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## SCHEDULES

### SCHEDULE 1

Section 2

#### AMENDMENTS OF THE HEALTH AND SAFETY AT WORK ETC ACT 1974

1 The Health and Safety at Work etc Act 1974 is amended as follows.

##### Commencement Information

- I1** Sch. 1 para. 1 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)  
**I2** [Sch. 1 para. 1](#) in force at 28.6.2022 by [S.I. 2022/561](#), [regs. 1\(2\)](#), 3(a)

- 2 (1) Section 11 (functions of the Executive) is amended as follows.
- (2) In subsection (5)—
- (a) in paragraph (a) after “functions” insert “other than its building functions”;
  - (b) in paragraph (b) after “activities” insert “other than its building functions”.
- (3) In subsection (6)(b) at the end insert “or to its building functions.”

##### Commencement Information

- I3** Sch. 1 para. 2 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)  
**I4** [Sch. 1 para. 2](#) in force at 28.6.2022 by [S.I. 2022/561](#), [regs. 1\(2\)](#), 3(a)

3 After section 11 insert—

#### “11A Powers of the Executive: buildings in England

- (1) The Executive may do such things and make such arrangements as it considers appropriate in connection with any of its building functions.
- (2) In particular, it may—
- (a) assist and encourage persons concerned with matters relevant to those functions;
  - (b) make arrangements for—
    - (i) the carrying out of research and the publication of the results of research;
    - (ii) the provision of training and information;
  - (c) encourage research and the provision of training and information by others;
  - (d) make arrangements for the provision of a service providing information or advice on such matters, and to such persons, as it considers appropriate;
  - (e) institute criminal proceedings.

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(3) And it may—

- (a) appoint persons or committees of persons to provide it with advice, or to do such other things as it considers appropriate, in connection with any of its building functions, and
- (b) remunerate those persons.

Nothing in [paragraph \(b\)](#) limits section 13(8).

(4) Any amounts paid under [subsection \(3\)\(b\)](#) are to be such as may be determined by the Secretary of State.”

#### Commencement Information

- I5** Sch. 1 para. 3 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)
- I6** [Sch. 1 para. 3](#) in force at 28.6.2022 by [S.I. 2022/561](#), [regs. 1\(2\)](#), 3(a)

4 In section 12(3) (control of the Executive) after “provisions” insert “, or the enforcement of the building enactments,”.

#### Commencement Information

- I7** Sch. 1 para. 4 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)
- I8** [Sch. 1 para. 4](#) in force at 28.6.2022 by [S.I. 2022/561](#), [regs. 1\(2\)](#), 3(a)

5 (1) Section 13 (powers of the Executive) is amended as follows.

(2) In subsection (3) after “functions” insert “on its behalf”.

(3) In subsection (4) after “department or authority” insert “on behalf of the Minister, department or authority”.

(4) In subsection (6) after “Part” insert “or in connection with its building functions”.

(5) In subsection (7) after “functions” insert “except its building functions”.

#### Commencement Information

- I9** Sch. 1 para. 5 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)
- I10** [Sch. 1 para. 5](#) in force at 28.6.2022 by [S.I. 2022/561](#), [regs. 1\(2\)](#), 3(a)

6 In section 27 (information powers) after subsection (4) insert—

“(5) In this section any reference to the Executive’s functions does not include its building functions.”

#### Commencement Information

- I11** Sch. 1 para. 6 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)
- I12** [Sch. 1 para. 6](#) in force at 28.6.2022 by [S.I. 2022/561](#), [regs. 1\(2\)](#), 3(a)

7 In section 53 (general interpretation) at the appropriate place insert—

““the building enactments” means the provisions of, and of instruments made under—

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- (a) the Building Act 1984, and
- (b) Parts 2 and 4 of the Building Safety Act 2022;”;  
““building function” has the meaning given by section 3 of the Building Safety Act 2022;”.

#### Commencement Information

- I13** Sch. 1 para. 7 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)
- I14** [Sch. 1 para. 7](#) in force at 28.6.2022 by [S.I. 2022/561](#), [regs. 1\(2\)](#), 3(a)

- 8 (1) Schedule 2 (constitution of the Executive) is amended as follows.
- (2) In paragraph 2(3)(d)(iii) at the end insert “, building safety, building standards or fire safety.”
  - (3) In paragraph 9(3)(b) after “provisions” insert “, or the building enactments,”.
  - (4) In paragraph 12(2)—
    - (a) after “Executive” insert “or signed on its behalf”;
    - (b) after “so executed” insert “or signed”.

#### Commencement Information

- I15** Sch. 1 para. 8 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)
- I16** [Sch. 1 para. 8](#) in force at 28.6.2022 by [S.I. 2022/561](#), [regs. 1\(2\)](#), 3(a)

## SCHEDULE 2

Section 22

### AUTHORISED OFFICERS: INVESTIGATORY POWERS

#### *Entry to non-domestic premises without warrant*

- 1 (1) An authorised officer may enter any non-domestic premises which the officer has reason to believe it is necessary for the officer to enter for a relevant purpose—
- (a) at any reasonable time, or
  - (b) at any time, in a situation which in the officer’s opinion is or may be dangerous.
- (2) The officer may be accompanied by any person, and bring anything, required for any purpose for which the officer is exercising the power of entry.
- (3) If the officer has reasonable cause to expect any obstruction in the exercise of any relevant power, the officer may be accompanied by a constable.
- (4) The officer may—
- (a) take measurements and photographs, and may make recordings;
  - (b) take samples of anything.
- (5) The officer may seize anything if it appears to the officer—
- (a) to be evidence of an offence under this Act or the Building Act 1984, and

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- (b) to be necessary to seize it to prevent the evidence being concealed, lost, altered or destroyed.

#### Commencement Information

- I17** Sch. 2 para. 1 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)  
**I18** [Sch. 2 para. 1](#) in force at 6.4.2023 in so far as not already in force by [S.I. 2023/362](#), [reg. 3\(1\)\(g\)](#)

#### Entry to non-domestic premises with warrant

- 2 (1) A justice of the peace may issue a warrant in respect of non-domestic premises specified in the warrant if satisfied, on an information in writing made by an authorised officer, that it is necessary—
- (a) for an authorised officer to enter the premises for a relevant purpose, and
  - (b) to confer a power to enter by force (if necessary).
- (2) The warrant authorises any authorised officer to enter the premises at any time (subject to [sub-paragraph \(3\)](#)) for the purposes specified in the warrant, by force (if necessary).
- (3) The warrant may limit the times at which the power of entry may be exercised.
- (4) [Sub-paragraphs \(2\) to \(5\) of paragraph 1](#) apply in relation to the power of entry conferred by a warrant under [this paragraph](#) as they apply in relation to the power of entry conferred by [sub-paragraph \(1\)](#) of that paragraph.

#### Commencement Information

- I19** Sch. 2 para. 2 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)  
**I20** [Sch. 2 para. 2](#) in force at 6.4.2023 in so far as not already in force by [S.I. 2023/362](#), [reg. 3\(1\)\(g\)](#)

#### Entry to domestic premises (with warrant)

- 3 (1) A justice of the peace may issue a warrant in respect of domestic premises specified in the warrant if satisfied, on an information in writing made by an authorised officer, that—
- (a) it is necessary for an authorised officer to enter the premises for a relevant purpose, and
  - (b) one of the following conditions is met—
    - (i) that entry to the premises for the relevant purpose has been, or is likely to be, refused;
    - (ii) that no person entitled to grant entry to the premises can be found;
    - (iii) that requesting entry may frustrate or seriously prejudice the purpose of entry.
- (2) The warrant—
- (a) authorises any authorised officer to enter the premises at any time (subject to [sub-paragraph \(3\)](#)) for the purposes specified in the warrant, and
  - (b) confers such additional powers as may be specified in the warrant.
- (3) The warrant may limit the times at which the power of entry may be exercised.

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- (4) For this purpose “additional powers” means—
- (a) the power to enter by force (if necessary);
  - (b) the powers under [sub-paragraphs \(2\) to \(5\) of paragraph 1](#).
- (5) An additional power may be specified in the warrant only if the justice of the peace is satisfied that it is necessary to confer the power.

**Commencement Information**

**I21** Sch. 2 para. 3 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

**I22** [Sch. 2 para. 3](#) in force at 6.4.2023 in so far as not already in force by [S.I. 2023/362](#), [reg. 3\(1\)\(g\)](#)

*Power to require information, documents etc*

- 4
- (1) An authorised officer may for a relevant purpose require a person to give specified information or documents to the officer by such time as may be specified.
- (2) In the case of a document consisting of information held in electronic form, the officer may require it to be produced—
- (a) in a legible form, or
  - (b) in a form from which it can readily be produced in legible form.
- (3) The officer may inspect and take copies of (or of any information in) any document that is produced.
- (4) An authorised officer may for a relevant purpose require a person to provide such facilities and assistance to the officer as may be specified, by such time as may be specified.
- (5) A requirement under this paragraph is imposed by the authorised officer in question giving, to the person in question, a notice in writing that states—
- (a) that it is a notice containing a requirement under this paragraph, and
  - (b) the consequences of failing to comply with the requirement.
- (6) Information provided by a person under [sub-paragraph \(1\)](#) is not admissible in evidence against that person in criminal proceedings except—
- (a) in proceedings for an offence under section 24,
  - (b) in proceedings for an offence under [paragraph 6\(1\)](#),
  - (c) in proceedings for an offence of perverting the course of justice, or
  - (d) if in the proceedings—
    - (i) in giving evidence the person makes a statement inconsistent with the information, and
    - (ii) evidence as to the information that was provided is adduced, or a question relating to it is asked, by or on behalf of the person.
- (7) In this paragraph—
- “document” includes information recorded in any form;
  - “specified”, in relation to a requirement, means specified in the notice imposing the requirement.

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#### Commencement Information

- I23** Sch. 2 para. 4 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)  
**I24** [Sch. 2 para. 4](#) in force at 6.4.2023 in so far as not already in force by S.I. 2023/362, [reg. 3\(1\)\(g\)](#)

#### *Retention of evidence etc*

- 5 Anything that has been seized under [paragraph 1\(5\)](#), or any document produced under [paragraph 4](#), may be retained for so long as is necessary in all the circumstances.

#### Commencement Information

- I25** Sch. 2 para. 5 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)  
**I26** [Sch. 2 para. 5](#) in force at 6.4.2023 in so far as not already in force by S.I. 2023/362, [reg. 3\(1\)\(g\)](#)

#### *Offence of failing to provide information, documents etc*

- 6 (1) A person who fails without reasonable excuse to comply with a requirement under [paragraph 4](#) commits an offence.
- (2) A person guilty of an offence under [this paragraph](#) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both).

#### Commencement Information

- I27** Sch. 2 para. 6 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)  
**I28** [Sch. 2 para. 6](#) in force at 6.4.2023 in so far as not already in force by S.I. 2023/362, [reg. 3\(1\)\(g\)](#)

#### *Interpretation*

- 7 (1) In [this Schedule](#) —
- “authorised officer”, in relation to the exercise of any power conferred by or the doing of anything else mentioned in a paragraph of [this Schedule](#) for the purpose of a relevant building function, means a person authorised under section 22 in relation to that paragraph for the purposes of that function;
  - “domestic premises” means premises (in England or Wales) used wholly or mainly as a private dwelling;
  - “non-domestic premises” means premises (in England or Wales) that are not domestic premises;
  - “relevant purpose”, in relation to an authorised officer, means the purpose of any relevant building function specified in the officer’s authorisation.
- (2) In sub-paragraph (1) “relevant building function” has the meaning given by section 22.

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#### Commencement Information

- I29** Sch. 2 para. 7 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)  
**I30** [Sch. 2 para. 7](#) in force at 6.4.2023 in so far as not already in force by [S.I. 2023/362](#), [reg. 3\(1\)\(g\)](#)

#### *Saving for material subject to legal professional privilege*

- 8 Nothing in this Schedule confers power to—  
(a) seize anything, or  
(b) compel the production by any person of a document or information,  
in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

#### Commencement Information

- I31** Sch. 2 para. 8 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)  
**I32** [Sch. 2 para. 8](#) in force at 6.4.2023 in so far as not already in force by [S.I. 2023/362](#), [reg. 3\(1\)\(g\)](#)

## SCHEDULE 3

Section 27

### COOPERATION AND INFORMATION SHARING

#### Modifications etc. (not altering text)

- C1** [Sch. 3](#) applied (with modifications) (6.4.2023 for specified purposes) by 1984 c. 55, Pt. 2A (as inserted by [Building Safety Act 2022 \(c. 30\)](#), [ss. 42, 170\(4\)](#); [S.I. 2023/362](#), [reg. 3\(1\)\(s\)](#))

#### *Interpretation*

- 1 In [this Schedule](#) any reference to a function under an enactment includes a function under an instrument made under the enactment.

#### Commencement Information

- I33** Sch. 3 para. 1 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)  
**I34** [Sch. 3 para. 1](#) in force at 6.4.2023 in so far as not already in force by [S.I. 2023/362](#), [reg. 3\(1\)\(k\)](#)

#### *Local authorities, fire and rescue authorities etc*

- 2 (1) The regulator and a local authority must cooperate with each other in the exercise of their relevant functions.  
(2) The regulator and a fire and rescue authority must cooperate with each other in the exercise of—  
(a) any building function of the regulator,  
(b) any function of the authority under—

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- (i) section 6 or 7 of the Fire and Rescue Services Act 2004,
    - (ii) the Regulatory Reform (Fire Safety) Order 2005, or
    - (iii) section 13 of this Act, and
  - (c) any other prescribed function of the authority.
- (3) The regulator and an FSO authorised person must cooperate with each other in the exercise of their relevant functions.
- (4) A relevant person may disclose information held in connection with any of their relevant functions to another relevant person for the purposes of a relevant function of either of them.
- (5) In [this paragraph](#)—
- “FSO authorised person” has the meaning given by section 14;
  - “relevant function” means—
    - (a) in relation to the regulator, any building function;
    - (b) in relation to a local authority, a function under any of the following—
      - (i) the Prevention of Damage by Pests Act 1949;
      - (ii) Part 2 of the Public Health Act 1961;
      - (iii) Part 11 of the Local Government (Miscellaneous Provisions) Act 1982;
      - (iv) the Building Act 1984;
      - (v) Part 3 of the Environmental Protection Act 1990;
      - (vi) Parts 1 to 4 of the Housing Act 2004;
      - (vii) section 13 of this Act;
    - or any other prescribed function;
    - (c) in relation to a fire and rescue authority, a function under any of the following—
      - (i) the Fire and Rescue Services Act 2004;
      - (ii) the Regulatory Reform (Fire Safety) Order 2005;
      - (iii) section 13 of this Act;
    - or any other prescribed function;
    - (d) in relation to an FSO authorised person, any function under—
      - (i) the Regulatory Reform (Fire Safety) Order 2005, or
      - (ii) section 14 of this Act;
  - “relevant person” means—
    - (a) the regulator;
    - (b) a local authority;
    - (c) a fire and rescue authority;
    - (d) an FSO authorised person.

#### Commencement Information

**I35** Sch. 3 para. 2 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

**I36** [Sch. 3 para. 2](#) in force at 6.4.2023 in so far as not already in force by [S.I. 2023/362](#), [reg. 3\(1\)\(k\)](#)



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### *Ombudsmen*

- 3 (1) The regulator and a person mentioned in [sub-paragraph \(4\)](#) must cooperate with each other in the exercise of—
- (a) any building function of the regulator, and
  - (b) any relevant function of the person.
- (2) The regulator may disclose to a person mentioned in [sub-paragraph \(4\)](#) information held in connection with any of its building functions, for the purpose of any of those functions or any relevant functions of the person.
- (3) A person mentioned in [sub-paragraph \(4\)](#) may disclose to the regulator information held in connection with any of their relevant functions, for the purpose of any of those functions or any building function of the regulator.
- (4) The persons are—
- (a) the Regulator of Social Housing;
  - (b) a person who administers a relevant scheme.
- (5) “Relevant scheme” means—
- (a) a scheme approved under Schedule 2 to the Housing Act 1996 (housing complaints: social landlords),
  - (b) a redress scheme to which persons are required by virtue of section 83 of the Enterprise and Regulatory Reform Act 2013 (lettings agency work) to be members,
  - (c) a redress scheme to which persons are required by virtue of section 84 of that Act (property management work) to be members, or
  - (d) the new homes ombudsman scheme.
- (6) In [this paragraph](#) “relevant function” means—
- (a) in relation to the Regulator of Social Housing, any of its functions;
  - (b) in relation to a person who administers a relevant scheme, any function relating to that scheme.

#### **Commencement Information**

**I37** Sch. 3 para. 3 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

**I38** [Sch. 3 para. 3](#) in force at 6.4.2023 in so far as not already in force by [S.I. 2023/362](#), [reg. 3\(1\)\(k\)](#)

### *Secretary of State*

- 4 (1) The regulator may disclose to the Secretary of State information held in connection with any of its building functions, for the purpose of any of those functions or any relevant function of the Secretary of State.
- (2) The Secretary of State may disclose to the regulator information held in connection with any relevant function, for the purpose of any relevant function or any building function of the regulator.
- (3) In [this paragraph](#) “relevant function” means any function of the Secretary of State (whether or not under an enactment) that relates to buildings.

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#### Commencement Information

- I39** Sch. 3 para. 4 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)  
**I40** [Sch. 3 para. 4](#) in force at 6.4.2023 in so far as not already in force by S.I. 2023/362, [reg. 3\(1\)\(k\)](#)

#### Police

- 5 (1) The regulator may disclose to a constable information held by it in connection with any of its building functions.
- (2) A constable to whom information is disclosed in pursuance of [sub-paragraph \(1\)](#) must not use the information for a purpose other than—
- (a) a purpose relating to the prevention, detection, investigation or prosecution of an offence (whether or not under this Act);
  - (b) a purpose of the police relating to public health or public safety;
  - (c) a purpose relating to national security.

#### Commencement Information

- I41** Sch. 3 para. 5 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)  
**I42** [Sch. 3 para. 5](#) in force at 6.4.2023 in so far as not already in force by S.I. 2023/362, [reg. 3\(1\)\(k\)](#)

#### Public authorities

- 6 (1) The Secretary of State may by regulations make provision requiring the regulator and any prescribed public authority to cooperate with each other in the exercise of—
- (a) any building function of the regulator, and
  - (b) any prescribed function of the public authority, so far as it relates to England.
- (2) The Secretary of State may by regulations make provision authorising a relevant person and any prescribed public authority to disclose prescribed information to each other for the purpose of—
- (a) any relevant function of the relevant person, and
  - (b) any prescribed function of the public authority, so far as it relates to England.
- (3) In [this paragraph](#) “relevant person” and “relevant function” have the meaning given in [paragraph 2](#).

