevant building since 28 June 2017 to remedy relevant defects; and

(f) details of any costs paid or due to be paid in relation to any works carried out to remedy any relevant defects in the relevant building since 28 June 2017, including—

(i) the total sum of any such costs;

(ii) details of the number of flats between which the costs should be divided; and

(iii) the leaseholder's maximum remaining liability.

(5) In paragraph (4)(f)(iii), the "leaseholder's maximum remaining liability" is the maximum capped amount payable by the leaseholder in respect of a relevant measure(**17**) deducting any payments made by the leaseholder in respect of any relevant measure since 28 June 2017.

(6) Where the current landlord is unable to provide any of the information required for the landlord's certificate in paragraphs (3) and (4) the current landlord must apply to other persons who are relevant landlords requesting the information in accordance with regulation 7 which those persons must provide within 3 weeks of having been asked.

(7) If any person who is a relevant landlord under paragraph 2(4) of Schedule 8 to the Act does not provide a certificate which complies with this regulation in the form outlined in Schedule 2 to the leaseholder, the condition in paragraph 2(2) of Schedule 8 to the Act is to be treated as met in accordance with paragraph 14(2) of Schedule 8 to the Act.

(8) In this regulation, "relevant landlord"—

(a) in paragraphs (2)(b) and (4)(a) and (b), has the meaning given in paragraph 3(1) of Schedule 8 to the Act;

(b) otherwise, has the meaning given in paragraph 2(4) of Schedule 8 to the Act.

**Landlord's certificate to other landlords in the building**

**7.** A relevant landlord within the meaning of paragraph 2(4) of Schedule 8 to the Act must, within 3 weeks of a request from the current landlord, provide the current landlord with the following information—

(a) the percentage of the storeys in the relevant building for which they were the relevant landlord at the qualifying time;

(b) where the relevant landlord was part of a landlord group at the qualifying time, details of the corporate structure of that landlord's group(**18**) and including—

(i) the names of all the directors of each company in that group and directors of each corporate trustee, including in each case nominee and shadow directors or any person occupying the position of director by whatever name called;

(ii) the name of any other person or persons who has the right to exercise or does exercise significant control or influence directly or indirectly over the group;

(**17**) See paragraph 1 of Schedule 8 to the Act for the definition of "relevant measure".
(**18**) See paragraph 3(4) for the definition of "the landlord group".

(iii) details of the type of trust if any, the law to which it is subject and where it is tax resident; and

(iv) in relation to trusts with an interest in the shares of any company comprised in the group, details of the economic settlor, the named beneficiaries or class of beneficiaries and protector and any other person who has the right to exercise or does exercise significant influence or control directly or indirectly over the trust.

**Disapplication of paragraph 3 of Schedule 8 to the Act**

**8.** The following persons are prescribed for the purposes of paragraph 3(6)(c) of Schedule 8 to the Act—

(a) government departments and any arm's length bodies;

(b) the Crown;

(c) NHS Foundation trusts.

**Determination of the value of a qualifying lease**

**9.**—(1) Subject to paragraph (2), for the purposes of paragraph 4 and/or paragraph 6(6) of Schedule 8 to the Act the value of a qualifying lease is—

(a) where the leasehold interest of the dwelling ("D") to which the qualifying lease relates was most recently disposed of after 31 December 2020, the price paid at completion (in pounds sterling to the nearest pound) for that leasehold interest;

(b) where the most recent disposal of D took place on the open market on or before 31 December 2020, to be determined by applying the following formula—

$V_y \times M_y$

where—

$V_y$ is the price paid at completion (in pounds sterling to the nearest pound) for D;

$M_y$ is the multiplier for the year in which that disposal took place, as set out in the table in Schedule 2.

(2) Where it is not possible to identify the price paid on completion of the most recent disposal of D then the value of the qualifying leasehold interest is to be treated as equal to the value of the substitute qualifying lease.

(3) In this regulation—

(a) "substitute qualifying lease" means a qualifying lease of the most recently disposed of dwelling in the same building, ignoring any dwellings which had an internal floorspace which is more than 15% larger or 15% smaller than D; and

(b) any reference to a disposal means a disposal on the open market.

**Application of service charge restrictions to non-residential leases**

**10.**—(1) The reference in paragraph 2 of Schedule 8 to the Act which states that no service charge is payable under a qualifying lease in a relevant building in respect of a relevant measure relating to a relevant defect is modified in accordance with paragraphs (2) and (3).

(2) For the purposes of paragraph 2 of Schedule 8 to the Act—

(a) no service charge is payable under a non-residential lease in a relevant building where the conditions set out in paragraph 2(2) of the Act are met; and

(b) the reference in paragraph 10(2) of Schedule 8 to the Act applies to non-residential leases.

**Application to First-tier Tribunal**

**11.**—(1) This regulation applies where a leaseholder or relevant landlord (the "applicant") wishes to apply to the First-tier Tribunal for an order under paragraph 16(5) of Schedule 8 to the Act.

(2) The applicant can make an application under paragraph (1) above where—

(a) the applicant believes that a relevant landlord has made a false claim in the landlord's certificate provided under regulation 6, including but not limited to—

(i) stating that the relevant landlord is not the developer(**19**) of the relevant building or is not associated with the developer; or

(ii) stating the relevant landlord does not meet the contribution condition;

(b) the relevant landlord or current landlord has not given the leaseholder sufficient time(**20**) to provide information to prove they have a qualifying lease(**21**).

(3) In this regulation, "relevant landlord" has the meaning given in paragraph 16(8) of Schedule 8 to the Act.

**Persons entitled to apply to the High Court for an information order in connection with a building liability order**

**12.** For the purposes of section 132 of the Act, any person making, or intending to make, an application for a building liability order under section 130 of the Act may apply to the High Court for an information order.

**Review**

**13.**—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision contained in these Regulations, and

(b) publish a report settling out the conclusions of the review.

(2) The first report must be published before the end of the period of five years beginning with the date on which these Regulations come into force.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(**22**) requires that a report published under this regulation must, in particular—

(a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),

(b) assess the extent to which those objectives are achieved,

(c) assess whether those objectives remain appropriate, and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involved less onerous regulatory provision.

(**19**) See paragraph 2(4) of Schedule 8 to the Act for the definition of "developer".
(**20**) See The Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022.
(**21**) See section 119 of the Act for the definition of "qualifying lease".
(**22**) 2015 c.26. Section 30(3) was amended by section 19 of the Enterprise Act 2016 (c. 12), and paragraph 36 of Schedule 8 to the European Union (Withdrawal) Act 2018 (c. 16).

Signed by the authority of the Secretary of State for Levelling Up, Housing and Communities

*Greenhalgh*
Minister for Building Safety and Fire
Department for Levelling Up, Housing and Communities

28th June 2022

SCHEDULE 1 Regulation 6

# Building Safety Act 2022
## Landlord's certificate

**This certificate relates to the lease of** .....

[*insert name and address of the relevant building*]

**The lease was granted on** .....

[*insert date lease was granted*]

**The dwelling to which the lease relates is** .....

[*insert name or number of the dwelling to which the lease relates*]

**Name and address of the relevant landlord under the lease** .....

[*insert name and address of the landlord under the lease on 14th February 2022*]

**Name and address of the current landlord under the lease** .....

[*insert name and address of the current landlord under the lease*]

**Name and address of any superior relevant landlords under the lease**

**(1)** .....

**(2)** .....

**(3)** .....

**(4)** .....

**(5)** .....

[*insert name and address of any superior landlords under the lease at the beginning of 14th February 2022*]

**IMPORTANT NOTE:** Answers to the questions below are needed to confirm whether or not any of the relevant landlords under the lease are responsible for historic safety defects under the Building Safety Act 2022.

Failure to return a completed, signed copy of this certificate, along with the evidence from any superior landlords under this lease, to the leaseholder will result in you being held responsible for all historical safety defects under the lease to which this certificate relates.

In answering the questions below you must provide information about the property as at 14th February 2022, not the current date.

If you were not the landlord of the property on 14th February 2022 it is still you who are responsible for completing, signing and returning this certificate, but you may need to seek the answers to the questions below from someone else e.g. the person who was the landlord on that date.

**Questions as to group net worth criteria**

At the beginning of 14th February 2022 the net worth of the landlord under the lease at the beginning of 14th February 2022 listed above and all the companies (if any) within the landlord group(**d**) of that landlord was £..... [*insert net worth of the landlord group*] and the number of relevant buildings for that landlord and its group on that date (N) was ..... [*insert number of relevant buildings for the landlord group*].

1. The net worth of the landlord group was less than N x £2,000,000 ☐

2. The net worth of the landlord group was equal to or more than N x £2,000,000 ☐

[*place an X in the box next to the ONE statement which applies in relation to the landlord group]*

**Questions as to developer criteria**

The relevant defect to which the below statements apply is .....
[*insert name of relevant defect to which the statement applies*]

| | |
|---|---|
| On 14th February 2022 the landlord under the lease was responsible for the relevant defect or associated with a person responsible for a relevant defect. (The definition of 'responsible' is set out in paragraph 2(3) of Schedule 8 to the Building Safety Act 2022.) | ☐ |
| On 14th February 2022 at least one superior landlord was responsible for the relevant defect or was associated with a person responsible for a relevant defect.<br><br>The superior landlords responsible for the defect are .....<br><br>.....<br>[*insert name of relevant landlords to which the statement applies*] | ☐ |
| On 14th February 2022 the landlord under the lease and all superior landlords were not responsible for the relevant defect or associated with a person responsible for a relevant defect. | ☐ |

**Work undertaken on relevant defects**

The following works have been carried out to the relevant building since 28 June 2017 to remedy relevant defects:

| Date completed | Work undertaken | Total cost of works for building | Number of flats between which the costs should be divided | This lease's share of costs |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Total amount paid for this lease since 28 June 2017: £..... [*sum of this property's share of costs to date in the table above]*

Based on the information provided in this certificate and the information provided by the leaseholder in the deed of certificate, the maximum liability for relevant historical safety defects for this lease where the landlord is not connected to the developer is £..... [*calculate liability for the lease based on qualifying status, property value, shared ownership status, works already undertaken and landlord group net worth in accordance with the Building Safety Act 2022*]

**Evidence**

**The following documents accompany this leaseholder certificate**

[*place an X in the box next to each document provided, fill in additional details if required*]

| ***Accompanying documents required under Regulation 6***<br><br>(a copy of each document is required) | |
|---|---|
| Organogram or other form of information showing the landlord group companies and related details (para (5)(a)) | ☐ |
| Company accounts for each company in the landlord group (para (5)(b)) | ☐ |
| Statement from chartered accountant or finance director (para (5)(c)) | ☐ |
| Confirmation of the identity of any person who undertook work to remedy defects in the building (para (5)(d)(i)) | ☐ |
| Details of the parties to any joint venture which undertook works to remedy defects in the building (para (5)(d)(ii)) | ☐ |
| Evidence of any relevant defects and works carried out to remedy those defects since 14 February 2017 (para (5)(e)) | ☐ |
| Evidence of any costs paid in relation to the works carried out to remedy those defects, details of the number of flats between which the costs should be divided and evidence of the leaseholder's maximum remaining liability (para (5)(f)) | ☐ |
| Evidence of the relevant percentage of the building owned by each landlord (where there are superior landlords in the building) (Regulation 7 para (1)) | ☐ |
| Organograms for each superior landlord in the building where appropriate (Regulation 7 para (2)) | ☐ |

Signed by .....

[*full name of landlord under the lease*]

| *Signature* |
|---|

Date .....

**WARNING** Dishonestly making a false representation or failing to disclose information required may be a criminal offence under section 2 or 3 of the Fraud Act 2006. Under section 12 of that Act a director, manager, secretary of other similar officer of a corporation may also be criminally liable.

**Notes**

(**a**) a qualifying lease has the meaning in section 119 of the Building Safety Act 2022.

(**b**) a relevant building has the meaning in section 117 of the Building Safety Act 2022, and for the purposes of this certificate includes the relevant buildings for the whole landlord group on 14th February 2022 (*see* paragraph 3 of Schedule 8 to the Act).

(**c**) the net worth is to be determined in accordance with regulations made under paragraph 3(4)(b) of Schedule 8 to the Building Safety Act 2022.

(**d**) the landlord group has the meaning in paragraph 3(4) of Schedule 8 to the Building Safety Act 2022.

(**e**) "responsible for" has the meaning given in paragraph 2(3) of Schedule 8 to the Building Safety Act 2022.

(**f**) a relevant defect has the meaning in section 120 of the Building Safety Act 2022.

(**g**) "associated with" has the meaning given in section 121 of the Building Safety Act 2022.

## SCHEDULE 2

Regulation 9

### Uprating values

| *Year* | $M_y$ |
|---|---|
| 1970 or earlier | 72.14 |
| 1971 | 64.15 |
| 1972 | 47.16 |
| 1973 | 34.53 |
| 1974 | 32.22 |
| 1975 | 30.58 |
| 1976 | 28.29 |
| 1977 | 26.38 |
| 1978 | 22.65 |
| 1979 | 17.45 |
| 1980 | 14.39 |
| 1981 | 13.61 |
| 1982 | 13.34 |
| 1983 | 11.95 |
| 1984 | 10.86 |

| *Year* | $M_y$ |
|---|---|
| 1985 | 9.97 |
| 1986 | 8.70 |
| 1987 | 7.38 |
| 1988 | 5.71 |
| 1989 | 4.80 |
| 1990 | 4.89 |
| 1991 | 5.00 |
| 1992 | 5.25 |
| 1993 | 5.36 |
| 1994 | 5.22 |
| 1995 | 5.21 |
| 1996 | 5.11 |
| 1997 | 4.63 |
| 1998 | 4.17 |
| 1999 | 3.72 |
| 2000 | 3.10 |
| 2001 | 2.72 |
| 2002 | 2.25 |
| 2003 | 1.92 |
| 2004 | 1.69 |
| 2005 | 1.61 |
| 2006 | 1.51 |
| 2007 | 1.37 |
| 2008 | 1.43 |
| 2009 | 1.59 |
| 2010 | 1.51 |
| 2011 | 1.52 |
| 2012 | 1.49 |
| 2013 | 1.43 |
| 2014 | 1.28 |
| 2015 | 1.19 |
| 2016 | 1.10 |
| 2017 | 1.04 |
| 2018 | 1.04 |

| *Year* | $M_y$ |
|---|---|
| 2019 | 1.05 |
| 2020 | 1.04 |

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Sections 116 to 125 of, and Schedule 8 to, the Building Safety Act 2022 (c. 30) ("the Act") make provision in relation to remediation of certain defects in buildings over 11 metres in height (or of at least 5 storeys). In particular, those provisions include protections from liability for leaseholders in specific circumstances.

These Regulations support those leaseholder protection provisions.

Regulation 2 defines "leaseholder owned" for the purpose of the definition of "relevant building" in section 117 of the Act, as leaseholder owned buildings are not 'relevant buildings' for the purposes of these provisions.

Regulation 3 modifies the definition of 'associated' in section 121 of the Act in relation that term as used in paragraph 3 of Schedule 8 to the Act, to limit the circumstances in which companies are considered to be associated when calculating the value of the company group.

Regulation 4 expands the list of people who can apply for a remediation contribution order under section 124 of the Act to include leaseholder owned buildings, but does not permit a remediation contribution order to be sought against the landlord of a leaseholder owned building or a commonhold association.

Regulation 5 sets out how a landlord or a landlord's group should prove their net worth and, therefore, whether or not they fulfil the contribution condition in paragraph 3 of Schedule 8 to the Act. The regulation contains information on what the landlord needs to put into their certificate to demonstrate their worth to the leaseholder, whether the landlord is a company or an individual.

Regulation 6 sets out the further information (including details of the landlord's net worth) which should be included in a certificate provided to the tenants known as the Landlord's certificate. This certificate will also have details of the group structure of all the landlords at the relevant building, dates of when the building was built, converted or had works carried out on it, the cost of any remediation works, how much the tenant has already contributed to those works, and the maximum amount for which the tenant might still be liable.

Regulation 7 sets out the information which other landlords in the building must provide to the current landlord in order for the current landlord to be able to provide the Landlord's certificate to the tenant.

Regulation 8 stipulates that government departments and any arms' length bodies, the Crown, and NHS foundation trusts will not have to provide details of their net worth and do not fall within in the scope of paragraph 3 of Schedule 8 to the Act.

Regulation 9 sets out how the value of a leasehold interest is determined, as if a tenant has a lease under a certain value (see paragraph 4 of Schedule 8 to the Act) they will not pay any service charge and if the lease is over a certain value (paragraph 6 of Schedule 8 to the Act) they will pay more

than the permitted maximum. It also sets out how to ascertain the value when the leasehold interest has not been sold on the open market recently.

Regulation 10 states that where the landlord is the developer and therefore, under paragraph 2 of Schedule 8 to the Act, has to pay for remediation of all of the building with no payments by any leaseholders whether qualifying or not, the landlord cannot take the monies to pay for the remediation out of any commercial service charge reserve fund.

Regulation 11 provides that tenants and other landlords in a building can apply to the First-tier Tribunal to appeal where they believe that any landlord in the building has not provided all the information required under these regulations.

Regulation 12 allows anyone applying to the High Court for a building liability order (see section 130 of the Act) to also be able to apply for information on the corporate structure of person against whom they are applying for the order.

Regulation 13 provides for a periodic review of regulatory provisions of these Regulations.

An impact assessment is available with the explanatory memorandum for these Regulations at www.legislation.gov.uk. A copy may be inspected at the Department for Levelling Up, Housing and Communities, 2 Marsham Street, London SW1P 4DF.

STATUTORY INSTRUMENTS

# 2022 No. 859

# BUILDING AND BUILDINGS, ENGLAND
# LANDLORD AND TENANT, ENGLAND

## The Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022

| | |
|---|---|
| *Made - - - -* | *20th July 2022* |
| *Coming into force - -* | *21st July 2022* |

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 123 of, and paragraphs 12, 13 and 15 of Schedule 8 to, the Building Safety Act 2022(**1**).

