



Building Safety Act 2022

2022 CHAPTER 30

PART 4

HIGHER-RISK BUILDINGS

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

Status: This is the original version (as it was originally enacted).

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.