#### Commencement Information

- I43** Sch. 3 para. 6 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)  
**I44** [Sch. 3 para. 6](#) in force at 6.4.2023 in so far as not already in force by S.I. 2023/362, [reg. 3\(1\)\(k\)](#)

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## PROSPECTIVE

## SCHEDULE 4

Section 43

TRANSFER OF APPROVED INSPECTORS' FUNCTIONS  
TO REGISTERED BUILDING CONTROL APPROVERS

1 The Building Act 1984 is amended as follows.

**Commencement Information**

**I45** Sch. 4 para. 1 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(v\)\(c\)](#)

2 In section 42(1) (appeals) for “approved inspector” substitute “registered building control approver”.

**Commencement Information**

**I46** Sch. 4 para. 2 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(v\)\(c\)](#)

3 In the heading before section 47, for “approved inspectors” substitute “registered building control approvers”.

**Commencement Information**

**I47** Sch. 4 para. 3 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(v\)\(c\)](#)

4 (1) Section 47 (giving and acceptance of initial notice) is amended as follows.

(2) In subsection (1)—

- (a) in [paragraph \(a\)](#) for “an approved inspector” substitute “a registered building control approver”;
- (b) in the words after paragraph (d) for “approved inspector” substitute “registered building control approver”.

(3) In subsection (5)(b)—

- (a) for “approved inspector” substitute “registered building control approver”;
- (b) for “his” substitute “their”.

**Commencement Information**

**I48** Sch. 4 para. 4 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(v\)\(c\)](#)

5 Omit section 49 (approved inspectors).

**Commencement Information**

**I49** Sch. 4 para. 5 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(v\)\(c\)](#)

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- 6 In section 50(7) (plans certificates) for “approved inspector”, in both places it occurs, substitute “registered building control approver”.

**Commencement Information**

**I50** Sch. 4 para. 6 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(v\)\(c\)](#)

- 7 In section 51(1) (final certificates)—
- (a) for “an approved inspector” substitute “a registered building control approver”;
  - (b) for “him” substitute “them”;
  - (c) for “he” substitute “they”;
  - (d) for “his” substitute “their”.

**Commencement Information**

**I51** Sch. 4 para. 7 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(v\)\(c\)](#)

- 8 In section 51A(2)(a)(ii) (variation of work) for “approved inspector” substitute “registered building control approver”.

**Commencement Information**

**I52** Sch. 4 para. 8 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(v\)\(c\)](#)

- 9 In section 51C(2)(a) (change of person carrying out work) for “approved inspector” substitute “registered building control approver”.

**Commencement Information**

**I53** Sch. 4 para. 9 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(v\)\(c\)](#)

- 10 (1) Section 52 (cancellation of initial notice) is amended as follows.
- (2) In subsection (1)—
- (a) in [paragraph \(a\)](#)—
    - (i) for “approved inspector” substitute “registered building control approver”;
    - (ii) for “his” substitute “their”;
  - (b) in [paragraph \(b\)](#)—
    - (i) for “approved inspector” substitute “registered building control approver”;
    - (ii) for “he is” substitute “they are”;
    - (iii) for “his” substitute “their”;
  - (c) in [paragraph \(c\)](#) for “approved inspector” substitute “registered building control approver”.
- (3) In subsection (2)(a) for “approved inspector” substitute “registered building control approver”.

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#### Commencement Information

**I54** Sch. 4 para. 10 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(v\)\(c\)](#)

- 11 In section 56(5) (powers to require information) for “approved inspector” substitute “registered building control approver”.

#### Commencement Information

**I55** Sch. 4 para. 11 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(v\)\(c\)](#)

- 12 In section 57 (offences), for subsection (3) substitute—
- “(3) Where a registered building control approver is convicted of an offence under this section, the court by or before which they are convicted must, within one month of the date of conviction, forward a certificate of the conviction to—
- (a) the regulatory authority, or
  - (b) if the regulatory authority has delegated its functions in relation to the register of building control approvers to another person under [section 58Y](#), that person.”

#### Commencement Information

**I56** Sch. 4 para. 12 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(v\)\(c\)](#)

- 13 In section 58(3) (construction of [Part 2](#))—
- (a) for “an approved inspector” substitute “a registered building control approver”;
  - (b) for “him” substitute “them”.

#### Commencement Information

**I57** Sch. 4 para. 13 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(v\)\(c\)](#)

- 14 In section 126 (general interpretation)—
- (a) omit the definition of “approved inspector”;
  - (b) at the appropriate place insert—
    - ““registered building control approver” has the meaning given by [section 58N](#);”;
    - ““registered building inspector” has the meaning given by [section 58B](#);”;
    - ““regulatory authority” has the meaning given by [section 58A](#);”.

#### Commencement Information

**I58** Sch. 4 para. 14 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(v\)\(c\)](#)

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## SCHEDULE 5

Section 55

### MINOR AND CONSEQUENTIAL AMENDMENTS IN CONNECTION WITH PART 3

#### PART 1

##### AMENDMENTS OF THE BUILDING ACT 1984

1 The Building Act 1984 is amended as follows.

##### Commencement Information

- I59** Sch. 5 para. 1 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)  
**I60** [Sch. 5 para. 1](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 1](#)  
**I61** [Sch. 5 para. 1](#) in force at 9.12.2022 for W. by [S.I. 2022/1287](#), [reg. 2\(c\)\(i\)](#)

- 2 (1) Section 1 is amended as follows.
- (2) In subsection (1) for “Secretary of State” substitute “appropriate national authority”.
- (3) In subsection (4) for the words from “subject to” to the end substitute “—
- (a) in the case of a statutory instrument made by the Secretary of State, subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) in the case of a statutory instrument made by the Welsh Ministers, subject to annulment in pursuance of a resolution of Senedd Cymru.”

##### Commencement Information

- I62** Sch. 5 para. 2 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)  
**I63** [Sch. 5 para. 2](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 2](#)

3 In section 1A(1) for “Secretary of State” substitute “appropriate national authority”.

##### Commencement Information

- I64** Sch. 5 para. 3 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)  
**I65** [Sch. 5 para. 3](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 3](#)

- 4 (1) Section 2 is amended as follows.
- (2) In subsection (1) for “Secretary of State” substitute “appropriate national authority”.
- (3) In subsections (3) and (4) for “local authority” substitute “building control authority”.

##### Commencement Information

- I66** Sch. 5 para. 4 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)  
**I67** [Sch. 5 para. 4\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 4](#)

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**I68** Sch. 5 para. 4(2) in force at 28.6.2022 for E. by S.I. 2022/561, regs. 1(2), 3(f), Sch. para. 5

- 5 (1) Section 3 is amended as follows.
- (2) In subsection (2) for “Secretary of State” substitute “appropriate national authority”.
- (3) After that subsection insert—
- “(2A) The regulator may at any time make a proposal to the Secretary of State for the giving of a direction under subsection (2).
- (2B) Before making a proposal, the regulator must consult such persons as it considers appropriate.
- (2C) Before giving a direction under subsection (2), other than a direction proposed by the regulator, the Secretary of State must consult—
- (a) the regulator, and
- (b) any other person that the Secretary of State considers appropriate.”
- (4) In subsection (3)—
- (a) omit “not exceeding level 5 on the standard scale”;
- (b) for “£50” substitute “level 1 on the standard scale”.

#### Commencement Information

- I69** Sch. 5 para. 5 not in force at Royal Assent, see s. 170(4)(b)(viii)(c)
- I70** Sch. 5 para. 5(1) in force at 28.6.2022 for specified purposes for E. by S.I. 2022/561, regs. 1(2), 3(f), Sch. para. 6
- I71** Sch. 5 para. 5(2) in force at 28.6.2022 for E. by S.I. 2022/561, regs. 1(2), 3(f), Sch. para. 7

- 6 In section 4(1)(a)(i) for “Secretary of State” substitute “appropriate national authority”.

#### Commencement Information

- I72** Sch. 5 para. 6 not in force at Royal Assent, see s. 170(4)(b)(viii)(c)
- I73** Sch. 5 para. 6 in force at 28.6.2022 for E. by S.I. 2022/561, regs. 1(2), 3(f), Sch. para. 8

PROSPECTIVE

- 7 In section 5(3)(b) omit “of building regulations”.

#### Commencement Information

- I74** Sch. 5 para. 7 not in force at Royal Assent, see s. 170(4)(b)(viii)(c)

PROSPECTIVE

- 8 Omit section 5(4).

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#### Commencement Information

**I75** Sch. 5 para. 8 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

- 9 (1) Section 6 is amended as follows.
- (2) For “Secretary of State”, in each place it occurs, substitute “appropriate national authority”.
- (3) In subsection (1) for “him”, in each place it occurs, substitute “the appropriate national authority”.
- (4) In subsection (4)(a) omit “him or”.
- (5) In subsection (5) omit “his or”.
- (6) After that subsection insert—
- “(5A) A notice under subsection (3) or (5) may contain transitional or saving provision (and different provision may be made for different purposes or for different areas).
- (5B) A body may give an approval under subsection (1) or (4), or withdraw an approval under subsection (5), only with the consent of the appropriate national authority.”
- (7) In subsection (8) for the words from “subject to” to the end substitute “—
- (a) in the case of a statutory instrument made by the Secretary of State, subject to annulment in pursuance of a resolution of either House of Parliament;
- (b) in the case of a statutory instrument made by the Welsh Ministers, subject to annulment in pursuance of a resolution of Senedd Cymru.”
- (8) After subsection (8) insert—
- “(9) An order under subsection (8) may provide that a body is designated only in relation to—
- (a) buildings of a specified description;
- (b) work of a specified description;
- (c) specified provisions of building regulations.”

#### Commencement Information

**I76** Sch. 5 para. 9 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I77** [Sch. 5 para. 9](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 9](#)

- 10 (1) Section 7 is amended as follows.
- (2) In subsection (1)(a) for the words from “document” to “provision” substitute “relevant approved document”.
- (3) After subsection (1) insert—



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“(1A) In subsection (1) “relevant approved document” means a document approved for the purposes of the provision that applies in relation to the work in question.”

#### Commencement Information

**I78** Sch. 5 para. 10 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I79** [Sch. 5 para. 10](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 10](#)

11 (1) Section 8 is amended as follows.

(2) For “Secretary of State”, in both places it occurs, substitute “appropriate national authority”.

(3) In subsection (1) for “he” substitute “it”.

(4) After subsection (3) insert—

“(3A) If, in a case where the regulator is the building control authority—

- (a) an application for a direction under this section is made to the regulator, and
- (b) the regulator considers that the operation of a requirement in building regulations would be unreasonable in relation to the particular case,

it may give a direction dispensing with or relaxing the requirement.

(3B) No application under subsection (1) or (2) may be made in a case where the regulator is the building control authority.”

#### Commencement Information

**I80** Sch. 5 para. 11 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I81** [Sch. 5 para. 11\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 11](#)

**I82** [Sch. 5 para. 11\(2\)\(3\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 12](#)

12 (1) Section 9 is amended as follows.

(2) For “Secretary of State”, in both places it occurs, substitute “appropriate national authority”.

(3) In subsection (1) for “or (2) above” substitute “, (2) or (3A)”.

(4) In subsection (2) for “The application” substitute “An application under section 8(1) or (2)”.

(5) In subsection (3) at the end insert “or in a case where the regulator is the building control authority.”

#### Commencement Information

**I83** Sch. 5 para. 12 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I84** [Sch. 5 para. 12\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 13](#)

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**I85** Sch. 5 para. 12(2) in force at 28.6.2022 for E. by S.I. 2022/561, regs. 1(2), 3(f), Sch. para. 14

- 13 (1) Section 10 is amended as follows.
- (2) In subsections (1), (2), (4) and (5) for “Secretary of State”, in each place it occurs, substitute “appropriate national authority”.
  - (3) In subsections (1), (2) and (5) for “local authority”, in each place it occurs, substitute “building control authority”.
  - (4) In subsection (1) after “(2)” insert “, (3A)”.
  - (5) In subsection (2) omit “he, they or”.
  - (6) In subsection (4) omit “himself”.

#### Commencement Information

- I86** Sch. 5 para. 13 not in force at Royal Assent, see s. 170(4)(b)(viii)(c)
- I87** Sch. 5 para. 13(1) in force at 28.6.2022 for specified purposes for E. by S.I. 2022/561, regs. 1(2), 3(f), Sch. para. 15
- I88** Sch. 5 para. 13(2)(5)(6) in force at 28.6.2022 for E. by S.I. 2022/561, regs. 1(2), 3(f), Sch. para. 16

- 14 (1) Section 11 is amended as follows.
- (2) In subsection (1)—
    - (a) for “Secretary of State” substitute “appropriate national authority”;
    - (b) for “he may, either on an application made to him or of his” substitute “the authority may, either on an application made by any person (the “original applicant”) or of its”.
  - (3) In subsection (2)(b)—
    - (a) after “may” insert “, either on an application or of the appropriate national authority’s own accord,”;
    - (b) for “Secretary of State” substitute “appropriate national authority”.
  - (4) In subsection (3)—
    - (a) after “(1)” insert “or (2)(b)”;
    - (b) for “Secretary of State”, in both places it occurs, substitute “appropriate national authority”.
  - (5) After that subsection insert—
    - “(3A) The regulator may at any time make a proposal to the Secretary of State for the giving of a direction under this section.
    - (3B) Before making a proposal, the regulator must consult—
      - (a) such persons as it considers appropriate, and
      - (b) if the proposal is for a direction that would vary or revoke a direction given on an application under subsection (1), the original applicant.
    - (3C) Before giving a direction under this section, other than a direction proposed by the regulator, the Secretary of State must consult—
      - (a) the regulator,
      - (b) any other person the Secretary of State considers appropriate, and

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- (c) if the direction would vary or revoke a direction given on an application under subsection (1), the original applicant.”
- (6) For subsections (4) and (5) substitute—
  - “(4) Before giving a direction under subsection (1) or (2)(b), the Welsh Ministers must consult such persons as they consider appropriate.
  - (5) Where the appropriate national authority gives a direction under subsection (1) or (2)(b), it must publish notice of that fact in such way as it considers appropriate.”
- (7) In subsection (6)—
  - (a) omit “not exceeding level 5 on the standard scale”;
  - (b) for “£50” substitute “level 1 on the standard scale”.
- (8) In subsection (7) for the words from “before that time” to the end substitute “an application for building control approval in relation to the proposed work was made before that time.”

#### Commencement Information

- I89** Sch. 5 para. 14 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
- I90** [Sch. 5 para. 14\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 17](#)
- I91** [Sch. 5 para. 14\(2\)\(3\)\(b\)\(4\)\(b\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 18](#)

- 15 (1) Section 12 is amended as follows.
  - (2) In subsections (1), (3), (7), (8), (9) and (11) and the heading, for “Secretary of State”, in each place it occurs, substitute “appropriate national authority”.
  - (3) In subsection (1) for “to him or of his” substitute “by any person (the “original applicant”) or of its”.
  - (4) In subsection (3) for “he” substitute “it”.
  - (5) In subsection (6)—
    - (a) for “Secretary of State”, in the first place it occurs, substitute “appropriate national authority”;
    - (b) for the words from “him” to the end substitute “it or of its own accord.”
  - (6) In subsection (7) for “(1) or (6) above” substitute “(1), (6) or (8)”.
  - (7) In subsection (8) for the words from “but” to the end substitute “either on an application or of the appropriate national authority’s own accord.”
  - (8) After subsection (8) insert—
    - “(8A) The regulator may at any time make a proposal to the Secretary of State for—
      - (a) the giving of an approval under subsection (1), or
      - (b) the varying or revocation of a certificate under subsection (6) or (8).
    - (8B) Before making a proposal, the regulator must consult—
      - (a) such persons as it considers appropriate, and

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- (b) if the proposal is to vary or revoke a certificate issued on an application under subsection (1), the original applicant.
- (8C) Before giving an approval or varying or revoking a certificate under this section, unless acting on a proposal of the regulator, the Secretary of State must consult—
  - (a) the regulator,
  - (b) any other person the Secretary of State considers appropriate, and
  - (c) if varying or revoking a certificate issued on an application under subsection (1), the original applicant.
- (8D) Before varying or revoking a certificate issued on an application under subsection (1), the Welsh Ministers must give the original applicant reasonable notice that they propose to do so (except in the case of a variation or revocation made on the application of that person)."
- (9) In subsection (9) for "he", in both places it occurs, substitute "it".
- (10) In subsection (10) for the words from "before that time" to the end substitute "an application for building control approval in relation to the proposed work was made before that time."

#### Commencement Information

- I92** Sch. 5 para. 15 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
- I93** [Sch. 5 para. 15\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 19](#)
- I94** [Sch. 5 para. 15\(2\)-\(5\)\(9\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 20](#)

- 16 (1) Section 13 is amended as follows.
  - (2) For "Secretary of State", in each place it occurs, substitute "appropriate national authority".
  - (3) In subsection (1) omit "on him".

#### Commencement Information

- I95** Sch. 5 para. 16 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
- I96** [Sch. 5 para. 16](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 21](#)

- 17 (1) Section 14 is amended as follows.
  - (2) Omit subsections (1) to (4).
  - (3) In subsection (7) for the words from "such" to the end substitute "any other person that the Welsh Ministers consider appropriate."
  - (4) In subsection (8)—
    - (a) in paragraph (b) for "persons or bodies" substitute "persons";
    - (b) for paragraph (c) substitute—
      - "(c) any other person that the Welsh Ministers consider appropriate."

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(5) In the heading at the end insert “: Wales”.

**Commencement Information**

**I97** Sch. 5 para. 17 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I98** [Sch. 5 para. 17](#) in force at 1.4.2023 except in relation to W. by [S.I. 2023/362](#), [reg. 2\(2\)\(a\)](#)

PROSPECTIVE

18 In section 15 after subsection (2) insert—

“(3) As regards a requirement of a kind mentioned in subsection (1), the regulator must consult the fire and rescue authority before exercising the power under section 8(3A) in relation to any premises or proposed premises.”

**Commencement Information**

**I99** Sch. 5 para. 18 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

PROSPECTIVE

19 For the heading before section 16 substitute “Building control approval”.

**Commencement Information**

**I100** Sch. 5 para. 19 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

PROSPECTIVE

20 Omit sections 16 and 17.

**Commencement Information**

**I101** Sch. 5 para. 20 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

PROSPECTIVE

21 (1) Section 19 is amended as follows.

(2) For “local authority”, in each place it occurs except subsection (1), substitute “building control authority”.

(3) In subsection (1)—

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- (a) for the words from the beginning to “plans show” substitute “Where an application for building control approval in respect of a proposed building is made to a building control authority, and it appears”;
  - (b) for “plans conform” substitute “application conforms”;
  - (c) in paragraph (a) for “the plans” substitute “the application”;
  - (d) in paragraph (b) for “passing the plans” substitute “granting the application”.
- (4) In subsection (2)—
- (a) for “plans ought under the building regulations to have been deposited, but have not been deposited,” substitute “an application for building control approval ought to have been made but was not made”;
  - (b) in paragraph (b) for “passing of plans for the building” substitute “granting of such an application”.
- (5) In subsection (4) for “plans” substitute “an application”.