In accordance with section 168(6) of that Act, a draft of this instrument has been laid before Parliament and approved by resolution of each House of Parliament.

**Citation, commencement, extent, application and interpretation**

**1.**—(1) These Regulations may be cited as the Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022 and come into force on the day after the day on which they are made.

(2) These Regulations extend to England and Wales and apply in England only.

(3) In these Regulations—

"the Act" means the Building Safety Act 2022;

"RMC" means a body corporate which is party to a lease of a building where—

(a) the body corporate is limited by guarantee and the members of that body are tenants under leases of dwellings in the building ("leaseholders"), or

(b) the majority of the shares of the body corporate are held by leaseholders; and

"RTM company" has the same meaning as in the Commonhold and Leasehold Reform Act 2002(**2**).

(**1**) 2022 c. 30.
(**2**) 2002 c. 15. See sections 71 to 74.

**Remediation orders**

**2.**—(1) For the purposes of section 123 of the Act (remediation orders) the Secretary of State is prescribed as an interested person.

(2) The First-tier Tribunal may, on an application made by an interested person(**3**), make a remediation order under section 123 of the Act.

(3) An application for a remediation order must—

(a) state it is an application under section 123 of the Act;

(b) identify the building to which the application relates;

(c) identify the defects to the building for which a remediation order is sought;

(d) identify the landlord (as defined in section 123(3) and (4) of the Act) which the applicant considers is responsible for repairing or maintaining anything relating to the relevant defects.

(4) Where the First-tier Tribunal makes a remediation order it must as soon as is reasonably practicable send a copy of the order to—

(a) the person who made the application; and

(b) the relevant landlord(**4**).

**Recovery of amounts from other landlords: cases under paragraph 2 of Schedule 8**

**3.**—(1) This regulation applies where, in relation to a lease of premises in a relevant building, a landlord (L) has paid or is liable to pay the cost of a relevant measure(**5**) relating to a relevant defect(**6**) ("the remediation amount") which, but for paragraph 2 of Schedule 8 to the Act, would have been payable as a service charge by a tenant under the lease.

(2) Where this regulation applies the responsible landlord is liable to pay L the remediation amount, and where, in relation to a particular relevant defect, two or more persons are responsible landlords, each person is liable to pay to L an equal share of that amount.

(3) Where paragraph (2) applies L must give a notice to the responsible landlord or landlords of the liability.

(4) The remediation amount may not include any amount which L is entitled to recover under regulations 4 or 5.

(5) A person who is notified by L of a requirement to pay all or part of the remediation amount referred to in paragraph (2) may appeal that notice to the First-tier Tribunal within 30 days of the notification, specifying the grounds of appeal.

(6) The grounds of appeal are—

(a) that the remediation amount does not represent the cost of the relevant measure; or

(b) that the person sent the notice is not a responsible landlord.

(7) For the purposes of this regulation, the reference to landlord (L) includes a RMC or a RTM company.

(8) In this regulation "the responsible landlord" means—

(a) the person who, at the beginning of 14th February 2022, was the landlord of the tenant referred to in paragraph (1) or any superior landlord and was on that date—

(**3**) See section 123(5) of the Act.
(**4**) See section 123(3) of the Act for the definition of "relevant landlord".
(**5**) See paragraph 1 of Schedule 8 to the Act for the definition of "relevant measure".
(**6**) See section 120 of the Act for the definition of "relevant defect".

(i) responsible for(**7**) the particular relevant defect to which the relevant measure relates; or

(ii) associated with(**8**) a person responsible for that relevant defect; or

(b) the person who, on or after 14th February 2022, became the owner of that landlord's, or superior landlord's, interest.

**Recovery of amounts from other landlords: cases under paragraph 3 of Schedule 8**

**4.**—(1) This regulation applies where, in relation to a qualifying lease(**9**) of a dwelling in a relevant building, a landlord (L) has paid or is liable to pay the cost of a relevant measure relating to a relevant defect ("the remediation amount") which, but for paragraph 3 of Schedule 8 to the Act, would have been payable as a service charge by the tenant under the qualifying lease.

(2) Where this regulation applies the contributing landlord is liable to pay L the remediation amount, and L must give a notice to the contributing landlord of the liability.

(3) The remediation amount may not include any amount which L is entitled to recover under regulations 3 or 5.

(4) A person who is notified by L of a requirement to pay the remediation amount may appeal that notice to the First-tier Tribunal within 30 days of the notification, specifying the grounds of appeal.

(5) The grounds of appeal are—

(a) that the remediation amount does not represent the cost of the relevant measure; or

(b) that the person sent the notice is not the contributing landlord.

(6) For the purposes of this regulation, the reference to landlord (L) includes a RMC or a RTM company.

(7) In this regulation "the contributing landlord" means the person who is the landlord under the qualifying lease referred to in paragraph (1) provided that they met the contribution condition in paragraph 3 of Schedule 8 to the Act on the 14th February 2022.

**Recovery of amounts from other landlords: other cases under Schedule 8**

**5.**—(1) This regulation applies where, in relation to a relevant building, a landlord (L) under any lease has paid or is liable to pay the cost of a relevant measure relating to a relevant defect ("the remediation amount") which, but for paragraphs 4 to 9 and 11 of Schedule 8 to the Act, would have been payable as a service charge by the tenant under the lease.

(2) Where this regulation applies, each landlord under any lease in the building is liable to pay L a share of the remediation amount and that share is to be calculated in accordance with paragraphs (4) to (6).

(3) The amount referred to in paragraph (2) may not include any amount which L is entitled to recover under regulations 3 or 4.

(4) Where the landlord is a type 1 owner, the share of the remediation amount for each such landlord is—

$$\frac{3A}{(3N_1 + 2N_2 + N_3)}$$

where—

(**7**) See paragraph 2(3) of Schedule 8 to the Act for the definition of "responsible for".
(**8**) See section 121 of the Act for the definition of "associated with".
(**9**) See section 119 of the Act for the definition of "qualifying lease".

A = the remediation amount for the relevant measure paid (or liable to be paid) by L;

$N_1$ = the total number of type 1 owners of the building;

$N_2$ = the total number of type 2 owners of the building;

$N_3$ = the total number of type 3 owners of the building.

(5) Where the landlord is a type 2 owner, the share of the remediation amount for each such landlord is—

$$\frac{2A}{(3N_1 + 2N_2 + N_3)}$$

where A, $N_1$,$N_2$ and $N_3$ have the same meaning as in paragraph (4).

(6) Where the landlord is a type 3 owner, the share of the remediation amount for each such landlord is—

$$\frac{A}{(3N_1 + 2N_2 + N_3)}$$

where A, $N_1$,$N_2$ and $N_3$ have the same meaning as in paragraph (4).

(7) Where paragraph (2) applies L must give a notice to the landlord or landlords of the liability.

(8) A person who is notified by L of a requirement to pay a share of the remediation amount referred to in paragraph (2) may appeal that notice to the First-tier Tribunal within 30 days of the notification, specifying the grounds of appeal.

(9) The grounds of appeal are—

(a) that the remediation amount does not represent the cost of the relevant measure;

(b) that the person is not a relevant landlord within the meaning of paragraph 12(2) of Schedule 8 to the Act; or

(c) that the share of the remediation amount determined for the landlord is incorrect.

(10) For the purposes of this regulation, the reference to landlord (L) includes a RMC or a RTM company.

(11) In this regulation—

"leasehold interest" means a long lease (which has the same meaning as in section 119 of the Act);

"type 1 owner" means a landlord who has a freehold interest in the building or a landlord who has or is treated as having a leasehold interest in respect of 90% or more of the storeys in the building as at the date of the notice under paragraph (7);

"type 2 owner" means a landlord who has or is treated as having a leasehold interest in respect of more than 40% but less than 90% of the storeys in the building as at the date of the notice under paragraph (7);

"type 3 owner" means a landlord who has or is treated as having a leasehold interest in respect of 40% or less of the storeys in the building as at the date of the notice under paragraph (7),

and where a person owns a leasehold interest in premises which form part only of a storey in the building in question they are, for the purposes of the calculations under this paragraph, to be treated as having an interest in respect of the whole storey.

**Leaseholder deed of certificate: landlord's steps and requirements for leaseholders**

**6.**—(1) A tenant under a lease ("the leaseholder") in respect of a dwelling in a relevant building(**10**) may send the landlord under the lease a certificate which complies with regulation 7 ("a leaseholder deed of certificate") together with the evidence referred to in paragraph (7).

(2) Subject to paragraph (3), before the notification date a landlord under a lease that meets the conditions in paragraphs (a) to (c) of section 119(2) of the Act must give a notice in writing to the leaseholder which complies with paragraph (4).

(3) The requirement in paragraph (2) does not apply where, before the notification date, the landlord under the lease has received a leaseholder deed of certificate in respect of the lease.

(4) The notice under paragraph (2) must—

(a) state it is a notice for the purposes of paragraphs 13 and 15 of Schedule 8 to the Act;

(b) include a copy of the form of the leaseholder deed of certificate referred to in regulation 7 (leaseholder deed of certificate);

(c) include a statement to the effect that failure to provide a completed leaseholder deed of certificate—

(i) will result in the lease being treated, for the purposes of sections 116 to 122 of the Act, as if it were not a qualifying lease;

(ii) where the lease is a shared ownership lease, may result in the landlord assuming the leaseholder owns a 100% share; and

(iii) may result in a higher value for the qualifying lease being used under or pursuant to any provision in Schedule 8 to the Act (remediation costs under qualifying leases etc); and

(d) provide the date (which must be no less than 8 weeks from the date of receipt of the notice under paragraph (5)(a)) by which a reply to the notice must be received ("the reply date") and the address of the landlord to which the reply must be sent.

(5) The landlord must give the leaseholder the notice under paragraph (2)—

(a) by leaving it at the address of the leaseholder or sending it to that address by prepaid first class letter; and

(b) where the leaseholder has provided the landlord with an email address, by transmitting it to that email address.

(6) Subject to paragraph (9), where a leaseholder receives a notice under paragraph (2) then by the reply date the leaseholder must—

(a) provide the landlord under the lease with a leaseholder deed of certificate which complies with the requirements of regulation 7 together with the evidence referred to in paragraph (7); or

(b) reply to the landlord in writing stating that the leaseholder will not provide a leaseholder deed of certificate.

(7) The evidence which must accompany a leaseholder deed of certificate is—

(a) where the dwelling to which the lease relates was disposed of on the open market before 14th February 2022—

(i) evidence of the most recent sale before that date, including an official copy of the register of title at HM Land Registry which shows the date of the sale in question; and

(ii) evidence of the price paid at completion (in pounds sterling to the nearest pound) in respect of that sale;

(**10**) See section 117 of the Act for the definition of "relevant building".

(b) additionally, where the dwelling was owned under a shared ownership lease at the beginning of 14th February 2022—

(i) a copy of the shared ownership lease; and

(ii) evidence of the percentage share under the shared ownership lease held on that date.

(8) If by the date which is 14 days before the reply date the landlord has not received a reply from the leaseholder, the landlord must—

(a) no later than 7 days before the reply date, give the leaseholder a further notice which, in addition to complying with sub-paragraphs (a), (b) and (c) of paragraph (4) and paragraph (5)—

(i) states that no reply to the notice under paragraph (2) has been received;

(ii) sets out the reply date; and

(iii) states that the leaseholder may make a request under paragraph (9);

(b) where the landlord has a telephone number for the leaseholder, telephone the leaseholder to draw the further notice to the leaseholder's attention.

(9) If requested by the leaseholder before the reply date, the landlord must allow the leaseholder an additional four weeks from the reply date to comply with the requirements under paragraph (6)(a) and (b).

(10) The landlord may not charge the leaseholder for sending any notice under this regulation.

(11) In this regulation "the notification date" means the day which is five days after the day on which the landlord becomes aware that—

(a) the interest in the property owned by the leaseholder is to be sold; or

(b) there is a relevant defect in relation to the building in question.

### Leaseholder deed of certificate

**7.**—(1) A leaseholder deed of certificate in relation to a lease of a dwelling in a relevant building must be executed as a deed by the person who is the leaseholder under that lease.

(2) The Schedule to these Regulations sets out the information to be provided in the leaseholder deed of certificate and its form.

### Review

**8.**—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision contained in these Regulations, and

(b) publish a report setting out the conclusions of the review.

(2) The first report must be published before the end of the period of five years beginning with the date on which these Regulations come into force.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(**11**) requires that a report published under this regulation must, in particular—

(a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),

(b) assess the extent to which those objectives are achieved,

(**11**) 2015 c. 26. Section 30(3) was amended by section 19 of the Enterprise Act 2016 (c. 12), and paragraph 36 of Schedule 8 to the European Union (Withdrawal) Act 2018 (c. 16).

(c) assess whether those objectives remain appropriate, and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this regulation, "regulatory provision" has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Marcus Jones*
Minister of State
Department for Levelling Up, Housing and Communities

20th July 2022

SCHEDULE Regulation 7

Building Safety Act 2022

# Leaseholder deed of certificate

***Leaseholders have a qualifying lease if they meet the criteria set out in section 119 of the Building Safety Act 2022. Leaseholders should consider the answers they give in this deed of certificate carefully. Qualifying leaseholders may benefit from important protections limiting the costs of putting right historical safety defects.***

**This deed of certificate relates to the dwelling at** .....

[*insert address of the dwelling*]

**Name of the current leaseholder:** .....

[*insert name of the current leaseholder*]

**Name of the leaseholder at beginning of 14th February 2022:** .....

[*insert name of the leaseholder*]

**IMPORTANT NOTE:** Answers to the questions below are needed to confirm whether or not your property has a qualifying lease.

Failure to return a completed, signed deed of certificate to your landlord will result in the lease to which the deed of certificate relates being treated as if it were not a qualifying lease under the Building Safety Act 2022.

In answering the questions below you must provide information about your property as at 14th February 2022, not the current date.

If you were not the owner of the property on 14th February 2022 it is still you who are responsible for completing, signing and returning this certificate, but you may need to seek the answers to the questions below from someone else eg the person who was the owner on that date.

**Questions as to qualifying lease criteria**

[*place an X in the box next to the ONE statement which applies in relation to the dwelling*]

| | |
|---|---|
| The dwelling was owned by me at the beginning of 14th February 2022 and was my only or principal home on that date | ☐ |
| The dwelling was owned by another person at the beginning of 14th February 2022 and was their only or principal home on that date | ☐ |
| The dwelling was owned by me at the beginning of 14th February 2022, was not my only or principal home on that date, and on that date I owned no more than two dwellings in the United Kingdom in addition to the dwelling | ☐ |
| The dwelling was owned by another person at the beginning of 14th February 2022, was not their only or principal home on that date, and on that date they owned no more than two dwellings in the United Kingdom in addition to the dwelling | ☐ |
| None of the above applies | ☐ |

**IMPORTANT NOTE:** Answers to the questions below are needed to calculate the value of the lease for the purposes of the Building Safety Act 2022.

Failure to provide details of the sale price or stating that you do not know the sale price will, where a contribution has to be calculated, result in a substitute value of the lease being used. Where the dwelling has not been sold on the open market (eg it was gift) the value will be estimated in accordance with regulations made under paragraph 6(6) of the Schedule 8 to the Building Safety Act 2022.

In answering the questions below you must provide information about your property as at 14th February 2022, not the current date.

If you were not the owner of the property on 14th February 2022 it is still you who are responsible for completing, signing and returning this certificate, but you may need to seek the answers to the questions below from someone else eg the person who was the owner on that date.

**Questions on price when last sold**

[*place an X in the box next to the ONE statement which applies in relation to the dwelling, fill in details if required*]

| | |
|---|---|
| The dwelling has not been sold on the open market before 14th February 2022 | ☐ |
| The dwelling was last sold on the open market (ignoring any sale which completed on or after 14th February 2022) on …… [*insert date the sale completed*] with a sale price of:<br>£ …… [*insert sale price in pounds sterling to the nearest pound*] | ☐ |
| The dwelling was sold before 14th February 2022, but the sale price is not known | ☐ |

**IMPORTANT NOTE:** Where your lease is a shared ownership lease answers to the questions below are also needed to calculate the value of the lease for the purposes of the Building Safety Act 2022.

Failure to provide details of the total share of the shared ownership lease, or stating that the details are not known will result in the total share owned being assumed to be 100%.

In answering the questions below you must provide information about your property as at 14th February 2022, not the current date.

If you were not the owner of the property on 14th February 2022 it is still you who are responsible for completing, signing and returning this certificate, but you may need to seek the answers to the questions below from someone else eg the person who was the owner on that date.

**Questions as to shared ownership leases**

[*place an X in the box next to the ONE statement which applies in relation to the dwelling, fill in details if required*]

| | |
|---|---|
| The dwelling was not owned under a shared ownership lease at the beginning of 14th February 2022 | ☐ |
| The dwelling was owned at the beginning of 14th February 2022 by me under a shared ownership lease and the total share owned by me at that date was ……..% [*insert percentage*] | ☐ |
| The dwelling was owned at the beginning of 14th February 2022 by another leaseholder under a shared ownership lease and the total share owned by that person at that date was ……..% [*insert percentage*] | |
| I do not know if the dwelling was owned at the beginning of 14th February 2022 by another leaseholder under a shared ownership lease or I do not know the total share owned at that date | ☐ |

**Evidence**

**The following documents accompany this deed of certificate**

[*place an X in the box next to each document provided, fill in additional details if required*]

| | |
|---|---|
| ***Accompanying documents***<br>(a copy of each document is required) | |
| Evidence to show the dwelling was only or principal home at the beginning of 14th February 2022 | ☐ |
| Where the dwelling to which the lease relates was disposed of on the open market before 14th February 2022— | |
| evidence of the most recent sale before that date, including an official copy of the register of title at HM Land Registry which shows the date of the sale in question | ☐ |
| evidence of the price paid at completion (in pounds sterling to the nearest pound) in respect of that sale | ☐ |
| ***Additional accompanying documents where lease is shared ownership lease***<br>(a copy of each document is required) | |
| A copy of the shared ownership lease | ☐ |
| Evidence of the percentage share under the shared ownership lease held at the beginning of 14th February 2022 | ☐ |

By signing this deed of certificate, I confirm that the above information and the information contained in the evidence which accompanies this deed of certificate is true to the best of my knowledge.

