



# 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.

### *Building industry schemes*

## **126 Building industry schemes**

- (1) The Secretary of State may by regulations—
  - (a) establish a scheme to be maintained by the Secretary of State, or a person designated by the Secretary of State and acting on the Secretary of State’s behalf, and
  - (b) make provision about the scheme.
- (2) A scheme may be established for any purpose connected with—
  - (a) securing the safety of people in or about buildings in relation to risks arising from buildings, or
  - (b) improving the standard of buildings,
including securing that safety, or improving that standard, by securing that persons in the building industry remedy defects in buildings or contribute to costs associated with remedying defects in buildings.
- (3) Regulations that establish a scheme must prescribe—
  - (a) the descriptions of persons in the building industry who may be members of the scheme (“eligible persons”), and
  - (b) the conditions that an eligible person must meet in order to become, and remain, a member of the scheme (“membership conditions”),
and may provide for different categories of membership.
- (4) The membership conditions that may be prescribed include in particular conditions relating to—
  - (a) the remedying of defects in buildings with which an eligible person has a connection of a prescribed kind;
  - (b) the making of financial contributions towards meeting costs associated with remedying defects in buildings (including buildings with which an eligible person has no connection);
  - (c) the use (or use in prescribed cases) of construction products (or construction products of a prescribed description) of prescribed persons carrying out activities in relation to construction products;
  - (d) the provision of information to the Secretary of State or any other person;
  - (e) the competence or conduct of any individual connected with an eligible person (for example, any director or senior manager of an eligible person) or any person with whom an eligible person contracts;
  - (f) whether persons with whom an eligible person contracts are members of a scheme.

In paragraph (e) “conduct” includes conduct occurring before the coming into force of this section.



- (5) The descriptions of persons prescribed by virtue of subsection (4)(c) may in particular be prescribed by reference to—
  - (a) being eligible to be members of a scheme and not being members of that scheme;
  - (b) their conduct in relation to remedying defects in buildings or contributing to costs associated with remedying defects in buildings.
- (6) The membership conditions that may be prescribed by virtue of subsection (4)(c) include in particular a condition requiring an eligible person to ensure that no prescribed product of prescribed persons carrying out activities in relation to construction products is used in prescribed cases.
- (7) The Secretary of State must ensure that a list of members of a scheme is kept and published (and may publish a list of persons who are eligible persons but are not members of a scheme).
- (8) Regulations may make provision about the keeping and publication of other lists.

## **127 Building industry schemes: supplementary**

- (1) This section supplements section 126.
- (2) Regulations may make provision about—
  - (a) applications for membership of a scheme;
  - (b) renewal of membership at prescribed intervals;
  - (c) termination of a person’s membership;
  - (d) the suspension of a person from membership.
- (3) Regulations may provide for the charging of fees, in connection with—
  - (a) an application for membership;
  - (b) renewal of membership;
  - (c) a review;
  - (d) any other prescribed matter.
- (4) Regulations may provide for membership conditions to be framed by reference to—
  - (a) standards, or a document, from time to time published by any person;
  - (b) the opinion of the Secretary of State, or a designated person, in relation to any matter.
- (5) Regulations may make provision about the determination of disputes.
- (6) Regulations may make provision about the termination of a scheme.
- (7) In section 126 and this section—
  - “building” means a building in England;
  - “building industry”: a reference to persons in the building industry is to persons carrying on, for business purposes, activities connected with the design, construction, management or maintenance of buildings, including persons carrying out activities in relation to construction products in England;
  - “construction product” has the meaning given by regulations;
  - “persons carrying out activities in relation to construction products” include (without limitation)—

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- (a) a manufacturer of construction products,
  - (b) a person who markets or supplies construction products to others, and
  - (c) a person who imports construction products into the United Kingdom for use, marketing or supply;
- “prescribed” means prescribed by the regulations;  
“regulations” means regulations under section 126;  
“scheme” means a scheme established under section 126;  
“standard” (except in subsection (4) of this section) is to be read in accordance with section 30.

*Prohibitions on development and building control*

**128 Prohibition on development for prescribed persons**

- (1) The Secretary of State may by regulations prohibit a person of a prescribed description from carrying out development of land in England (or a prescribed description of such development).
- (2) The descriptions of persons which may be prescribed include in particular persons who—
  - (a) are eligible to be members of a scheme established under section 126, and
  - (b) are not members of that scheme.
- (3) A prohibition under the regulations may be imposed for any purpose connected with—
  - (a) securing the safety of people in or about buildings in relation to risks arising from buildings, or
  - (b) improving the standard of buildings,
including securing that safety, or improving that standard, by securing that persons in the building industry remedy defects in buildings or contribute to costs associated with remedying defects in buildings.
- (4) A prohibition under the regulations applies despite planning permission (or any prescribed description of planning permission) having been granted.
- (5) The regulations may provide that, in prescribed cases, no prescribed certificate under the 1990 Act may be granted (and any purported grant is of no effect).
- (6) The regulations may require a person of a prescribed description to give a notification relating to development (and may make provision about the content and form of a notification and the way in which it is to be given).
- (7) The regulations may contain exceptions.
- (8) The regulations may make provision about enforcement, including in particular provision applying (with or without modifications), in relation to a breach of the regulations, any provision of Part 7 of the 1990 Act (enforcement).
- (9) For the purposes of this section—
  - (a) “the 1990 Act” means the Town and Country Planning Act 1990;
  - (b) “building” means a building in England;
  - (c) “development” has the meaning given by section 55 of the 1990 Act;
  - (d) “planning permission” has the meaning given by section 336 of the 1990 Act;

- (e) “prescribed” means prescribed by regulations under this section;
- (f) “standard” is to be read in accordance with section 30.

## **129 Building control prohibitions**

- (1) The Secretary of State may by regulations impose a building control prohibition, as regards buildings or proposed buildings, in relation to persons of a prescribed description.
- (2) The descriptions of persons which may be prescribed include in particular persons who—
  - (a) are eligible to be members of a scheme established under section 126, and
  - (b) are not members of that scheme.
- (3) A building control prohibition may be imposed for any purpose connected with—
  - (a) securing the safety of people in or about buildings in relation to risks arising from buildings, or
  - (b) improving the standard of buildings,including securing that safety, or improving that standard, by securing that persons in the building industry remedy defects in buildings or contribute to costs associated with remedying defects in buildings.
- (4) A “building control prohibition”, in relation to a person, prohibits—
  - (a) the person from applying for building control approval or from depositing plans,
  - (b) the person from giving an initial notice (whether or not jointly with anyone else) or a public body’s notice, public body’s plans certificate or public body’s final certificate,
  - (c) the granting of building control approval to the person,
  - (d) the passing of plans deposited by the person,
  - (e) the acceptance of an initial notice given by the person (whether or not jointly with anyone else) or a public body’s notice, public body’s plans certificate or public body’s final certificate given by the person,
  - (f) the giving of a final certificate in relation to works carried out by the person,
  - (g) the person from giving a prescribed document,
  - (h) the giving of a prescribed document to the person or in respect of works carried out by the person, or
  - (i) the acceptance of any prescribed document given by the person or in respect of works carried out by the person.
- (5) A building control prohibition applies despite any provision made by or under the Building Act 1984.
- (6) The regulations may contain exceptions.
- (7) The regulations may provide that anything done in contravention of the regulations is of no effect.
- (8) Any reference in this section to a building or proposed building is to a building or proposed building in England.
- (9) In this section—

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“building” and “building control approval”, and references to the deposit and passing of plans, are to be read in accordance with Part 1 of the Building Act 1984;

“initial notice”, “final certificate”, “public body’s notice”, “public body’s plans certificate” and “public body’s final certificate” have the same meaning as in Part 2 of that Act;

“prescribed” means prescribed by regulations under this section;

“standard” is to be read in accordance with section 30.

### *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—
 

“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.

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- (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.