#### Commencement Information

**I102** Sch. 5 para. 21 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

- 22 (1) Section 20 is amended as follows.
- (2) For “local authority”, in each place it occurs except subsection (1), substitute “building control authority”.
- (3) In subsection (1)—
- (a) for the words from the beginning to “plans show” substitute “Where an application for building control approval in respect of any proposed work is made to a building control authority, and it appears”;
  - (b) for “plans conform” substitute “application conforms”;
  - (c) in paragraph (a) for “the plans” substitute “the application”;
  - (d) in paragraph (b) for “passing the plans”, in both places it occurs, substitute “granting the application”.
- (4) In subsection (2)—
- (a) in the words before paragraph (a), for the words from “plans” to “so deposited” substitute “an application for building control approval ought to have been made but was not made”;
  - (b) in paragraph (b) for “passing plans” substitute “granting the application”.
- (5) In subsection (3)—
- (a) in the words before paragraph (a), for the words from “plans” to “so deposited” substitute “an application for building control approval was not required by building regulations to be made and was not made”;
  - (b) in paragraph (b) for the words from “if plans” to the end substitute “if an application for building control approval in respect of the work had been required to be made and had been made, might have been imposed under subsection (1) in granting the application,”.
- (6) In subsection (5)(a) for “plans” substitute “an application”.
- (7) In subsection (7)—

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- (a) omit “not exceeding level 5 on the standard scale”;
- (b) for “£50” substitute “level 1 on the standard scale”.

(8) In subsection (10)—

- (a) for “Secretary of State” substitute “appropriate national authority”;
- (b) for “his”, in both places it occurs, substitute “its”.

#### Commencement Information

**I103** Sch. 5 para. 22 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I104** [Sch. 5 para. 22\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 22](#)

**I105** [Sch. 5 para. 22\(8\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 23](#)

#### PROSPECTIVE

- 23 (1) Section 21 is amended as follows.
- (2) For “local authority”, in each place it occurs, substitute “building control authority”.
  - (3) In subsection (3) for “plans are deposited” substitute “an application for building control approval is made”.
  - (4) In subsection (4) for the words from “plans” to “deposited with” substitute “an application for building control approval in respect of a building or an extension of a building is made to”.

#### Commencement Information

**I106** Sch. 5 para. 23 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

#### PROSPECTIVE

- 24 (1) Section 22 is amended as follows.
- (2) For “local authority”, in each place it occurs, substitute “building control authority”.
  - (3) In subsection (2) for the words from “for whose drainage” to the end substitute “if building control approval has been given in respect of work comprising drainage for the building.”

#### Commencement Information

**I107** Sch. 5 para. 24 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

#### PROSPECTIVE

- 25 In section 23(3) for “local authority”, in both places it occurs, substitute “building control authority”.

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#### Commencement Information

**I108** Sch. 5 para. 25 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

#### PROSPECTIVE

- 26 (1) Section 24 is amended as follows.
- (2) For “local authority”, in each place it occurs, substitute “building control authority”.
- (3) In subsection (1)—
- (a) in paragraph (a) for the words from “plans” to “deposited with” substitute “an application for building control approval in respect of a building or an extension of a building is made to”;
  - (b) in the words after paragraph (b) for “plans” substitute “application”.
- (4) In subsection (2) for “plans are deposited” substitute “an application for building control approval is made”.

#### Commencement Information

**I109** Sch. 5 para. 26 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

#### PROSPECTIVE

- 27 (1) Section 25 is amended as follows.
- (2) For “local authority”, in each place it occurs, substitute “building control authority”.
- (3) In subsection (1)—
- (a) for “plans of a house are, in accordance with building regulations, deposited with” substitute “an application for building control approval in respect of a house is made to”;
  - (b) for “the plans” substitute “the application”.
- (4) In subsection (2)—
- (a) for “plans are deposited” substitute “an application for building control approval is made”;
  - (b) for “pass the plans” substitute “grant the application”.
- (5) In subsection (3) for “plans as aforesaid have been passed” substitute “application has been granted”.

#### Commencement Information

**I110** Sch. 5 para. 27 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)



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PROSPECTIVE

28 Omit section 31 (and the heading before it).

**Commencement Information**

**I111** Sch. 5 para. 28 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

PROSPECTIVE

29 In the heading before section 32 for “deposit of plans” substitute “building control approval”.

**Commencement Information**

**I112** Sch. 5 para. 29 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

PROSPECTIVE

30 (1) Section 33 is amended as follows.

(2) For subsections (1) and (2) substitute—

“(1) Where work to which building regulations are applicable is proposed or carried out, the building control authority has the powers under [subsection \(2\)](#) for the purpose of ascertaining whether any provision of building regulations is or would be contravened—

- (a) by or in connection with the work, or
- (b) in relation to the building that the work has been, is being or will be carried out on.

(2) The powers are—

- (a) to require a person by whom or on whose behalf the work was, is being, or is proposed to be done to carry out such reasonable tests of or in connection with the work, or in relation to the building, as may be specified in the requirement, or
- (b) to carry out any reasonable tests of or in connection with the work, or in relation to the building, and to take any samples necessary to enable them to carry out such a test. ”

(3) After subsection (3) insert—

“(3A) The tests that may be required or carried out under [subsection \(2\)](#) include in particular tests involving—

- (a) the cutting into or laying open of any work or any building, and
- (b) the pulling down of any work.”

(4) In subsections (4), (5) and (6) for “local authority”, in each place it occurs, substitute “building control authority”.

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#### Commencement Information

**I113** Sch. 5 para. 30 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

PROSPECTIVE

31 Omit section 35A.

#### Commencement Information

**I114** Sch. 5 para. 31 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

PROSPECTIVE

- 32 (1) Section 36 is amended as follows.
- (2) In subsections (1) to (3) for “local authority”, in each place it occurs, substitute “building control authority”.
- (3) In subsection (1) after “those regulations” insert “or a requirement imposed by virtue of any of those regulations”.
- (4) In subsection (2)—
- (a) for “any section of this Part of this Act other than section 16” substitute “any of sections 19 to 25”;
  - (b) for “plans”, in the first place it occurs, substitute “an application for building control approval”;
  - (c) for paragraphs (a) and (b) (including the “or” at the end of paragraph (b)) substitute—
    - “(a) without such an application having been made,
    - (b) notwithstanding the refusal of such an application, or”;
  - (d) in paragraph (c) for “passed the plans” substitute “granted such an application”;
  - (e) in paragraph (ii) for “passing plans” substitute “granting such an application”.
- (5) For subsection (5) substitute—
- “(5) Subsection (5A) applies where—
- (a) an application for building control approval is made to a building control authority in respect of any work that is not higher-risk building work,
  - (b) the application is granted, and
  - (c) work that is shown on the plans approved by the granting of the application (“the work”) is executed in accordance with—
    - (i) the plans, and
    - (ii) any requirement imposed by the building control authority.

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(5A) A section 36 notice may not be given on the ground that the work contravenes—

- (a) any building regulations or any requirement imposed by virtue of the regulations, or (as the case may be)
- (b) any requirement under any of sections 19 to 25.”

(6) In subsection (6)—

- (a) for “does” substitute “, and sections 35B and 35C, do”;
- (b) for “local authority”, in the first place it occurs, substitute “building control authority”;
- (c) after “Attorney General” insert “, the Counsel General to the Welsh Government”;
- (d) for paragraphs (a) to (c) substitute—
  - “(a) an application for building control approval was made to the local authority in respect of the work,
  - (b) the application was granted,
  - (c) the work was executed in accordance with—
    - (i) the plans approved by the granting of the application, and
    - (ii) any requirement imposed by the authority, and
  - (d) the work was not higher-risk building work,”.

#### Commencement Information

**I115** Sch. 5 para. 32 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

#### PROSPECTIVE

33 In section 37(1) for “local authority”, in each place it occurs, substitute “building control authority”.

#### Commencement Information

**I116** Sch. 5 para. 33 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

#### PROSPECTIVE

34 In section 39(1) and (2) for “local authority”, in each place it occurs, substitute “building control authority”.

#### Commencement Information

**I117** Sch. 5 para. 34 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

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## PROSPECTIVE

- 35 In section 40(2), (3) and (6) for “local authority”, in each place it occurs, substitute “building control authority”.

### Commencement Information

**I118** Sch. 5 para. 35 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

## PROSPECTIVE

- 36 In section 41(1)(a) for the words from “under this” to the end substitute “under, or under an instrument made under, this Part or Part 4 as it applies in relation to this Part,”.

### Commencement Information

**I119** Sch. 5 para. 36 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

## PROSPECTIVE

- 37 In section 42(1) for “local authority”, in both places it occurs, substitute “building control authority”.

### Commencement Information

**I120** Sch. 5 para. 37 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

## PROSPECTIVE

- 38 Omit sections 44 and 45 (and the heading before section 44).

### Commencement Information

**I121** Sch. 5 para. 38 not in force at Royal Assent, see [s. 170\(4\)\(c\)](#)

## PROSPECTIVE

- 39 In the heading of Part 2 for “LOCAL AUTHORITIES” substitute “BUILDING CONTROL AUTHORITIES”.

### Commencement Information

**I122** Sch. 5 para. 39 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

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- 40 (1) Section 47 is amended as follows.
- (2) In subsection (2)—
- (a) for “plans of it had been deposited with” substitute “an application for building control approval in respect of it had been made to”;
  - (b) for “passing the plans” substitute “granting the application”.
- (3) After subsection (3) insert—
- “(3A) Subsection (3) does not apply in prescribed circumstances.”

#### Commencement Information

**I123** Sch. 5 para. 40 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I124** [Sch. 5 para. 40\(1\)](#) in force at 6.4.2023 for specified purposes except in relation to W. by [S.I. 2023/362](#), [reg. 3\(1\)\(w\)\(i\)](#)

**I125** [Sch. 5 para. 40\(3\)](#) in force at 6.4.2023 except in relation to W. by [S.I. 2023/362](#), [reg. 3\(1\)\(w\)\(ii\)](#)

#### PROSPECTIVE

- 41 (1) Section 48 is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a) after “section” insert “[35B](#), [35C](#) or”;
  - (b) in paragraph (b) omit “of building regulations”.
- (3) In subsection (2)—
- (a) in paragraph (a) for “deposit of plans” substitute “making of an application for building control approval”;
  - (b) in paragraph (b) for “deposited plans” substitute “plans accompanying the application for building control approval”;
  - (c) in paragraph (c) for “passing or, as the case may be, the rejection of plans” substitute “approval or rejection of the application”;
  - (d) for paragraph (d) substitute—
    - “(d) where an initial notice ceases to be in force under [section 53A](#), the application for building control approval (treated by virtue of paragraph (a) as made) is to be treated as if it was not made (and the approval was not given).”

#### Commencement Information

**I126** Sch. 5 para. 41 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

- 42 (1) Section 51A is amended as follows.
- (2) In subsection (4)—
- (a) for “plans of it had been deposited with” substitute “an application for building control approval in respect of it had been made to”;
  - (b) for “passing the plans” substitute “granting the application”.
- (3) After subsection (5) insert—

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“(5A) Subsection (5) does not apply in prescribed circumstances.”

#### Commencement Information

- I127** Sch. 5 para. 42 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)  
**I128** Sch. 5 para. 42(1) in force at 6.4.2023 for specified purposes except in relation to W. by [S.I. 2023/362](#), [reg. 3\(1\)\(w\)\(iii\)](#)  
**I129** Sch. 5 para. 42(3) in force at 6.4.2023 except in relation to W. by [S.I. 2023/362](#), [reg. 3\(1\)\(w\)\(iv\)](#)

#### PROSPECTIVE

- 43 In section 51B(1)—
- (a) in paragraph (a) for “deposit of plans” substitute “making of an application for building control approval”;
  - (b) in paragraph (b) for “passing or, as the case may be, the rejection of plans” substitute “approval or rejection of the application”;
  - (c) in paragraph (c)—
    - (i) in the words before sub-paragraph (i) for “deposited plans” substitute “plans treated as accompanying the application for building control approval”;
    - (ii) in sub-paragraph (ii) for “the deposited plans” substitute “accompanying the application”;
  - (d) in paragraph (d) for the words from “, the cancellation” to the end substitute “and the initial notice ceases to be in force under section 53A, the application for building control approval (treated by virtue of paragraph (a) as made) is to be treated as if it was not made (and the approval was not given).”

#### Commencement Information

- I130** Sch. 5 para. 43 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

#### PROSPECTIVE

- 44 (1) Section 52 is amended as follows.
- (2) In subsection (4) omit “not exceeding level 5 on the standard scale”.
  - (3) In subsection (6) for “(5)” substitute “(5A)”.

#### Commencement Information

- I131** Sch. 5 para. 44 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

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PROSPECTIVE

45 In section 53 omit subsections (6) and (6A).

**Commencement Information**

**I132** Sch. 5 para. 45 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

- 46 (1) Section 54 is amended as follows.
- (2) In subsection (1) for “Secretary of State” substitute “appropriate national authority”.
- (3) In subsection (2)—
- (a) for “plans of it had been deposited with” substitute “an application for building control approval in respect of it had been made to”;
- (b) for “passing the plans” substitute “granting the application”.

**Commencement Information**

**I133** Sch. 5 para. 46 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I134** [Sch. 5 para. 46\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 24](#)

**I135** [Sch. 5 para. 46\(2\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 25](#)

PROSPECTIVE

47 In section 56(3) for the words from “, public body’s final certificates” to the end substitute “and public body’s final certificates.”

**Commencement Information**

**I136** Sch. 5 para. 47 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

PROSPECTIVE

- 48 (1) Section 57 is amended as follows.
- (2) In subsection (1)(a)(i) for the words from “of this Act” to the end (not including the “and”) substitute “or a provision of building regulations that is designated by the regulations for the purposes of this section.”.
- (3) In subsection (2)(a) omit “not exceeding the statutory maximum”.

**Commencement Information**

**I137** Sch. 5 para. 48 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

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## PROSPECTIVE

49 Omit section 58(2).

### Commencement Information

**I138** Sch. 5 para. 49 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

50 In section 68(8)(b) for “Secretary of State” substitute “appropriate national authority”.

### Commencement Information

**I139** Sch. 5 para. 50 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I140** [Sch. 5 para. 50](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 26](#)

51 In section 78(7)(b) omit “and (3) below”.

### Commencement Information

**I141** Sch. 5 para. 51 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I142** [Sch. 5 para. 51](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 27](#)

## PROSPECTIVE

52 In section 86(1)(a) for the words from “under this” to the end substitute “under, or under an instrument made under, this Part or Part 4 as it applies in relation to this Part.”.

### Commencement Information

**I143** Sch. 5 para. 52 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

53 In section 90(2) for “Secretary of State” substitute “appropriate national authority”.

### Commencement Information

**I144** Sch. 5 para. 53 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I145** [Sch. 5 para. 53](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 28](#)

## PROSPECTIVE

54 In the italic heading before section 91 at the end insert “etc”.



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#### Commencement Information

**I146** Sch. 5 para. 54 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

- 55
- (1) Section 91A is amended as follows.
  - (2) In subsections (1), (2) and (4) for “local authority”, in each place it occurs, substitute “relevant authority”.
  - (3) In subsection (2)(a) omit “, or deposited with,”.
  - (4) In subsection (5)—
    - (a) in the definition of “prescribed” for “Secretary of State” substitute “appropriate national authority”;
    - (b) insert at the appropriate place—  
““relevant authority” means a local authority or the regulator.”
  - (5) In the heading after “local authorities” insert “and the regulator”.
  - (6) Omit subsections (6) to (8).

#### Commencement Information

**I147** Sch. 5 para. 55 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I148** [Sch. 5 para. 55\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 29](#)

**I149** [Sch. 5 para. 55\(4\)\(a\)\(6\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 30](#)

#### PROSPECTIVE

- 56 After section 91A insert—

#### “91B Cooperation and the sharing of information: Wales

- (1) Relevant persons (as defined by subsection (7)) must cooperate with each other in the exercise of any of the following functions—
  - (a) any function of a local authority under this Act,
  - (b) any function of a Welsh fire and rescue authority under—
    - (i) section 6 or 7 of the Fire and Rescue Services Act 2004, or
    - (ii) the Regulatory Reform (Fire Safety) Order 2005, and
  - (c) any function of a fire inspector under that Order.
- (2) A relevant person may disclose information held in connection with any of their relevant functions to another relevant person for the purposes of a relevant function of either of them.
- (3) The Welsh Ministers and a relevant person must cooperate with each other in the exercise of any of the following functions—
  - (a) a function of the Welsh Ministers under Part 2A;
  - (b) a function mentioned in the relevant paragraph of subsection (1).

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- (4) The Welsh Ministers may disclose information held in connection with a function under Part 2A to a relevant person for the purposes of—
  - (a) a function of the Welsh Ministers under Part 2A, or
  - (b) a function mentioned in the relevant paragraph of subsection (1).
- (5) A relevant person may disclose information held in connection with a function mentioned in the relevant paragraph of subsection (1) to the Welsh Ministers for the purposes of—
  - (a) a function mentioned in the relevant paragraph of subsection (1), or
  - (b) a function of the Welsh Ministers under Part 2A.
- (6) In subsections (3) to (5) “the relevant paragraph” of subsection (1), in relation to a kind of relevant person, means the paragraph of subsection (1) relating to a relevant person of that kind.
- (7) In this section—
  - “fire inspector” means an inspector or assistant inspector appointed under section 28(1) of the Fire and Rescue Services Act 2004;
  - “relevant person” means a local authority in Wales, Welsh fire and rescue authority or fire inspector;
  - “relevant function” means—
    - (a) in relation to a local authority, any function of a local authority under—
      - (i) the Prevention of Damage by Pests Act 1949,
      - (ii) Part 2 of the Public Health Act 1961,
      - (iii) Part 11 of the Local Government (Miscellaneous Provisions) Act 1982,
      - (iv) Part 3 of the Environmental Protection Act 1990,
      - (v) Parts 1 to 4 of the Housing Act 2004, or
      - (vi) this Act,
 or any prescribed function of a local authority;
    - (b) in relation to a Welsh fire and rescue authority, any function of such an authority under—
      - (i) the Fire and Rescue Services Act 2004, or
      - (ii) the Regulatory Reform (Fire Safety) Order 2005,
 or any prescribed function of such an authority;
    - (c) in relation to a fire inspector, any function of a fire inspector under the Regulatory Reform (Fire Safety) Order 2005;
  - “Welsh fire and rescue authority” means a fire and rescue authority, within the meaning of Part 1 of the Fire and Rescue Services Act 2004, for an area in Wales.
- (8) Except as provided by subsection (9), the disclosure of information under this section does not breach—
  - (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).

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- (9) This section does not authorise a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the powers conferred by this section).”

#### Commencement Information

**I150** Sch. 5 para. 56 not in force at Royal Assent, see [s. 170\(4\)\(a\)\(iv\)\(c\)](#)

- 57 (1) Section 92 is amended as follows.
- (2) In subsection (1) after “authority”, in both places it occurs, insert “or the regulator”.
- (3) In subsection (2)—
- (a) for “Secretary of State” substitute “appropriate national authority”;
  - (b) omit “made by statutory instrument”.