Signed as a deed by [*full name of leaseholder*]

*Signature*

in the presence of:

Signature of witness……

Name of witness (in BLOCK CAPITALS)……

Address of witness……

……

Date:……

**WARNING** Dishonestly making a false representation or failing to disclose information required may be a criminal offence under the Fraud Act 2006.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Sections 116 to 125 of, and Schedule 8 to, the Building Safety Act 2022 ("the Act") make provision in relation to remediation of certain defects in buildings. In particular, those provisions include protections from liability for leaseholders in specific circumstances.

These Regulations support those leaseholder protection provisions.

Regulation 2 makes provision for and in connection with remediation orders under section 123 of the Act. In particular, it sets out what an application to the First-tier Tribunal for a remediation order must include.

Regulations 3 to 5 make provision for recovery of amounts as between landlords where, because of paragraphs 2, 3, 4 to 9, and 11 of Schedule 8 to the Act, a service charge cannot be claimed from a leaseholder under a lease.

Regulation 3 provides that where in relation to a lease any landlord (L) pays or is liable to pay an amount in relation to the remediation of a defect and on 14th February 2022 a landlord under the lease or any superior landlord (or an associate) was responsible for the defect (see paragraph 2 of Schedule 8 to the Act), then L may recover the amount from the current landlord under the lease and any superior landlord.

Regulation 4 provides that where in relation to a qualifying lease (see section 119 of the Act) any landlord (L) pays or is liable to pay an amount in relation to the remediation of a defect and on 14th February 2022 a landlord under the qualifying lease met the contribution condition (see paragraph 3 of Schedule 8 to the Act) then L may recover the amount from the current landlord under the qualifying lease.

Regulation 5 provides that where in relation to a lease any landlord (L) pays or is liable to pay an amount in relation to the remediation of a defect and paragraphs 4 to 9, or 11 of Schedule 8 apply then L may recover part of the amount from each landlord with the part of the amount calculated in accordance with the formulas set out.

Regulations 3, 4 and 5 also provide the person sent a notice of liability with a right of appeal to the First-tier Tribunal and they set out the grounds of appeal in each case.

Regulation 6 sets out the steps a landlord must take in relation to identifying whether the lease is a qualifying lease. Regulation 6 also makes provisions in relation to the deed of certificate a leaseholder should provide. The deed of certificate sets out information landlords need in relation to each lease for the purposes of applying the provisions in the leaseholder provisions.

Regulation 7 provides that the leaseholder deed of certificate must be in the form set out in the Schedule to these Regulations and must be executed as a deed.

Regulation 8 provides for a periodic review of regulatory provisions of these Regulations.

An impact assessment is available with the explanatory memorandum for these Regulations at www.legislation.gov.uk. A copy may be inspected at the Department for Levelling Up, Housing and Communities, 2 Marsham Street, London SW1P 4DF.

STATUTORY INSTRUMENTS

# 2023 No. 895

# BUILDING AND BUILDINGS, ENGLAND
# LANDLORD AND TENANT, ENGLAND

## The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023

| | |
|---|---|
| *Made - - - -* | *4th August 2023* |
| *Coming into force - -* | *5th August 2023* |

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 123(1) and (5), 124(5) and 168(2) of, and paragraphs 12, 13, 14, 15 and 16 of Schedule 8 to, the Building Safety Act 2022(**1**).

In accordance with section 168(6) of that Act, a draft of this instrument has been laid before Parliament and approved by resolution of each House of Parliament.

### Citation, commencement, extent and application

**1.**—(1) These Regulations may be cited as the Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 and come into force on the day after the day on which they are made.

(2) These Regulations extend to England and Wales and apply in England only.

### Amendment of the Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022

**2.** The Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022(**2**) are amended in accordance with regulations 3 to 8.

### Amendment of regulation 1

**3.** In regulation 1(3) (citation, commencement, extent, application and interpretation)—

(a) after the definition of "the Act" insert—

(**1**) 2022 c. 30.
(**2**) S.I. 2022/859.

""current landlord" means a person who is the landlord under a lease of premises in a relevant building(**3**);

"named manager" means, in relation to a building, a person who is named in a lease as being the party with managing and repairing obligations in relation to the building or part of the building and who is a separate legal person from the freeholder of the building and any landlord of the building or part of the building;"

(b) after the definition of "RTM company" insert—

""shared ownership lease" means a lease—

(a) granted on payment of a premium calculated by reference to a percentage of the value of the demised premises or the cost of providing them, or

(b) under which the tenant (or the tenant's personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of those premises.".

**Amendment of regulation 2**

**4.**—(1) In regulation 2 (remediation orders) after paragraph (1) insert—

"(1A) For the purposes of section 123(5) of the Act (remediation orders) the Homes and Communities Agency (established by section 1 of the Housing and Regeneration Act 2008(**4**)) is prescribed as an interested person.".

(2) After regulation 2 (remediation orders) insert—

"**Remediation contribution orders**

**2A.** For the purposes of section 124(5) of the Act (remediation contribution orders) the following persons are prescribed as an interested person—

(a) the Homes and Communities Agency;

(b) the named manager in relation to the relevant building;

(c) the RMC in relation to the relevant building; and

(d) the RTM company in relation to the relevant building.".

**Amendment of regulation 3 and transitional provision**

**5.**—(1) Regulation 3 (recovery of amounts from other landlords under paragraph 2 of Schedule 8) is amended as follows.

(2) But the amendments made by paragraphs (3), (5), (6), (7) and (8) do not apply in respect of a notice given before this regulation comes into force by a landlord under regulation 3(3) of the Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022.

(3) For paragraphs (2) and (3) substitute—

"(2) Where this regulation applies the responsible landlord is liable to pay L the remediation amount, and where, in relation to a particular relevant defect, two or more persons are responsible landlords, each person is jointly and severally liable for the remediation amount.

(**3**) See section 117 of the Act for the definition of "relevant building".
(**4**) 2008 c. 17.

(3) To recover the remediation amount from the responsible landlord or responsible landlords liable under paragraph (2) L must give to at least one responsible landlord a notice which contains the information set out in paragraph (3B).

(3A) Only a responsible landlord to whom L has given a notice under paragraph (3) can be required to pay the remediation amount.

(3B) The information which the notice given under paragraph (3) must contain is—

(a) the remediation amount that L has paid or the remediation amount that L expects to pay;

(b) the time limit for appealing under paragraph (5) to the First-tier Tribunal and for applying under paragraph (5A) for an extension of that time limit;

(c) the possible grounds of appeal.".

(4) In paragraph (4) after "5" insert "but nothing in this regulation prevents L from seeking to recover amounts under regulation 4 or 5".

(5) In paragraph (5) omit "that notice".

(6) After paragraph (5) insert—

"(5A) A person who has received a notice under paragraph (3) may apply to the First-tier Tribunal to extend the time limit for lodging an appeal under paragraph (5).

(5B) An application under paragraph (5A) must be made within 30 days of the notification under paragraph (3).

(5C) In response to an application under paragraph (5A) the First-tier Tribunal may grant an extension of the time limit for lodging an appeal by no more than 30 days.".

(7) After paragraph (6) insert—

"(6A) Where an appeal made on the grounds specified in paragraph (6)(a)—

(a) is unsuccessful, subject to the outcome of an appeal on another ground under this regulation the person who was notified by L is required to pay the remediation amount set out in the notice unless that person's liability has been discharged by payment of the remediation amount by another recipient of the notice;

(b) is successful, subject to the outcome of an appeal on another ground under this regulation the First-tier Tribunal must substitute the remediation amount it rules is the correct one for the remediation amount in the notice.

(6B) Where an appeal made on the grounds specified in paragraph (6)(b)—

(a) is unsuccessful, subject to the outcome of an appeal on another ground under this regulation the person who was notified by L is required to pay the remediation amount set out in the notice unless that person's liability has been discharged by payment of the remediation amount by another recipient of the notice;

(b) is successful, the person who was notified by L is not required to pay the remediation amount set out in the notice.".

(8) In paragraph (7) after "company" insert "or a named manager".

(9) After paragraph (8) insert—

"(9) Where two or more landlords are liable for remediation costs under the Act, L must give a notice under paragraph (3) to at least one landlord which fulfils the "responsible for" criteria set out in paragraph 2(3) of Schedule 8 to the Act.

(10) An amount payable to L under this regulation is recoverable by L as a civil debt.".

**Amendment of regulation 4 and transitional provision**

**6.**—(1) Regulation 4 (recovery of amounts from other landlords: cases under paragraph 3 of Schedule 8) is amended as follows.

(2) But the amendments made by paragraphs (3), (5), (6), (7) and (8) do not apply in respect of a notice given before the date this regulation comes into force by a landlord under regulation 4(2) of the Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022.

(3) For paragraph (2) substitute—

"(2) Where this regulation applies the contributing landlord is liable to pay L the remediation amount.

(2A) To recover the remediation amount from the contributing landlord who is liable under paragraph (2) L must give the contributing landlord a notice which sets out the information listed in paragraph (2B).

(2B) The information which the notice given under paragraph (2A) must contain is—

(a) the remediation amount that L has paid or the remediation amount which L expects to pay;

(b) the time limit for appealing under paragraph (4) to the First-tier Tribunal and for applying for an extension of that time limit under paragraph (4A);

(c) the possible grounds of appeal.".

(4) In paragraph (3) after "5" insert "but nothing in this regulation prevents L from seeking to recover amounts under regulation 3 or 5".

(5) In paragraph (4) omit "that notice".

(6) After paragraph (4) insert—

"(4A) A person who has received a notice under paragraph (2A) may apply to the First-tier Tribunal to extend the time limit for lodging an appeal under paragraph (4).

(4B) An application under paragraph (4A) must be made within 30 days of the notification under paragraph (2A).

(4C) In response to an application under paragraph (4A) the First-tier Tribunal may grant an extension of the time limit for lodging an appeal by no more than 30 days.".

(7) After paragraph (5) insert—

"(5A) Where an appeal made on the grounds specified in paragraph (5)(a)—

(a) is unsuccessful, subject to the outcome of an appeal on another ground under this regulation the person who was notified by L is required to pay the remediation amount set out in the notice;

(b) is successful, subject to the outcome of an appeal on another ground under this regulation the person who was notified by L is required to pay the remediation amount determined by the First-tier Tribunal.

(5B) Where an appeal made on the grounds specified in paragraph (5)(b)—

(a) is unsuccessful, subject to the outcome of an appeal on another ground under this regulation the person who was notified by L is required to pay the remediation amount set out in the notice;

(b) is successful, subject to the outcome of an appeal on another ground under this regulation the person who was notified by L is not required to pay the remediation amount set out in the notice.".

(8) In paragraph (6) after "company" insert "or a named manager".

(9) For paragraph (7) substitute—

"(7) In this regulation "the contributing landlord" means the person who–

(a) is the landlord under the qualifying lease referred to in paragraph (1) provided that they met the contribution condition in paragraph 3 of Schedule 8 to the Act on 14th February 2022; or

(b) after 14th February 2022 became the owner of that landlord's interest.".

(10) After paragraph (7) insert—

"(8) An amount payable to L under this regulation is recoverable by L as a civil debt.".

**Amendment of regulation 5 and transitional provision**

**7.**—(1) Regulation 5 (recovery of amounts from other landlords: other cases under Schedule 8) is amended as follows.

(2) But the amendments made by paragraphs (4), (5), (6), (7) and (8) do not apply in respect of a notice given before the date on which this regulation comes into force by a landlord under regulation 5(7) of the Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022.

(3) In paragraph (3) after "4" insert "but nothing in this regulation prevents L from seeking to recover amounts under Regulation 3 or 4".

(4) For paragraph (7) substitute—

"(7) To recover from each landlord their share of the remediation amount for which each is liable under paragraph (2) L must give to each landlord a notice which contains the information set out in paragraph (7A).

(7A) The information which the notice given under paragraph (7) must contain is—

(a) the remediation amount that L has paid or the remediation amount which L expects to pay;

(b) the amount which the recipient of the notice is required to pay to L ("the specified amount");

(c) how the specified amount was calculated;

(d) the time limit for appealing under paragraph (8) to the First-tier Tribunal and for applying for an extension of that time limit under paragraph (8A);

(e) the possible grounds of appeal.".

(5) In paragraph (8) omit "that notice".

(6) After paragraph (8) insert—

"(8A) A person who has received a notice under paragraph (7) may apply to the First-tier Tribunal to extend the time limit for lodging an appeal under paragraph (8).

(8B) An application under paragraph (8A) must be made within 30 days of the notification under paragraph (7).

(8C) In response to an application under paragraph (8A) the First-tier Tribunal may grant an extension of the time limit for lodging an appeal by no more than 30 days.".

(7) After paragraph (9) insert—

"(9A) Where an appeal made on the grounds specified in paragraph (9)(a)—

(a) is unsuccessful, subject to the outcome of an appeal on another ground under this regulation, the person who was notified by L is required to pay the specified amount set out in the notice;

(b) is successful, subject to the outcome of an appeal on another ground under this regulation, the First-tier Tribunal must substitute the remediation amount it rules is the correct one for the specified amount set out in the notice.

(9B) Where an appeal made on the grounds specified in paragraph (9)(b)—

(a) is unsuccessful, subject to the outcome of an appeal on another ground under this regulation, the person who was notified by L is required to pay the specified amount set out in the notice;

(b) is successful, the person who was notified by L is not required to pay the specified amount set out in the notice.

(9C) Where an appeal made on the grounds specified in paragraph (9)(c)—

(a) is unsuccessful, subject to the outcome of an appeal on another ground under this regulation, the person who was notified by L is required to pay the specified amount set out in the notice;

(b) is successful, subject to the outcome of an appeal on another ground under this regulation, the person who was notified by L is required to pay the share of the remediation amount determined by the First-tier Tribunal, calculated in accordance with paragraphs (4) to (6).".

(8) In paragraph (10) after "company" insert "or a named manager".

(9) After paragraph (11) insert—

"(12) An amount payable to L under this regulation is recoverable by L as a civil debt.".

**Amendment of regulation 6**

**8.**—(1) Regulation 6 (leaseholder deed of certificate: landlord's steps and requirements for leaseholders) is amended as follows.

(2) Omit paragraph (1).

(3) In paragraph (4)(c) after "certificate" insert "and the evidence referred to in paragraph (7)".

(4) After paragraph (10) insert—

"(10A) Within one week of receiving a leaseholder deed of certificate the current landlord must provide a copy of the certificate to any RMC, RTM company or named manager in relation to the building to which the certificate relates.

(10B) Where a current landlord fails to comply with the requirement in paragraph (10A) the costs of a relevant measure relating to a relevant defect in the building to which the leaseholder deed of certificate relates are prescribed costs under paragraph 16(4) of Schedule 8 to the Act and so are not to be regarded as relevant costs to be taken into account in determining the amount of a service charge payable under a relevant lease of premises in that building and must not be met from a relevant reserve fund as defined in paragraph 10 of Schedule 8 to the Act.".

**Amendment of the Building Safety (Leaseholder Protections) (England) Regulations 2022**

**9.** The Building Safety (Leaseholder Protections) (England) Regulations 2022(**5**) are amended in accordance with regulations 10 to 13.

**Amendment of regulation 1**

**10.** In regulation 1(3) (citation, commencement, extent, application and interpretation)—

(**5**) S.I. 2022/711.

(a) for the definition of "current landlord" substitute—

""current landlord" means a person who is the landlord under a lease of premises in a relevant building(**6**);";

(b) after the definition of "current landlord" insert—

""landlord group" has the meaning given in paragraph 3(4) of Schedule 8 to the Act;"

(c) after the definition of "leaseholder" insert—

""named manager" means, in relation to a building, a person who is named in a lease as being the party with managing and repairing obligations in relation to the building or part of the building and who is a separate legal person from the freeholder of the building and the landlord of the building or part of the building;"

(d) for the definition of "RMC" substitute—

""RMC" means a body corporate which is party to a lease of a building where—

(a) the body corporate is limited by guarantee and the members of that body are tenants under leases of dwellings in the building ("leaseholders"), or

(b) the majority of the shares of the body corporate are held by leaseholders; and".

**Amendment of regulation 6**

**11.**—(1) Regulation 6 (landlord's certificate) is amended as follows.

(2) In paragraph (1) after sub-paragraph (d) insert—

"(e) within four weeks of becoming aware of a new leaseholder deed of certificate (as defined in regulation 6 of the Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022) which is in relation to a lease of a dwelling in the building of which the current landlord is the landlord and which contained information that was not included in a previous landlord's certificate.".

(3) After paragraph (2) insert—

"(2A) But the requirement in paragraph (2) that the landlord's certificate contain the information referred to in paragraph (3) and be accompanied by the evidence set out in paragraph (4) is modified as set out in paragraphs (2B) to (2G).

(2B) Where the landlord's certificate confirms that—

(a) either the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) met the contribution condition under paragraph 3 of that Schedule or the leaseholder's lease is not a qualifying lease as defined in section 119 of the Act, and

(b) the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act)—

(i) met the condition in paragraph 2(2) of that Schedule, or

(ii) did not believe at the time of completing the certificate that there was a relevant defect,

it does not have to contain the information referred to in paragraph (3) nor be accompanied by the evidence set out in paragraph (4).