*Remediation and redress: other provisions*

**133 Service charges in respect of remediation works**

- (1) The Landlord and Tenant Act 1985 is amended as follows.
- (2) In section 20(1)(b) (limitation of service charges: consultation requirements) at the beginning insert “except in the case of works to which [section 20D](#) applies,”.
- (3) In section 20ZA (consultation requirements: supplementary) after subsection (5) insert—
- “(5A) And in the case of works to which [section 20D](#) applies, regulations under subsection (4) may also include provision requiring the landlord—
- (a) to give details of the steps taken or to be taken under [section 20D\(2\)](#),
  - (b) to give reasons about prescribed matters, and any other prescribed information, relating to the taking of such steps, and
  - (c) to have regard to observations made by tenants or the recognised tenants’ association in relation to the taking of such steps.”
- (4) After section 20C insert—

**“20D Limitation of service charges: remediation works**

- (1) This section applies to works of a prescribed description (“remediation works”) on a building in England of a prescribed description.
- (2) The landlord must—
- (a) take reasonable steps to ascertain whether any grant is payable in respect of the remediation works and, if so, to obtain the grant;
  - (b) take reasonable steps to ascertain whether monies may be obtained from a third party in connection with the undertaking of the remediation works and, if so, to obtain monies from the third party;

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- (c) take prescribed steps relating to any other prescribed kind of funding.
- (3) In [subsection \(2\)\(b\)](#) the reference to obtaining monies from a third party includes obtaining monies—
- (a) under a policy of insurance;
  - (b) under a guarantee or indemnity;
  - (c) pursuant to a claim made against—
    - (i) a developer;
    - (ii) a person involved in the design of the building or of works to the building; or
    - (iii) a person involved in carrying out works in relation to the building.
- (4) Where any funding of a kind mentioned in [subsection \(2\)](#) is obtained, the amount of the funding is to be deducted from the remediation costs (and the amount of any service charge is to be reduced accordingly).
- (5) In the case of a failure to comply with [subsection \(2\)](#), a tenant may make an application for an order that all or any of remediation costs are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by—
- (a) the tenant, or
  - (b) anyone else specified in the application.
- (6) An application is to be made to the prescribed court or tribunal.
- (7) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.
- (8) Nothing in this section requires the landlord to do anything mentioned in [subsection \(2\)](#) before carrying out remediation works.
- (9) The Secretary of State may issue guidance about the taking of steps under [subsection \(2\)](#), and may revise or withdraw any issued guidance.
- (10) Where on an application under this section it is alleged that a person failed to comply with [subsection \(2\)](#)—
- (a) proof of a failure to comply with any applicable guidance may be relied on as tending to establish that there was such a failure, and
  - (b) proof of compliance with any applicable guidance may be relied on as tending to establish that there was no such failure.
- (11) In this section—
- “developer”, in relation to a building, means a person who undertakes or commissions the construction or conversion of the building with a view to granting or disposing of interests in the building (or parts of it);
  - “prescribed” means prescribed by regulations made by the Secretary of State;
  - “remediation costs” means costs incurred or to be incurred in carrying out the remediation works;
  - “third party” means a person other than a tenant.

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### **20E Regulations under section 20D**

- (1) In this section “regulations” means regulations under [section 20D](#).
- (2) Regulations are to be made by statutory instrument.
- (3) A power to make regulations includes power to make—
  - (a) incidental, transitional or saving provision;
  - (b) different provision for different purposes.
- (4) A statutory instrument containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament.”

### **134 Duties relating to work to dwellings etc**

- (1) In the Defective Premises Act 1972 after section 2 insert—

#### **“2A Duties relating to work to dwellings etc**

- (1) This section applies where a person, in the course of a business, takes on work in relation to any part of a relevant building.
- (2) In this section “relevant building” means a building consisting of or containing one or more dwellings.
- (3) The person owes a duty to—
  - (a) the person for whom the work is done, and
  - (b) each person who holds or acquires an interest (whether legal or equitable) in a dwelling in the building,
 to see that the work is done in a workmanlike or (as the case may be) professional manner, with proper materials and so that as regards the work the dwelling is fit for habitation when the work is completed.
- (4) The duty under this section does not apply in relation to a dwelling if—
  - (a) the work taken on is work for or in connection with the provision of the dwelling (as to which see section 1), or
  - (b) it is expected that, on completion of the work, it will have ceased to be a dwelling or will otherwise have ceased to exist.
- (5) A person (A) who takes on any work to which this section applies for another (B) on terms that A is to do it in accordance with instructions given by or on behalf of B is, to the extent to which A does it properly in accordance with those instructions, to be treated for the purposes of this section as discharging the duty imposed on A by this section except where A owes a duty to B to warn B of any defects in the instructions and fails to discharge that duty.
- (6) A person is not treated for the purposes of [subsection \(5\)](#) as having given instructions for the doing of work merely because the person has agreed to the work being done in a specified manner, with specified materials or to a specified design.
- (7) A person who, in the course of a business which consists of or includes carrying out or arranging for the carrying out of work of a kind mentioned



in [subsection \(1\)](#), arranges for another to take on work of that kind is treated for the purposes of this section as included among the persons who have taken on the work.

- (8) For the purposes of the Limitation Act 1980, a cause of action in respect of a breach of a duty imposed by this section is treated as accruing at the time the work is completed; but if after that time a person does further work to rectify the work the person has already done, any such cause of action in respect of that further work is treated as accruing at the time when the further work is finished.”
- (2) The amendment made by this section applies in relation to work completed after the coming into force of this section.

### 135 Limitation periods

- (1) After section 4A of the Limitation Act 1980 insert—

**“4B Special time limit for certain actions in respect of damage or defects in relation to buildings**

- (1) Where by virtue of a relevant provision a person becomes entitled to bring an action against any other person, no action may be brought after the expiration of 15 years from the date on which the right of action accrued.
- (2) An action referred to in subsection (1) is one to which—
- (a) sections 1, 28, 32, 35, 37 and 38 apply;
  - (b) the other provisions of this Act do not apply.
- (3) In this section “relevant provision” means—
- (a) section 1 or 2A of the Defective Premises Act 1972;
  - (b) section 38 of the Building Act 1984.
- (4) Where by virtue of section 1 of the Defective Premises Act 1972 a person became entitled, before the commencement date, to bring an action against any other person, this section applies in relation to the action as if the reference in subsection (1) to 15 years were a reference to 30 years.
- (5) In subsection (4) “the commencement date” means the day on which section 135 of the Building Safety Act 2022 came into force.”
- (2) In section 1(5) of the Defective Premises Act 1972, for “the Limitation Act 1939, the Law Reform (Limitation of Actions, &c.) Act 1954 and the Limitation Act 1963” substitute “the Limitation Act 1980”.
- (3) The amendment made by [subsection \(1\)](#) in relation to an action by virtue of section 1 of the Defective Premises Act 1972 is to be treated as always having been in force.
- (4) In a case where—
- (a) by virtue of section 1 of the Defective Premises Act 1972 a person became entitled, before the day on which this section came into force, to bring an action against any other person, and
  - (b) the period of 30 years from the date on which the right of action accrued expires in the initial period,

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section 4B of the Limitation Act 1980 (inserted by subsection (1)) has effect as if it provided that the action may not be brought after the end of the initial period.

- (5) Where an action is brought that, but for [subsection \(3\)](#), would have been barred by the Limitation Act 1980, a court hearing the action must dismiss it in relation to any defendant if satisfied that it is necessary to do so to avoid a breach of that defendant's Convention rights.
- (6) Nothing in this section applies in relation to a claim which, before this section came into force, was settled by agreement between the parties or finally determined by a court or arbitration (whether on the basis of limitation or otherwise).
- (7) In this section—  
     “Convention rights” has the same meaning as in the Human Rights Act 1998;  
     “the initial period” means the period of one year beginning with the day on which this section comes into force.

