



Building Safety Act 2022

2022 CHAPTER 30

PART 5

OTHER PROVISION ABOUT SAFETY, STANDARDS ETC

Remediation of certain defects

116 Remediation of certain defects

- (1) Sections 117 to 125 and [Schedule 8](#) make provision in connection with the remediation of relevant defects in relevant buildings.
- (2) In those sections—
 - (a) sections 117 to 121 define “relevant building”, “qualifying lease”, “the qualifying time”, “relevant defect” and “associate”;
 - (b) section 122 and [Schedule 8](#) contain protections for tenants in respect of costs connected with relevant defects, and impose liabilities on certain landlords;
 - (c) section 123 makes provision about remediation orders, under which a landlord in a relevant building is required to remedy certain relevant defects;
 - (d) section 124 makes provision about remediation contribution orders, under which an associate of a landlord in a relevant building is required to contribute towards the costs of remedying certain relevant defects;
 - (e) section 125 makes provision about cases where a company that is a landlord in a relevant building is being wound up, and confers on the court powers in respect of persons associated with the company.

117 Meaning of “relevant building”

- (1) This section applies for the purposes of sections 119 to 125 and [Schedule 8](#).
- (2) “Relevant building” means a self-contained building, or self-contained part of a building, in England that contains at least two dwellings and—
 - (a) is at least 11 metres high, or

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- (b) has at least 5 storeys.

This is subject to subsection (3).

- (3) “Relevant building” does not include a self-contained building or self-contained part of a building—
 - (a) in relation to which a right under Part 1 of the Landlord and Tenant Act 1987 (tenants’ right of first refusal) or Part 3 of that Act (compulsory acquisition by tenants of landlord’s interest) has been exercised,
 - (b) in relation to which the right to collective enfranchisement (within the meaning of Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993) has been exercised,
 - (c) if the freehold estate in the building or part of the building is leaseholder owned (within the meaning of regulations made by the Secretary of State), or
 - (d) which is on commonhold land.
- (4) For the purposes of this section a building is “self-contained” if it is structurally detached.
- (5) For the purposes of this section a part of a building is “self-contained” if—
 - (a) the part constitutes a vertical division of the building,
 - (b) the structure of the building is such that the part could be redeveloped independently of the remainder of the building, and
 - (c) the relevant services provided for occupiers of that part—
 - (i) are provided independently of the relevant services provided for occupiers of the remainder of the building, or
 - (ii) could be so provided without involving the carrying out of any works likely to result in a significant interruption in the provision of any such services for occupiers of the remainder of the building.
- (6) In subsection (5) “relevant services” means services provided by means of pipes, cables or other fixed installations.

118 Section 117: height of buildings and number of storeys

- (1) This section applies for the purpose of section 117.
- (2) The height of a building is to be measured from ground level to the finished surface of the floor of the top storey of the building (ignoring any storey which is a roof-top machinery or plant area or consists exclusively of machinery or plant rooms).
- (3) When determining the number of storeys in a building—
 - (a) any storey below ground level is to be disregarded;
 - (b) any mezzanine floor is to be regarded as a storey if its internal floor area is at least half of the internal floor area of the largest storey in the building which is not below ground level.
- (4) In subsection (2) “ground level”, in relation to a building, means—
 - (a) the level of the surface of the ground immediately adjacent to the building, or
 - (b) where the level of the surface of the ground on which the building is situated is not uniform, the level of the lowest part of the surface of the ground immediately adjacent to it.

- (5) For the purposes of subsection (3) a storey is “below ground level” if any part of the finished surface of the ceiling of the storey is below the level of the surface of the ground immediately adjacent to that part of the building.