(2C) Where the landlord's certificate confirms that—

(a) the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act)—

(i) met the condition in paragraph 2(2) of that Schedule, or

(**6**) See section 117 of the Act for the definition of "relevant building".

(ii) did not believe at the time of completing the certificate that there was a relevant defect, and

(b) the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) did not meet the contribution condition under paragraph 3 of that Schedule,

it does not have to contain the information referred to in paragraphs (3)(a) and (b) nor be accompanied by the evidence set out in paragraph (4)(d).

(2D) Where the landlord's certificate confirms that—

(a) the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act) did not meet the condition in paragraph 2(2) of that Schedule, and

(b) either the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) met the contribution condition under paragraph 3 of that Schedule, or the leaseholder's lease is not a qualifying lease as defined in section 119 of the Act,

it does not have to contain the information referred to in paragraphs (3)(a) and (c) nor be accompanied by the evidence set out in paragraphs (4)(a), (b), (e) and (f).

(2E) Where the landlord's certificate confirms that—

(a) the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act) did not meet the condition in paragraph 2(2) of that Schedule, and

(b) the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) is exempt from the contribution condition under paragraph 3(6) of that Schedule,

it does not have to contain the information referred to in paragraph (3)(c) nor be accompanied by the evidence set out in paragraphs (4)(a) and (b).

(2F) Where the landlord's certificate confirms that—

(a) the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act)—

(i) met the condition in paragraph 2(2) of that Schedule, or

(ii) did not believe at the time of completing the certificate that there was a relevant defect, and

(b) the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) is exempt from the contribution condition under paragraph 3(6) of that Schedule,

it does not have to contain the information referred to in paragraph (3) nor be accompanied by the evidence set out in paragraphs (4)(a), (b) and (d).

(2G) Where the landlord's certificate confirms that—

(a) the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act) did not meet the condition in paragraph 2(2) of that Schedule,

(b) the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) did not meet the contribution condition under paragraph 3 of that Schedule, and

(c) the value of the qualifying lease on 14th February 2022 was below £325,000 in Greater London or £175,000 elsewhere in England,

it does not have to be accompanied by the evidence set out in paragraphs (4)(e) and (f).".

(4) For paragraph (3) substitute—

"(3) The information is—

(a) the percentage of the storeys in the relevant building for which each relevant landlord was the landlord at the qualifying time;

(b) in relation to the condition in paragraph 2 of Schedule 8 to the Act, where a relevant landlord was part of a landlord group at the qualifying time, details of

the corporate structure of the relevant landlord and any person associated with the relevant landlord and including—

(i) the names of all the directors of each company in that group and directors of each corporate trustee, including in each case nominee and shadow directors or any person occupying the position of director by whatever name called;

(ii) the name of any other person or persons who has the right to exercise or does exercise significant control or influence directly or indirectly over the group;

(iii) details of the type of trust if any, the law to which it is subject and where it is tax resident; and

(iv) in relation to trusts with an interest in the shares of any company comprised in the group, details of the economic settlor, the named beneficiaries or class of beneficiaries and protector and any other person who has the right to exercise or does exercise significant influence or control directly or indirectly over the trust;

(c) in relation to the condition in paragraph 3 of Schedule 8 to the Act, where the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) was part of a landlord group at the qualifying time—

(i) details of the corporate structure of the group, setting out—

(aa) the companies which make up the landlord group,

(bb) the beneficial owner of each company in the group, and

(cc) if the beneficial owner of the group or any company comprised in the group is, or includes, a trust foundation or arrangement of a similar character, details of the trust and the trustees;

(ii) the name of any other person who has the right to exercise or does exercise significant control or influence directly or indirectly over the group;

(iii) details of the type of trust if any, the law to which it is subject and where it is tax resident; and

(iv) in relation to trusts with an interest in the shares of any company comprised in the group—

(aa) details of the economic settlor;

(bb) the named beneficiaries or class of beneficiaries and protector, and

(cc) any other person who has the right to exercise or does exercise significant influence or control directly or indirectly over the trust.".

(5) In paragraph (4)—

(a) in sub-paragraph (e) for "any works carried out to the relevant building since 28th June 2017 to remedy relevant defects" substitute "any relevant measures (as defined in paragraph 1 of Schedule 8 to the Act) taken in relation to those relevant defects since 28th June 2017"; and

(b) in sub-paragraph (f) for "any works carried out to remedy" substitute "any relevant measures taken in relation to".

(6) In paragraph (7)—

(a) for "If any person who is a relevant landlord under paragraph 2(4) of Schedule 8 to the Act" substitute "If a current landlord";

(b) for "Schedule 2" substitute "Schedule 1".

(7) In paragraph (8)(a) after "(2)(b)" insert ", (2B)(a), (2C)(b), (2D)(b), (2E)(b), (2F)(b), (2G)(b), (3)(c)".

(8) After paragraph (8) insert—

"(9) Where a current landlord has provided a landlord's certificate to a leaseholder they must provide a copy of that certificate to any other landlords of premises in the building, the RMC, RTM company or named manager within one week of providing the certificate to the leaseholder.

(10) Where a current landlord fails to comply with the requirement in paragraph (9) the costs of a relevant measure relating to a relevant defect in the building to which the certificate relates are prescribed costs under paragraph 16(4) of Schedule 8 to the Act and so are not to be regarded as relevant costs to be taken into account in determining the amount of a service charge payable under a relevant lease of premises in that building and must not be met from a relevant reserve fund as defined in paragraph 10 of Schedule 8 to the Act.".

**Amendment of regulation 10**

**12.** In regulation 10(1) (application of service charge restrictions to non-residential leases)—

(a) omit "qualifying";

(b) for "paragraphs (2) and (3)" substitute "paragraph (2)".

**Substitution of Schedule 1**

**13.** For Schedule 1 substitute the new Schedule 1 set out in the Schedule to these Regulations.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

4th August 2023

SCHEDULE Regulation 13

"SCHEDULE 1 Regulation 6

## Building Safety Act 2022

## Landlord's certificate

**This certificate relates to the lease of:** .....
*[insert name and address of the relevant building]*

**The lease was granted on:** .....
*[insert date lease was granted]*

**The dwelling to which this lease relates is:** .....
*[insert name or number of the dwelling to which the lease relates]*

**Name and address of the relevant landlord under the lease:** .....
*[insert name and address of the landlord under the lease on 14th February 2022]*

**Name and address of the current landlord under the lease:** .....
*[insert name and address of the current landlord under the lease]*

**Name and address of any superior relevant landlords under the lease:**

1. .....
2. .....
3. .....
4. .....
5. .....

*[insert name and address of any superior landlords under the lease at the beginning of 14th February 2022]*

**IMPORTANT NOTE:** Answers to the questions below are needed to confirm whether or not any of the relevant landlords under the lease are responsible for historical safety defects under the Building Safety Act 2022 and, if so, to what extent.

Failure to return a completed, signed copy of this certificate, along with the evidence from any superior landlords under this lease, to the leaseholder will result in you being held responsible for all historical safety defects under the lease to which this certificate relates.

In answering the questions below you must provide information about the property as at 14th February 2022, not the current date.

If you were not the landlord of the property on 14th February 2022 it is still you who are responsible for completing, signing and returning this certificate, but you may need to seek the answers to the questions below from someone else e.g. the person who was the landlord on that date.

**Questions as to developer criteria**

The relevant defect to which the below statement applies is .....
[*insert name of relevant defect to which the statement applies; where the landlord certificate is required but no relevant defect has been identified, please answer "N/A" and place an X in box 4 below*]

1. On 14th February 2022 the landlord under the lease was responsible for the relevant defect or associated with a person responsible for a relevant defect. (The definition of 'responsible' is set out in paragraph 2(3) of Schedule 8 to the Building Safety Act 2022.) ☐

2. On 14th February 2022 at least one superior landlord was responsible for the relevant defect or was associated with a person responsible for a relevant defect. ☐

The superior landlords responsible for the defect are …….....
…….....
[*insert name of relevant landlords to which the statement applies*]

3. On 14th February 2022, the landlord under the lease and all superior landlords were not responsible for the relevant defect or associated with a person responsible for a relevant defect. ☐

4. No relevant defect that requires remediation was identified at the point this certificate was produced. ☐

*[place an X in the box next to the ONE statement which applies]*

**Questions as to qualifying lease**

1. The leaseholder has not provided a leaseholder deed of certificate at the point this certificate was issued. They are assumed not to qualify for the qualifying lease protections until they demonstrate otherwise. ☐

2. The leaseholder has provided a leaseholder deed of certificate, but does not qualify for the qualifying lease protections. ☐

3. The leaseholder has provided a leaseholder deed of certificate demonstrating that they qualify for the leaseholder protections. ☐

*[place an X in the box next to the ONE statement which applies in relation to the leaseholder]*

**Questions as to group net worth criteria**

**Please note:** You are only required to complete this section where the lease is a qualifying lease.

At the beginning of 14th February 2022 the net worth of the landlord under the lease listed above and all the companies (if any) within the landlord group(**d**) of that landlord was £..... [*insert net worth of the landlord group*] and the number of relevant buildings for that landlord and its group on that date (N) was ..... [*insert number of relevant buildings for the landlord group*]

1. The net worth of the landlord group was less than N x £2,000,000 ☐

2. The net worth of the landlord group was equal to or more than N x £2,000,000 ☐

3. The landlord is exempt from the net worth assessment as it is a private registered provider of social housing, a local authority, a government department, an arm's length body, an NHS Foundation Trust or the Crown. The landlord is: ..... [*specify category*] ☐

*[place an X in the box next to the ONE statement which applies in relation to the landlord group]*

**Determination of the value of a qualifying lease**

**Please note:** You are only required to complete this section where both of the following criteria apply:

- you do not meet the contribution condition; and
- the lease is a qualifying lease.

On 14th February 2022 the value of the qualifying lease listed above was £..... [*insert value of the lease on 14th February 2022, calculated in accordance with SI 2022/859*]

**Work undertaken on relevant defects**

**Please note:** You are only required to complete this section where all of the following criteria apply:

- you do not meet the contribution condition;
- the lease is a qualifying lease; and
- the value of the lease on 14th February 2022 was more than £175,000 (£325,000 in Greater London).

The following relevant measures relating to relevant defects have been carried out to the relevant building since 28 June 2017:

| Date completed | Work undertaken | Total cost of works for building | Number of flats between which the costs should be divided | This lease's share of costs |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Total amount paid for this lease since 28 June 2017: £..... [*sum of this property's share of costs to date in the table above*]

Based on the information provided in this certificate and the information provided by the leaseholder in the deed of certificate, the maximum liability for relevant measures relating to relevant defects for this qualifying lease for non-cladding defects and interim measure costs is £..... [*calculate liability for the qualifying lease based on property value, shared ownership status and works already undertaken in accordance with the Building Safety Act 2022*]

**Evidence**

**The following documents form part of this landlord certificate**

*[place an X in the box next to each document provided, fill in additional details if required]*

| **Accompanying documents required under Regulation 6** |
|---|
| A copy of each document listed below is required in accordance with regulation 6, except where one of the following applies:<br><br>1. Where you (the current landlord) or a superior landlord met the developer test or there is no known defect at the time of completing this certificate and you met the contribution condition or the lease is not a qualifying lease, you do not need to provide information and evidence under regulation 6(3) and (4). ☐<br>2. Where you or a superior landlord met the developer test or there is no known defect at the time of completing this certificate and you did not meet the contribution condition, you do not need to provide information and evidence under regulation 6(3)(a) and (b), and (4)(d). ☐<br>3. Where you or a superior landlord did not meet the developer test and you met the contribution condition or the lease is not a qualifying lease, you do not need to provide information and evidence under regulation 6(3)(a) and (c), and (4)(a), (b), (e) and (f). ☐<br>4. Where you or a superior landlord did not meet the developer test and you are exempt from the contribution condition (in accordance with paragraph 3 of Schedule 8 to the Building Safety Act 2022), you do not need to provide information and evidence under regulation 6(3)(c), and (4)(a) and (b). ☐<br>5. Where you or a superior landlord met the developer test or there is no known defect at the time of completing this certificate and you are exempt from the contribution condition (in accordance with paragraph 3 of Schedule 8 to the Building Safety Act 2022), you do not need to provide information and evidence under regulation 6(3), and (4)(a), (b) and (d). ☐ |

| | |
|---|---|
| 6. Where your or a superior landlord did not meet the developer test, you did not meet the contribution condition and the value of the lease on 14 February 2022 was below £325,000 in Greater London or £175,000 elsewhere in England, you do not need to provide information and evidence under regulation 6(4)(e) and (f). | ☐ |
| *[place an X in the box next to the ONE statement which applies (if any), and insert "N/A" in the applicable boxes below]* | |
| A. Evidence of the relevant percentage of the building owned by each landlord (where there are superior landlords in the building) (regulation 6(3)(a)) | ☐ |
| B. Organogram or other form of information showing the landlord group companies and related details in relation to the developer test (regulation 6(3)(b)) | ☐ |
| C. Organogram or other form of information showing the landlord group companies and related details in relation to the contribution condition (regulation 6(3)(c)) | ☐ |
| D. Most recent company accounts for each company in the landlord group audited or filed after 14 February 2017 but before 14 February 2022 (regulation 6(4)(a)) | ☐ |
| E. Statement from chartered accountant or finance director (regulation 6(4)(b)) | ☐ |
| F. Documents demonstrating that the relevant building was constructed or converted before the relevant period and details of any relevant works which were carried out in the relevant period (regulation 6(4)(c)). | ☐ |
| G. Confirmation of the identity of any person who undertook works relating to the relevant defect or commissioned those works (regulation 6(4)(d)(i)) | ☐ |
| H. Details of the parties to any joint venture which commissioned or undertook works relating to the relevant defect in the building (regulation 6(4)(d)(ii)) | ☐ |
| I. Evidence of any relevant defects and works carried out to remedy those defects since 28 June 2017 (regulation 6(4)(e)) | ☐ |
| J. Evidence of any costs paid in relation to the works carried out to remedy those relevant defects, details of the number of flats between which the costs should be divided and evidence of the leaseholder's maximum remaining liability (regulation 6(4)(f)) | ☐ |

Signed by: .....
*[full name of landlord under the lease]*

| |
|---|
| *Signature* |

Date: .....

**WARNING:** If any person who is a relevant landlord under paragraph 2(4) of Schedule 8 to the Building Safety Act 2022 does not provide a certificate which complies with regulation 6 in the form outlined in this certificate to the leaseholder, the condition in paragraph 2(2) of Schedule 8 to the Act is to be treated as met in accordance with paragraph 14(2) of Schedule 8 to the Act.

Dishonestly making a false representation or failing to disclose information required may be a criminal offence under section 2 or 3 of the Fraud Act 2006. Under section 12 of that Act a director, manager, secretary of other similar officer of a corporation may also be criminally liable.

**Notes**

a. a qualifying lease has the meaning in section 119 of the Building Safety Act 2022.
b. a relevant building has the meaning in section 117 of the Building Safety Act 2022, and for the purposes of this certificate includes the relevant buildings for the whole landlord group on 14th February 2022 (see paragraph 3 of Schedule 8 to the Act).
c. the net worth is to be determined in accordance with regulations made under paragraph 3(4)(b) of Schedule 8 to the Building Safety Act 2022.
d. the landlord group has the meaning in paragraph 3(4) of Schedule 8 to the Building Safety Act 2022.
e. "responsible for" has the meaning given in paragraph 2(3) of Schedule 8 to the Building Safety Act 2022.
f. a relevant defect has the meaning in section 120 of the Building Safety Act 2022.
g. "associated with" has the meaning given in section 121 of the Building Safety Act 2022.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022 (S.I. 2022/859) and the Building Safety (Leaseholder Protections) (England) Regulations 2022 (S.I. 2022/711) support the leaseholder protection provisions in sections 116 to 125 of, and Schedule 8 to, the Building Safety Act 2022 ("the Act") and this instrument amends those Regulations.

Regulations 3 to 8 amend the Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022.

Regulation 3 inserts into the interpretation regulation a definition of 'current landlord' and 'named manager', and defines 'shared ownership lease' which is the same definition used for certain purposes in the Act.

Regulation 4 adds the Homes and Communities Agency, established by the Housing and Regeneration Act 2008, to the list of interested persons who may apply for a remediation order under section 123 of the Act. And for the purposes of section 124 of the Act it makes the Homes and Communities Agency, and the named manager, RMC and RTM company of a relevant building interested persons who may apply for a remediation contribution order under that section.

Regulations 5, 6 and 7 amend regulations 3, 4 and 5 which make provision for recovery of amounts as between landlords under various paragraphs of Schedule 8 to the Act. Some of the amendments

relating to a notice issued by a landlord will not apply in respect of a notice issued before these Regulations come into force.

Regulation 5 amends regulation 3 which is concerned with recovery of amounts from other landlords under paragraph 2 of Schedule 8 to the Act. The changes make it clear that where two or more landlords are responsible landlords their liability is joint and several and that to recover the amount a landlord must give a notice to a least one of them. New paragraph (3A) sets out the information to be included in the notice. The recipient of a notice may apply to the Tribunal for an extension of the time limit for appealing. New paragraphs (6A) and (6B) set out the consequences of an appeal by reference to the grounds on which it was brought and whether the outcome was successful.

Regulation 6 amends regulation 4 which is concerned with recovery of amounts from other landlords under paragraph 3 of Schedule 8 to the Act. The amendments similarly change the process for recovering the remediation amount, the information to be included in the relevant notice, and the outcomes of appeal.

Regulation 7 amends regulation 5 which is concerned with recovery of amounts from other landlords under other provisions of Schedule 8 to the Act, with chances to the process for recovery and the outcome of an appeal.