#### Commencement Information

**I151** Sch. 5 para. 57 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I152** [Sch. 5 para. 57\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 31](#)

**I153** [Sch. 5 para. 57\(3\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 32](#)

#### PROSPECTIVE

- 58 (1) Section 94 is amended as follows.
- (2) The existing provision becomes subsection (1) of that section.
- (3) In that subsection—
- (a) in the words before paragraph (a) after “made by” insert “or under”;
  - (b) after paragraph (b) insert—
    - “(ba) in the case of an authorised officer of the regulator, by—
    - (i) leaving it at the relevant address (see subsection (2)), or
    - (ii) sending it in a prepaid letter addressed to the officer at the relevant address;”;
  - (c) in paragraph (c) for “other person” substitute “person other than an officer of a local authority or an authorised officer of the regulator”;
  - (d) after paragraph (c) insert—
    - “(ca) in the case of a partnership, by—
    - (i) delivering it to any partner,
    - (ii) leaving it at the principal office of the partnership, or
    - (iii) sending it in a prepaid letter addressed to the partnership at its principal office;”;
  - (e) after paragraph (f) insert—

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“(g) by sending it by email to an electronic address at which the person has agreed to receive documents or has agreed to receive the document.”

(4) After that subsection insert—

“(2) In subsection (1)—

“agreed” means agreed in writing;

“authorised officer” means a person in respect of whom an authorisation under section 22 of the Building Safety Act 2022 is in force;

“the relevant address” means—

- (a) the address specified by the officer in writing, or
- (b) if no address has been specified, the principal office of the regulator.”

#### Commencement Information

**I154** Sch. 5 para. 58 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

PROSPECTIVE

59 Omit section 94A.

#### Commencement Information

**I155** Sch. 5 para. 59 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

PROSPECTIVE

60 In section 95 after subsection (2) insert—

“(2A) Subsections (1) and (2) do not apply in relation to premises used wholly or mainly as a private dwelling.”

#### Commencement Information

**I156** Sch. 5 para. 60 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

PROSPECTIVE

61 In section 97 after “authority” insert “or the regulator”.

#### Commencement Information

**I157** Sch. 5 para. 61 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

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PROSPECTIVE

62 In section 99(2)(a) after “authority” insert “or the regulator (as the case may be)”.

**Commencement Information**

**I158** Sch. 5 para. 62 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

PROSPECTIVE

63 (1) Section 100 is amended as follows.  
(2) For “local authority”, in each place it occurs, substitute “relevant authority”.  
(3) After subsection (3) insert—  
“(4) In this section “relevant authority” means a local authority or the regulator.”

**Commencement Information**

**I159** Sch. 5 para. 63 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

PROSPECTIVE

64 (1) Section 101 is amended as follows.  
(2) In subsection (1) for “local authorities” substitute “any relevant authority”.  
(3) In subsection (2) for “local authority” substitute “relevant authority”.  
(4) After that subsection insert—  
“(3) In this section “relevant authority” means a local authority or the regulator.”

**Commencement Information**

**I160** Sch. 5 para. 64 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

PROSPECTIVE

65 In section 102(3)(b)(ii) after “authority” insert “or the regulator”.

**Commencement Information**

**I161** Sch. 5 para. 65 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

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## PROSPECTIVE

- 66 (1) Section 104 is amended as follows.
- (2) In the provision—
- (a) after “authority”, in the first place it occurs, insert “or the regulator”;
  - (b) after “authority”, in the second place it occurs, insert “or regulator”.
- (3) In the heading after “authority” insert “or regulator”.

### Commencement Information

**I162** Sch. 5 para. 66 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

- 67 (1) Section 106 is amended as follows.
- (2) In subsection (2) omit “Subject to subsection (3) below,”.
- (3) Omit subsection (3).

### Commencement Information

**I163** Sch. 5 para. 67 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I164** [Sch. 5 para. 67](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 33](#) (with [reg. 7\(2\)](#))

## PROSPECTIVE

- 68 (1) Section 107 is amended as follows.
- (2) For “local authority”, in each place it occurs, substitute “relevant authority”.
- (3) After subsection (5) insert—
- “(6) In this section “relevant authority” means a local authority or the regulator.”

### Commencement Information

**I165** Sch. 5 para. 68 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

## PROSPECTIVE

- 69 (1) Section 108 is amended as follows.
- (2) For “local authority”, in each place it occurs, substitute “relevant authority”.
- (3) After subsection (4) insert—
- “(5) In this section “relevant authority” means a local authority or the regulator.”

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#### Commencement Information

**I166** Sch. 5 para. 69 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

#### PROSPECTIVE

- 70 (1) Section 110 is amended as follows.
- (2) In the existing provision (which becomes subsection (1) of that section) for “local authority”, in each place it occurs, substitute “relevant authority”.
- (3) After that subsection insert—
- “(2) In this section “relevant authority” means a local authority or the regulator.”

#### Commencement Information

**I167** Sch. 5 para. 70 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

- 71 In section 111 for “Secretary of State” substitute “appropriate national authority”.

#### Commencement Information

**I168** Sch. 5 para. 71 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I169** [Sch. 5 para. 71](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 34](#)

#### PROSPECTIVE

- 72 (1) Section 112 is amended as follows.
- (2) The existing provision becomes subsection (1) of that section.
- (3) In that subsection for “level 1” substitute “level 3”.
- (4) After that subsection insert—
- “(2) Subsection (1) does not apply where the person obstructed is an authorised officer (within the meaning of section 22 of the Building Safety Act 2022).”

#### Commencement Information

**I170** Sch. 5 para. 72 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

#### PROSPECTIVE

- 73 In section 113(b) after “authority” insert “, the regulator, the Welsh Ministers, the Counsel General to the Welsh Government”.

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#### Commencement Information

**I171** Sch. 5 para. 73 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

- 74 (1) Section 119 is amended as follows.
- (2) In the existing provision (which becomes subsection (1) of that section)—
- (a) for “Secretary of State” substitute “appropriate national authority or the regulator”;
  - (b) for “he” substitute “it”.
- (3) After that subsection insert—
- “(2) Section 250 of the Local Government Act 1972 (power to direct inquiries) applies in relation to a local inquiry caused to be held by the regulator as it applies in relation to one caused to be held by the Secretary of State.”

#### Commencement Information

**I172** Sch. 5 para. 74 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I173** [Sch. 5 para. 74\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 35](#)

**I174** [Sch. 5 para. 74\(2\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 36](#)

- 75 In the italic heading before section 120 at the end insert “and regulations”.

#### Commencement Information

**I175** Sch. 5 para. 75 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I176** [Sch. 5 para. 75](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 37](#)

- 76 (1) Section 120 is amended as follows.
- (2) In subsection (1) for the words from “section” to “this Act,” substitute “section 134(1)”.
- (3) In subsection (2)—
- (a) omit “30(3) above or”;
  - (b) after “Secretary of State” insert “or Welsh Ministers”;
  - (c) for “him” substitute “the Secretary of State or Welsh Ministers”.

#### Commencement Information

**I177** Sch. 5 para. 76 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I178** [Sch. 5 para. 76\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 38](#)

**I179** [Sch. 5 para. 76\(3\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 39](#)

- 77 After section 120 insert—



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### “120A Regulations

- (1) This section applies to regulations under section 54A, 55, 56A, 56B, [90A](#), 91A, 92, [105B](#), [105C](#), [120D](#), [120I](#) or [125A](#).
- (2) A power to make regulations includes power to make—
  - (a) consequential, supplementary, incidental, transitional, transitory or saving provision;
  - (b) different provision for different purposes or for different areas.
- (3) Regulations may describe a building by reference to its height, size, design, use, purpose or any other characteristic.
- (4) Regulations under section 54A may make such consequential amendments of this Act as the appropriate national authority considers appropriate.
- (5) Regulations under section [90A](#) may make such consequential amendments of this Act as the Secretary of State considers appropriate.
- (6) Regulations are to be made by statutory instrument.
- (7) A statutory instrument containing (whether alone or with other provision)—
  - (a) regulations under section 54A, [90A](#), [105C](#) or [125A](#), or
  - (b) regulations under section [120D\(2\)\(b\)](#) or [\(6\)](#), or regulations made by virtue of [section 120D\(4\)\(c\)](#),may not be made by the Secretary of State unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (8) Any other statutory instrument containing regulations made by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) A statutory instrument containing (whether alone or with other provision) regulations under section 54A, [120I\(2\)](#) or [125A](#) may not be made by the Welsh Ministers unless a draft of the instrument has been laid before and approved by a resolution of Senedd Cymru.
- (10) Any other statutory instrument containing regulations made by the Welsh Ministers is subject to annulment in pursuance of a resolution of Senedd Cymru.

### 120B Proposals and consultation relating to regulations made by the Secretary of State

- (1) The regulator may at any time make proposals to the Secretary of State for the making of regulations under this Act.
- (2) Before making a proposal, the regulator must consult such persons as it considers appropriate.
- (3) Before making any regulations under this Act, other than regulations proposed by the regulator, the Secretary of State must consult—
  - (a) the regulator, and
  - (b) any other person that the Secretary of State considers appropriate.

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(4) This section does not apply in relation to regulations under [section 120D](#).

### 120C Consultation relating to regulations made by the Welsh Ministers

- (1) Before making any regulations under this Act except building regulations or regulations under [section 120I](#), the Welsh Ministers must consult such persons as they consider appropriate.
- (2) Before making any regulations under [section 120I](#), the Welsh Ministers must consult—
  - (a) the Building Regulations Advisory Committee for Wales, and
  - (b) any other person that the Welsh Ministers consider appropriate.
- (3) See also section 14 (consultation requirements for building regulations)."

#### Commencement Information

- I180** Sch. 5 para. 77 not in force at Royal Assent, see [s. 170\(4\)\(a\)\(v\)\(b\)\(viii\)\(c\)](#)
- I181** Sch. 5 para. 77 in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 40](#)
- I182** Sch. 5 para. 77 in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 41](#)
- I183** Sch. 5 para. 77 in force at 9.12.2022 for specified purposes for W. by [S.I. 2022/1287](#), [reg. 2\(c\)\(ii\)](#)
- I184** Sch. 5 para. 77 in force at 1.4.2023 except in relation to W. by [S.I. 2023/362](#), [reg. 2\(2\)\(b\)](#) (with [reg. 5\(1\)](#))

- 78 (1) Section 121 is amended as follows.
- (2) In subsection (2) for “Secretary of State” substitute “appropriate national authority”.
- (3) After subsection (3) insert—
- “(4) Nothing in this section applies in relation to [section 120D](#) or [120I](#).”

#### Commencement Information

- I185** Sch. 5 para. 78 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
- I186** Sch. 5 para. 78 in force at 28.6.2022 for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 42](#)
- I187** Sch. 5 para. 78 in force at 9.12.2022 for W. by [S.I. 2022/1287](#), [reg. 2\(c\)\(iii\)](#)

PROSPECTIVE

- 79 Omit section 124.

#### Commencement Information

- I188** Sch. 5 para. 79 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

- 80 After section 125 insert—

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### “125A Meaning of work

- (1) In the relevant provisions references to work include a material change of use as defined by building regulations.
- (2) The appropriate national authority may by regulations provide that in a specified relevant provision references to work include any specified matter.
- (3) “Relevant provision” means any provision of the following—
  - (a) Part 1 except sections 2(3) to (5), 20(9), 21(7), 22(2), 33(3A), 36, 37 and paragraph 1G of Schedule 1;
  - (b) Part 2;
  - (c) Part 2A;
  - (d) sections 91ZA to 91ZD;
  - (e) section 101A;
  - (f) section 105C;
  - (g) section 120I(3).
- (4) In this section “specified” means specified by regulations under this section.”

#### Commencement Information

**I189** Sch. 5 para. 80 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I190** [Sch. 5 para. 80](#) in force at 6.4.2023 for specified purposes except in relation to W. by [S.I. 2023/362, reg. 3\(1\)\(w\)\(v\)](#)

- 81 (1) Section 126 is amended as follows.
- (2) At the appropriate place insert—
- ““appropriate court or tribunal” means—
    - (a) in relation to England, the tribunal;
    - (b) in relation to Wales, a magistrates’ court;”;
  - ““appropriate national authority” means—
    - (a) in relation to England, the Secretary of State;
    - (b) in relation to Wales, the Welsh Ministers;”;
  - ““building control approval” has the meaning given by paragraph 1B of Schedule 1;”;
  - ““building control authority” has the meaning given by [section 121A](#);”;
  - ““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”;
  - ““higher-risk building”—
    - (a) in relation to England, has the meaning given by [section 120D](#);
    - (b) in relation to Wales, has the meaning given by [section 120I](#);”;
  - ““higher-risk building work”—
    - (a) in relation to England, has the meaning given by [section 91ZA](#);
    - (b) in relation to Wales, has the meaning given by [section 120I](#);”;
  - ““maximum summary term for either-way offences”, with reference to imprisonment for an offence, means—

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- (a) if the offence is committed before the time when paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force, 6 months;
- (b) if the offence is committed after that time, 12 months;”;  
 ““the regulator” means the Health and Safety Executive;”;  
 ““the tribunal” means the First-tier Tribunal;”.

(3) Omit the definition of “relevant period”.

#### Commencement Information

- I191** Sch. 5 para. 81 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
- I192** Sch. 5 para. 81(1) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 43](#)
- I193** Sch. 5 para. 81(1) in force at 9.12.2022 for W. by [S.I. 2022/1287](#), [reg. 2\(c\)\(iv\)](#)
- I194** Sch. 5 para. 81(2) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 44](#)
- I195** Sch. 5 para. 81(2) in force at 9.12.2022 for specified purposes for W. by [S.I. 2022/1287](#), [reg. 2\(c\)\(iv\)](#)

82 In section 134 after subsection (1) insert—

“(1A) Except so far as relating to the provisions listed in subsection (1B), the reference in subsection (1) to the Secretary of State is to be read, in relation to Wales, as a reference to the Welsh Ministers.

(1B) The provisions mentioned in subsection (1A) are sections 38, 44, 45 and 133(2) and Schedule 7.”

#### Commencement Information

- I196** Sch. 5 para. 82 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
- I197** Sch. 5 para. 82 in force at 28.6.2022 for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 45](#)

83 (1) Schedule 1 is amended as follows.

(2) In paragraph 1(b) for “Secretary of State” substitute “appropriate national authority”.

(3) Omit paragraphs 2 to 5.

(4) In paragraph 6—

- (a) for “local authorities”, in both places it occurs, substitute “building control authorities”;
- (b) for “local authority” substitute “building control authority”.

(5) In paragraph 7A(4) for “under paragraph 4A” substitute “by virtue of [paragraph 1A](#)”.

(6) In paragraph 8—

- (a) in sub-paragraph (1)(e) omit the words “for the purposes of this paragraph”;
- (b) in sub-paragraph (2) for “(6)” substitute “(7)”;
- (c) after sub-paragraph (6) insert—

“(7) The provision that may be made by building regulations includes provision imposing a requirement to do things for the purpose mentioned in section 1(1)(b) (conserving fuel and power) in

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any case where a building becomes a building of a prescribed description.”

(7) Omit paragraph 9.

(8) For paragraph 10 substitute—

“10 (1) Building regulations may make supplementary, incidental, transitional, transitory or saving provision.

(2) Building regulations may make—

- (a) different provision for different purposes, and
- (b) different provision for different areas.

(3) The power conferred by sub-paragraph (2)(a) includes in particular the power to make different provision for—

- (a) higher-risk buildings or proposed higher-risk buildings, or
- (b) higher-risk building work,

and different provision for different descriptions of such buildings or work.

(4) Nothing in sub-paragraph (3) is to be read as limiting the effect of section 34 (classification of buildings).”

(9) In paragraph 11 for “Secretary of State”, in both places it occurs, substitute “appropriate national authority”.

#### Commencement Information

**I198** Sch. 5 para. 83 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I199** [Sch. 5 para. 83\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 46](#)

**I200** [Sch. 5 para. 83\(1\)](#) in force at 6.4.2023 for specified purposes except in relation to W. by [S.I. 2023/362](#), [reg. 3\(1\)\(w\)\(vi\)](#)

**I201** [Sch. 5 para. 83\(2\)\(7\)\(9\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 47](#) (with [reg. 7\(1\)](#))

**I202** [Sch. 5 para. 83\(3\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 47](#) (with [reg. 7\(1\)](#))

**I203** [Sch. 5 para. 83\(8\)](#) in force at 6.4.2023 except in relation to W. by [S.I. 2023/362](#), [reg. 3\(1\)\(w\)\(vii\)](#)

84 (1) Schedule 2 is amended as follows.

(2) For “local authority”, in each place it occurs, substitute “building control authority”.

(3) In paragraphs 2 and 3(5) for “Secretary of State” substitute “appropriate national authority”.

#### Commencement Information

**I204** Sch. 5 para. 84 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I205** [Sch. 5 para. 84\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 48](#)

**I206** [Sch. 5 para. 84\(3\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 49](#)

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85 In Schedule 3, in paragraph 4 for “section 14(3)” substitute “[section 120B\(3\)](#)”.

**Commencement Information**

**I207** Sch. 5 para. 85 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

**I208** [Sch. 5 para. 85](#) in force at 1.4.2023 by [S.I. 2023/362](#), [reg. 2\(2\)\(c\)](#)

PROSPECTIVE

86 In Schedule 4, in paragraph 4 omit sub-paragraph (6).

**Commencement Information**

**I209** Sch. 5 para. 86 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

## PART 2

### OTHER AMENDMENTS

#### *Parliamentary Commissioner Act 1967 (c. 13)*

87 In Schedule 2 to the Parliamentary Commissioner Act 1967, omit the entry relating to the Building Regulations Advisory Committee for England.

**Commencement Information**

**I210** Sch. 5 para. 87 not in force at Royal Assent, see [s. 170\(4\)\(c\)](#)

**I211** [Sch. 5 para. 87](#) in force at 1.4.2023 except in relation to W. by [S.I. 2023/362](#), [reg. 2\(2\)\(d\)](#)

#### *Freedom of Information Act 2000 (c. 36)*

88 In Schedule 1 to the Freedom of Information Act 2000, in Part 6 omit the entry relating to the Building Regulations Advisory Committee for England.

**Commencement Information**

**I212** Sch. 5 para. 88 not in force at Royal Assent, see [s. 170\(4\)\(c\)](#)

**I213** [Sch. 5 para. 88](#) in force at 1.4.2023 except in relation to W. by [S.I. 2023/362](#), [reg. 2\(2\)\(e\)](#)

PROSPECTIVE

#### *Sustainable and Secure Buildings Act 2004 (c. 22)*

89 (1) The Sustainable and Secure Buildings Act 2004 is amended as follows.  
(2) In section 3 omit subsections (8) and (9).

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(3) In section 4 omit subsection (4).

**Commencement Information**

**I214** Sch. 5 para. 89 not in force at Royal Assent, see [s. 170\(4\)\(c\)](#)

PROSPECTIVE

*The Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541)*

90 (1) The Regulatory Reform (Fire Safety) Order 2005 is amended as follows.