119 Meaning of “qualifying lease” and “the qualifying time”

- (1) This section applies for the purposes of sections 122 to 125 and [Schedule 8](#).
- (2) A lease is a “qualifying lease” if—
- (a) it is a long lease of a single dwelling in a relevant building,
 - (b) the tenant under the lease is liable to pay a service charge,
 - (c) the lease was granted before 14 February 2022, and
 - (d) at the beginning of 14 February 2022 (“the qualifying time”)—
 - (i) the dwelling was a relevant tenant’s only or principal home,
 - (ii) a relevant tenant did not own any other dwelling in the United Kingdom, or
 - (iii) a relevant tenant owned no more than two dwellings in the United Kingdom apart from their interest under the lease.
- (3) Where a dwelling was at the qualifying time let under two or more leases to which subsection (2)(a) and (b) apply, any of those leases which is superior to any of the other leases is not a “qualifying lease”.
- (4) For the purposes of this section—
- (a) “long lease” means a lease granted for a term of years certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise;
 - (b) a person “owns” a dwelling in England, Wales or Northern Ireland if the person has a freehold interest in it or is a tenant under a long lease of it;
 - (c) “relevant tenant” means a person who, at the qualifying time, was the tenant, or any of the tenants, under the lease mentioned in subsection (2);
 - (d) “service charge” has the meaning given by section 18 of the Landlord and Tenant Act 1985.

120 Meaning of “relevant defect”

- (1) This section applies for the purposes of sections 122 to 125 and [Schedule 8](#).
- (2) “Relevant defect”, in relation to a building, means a defect as regards the building that—
- (a) arises as a result of anything done (or not done), or anything used (or not used), in connection with relevant works, and
 - (b) causes a building safety risk.
- (3) In subsection (2) “relevant works” means any of the following—
- (a) works relating to the construction or conversion of the building, if the construction or conversion was completed in the relevant period;
 - (b) works undertaken or commissioned by or on behalf of a relevant landlord or management company, if the works were completed in the relevant period;
 - (c) works undertaken after the end of the relevant period to remedy a relevant defect (including a defect that is a relevant defect by virtue of this paragraph).

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“The relevant period” here means the period of 30 years ending with the time this section comes into force.

- (4) In subsection (2) the reference to anything done (or not done) in connection with relevant works includes anything done (or not done) in the provision of professional services in connection with such works.
- (5) For the purposes of this section—
- “building safety risk”, in relation to a building, means a risk to the safety of people in or about the building arising from—
 - (a) the spread of fire, or
 - (b) the collapse of the building or any part of it;
 - “conversion” means the conversion of the building for use (wholly or partly) for residential purposes;
 - “relevant landlord or management company” means a landlord under a lease of the building or any part of it or any person who is party to such a lease otherwise than as landlord or tenant.

121 Associated persons

- (1) For the purposes of sections 122 to 125 and [Schedule 8](#), a partnership or body corporate is associated with another person in the circumstances mentioned in subsections (2) to (5).
- (2) Where a person’s interest in a relevant building was held on trust at the qualifying time, any partnership or body corporate which was a beneficiary of the trust at that time is to be regarded, for the purposes of the provisions mentioned in subsection (1) as they apply in relation to the relevant building, as associated with the person.
- (3) A partnership is associated with any person who was a partner in the partnership, other than a limited partner, at any time in the period of 5 years ending at the qualifying time (“the relevant period”).
- (4) A body corporate is associated with any person who was a director of the body corporate at any time in the relevant period.
- (5) A body corporate is associated with another body corporate if—
- (a) at any time in the relevant period a person was a director of both of them, or
 - (b) at the qualifying time, one of them controlled the other or a third body corporate controlled both of them.

Subsections (6) to (8) set out the cases in which a body corporate is regarded as controlling another body corporate.

- (6) 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.
- (7) 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.
- (8) 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.
- (9) In subsection (7) 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.
- (10) In determining 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).
- (11) In this section “partnership” means—
 - (a) a partnership within the meaning of the Partnership Act 1890, or
 - (b) a limited partnership registered under the Limited Partnerships Act 1907, or a firm or entity of a similar character formed under the law of a country or territory outside the United Kingdom (and the reference to “limited partner” is to be read accordingly).
- (12) The Secretary of State may by regulations provide that, in relation to a prescribed reference in a provision mentioned in subsection (1) to anyone associated with another person, subsections (2) to (5) have effect with prescribed modifications.

122 Remediation costs under qualifying leases etc

Schedule 8—

- (a) provides that certain service charge amounts relating to relevant defects in a relevant building are not payable, and
- (b) makes provision for the recovery of those amounts from persons who are landlords under leases of the building (or any part of it).

123 Remediation orders

- (1) The Secretary of State may by regulations make provision for and in connection with remediation orders.
- (2) A “remediation order” is an order, made by the First-tier Tribunal on the application of an interested person, requiring a relevant landlord to remedy specified relevant defects in a specified relevant building by a specified time.