#### *New homes ombudsman scheme*

### **136 Establishment of the new homes ombudsman scheme**

- (1) The Secretary of State must make arrangements for there to be a scheme, to be known as the “new homes ombudsman scheme”, which meets the conditions in section 137(1).
- (2) Examples of arrangements under [subsection \(1\)](#) are arrangements—  
     (a) with another person under which that other person agrees to establish and maintain the new homes ombudsman scheme in accordance with the terms of the arrangements,  
     (b) under which the new homes ombudsman scheme is established and maintained by (or on behalf of) the Secretary of State, or  
     (c) for the maintenance of the new homes ombudsman scheme, in accordance with the terms of the arrangements, by a person other than the person who established it.
- (3) The Secretary of State may—  
     (a) give financial assistance (by way of grant, loan, guarantee or in any other form) to a person for the establishment or maintenance of the new homes ombudsman scheme;  
     (b) make payments to such a person (otherwise than as financial assistance) in accordance with arrangements under [subsection \(1\)](#).
- (4) Before making arrangements under subsection (1), the Secretary of State must consult—  
     (a) the Welsh Ministers,  
     (b) the Scottish Ministers, and  
     (c) the relevant Northern Ireland department.
- (5) In this section, “the relevant Northern Ireland department” means—  
     (a) the Northern Ireland department designated for the purposes of this section by the First Minister and deputy First Minister acting jointly, or

- (b) failing such a designation, the Executive Office in Northern Ireland.

### **137 The new homes ombudsman scheme**

- (1) The conditions referred to in section 136(1) are that—
  - (a) membership of the scheme is open to all developers,
  - (b) the scheme enables qualifying complainants to have complaints against members of the scheme investigated and determined by an independent individual, and
  - (c) the scheme contains the provisions required by [Schedule 9](#).
- (2) A “qualifying complainant” is a person who, at the time the complaint is made, is a relevant owner of a home which, at that time, is a new build home.
- (3) The individual who is to investigate and determine complaints under the scheme is to be known as “the new homes ombudsman”.
- (4) The scheme may also include provision for persons other than qualifying complainants to have complaints against members of the scheme investigated and determined under the scheme.
- (5) The scheme may provide that the new homes ombudsman is not required to investigate a complaint if the new homes ombudsman is satisfied that the complaint (or a complaint which is materially the same) is being, or has been, dealt with under another redress scheme or in legal proceedings.
- (6) In this section, “redress scheme” means a scheme under which complaints may be made to, and investigated and determined by, an independent person.
- (7) [Schedule 9](#) contains further provision about the new homes ombudsman scheme.
- (8) [Schedule 10](#) contains amendments connected with the establishment of the new homes ombudsman scheme.

### **138 “Relevant owner”, “new build home” and “developer”**

- (1) This section provides for the meaning of terms used in section 137 (and in this section).
- (2) A person is a “relevant owner” of a home if the person—
  - (a) is an individual,
  - (b) has a relevant interest in land that includes the home, and
  - (c) meets the occupation condition.
- (3) A person meets the occupation condition if the person—
  - (a) occupies the home, or
  - (b) is the landlord under a lease of land that includes the home granted for a term not exceeding 21 years to another individual for that individual’s occupation of the home.
- (4) In relation to a home in Scotland or Northern Ireland, subsection (3) has effect as if in paragraph (b) the words “for a term not exceeding 21 years” were omitted.
- (5) A home is a “new build home” if—
  - (a) the home is, or is contained in—

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- (i) a building the construction of which began after the coming into force of this section, or
    - (ii) a building that has been converted, or to which any other works have been carried out, so that it consists of or contains the home, where the conversion or works began after the coming into force of this section,
  - (b) there is a person who is, or was, a developer in relation to the home, and
  - (c) no more than two years have elapsed since the first acquisition, by any person, of a relevant interest in land that includes the home from the person mentioned in [paragraph \(b\)](#).
- (6) “Relevant interest” means—
  - (a) in relation to land in England or Wales, a legal estate which is—
    - (i) an estate in fee simple absolute in possession, or
    - (ii) a term of years absolute granted for a term of more than 21 years from the date of the grant;
  - (b) in relation to land in Scotland, the interest of an owner of land;
  - (c) in relation to land in Northern Ireland, a legal estate which is—
    - (i) an estate in fee simple absolute in possession,
    - (ii) an estate in fee simple in possession subject to a rent payable under a fee farm grant, or
    - (iii) a term of years absolute granted for a term of more than 21 years from the date of the grant.
- (7) A “developer” is a person—
  - (a) who undertakes or commissions—
    - (i) the construction of a new building that is to consist of or contain a home,
    - (ii) the conversion of, or carrying out of any other works to, an existing building so that it consists of or contains a home, or
    - (iii) the conversion of, or carrying out of any other works to, an existing building so as to alter the number of homes contained in it,
 with a view to granting, or disposing of, a relevant interest in land that includes the home or, in a case falling within [sub-paragraph \(iii\)](#), any of the homes, or
  - (b) who is of a description specified in regulations made by the relevant national authority.
- (8) Regulations under [subsection \(7\)\(b\)](#) may, among other things, specify a description of persons by reference to a connection with a person mentioned in [subsection \(7\)\(a\)](#).
- (9) In [subsection \(7\)\(b\)](#), “the relevant national authority” means—
  - (a) in relation to homes in England, the Secretary of State,
  - (b) in relation to homes in Wales, the Welsh Ministers,
  - (c) in relation to homes in Scotland, the Scottish Ministers, and
  - (d) in relation to homes in Northern Ireland, the Northern Ireland department designated for the purposes of this section by the First Minister and deputy First Minister acting jointly.
- (10) Before making regulations under [subsection \(7\)\(b\)](#), the relevant national authority must consult each other person who is the relevant national authority in relation to regulations under that subsection.

- (11) If no Northern Ireland department has been designated for the purposes of this section then, for the purposes of subsection (10), “the relevant national authority” in relation to homes in Northern Ireland is the Executive Office in Northern Ireland.
- (12) “Home” means a private residence.
- (13) “Occupies” means occupies as a private residence (and “occupation” is to be construed accordingly).

### **139 Regulations under section 138**

- (1) The power to make regulations under section 138(7)(b) is exercisable—
  - (a) in the case of regulations made by the Secretary of State or the Welsh Ministers, by statutory instrument, and
  - (b) in the case of regulations made by a Northern Ireland department, by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

(For regulations under section 138(7)(b) made by the Scottish Ministers, see section 27 of the [Interpretation and Legislative Reform \(Scotland\) Act 2010 \(asp 10\)](#)).
- (2) Regulations under section 138(7)(b)—
  - (a) may make different provision for different purposes;
  - (b) may contain consequential, supplementary, incidental, transitional or saving provision.
- (3) Regulations under section 138(7)(b)—
  - (a) if made by the Secretary of State, may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament;
  - (b) if made by the Welsh Ministers, may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, Senedd Cymru;
  - (c) if made by the Scottish Ministers, are subject to the affirmative procedure (see section 29 of the [Interpretation and Legislative Reform \(Scotland\) Act 2010 \(asp 10\)](#));
  - (d) if made by a Northern Ireland department, may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

### **140 Power to require persons to join scheme and to provide information**

- (1) The Secretary of State may by regulations—
  - (a) require persons who are developers, or developers of a specified description, to become members of the new homes ombudsman scheme;
  - (b) require persons who are required to become members of the scheme under [paragraph \(a\)](#) to remain members of the scheme for a period specified in the regulations (even if they are no longer developers);
  - (c) require members of the scheme to inform persons of a specified description of the scheme;
  - (d) make provision for civil sanctions to be imposed in respect of a breach of a requirement imposed by regulations under [paragraph \(a\)](#), [\(b\)](#) or [\(c\)](#);

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- (e) make provision for the investigation of suspected breaches of such a requirement.

In [this subsection](#), “developer” has the meaning given in section 138 and “specified” means specified in the regulations.

- (2) Before making regulations under subsection (1), the Secretary of State must consult—
  - (a) the Welsh Ministers,
  - (b) the Scottish Ministers, and
  - (c) the relevant Northern Ireland department.
- (3) Provision made by virtue of [subsection \(1\)\(a\)](#) may provide for exceptions to the requirement to become a member of the scheme.
- (4) Provision made by virtue of [subsection \(1\)\(a\)](#) or [\(b\)](#) may require persons who are members of the new homes ombudsman scheme to—
  - (a) obtain a certificate confirming their membership of the scheme;
  - (b) display or publish the certificate in accordance with the regulations;
  - (c) produce a copy of the certificate, on request, in accordance with the regulations.
- (5) Provision made for the imposition of a civil sanction by virtue of [subsection \(1\)\(d\)](#) must include—
  - (a) provision for appeals to a court or tribunal against the imposition of the sanction, and
  - (b) such other provision as the Secretary of State considers appropriate for safeguarding the interests of persons on whom the sanction may be imposed.
- (6) Provision made by virtue of [subsection \(1\)\(d\)](#) or [\(e\)](#) may—
  - (a) confer functions on a person (including functions involving the exercise of a discretion);
  - (b) require a person on whom functions are so conferred to have regard to any relevant guidance issued by the Secretary of State relating to the exercise of those functions.
- (7) The Secretary of State may make payments to a person on whom functions are conferred by virtue of [subsection \(6\)](#).
- (8) In this section, “the relevant Northern Ireland department” means—
  - (a) the Northern Ireland department designated for the purposes of this section by the First Minister and deputy First Minister acting jointly, or
  - (b) failing such a designation, the Executive Office in Northern Ireland.