(2) Omit article 45.

(3) In article 52(1) omit sub-paragraph (k).

**Commencement Information**

**I215** Sch. 5 para. 90 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

SCHEDULE 6

Section 56

APPEALS AND OTHER DETERMINATIONS

PROSPECTIVE

*Introduction*

1 The Building Act 1984 is amended as follows.

**Commencement Information**

**I216** Sch. 6 para. 1 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

PROSPECTIVE

*Transfer from Secretary of State to the regulator*

2 In section 10(6) (procedure where appeal against decision of local authority under section 8) for the words from “to the Secretary of State” to the end substitute “copies of the representations to—

(a) the regulator, in the case of a local authority for an area in England;

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- (b) the Welsh Ministers, in the case of a local authority for an area in Wales.”

#### Commencement Information

**I217** Sch. 6 para. 2 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

- 3 (1) Section 20 (use of materials unsuitable for permanent building) is amended as follows.
- (2) In subsection (5) omit the words from “to the Secretary of State” to the end.
- (3) After that subsection insert—
- “(5A) The appeal is to be made to—
- (a) the regulator, in the case of action by a local authority for an area in England;
  - (b) the tribunal, in the case of action by the regulator;
  - (c) the Welsh Ministers, in the case of action by a local authority for an area in Wales.”

#### Commencement Information

**I218** Sch. 6 para. 3 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

- 4 (1) Section 39 (appeal against refusal to relax building regulations) is amended as follows.
- (2) In subsection (1) omit “to the Secretary of State”.
- (3) After that subsection insert—
- “(1A) The appeal is to be made to—
- (a) the regulator, in the case of a refusal by a local authority for an area in England;
  - (b) the tribunal, in the case of a refusal by the regulator;
  - (c) the Welsh Ministers, in the case of a refusal by a local authority for an area in Wales.”
- (4) Omit subsections (3) to (6).

#### Commencement Information

**I219** Sch. 6 para. 4 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

- 5 (1) Section 42 (appeal and statement of case to High Court in certain cases) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) Where the Secretary of State gives a decision on an application for a direction under section 8, any of the following may appeal to the High Court against the decision on a point of law—



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- (a) the applicant;
- (b) the local authority;
- (c) the registered building control approver.”

(3) In subsection (1)—

- (a) for “Secretary of State gives” substitute “Welsh Ministers give”;
- (b) for paragraph (b) (not including the “or” at the end) substitute—  
“(b) on an appeal under section 50,”.

(4) In subsection (2) for paragraph (b) substitute—

- “(b) as regards an appeal under section 50, the person on whose application the appeal was made,”.

(5) In subsection (3)—

- (a) omit “, reference”;
- (b) after “subsection” insert “(A1) or”;
- (c) in paragraph (a) for “Secretary of State” substitute “appropriate national authority”.

(6) In subsection (4) for “Secretary of State”, in each place it occurs, substitute “appropriate national authority”.

(7) Omit subsection (7).

#### Commencement Information

**I220** Sch. 6 para. 5 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

6 Omit section 43 (procedure on appeal to Secretary of State on certain matters).

#### Commencement Information

**I221** Sch. 6 para. 6 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

7 After that section insert—

#### “43A Appeals under sections 20, 39 and 50: England

- (1) This section applies to an appeal to the regulator or the tribunal made under section 20(5), 39 or 50(2).
- (2) On determining the appeal, the regulator or the tribunal may give any directions it considers appropriate for giving effect to its determination.
- (3) Where the appeal is determined by the regulator, a relevant person may appeal to the tribunal against the regulator’s decision (and subsection (2) applies in relation to this appeal).
- (4) “Relevant person” means—
  - (a) the appellant;
  - (b) the local authority or registered building control approver.”

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#### Commencement Information

**I222** Sch. 6 para. 7 not in force at Royal Assent, see [s. 170\(4\)\(c\)](#)

- 8 In section 50 (plans certificates) for subsections (2) and (3) substitute—
- “(2) If a registered building control approver refuses to give a plans certificate on being asked to do so, the person intending to carry out the work may appeal to—
- (a) the regulator, in the case of work to be carried out in England;
  - (b) the Welsh Ministers, in the case of work to be carried out in Wales.”

#### Commencement Information

**I223** Sch. 6 para. 8 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

#### Commencement Information

- I217** Sch. 6 para. 2 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)  
**I218** Sch. 6 para. 3 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)  
**I219** Sch. 6 para. 4 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)  
**I220** Sch. 6 para. 5 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)  
**I221** Sch. 6 para. 6 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)  
**I222** Sch. 6 para. 7 not in force at Royal Assent, see [s. 170\(4\)\(c\)](#)  
**I223** Sch. 6 para. 8 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

#### PROSPECTIVE

#### *Transfer from magistrates' court to the tribunal: England*

- 9 In the following provisions for “a magistrates' court” substitute “the appropriate court or tribunal”—
- (a) section 19(4) (use of short-lived materials);
  - (b) section 21(3), (4) and (6) (provision of drainage);
  - (c) section 22(4) (drainage of buildings in combination);
  - (d) section 24(2) (provision of exits etc);
  - (e) section 25(2) and (5) (provision of water supply);
  - (f) section 33(6) (tests for conformity with building regulations);
  - (g) section 36(3) (period for compliance with section 36 notice);
  - (h) section 40(1) (appeal against section 36 notice);
  - (i) section 55(1) (appeal against rejection of certain notices);
  - (j) section 62(2) (disconnection of drain);
  - (k) section 68(3) (erection of public conveniences);
  - (l) section 73(2) (raising of chimney);
  - (m) section 75(2), in both places it occurs, and section 75(3) (cellars etc below subsoil);
  - (n) section 77(1), in both places it occurs (dangerous buildings);

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- (o) section 78(7)(a) (dangerous buildings - emergency measures);
- (p) section 85(3) (maintenance of entrances to courtyards);
- (q) section 98 (power to require occupier to permit work);
- (r) section 102(1) (appeal against notice requiring works);
- (s) section 103(3) (notification requirement as regards right of appeal);
- (t) in [Schedule 2, paragraph 3\(3\)](#) (application under section 8).

**Commencement Information**

**I224** Sch. 6 para. 9 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

- 10 In section 7(2)(b) after “court” insert “or tribunal”.

**Commencement Information**

**I225** Sch. 6 para. 10 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

- 11 In section 25(5) after “the court”, in both places it occurs, insert “or tribunal”.

**Commencement Information**

**I226** Sch. 6 para. 11 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

- 12 In section 33(6) after “the court”, in both places it occurs, insert “or tribunal”.

**Commencement Information**

**I227** Sch. 6 para. 12 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

- 13 In section 37(3) for “a court” substitute “the appropriate court or tribunal”.

**Commencement Information**

**I228** Sch. 6 para. 13 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

- 14 In section 40 after “the court”, in each place it occurs, insert “or tribunal”.

**Commencement Information**

**I229** Sch. 6 para. 14 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

- 15 In section 55(2) after “court” insert “or tribunal”.

**Commencement Information**

**I230** Sch. 6 para. 15 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

- 16 In section 62(2) after “the court” insert “or tribunal”.

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#### Commencement Information

I231 Sch. 6 para. 16 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

17 In section 64(5)(b) after “court” insert “or tribunal”.

#### Commencement Information

I232 Sch. 6 para. 17 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

18 In section 70(4)(b) after “court” insert “or tribunal”.

#### Commencement Information

I233 Sch. 6 para. 18 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

19 In section 75(2) after “court” insert “or tribunal”.

#### Commencement Information

I234 Sch. 6 para. 19 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

20 In section 77(1) after “court” insert “or tribunal”.

#### Commencement Information

I235 Sch. 6 para. 20 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

21 In section 78(7)(b) after “court” insert “or tribunal”.

#### Commencement Information

I236 Sch. 6 para. 21 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

22 In section 83(3)(b) after “court” insert “or tribunal”.

#### Commencement Information

I237 Sch. 6 para. 22 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

23 In section 98—  
 (a) for “a complaint” substitute “an application or (as the case may be) complaint”;  
 (b) after “court” insert “or tribunal”.

#### Commencement Information

I238 Sch. 6 para. 23 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

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- 24 In section 102(2), (3) and (4) after “court”, in each place it occurs, insert “or tribunal”.

**Commencement Information**

I239 Sch. 6 para. 24 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

- 25 (1) Section 103 is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Subsections (2) and (3) apply—
- (a) where this Act provides for an appeal to the tribunal against a requirement, refusal or other decision of a relevant authority, and
- (b) in relation to an appeal of a kind mentioned in subsection (1)(a).”
- (3) In subsection (2)—
- (a) for “local” substitute “relevant”;
- (b) after “making of the” insert “application or”.
- (4) In subsection (3) “local” substitute “relevant”.
- (5) After that subsection insert—
- “(4) In this section “relevant authority” means a local authority or the regulator.”
- (6) In the heading for “magistrates’ court” substitute “appropriate court or tribunal”.

**Commencement Information**

I240 Sch. 6 para. 25 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

- 26 In section 104 after “court”, in both places it occurs, insert “or tribunal”.

**Commencement Information**

I241 Sch. 6 para. 26 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

- 27 In section 105 after “court” insert “or tribunal”.

**Commencement Information**

I242 Sch. 6 para. 27 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

- 28 In [Schedule 2](#) in [paragraph 2\(b\)](#) after “court” insert “or tribunal”.

**Commencement Information**

I243 Sch. 6 para. 28 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

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### Commencement Information

- I224** Sch. 6 para. 9 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I225** Sch. 6 para. 10 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I226** Sch. 6 para. 11 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I227** Sch. 6 para. 12 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I228** Sch. 6 para. 13 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I229** Sch. 6 para. 14 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I230** Sch. 6 para. 15 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I231** Sch. 6 para. 16 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I232** Sch. 6 para. 17 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I233** Sch. 6 para. 18 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I234** Sch. 6 para. 19 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I235** Sch. 6 para. 20 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I236** Sch. 6 para. 21 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I237** Sch. 6 para. 22 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I238** Sch. 6 para. 23 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I239** Sch. 6 para. 24 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I240** Sch. 6 para. 25 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I241** Sch. 6 para. 26 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I242** Sch. 6 para. 27 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I243** Sch. 6 para. 28 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

### PROSPECTIVE

#### *Enforcement*

29 After section 105 insert—

#### **“105A Enforcement of decisions of the First-tier and Upper Tribunal**

- (1) A decision of the First-tier Tribunal or Upper Tribunal made under or in connection with this Act is enforceable with the permission of the county court in the same way as an order of that court.
- (2) Subsection (1) does not apply to a decision of the First-tier Tribunal or Upper Tribunal ordering the payment of a sum (as to which see section 27 of the Tribunals, Courts and Enforcement Act 2007 (enforcement)).”

### Commencement Information

- I244** Sch. 6 para. 29 not in force at Royal Assent, see [s. 170\(4\)\(c\)](#)

*Appeal: local authority decision not to consider application etc*

30 After section 101 insert—

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*“Appeal against refusal to consider application etc*

**101A Appeal: refusal to consider application etc on ground is higher-risk building work**

- (1) This section applies where—
- (a) a local authority for an area in England refuses to consider an application for building control approval, or
  - (b) a local authority refuses to consider an initial notice (within the meaning of section 47) or an amendment notice (within the meaning of section 51A),
- on the ground that all or part of the work to which the application or notice relates is higher-risk building work.
- (2) The person intending to carry out the work may appeal to the appropriate national authority, before the end of the prescribed period, on the ground that none of the work is higher-risk building work.
- (3) Building regulations may make provision about appeals under this section, including in particular provision—
- (a) about the making of an appeal;
  - (b) requiring an appellant to notify the local authority of the making of an appeal;
  - (c) imposing duties on the local authority in cases where an appeal is made;
  - (d) for and in connection with the appropriate national authority appointing a person to determine the appeal (including provision conferring functions on that person and providing that their decision is treated as the decision of the appropriate national authority);
  - (e) about the procedure to be adopted in connection with the determination of the appeal.
- (4) The provision that may be made by virtue of subsection (3)(a) includes provision about—
- (a) the form and content of a notice of appeal;
  - (b) the information and documents that are to accompany a notice of appeal;
  - (c) the way in which a notice of appeal, and anything that is to accompany it, is to be given.
- (5) The decision made on the appeal is final (subject to subsection (6)).
- (6) The appellant or the local authority may, before the end of the prescribed period and with the permission of the High Court, appeal to the High Court against the decision of the appropriate national authority on a point of law.”

**Commencement Information**

**I245** Sch. 6 para. 30 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

**I246** Sch. 6 para. 30 in force at 6.4.2023 for specified purposes by [S.I. 2023/362](#), [reg. 3\(1\)\(x\)](#)

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## SCHEDULE 7

Section 102

## SPECIAL MEASURES

*Introductory*

- 1 In this Schedule—
- “special measures manager” means a person appointed under paragraph 4;
- “special measures order” means an order under paragraph 4.

**Commencement Information**

**I247** Sch. 7 para. 1 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

*Notification by regulator before applying for special measures order*

- 2 (1) This paragraph applies where the regulator proposes to make an application under paragraph 4 for a special measures order in relation to an occupied higher-risk building.
- (2) The regulator must give a notice (an “initial notice”) of the proposal to—
- each accountable person for the building,
  - each resident of the building who is aged 16 or over,
  - each owner of a residential unit in the building,
  - any managing agent for the building or any relevant part of the building,
  - any recognised tenants’ association for the building or any part of the building,
  - any manager appointed under section 24 of the Landlord and Tenant Act 1987 in relation to the building or any part of the building,
  - the fire and rescue authority for the area in which the building is situated,
  - the local housing authority for the area in which the building is situated,
  - where any accountable person for the building is a registered provider of social housing, the Regulator of Social Housing, and
  - where any part of the building contains premises occupied for the purposes of a business, each responsible person (within the meaning of article 3 of the Regulatory Reform (Fire Safety) Order 2005) in relation to those premises.
- (3) The initial notice must—
- state that the regulator proposes to make an application for a special measures order in relation to the building,
  - specify the address of the building,
  - specify the reasons for the proposed application,
  - specify the terms of the order that the regulator proposes to invite the tribunal to make (including the name and address of the person the regulator proposes to be the special measures manager for the building),
  - specify a period in which recipients of the notice may make representations in response to the notice, and
  - state that any representations must be in writing to such postal or email address as is specified in the notice.



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- (4) Where the terms specified by virtue of sub-paragraph (3)(d) include a term requiring an accountable person for the building to make payments to the special measures manager for the building, the regulator must give to the persons mentioned in sub-paragraph (2) a financial management proposal with the initial notice.
- (5) After the end of the period mentioned in sub-paragraph (3)(e) the regulator must—
  - (a) decide whether to make the application, and
  - (b) give a notice (a “final notice”) of its decision to the persons mentioned in sub-paragraph (2).
- (6) The final notice must—
  - (a) state whether or not the regulator intends to make the application,
  - (b) specify the reasons for reaching that decision, and
  - (c) if the regulator intends to make the application, specify the terms of the order that the regulator intends to invite the tribunal to make (including the name and address of the person the regulator proposes to be the special measures manager for the building).
- (7) Where the terms specified by virtue of sub-paragraph (6)(c) include a term requiring an accountable person for the building to make payments to the special measures manager for the building, the regulator must give to the persons mentioned in sub-paragraph (2) a financial management proposal with the final notice.
- (8) The regulator must comply with sub-paragraphs (5) to (7) before making the application.
- (9) The duty under sub-paragraph (2), (4), (5)(b) or (7) does not apply in relation to a person mentioned in sub-paragraph (2) if the regulator—
  - (a) is not aware of the person, and
  - (b) has taken all reasonable steps to ascertain the identity of the persons mentioned in that sub-paragraph.
- (10) In this paragraph—

“financial management proposal” has the meaning given by paragraph 3;

“relevant part”, in relation to a higher-risk building, means any part of the building except premises occupied for the purposes of a business.
- (11) The Secretary of State may by regulations make provision in relation to notices under this paragraph, including in particular provision about—
  - (a) the form of the notice;
  - (b) the way in which the notice must be given.
- (12) The Secretary of State may by regulations amend the list in sub-paragraph (2).

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**Commencement Information**

**I248** Sch. 7 para. 2 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

*Meaning of “financial management proposal”*

- 3 (1) In this Schedule “financial management proposal”, in relation to a higher-risk building, means a document setting out—

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- (a) an estimate of the relevant expenses the regulator expects a special measures manager for the building to incur (including a reasonable amount in respect of contingencies),
  - (b) the measures to which the relevant expenses relate, and
  - (c) if there is more than one accountable person for the building—
    - (i) the regulator's proposed apportionment of the relevant expenses between them, and
    - (ii) the reasons for that proposal (including any calculation giving rise to it).
- (2) In this Schedule “relevant expenses” means expenses incurred by the special measures manager for a higher-risk building in connection with the exercise of their functions in relation to the building.

#### Commencement Information

**I249** Sch. 7 para. 3 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

#### *Special measures order*

- 4 (1) The regulator may apply to the tribunal for an order under this paragraph in relation to an occupied higher-risk building (a “special measures order”).
- (2) A special measures order is an order appointing a person to be the manager (a “special measures manager”) for the building to carry out the functions of all accountable persons for the building under, or under regulations made under, this Part.
- (3) A special measures order may also appoint the manager to carry out any function as a receiver in relation to commonhold building safety assessments.
- (4) The tribunal may make a special measures order if satisfied that there has been a serious failure, or a failure on two or more occasions, by an accountable person for the building to comply with a duty imposed on that person under, or under regulations made under, this Part.
- (5) A special measures order may make provision with respect to—
- (a) payments to be made by an accountable person for the building to the special measures manager in connection with relevant expenses incurred, or to be incurred, by the manager,
  - (b) any other matter relating to the exercise of the manager’s functions, and
  - (c) any incidental or ancillary matter.
- (6) A special measures order may not make the provision mentioned in sub-paragraph (5)
- (a) in relation to a higher-risk building on commonhold land.
- (7) A special measures order continues in force until it is discharged.
- (8) In this Schedule “commonhold building safety assessment” means income raised from commonhold unit-holders by virtue of section 38A of the Commonhold and Leasehold Reform Act 2002.

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#### Commencement Information

**I250** Sch. 7 para. 4 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

#### *Special measures order: supplementary*

- 5
- (1) This paragraph applies where a special measures order is made in relation to a higher-risk building.
  - (2) While the order is in force any function of an accountable person for the building under, or under regulations made under, this Part is to be treated as a function of the special measures manager for the building, except any function relating to—
    - (a) the making of an application to the tribunal, or
    - (b) the making of an appeal to the tribunal.
  - (3) Any compliance notice given under section 99 relating to the building ceases to have effect (but this does not affect any liability incurred as a result of a contravention of a compliance notice occurring before the making of the order).