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- (3) In this section “relevant landlord”, in relation to a relevant defect in a relevant building, means a landlord under a lease of the building or any part of it who is required, under the lease or by virtue of an enactment, to repair or maintain anything relating to the relevant defect.
- (4) In subsection (3) the reference to a landlord under a lease includes any person who is party to the lease otherwise than as landlord or tenant.
- (5) In this section “interested person”, in relation to a relevant building, means—
 - (a) the regulator (as defined by section 2),
 - (b) a local authority (as defined by section 30) for the area in which the relevant building is situated,
 - (c) a fire and rescue authority (as defined by section 30) for the area in which the relevant building is situated,
 - (d) a person with a legal or equitable interest in the relevant building or any part of it, or
 - (e) any other person prescribed by the regulations.
- (6) In this section “specified” means specified in the order.
- (7) A decision of the First-tier Tribunal or Upper Tribunal made under or in connection with this section (other than one ordering the payment of a sum) is enforceable with the permission of the county court in the same way as an order of that court.

124 Remediation contribution orders

- (1) The First-tier Tribunal may, on the application of an interested person, make a remediation contribution order in relation to a relevant building if it considers it just and equitable to do so.
- (2) “Remediation contribution order”, in relation to a relevant building, means an order requiring a specified body corporate or partnership to make payments to a specified person, for the purpose of meeting costs incurred or to be incurred in remedying relevant defects (or specified relevant defects) relating to the relevant building.
- (3) A body corporate or partnership may be specified only if it is—
 - (a) a landlord under a lease of the relevant building or any part of it,
 - (b) a person who was such a landlord at the qualifying time,
 - (c) a developer in relation to the relevant building, or
 - (d) a person associated with a person within any of paragraphs (a) to (c).
- (4) An order may—
 - (a) require the making of payments of a specified amount, or payments of a reasonable amount in respect of the remediation of specified relevant defects (or in respect of specified things done or to be done for the purpose of remedying relevant defects);
 - (b) require a payment to be made at a specified time, or to be made on demand following the occurrence of a specified event.
- (5) In this section—
 - “associated”: see section 121;

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“developer”, in relation to a relevant building, means a person who undertook or commissioned the construction or conversion of the building (or part of the building) with a view to granting or disposing of interests in the building or parts of it;

“interested person”, in relation to a relevant building, means—

- (a) the Secretary of State,
- (b) the regulator (as defined by section 2),
- (c) a local authority (as defined by section 30) for the area in which the relevant building is situated,
- (d) a fire and rescue authority (as defined by section 30) for the area in which the relevant building is situated,
- (e) a person with a legal or equitable interest in the relevant building or any part of it, or
- (f) any other person prescribed by regulations made by the Secretary of State;

“partnership” has the meaning given by section 121;

“relevant building”: see section 117;

“relevant defect”: see section 120;

“specified” means specified in the order.

- (6) The Secretary of State may by regulations provide that this section applies, with or without modifications, in relation to a building that would, but for section 117(3), be a relevant building.

125 Meeting remediation costs of insolvent landlord

- (1) This section applies if, in the course of the winding up of a company which is a landlord under a lease of a relevant building or any part of it, it appears—
 - (a) that there are relevant defects relating to the building, and
 - (b) that the company is under an obligation (howsoever imposed) to remedy any of the relevant defects or is liable to make a payment relating to any costs incurred or to be incurred in remedying any of the relevant defects.
- (2) The court may, on the application of a person acting as an insolvency practitioner in relation to the company, by order require a body corporate or partnership associated with the company—
 - (a) to make such contributions to the company’s assets as the court considers to be just and equitable, or
 - (b) to make such payments to a specified person as the court considers to be just and equitable for the purpose of meeting costs incurred or to be incurred in remedying relevant defects mentioned in subsection (1)(b).

Section 124(4) applies for the purposes of this section.

- (3) An order may be made where proceedings for the winding up of the company were commenced before (as well as after) the coming into force of this section.
- (4) In this section—

“act as an insolvency practitioner” has the meaning given by section 388 of the Insolvency Act 1986;

“associated”: see section 121;

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“the court” means a court having jurisdiction to wind up the company;
“partnership” has the meaning given by section 121;
“relevant building”: see section 117;
“relevant defect”: see section 120;
“specified” means specified in the order.