## **141 Register of members**

- (1) The person who maintains the new homes ombudsman scheme must keep a register of persons who are members of the scheme.
- (2) The register must be made available for inspection by members of the public at all reasonable times.

## **142 Developers’ code of practice**

- (1) The Secretary of State may issue or approve a code of practice about the standards of conduct and standards of quality of work expected of members of the new homes ombudsman scheme.
- (2) The Secretary of State may from time to time revise or replace the code or approve its revision or replacement.
- (3) The Secretary of State must ensure that the current version of the code is published.
- (4) The Secretary of State must consult the Welsh Ministers, the Scottish Ministers and the relevant Northern Ireland department before—
  - (a) issuing, revising or replacing the code, or
  - (b) approving the code or a revision or replacement of it.
- (5) In this section, “the relevant Northern Ireland department” means—
  - (a) the Northern Ireland department designated for the purposes of this section by the First Minister and deputy First Minister acting jointly, or
  - (b) failing such a designation, the Executive Office in Northern Ireland.

## **143 Amendment of the Government of Wales Act 2006**

In Schedule 7B to the Government of Wales Act 2006 (general restrictions on legislative competence of Senedd Cymru), in paragraph 10(2), at the end insert—  
“(o) the new homes ombudsman.”

### *New build home warranties*

## **144 New build home warranties**

- (1) This section applies where a person (“the developer”) carries out a development in England that results in the creation of one or more dwellings (“new build homes”).
- (2) The developer must, at the time of or before granting or disposing of a relevant interest in a new build home—
  - (a) provide to the purchaser a new build home warranty for the new build home, and
  - (b) provide to a prescribed person a new build home warranty for any common parts.
- (3) A “new build home warranty” for a thing is an arrangement, satisfying any requirements under subsection (4), under which—
  - (a) the developer agrees, in specified circumstances, to remedy any specified defect (or any defect) in the thing occurring in a specified period, and
  - (b) a prescribed person obtains the benefit of a policy of insurance relating to specified defects (or any defects) in the thing.

“Specified” here means specified in the arrangement.
- (4) The Secretary of State may by regulations impose requirements about new build home warranties, including in particular requirements as to—
  - (a) the kinds of defect which the developer must agree to remedy;

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- (b) the circumstances in which the developer must agree to remedy a defect (including the minimum duration of the period mentioned in subsection (3)(a));
  - (c) the developer agreeing to meet prescribed costs incurred by a person occupying a new build home, where works to remedy a defect are carried out;
  - (d) the policy of insurance (including risks that must be covered, the minimum amount of cover, the minimum duration of the period of cover, and the maximum amount of any excess);
  - (e) the solvency of the insurer or underwriter;
  - (f) the standard of service provided by or on behalf of the insurer in relation to the policy;
  - (g) the ability of a person who has the benefit of the warranty to transfer that benefit to another person.
- (5) The regulations must provide that the period of cover under the policy of insurance must be at least 15 years beginning with the day on which the relevant interest is granted or disposed of.
- (6) In this section—
- “carries out a development”: the reference to a person carrying out a development is to undertaking or commissioning—
    - (a) the construction of a building, or
    - (b) the conversion of, or carrying out of any other works to, a building,
 with a view to granting, or disposing of, relevant interests in one or more dwellings created as a result of the construction, conversion or carrying out of works;
  - “common parts”, in relation to a new build home, means any part of a building, where—
    - (a) that part is provided for the use, benefit and enjoyment of the residents of the new build home and the residents of other dwellings (whether alone or with other persons), and
    - (b) the right to use that part is conferred in connection with the grant or disposal of the relevant interest in the new build home;
  - “defect”: any reference to a defect includes, in relation to land, contamination;
  - “prescribed” means prescribed by regulations made by the Secretary of State;
  - “purchaser” means the person to whom the relevant interest is granted or disposed of;
  - “relevant interest” means a legal estate which is—
    - (a) an estate in fee simple absolute in possession, or
    - (b) a term of years absolute granted for a term of more than 21 years from the date of the grant.

## **145 New build home warranties: financial penalties**

- (1) The Secretary of State may by regulations make provision for and in connection with the imposition of a financial penalty in cases where the Secretary of State, or a person designated by the Secretary of State, is satisfied beyond reasonable doubt that a person has, without reasonable excuse, failed to comply with section 144(2).



- (2) The regulations may include provision—
  - (a) about the procedure to be followed in imposing penalties;
  - (b) about the amount of penalties;
  - (c) for the imposition of interest or additional penalties for late payment;
  - (d) conferring rights of appeal against penalties.
- (3) The regulations must provide that the amount of a financial penalty (excluding interest or any additional penalty) may not exceed the greater of—
  - (a) 10% of the value of the relevant interest at the time the person granted or disposed of the relevant interest, and
  - (b) £10,000.

### *Construction products*

## **146 Construction products**

[Schedule 11](#) contains provision for regulations relating to construction products.

### *Liability relating to construction products*

## **147 Liability relating to construction products: general definitions**

In this section, section 148 and section 149—

“the 1991 Regulations” means the Construction Products Regulations 1991 ([S.I. 1991/1620](#));

“the 2011 Regulation” means [Regulation \(EU\) No. 305/2011](#) (regulation laying down harmonised conditions for the marketing of construction products);

“the 2019 Regulations” means the Construction Products (Amendment etc.) (EU Exit) Regulations 2019 ([S.I. 2019/465](#));

“construction products regulations” means regulations under paragraph 1 of [Schedule 11](#);

“construction product requirement” means a requirement under—

- (a) construction products regulations,
- (b) the 2011 Regulation, or
- (c) the 2019 Regulations;

“relevant building” means—

- (a) a building which consists of a dwelling, or
- (b) a building which contains two or more dwellings;

“relevant interest”, in relation to a building in England and Wales, means—

- (a) in a case where the building consists of a dwelling, a legal or equitable interest in the building, and
- (b) in a case where the building contains one or more dwellings, a legal or equitable interest in—
  - (i) the building, or
  - (ii) any dwelling contained in the building;

“relevant interest”, in relation to a building in Scotland, means—

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- (a) in a case where the building consists of a dwelling, any right or interest (including a servitude or heritable security) in or over the building, and
- (b) in a case where the building contains one or more dwellings, any right or interest (including a servitude or heritable security) in or over—
  - (i) the building, or
  - (ii) any dwelling contained in the building;
 “requirement” includes a prohibition or restriction.

## **148 Liability relating to construction products**

- (1) This section applies where Conditions A to D are met.
- (2) Condition A is that, at any time after the coming into force of this section—
  - (a) a person fails to comply with a construction product requirement in relation to a construction product,
  - (b) a person who markets or supplies a construction product makes a misleading statement in relation to it, or
  - (c) a person manufactures a construction product that is inherently defective.
- (3) Condition B is that, after Condition A is met, the construction product referred to in subsection (2)(a), (b) or (c) is installed in, or applied or attached to, a relevant building in the course of works carried out in the construction of, or otherwise in relation to, the building.
- (4) Condition C is that, when those works are completed—
  - (a) in a case where the relevant building consists of a dwelling, the building is unfit for habitation, or
  - (b) in a case where the relevant building contains one or more dwellings, a dwelling contained in the building is unfit for habitation.
- (5) Condition D is that the facts referred to in subsection (2)(a), (b) or (c) were the cause, or one of the causes, of the building or dwelling being unfit for habitation.
- (6) The person referred to in subsection (2)(a), (b) or (c) is liable to pay damages to a person with a relevant interest in relation to the relevant building for personal injury, damage to property or economic loss suffered by that person as a result of the facts referred to in subsection (4)(a) or (b).
- (7) A term of an agreement which purports to exclude or restrict, or has the effect of excluding or restricting, any liability arising under this section is void.
- (8) For the purposes of section 10B(1) of the Limitation Act 1980 and section 18ZD(1) of the Prescription and Limitation (Scotland) Act 1973, the right of action that a person has by virtue of this section is to be regarded as having accrued—
  - (a) in a case where the works referred to in subsection (3) are carried out in the construction of the relevant building, when the construction is completed, and
  - (b) in any other case, when the works are completed.
- (9) In subsection (2)(a) “construction product”—
  - (a) in relation to a construction product requirement under construction products regulations, has the meaning specified in those regulations;
  - (b) in relation to a construction product requirement under the 2011 Regulation, has the meaning specified in the 2011 Regulation;

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- (c) in relation to a construction product requirement under the 2019 Regulations, has the meaning specified in the 2011 Regulation as it had effect immediately before IP completion day.
- (10) In subsection (2)(b) and (c) “construction product” has the meaning specified in the 2011 Regulation.