#### Commencement Information

**I251** Sch. 7 para. 5 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

#### *Payments received by special measures manager to be held on trust*

- 6
- (1) This paragraph applies where a special measures order relating to a higher-risk building requires one or more accountable persons for the building to make payments to the special measures manager for the building.
  - (2) The manager must hold the payments (together with any income accruing on those payments) as either—
    - (a) a single trust fund, or
    - (b) in two or more separate trust funds.
  - (3) The manager must hold any trust fund—
    - (a) on trust to defray relevant expenses, and
    - (b) subject to that, on trust for the accountable person or persons for the building for the time being.
  - (4) The accountable person or persons for the building for the time being are to be treated as entitled by virtue of sub-paragraph (3)(b) to—
    - (a) if there is one accountable person for the building, the residue of the fund or funds;
    - (b) otherwise, to such shares in that residue as the accountable persons may agree in writing or (in default of agreement) as the tribunal may direct.
  - (5) An application for a direction under sub-paragraph (4)(b) may be made by—
    - (a) the regulator,
    - (b) an accountable person for the building, or
    - (c) the manager.

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### Commencement Information

**I252** Sch. 7 para. 6 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

### *Effect of special measures order on relevant contracts and legal proceedings*

- 7 (1) Sub-paragraphs (2) and (6) apply while a special measures order relating to a higher-risk building is in force.
- (2) A relevant contract has effect as if relevant rights and liabilities of an accountable person for the building arising under the contract were rights and liabilities of the special measures manager for the building.
- (3) A contract is a “relevant contract” if—
- it is effective on the date the special measures order is made,
  - one of the parties to it is an accountable person for the building,
  - one or more rights or liabilities of that person under the contract are relevant rights or liabilities,
  - it is specified for the purposes of this sub-paragraph in the special measures order or falls within a description of contracts so specified, and
  - the manager gives notice in writing to the parties to it stating that sub-paragraph (2) is to apply to it.
- (4) A right or liability of an accountable person for the building under a relevant contract is a “relevant right or liability” if it relates to a function of that person under, or under regulations made under, this Part in relation to the building.
- (5) The notice under sub-paragraph (3)(e) must state which rights or liabilities under the contract are relevant rights or liabilities.
- (6) The special measures manager for the building may bring, continue or defend a relevant cause of action.
- (7) A cause of action is a “relevant cause of action” if—
- it accrued to or against an accountable person for the building before the date the special measures order was made,
  - it relates to a function of that person under, or under regulations made under, this Part in relation to the building,
  - it is specified for the purposes of this sub-paragraph in the special measures order or falls within a description of causes of action so specified, and
  - the manager gives notice in writing to any person the manager considers would have an interest in the cause of action that sub-paragraph (6) is to apply to it.
- (8) Where, by virtue of this paragraph, the special measures manager for the building is subject to a liability to pay damages in respect of anything done (or not done) before the date of their appointment by or on behalf of an accountable person for the building, that person is liable to reimburse to the manager an amount equal to the amount of damages paid by the manager.

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#### Commencement Information

**I253** Sch. 7 para. 7 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

#### *Special measures orders and orders under section 24 of the Landlord and Tenant Act 1987*

- 8 (1) Sub-paragraph (2) applies where—
- (a) the tribunal makes a special measures order in relation to a higher-risk building, and
  - (b) an order under section 24 of the Landlord and Tenant Act 1987 appointing a manager in relation to that building is in force (a “section 24 order”).
- (2) The tribunal may amend the section 24 order so as to ensure that the functions to be carried out by virtue of that order do not include any function that the special measures order provides is to be carried out by the special measures manager.
- (3) In section 24 of the Landlord and Tenant Act 1987, after subsection (2B) insert—
- “(2C) Where a special measures order relating to the building is in force, an order under this section may not provide for a manager to carry out a function which the special measures order provides is to be carried out by the special measures manager for the building.
- (2D) In this section—
- “special measures manager” means a person appointed under paragraph 4 of Schedule 7 to the Building Safety Act 2022;
  - “special measures order” means an order under paragraph 4 of Schedule 7 to the Building Safety Act 2022.”

#### Commencement Information

**I254** Sch. 7 para. 8 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

- 9 (1) The Landlord and Tenant Act 1987 is amended as follows.
- (2) In section 21(2) after “subsection (3)” insert “and section 24ZA”.
- (3) After section 24 insert—

#### **“24ZA Application for appointment of manager by special measures manager**

- (1) A special measures manager for an occupied higher-risk building may apply to the appropriate tribunal for an order under section 24 (as modified by subsection (4)) appointing a manager to act in relation to premises to which this section applies.
- (2) This section applies to premises consisting of the whole or part of the higher-risk building if the building or part contains two or more flats.
- (3) Section 22 applies in relation to such an application as if—
  - (a) for subsection (1) there were substituted—

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- “(1) Before an application for an order under section 24 is made in respect of any premises to which section 24ZA applies by a special measures manager for an occupied higher-risk building, a notice under this section must (subject to subsection (3)) be served by the special measures manager on—
- (a) the landlord;
  - (b) any person (other than the landlord) by whom obligations relating to the management of the premises or any part of them are owed to tenants of flats contained in those premises under a tenancy;
  - (c) each accountable person for the higher-risk building.”;
- (b) for subsection (2)(a) there were substituted—
- “(a) specify the special measures manager’s name and an address in England and Wales at which any person on whom the notice is served may serve notices, including notices in proceedings, on the special measures manager in connection with this Part.”;
- (c) in subsection (2)(b)—
- (i) for “tenant” there were substituted “special measures manager”;
  - (ii) for “this Part” there were substituted “section 24ZA”;
- (d) in subsection (2)(c) for “tenant” there were substituted “special measures manager”.
- (4) Section 24 applies in relation to such an application as if—
- (a) in subsection (1) for “this Part” there were substituted “section 24ZA”;
  - (b) for subsection (2) there were substituted—
- “(2) The appropriate tribunal may only make an order under this section where it is satisfied—
- (a) that—
    - (i) the relevant person is in breach of any obligation owed by the person to the special measures manager by virtue of a special measures order, and
    - (ii) it is just and convenient to make the order in all the circumstances of the case; or
  - (b) that other circumstances exist which make it just and convenient for the order to be made.”;
  - (c) subsections (2A), (2B) and (10) were omitted.
- (5) In this section “special measures manager” has the meaning given by section 24(2D).”

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#### Commencement Information

**I255** Sch. 7 para. 9 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

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#### Commencement Information

**I254** Sch. 7 para. 8 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

**I255** Sch. 7 para. 9 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

#### *Provision of financial assistance by regulator*

- 10 (1) The regulator may give financial assistance to the special measures manager for a higher-risk building by way of loans or grants.
- (2) The Secretary of State may by regulations make provision in relation to financial assistance given under this paragraph, including in particular provision about—
- (a) the circumstances in which financial assistance may be given;
  - (b) the kind of financial assistance that may be given;
  - (c) conditions that may or must be attached to any financial assistance (including conditions as to repayment).
- (3) In this paragraph “special measures manager”, in relation to a higher-risk building, includes the person who was the special measures manager for that building immediately before the special measures order relating to the building was discharged.

#### Commencement Information

**I256** Sch. 7 para. 10 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

#### *Special measures order: further directions*

- 11 (1) This paragraph applies while a special measures order relating to a higher-risk building is in force.
- (2) On an application by a person mentioned in sub-paragraph (3) the tribunal may give directions to the special measures manager for the building or any other person with respect to—
- (a) any matter relating to the exercise of the manager’s functions, and
  - (b) any incidental or ancillary matter.
- (3) The persons are—
- (a) the regulator,
  - (b) an accountable person for the building, or
  - (c) the manager.

#### Commencement Information

**I257** Sch. 7 para. 11 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

#### *Regulator to keep certain matters under review*

- 12 (1) This paragraph applies while a special measures order relating to a higher-risk building is in force.



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- (2) The regulator must, from time to time (and at least once every 12 months), review the following matters—
- (a) the measures taken by the special measures manager in exercising the manager’s functions;
  - (b) the expenses incurred by the manager in connection with taking those measures;
  - (c) any payments made by accountable persons for the building to the manager in respect of any of those expenses;
  - (d) any amounts received by the manager by way of commonhold building safety assessments in relation to the building.
- (3) If, on such a review, the regulator considers that any term of the order should be varied, it must make such application under paragraph 14 as it considers appropriate.

#### Commencement Information

**I258** Sch. 7 para. 12 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

#### *Notification by regulator before applying to vary special measures order*

- 13 (1) This paragraph applies where the regulator proposes to make an application under paragraph 14 to vary a special measures order relating to a higher-risk building.
- (2) The regulator must give a notice (an “initial notice”) of the proposal to—
- (a) each accountable person for the building,
  - (b) each resident of the building who is aged 16 or over,
  - (c) each owner of a residential unit in the building,
  - (d) any managing agent for the building or any relevant part of the building,
  - (e) any recognised tenants’ association for the building or any part of the building,
  - (f) any manager appointed under section 24 of the Landlord and Tenant Act in relation to the building or any part of the building,
  - (g) the fire and rescue authority for the area in which the building is situated,
  - (h) the local housing authority for the area in which the building is situated,
  - (i) where any accountable person for the building is a registered provider of social housing, the Regulator of Social Housing, and
  - (j) where any part of the building contains premises occupied for the purposes of a business, each responsible person (within the meaning of article 3 of the Regulatory Reform (Fire Safety) Order 2005) in relation to those premises.
- (3) The initial notice must—
- (a) state that the regulator proposes to make an application to vary the special measures order specified in the notice,
  - (b) specify the reasons for the proposed application,
  - (c) specify the terms of the order that the regulator proposes to invite the tribunal to make,
  - (d) specify a period in which recipients of the notice may make representations in response to the notice, and



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- (e) state that any representations must be in writing to such postal or email address as is specified in the notice.
- (4) After the end of the period mentioned in sub-paragraph (3)(d) the regulator must—
  - (a) decide whether to make the application, and
  - (b) give a notice (a “final notice”) of its decision to the persons mentioned in sub-paragraph (2).
- (5) The final notice must—
  - (a) state whether or not the regulator intends to make the application,
  - (b) specify the reasons for reaching that decision, and
  - (c) if the regulator intends to make the application, specify the terms of the order that the regulator intends to invite the tribunal to make.
- (6) The regulator must comply with sub-paragraphs (4) and (5) before making the application.
- (7) The duty under sub-paragraph (2) or (4)(b) does not apply in relation to a person mentioned in sub-paragraph (2) if the regulator—
  - (a) is not aware of the person, and
  - (b) has taken all reasonable steps to ascertain the identity of the persons mentioned in that sub-paragraph.
- (8) In this paragraph “relevant part”, in relation to a higher-risk building, has the meaning given by paragraph 2(10).
- (9) The Secretary of State may by regulations make provision in relation to notices under this paragraph, including in particular provision about—
  - (a) the form of the notice;
  - (b) the way in which the notice must be given.
- (10) The Secretary of State may by regulations amend the list in sub-paragraph (2).

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**Commencement Information**

**I259** Sch. 7 para. 13 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

*Variation or discharge of special measures order*

- 14
- (1) The tribunal may vary or discharge a special measures order relating to a higher-risk building on an application by—
    - (a) the regulator,
    - (b) an accountable person for the building, or
    - (c) the special measures manager for the building.
  - (2) An application to vary a special measures order so as to change the identity of the manager may only be made by the regulator.
  - (3) In considering whether to vary or discharge an order the tribunal must have regard to—
    - (a) the likelihood of variation or discharge of the order resulting in a recurrence of the circumstances which led to the order being made, and

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- (b) whether it is just and convenient in all the circumstances to vary or discharge the order.
- (4) Sub-paragraphs (2) and (3) do not apply on an application where each person mentioned in sub-paragraph (1) agrees to the application (and for this purpose where there is more than one accountable person each accountable person must agree).
- (5) Sub-paragraph (4) does not require the agreement of the special measures manager where that person lacks capacity to agree to the application.
- (6) Where the order is varied or discharged, the tribunal may give directions to any person with respect to—
  - (a) any matter relating to the variation or discharge, and
  - (b) any incidental or ancillary matter.
- (7) Where the order is discharged the tribunal must direct the special measures manager to—
  - (a) prepare a reconciliation account, and
  - (b) give a copy of the account to—
    - (i) the regulator, and
    - (ii) each accountable person for the building.
- (8) The tribunal may give a direction under sub-paragraph (6)(a) (at the time the order is discharged or after that time) for the making of a payment—
  - (a) by an accountable person for the building to the special measures manager, or
  - (b) by the special measures manager to an accountable person for the building.
- (9) In this paragraph—
  - “reconciliation account” means a document—
    - (a) setting out, in relation to the period during which the special measures order was in force, a comparison between—
      - (i) the receipts and expenses of the manager in connection with the exercise of their functions in relation to the building, and
      - (ii) the credits to, and debits from, all relevant accounts, and
    - (b) containing a statement explaining any differences;
  - “relevant account” means an account in which any of the following are (or have been) held—
    - (a) payments made by an accountable person for the building to the manager;
    - (b) amounts received by the manager by way of commonhold building safety assessments in relation to the building.
- (10) In this paragraph “special measures manager”, in relation to a higher-risk building, includes the person who was the special measures manager for that building immediately before the special measures order relating to the building was discharged.

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**Commencement Information**

**I260** Sch. 7 para. 14 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

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### *Notifications about special measures order*

- 15 (1) The regulator must take all reasonable steps to notify the persons mentioned in sub-paragraph (2) of the making, variation or discharge of a special measures order in relation to a higher-risk building.
- (2) The persons are—
- (a) each accountable person for the building,
  - (b) each resident of the building who is aged 16 or over,
  - (c) each owner of a residential unit in the building,
  - (d) any managing agent for the building or any relevant part of the building,
  - (e) any recognised tenants’ association for the building or any part of the building,
  - (f) any manager appointed under section 24 of the Landlord and Tenant Act 1987 in relation to the building or any part of the building,
  - (g) the fire and rescue authority for the area in which the building is situated,
  - (h) the local housing authority for the area in which the building is situated,
  - (i) where any accountable person for the building is a registered provider of social housing, the Regulator of Social Housing, and
  - (j) where any part of the building contains premises occupied for the purposes of a business, each responsible person (within the meaning of article 3 of the Regulatory Reform (Fire Safety) Order 2005) in relation to those premises.
- (3) In this paragraph “relevant part”, in relation to a higher-risk building, has the meaning given by paragraph 2(10).
- (4) The Secretary of State may by regulations amend the list in sub-paragraph (2).

#### **Commencement Information**

**I261** Sch. 7 para. 15 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

### *Special measures order: change in accountable person etc*

- 16 (1) Sub-paragraphs (2) and (3) apply where at any time (“the relevant time”) during which a special measures order relating to a higher-risk building is in force, an accountable person for the building (“the outgoing person”) ceases to be responsible for all or any part of the building (“the relevant part of the building”).
- (2) From the relevant time the special measures order ceases to apply to the outgoing person in relation to the relevant part of the building.
- (3) From the relevant time the special measures order applies to any person who, immediately after the relevant time—
- (a) is an accountable person for the building, and
  - (b) is responsible for the relevant part of the building or any part of the relevant part,
- as it applied to the outgoing person in relation to the relevant part or part of the relevant part (as the case may be) immediately before the relevant time.
- (4) But sub-paragraphs (2) and (3) do not affect any liability under the order to which the outgoing person became subject before the relevant time.

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- (5) Where an enactment requires interests, charges or other obligations affecting land to be registered, sub-paragraph (3) has effect whether or not the special measures order is registered.
- (6) Nothing in this paragraph affects the powers of the tribunal under paragraph 14 (power to vary special measures order etc).

#### Commencement Information

**I262** Sch. 7 para. 16 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

#### Interpretation

17 In this Schedule—

“commonhold building safety assessment” has the meaning given by paragraph 4;

“local housing authority” has the meaning given by section 261 of the Housing Act 2004;

“managing agent”: for the purposes of this Schedule a person (A) is a managing agent for any part of a building if—

- (a) A has been appointed to discharge the obligations of a person (B) relating to the management by B of that part of the building, and
- (b) B has a legal estate in that part of the building 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;

“recognised tenants association” has the meaning given by section 29 of the Landlord and Tenant Act 1985;

“relevant expenses” has the meaning given by paragraph 3;

“special measures manager” has the meaning given by paragraph 1;

“special measures order” has the meaning given by paragraph 1.

#### Commencement Information

**I263** Sch. 7 para. 17 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

## SCHEDULE 8

Section 122

### REMEDATION COSTS UNDER QUALIFYING LEASES ETC

#### Interpretation

1 (1) In [this Schedule](#)—

“associated”: see section 121;

“building safety risk” has the meaning given by section 120;

“joint venture” includes a partnership (as defined by section 121);

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“prescribed” means prescribed by regulations made by the Secretary of State;

“qualifying lease”: see section 119;

“the qualifying time” has the same meaning as in section 119;

“relevant building”: see section 117;

“relevant defect”: see section 120;

“relevant measure”, in relation to a relevant defect, means a measure taken—

(a) to remedy the relevant defect, or

(b) for the purpose of—

(i) preventing a relevant risk from materialising, or

(ii) reducing the severity of any incident resulting from a relevant risk materialising;

“relevant risk” here means a building safety risk that arises as a result of the relevant defect;

“service charge” has the meaning given by section 18 of the Landlord and Tenant Act 1985.

- (2) The definition of “service charge” applies in relation to a lease of premises that do not include a dwelling as it applies in relation to a lease of a dwelling.

#### Commencement Information

**I264** Sch. 8 para. 1 in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

*No service charge payable for defect for which landlord or associate responsible*

- 2 (1) [This paragraph](#) applies in relation to a lease of any premises in a relevant building.
- (2) No service charge is payable under the lease in respect of a relevant measure relating to a relevant defect if a relevant landlord—
- (a) is responsible for the relevant defect, or
- (b) is associated with a person responsible for a relevant defect.
- (3) For the purposes of [this paragraph](#) a person is “responsible for” a relevant defect if—
- (a) in the case of an initial defect, the person was, or was in a joint venture with, the developer or undertook or commissioned works relating to the defect;
- (b) in any other case, the person undertook or commissioned works relating to the defect.
- (4) In [this paragraph](#)—
- “developer” 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;
- “initial defect” means a defect which is a relevant defect by virtue of section 120(3)(a);
- “relevant landlord” means the landlord under the lease at the qualifying time or any superior landlord at that time.

