



# Building Act 1984

## 1984 CHAPTER 55

### PART I

#### BUILDING REGULATIONS

#### *[<sup>F1</sup>Notices in respect of contraventions]*

#### **38 Civil liability.**

- (1) Subject to this section—
  - (a) breach of a duty imposed by building regulations, so far as it causes damage, is actionable, except in so far as the regulations provide otherwise, and
  - (b) as regards such a duty, building regulations may provide for a prescribed defence to be available in an action for breach of that duty brought by virtue of this subsection.
- (2) Subsection (1) above, and any defence provided for in regulations made by virtue of it, do not apply in the case of a breach of such a duty in connection with a building erected before the date on which that subsection comes into force unless the regulations imposing the duty apply to or in connection with the building by virtue of section 2(2) [<sup>F1</sup>or 2A] above or paragraph 8 of Schedule 1 to this Act.
- (3) This section does not affect the extent (if any) to which breach of—
  - (a) a duty imposed by or arising in connection with this Part of this Act or any other enactment relating to building regulations, or
  - (b) a duty imposed by building regulations in a case to which subsection (1) above does not apply,is actionable, or prejudice a right of action that exists apart from the enactments relating to building regulations.
- (4) In this section, “damage” includes the death of, or injury to, any person (including any disease and any impairment of a person’s physical or mental condition).

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*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Building Act 1984. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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#### **Textual Amendments**

- F1** Words in s. 38(2) inserted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), [ss. 4\(3\)](#), [11\(4\)](#)
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#### **Commencement Information**

- I1** S. 38 in force at 1.12.1984 for specified purposes, see [s. 134\(1\)\(a\)](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(1A)(d) inserted by [2015 c. 7 s. 37\(2\)](#)
- s. 44(11) inserted by [2004 c. 22 s. 3\(8\)](#)
- s. 79A inserted by [2023 asc 3 Sch. 13 para. 65](#)
- s. 91B inserted by [2022 c. 30 Sch. 5 para. 56](#)
- s. 95(5) inserted by [2022 c. 30 s. 60\(2\)](#)
- s. 105C inserted by [2022 c. 30 s. 58](#)
- s. 116(3)-(6) inserted by [2022 c. 30 s. 45\(2\)\(d\)](#)
- s. 117(A1)(A2) inserted by [2022 c. 30 s. 45\(3\)\(b\)](#)
- s. 118(1A) inserted by [2022 c. 30 s. 45\(4\)\(b\)](#)
- s. 131A inserted by [2022 c. 30 s. 59](#)
- s. 131B inserted by [2022 c. 30 s. 60\(3\)](#)
- Sch. 1 para. 7A inserted by [2015 c. 7 s. 37\(4\)](#)