Regulations 5, 6, and 7 also amend regulations 3(5), 4(4) and 5(8) to remove the words ‘that notice’ to make it clear that the appeal is not on the fact of the notice but on the grounds of appeal which are set out in the following paragraph. They also allow named managers to recover funds from other landlords in the same way as an RMC or RTM company and provide for an amount payable under these regulations to be recovered by L as a civil debt.

Regulation 8 amends regulation 6 by adding a new paragraph requiring a landlord, RMC, RTM company or named manager who has received a leaseholder certificate to share it with the landlord who is carrying out the repairs.

Regulations 10 to 13 amend the Building Safety (Leaseholder Protections) (England) Regulations 2022.

Regulation 10 includes a definition of “RMC” which is the same as in the affirmative regulations, substitutes the definition of “current landlord”, and defines “named manager” to align with that in the Building Safety (Leaseholder Protections) ((Information etc.) (England) Regulations 2022.

Regulation 11 amends regulation 6 which is concerned with the landlord’s certificate. It adds a new circumstance in which the current landlord must provide a landlord’s certificate to a leaseholder. It also sets what if any information needs to be included in and evidence has to accompany a landlord’s certificate in certain circumstances. In particular this means that where the landlord accepts that the landlord met the contribution condition and was responsible for a relevant defect (directly or indirectly) the landlord does not have to provide information about group structure or accounts.

Regulation 12 amends regulation 10 which is concerned with the application of service charge restrictions to non-residential leases to make technical changes.

Regulation 13 replaces Schedule 1 to the Building Safety (Leaseholder Protections) (England) Regulations 2022; the substitute schedule includes an amended landlord’s certificate which reflects changes made by these Regulations.

An impact assessment covering the leaseholder protection provisions in both the Act and the regulations made under it (S.I. 2022/711 and S.I. 2022/859), using illustrative examples to demonstrate how the leaseholder protection provisions work in practice, was published on 20 June 2022 and the analysis contained in it reflects the policy achieved by this statutory instrument. The impact assessment along with the explanatory memorandum for these Regulations is available at www.legislation.gov.uk. A copy of both may be inspected at the Department for Levelling Up, Housing and Communities at 2 Marsham Street, London, SW1P 4DF.

STATUTORY INSTRUMENTS

# 2022 No. 712

# BUILDING AND BUILDINGS CONSTRUCTION MARKET STANDARDS

## The Construction Products (Amendment) Regulations 2022

| | |
|---|---|
| *Made - - - -* | *at 1.15 p.m. on 28th June 2022* |
| *Laid before Parliament* | *at 4.30 p.m. on 28th June 2022* |
| *Coming into force - -* | *20th July 2022* |

The Secretary of State makes these Regulations in exercise of the powers conferred by paragraphs 1, 15(1), 20(1)(b) and 21(1)(a) of Schedule 11 to the Building Safety Act 2022(**1**).

### Citation, extent, and commencement

**1.**—(1) These Regulations may be cited as the Construction Products (Amendment) Regulations 2022.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

(3) These Regulations come into force on 20th July 2022.

### Amendments to the Construction Products Regulations 2013

**2.**—(1) The Construction Products Regulations 2013(**2**) are amended in accordance with the following paragraphs.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1) in the definition of "enforcement authority" after "local weights and measures authority" insert "or the Secretary of State";

(b) in paragraph (2) omit "to the Secretary of State or".

(3) In regulation 3(1)(a) (competent authority) omit "the Secretary of State or".

(4) In regulation 5(3) (breaches of duty by economic operators)—

(a) for "enforcement authority" substitute "local weights and measures authority" and,

(**1**) 2022 c. 30.
(**2**) S.I. 2013/1387, to which relevant amendments were made by S.I. 2019/465 and 2020/1359.

(b) after "established" insert "or the Secretary of State".

(5) In regulation 10 (duty of enforcement authority to give notice) after "enforcement authority" insert "(except where the Secretary of State is the enforcement authority)".

(6) In regulation 14—

(a) in paragraph (1), at the beginning insert "Subject to paragraph (1A),";

(b) after paragraph (1) insert—

"(1A) If the Secretary of State is acting in their capacity as an enforcement authority the Secretary of State may—

(a) enforce the provisions of Part 2; and

(b) carry out market surveillance duties under the 2008 Regulation, as it applies to construction products, and under the 2011 Regulation.".

**Amendments to the Construction Products (Amendment etc.) (EU Exit) Regulations 2020**

**3.**—(1) The Construction Products (Amendment etc.) (EU Exit) Regulations 2020(**3**) are amended in accordance with the following paragraph.

(2) In Schedule 3 (construction products enforcement rules – Northern Ireland)—

(a) in paragraph 1(2) (interpretation) in the definition of "enforcement authority" after "Northern Ireland" insert "or the Secretary of State";

(b) in paragraph 4(3)—

(i) for "enforcement authority" substitute "district council in Northern Ireland" and,

(ii) after "established" insert "or the Secretary of State";

(c) in paragraph 10 (duty of enforcement authority to give notice) after "enforcement authority" insert "(except where the Secretary of State is the enforcement authority)";

(d) in paragraph 17(1), at the beginning insert "Subject to sub-paragraph (1A),"; and

(e) after sub-paragraph (1) of paragraph 17 insert—

"(1A) Where the Secretary of State is acting in their capacity as an enforcement authority the Secretary of State may—

(a) enforce the provisions of Part 2 of this Schedule; and

(b) carry out market surveillance duties under the RAMS Regulation, as it applies to construction products, and under the EU Construction Products Regulation.".

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Greenhalgh*
Minister for Building Safety and Fire
Department for Levelling Up, Housing and Communities

At 1.15 p.m. on 28th June 2022

(**3**) S.I. 2020/1359.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Regulation 2 of these Regulations amends regulations 2, 3, 5, 10 and 14 of the Construction Products Regulations 2013 to provide that the Secretary of State is an enforcement authority in relation to construction products in England and Wales, and in Scotland.

Regulation 3 of these Regulations amends Schedule 3 to the Construction Products (Amendment etc.) (EU Exit) Regulations 2020 to provide that the Secretary of State is an enforcement authority in relation to construction products in Northern Ireland.

An impact assessment has not been produced for this instrument as no significant impact on the private, voluntary or public sector is foreseen.

STATUTORY INSTRUMENTS

# 2023 No. 753

# BUILDING AND BUILDINGS, ENGLAND

## The Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023

| | |
|---|---|
| *Made - - - -* | *3rd July 2023* |
| *Coming into force - -* | *4th July 2023* |

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 126, 127, 128, 129 and 168 of the Building Safety Act 2022(**1**).

In accordance with section 168(6) of that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

## PART 1

### Introduction

**Citation, commencement, extent and application**

**1.**—(1) These Regulations may be cited as the Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023 and come into force on the day after they are made.

(2) These Regulations extend to England and Wales and apply in England only.

**Interpretation**

**2.**—(1) In these Regulations—

"the Act" means the Building Safety Act 2022;

"adjusted operating profits" has the meaning given in regulation 11(4);

"financial year" means the financial year as determined in accordance with section 390 of the Companies Act 2006(**2**);

"prohibitions list" means the list published under regulation 20(1)(b);

"relevant building" has the meaning given in regulation 3;

(**1**) 2022 c. 30.
(**2**) 2006 c. 46.

"the scheme" means the Responsible Actors Scheme established by regulation 5;

"Self Remediation Contract" has the meaning given in regulation 21(1);

"Self Remediation Terms" has the meaning given in regulation 21(1);

"specified period" means the financial years ending in 2017, 2018 and 2019;

"wound up" has the meaning given in the Self Remediation Terms.

(2) In these Regulations—

(a) "group" in relation to a person ("A") means A and any body corporate which is associated with A (within the meaning given in section 131 of the Act) and for the purposes of regulations 7(1)(b), 8(1)(a) and 9(1)(a) includes any body corporate which has been wound up, but which before it was wound up was associated with A;

(b) a body corporate is to be treated as controlled by another body corporate in the circumstances set out in sections 131(2) to 131(6) of the Act;

(c) a person acting as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986(**3**) or as receiver in relation to A or any assets of A, or any body corporate in the same group as A or its assets, is not to be treated as being in the same group as A;

(d) a body corporate in which an insolvency practitioner in their capacity as an insolvency practitioner is a partner, a director or a shareholder, or with which such insolvency practitioner has any employment, consultancy or similar arrangement in that capacity is not to be treated as a member of the same group as A;

(e) a bank, financial institution, trust, fund or other entity—

(i) which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets; and

(ii) which has made debt financing available to A or any other body corporate in the same group as A in the ordinary course of its business and on arm's length terms,

is not to be treated as a member of the same group as A solely by reason of the provision and terms of such debt financing and any associated security or collateral arrangements.

(3) For the purposes of regulations 7 to 9, a person is to be treated as being responsible for the development or refurbishment of a building if that person would be treated as playing a role as a developer or refurbisher in relation to that building in accordance with the definition of "Building" in the Self Remediation Terms and as if "PD Group Company" in that definition was substituted with "person".

**Relevant buildings**

**3.**—(1) In these Regulations, a relevant building means a building which—

(a) is a residential building,

(b) is at least 11 metres high and located in England, and

(c) has been developed or refurbished during the period starting on 5th April 1992 and ending on 4th April 2022 ("the relevant period").

(2) For the purposes of paragraph (1), a "residential building" is a self-contained building or self-contained part of a building, which—

(a) contains, at the date these Regulations come into force, at least one dwelling held under the terms of a lease with a term exceeding 21 years or as commonhold land, or

(**3**) 1986 c. 45.

(b) is owned by a registered provider of social housing.

(3) A building does not cease to be a residential building because it also contains premises which are not dwellings.

(4) In this regulation—

(a) section 117 of the Act applies for the purposes of determining whether a building or part of a building is self-contained;

(b) the height of a building will be determined in accordance with the definition of "Building" in the Self Remediation Terms.

**Notices**

**4.**—(1) Any notice or notification required to be given or issued under these Regulations must be in writing.

(2) Any such notice or notification may be given or issued in satisfaction of any requirement under these Regulations by—

(a) delivering or sending it to, or leaving it at—

(i) the addressee's registered office, the addressee's principal place of activity, or the addressee's home address (as applicable); or

(ii) another address supplied by the addressee for the purposes of these Regulations or under the Self Remediation Contract, or

(b) electronic means, by sending it to an email address provided by the addressee for the purposes of these Regulations or under the Self Remediation Contract.

(3) Where no address is supplied or is otherwise available under paragraph (2), or if an address under paragraph (2) is outside the United Kingdom, any requirement to give or issue a notice or notification under these Regulations is to be treated as satisfied where reasonable steps are taken to deliver or send the notice.

# PART 2

## The Responsible Actors Scheme

### CHAPTER 1

### Establishment and eligibility for membership

**Establishment of scheme**

**5.** A scheme to be known as the Responsible Actors Scheme ("the scheme"), which is a scheme to secure the safety of people in or about buildings and improve the standard of buildings by securing that persons in the building industry remedy defects in buildings relating to fire safety and contribute to costs associated with remedying such defects in relation to buildings, is established in accordance with these Regulations.

**Eligibility: general**

**6.** A person (in this regulation and regulations 7 to 11, "P") is eligible to be a member of the scheme if P—

(a) satisfies the criteria set out in regulation 7, 8 or 9; and

(b) is not a registered provider of social housing, or a wholly-owned subsidiary of a registered provider of social housing (and "wholly-owned subsidiary" has the meaning given in section 1159 of the Companies Act 2006(**4**)).

**Eligibility: residential property developers**

**7.**—(1) The criteria in this regulation are satisfied if—

(a) P's principal business is residential property development, within the meaning in regulation 10;

(b) P has been responsible for the development or refurbishment of one or more relevant buildings in the relevant period; and

(c) P satisfies the condition in regulation 11.

(2) For the purposes of determining whether the condition in paragraph (1)(b) is met, P is to be treated as being responsible for the development or refurbishment of a building, if that building is a relevant building which a body corporate in the same group as P ("GP") was responsible for developing or refurbishing in the relevant period, whether or not the building was developed or refurbished before GP was in the same group as P.

**Eligibility: buildings eligible for remediation funds**

**8.**—(1) The criteria in this regulation are satisfied if—

(a) P has been responsible for the development or refurbishment of two or more buildings which have before the date these Regulations come into force been assessed as being eligible for funding under one of the following funds established by the Secretary of State—

(i) the Private Sector ACM Cladding Remediation Fund;

(ii) the Social Sector ACM Cladding Remediation Fund; or

(iii) the Building Safety Fund; and

(b) P satisfies the condition in regulation 11.

(2) For the purposes of determining whether the condition in paragraph (1)(a) is met, P is to be treated as being responsible for the development or refurbishment of a building if a body corporate in the same group as P ("GP") was responsible for developing or refurbishing the building, whether or not the building was developed or refurbished before GP was in the same group as P.

(3) For the purposes of paragraph (1)(a), a building has been assessed as eligible if—

(a) a decision has been taken by the Secretary of State—

(i) in relation to the Private Sector ACM Cladding Remediation Fund, approving the grant of funding in relation to the building, with or without conditions,

(ii) in relation to the Social Sector ACM Cladding Remediation Fund, approving the application for funding, with or without conditions, or

(iii) in relation to the Building Safety Fund, determining that the building is eligible for funding from the Fund, and

(b) notice in writing of the decision has been given to the person who made the application to the fund in question.

(**4**) 2006 c. 46.

**Voluntary eligibility**

**9.**—(1) The criteria in this regulation are satisfied if—

(a) P has been responsible for the development or refurbishment of one or more relevant buildings in the relevant period;

(b) at least one of the buildings referred to in sub-paragraph (a) would require remediation under the Self Remediation Terms, if P were subject to the Self Remediation Terms; and

(c) P wishes to become a member of the scheme.

(2) For the purposes of determining whether the condition in paragraph (1)(a) is met, P is to be treated as being responsible for the development or refurbishment of a building, if that building is a relevant building which a body corporate in the same group as P ("GP") was responsible for developing or refurbishing in the relevant period, whether or not the building was developed or refurbished before GP was in the same group as P.

**Residential property development**

**10.**—(1) For the purposes of regulation 7(1)(a), P's principal business is residential property development if—

(a) 50% or more of P's total adjusted operating profits for the specified period were derived from the development of residential property in the United Kingdom; or

(b) it is reasonable for Secretary of State to conclude from—

(i) annual reports published by P, or

(ii) where P does not publish an annual report, any other publication published by P or by a body corporate in the same group as P,

which relate to the specified period, that P's principal business activity during the specified period was the development of residential property.

(2) For the purposes of this regulation—

(a) "residential property" has the same meaning as in section 37 of the Finance Act 2022(**5**);

(b) the "development of residential property"—

(i) means commissioning or undertaking the construction or refurbishment of residential property, with a view to granting or disposing of interests in that property, and

(ii) includes residential property development activities (within the meaning of section 35 of the Finance Act 2022) which are ancillary to the activities in paragraph (i);

(c) P's adjusted operating profits means the adjusted operating profits for the specified period derived from P's accounts or consolidated accounts, as applicable, in accordance with regulation 11.

**Profit condition**

**11.**—(1) The condition in this regulation is satisfied if—

(a) where P does not file consolidated accounts, the average adjusted operating profits for the specified period, as derived from P's accounts are greater or equal to £10 million; or

(b) where P files consolidated accounts, the average adjusted operating profits for the specified period, as derived from the consolidated accounts for P are greater or equal to £10 million.

(**5**) 2022 c. 3.

(2) The average adjusted operating profits referred to in paragraph (1) are to be calculated as the sum of the adjusted operating profits derived from P's accounts (or where paragraph (1)(b) applies, the adjusted operating profits derived from P's consolidated accounts) in each of the three financial years in the specified period divided by three.

(3) If P satisfies the criteria at regulation 7 or 8 including the condition in paragraph 11(1), P does not cease to be eligible to be a member of the scheme because P's adjusted operating profits fall below £10 million in any financial year after the specified period has ended.

(4) In this regulation—

"accounts" means—

(a) financial statements delivered to the registrar of companies in accordance with section 441 of the Companies Act 2006(**6**); or

(b) where P is not subject to section 441 of the Companies Act 2006, such other available financial information about P which enables P's adjusted operating profits to be determined;

"adjusted operating profits" means operating profits adjusted, if necessary, so as to—

(a) include the share of any profit or loss from joint ventures or associates, where consolidated accounts are prepared;

(b) include any investment income recognised from subsidiaries, joint ventures or associates, where unconsolidated accounts are prepared;

(c) exclude items that are non-recurring in nature, such exclusions to include—

(i) items described in the accounts as "exceptional", which are material individually or in aggregate, and are non-recurring in nature;

(ii) gains or losses on the disposal of businesses and investments;

(iii) non-recurring costs of restructuring or the reorganisation of existing businesses;

(iv) costs of integrating newly acquired businesses;

(v) acquisition or disposal costs incurred on the acquisition or disposal of control of a business; and

(vi) costs associated with remediating or mitigating defects in buildings relating to fire safety, including any provision made for such costs;

(d) exclude unrealised valuation adjustments, other than normal depreciation charges, such exclusions to include—

(i) fair value adjustments;

(ii) revaluation gains or losses;

(iii) impairment losses.

"associate" has the same meaning as in IAS 28;

"IAS 28" means International Accounting Standard 28 Investments in Associates and Joint Ventures, as published in October 2017 by the International Accounting Standards Board;

"joint venture" has the same meaning as in IAS 28;

"operating profits" means the profits derived from operating activities, so far as their disclosure in the accounts (whether consolidated or unconsolidated) complies with paragraph 5.9B of Financial Reporting Standard 102 as published by the Financial Reporting Council in March 2013 and revised in March 2018.

(**6**) 2006 c. 46.

(5) For the purposes of paragraph (4), where operating profits are not disclosed in the accounts (whether consolidated or unconsolidated) then operating profit should be determined from profit before tax adjusted to exclude interest, investment income and finance costs.