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**Modifications etc. (not altering text)**

**C2** [Sch. 8 para. 2](#) modified (20.7.2022) by [The Building Safety \(Leaseholder Protections\) \(England\) Regulations 2022 \(S.I. 2022/711\)](#), regs. 1(1), **10**

**Commencement Information**

**I265** [Sch. 8 para. 2](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

*No service charge payable if landlord meets contribution condition*

- 3 (1) No service charge is payable under a qualifying lease in respect of a relevant measure relating to any relevant defect if the landlord under the lease at the qualifying time (“the relevant landlord”) met the contribution condition.
- (2) The contribution condition is that the landlord group’s net worth at the qualifying time was more than  $N \times £2,000,000$ ,  
 where N is the number of relevant buildings within sub-paragraph (3).
- (3) A relevant building is within this sub-paragraph if a member of the landlord group was, at the qualifying time, a landlord under a lease of the relevant building or any part of it.
- (4) For the purposes of [this paragraph](#)—
- (a) “the landlord group” means the relevant landlord and any person associated with the relevant landlord;
  - (b) the net worth of the landlord group at the qualifying time is to be determined in accordance with regulations made by the Secretary of State.
- (5) The Secretary of State may by regulations amend the amount for the time being specified in sub-paragraph (2).
- (6) [This paragraph](#) does not apply if, at the qualifying time, the relevant landlord was—
- (a) a private registered provider of social housing (as to which see section 80 of the Housing and Regeneration Act 2008),
  - (b) a local authority (as defined by section 30), or
  - (c) a prescribed person.

**Commencement Information**

**I266** [Sch. 8 para. 3](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

*No service charge payable where lease below certain value*

- 4 (1) No service charge is payable under a qualifying lease in respect of a relevant measure relating to any relevant defect if the value of the qualifying lease at the qualifying time was less than—
- (a) £325,000, if the premises demised by the qualifying lease are in Greater London;
  - (b) £175,000, in any other case.

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- (2) For the purposes of [this paragraph](#) the value of a qualifying lease at the qualifying time is its value determined in accordance with [paragraph 6](#) and regulations made under it.

**Commencement Information**

**I267** [Sch. 8 para. 4](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

*Limit on service charge in other cases*

- 5 (1) A service charge which would otherwise be payable under a qualifying lease in respect of a relevant measure relating to any relevant defect is payable only if (and so far as) the sum of—
- (a) the amount of the service charge, and
  - (b) the total amount of relevant service charges which fell due before the service charge fell due,
- does not exceed the permitted maximum.
- (2) In [this paragraph](#) “relevant service charge” means a service charge under the lease in respect of a relevant measure relating to any relevant defect that—
- (a) fell due in the pre-commencement period, or
  - (b) falls due after commencement.
- (3) In [sub-paragraph \(2\)](#) “the pre-commencement period” means the period—
- (a) beginning 5 years before commencement or, if later, on the day the relevant person became the tenant under the qualifying lease, and
  - (b) ending with commencement.
- “The relevant person” means the person who was the tenant under the qualifying lease at commencement.
- (4) In [this paragraph](#)—
- “commencement” means the time [this paragraph](#) comes into force;
  - “the permitted maximum”: see [paragraph 6](#).

**Commencement Information**

**I268** [Sch. 8 para. 5](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

*Paragraph 5: the permitted maximum*

- 6 (1) In [paragraph 5](#) “the permitted maximum”, in relation to a qualifying lease, has the following meaning.
- (2) The permitted maximum is (subject to [sub-paragraphs \(3\) to \(5\)](#))—
- (a) if the premises demised by the qualifying lease are in Greater London, £15,000;
  - (b) otherwise, £10,000.
- (3) Where the value of the qualifying lease at the qualifying time exceeded £1,000,000 but did not exceed £2,000,000, the permitted maximum is £50,000.



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- (4) Where the value of the qualifying lease at the qualifying time exceeded £2,000,000, the permitted maximum is £100,000.
- (5) Where the qualifying lease is a shared ownership lease and the tenant's total share was less than 100% at the qualifying time—
  - (a) the value of the qualifying lease at that time is to be determined as if the tenant's total share at that time was 100%;
  - (b) the permitted maximum is the tenant's total share (as at that time) of what would otherwise be the permitted maximum.
- (6) The Secretary of State may by regulations make provision about the determination of the value of a qualifying lease for the purposes of [paragraph 4](#) and [this paragraph](#).
- (7) The regulations may in particular provide that, except in prescribed cases, the value of a qualifying lease at the qualifying time is to be determined by—
  - (a) ascertaining the consideration given on the latest disposal of the qualifying lease on the open market to have been made before that time, and
  - (b) if that disposal occurred before 2022, uprating the consideration in accordance with the regulations.
- (8) In [this paragraph](#) “shared ownership lease” and “total share” have the meaning given by section 7 of the Leasehold Reform, Housing and Urban Development Act 1993.

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**Commencement Information**

**I269** [Sch. 8 para. 6](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

*Annual limit on service charges*

- 7 (1) A relevant service charge which would otherwise be payable under a qualifying lease is payable only if (and so far as) the sum of—
  - (a) the amount of the service charge, and
  - (b) the total amount of relevant service charges which fell due in the period of 12 months ending with the day on which the service charge fell due,does not exceed one tenth of the permitted maximum.
- (2) In [this paragraph](#)—

“the permitted maximum” means the permitted maximum as defined by [paragraph 6](#) in relation to the lease;

“relevant service charge” means a service charge under a qualifying lease in respect of a relevant measure relating to any relevant defect.

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**Commencement Information**

**I270** [Sch. 8 para. 7](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

*No service charge payable for cladding remediation*

- 8 (1) No service charge is payable under a qualifying lease in respect of cladding remediation.



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- (2) In [this paragraph](#) “cladding remediation” means the removal or replacement of any part of a cladding system that—
- (a) forms the outer wall of an external wall system, and
  - (b) is unsafe.

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**Commencement Information**

**I271** [Sch. 8 para. 8](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

*No service charge payable for legal or professional services relating to liability for relevant defects*

- 9 (1) No service charge is payable under a qualifying lease in respect of legal or other professional services relating to the liability (or potential liability) of any person incurred as a result of a relevant defect.
- (2) In [this paragraph](#) the reference to services includes services provided in connection with—
- (a) obtaining legal advice,
  - (b) any proceedings before a court or tribunal,
  - (c) arbitration, or
  - (d) mediation.

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**Commencement Information**

**I272** [Sch. 8 para. 9](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

*Paragraphs 2 to 4, 8 and 9: supplementary*

- 10 (1) [This paragraph](#) supplements paragraphs 2 to 4, 8 and 9 (the “relevant paragraphs”).
- (2) Where a relevant paragraph provides that no service charge is payable under a lease in respect of a thing—
- (a) no costs incurred or to be incurred in respect of that thing (or in respect of that thing and anything else)—
    - (i) are to be regarded for the purposes of the relevant provisions as relevant costs to be taken into account in determining the amount of a service charge payable under the lease, or
    - (ii) are to be met from a relevant reserve fund;
  - (b) any amount payable under the lease, or met from a relevant reserve fund, is limited accordingly (and any necessary adjustment must be made by repayment, reduction of subsequent charges or otherwise).
- (3) In [this paragraph](#)—
- “the relevant provisions” means sections 18 to 30 of the Landlord and Tenant Act 1985 (service charges) and section 42 of the Landlord and Tenant Act 1987 (service charge contributions to be held on trust);
  - “relevant reserve fund” means—

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- (a) a trust fund within the meaning of section 42 of the Landlord and Tenant Act 1987,
  - (b) an express trust of a kind mentioned in subsection (9) of that section, comprising payments made by the tenant under the lease and others, or
  - (c) any other fund comprising payments made by the tenant under the lease and others, and held for the purposes of meeting costs incurred or to be incurred in respect of the relevant building in question or any part of it (or in respect of that building or part and anything else).
- (4) The Secretary of State may by regulations modify the application of [this paragraph](#) as it applies in relation to a lease of premises that do not include a dwelling.

**Commencement Information**

**I273** [Sch. 8 para. 10](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

*No increase in service charge for other tenants*

- 11 Where—
- (a) an amount (“the original amount”) would, apart from [this Schedule](#), be payable by a tenant under a lease of premises in a relevant building, and
  - (b) a greater amount would (apart from [this paragraph](#)) be payable under the lease as a result of [this Schedule](#),
- the lease has effect as if the amount payable were the original amount.

**Commencement Information**

**I274** [Sch. 8 para. 11](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

*Recovery of service charge amounts from landlords*

- 12 (1) The Secretary of State may by regulations make provision for and in connection with the recovery, from a prescribed relevant landlord, of any amount that is not recoverable under a lease as a result of [this Schedule](#).
- (2) In [this paragraph](#) “relevant landlord”, in relation to a lease, means the landlord under the lease or any superior landlord.

**Commencement Information**

**I275** [Sch. 8 para. 12](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

*Presumption: qualifying lease*

- 13 (1) [This paragraph](#) applies in relation to a lease that meets the conditions in paragraphs (a) to (c) of section 119(2).
- (2) The lease is to be treated for the purposes of [this Schedule](#) as a qualifying lease unless—

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- (a) the landlord under the lease has taken all reasonable steps (and any prescribed steps) to obtain a qualifying lease certificate from a tenant under the lease, and
  - (b) no such certificate has been provided to the landlord.
- (3) In [this paragraph](#) “qualifying lease certificate” means a certificate, complying with any prescribed requirements, that the condition in section 119(2)(d) was met in relation to the lease at the qualifying time.
- (4) The requirements that may be prescribed include requirements as to—
  - (a) the information to be provided in the certificate,
  - (b) the form of the certificate, and
  - (c) the execution of the certificate.

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**Commencement Information**

**I276** [Sch. 8 para. 13](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

*Presumptions relating to landlord under qualifying lease*

- 14
- (1) The person who was the landlord under a qualifying lease at the qualifying time (“the relevant landlord”) is to be treated for the purposes of [this Schedule](#) as having met the contribution condition (as defined by paragraph 3) unless the landlord under the lease provides to the tenant under the lease a certificate, complying with any prescribed requirements, that the relevant landlord did not meet that condition.
  - (2) The Secretary of State may by regulations provide that (in some or all cases) the condition in paragraph 2(2) is to be treated for the purposes of [this Schedule](#) as met in relation to a lease to which paragraph 2 applies unless the landlord under the lease provides to the tenant under the lease a certificate that complies with any prescribed requirements.
  - (3) The requirements that may be prescribed include requirements as to—
    - (a) the information to be provided in the certificate,
    - (b) the form of the certificate, and
    - (c) the execution of the certificate.

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**Commencement Information**

**I277** [Sch. 8 para. 14](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

*Information from tenants*

- 15
- (1) The Secretary of State may by regulations make provision requiring a tenant under a qualifying lease to give prescribed information or documents to the landlord under the lease or any superior landlord.
  - (2) The regulations may provide that the information or documents are to be given in a prescribed way.

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#### Commencement Information

**I278** Sch. 8 para. 15 in force at 28.6.2022, see s. 170(3)(a)

#### Information from landlords

- 16 (1) The Secretary of State may by regulations make provision requiring a relevant landlord to give prescribed information or documents to a relevant tenant or other prescribed person.
- (2) Information or documents may be prescribed if they relate to any matter with which [this Schedule](#) is concerned.
- (3) The regulations may require the information or documents to be given in a prescribed way.
- (4) The regulations may provide that where a relevant landlord fails to comply with the regulations, prescribed costs—
- (a) are not to be regarded as relevant costs to be taken into account in determining the amount of a service charge payable under a relevant lease, and
  - (b) must not be met from a relevant reserve fund.
- (5) The regulations may make provision for and in connection with an application to the First-tier Tribunal for an order—
- (a) determining whether a relevant landlord has failed to comply with the regulations, and
  - (b) if so, requiring the relevant landlord to provide specified information or documents to a specified person by a specified time.
- “Specified” here means specified in the order.
- (6) Nothing in sub-paragraph (5) limits the effect of regulations made by virtue of sub-paragraph (4).
- (7) Information or documents may be specified in an order under sub-paragraph (5) only if the regulations require them to be provided to the specified person.
- (8) In [this paragraph](#)—
- “relevant costs” has the meaning given by section 18 of the Landlord and Tenant Act 1985 (and this applies in relation to a lease of premises that does not include a dwelling as it applies in relation to a lease of a dwelling);
  - “relevant landlord” means a landlord under a relevant lease;
  - “relevant lease” means a lease of premises in a relevant building;
  - “relevant reserve fund” has the meaning given by paragraph 10;
  - “relevant tenant” means a tenant under a relevant lease.

#### Commencement Information

**I279** Sch. 8 para. 16 in force at 28.6.2022, see s. 170(3)(a)

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- 17 In section 21 of the Landlord and Tenant Act 1985 (service charge information), in subsection (6A) (inserted by section 112), after “2022” insert “or relevant buildings (as defined by section 117 of that Act)”.

**Commencement Information**

**I280** [Sch. 8 para. 17](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

**Commencement Information**

**I279** [Sch. 8 para. 16](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

**I280** [Sch. 8 para. 17](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

*Anti-avoidance*

- 18 A covenant or agreement (whenever made) is void insofar as it purports to exclude or limit any provision made under [this Schedule](#).

**Commencement Information**

**I281** [Sch. 8 para. 18](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

PROSPECTIVE

SCHEDULE 9

Section 137(1)

THE NEW HOMES OMBUDSMAN SCHEME

*Appointment of the new homes ombudsman*

- 1 The scheme must include provision about the appointment of the new homes ombudsman.

**Commencement Information**

**I282** [Sch. 9 para. 1](#) not in force at Royal Assent, see [s. 170\(5\)](#)

*Membership*

- 2 (1) The scheme must include provision about the procedure for becoming and remaining a member of the scheme.
- (2) That provision may include—
- (a) a requirement to pay a fee;
  - (b) a requirement to provide information;

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- (c) a requirement to have internal procedures in place for the handling and resolution of complaints about matters in relation to which complaints may be made under the scheme.

(3) If the scheme includes a requirement mentioned in [sub-paragraph \(2\)\(c\)](#), it must also include a requirement to publish the procedures.

#### Commencement Information

**I283** Sch. 9 para. 2 not in force at Royal Assent, see [s. 170\(5\)](#)

- 3 The scheme may provide for different categories of member and the provision mentioned in [paragraph 2](#) (including provision about fees) may differ as between such categories.

#### Commencement Information

**I284** Sch. 9 para. 3 not in force at Royal Assent, see [s. 170\(5\)](#)

#### Commencement Information

**I283** Sch. 9 para. 2 not in force at Royal Assent, see [s. 170\(5\)](#)

**I284** Sch. 9 para. 3 not in force at Royal Assent, see [s. 170\(5\)](#)

#### Fees

- 4 The fees payable by a member may be calculated by reference to the total of the costs incurred, or to be incurred, in the operation of the scheme (including costs unconnected with the member in question).

#### Commencement Information

**I285** Sch. 9 para. 4 not in force at Royal Assent, see [s. 170\(5\)](#)

- 5 Where a scheme is maintained by a person other than—
- (a) the Secretary of State, or
  - (b) a person acting on behalf of the Secretary of State,
- fees may be set at a level such that the total of all fees payable by members exceeds the total of the costs of operating the scheme.

#### Commencement Information

**I286** Sch. 9 para. 5 not in force at Royal Assent, see [s. 170\(5\)](#)

#### Commencement Information

**I285** Sch. 9 para. 4 not in force at Royal Assent, see [s. 170\(5\)](#)

**I286** Sch. 9 para. 5 not in force at Royal Assent, see [s. 170\(5\)](#)

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*Complaints under the scheme: subject matter and procedure*

- 6 The scheme must include provision about—
- (a) the matters in relation to which complaints against members of the scheme may be made under the scheme (which may include complaints about non-compliance with a code of practice issued or approved under section 142), and
  - (b) the procedure for making complaints under the scheme.

**Commencement Information**

**I287** Sch. 9 para. 6 not in force at Royal Assent, see [s. 170\(5\)](#)

- 7 The provision mentioned in [paragraph 6\(b\)](#)—
- (a) must not include any requirement to pay a fee;
  - (b) may differ as between different categories of member;
  - (c) may include provision about the use of any internal procedures a member has in place for the handling or resolution of complaints.

**Commencement Information**

**I288** Sch. 9 para. 7 not in force at Royal Assent, see [s. 170\(5\)](#)

**Commencement Information**

**I287** Sch. 9 para. 6 not in force at Royal Assent, see [s. 170\(5\)](#)

**I288** Sch. 9 para. 7 not in force at Royal Assent, see [s. 170\(5\)](#)

*Complaints under the scheme: investigation and determination*

- 8 (1) The scheme must include provision about the investigation and determination by the new homes ombudsman of complaints made under the scheme.
- (2) That provision must include provision—
- (a) requiring the new homes ombudsman, in determining a complaint, to have regard to any code of practice issued or approved under section 142,
  - (b) for the new homes ombudsman to require members of the scheme to provide information, and
  - (c) for the new homes ombudsman to require members of the scheme to provide complainants whose complaints are determined to be well-founded with any one or more of the forms of redress in [paragraph 9](#).

**Commencement Information**

**I289** Sch. 9 para. 8 not in force at Royal Assent, see [s. 170\(5\)](#)

- 9 The forms of redress are—
- (a) paying compensation;
  - (b) making an apology;

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- (c) providing an explanation;
- (d) taking such other action in the interests of the complainant as the new homes ombudsman may specify.

#### Commencement Information

**I290** Sch. 9 para. 9 not in force at Royal Assent, see [s. 170\(5\)](#)

#### Commencement Information

**I289** Sch. 9 para. 8 not in force at Royal Assent, see [s. 170\(5\)](#)

**I290** Sch. 9 para. 9 not in force at Royal Assent, see [s. 170\(5\)](#)

#### *Enforcement of determinations*

- 10 (1) The scheme must include provision about the enforcement of determinations made by the new homes ombudsman.
- (2) That provision may include provision for the expulsion of a member from the scheme (and the requirement in section 137(1)(a) is not to be read as preventing the new homes ombudsman scheme from including such provision).
- (3) If provision described in [sub-paragraph \(2\)](#) is included in the scheme, provision must also be made about the circumstances in which an expelled member can rejoin the scheme.

#### Commencement Information

**I291** Sch. 9 para. 10 not in force at Royal Assent, see [s. 170\(5\)](#)

#### *Making of recommendations*

- 11 (1) The scheme must include provision about the making of improvement recommendations by the new homes ombudsman where following the investigation of a complaint the ombudsman identifies widespread or regular unacceptable standards of conduct or standards of quality of work on the part of members of the scheme.
- (2) “Improvement recommendations” are recommendations about changes that members may make in order to improve standards of conduct or standards of quality of work.

#### Commencement Information

**I292** Sch. 9 para. 11 not in force at Royal Assent, see [s. 170\(5\)](#)



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### *Predecessor schemes*

- 12 The scheme must include provision about the acceptance and handling of complaints transferred from a scheme previously available under section 136 but which is no longer available.

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#### **Commencement Information**

**I293** Sch. 9 para. 12 not in force at Royal Assent, see [s. 170\(5\)](#)

### *Complaints about the scheme*

- 13 The scheme must include provision about how complaints about the operation of the scheme may be made by—
- (a) members of the scheme, and
  - (b) persons who have asked for a complaint to be investigated under the scheme.

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#### **Commencement Information**

**I294** Sch. 9 para. 13 not in force at Royal Assent, see [s. 170\(5\)](#)

### *Co-operation*

- 14 (1) The scheme may include provision about co-operation with persons who exercise functions under other redress schemes and, in particular, provision about arrangements for a person exercising functions under the scheme to do so jointly with a person exercising functions under another redress scheme, including for the making of joint determinations by the new homes ombudsman and an independent person making determinations under another redress scheme.
- (2) In [sub-paragraph \(1\)](#), “redress scheme” has the same meaning as in section 137.