#### **149 Liability for past defaults relating to cladding products**

- (1) This section applies where Conditions A to D are met.
- (2) Condition A is that, at any time before the coming into force of this section—
  - (a) a person fails to comply with a cladding product requirement in relation to a cladding product,
  - (b) a person who markets or supplies a cladding product makes a misleading statement in relation to it, or
  - (c) a person manufactures a cladding product that is inherently defective.
- (3) Condition B is that, after Condition A has been met, the cladding product is attached to, or included in, the external wall of a relevant building in the course of works carried out in the construction of, or otherwise in relation to, the building.
- (4) Condition C is that, when those works are completed—
  - (a) in a case where the relevant building consists of a dwelling, the building is unfit for habitation, or
  - (b) in a case where the relevant building contains one or more dwellings, a dwelling contained in the building is unfit for habitation.
- (5) Condition D is that the facts referred to in subsection (2)(a), (b) or (c) were the cause, or one of the causes, of the building or dwelling being unfit for habitation.
- (6) The person referred to in subsection (2)(a), (b) or (c) is liable to pay damages to a person with a relevant interest in relation to the relevant building for personal injury, damage to property or economic loss suffered by that person as a result of the facts referred to in subsection (4)(a) or (b).
- (7) A term of an agreement which purports to exclude or restrict, or has the effect of excluding or restricting, any liability arising under this section is void.
- (8) For the purposes of section 10B(2) of the Limitation Act 1980 and section 18ZD(2) of the Prescription and Limitation (Scotland) Act 1973, the right of action that a person has by virtue of this section is to be regarded as having accrued—
  - (a) in a case where the works referred to in subsection (3) are carried out in the construction of the relevant building, when the construction is completed, and
  - (b) in any other case, when the works are completed.
- (9) Where an action is brought under this section in England and Wales that, but for section 10B(2) of the Limitation Act 1980, would have been barred by that Act, a court hearing the action must dismiss it in relation to any defendant if satisfied that it is necessary to do so to avoid a breach of that defendant’s Convention rights.
- (10) Where an action is brought under this section in Scotland that, but for section 18ZD(2) of the Prescription and Limitation (Scotland) Act 1973, would have been barred by that Act, a court hearing the action must dismiss it in relation to any defender if satisfied that it is necessary to do so to avoid a breach of that defender’s Convention rights.

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- (11) In this section “cladding product requirement” means—
- (a) in relation to a time before IP completion day, a requirement relating to a cladding product under—
    - (i) the 1991 Regulations, or
    - (ii) the 2011 Regulation as it had effect in EU law at that time, and
  - (b) in relation to a time after IP completion day, a requirement relating to a cladding product under—
    - (i) the 2011 Regulation, or
    - (ii) the 2019 Regulations.
- (12) In this section—
- “cladding product” means a cladding system or any component of a cladding system;
  - “Convention rights” has the same meaning as in the Human Rights Act 1998;
  - “external wall”, in relation to a building, includes any part of a roof pitched at an angle of more than 70 degrees to the horizontal if that part of the roof adjoins a space within the building to which persons have access otherwise than for the purpose of carrying out repairs or maintenance.

## **150 Liability relating to construction products: limitation in England and Wales**

In the Limitation Act 1980, after section 10A insert—

### **“10B Special time limit for actions relating to construction products**

- (1) An action under section 148 of the Building Safety Act 2022 shall not be brought after the expiration of 15 years from the date on which the right of action accrued.
- (2) An action under section 149 of the Building Safety Act 2022 shall not be brought after—
  - (a) if the right of action accrued before the commencement date, the expiration of the period of 30 years from the date on which it accrued, and
  - (b) if the right of action accrued on or after the commencement date, the expiration of the period of 15 years beginning with the date on which it accrued.
- (3) In a case where—
  - (a) a right of action under section 149 of the Building Safety Act 2022 accrued before the commencement date, and
  - (b) the expiration of the period of 30 years beginning with the date on which the right of action accrued falls in the year beginning with the commencement date,
 subsection (2)(a) has effect as if it referred to the expiration of that year.
- (4) In subsections (2) and (3) “the commencement date” is the day on which section 149 of the Building Safety Act 2022 came into force.

- (5) No other period of limitation prescribed by Part 1 of this Act applies in relation to an action referred to in subsections (1) and (2).
- (6) Sections 28, 32 and 35 of this Act apply in relation to an action referred to subsections (1) and (2), but otherwise Parts 2 and 3 of this Act (except sections 37 and 38) do not apply for the purposes of this section.”

## **151 Liability relating to construction products: limitation in Scotland**

- (1) The Prescription and Limitation (Scotland) Act 1973 is amended as follows.
- (2) After section 18ZC insert—

### **“18ZD Actions relating to construction products**

- (1) An action under section 148 of the Building Safety Act 2022 may not be brought after the expiration of 15 years from the date on which the right of action accrued (see subsection (8) of that section).
- (2) An action under section 149 of the Building Safety Act 2022 may not be brought after—
  - (a) if the right of action accrued before the commencement date, the expiration of the period of 30 years from the date on which it accrued (see subsection (8) of that section), and
  - (b) if the right of action accrued on or after the commencement date, the expiration of the period of 15 years beginning with the date on which it accrued.
- (3) In a case where—
  - (a) a right of action under section 149 of the Building Safety Act 2022 accrued before the commencement date, and
  - (b) the expiration of the period of 30 years beginning with the date on which the right of action accrued falls in the year beginning with the commencement date,subsection (2)(a) has effect as if it referred to the expiration of that year.
- (4) In subsections (2) and (3) “the commencement date” is the day on which section 149 of the Building Safety Act 2022 came into force.
- (5) No other period of limitation specified by this Part of this Act applies in relation to an action referred to in subsection (1) or (2).
- (6) In the computation of a period of time specified in subsection (1) or (2), there is to be disregarded any time during which the person seeking to bring the action (P)—
  - (a) was under a legal disability by reason of nonage or unsoundness of mind, or
  - (b) failed to bring the action by reason of—
    - (i) fraud on the part of the person against whom the action is to be brought (D) or the part of any person acting on D’s behalf, or
    - (ii) error induced by words or conduct of D or any person acting on D’s behalf,

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(but not including, for the purposes of paragraph (b), any time occurring after P could with reasonable diligence have discovered the fraud or error mentioned in that paragraph).

- (7) For the purposes of subsection (6)(b), it does not matter whether D, or the person acting on D's behalf, intended the fraud or the words or conduct to cause P to fail to bring the action.”
- (3) In section 7(2) (extinction of obligations by prescriptive periods of twenty years), at the end insert “or any obligation to pay damages arising from liability under section 148 or section 149 of the Building Safety Act 2022 (see section 18ZD of this Act).”
- (4) In section 19CA(1) (interruption of limitation period: arbitration), after “18ZC(2)” insert “, 18ZD(1) or (2)”.
- (5) In Schedule 1, in paragraph 2 (exceptions from the 5 year prescriptive period under section 6), after paragraph (ga) insert—
- “(gb) to any obligation to pay damages arising from liability under section 148 or 149 of the Building Safety Act 2022;”.