**Eligibility: avoidance**

**12.**—(1) In any assessment of a person's eligibility to be a member of the scheme under these Regulations, the Secretary of State must disregard any steps taken by the person or by a member of their group after the date on which these Regulations were laid before Parliament where such steps were taken for the main purpose, or one of the main purposes, of the person avoiding being eligible for the scheme ("avoidance action").

(2) Where—

(a) a person ("W") has been wound up, and

(b) the Secretary of State concludes that—

(i) they were wound up as a result of avoidance action, and

(ii) they would have been eligible for the scheme but for such avoidance action,

the Secretary of State may direct that another person ("B") in the group of which W was a member before being wound up, including a person which does not itself meet the criteria in regulation 7 or 8, is to be treated as eligible to join the scheme.

(3) The direction referred to in paragraph (2) must contain a statement that unless B complies with the conditions in paragraph (4), the Secretary of State must include the name of B, and the names of persons controlled by B, on the prohibitions list.

(4) Where B receives the direction referred to in paragraph (2), regulation 14(2) applies as though—

(a) B were the person referred to as F in that regulation; and

(b) the notice referred to in paragraph (2)(b) of that regulation were a notice that W would not have been eligible to join the scheme but for the avoidance action as a result of which W was wound up.

## CHAPTER 2

## Membership of the scheme

**Invitation by the Secretary of State to apply for membership**

**13.**—(1) In this regulation—

(a) "E" is a person whom the Secretary of State considers is likely to satisfy the criteria in regulation 7 or 8 and does not fall within regulation 6(b);

(b) "D" is the designated person in accordance with paragraph (3);

(c) "C" is a person invited to apply to become a member of the scheme in accordance with paragraphs (2), (4) or (5).

(2) Subject to paragraphs (3) to (6), the Secretary of State must give notice to E inviting E to apply to become a member of the scheme.

(3) Where E is a member of a group and the Secretary of State considers that there is more than one person in the group who is likely to satisfy the criteria in regulation 7 or 8 and does not fall within regulation 6(b), the Secretary of State must direct that only one of those persons is for the time being to be invited to apply to become a member of the scheme ("the designated person", D).

(4) Where paragraph (3) applies the Secretary of State must give notice to D inviting D to apply to become a member of the scheme.

(5) Where a person in E's group which is not eligible under regulation 6 has entered into a Self Remediation Contract before the date on which these Regulations come into force, subject to paragraph (6), the Secretary of State must give notice inviting the following persons to apply to become a member of the scheme—

(a) the person who has entered into a Self Remediation Contract, and

(b) either E or, where paragraph (3) applies, D,

and must accept such an application by either the person invited under sub-paragraph (a) or the person invited under sub-paragraph (b).

(6) Where, before the date of the notice referred to in paragraph (5), the person falling within paragraph (5)(a) gives notice to the Secretary of State that they intend to apply to become a member of the scheme, the Secretary of State may direct that only that person is for the time being to be invited to apply to become a member of the scheme, and accordingly is not required by paragraph (5) to give a notice to any person under paragraph (5)(b).

(7) The notice given under paragraphs (2) or (4) must contain a statement that unless C complies with the conditions in regulation 14, the Secretary of State must include the name of C, and the names of persons controlled by C, on the prohibitions list.

(8) Any notices given under paragraph (5) must contain a statement that unless each person to whom a notice is given complies with the conditions in regulation 14, the Secretary of State must include the name of any person falling within paragraph (5)(b), or the person who would have been invited to join the scheme under that paragraph if notice had not been dispensed with under paragraph (6), and the names of persons controlled by that person, on the prohibitions list.

**Application for membership following invitation**

**14.**—(1) In this regulation—

(a) "F" is a person invited to apply to become a member of the scheme in accordance with regulation 13(2) or (4);

(b) "G" is a person invited to apply to become a member of the scheme in accordance with regulation 13(5)(a);

(c) "H" is a person invited to apply to become a member of the scheme in accordance with regulation 13(5)(b), or, for the purposes of paragraph (3), is the person who would have been invited to join the scheme under regulation 13(5)(b) if notice had not been dispensed with under regulation 13(6).

(2) F must, within 60 days beginning with the date of the notice given under regulation 13(2) or (4), unless that period is extended under paragraph (12)—

(a) enter into a Self Remediation Contract (if they have not already done so) and submit an application for membership to the Secretary of State in accordance with paragraph (11); or

(b) give notice to the Secretary of State that neither F nor any body corporate in the same group as F is eligible to join the scheme and evidence to support that view must accompany that notice;

and if F does not do so, then with effect from the date that period expires—

(i) F will be treated as a person who is eligible to join the scheme but has not joined, and

(ii) the name of F and the names of persons controlled by F must be included on the prohibitions list.

(3) Where the notice to the person in regulation 13(5)(b) is dispensed with in accordance with regulation 13(6), G must, within 60 days beginning with the date of the notice given under regulation 13(5)(a), unless that period is extended under paragraph (12), submit an application for

membership to the Secretary of State in accordance with paragraph (11) and if G does not do so then with effect from the date that period expires—

(a) H will be treated as a person who is eligible to join the scheme but has not joined, and

(b) the name of H and the names of persons controlled by H must be included on the prohibitions list.

(4) Where the notice to the person in regulation 13(5)(b) is not dispensed with in accordance with regulation 13(6), within 60 days beginning with the date of the notices given under regulation 13(5), unless that period is extended under paragraph (12)—

(a) either—

(i) G must submit an application for membership to the Secretary of State in accordance with paragraph (11); or

(ii) H must enter into a Self Remediation Contract (if they have not already done so) and submit an application for membership to the Secretary of State in accordance with paragraph (11); or

(b) both G and H must give notice to the Secretary of State that neither H nor any body corporate in the same group as them is eligible to join the scheme and evidence supporting that view must accompany that notice;

and if G and H do not do so, then with effect from the date that period expires—

(i) H will be treated as a person who is eligible to join the scheme but has not joined, and

(ii) the name of H and the names of persons controlled by H must be included on the prohibitions list.

(5) Where the Secretary of State receives notice under paragraph (2)(b) or (4)(b), the Secretary of State must determine—

(a) in the case of a notice under paragraph (2)(b), whether F or, where relevant, any other body corporate in the same group as F, is eligible to join the scheme;

(b) in the case of a notice under paragraph (4)(b), whether H or, where relevant, any other body corporate in the same group as H is eligible to join the scheme.

(6) The Secretary of State may request that the person giving the notice under paragraph (2)(b) or (4)(b), or any body corporate in the same group as that person, provide any further information which the Secretary of State requires to make a determination under paragraph (5). A request under this paragraph must—

(a) be by notice in writing;

(b) specify the further information which the Secretary of State requires; and

(c) specify a time by which the information must be provided.

(7) If a person requested to provide information under paragraph (6) does not provide the specified information within the period specified in the notice, the determination under paragraph (5) must be treated as a determination that F or H, as applicable, is eligible and paragraph (8) will apply.

(8) Where—

(a) following the giving of a notice under paragraph (2)(b), the Secretary of State determines that F is eligible to join the scheme (including where paragraph (7) applies)—

(i) the Secretary of State must give notice in writing to F of that determination, and

(ii) to join the scheme, F must enter into a Self Remediation Contract (if they have not already done so) and submit an application for membership in accordance with paragraph (11) within 30 days beginning with the date of the notice of the determination, unless that period is extended under paragraph (12);

(b) following the giving of a notice under paragraph (4)(b), the Secretary of State determines that H is eligible to join the scheme (including where paragraph (7) applies)—

(i) the Secretary of State must give notice in writing to H of that determination (and may give notice to G of the determination), and

(ii) to join the scheme, H must enter into a Self Remediation Contract (if they have not already done so) and submit an application for membership in accordance with paragraph (11) within 30 days beginning with the date of the notice of the determination, unless that period is extended under paragraph (12).

(9) Where the Secretary of State determines that F or, where applicable, H, is not eligible to join the scheme, but that a different body corporate in the same group is eligible ("the eligible body corporate"), the Secretary of State must—

(a) direct that the eligible body corporate is for the time being to be invited to apply to become a member of the scheme, and

(b) give notice of his determination to the eligible body corporate,

and the eligible body corporate must enter into a Self Remediation Contract (if they have not already done so) and submit an application for membership in accordance with paragraph (11), within 30 days beginning with the date of the notice of the determination unless that period is extended under paragraph (12).

(10) The notice given under paragraph (9) must contain a statement that unless the eligible body corporate takes the action provided for in that paragraph, the Secretary of State must include the name of the eligible body corporate, and the names of persons controlled by the eligible body corporate, on the prohibitions list.

(11) An application for membership must—

(a) be made in writing,

(b) set out the date on which the applicant entered into a Self Remediation Contract, and

(c) contain such other information as the Secretary of State may direct.

(12) The Secretary of State may extend any time period specified in this regulation whether or not the Secretary of State receives a request to do so, save that the Secretary of State may not extend any time period after it has already expired.

**Request for an invitation to apply for membership**

**15.**—(1) If a person ("R") considers they are likely to satisfy the criteria in regulation 7 or 8, and does not fall within regulation 6(b), but neither R nor any other person in the same group as R has received a notice under regulation 13(2), (4) or (5), R may request that the Secretary of State invite R to apply to become a member of the scheme.

(2) Where R makes a request under paragraph (1), the Secretary of State must treat R as though R is the person referred to as E in regulation 13 and must proceed in accordance with regulations 13 and 14.

**Applications for volunteers**

**16.**—(1) If a person ("V") considers they are likely to satisfy the criteria in regulation 9, and does not fall within regulation 6(b), but neither V nor any other person in the same group as V has received a notice under regulation 13(2), (4) or (5), V may apply to the Secretary of State for a determination as to whether V satisfies the criteria in regulation 9, providing the Secretary of State with evidence of the application of those criteria to V.

(2) Subject to paragraph (7), if the Secretary of State determines that V satisfies the criteria in regulation 9, the Secretary of State must—

(a) give notice in writing to V of that determination, and

(b) notify V that V must submit an application for membership to the Secretary of State in accordance with paragraph (5).

(3) The notice referred to in paragraph (2)(b) must contain the statement that if V joins the scheme, and V's membership is later revoked, the Secretary of State must include V's name, and the names of persons controlled by V, on the prohibitions list.

(4) Where V receives a notice under paragraph (2)(b), to join the scheme V must, within 60 days beginning with the date of the notice unless that period is extended under paragraph (6), enter into a Self Remediation Contract (if they have not already done so) and submit an application for membership in accordance with paragraph (5).

(5) An application for membership must—

(a) be made in writing,

(b) set out the date on which the applicant entered into a Self Remediation Contract, and

(c) contain such other information as the Secretary of State may direct.

(6) The Secretary of State may extend any time period specified in this regulation whether or not the Secretary of State receives a request to do so, save that the Secretary of State may not extend any time period after it has already expired.

(7) A person may not apply for membership under this regulation where the person or a person in their group satisfies the criteria in regulation 7 or 8.

**Late application for membership**

**17.**—(1) A person ("L") who, in accordance with regulation 14—

(a) has been determined to be eligible to join the scheme but has not joined in accordance with that regulation, or

(b) is treated as a person who is eligible to join the scheme but has not joined in accordance with that regulation,

may notify the Secretary of State in writing that it wishes to apply to become a member of the scheme.

(2) A notice under paragraph (1) must state that L is willing to enter into a Self Remediation Contract.

(3) Following receipt of a notice which complies with paragraph (2), the Secretary of State must give notice to L inviting L to apply to become a member of the scheme.

(4) The notice given under paragraph (3) must contain a statement that until L has entered into a Self Remediation Contract and become a member of the scheme—

(a) L's name, and the names of persons controlled by L, will not be removed from the prohibitions list, and

(b) the prohibitions in Part 3 applicable to persons on the prohibitions list will continue to apply.

(5) On receipt of the notice referred to in paragraph (3), to join the scheme L must—

(a) enter into a Self Remediation Contract (if they have not already done so), and

(b) make an application for membership of the scheme in accordance with paragraph (6).

(6) An application for membership must—

(a) be made in writing,

(b) set out the date on which the applicant entered into a Self Remediation Contract, and

(c) contain such other information as the Secretary of State may direct.

**Application following revocation of membership**

**18.**—(1) A person ("N") whose membership of the scheme has been revoked by the Secretary of State in accordance with regulation 26 may notify the Secretary of State in writing that it wishes to apply to become a member of the scheme.

(2) A notice under paragraph (1)—

(a) must describe how N proposes to rectify the matters which led to N's membership being revoked if N's membership of the scheme is restored, providing evidence to support that contention;

(b) must provide evidence of steps already taken to rectify those matters;

(c) if N has ceased to be subject to the Self Remediation Terms, must state that N is willing to enter into a Self Remediation Contract.

(3) Following receipt of a notice under paragraph (1), if the Secretary of State is satisfied that—

(a) the proposals contained in the notice for the purposes of paragraph (2)(a) are sufficient and appropriately evidenced;

(b) N has taken reasonable steps to rectify the matters which led to N's membership being revoked; and

(c) where relevant, the request contains the statement required by paragraph (2)(c),

the Secretary of State must give notice to N inviting N to apply to become a member of the scheme.

(4) The notice given under paragraph (3) must contain a statement that until N has entered into a Self Remediation Contract (if N has ceased to be subject to the Self Remediation Terms), and has become a member of the scheme—

(a) N's name, and the names of persons controlled by N, will not be removed from the prohibitions list; and

(b) the prohibitions in Part 3 applicable to persons on the prohibitions list will continue to apply.

(5) On receipt of the notice referred to in paragraph (3), to join the scheme N must—

(a) enter into a new Self Remediation Contract, if N has ceased to be subject to the Self Remediation Terms; and

(b) make an application for membership of the scheme in accordance with paragraph (6).

(6) An application for membership must—

(a) be made in writing,

(b) set out the date on which the applicant entered into a Self Remediation Contract, and

(c) contain such other information as the Secretary of State may direct.

**Determination of applications**

**19.**—(1) Where the Secretary of State receives an application for membership in accordance with regulations 14, 16, 17 or 18, the Secretary of State must—

(a) register the applicant as a member of the scheme,

(b) notify the applicant that they have been so registered, and

(c) inform them of the date from which their registration takes effect.

(2) If the application is made under regulation 17 or 18, on receipt of the application the Secretary of State must remove the applicant's name, and the names of persons controlled by the applicant, from the prohibitions list.

**Publication of list of members, prohibitions list and other lists**

**20.**—(1) The Secretary of State must prepare, maintain and publish—

(a) a list of members of the scheme, and

(b) a list of persons to whom regulation 28 applies ("the prohibitions list").

(2) The Secretary of State may not include a person on the prohibitions list if that person has had the planning and building control prohibitions disapplied in their entirety in accordance with regulation 42.

(3) Before including a person on the prohibitions list the Secretary of State must give notice to the person in accordance with these Regulations that they are to be included on the list.

(4) The notice referred to in paragraph (3) must contain the following information—

(a) the date from which the person is to be included on the prohibitions list; and

(b) where applicable, the date or dates by which the person must make an application for any exceptions provided for in these Regulations.

(5) The Secretary of State may also publish a list of persons to whom the Secretary of State has sent a warning notice under regulation 25 which has not been withdrawn.

## CHAPTER 3

## Conditions of scheme

**Self Remediation Terms**

**21.**—(1) Subject to paragraph (3), a member of the scheme must enter into a contract with the Secretary of State ("a Self Remediation Contract") which contains terms that apply to contracts between a developer and the Secretary of State providing for the developer to undertake the remediation of the buildings for which they are responsible, as published by the Secretary of State on 16th March 2023 and referred to as the developer remediation contract ("the Self Remediation Terms").

(2) Each member of the scheme must, in accordance with the Self Remediation Terms—

(a) identify those buildings for which they are responsible in accordance with the Self Remediation Terms ("their own buildings") which require works to remedy fire safety defects;

(b) undertake at their own cost, or procure at their own cost, the works necessary to remediate or fully to mitigate any fire safety defects ("remediation works") in their own buildings, where this is required under the Self Remediation Terms and in accordance with the standards applicable to those works as provided for in the Self Remediation Terms;

(c) accept responsibility for undertaking remediation works at their own cost, or procuring remediation works at their own cost, to such fund buildings as they are required to or agree to accept under the Self Remediation Terms;

(d) make payment to the government of any amounts paid out by any government fund for remediation works on their own buildings as required by the Self Remediation Terms;

(e) not undertake or procure others to undertake restructuring or other actions that would, or would reasonably be expected to, result in the member being unable to fulfil its obligations

under the Self Remediation Terms except in the circumstances allowed under the Self Remediation Terms; and

(f) comply with all other obligations to which they are subject under the Self Remediation Terms.

(3) A member of the scheme who has entered into a contract with the Secretary of State on the same or substantially the same terms as the Self Remediation Terms before the date on which these Regulations come into force is to be treated as satisfying the scheme condition in paragraph (1), and references to Self Remediation Contract in these Regulations are to be treated as including references to the terms of such a contract.

(4) In this regulation—

"fire safety defect" has the same meaning as the term "Defect" in the Self Remediation Terms;

"fund building" has the meaning given in the definition of "Fund Building" in the Self Remediation Terms.

**Provision of information to the Secretary of State**

**22.** A member of the scheme must—

(a) give the Secretary of State any information they are required to provide under the Self Remediation Terms, at the times or in respect of the periods specified in the Self Remediation Terms;

(b) provide the Secretary of State with such other information specified by the Secretary of State which the Secretary of State reasonably requires in order to monitor and enforce their compliance with the Self Remediation Terms and these Regulations.

**Membership conditions: avoidance**

**23.** A member of the scheme must not themselves take, or procure other persons to take, any step where the main purpose, or one of the main purposes, is to avoid the member's obligations under these Regulations or to frustrate the purposes of the scheme set out in regulation 5.

