
STATUTORY INSTRUMENTS

2023 No. 753

**The Building Safety (Responsible Actors
Scheme and Prohibitions) Regulations 2023**

PART 3

Planning and Building Control Prohibitions

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(1) applies in respect of a breach of the prohibition in regulation 29 with the modifications set out in the Schedule to these Regulations.

Commencement Information

II Reg. 41 in force at 4.7.2023, see [reg. 1\(1\)](#)

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—

(a) be accompanied by evidence as to why the applicant is not a person in the building industry;

(1) 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.

(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.

Commencement Information

I2 Reg. 42 in force at 4.7.2023, see [reg. 1\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023, CHAPTER 4.