#### *Construction products: costs contribution orders*

### **152 Costs contribution orders: general definitions**

In this section and sections 153 to 155—

“the 2011 Regulation” means [Regulation \(EU\) No. 305/2011](#) (regulation laying down harmonised conditions for the marketing of construction products);

“the 2019 Regulations” means the Construction Products (Amendment etc.) (EU Exit) Regulations 2019 ([S.I. 2019/465](#));

“the 2020 Regulations” means the Construction Products (Amendment etc.) (EU Exit) Regulations 2020 ([S.I. 2020/1359](#));

“construction product”—

- (a) in relation to a construction product requirement under construction products regulations, has the meaning specified in those regulations;
- (b) in relation to a construction product requirement under the 2011 Regulation, has the meaning specified in the 2011 Regulation (or, in Northern Ireland, in the 2011 Regulation as having effect in EU law from time to time);
- (c) in relation to a construction product requirement under the 2019 Regulations, has the meaning specified in the 2011 Regulation as it had effect immediately before IP completion day;
- (d) in relation to a construction product requirement under the 2020 Regulations, has the meaning given by regulation 2 of those Regulations;

“construction products regulations” means regulations under paragraph 1 of [Schedule 11](#);

“construction product requirement”, in England and Wales or Scotland, means a requirement under—

- (a) construction products regulations,
- (b) the 2011 Regulation, or

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- (c) the 2019 Regulations;  
“construction product requirement”, in Northern Ireland, means a requirement under—
  - (a) construction product regulations,
  - (b) the 2011 Regulation as having effect from time to time in EU law,
  - (c) the 2019 Regulations, or
  - (d) the 2020 Regulations;references to an “interest” in a building or dwelling include—
  - (a) in England and Wales, any legal or equitable interest in the building or dwelling;
  - (b) in Scotland, any right or interest (including a servitude or heritable security) in or over the building or dwelling;
  - (c) in Northern Ireland, any estate within the meaning given by section 45(2) of the Interpretation Act (Northern Ireland) 1954 in the building or dwelling;“relevant building” means—
  - (a) a building which consists of a dwelling, or
  - (b) a building which contains two or more dwellings;“requirement” includes a prohibition or restriction.

### **153 Costs contribution orders made by courts**

- (1) The Secretary of State may by regulations make provision for courts to make costs contribution orders on the application of the Secretary of State.
- (2) The regulations may only make provision for the making of costs contribution orders under this section in cases where—
  - (a) Conditions A to D are met, and
  - (b) any prescribed conditions are met.
- (3) Condition A is that a person (“the defaulter”) is convicted of an offence consisting of a failure to comply with a construction product requirement in relation to a construction product.
- (4) Condition B is that, after the failure to comply referred to in subsection (3), the construction product is installed in, or applied or attached to, a relevant building in the course of works carried out in the construction of, or otherwise in relation to, the building.
- (5) Condition C is that, when those works are completed—
  - (a) in a case where the relevant building consists of a dwelling, the building is unfit for habitation, or
  - (b) in a case where the relevant building contains one or more dwellings, a dwelling contained in the building is unfit for habitation.
- (6) Condition D is that the failure to comply referred to in subsection (3) was the cause, or one of the causes, of the building or dwelling being unfit for habitation.
- (7) A “costs contribution order” under this section is an order requiring the defaulter to pay an amount to a person with a prescribed interest in the building or any dwelling contained in the building.

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- (8) Regulations under this section must provide for the amount to be paid to a person under a costs contribution order under this section to be such amount as the court making the order considers just and equitable in respect of the costs that the person has reasonably incurred, or in the view of the court is likely to reasonably incur, in respect of works to make the building or dwelling fit for habitation.
- (9) The regulations may make provision as to the matters which may or must be taken into account by a court in determining—
- (a) whether, against whom and in favour of whom to make a costs contribution order under this section;
  - (b) the amount required to be paid by a person under a costs contribution order under this section.
- (10) The regulations may make provision in relation to—
- (a) enforcement of a costs contribution order under this section;
  - (b) court powers to order the defaulter to pay—
    - (i) any costs incurred by the Secretary of State under regulations under section 155 (assessments) in respect of the application, and
    - (ii) any costs incurred by the Secretary of State in making the application.
- (11) The regulations may make provision about how a costs contribution order under this section relates to other remedies, including in particular—
- (a) provision to secure that, taking a costs contribution order under this section together with other remedies—
    - (i) a person does not incur liability more than once in respect of the same costs;
    - (ii) a person is not entitled to be reimbursed more than once for the same costs;
  - (b) provision preventing a person to whom any amount is payable under a costs contribution order under this section from pursuing any other legal remedy for the recovery of such an amount.
- (12) In this section “prescribed” means prescribed by regulations under this section.

#### **154 Costs contribution orders made by the Secretary of State**

- (1) The Secretary of State may by regulations make provision for the Secretary of State to make costs contribution orders.
- (2) The regulations may only make provision for the making of costs contribution orders in cases where—
- (a) Conditions A to D are met, and
  - (b) any prescribed conditions are met.
- (3) Condition A is that a person (“the defaulter”) is convicted of an offence consisting of a failure to comply with a construction product requirement in relation to a construction product.
- (4) Condition B is that, after the failure to comply referred to in subsection (3), the construction product is installed in, or applied or attached to, a relevant building in the course of works carried out in the construction of, or otherwise in relation to, the building.



- (5) Condition C is that, when those works are completed—
  - (a) in a case where the relevant building consists of a dwelling, the building is unfit for habitation, or
  - (b) in a case where the relevant building contains one or more dwellings, a dwelling contained in the building is unfit for habitation.
- (6) Condition D is that the failure to comply referred to in subsection (3) was the cause, or one of the causes, of the building or dwelling being unfit for habitation.
- (7) A “costs contribution order” under this section is an order requiring the defaulter to make a payment to a person with a prescribed interest in the building or any dwelling contained in the building.
- (8) Regulations under this section must provide for the amount to be paid to a person under a costs contribution order under this section to be such amount as the Secretary of State considers just and equitable in respect of the costs that the person has reasonably incurred, or in the view of the Secretary of State is likely to reasonably incur, in respect of works to make the building or dwelling fit for habitation.
- (9) The regulations may make provision as to the matters which may or must be taken into account by the Secretary of State in determining—
  - (a) whether, against whom, and in favour of whom, to make a costs contribution order under this section;
  - (b) the amount required to be paid by a person under a costs contribution order under this section.
- (10) The regulations may make provision for the Secretary of State to issue a warning notice to a person before determining whether to make a costs contribution order under this section against that person.
- (11) The regulations may make provision requiring that a costs contribution order under this section—
  - (a) be made in a prescribed form;
  - (b) contain prescribed information.
- (12) The regulations may make provision about service of a costs contribution order under this section including—
  - (a) how an order is to be served;
  - (b) when an order is to be taken as having been served;
  - (c) the persons on whom an order must be served.
- (13) The regulations may make provision in relation to—
  - (a) enforcement of a costs contribution order made under this section (including enforcement by the Secretary of State);
  - (b) powers of the Secretary of State to order the defaulter to pay any costs incurred by the Secretary of State under section 155 in respect of a costs contribution order under this section.
- (14) The regulations may make provision about how a costs contribution order under this section relates to other remedies, including in particular—
  - (a) provision to secure that, taking a costs contribution order under this section together with other remedies—

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- (i) a person does not incur liability more than once in respect of the same costs;
  - (ii) a person is not entitled to be reimbursed more than once for the same costs;
  - (b) provision preventing a person to whom any amount is payable under a costs contribution order under this section from pursuing any other legal remedy for the recovery of such an amount.
- (15) The regulations may make provision for persons to apply to the Secretary of State for a review of a costs contribution order under this section.
- (16) The regulations may make provision for appeals to a court or tribunal in relation to—
- (a) a decision of the Secretary of State to make or not make a costs contribution order under this section;
  - (b) a refusal by the Secretary of State to review a costs contribution order under this section;
  - (c) the outcome of a review by the Secretary of State of a costs contribution order under this section.
- (17) The regulations may in particular include provision suspending a requirement to pay an amount due under a costs contribution order under this section pending the determination or withdrawal of an appeal or the determination of a review.
- (18) In this section “prescribed” means prescribed by regulations under this section.