## CHAPTER 4

## Termination of membership

**Grounds for revocation of membership**

**24.**—(1) The Secretary of State may revoke any member's membership of the scheme where—

(a) the member ("M", in this regulation and in regulations 25 to 27) has failed to comply with any of the membership conditions in regulation 21(2)(a) to (e) or with any other requirement of the Self Remediation Terms, and that failure is material or persistent;

(b) M has failed without reasonable excuse to comply with a request for information under regulation 22;

(c) M has provided information to the Secretary of State in an application for membership of the scheme or in response to a request for information under regulation 22 and M—

(i) knew the information to be false or misleading in a material respect, or

(ii) provided such information recklessly, and the information is false or misleading in a material respect;

(d) M has failed to comply with regulation 23.

(2) Nothing in paragraph (1) may be taken to mean that the Secretary of State may only revoke a member's membership of the scheme where a right to terminate a Self Remediation Contract arises under and in accordance with the Self Remediation Terms or is otherwise available at law.

**Warning of revocation of membership**

**25.**—(1) Where the Secretary of State considers that one or more of the grounds for revocation of M's membership of the scheme under regulation 24(1) exist, the Secretary of State may give M a notice ("a warning notice") stating that the Secretary of State is proposing to start the procedure for revocation of M's membership in accordance with regulation 26.

(2) The warning notice must specify—

(a) the reasons—

(i) why the Secretary of State considers that there are grounds to revoke M's membership;

(ii) if the Secretary of State proposes to impose conditions under paragraph (3), why the Secretary of State proposes to do so;

(b) a period of 28 days after the day on which the warning notice is given ("the representation period"), within which M may make representations to the Secretary of State, and

(c) where the Secretary of State publishes a list under regulation 20(5), that M's name will be included on that list and the date from which M is to be included on that list.

(3) The conditions which may be specified in the warning notice are conditions which would allow M to continue as a member of the scheme, if complied with in the period specified in the notice ("the compliance period").

(4) If M makes any representations to the Secretary of State during the representation period, the Secretary of State must, at the end of that period, after considering M's representations, decide whether to—

(a) withdraw the warning notice and remove M's name from any list published under regulation 20(5);

(b) confirm the warning notice but vary any conditions which have been specified including by varying the compliance period;

(c) confirm the warning notice as first given to M.

(5) The Secretary of State must give M notice in writing of the decision taken under paragraph (4).

(6) Where the warning notice contains conditions under paragraph (3), the notice of the Secretary of State's decision under paragraph (5) must—

(a) confirm which conditions are to apply, and

(b) state the date from which the conditions come into effect and from which the compliance period will run.

**Procedure for revocation of membership**

**26.**—(1) Where the Secretary of State considers that one or more of the grounds for revocation of M's membership of the scheme under regulation 24(1) exist, and the Secretary of State proposes to revoke M's membership of the scheme, a notice must be given to M specifying—

(a) the grounds for the revocation of M's membership;

(b) the reasons why the Secretary of State considers that those grounds exist;

(c) a period of 28 days after the date on which the notice is given, within which M may make representations to the Secretary of State ("the representation period");

(d) where M was given a warning notice under regulation 25 specifying conditions under regulation 25(3), and that notice was not withdrawn, the reasons why the Secretary of State considers that M has not satisfied the conditions in the warning notice.

(2) The Secretary of State—

(a) may not take the final decision to revoke M's membership of the scheme until the representation period has expired, and

(b) must take any representations made during the representation period into account, and may, in the Secretary of State's discretion, take into account any representations made after the end of that period, in taking that decision.

(3) The Secretary of State must make a final decision and may revoke M's membership where one or more of the grounds for revocation of M's membership of the scheme in regulation 24(1) exist.

(4) The Secretary of State must give M notice of a final decision, and where the decision is to revoke M's membership, that notice must—

(a) set out the reasons for the decision,

(b) state the date on which the revocation of M's membership takes effect, and

(c) inform M that M's name and the names of persons controlled by M will from that date be included on the prohibitions list.

(5) The Secretary of State may issue a notice under paragraph (1) whether or not the Secretary of State has previously given M a warning notice under regulation 25.

**Ending membership otherwise than by revocation**

**27.**—(1) The Secretary of State may end M's membership of the scheme where M has substantially satisfied all of M's obligations under these Regulations and the Self Remediation Terms.

(2) Where M's membership has ended under paragraph (1), M's name and the names of persons controlled by M must not be included in the prohibitions list and M and those persons are not subject to the prohibitions in Part 3.

# PART 3

## Planning and Building Control Prohibitions

### CHAPTER 1

### Application

**Application of prohibitions**

**28.**—(1) Subject to paragraph (2), this Part applies to the following persons—

(a) those persons who at the date of being included on the prohibitions list are treated as eligible or have been determined to be eligible to be members of the scheme in accordance with regulation 14 but who at that date have not become members in accordance with that regulation;

(b) those persons who were members of the scheme but who, at the date of being included on the prohibitions list, are no longer members of the scheme following revocation of membership under regulation 26,

(together with paragraph (a), "eligible non-members"); and

(c) those persons who are controlled by any eligible non-member.

(2) This regulation does not apply to a person until the date they are included on the prohibitions list and will apply only to persons who are included on the prohibitions list.

(3) For the purposes of this Part "an applicable person" is a person who falls within paragraph (1) and is included on the prohibitions list.

## CHAPTER 2

## Prohibition on Development

### Planning prohibition

**29.**—(1) An applicable person is prohibited from carrying out major development of land in England.

(2) An applicable person is prohibited from carrying out major development of land in England through any agent or contractor or any other person acting for or on their behalf.

(3) In this regulation, "major development" has the meaning given by article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015(**7**).

(4) This regulation is subject to regulation 31.

### Notice of prohibition

**30.**—(1) An applicable person must notify the relevant local planning authority that they are a person to whom regulation 29 applies when—

(a) they apply for planning permission, or make a subsequent application for, or relating to, major development;

(b) they acquire an interest in land, or a contractual entitlement to develop land, which has the benefit of planning permission for major development; or

(c) they transfer all their interest in land which has the benefit of such a permission to a person that is not an applicable person.

(2) An applicable person must notify the relevant local planning authority when they cease to be an applicable person.

(3) In this regulation—

"relevant local planning authority" means the local planning authority for the area in which the major development is to be carried out;

"subsequent application" has the same meaning as in regulation 32.

### Exception for critical national infrastructure

**31.**—(1) The Secretary of State may disapply the prohibition in regulation 29 in relation to an applicable person in respect of a specific site, if in the view of the Secretary of State—

(a) the development or proposed development relates to critical national infrastructure; and

(b) it is in the public interest to disapply the prohibition.

(2) In this regulation—

"critical national infrastructure" means those elements of infrastructure, the loss or compromise of which or inadequate provision of which may result in—

(**7**) S.I. 2015/595, as read with the definition of "development" in section 55 of the Town and Country Planning Act 1990 (c. 8).

(i) a major detrimental impact on the availability, integrity or delivery of essential services, including services whose integrity, if compromised, could result in significant loss of life or casualties, taking into account significant economic or social impacts;

(ii) a significant impact on national security, national defence, or the functioning of the state,

and includes development which is necessary to facilitate the safe or effective construction or operation of the critical national infrastructure concerned;

"elements of infrastructure" means the assets, facilities, systems or networks that operate or facilitate the operation of the infrastructure.

**Transitional provision**

**32.**—(1) The prohibition in regulation 29 does not apply to development for which planning permission has been granted before the date on which these Regulations come into force, unless a subsequent application is required for all or part of the development, and that application has not been determined before that date.

(2) For the purpose of this regulation and regulation 30, "subsequent application" means an application for approval of a matter where the approval—

(a) is required by or under a condition to which the planning permission is subject; and

(b) must be obtained before all or part of the development permitted by the planning permission may be begun.

CHAPTER 3

Building Control Prohibitions

**Building control prohibitions**

**33.**—(1) An applicable person is subject to each of the building control prohibitions in section 129(4) of the Act.

(2) This regulation is subject to regulations 34, 35, 36, 37 and 38.

(3) An applicable person may not give any document listed in paragraph (4) and accordingly those documents are prescribed for the purposes of section 129(4)(g) of the Act.

(4) The documents referred to in paragraph (3) are—

(a) an initial notice within the meaning of section 47 of the Building Act 1984 (giving and acceptance of initial notice);

(b) a building notice within the meaning of regulation 2 of the Building Regulations 2010 (interpretation);

(c) a request for plans certificate under section 50(1) (plans certificate) of the Building Act 1984;

(d) an amendment notice within the meaning of section 51A of the Building Act 1984 (variation of work to which initial notice relates);

(e) an application for a certificate under regulation 17 (completion certificates) or 17A (certificate for building occupied before work is completed) of the Building Regulations 2010;

(f) an application for a certificate under regulation 18 of the Building Regulations 2010 (unauthorised building work).

(5) No person may give any document listed in paragraph (6) to an applicable person or to any other person in respect of works carried out or to be carried out by an applicable person and accordingly those documents are prescribed for the purposes of section 129(4)(h) of the Act.

(6) The documents referred to in paragraph (5) are—

(a) a notice of passing or rejection of plans within the meaning of section 16(6) of the Building Act 1984;

(b) a certificate under regulation 17 of the Building Regulations 2010 (completion certificates);

(c) a certificate under regulation 17A of the Building Regulations 2010 (certificate for building occupied before work is completed);

(d) a plans certificate within the meaning of section 50 (plans certificate) of the Building Act 1984;

(e) a final certificate within the meaning of section 51 (final certificate) of the Building Act 1984;

(f) a regularisation certificate within the meaning of regulation 18(5) of the Building Regulations 2010 (unauthorised building work).

(7) No person may accept any document listed in paragraph (8) where it is given by an applicable person and accordingly those documents are prescribed for the purposes of section 129(4)(i) of the Act.

(8) The documents referred to in paragraph (7) are—

(a) plans deposited under section 16 of the Building Act 1984;

(b) an initial notice within the meaning of section 47 of the Building Act 1984 (giving and acceptance of initial notice);

(c) an amendment notice within the meaning of section 51A of the Building Act 1984 (variation of work to which initial notice relates);

(d) a plans certificate within the meaning of section 50 (plans certificate) of the Building Act 1984;

(e) a final certificate within the meaning of section 51 (final certificate) of the Building Act 1984;

(f) an application for a certificate under regulation 17 (completion certificates) or 17A (certificate for building occupied before work is completed) of the Building Regulations 2010;

(g) an application for a certificate under regulation 18 of the Building Regulations 2010 (unauthorised building work).

(9) An applicable person may not take any action prohibited by this regulation through any agent or contractor or any other person acting for or on their behalf.

**Exception to building control prohibition: emergency repair work**

**34.**—(1) Where an applicable person proposes to carry out building work which consists of emergency repair work then, subject to paragraph (2), the provision by them of a building notice pursuant to regulation 12(8) of the Building Regulations 2010 is not to be treated as a breach of a building control prohibition.

(2) Paragraph (1) applies only where—

(a) each of the criteria in regulation 12(8)(a) to (c) of the Building Regulations 2010 are satisfied;

(b) the applicable person gives the local authority the relevant building notice as soon as reasonably practicable after the commencement of the work and explains on giving that notice—

(i) that they are an applicable person but that this provision applies to them; and

(ii) the nature of the emergency repairs required to be undertaken.

**Exception to building control prohibition: work to occupied buildings**

**35.**—(1) An applicable person is not prohibited from—

(a) depositing plans under section 16 of the Building Act 1984;

(b) giving an initial notice within the meaning of section 47 of the Building Act 1984 (giving and acceptance of initial notice); or

(c) giving a building notice within the meaning of regulation 2 of the Building Regulations 2010 (interpretation),

in relation to relevant building work to be carried out to an existing occupied building where on the application date the work had not started.

(2) Where plans are deposited pursuant to paragraph (1) the local authority is not prohibited from giving the applicable person a notice of passing or rejection in relation to those plans under section 16(6) of the Building Act 1984.

(3) Where an initial notice is given pursuant to paragraph (1) the local authority is not prohibited from giving the applicable person a notice accepting or rejecting that initial notice under section 47 of the Building Act 1984.

(4) Where relevant building work is carried out to an existing occupied building following the depositing or giving of a document under paragraph (1)—

(a) then the applicable person is not prohibited from giving—

(i) an application for a certificate under regulation 17 of the Building Regulations 2010 (completion certificates) in relation to the work;

(ii) an application for a certificate under regulation 17A of the Building Regulations 2010 (certificate for building occupied before work is completed) in relation to the work;

(iii) a request for a plans certificate under section 50(1) (plans certificate) of the Building Act 1984 in relation to the work;

(b) then, in respect of the work, a person may give to the applicable person—

(i) a plans certificate within the meaning of section 50 (plans certificate) of the Building Act 1984 in relation to the work;

(ii) a final certificate within the meaning of section 51 (final certificate) of the Building Act 1984 in relation to the work.

(5) Where paragraph (4) applies the local authority is not prohibited from giving the person a certificate under regulation 18 of the Building Regulations 2010 in relation to the work.

(6) Where paragraph (4) applies the local authority is not prohibited from giving the person a notice accepting or rejecting that final certificate under section 51 of the Building Act 1984.

(7) In this regulation—

"application date" means the date on which the document referred to in paragraph (1) is deposited or given by the applicable person;

"dwelling" has the meaning in regulation 2 of the Building Regulations 2010;

"material change of use" has the meaning in regulation 5 of the Building Regulations 2010;

"occupied", in relation to a building, means at least one dwelling contained in the building is occupied by an arm's length third party on the application date;

"relevant building work" means any building work except work done to give effect to a material change of use of the building or part of the building.

**Exception to building control prohibition: purchasers**

**36.**—(1) The Secretary of State may on the application of an applicable person grant an exception to the building control prohibitions—

(a) to permit the issuing by a local authority of a certificate under regulation 17 (completion certificate) of the Building Regulations 2010;

(b) to permit the acceptance by a local authority of a final certificate within the meaning of section 51 (final certificate) of the Building Act 1984 in relation to a particular building;

in respect of a specific building where the Secretary of State is satisfied that the criteria in paragraph (2) are met.

(2) The criteria in this paragraph are met where—

(a) before the applicable person became an applicable person—

(i) building work in respect of the building had been commenced by the applicable person;

(ii) there is a person who exchanged a contract for the sale and purchase of a dwelling contained in the building, or for the building where it comprises a single dwelling ("the purchaser");

(iii) the purchaser has paid or is liable to pay to the seller of the dwelling or building a deposit in accordance with the terms of that contract;

(b) the purchaser is not in the same group as the applicable person and the purchase of the dwelling or building is an arm's length transaction at market value and on arm's length terms;

(c) the purchase of the dwelling or building is for domestic and not for business or commercial purposes; and

(d) the Secretary of State is satisfied that the interests of the purchaser will be materially prejudiced if the exception is not granted and that the grant of the exception is not contrary to or likely to frustrate the purposes of the scheme set out at regulation 5.

(3) An application under this regulation must—

(a) be made in writing;

(b) be supported by evidence as to each of the criteria in paragraph (2).

(4) The Secretary of State may, by notice in writing, require the applicant to provide by a time specified in the notice any further information which the Secretary of State requires to make a determination under this regulation.

(5) If a person required to provide information under paragraph (4) does not provide the specified information within the period specified in the notice, their application under this regulation is to be treated as having been refused.

(6) An application under this regulation must be made before any document referred to in paragraph (1) is sought, given, issued or accepted, and any such document sought or purported to be given, issued or accepted (as the case may be) before the Secretary of State has granted an exception under this regulation is not to be treated as validly given, issued or accepted.

**Exception to building control prohibitions and modification of the Building Regulations 2010: regularisation**

**37.**—(1) A relevant purchaser is not prohibited from giving an application for a certificate under regulation 18 (unauthorised building work) of the Building Regulations 2010 and a local authority is not prohibited from granting such a certificate.

(2) In this regulation "relevant purchaser" means—

(a) any purchaser or owner of an individual dwelling built by an applicable person, or

(b) any purchaser or owner of any building or any part of a building built by an applicable person,

provided that the relevant purchaser is not in the same group as the applicable person and the purchase is an arm's length transaction where the purchaser acquired the dwelling or building or part of a building in the ordinary course of business (where applicable), at market value and on arm's length terms.

(3) For the purposes of paragraph (1), regulation 18 of the Building Regulations 2010 is to have effect in relation to an application for a certificate under that regulation by a relevant purchaser as if any work carried out by an applicable person which was not unauthorised building work (within the meaning set out in that regulation) were treated as if it were unauthorised building work.

**Exception for critical national infrastructure**

**38.**—(1) The Secretary of State may disapply any or all of the building control prohibitions in relation to an applicable person in respect of a specific building or site, if in the view of the Secretary of State—

(a) the building work or proposed building work relates to critical national infrastructure; and

(b) it is in the public interest to disapply the prohibition.

(2) In this regulation—

"critical national infrastructure" means those elements of infrastructure, the loss or compromise of or inadequate provision of which may result in—

(a) major detrimental impact on the availability, integrity or delivery of essential services, including services whose integrity, if compromised, could result in significant loss of life or casualties, taking into account significant economic or social impacts;

(b) a significant impact on national security, national defence, or the functioning of the state,

and includes building works which are necessary to facilitate the safe or effective construction or operation of the critical national infrastructure concerned;

"elements of infrastructure" means the assets, facilities, systems or networks that operate and facilitate the infrastructure.

**Effect of things done in contravention of these Regulations**

**39.**—(1) Where, notwithstanding the prohibitions imposed by regulation 33, a document referred to in regulation 33(3) or (5) is given, then—

(a) that document is not to be treated as validly given, and

(b) any decision or action taken in relation to such a document is not to be treated as validly taken, in particular—

(i) no plans purported to be passed are to be treated as validly passed;

(ii) no notice purported to be accepted is to be treated as validly accepted;

(iii) no certificate purported to be granted is to be treated as validly granted;

(iv) no application purported to be granted is to be treated as validly granted.

