



Building Safety Act 2022

2022 CHAPTER 30

PART 5

OTHER PROVISION ABOUT SAFETY, STANDARDS ETC

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—

Status: This is the original version (as it was originally enacted).

“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.