## **155 Costs contribution orders: assessments**

- (1) For the purposes of sections 153 and 154, the Secretary of State may by regulations make provision for the Secretary of State to appoint persons to assess—
- (a) whether the conditions for the imposition of a costs contribution order under either of those sections are met;
  - (b) the works required to make a building or dwelling fit for habitation;
  - (c) what interest a person has in a building or dwelling;
  - (d) the costs that a person has reasonably incurred or is likely to reasonably incur in respect of works referred to in paragraph (b);
  - (e) the amount that a person should be required to pay under a costs contribution order.
- (2) The regulations may include provision about the criteria to be met by a person before they may be appointed as an assessor.
- (3) The regulations may make provision about assessments, including provision—
- (a) conferring power on an assessor to require that persons provide such information as the assessor may reasonably require for the purposes of an assessment;
  - (b) for the provision of information by an assessor to the Secretary of State (including any information provided under paragraph (a)).
- (4) Regulations under subsection (3)(a) may include provision for criminal offences relating to a failure to provide information, or to the provision of false or misleading information.

- (5) Regulations under subsection (3)(a) creating a criminal offence must have the effect that—
- (a) the offence is—
    - (i) triable summarily only, or
    - (ii) triable summarily or on indictment,
  - (b) the offence is punishable only—
    - (i) with a fine, or
    - (ii) with a term of imprisonment or a fine (or both),
  - (c) where the offence is triable summarily only, any fine with which the offence is punishable in Scotland or Northern Ireland does not exceed level 5 on the standard scale,
  - (d) where the offence is triable summarily or on indictment, any fine with which the offence is punishable on summary conviction in Scotland or Northern Ireland does not exceed the statutory maximum, and
  - (e) any term of imprisonment with which the offence is punishable on summary conviction does not exceed—
    - (i) in England and Wales, the relevant period,
    - (ii) in Scotland, 12 months, and
    - (iii) in Northern Ireland, 6 months.
- (6) In subsection (5)(e)(i), “the relevant period” means—
- (a) in relation to an offence that is triable summarily only—
    - (i) where the offence is committed before the coming into force of section 281 of the Criminal Justice Act 2003, 6 months, and
    - (ii) where the offence is committed after that time, 51 weeks;
  - (b) in relation to an offence that is triable summarily or on indictment—
    - (i) where the offence is committed before the coming into force of paragraph 24(2) of Schedule 22 to the Sentencing Act 2020, 6 months, and
    - (ii) where the offence is committed after that time, 12 months.
- (7) Regulations under subsection (3)(b) may make provision for the purpose of securing that there is (taking into account any power or duty to provide information under the regulations) no contravention of the data protection legislation.
- (8) In subsection (7), “data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).

### *Fire safety*

## **156 Amendment of Regulatory Reform (Fire Safety) Order 2005**

- (1) The Regulatory Reform (Fire Safety) Order 2005 ([S.I. 2005/1541](#)) is amended as follows.
- (2) In article 5 (duties under the Order), for “22”, in each place it occurs, substitute “22B”.
- (3) In article 9 (risk assessment)—

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- (a) in paragraph (6) for the words from “record” to the end substitute “make a record of the assessment or review, which must in particular include the information prescribed by paragraph (7).”;
  - (b) in paragraph (7)(a) omit “significant”.
- (4) After article 9 insert—

**“9A Risk assessment: assistance**

- (1) The responsible person must not appoint a person to assist them with making or reviewing an assessment under article 9 unless that person is competent.
  - (2) A person is to be regarded as competent for the purposes of this article where the person has sufficient training and experience or knowledge and other qualities to enable the person properly to assist in making or reviewing the assessment.
  - (3) Where the responsible person appoints more than one person, the responsible person must make arrangements for ensuring adequate co-operation between them.”
- (5) In article 11(2) (fire safety arrangements) omit the words from “where” to the end.
- (6) After article 21 insert—

**“21A Provision of information to residents of domestic premises**

- (1) This article applies in relation to a building containing two or more sets of domestic premises.
- (2) The responsible person must give residents of the domestic premises comprehensible and relevant information about the relevant fire safety matters.
- (3) The relevant fire safety matters are—
  - (a) the risks to residents of the domestic premises identified by the risk assessment;
  - (b) the preventive and protective measures;
  - (c) the name of the responsible person and an address in the United Kingdom at which the responsible person, or someone acting on their behalf, will accept notices and other documents;
  - (d) the identity of any person appointed by the responsible person to assist them with making or reviewing an assessment under article 9;
  - (e) the identity of any persons nominated by the responsible person under article 13(3)(b);
  - (f) any risks of which the responsible person has been informed under article 22(1)(c);
  - (g) any other matters specified in regulations made by the relevant authority.
- (4) The information is to be provided at such times, and in such form, as may be specified in regulations made by the relevant authority.
- (5) The responsible person must keep records of the relevant fire safety matters.

- (6) The “relevant authority”—
  - (a) in relation to premises in England, means the Secretary of State;
  - (b) in relation to premises in Wales, means the Welsh Ministers.
- (7) Regulations under this article are to be made by statutory instrument.
- (8) A statutory instrument containing regulations made by the Secretary of State under this article is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) A statutory instrument containing regulations made by the Welsh Ministers under this article is subject to annulment in pursuance of a resolution of Senedd Cymru.”
- (7) In article 22 (co-operation and co-ordination)—
  - (a) in the heading, at the end insert “between responsible persons”;
  - (b) before paragraph (1) insert—
    - “(A1) A person who is a responsible person in relation to any premises must take such steps as are reasonably practicable to ascertain whether any other responsible person shares, or has duties in respect of, the premises.”;
  - (c) in paragraph (1) before sub-paragraph (1)(a) insert—
    - “(za) inform the other responsible persons concerned of that person’s name and an address in the United Kingdom at which that person, or someone acting on their behalf, will accept notices and other documents;
    - (zb) inform the other responsible persons concerned of the part of the premises for which that person considers themselves to be a responsible person, and keep a record of that information;”.
- (8) After article 22 insert—

**“22A Provision of information to new responsible person**

- (1) Paragraph (2) applies where a person (the “outgoing person”) ceases to be a responsible person for premises and another person (the “new responsible person”) becomes a responsible person for the premises in place of the outgoing person.
- (2) The outgoing person must give the new responsible person any relevant fire safety information held by the outgoing person.
- (3) “Relevant fire safety information” means—
  - (a) records kept under article 9(6) of assessments and reviews under article 9;
  - (b) the identity of any person appointed by the responsible person to assist them with making or reviewing an assessment under article 9;
  - (c) the name of any other person who is a responsible person in relation to the premises and an address in the United Kingdom at which that person, or someone acting on their behalf, will accept notices and other documents (where known);

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- (d) where the premises consist of or include a higher-risk building, the identity of any other person who is an accountable person in relation to the premises (where known);
  - (e) any information given under regulation 38 of the Building Regulations 2010 (S.I. 2010/2214) (fire safety information);
  - (f) any other matters specified in regulations made by the relevant authority.
- (4) The information is to be provided at such times, and in such form, as may be specified in regulations made by the relevant authority.
- (5) A responsible person must keep records of relevant fire safety information.
- (6) In this article—
- “accountable person” has the meaning given by section 72 of the Building Safety Act 2022;
  - “higher-risk building” has the meaning given by section 65 of that Act;
  - “relevant authority”—
- (a) in relation to premises in England, means the Secretary of State;
  - (b) in relation to premises in Wales, means the Welsh Ministers.
- (7) Regulations under this article are to be made by statutory instrument.
- (8) A statutory instrument containing regulations made by the Secretary of State under this article is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) A statutory instrument containing regulations made by the Welsh Ministers under this article is subject to annulment in pursuance of a resolution of Senedd Cymru.

## 22B Co-operation with accountable persons

- (1) This article applies in relation to premises which consist of or include a residential unit in a higher-risk building.
  - (2) The responsible person (“P”) must take such steps as are reasonably practicable to ascertain whether there are one or more other persons who are accountable persons in relation to the premises.
  - (3) If there are, P must co-operate with each accountable person for the purpose of the accountable person carrying out their duties under the Building Safety Act 2022.
  - (4) In this article—
- “accountable person” has the meaning given by section 72 of the Building Safety Act 2022;
  - “higher-risk building” has the meaning given by section 65 of that Act;
  - “residential unit” has the meaning given by section 115 of that Act.”
- (9) In article 29(5) (alterations notices), omit paragraphs (b) and (c).