(2) Where, notwithstanding the prohibitions imposed by regulation 33, a document referred to in regulation 33(7) is accepted, then—

(a) that document is not to be treated as validly accepted, and

(b) any decision or action taken in relation to such a document is not to be treated as validly taken, in particular—

(i) no plans purported to be passed is to be treated as validly passed;

(ii) no notice purported to be accepted is to be treated as validly accepted;

(iii) no certificate purported to be accepted or granted is to be treated as validly accepted or granted;

(iv) no application purported to be granted is to be treated as validly granted.

**Transitional provision**

**40.**—(1) The prohibitions imposed by regulation 33 do not affect the validity of any document given by or to the applicable person, where that document is given by or to them on a date before that person was an applicable person.

(2) The prohibitions imposed by regulation 33 do not affect the validity of the acceptance of any document which is given by the applicable person, where that acceptance is given on a date before that person was an applicable person.

## CHAPTER 4

## Enforcement and disapplication of the prohibitions to certain persons not in the building industry

**Application of Part 7 (Enforcement) of the Town and Country Planning Act 1990**

**41.** Part 7 of the Town and Country Planning Act 1990(**8**) applies in respect of a breach of the prohibition in regulation 29 with the modifications set out in the Schedule to these Regulations.

**Exception: disapplication of the prohibitions to certain persons not in the building industry**

**42.**—(1) In respect of persons referred to in regulation 28(1)(c) only, a person who receives a notice under regulation 20(3) may make an application in writing to the Secretary of State in accordance with this regulation requesting that the planning and building control prohibitions not be applied to them on the ground they are not a person in the building industry.

(2) Subject to paragraphs (3) to (8), an exception under paragraph (1) must be granted where the Secretary of State is satisfied that the person applying for the exception is not a person in the building industry.

(3) Where the Secretary of State grants an exception under this regulation, it may be revoked at any time and the person to whom it was granted included on the prohibitions list, if the Secretary of State considers that the person has commenced carrying on activities in the building industry.

(4) An application under this regulation must—

(**8**) 1990 c. 8. Section 173ZA was inserted by section 43(2) of Planning (Wales) Act 2015 (anaw 4). Section 187A was inserted by section 2 of the Planning and Compensation Act 1991 (c. 34) ("the 1991 Act"). Section 189 was amended by paragraph 11 of Schedule 1 to the 1991 Act. Section 190 was amended by Part I of Schedule 19 to the 1991 Act. Sections 191 to 194 were substituted by section 10(1) of the 1991 Act; section 191 was amended by section 124(3) of the Localism Act 2011 (c. 20). Section 195 was amended by section 32 of the 1991 Act, section 241(3)(4) of the Planning Act 2008 (c. 29) and S.I. 2014/2773. Section 196 was amended by paragraph 33 of Schedule 7 to the 1991 Act. There are other amendments to this Part which are not relevant to this instrument.

(a) be accompanied by evidence as to why the applicant is not a person in the building industry;

(b) state that, if the application is granted, the applicant undertakes to notify the Secretary of State if they commence or intend to commence carrying on activities in the building industry.

(5) The Secretary of State may refuse the application if the statement in paragraph (4)(b) is not provided.

(6) The Secretary of State may, by notice in writing, require the applicant to provide by a time specified in the notice any further information which the Secretary of State requires to make a determination under this regulation.

(7) If a person requested to produce information under paragraph (6) does not, within the period specified in the notice, produce the specified information, their application under paragraph (1) is to be treated as having been refused.

(8) The Secretary of State may not grant an exception under this regulation unless satisfied that granting the exception is not contrary to or likely to frustrate the purposes of the scheme provided for in regulation 5.

# PART 4

## Review

**Review**

**43.**—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision contained in these Regulations, and

(b) publish a report setting out the conclusions of that review.

(2) Section 30(4) of the 2015 Act requires that the report must, in particular—

(a) set out the objectives intended to be achieved by the regulatory provision,

(b) assess the extent to which those objectives are achieved,

(c) assess whether those objectives remain appropriate, and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way that involves less onerous regulatory provision.

(3) Section 30(5) of the 2015 Act requires that the first report must be published before the fifth anniversary of the date on which these Regulations come into force.

(4) Section 30(6) of the 2015 Act requires that subsequent reports must be published at intervals not exceeding five years.

(5) In this regulation—

"the 2015 Act" means the Small Business, Enterprise and Employment Act 2015;

"regulatory provision" has the meaning given in section 32 of the 2015 Act.

*Lee Rowley*
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

3rd July 2023

## SCHEDULE

Regulation 41

### Modifications to the Town and Country Planning Act 1990

**1.** Part 7 of the Town and Country Planning Act 1990(**9**) applies—

(a) as if the following sections were omitted—

(i) section 173ZA (enforcement warning notice: Wales);

(ii) section 187A (enforcement of conditions);

(iii) section 189 (penalties for contravention of orders under s. 102 and Schedule 9);

(iv) section 190 (enforcement of orders under s. 102 and Schedule 9);

(v) sections 191 to 196 (certificate of lawful use or development); and

(vi) section 196D (offence of failing to obtain planning permission for demolition of unlisted etc buildings in conservation area in England);

(b) subject to the modifications set out in the following paragraphs of this Schedule.

**Modification of section 171A (expressions used in connection with enforcement)**

**2.** Section 171A(**10**) applies as if—

(a) for subsection (1) there were substituted—

"(1) For the purposes of this Part, carrying out any material operation in contravention of the prohibition in regulation 29 of the Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023, constitutes a breach of planning control.";

(b) for subsection (3), there were substituted—

"(3) In this Part—

"planning permission" includes permission under Part III of the 1947 Act, or of the 1962 Act or of the 1971 Act;

"the prohibition" means the prohibition in regulation 29 of the Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023;

"Responsible Actors Scheme" means the scheme established under regulation 5 of the Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023;";

(c) after subsection (3) there were inserted—

"(4) In this section, "material operation" has the meaning given in section 56(4).".

**Modification of section 171C (power to require information about activities on land)**

**3.** Section 171C(**11**) applies as if—

(a) in subsection (1), for paragraph (b) there were substituted—

"(b) appears to the local planning authority to have breached planning control.";

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(**9**) 1990 c. 8. Section 173ZA was inserted by section 43(2) of Planning (Wales) Act 2015 (anaw 4). Section 187A was inserted by section 2 of the Planning and Compensation Act 1991 (c. 34) ("the 1991 Act"). Section 189 was amended by paragraph 11 of Schedule 1 to the 1991 Act. Section 190 was amended by Part I of Schedule 19 to the 1991 Act. Sections 191 to 194 were substituted by section 10(1) of the 1991 Act; section 191 was amended by section 124(3) of the Localism Act 2011 (c. 20). Section 195 was amended by section 32 of the 1991 Act, section 241(3)(4) of the Planning Act 2008 (c. 29) and S.I. 2014/2773. Section 196 was amended by paragraph 33 of Schedule 7 to the 1991 Act. There are other amendments to this Part which are not relevant to this instrument.

(**10**) Section 171A was inserted by section 4(1) of the 1991 Act.

(**11**) Section 171E to 171H were inserted by section 52 of the Planning and Compulsory Purchase Act 2004 (c. 5). Section 171G was also amended by S.I. 2015/664. There are other amendments to these sections which are not relevant to this instrument.

(b) in subsection (2)—

(i) at the end of paragraph (a), "and" were omitted;

(ii) at the end of paragraph (b), there were inserted—

"and

(c) any matter relating to that person's membership of the Responsible Actors Scheme or the application at any time of the prohibition to that person,";

(c) in subsection (4)(a), for the words "to apply for planning permission" to the end, there were substituted "to remedy the breach of planning control".

**Modification of section 171E (temporary stop notice)**

**4.** Section 171E applies as if in subsection (1)—

(a) in paragraph (a), at the end "and" were omitted;

(b) paragraph (b) were omitted.

**Modification of section 171F (temporary stop notice: restrictions)**

**5.** Section 171F applies as if—

(a) in subsection (1), paragraph (b) were omitted;

(b) subsections (2) to (4) were omitted.

**Modification of section 171H (temporary stop notices: compensation)**

**6.** Section 171H applies as if for it there were substituted—

"**171H.**—(1) Subject to paragraph (2), this section applies where—

(a) a temporary stop notice is issued; and

(b) either—

(i) it is determined that there has not been a breach of planning control; or

(ii) the authority withdraws the notice.

(2) This section does not apply in a case where a person is member of the Responsible Actors Scheme on or after the day on which a copy of the notice is first displayed as mentioned in section 171E(6), whether or not their membership has been treated as having retrospective effect.

(3) A person who at the time the notice is served has an interest in the land to which the notice relates is entitled to be compensated by the local planning authority in respect of any loss or damage directly attributable to the prohibition effected by the notice.

(4) Subsections (3) to (7) of section 186 apply in relation to a claim for compensation payable under this section—

(a) as they apply to compensation payable under that section; and

(b) reading each reference to a "stop notice" in those subsections as if it were a reference to a temporary stop notice.".

**Modification of section 172 (issue of enforcement notice)**

**7.** Section 172 applies as if for subsection (1)(b) there were substituted—

"(b) that it is expedient to issue the notice".

**Modification of section 173 (contents and effect of notice)**

**8.** Section 173 applies as if—

(a) for subsection (1) there were substituted—

"(1) Subject to subsection (10), an enforcement notice must state the matters which appear to the local planning authority to constitute the breach of planning control.";

(b) in subsection (2), for "subsection (1)(a)" substitute "subsection (1)";

(c) for subsection (4), there were substituted—

"(4) Those purposes are—

(a) ensuring compliance with the prohibition;

(b) remedying any injury to amenity which has been caused by the breach.";

(d) for subsection (10) there were substituted—

"(10) An enforcement notice must—

(a) specify the precise boundaries of the land to which the notice relates, whether by reference to a plan or otherwise;

(b) contain a list of the names and addresses of the persons on whom a copy of the enforcement notice has been served;

(c) be accompanied by an explanatory note providing information relating to—

(i) any relevant right of appeal;

(ii) the grounds on which an appeal may be brought under this Part.".

**Modification of section 174 (appeal against enforcement notice)**

**9.** Section 174(**12**) applies as if—

(a) in subsection (2), paragraphs (a) and (f) were omitted;

(b) subsections (2A), (2B) and (2D) to (2F) were omitted;

(c) in subsection (4)—

(i) in the opening words, for "prescribed time" there were substituted "time specified in subsection (4A)";

(ii) for paragraph (b), there were substituted—

"(b) setting out briefly the facts on which the person proposes to rely in support of each of those grounds.";

(d) after subsection (4), there were inserted—

"(4A) If the statement in writing referred to in subsection (4) is not included with the notice of appeal, it must be delivered to the Secretary of State not later than 14 days after the date on which the Secretary of State sends the person concerned a notice requiring that person to do so.";

(e) in subsection (5), for "prescribed time" there were substituted "time specified in subsection (4A)".

(**12**) Section 174 has been amended by section 61 of the 1991 Act, S.I. 2003/956, section 123(4) of the Localism Act 2011, paragraph 5 of Schedule 17 to the Enterprise and Regulatory Reform Act 2013 (c. 24).

**Modification of section 175 (appeals: supplementary provisions)**

**10.** Section 175 applies as if—

(a) for subsections (1), there were substituted—

"(1) The Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002 apply to appeals under section 174 as if—

(a) Part 2 were omitted;

(b) regulation 9(1)(b) were omitted.";

(b) subsections (2) were omitted;

(c) at the end there were inserted—

"(8) The following Regulations and rules apply to appeals under section 174—

(a) the Town and Country Planning (Enforcement) (Inquiries Procedure) (England) Rules 2002(**13**);

(b) the Town and Country Planning (Enforcement) (Determination by inspectors) (Inquiries Procedure) (England) Rules 2002(**14**);

(c) the Town and Country Planning (Enforcement) (Hearings Procedure) (England) Rules 2002(**15**);

(d) the Town and Country Planning (Enforcement) (Written Representations Procedure) (England) Regulations 2002(**16**), but as if regulation 7(4)(b) were omitted.".

**Modification of section 176 (general provisions relating to determination of appeals)**

**11.** Section 176 applies as if—

(a) in subsection (1), for "On an appeal" there were substituted "Subject to subsection (1A), on an appeal";

(b) after subsection (1), there were inserted—

"(1A) Nothing in subsection (1) permits the Secretary of State to determine the question of whether the appellant is eligible to be a member of the Responsible Actors Scheme if that question has already been determined in accordance with regulation 14 and 16 of the Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023.";

(c) in subsection (3)(a), for "prescribed time" there were substituted "time specified in section 174(4A)".

**Modification of section 177 (grant or modification of planning permission on appeals against enforcement notices)**

**12.** Section 177 applies as if for it there were substituted—

"**177.** On the determination of an appeal under section 174, the Secretary of State may determine whether, on or before the date on which the appeal was made, major development of land in England was being carried out in breach of the prohibition.".

(**13**) S.I. 2002/2686.
(**14**) S.I. 2002/2685.
(**15**) S.I. 2002/2684.
(**16**) S.I. 2002/2683.

**Modification of section 180 (effect of planning permission, etc, on enforcement or breach of condition notice)**

**13.** Section 180 applies as if—

(a) for subsection (1) there were substituted—

"(1) Where after the service of a copy of an enforcement notice the person undertaking development to which the notice applies ceases to be a prohibited person within the meaning of regulation 29 of the Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023 ("the 2023 Regulations"), the notice ceases to have effect so far as it is inconsistent with the 2023 Regulations.";

(b) subsection (2) were omitted;

(c) in subsection (3), "or breach of condition notice" were omitted.

**Modifications of section 181 (enforcement notice to have effect against subsequent development)**

**14.** Section 181 applies as if for it there were substituted—

"**181.** Compliance with any requirements in an enforcement notice does not discharge the notice, and accordingly, any resumption of major development after they have been discontinued in compliance with the enforcement notice will be in contravention of the enforcement notice".

**Modification of section 183 (stop notices)**

**15.** Section 183 applies as if paragraphs (5) and (5A) were omitted.

**Modification of section 186 (compensation for loss due to stop notice)**

**16.** Section 186 applies as if—

(a) in subsection (1)—

(i) paragraph (a) were omitted;

(ii) in paragraph (b), the words "(otherwise than" to in "that paragraph)" were omitted;

(iii) in paragraph (c), the words "otherwise than in consequence" to "notice relates" were omitted;

(b) in subsection (3), for the words "within the prescribed time and in the prescribed manner" there were substituted "in accordance with regulation 12 of the Town and Country Planning General Regulations 1992(**17**)".

**Modification of section 188 (Register of enforcement and stop notices)**

**17.** Section 188 applies to enforcement action taken under these Regulations as if the references in that section—

(a) to planning enforcement orders included a reference to planning enforcement orders issued under these Regulations;

(b) to enforcement notices included a reference to enforcement notices issued under these Regulations;

(c) to stop notices included a reference to stop notices issued under these Regulations.

(**17**) S.I. 1992/1492. Regulation 12 was amended by S.I. 1996/525.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These regulations establish the Responsible Actors Scheme ("the scheme") and the prohibitions under the Act. They identify certain developers who are eligible to become members of the scheme, and, as a condition of membership, require such developers to enter into and comply with a contract with the Secretary of State for Levelling Up, Housing and Communities under which they are to, among other things, remediate relevant residential buildings for which they are responsible at their own expense and reimburse to the government amounts paid out by government remediation funds to remediate buildings for which they are responsible.

Part 1 (regulations 1 to 4) contains introductory provisions.

Part 2, Chapter 1 (regulations 5 to 12) establishes the scheme, sets out the description of the persons who are eligible to become members of the scheme, and those who may choose to become members of the scheme.

Chapter 2 (regulations 13 to 20) makes provision for applications to join the scheme and for lists to be published by the Secretary of State. The Secretary of State is required to publish two lists: a list of the persons who are members of the scheme, and a list of those persons who, though eligible, are not members of the scheme, and the persons whom they control ("the prohibitions list") (regulation 20).

Chapter 3 (regulations 21 to 23) sets out the conditions with which members of the scheme must comply and gives the Secretary of State power to require scheme members to produce certain information.

Chapter 4 (regulations 24 to 27) makes provision for the revocation of a member's membership of the scheme and for a member's membership to end where the member has fulfilled its obligations under the scheme.

Part 3 (regulations 28 to 42), with the Schedule to the regulations, set out the consequences which apply to those persons who are included on the prohibitions list. They are prohibited from carrying out major development in England (regulation 29), except for development for which planning permission has been granted before the regulations come into force (regulation 32). They are required to notify the relevant local authority of certain circumstances (regulation 30). Persons on the prohibitions list are also subject to the building control prohibitions set out in regulation 33. The effect of things done in contravention of the building control prohibitions (regulation 39) and the effect of the prohibitions on the validity of documents given or accepted in relation to building control before a person was prohibited is set out (regulation 40). Regulation 41 and the Schedule to the regulations modify Part 7 of the Town and Country Planning Act 1990 to take account of the prohibition on development provided for in these regulations. The prohibitions are subject to certain exceptions (regulations 31, 34, 35, 36, 37, 38 and 42).

Part 4 contains a review clause (regulation 43).

A copy of the International Accounting Standard 28 Investments in Associates and Joint Ventures the Financial Reporting Standard 102 and the Self Remediation Terms, which are referred to in these regulations, are available for inspection during office hours at the Department for Levelling Up, Housing and Communities Environment, 2 Marsham Street, London, SW1P 4DF. The Self Remediation Terms are also available at https://www.gov.uk/government/publications/developer-remediation-contract.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from www.legislation.gov.uk and from the Department for Levelling Up, Housing and Communities, 2 Marsham Street, London, SW1P 4DF.