

Draft Regulations laid before Parliament under section 168(6) of the Building Safety Act 2022 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2023 No. 000

**BUILDING AND BUILDINGS, ENGLAND
LANDLORD AND TENANT, ENGLAND**

**The Building Safety (Leaseholder Protections
etc.) (England) (Amendment) Regulations 2023**

Made - - - - *******
Coming into force - - *******

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)—

- (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

Date

Name
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and
Communities

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]

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 No. 895

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).

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 No. 895

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 for 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:
<ol style="list-style-type: none"> 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 <u>and</u> you met the contribution condition or the lease is not a qualifying lease, you <u>do not</u> need to provide information and evidence under regulation 6(3) and (4). <input type="checkbox"/> 2. Where you or a superior landlord met the developer test or there is no known defect at the time of completing this certificate <u>and</u> you did not meet the contribution condition, you <u>do not</u> need to provide information and evidence under regulation 6(3)(a) and (b), and (4)(d). <input type="checkbox"/> 3. Where you or a superior landlord did not meet the developer test <u>and</u> you met the contribution condition or the lease is not a qualifying lease, you <u>do not</u> need to provide information and evidence under regulation 6(3)(a) and (c), and (4)(a), (b), (e) and (f). <input type="checkbox"/> 4. Where you or a superior landlord did not meet the developer test <u>and</u> you are exempt from the contribution condition (in accordance with paragraph 3 of Schedule 8 to the Building Safety Act 2022), you <u>do not</u> need to provide information and evidence under regulation 6(3)(c), and (4)(a) and (b). <input type="checkbox"/> 5. Where you or a superior landlord met the developer test or there is no known defect at the time of completing this certificate <u>and</u> you are exempt from the contribution condition (in accordance with paragraph 3 of Schedule 8 to the Building Safety Act 2022), you <u>do not</u> need to provide information and evidence under regulation 6(3), and (4)(a), (b) and (d). <input type="checkbox"/>

<p>6. Where your or a superior landlord did not meet the developer test, you did not meet the contribution condition <u>and</u> the value of the lease on 14 February 2022 was below £325,000 in Greater London or £175,000 elsewhere in England, you <u>do not</u> need to provide information and evidence under regulation 6(4)(e) and (f). <input type="checkbox"/></p> <p><i>[place an X in the box next to the ONE statement which applies (if any), and insert "N/A" in the applicable boxes below]</i></p>	
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))	<input type="checkbox"/>
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))	<input type="checkbox"/>
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))	<input type="checkbox"/>
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))	<input type="checkbox"/>
E. Statement from chartered accountant or finance director (regulation 6(4)(b))	<input type="checkbox"/>
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)).	<input type="checkbox"/>
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))	<input type="checkbox"/>
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))	<input type="checkbox"/>
I. Evidence of any relevant defects and works carried out to remedy those defects since 28 June 2017 (regulation 6(4)(e))	<input type="checkbox"/>
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))	<input type="checkbox"/>

Signed by:
[full name of landlord under the lease]

<i>Signature</i>

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 or 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.

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 at 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 changes 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 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.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 No. 895*