- (10) In article 32 (offences)—
- (a) in paragraph (1)(a) for “22” substitute “22B”;
  - (b) in paragraph (4) omit “not exceeding level 3 on the standard scale”;
  - (c) in paragraph (7) omit “not exceeding level 3 on the standard scale”.
- (11) In article 50 (guidance)—
- (a) in paragraph (1) for “22” substitute “22B”;
  - (b) in paragraph (1A)—
    - (i) for “22” substitute “22B”;
    - (ii) omit “in relation to a relevant building (or part of the building)”;
    - (iii) in sub-paragraph (a) omit “risk based”;
    - (iv) in sub-paragraph (b) omit “risk based”.

### *Architects*

## **157 Architects: discipline and continuing professional development**

- (1) The Architects Act 1997 is amended as follows.
- (2) In section 3 (the register), after [subsection \(2\)](#) insert—
- “(2A) The Register shall show disciplinary orders made in relation to a registered person for such period as may be prescribed.”
- (3) In section 9 (competence to practise)—
- (a) in [subsection \(1\)](#), in the words after [paragraph \(c\)](#), after “practical experience” insert “or undertaken such recent training”;
  - (b) after [subsection \(1\)](#) insert—

“(1A) Before prescribing recent practical experience or training for the purposes of subsection (1), the Board shall consult the bodies representative of architects which are incorporated by royal charter and such other professional and educational bodies as it thinks appropriate.”, and
  - (c) after [subsection \(2\)](#) insert—

“(3) Where the Board decides that the name of a person to whom paragraph (b) of subsection (1) applies is by virtue of that subsection to be removed from Part 1 of the Register—

    - (a) the person shall be entitled to apply to the Board within a prescribed period for an extension of time to gain the prescribed experience or undertake the prescribed training or to otherwise satisfy the Board of the person’s competence to practise, and
    - (b) the Board shall not remove the name of the person from the Register unless—
      - (i) the person has not made an application for an extension of time within the prescribed period,
      - (ii) an extension of time granted by the Board has expired and the Board is not satisfied that the person has gained the prescribed experience or undertaken

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- the prescribed training or is otherwise competent to practise, or
- (iii) the Board has decided not to grant an extension of time in respect of an application made by the person.

(4) For the purposes of this section, a person is competent to practise if the person has the skills, knowledge, experience and behaviours required for a person to practise as an architect.”

## **158 Architects: Appeals Committee**

- (1) The Architects Act 1997 is amended as follows.
- (2) In section 1 (the Board)—
  - (a) after subsection (2) insert—
 

“(2A) There is to be an Appeals Committee of the Board.”;
  - (b) after subsection (4) insert—
 

“(4A) Part 2A of that Schedule makes provision about the Appeals Committee.”
- (3) In section 4 (registration: general)—
  - (a) in subsection (4)(b) for “refer the application to the Board” substitute “refuse the application”;
  - (b) in subsection (6)—
    - (i) omit “(4) or”;
    - (ii) for the words from “direct” to the end substitute “—
      - (a) direct the Registrar to enter the person’s name in the Register if it is satisfied that the person is entitled to be registered, or
      - (b) direct the Registrar to refuse the application if it is not so satisfied.”
- (4) In section 6(4B) (notice of refusal of application) for the words from “in the case” to “section 4(2A)” substitute “of an application”.
- (5) In section 9 (competence to practise) after subsection (2) insert—
 

“(2A) A notice under subsection (2) must state reasons for the decision.”
- (6) In Part 5 (general and supplementary) before section 22 insert—

### **“21A Appeals to the Appeals Committee**

- (1) A person may appeal to the Appeals Committee against—
  - (a) a decision to refuse the person’s application for registration, or
  - (b) if the person is a person to whom paragraph (b) of section 9(1) applies, a decision to remove or not to re-enter the person’s name in the Register as a result of section 9(1).
- (2) The Board may make rules about appeals to the Appeals Committee, including in particular rules about—
  - (a) the period within which any appeal must be made;



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- (b) the way in which an appeal is to be made or withdrawn;
  - (c) the fee that must be paid on the making of an appeal (including circumstances in which that fee may or must be refunded);
  - (d) the procedure to be followed by the Appeals Committee in relation to an appeal;
  - (e) the effect of the making of an appeal, pending its determination, on the decision appealed against.
- (3) On the determination of an appeal, the Appeal Committee may make any decision that could have been made by the person who made the decision appealed against.
- (4) The Appeals Committee must, within the prescribed period after determining a person's appeal, serve on the person written notice of the decision made on that determination."
- (7) In section 22 (appeals)—
- (a) in subsection (1)—
    - (i) for paragraph (a) substitute—

“(a) a decision of the Appeals Committee under section 21A, on an appeal made by the person;”;
    - (ii) for paragraph (c) substitute—

“(c) the person's name not being re-entered in the Register under section 18 as a result of section 9(1);”;
  - (b) in subsection (2) omit “Subject to subsection (3),”;
  - (c) omit subsection (3);
  - (d) in the heading at the end insert “to the court”.
- (8) In section 24(2) (service of documents) for “or 15(3)” substitute “, 15(3) or 21A(4)”.
- (9) In Schedule 1 (the Board and its committees) after Part 2 insert—

## **“PART 2A**

### THE APPEALS COMMITTEE

- 17B (1) The Board may make rules about—
- (a) the composition of the Appeals Committee;
  - (b) the selection and term of office of members of the Appeal Committee (including casual vacancies);
  - (c) the meetings and procedure (including chairing and quorum) of the Appeal Committee;
  - (d) votes of the Appeal Committee (including providing for a casting vote and the way in which it is to be exercised).
- (2) Before making rules about the composition of the Appeals Committee, the Board must consult the Secretary of State.”
- (10) In Part 4 of that Schedule (general provisions), after “Professional Conduct Committee”, in each place it occurs, insert “, the Appeals Committee”.

## **159 Architects Registration Board: fees and discharge of functions by a committee**

(1) In the Architects Act 1997, after section 24 insert—

### **“24A Fees**

- (1) The Secretary of State may make regulations for, and relating to, the charging of fees by the Board in respect of services which it provides.
  - (2) Regulations under this section may in particular make provision about—
    - (a) the services, or types of services, in respect of which the Board may charge a fee;
    - (b) the persons who are liable to pay a fee;
    - (c) how fees charged by the Board are to be calculated;
    - (d) how fees charged by the Board are to be paid.
  - (3) In this section, a “service”—
    - (a) includes any exercise by the Board of its power to prescribe qualifications for the purposes of section 4(1)(a);
    - (b) does not include any service in respect of which a fee may be prescribed under any other provision of this Act.
  - (4) Regulations under this section are to be made by statutory instrument.
  - (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”
- (2) In Schedule 1 to that Act (the Board and its committees), in paragraph 18(2)(b) (functions of the Board which may not be discharged by a committee) for “4(1) or (2)” substitute “4(2)”.
- (3) In consequence of the amendment made by subsection (2), in section 11(5) of the Professional Qualifications Act 2022 for the words from “after” to the end substitute “for “4(2)” substitute “4(1A) or (2)”.”

### *Housing complaints*

## **160 Housing complaints made to a housing ombudsman**

- (1) Schedule 2 to the Housing Act 1996 is amended in accordance with [subsections \(2\) and \(3\)](#).
- (2) In paragraph 7 (determinations by housing ombudsman)—
  - (a) after “approved scheme shall” insert “, in accordance with the scheme,”, and
  - (b) for the words from “and not withdrawn” to “but withdrawn” substitute “under the scheme”.
- (3) Omit paragraphs 7A to 7C (complaints to a housing ombudsman to be referred by designated person and exceptions).
- (4) The amendments made by this section apply in relation to a complaint made to a housing ombudsman—
  - (a) after the time this section comes into force, or

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- (b) before the time this section comes into force, but only if a determination by a housing ombudsman is still pending in respect of the complaint at such time.