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#### **Commencement Information**

**I295** Sch. 9 para. 14 not in force at Royal Assent, see [s. 170\(5\)](#)

### *Provision of information*

- 15 (1) Where the scheme is maintained by a person other than the Secretary of State, the scheme must include provision about the provision of information to the Secretary of State, the Welsh Ministers, the Scottish Ministers and the relevant Northern Ireland department.
- (2) In this paragraph, “the relevant Northern Ireland department” means the Northern Ireland department designated for the purposes of this paragraph by the First Minister and deputy First Minister acting jointly.

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#### Commencement Information

**I296** Sch. 9 para. 15 not in force at Royal Assent, see [s. 170\(5\)](#)

#### Reports

- 16 The scheme must include provision about the making of reports on the operation of the scheme.

#### Commencement Information

**I297** Sch. 9 para. 16 not in force at Royal Assent, see [s. 170\(5\)](#)

### PROSPECTIVE

## SCHEDULE 10

Section 137(8)

### AMENDMENTS IN CONNECTION WITH THE NEW HOMES OMBUDSMAN SCHEME

- 1 The Local Government Act 1974 is amended in accordance with paragraphs 2 to 4.

#### Commencement Information

**I298** Sch. 10 para. 1 not in force at Royal Assent, see [s. 170\(5\)](#)

- 2 (1) Section 33 (consultation between Local Commissioner and other Commissioners and Ombudsmen) is amended as follows.
- (2) In subsection (1)—
- (a) after paragraph (bza) insert—
- “(bzb) by the new homes ombudsman under the new homes ombudsman scheme (see section 136 of the Building Safety Act 2022),”;
- (b) in the words after paragraph (c), after “1993” insert “, the Housing Act 1996, the new homes ombudsman scheme”.
- (3) In subsection (2), after “housing ombudsman,” insert “the new homes ombudsman,”.
- (4) After subsection (3A) insert—
- “(3B) If at any stage in the course of conducting an investigation under the new homes ombudsman scheme, the new homes ombudsman forms the opinion that the complaint relates partly to a matter which could be the subject of an investigation under this Part of this Act, the new homes ombudsman must consult with the appropriate Local Commissioner about the complaint and, if the new homes ombudsman considers it necessary, inform the person initiating the complaint of the steps necessary to initiate a complaint under this Part of this Act.”

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(5) In subsection (4)—

- (a) for “or (3A)” substitute “, (3A) or (3B)”;
- (b) for “or under the Housing Act 1996” substitute “, the Housing Act 1996 or the new homes ombudsman scheme”.

**Commencement Information**

**I299** Sch. 10 para. 2 not in force at Royal Assent, see [s. 170\(5\)](#)

3 (1) Section 33ZA (collaborative working between Local Commissioners and others) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (b) omit the final “or”;
- (b) at the end of paragraph (c) insert “or  
(d) the new homes ombudsman,”.

(3) In subsection (1A) for “or (c)” substitute “, (c) or (d)”.

(4) In subsection (3)—

- (a) in paragraph (b) omit the final “or”;
- (b) at the end of paragraph (c) insert “or  
(d) the new homes ombudsman,”;
- (c) in the words following paragraph (c) for “or (c)” substitute “, (c) or (d)”.

**Commencement Information**

**I300** Sch. 10 para. 3 not in force at Royal Assent, see [s. 170\(5\)](#)

4 In section 33ZB (arrangements for provision of administrative and other services), in subsection (4)—

- (a) in paragraph (c) omit the final “and”;
- (b) at the end of paragraph (d) insert—
  - “(e) the new homes ombudsman, and
  - (f) the person maintaining the new homes ombudsman scheme under arrangements made pursuant to section 136 of the Building Safety Act 2022.”

**Commencement Information**

**I301** Sch. 10 para. 4 not in force at Royal Assent, see [s. 170\(5\)](#)

5 (1) Paragraph 10A of Schedule 2 to the Housing Act 1996 (housing complaints: collaborative working with Local Commissioners) is amended as follows.

(2) In sub-paragraph (1)—

- (a) after “Local Commissioner” insert “or the new homes ombudsman”;
- (b) for “the ombudsman” substitute “the housing ombudsman”;
- (c) at the end insert “, the new homes ombudsman or both of them.”

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- (3) In sub-paragraph (3)—
- (a) after “Local Commissioner” insert “or the new homes ombudsman”;
  - (b) for “the ombudsman”, in both places it occurs, substitute “the housing ombudsman”;
  - (c) at the end insert “, the new homes ombudsman or both of them.”
- (4) In sub-paragraph (4)—
- (a) after “Local Commissioner” insert “, the new homes ombudsman (or both)”;
  - (b) at the end insert “(or those persons)”.

#### Commencement Information

**I302** Sch. 10 para. 5 not in force at Royal Assent, see [s. 170\(5\)](#)

- 6 (1) The [Public Services Ombudsman \(Wales\) Act 2019 \(anaw 3\)](#) is amended as follows.
- (2) In section 65(7) (consultation and co-operation with other ombudsmen)—
- (a) in the Welsh language text, after paragraph (e) insert—
 

“(f) yr ombwdsmon cartrefi newydd o dan y cynllun ombwdsmon cartrefi newydd (gweler adran 136 o Ddeddf Diogelwch Adeiladau 2022).”;
  - (b) in the English language text, after paragraph (e) insert—
 

“(f) the new homes ombudsman under the new homes ombudsman scheme (see section 136 of the Building Safety Act 2022).”

#### Commencement Information

**I303** Sch. 10 para. 6 not in force at Royal Assent, see [s. 170\(5\)](#)

## SCHEDULE 11

Section 146

### CONSTRUCTION PRODUCTS REGULATIONS

#### Introductory

- 1 (1) The Secretary of State may by regulations make provision in relation to the marketing and supply of construction products in the United Kingdom.
- (2) Regulations under [this paragraph](#) are called “construction products regulations”.

#### Commencement Information

**I304** Sch. 11 para. 1 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

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### General safety requirements

- 2 (1) Construction products regulations may—
- (a) prohibit the marketing or supply of construction products which are not safe products;
  - (b) impose other requirements for the purpose of securing that construction products which are not safe products are not marketed or supplied;
  - (c) impose requirements in relation to the marketing or supply of construction products which are safe products.
- (2) For the purposes of [this paragraph](#) a construction product is a “safe product” if, under normal or reasonably foreseeable conditions of use, and taking into account any matters specified for the purposes of [this paragraph](#) by construction products regulations—
- (a) the product does not present any risk to the health or safety of persons, or
  - (b) if it does, the risk is as low as it can be compatibly with using the product.
- (3) In [this paragraph](#)—
- “use” includes storage, transportation or packaging;
  - “reasonably foreseeable conditions” include reasonably foreseeable circumstances in which the construction product might come under stress (for example, a fire).

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#### Commencement Information

**I305** Sch. 11 para. 2 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

### Construction products with designated standards or technical assessments

- 3 Construction products regulations may make provision for and in relation to—
- (a) designated standards for construction products (see [paragraph 4](#));
  - (b) technical assessments for construction products (see [paragraph 5](#)).

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#### Commencement Information

**I306** Sch. 11 para. 3 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

- 4 (1) Provision under [paragraph 3\(a\)](#) (designated standards) may include provision—
- (a) for the designation by the Secretary of State of standards prepared in accordance with the regulations or the 2011 Regulation;
  - (b) for the designation by the Secretary of State of EU harmonised standards or international standards;
  - (c) for EU harmonised standards or international standards to be designated standards.
- (2) Provision under [sub-paragraph \(1\)\(a\)](#) may include provision as to—
- (a) the persons by whom standards may be proposed;
  - (b) the procedure by which and persons by whom standards are to be prepared;
  - (c) the matters to be covered by a standard.

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#### Commencement Information

**I307** Sch. 11 para. 4 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

- 5 (1) Provision under [paragraph 3\(b\)](#) (technical assessments) may include provision as to the procedure by which and persons by whom technical assessments are to be issued.
- (2) Provision under [sub-paragraph \(1\)](#) may include provision for assessment bodies to issue technical assessments on the basis of assessment documents developed or adopted by them, and in particular provision—
- (a) for the designation of assessment bodies by the Secretary of State;
  - (b) as to the functions, operation and funding of assessment bodies;
  - (c) as to the contents of assessment documents and the procedure by which they are developed or adopted.

#### Commencement Information

**I308** Sch. 11 para. 5 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

- 6 Construction products regulations may—
- (a) impose requirements on persons carrying out activities in relation to construction products for which there are designated standards or technical assessments under the regulations (see [paragraph 7](#));
  - (b) confer powers on relevant authorities to impose requirements on such persons (see [paragraph 8](#)).

#### Commencement Information

**I309** Sch. 11 para. 6 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

- 7 (1) Provision under [paragraph 6\(a\)](#) (imposition of requirements) may include provision for the imposition of requirements relating to—
- (a) declarations of performance in respect of products which are or are to be marketed;
  - (b) the making of other statements or claims in relation to the performance of products which are or are to be marketed;
  - (c) the marking or packaging of products;
  - (d) the provision of information, including information about risk, to persons to whom products are supplied;
  - (e) the monitoring, assessment and verification of product performance, including sample testing;
  - (f) the storage and transportation of products;
  - (g) the taking of corrective action, including withdrawal of products from the market and recall of products from persons to whom they have been supplied;
  - (h) recording and investigating complaints;
  - (i) the production and retention of documentation or samples;
  - (j) the notification of risks to relevant authorities;
  - (k) information which must or may be provided to relevant authorities;

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- (l) co-operation with relevant authorities;
  - (m) the appointment of authorised representatives by persons carrying out activities in relation to construction products.
- (2) Provision about declarations of performance under [sub-paragraph \(1\)\(a\)](#) may include provision as to—
  - (a) the technical documentation to be prepared in relation to a declaration of performance;
  - (b) the content of a declaration of performance;
  - (c) the form of a declaration of performance;
  - (d) how a declaration of performance is to be supplied or made available.
- (3) Provision about the marking of products under [sub-paragraph \(1\)\(c\)](#) may include provision as to—
  - (a) the form and content of any marking;
  - (b) circumstances in which products must or must not be marked.
- (4) Provision about the monitoring, assessment and verification of product performance under [sub-paragraph \(1\)\(e\)](#) may include provision as to—
  - (a) the carrying out of testing and other tasks by approved bodies;
  - (b) when and how a body may become or cease to be an approved body;
  - (c) the assessment and monitoring of approved bodies.
- (5) Requirements which may be imposed on persons carrying out activities in relation to construction products under [paragraph 6\(a\)](#) may also be imposed on the authorised representatives of such persons.

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**Commencement Information**

**I310** Sch. 11 para. 7 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

- 8
- (1) Provision under [paragraph 6\(b\)](#) (conferral of powers) may include provision conferring powers on a relevant authority to impose requirements on persons carrying out activities in relation to construction products in circumstances where—
    - (a) there has been no failure to comply with requirements imposed under [paragraph 6\(a\)](#), but
    - (b) in the view of the relevant authority the products nevertheless risk causing death or serious injury to any person.
  - (2) The powers referred to in [sub-paragraph \(1\)](#) may include powers by notice to—
    - (a) require a person to warn others of the risks attaching to a product;
    - (b) require the marking of a product in respect of the risks attaching to it;
    - (c) suspend for a specified period or prohibit the marketing or supply of a product (or suspend or prohibit the marketing and supply of the product without the consent of a specified person);
    - (d) require the withdrawal of a product from the market;
    - (e) require the recall of a product from persons to whom it has been supplied.
  - (3) Provision under [sub-paragraph \(2\)](#) may include provision for appeals against a notice.

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#### Commencement Information

**I311** Sch. 11 para. 8 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

- 9 Construction products regulations may include any provision—
- (a) which is made in the 2011 Regulation or the 2019 or 2020 Regulations immediately after IP completion day, or
  - (b) which relates to any matter in respect of which provision is made in that Regulation or those Regulations immediately after that time.

#### Commencement Information

**I312** Sch. 11 para. 9 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

#### Commencement Information

**I306** Sch. 11 para. 3 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

**I307** Sch. 11 para. 4 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

**I308** Sch. 11 para. 5 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

**I309** Sch. 11 para. 6 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

**I310** Sch. 11 para. 7 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

**I311** Sch. 11 para. 8 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

**I312** Sch. 11 para. 9 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

#### *Safety-critical products*

- 10 (1) For the purposes of [this Schedule](#), “safety-critical products” means construction products which are included in a list contained in construction products regulations.
- (2) A construction product may only be included in a list under [sub-paragraph \(1\)](#) if—
- (a) in the view of the Secretary of State any failure of the product would risk causing death or serious injury to any person, and
  - (b) the product is not one for which there are—
    - (i) designated standards under [paragraph 3\(a\)](#), or
    - (ii) standards which are designated standards for the purposes of the 2011 Regulation.
- (3) Before including a construction product in the list, or amending the list, the Secretary of State must consult such persons as the Secretary of State considers appropriate.

#### Commencement Information

**I313** Sch. 11 para. 10 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

- 11 (1) Construction products regulations may make provision for and in relation to standards for safety-critical products (“safety-critical standards”).
- (2) Provision under [sub-paragraph \(1\)](#) may include provision as to—
- (a) the persons by whom safety-critical standards may be proposed;



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- (b) the procedure by which and persons by whom safety-critical standards are to be prepared;
- (c) the matters to be covered by a safety-critical standard.

**Commencement Information**

**I314** Sch. 11 para. 11 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

- 12 Construction products regulations may—
- (a) impose requirements on persons carrying out activities in relation to safety-critical products for which there are safety-critical standards under the regulations (see [paragraph 13](#));
  - (b) confer powers on relevant authorities to impose requirements on such persons (see [paragraph 14](#)).

**Commencement Information**

**I315** Sch. 11 para. 12 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

- 13 Provision under [paragraph 12\(a\)](#) (imposition of requirements) may include any provision referred to in [paragraph 7](#).

**Commencement Information**

**I316** Sch. 11 para. 13 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

- 14 (1) Provision under [paragraph 12\(b\)](#) (conferral of powers) may include provision conferring powers on a relevant authority to impose requirements on persons carrying out activities in relation to construction products in circumstances where—
- (a) there has been no failure to comply with requirements imposed under [paragraph 12\(a\)](#), but
  - (b) in the view of the relevant authority the products nevertheless risk causing death or serious injury to any person.
- (2) The powers referred to in [sub-paragraph \(1\)](#) include powers by notice to—
- (a) require a person to warn others of the risks attaching to a product;
  - (b) require the marking of a product in respect of the risks attaching to it;
  - (c) suspend for a specified period or prohibit the marketing or supply of a product (or suspend or prohibit the marketing and supply of the product without the consent of a specified person);
  - (d) require the withdrawal of a product from the market;
  - (e) require the recall of a product from persons to whom it has been supplied.
- (3) Provision under sub-paragraph (2) may include provision for appeals against a notice.

**Commencement Information**

**I317** Sch. 11 para. 14 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

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### Commencement Information

**I313** Sch. 11 para. 10 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

**I314** Sch. 11 para. 11 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

**I315** Sch. 11 para. 12 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

**I316** Sch. 11 para. 13 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

**I317** Sch. 11 para. 14 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

### Enforcement

- 15 (1) Construction products regulations may make provision for and in relation to—
- (a) monitoring compliance with construction product requirements and investigating suspected non-compliance;
  - (b) securing compliance with construction product requirements;
  - (c) sanctions for—
    - (i) non-compliance or suspected non-compliance with construction product requirements;
    - (ii) obstruction of, failure to assist or co-operate with, or provision of false or misleading information to, persons carrying out construction product functions.
- (2) Provision under [sub-paragraph \(1\)\(a\)](#) may include—
- (a) provision for relevant authorities to carry out, or secure the carrying out of, market surveillance and test purchases;
  - (b) provision for relevant authorities to enter, inspect and search premises and to seize and retain products or evidence of non-compliance with construction product requirements (including provision for the payment of compensation);
  - (c) provision requiring the retention and provision of information (including provision for relevant authorities to require the provision of information to them).
- (3) Provision under [sub-paragraph \(1\)\(b\)](#) may include provision conferring powers on a relevant authority by notice to—
- (a) require a person to warn others of the risks attaching to a product;
  - (b) require the marking of a product in respect of the risks attaching to it;
  - (c) suspend for a specified period or prohibit the marketing or supply of a product (or suspend or prohibit the marketing and supply of the product without the consent of a specified person);
  - (d) require the withdrawal of a product from the market;
  - (e) require the recall of a product from persons to whom it has been supplied;
  - (f) require a person to do or cease to do anything so as to end non-compliance or suspected non-compliance with construction product requirements.
- (4) Provision under [sub-paragraph \(1\)\(b\)](#) may also include—
- (a) provision for—
    - (i) a relevant authority to accept undertakings relating to compliance with construction product requirements instead of taking other enforcement action;

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- (ii) sanctions for non-compliance or suspected non-compliance with such undertakings;
  - (b) provision for the forfeiture of products by court order (or, in Scotland, order of the sheriff).
- (5) Provision under [sub-paragraph \(1\)\(c\)](#) or [\(4\)\(a\)\(ii\)](#) may include—
- (a) provision creating criminal offences;
  - (b) in relation to England and Wales and Northern Ireland, provision for the prosecution by relevant authorities of criminal offences created under [paragraph \(a\)](#);
  - (c) provision conferring powers on relevant authorities to impose civil sanctions (including fines).
- (6) Provision under [sub-paragraph \(1\)\(b\)](#) or [\(c\)](#) or [\(4\)\(a\)\(ii\)](#) may include provision for appeals against anything done by a relevant authority under that provision.
- (7) Provision under [sub-paragraph \(1\)](#) may include any provision—
- (a) which is made by the 2013 Regulations, or
  - (b) which relates to any matter in respect of which provision is made by the 2013 Regulations.

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**Commencement Information**

**I318** Sch. 11 para. 15 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

*Costs*

- 16 (1) Construction products regulations may make provision for a relevant authority to impose charges on a person carrying out activities in relation to construction products, or an authorised representative of such a person, in respect of the exercise of the relevant authority's construction product functions in relation to such a person.
- (2) The regulations may include provision about—
- (a) who is liable to pay a charge;
  - (b) the circumstances in which a charge is payable;
  - (c) the amount of a charge (including how an amount is to be calculated);
  - (d) reductions and exemptions;
  - (e) waivers;
  - (f) how and when a charge is to be paid;
  - (g) the collection and recovery of payments;
  - (h) interest payable on outstanding payments;
  - (i) the resolution of disputes (including appeals).
- (3) Provision under [this paragraph](#) may confer a discretion on the relevant authority.

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**Commencement Information**

**I319** Sch. 11 para. 16 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

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### Information

- 17 (1) Construction products regulations may, in connection with the exercise by relevant authorities of their construction product functions, make provision for and in relation to—
- (a) the provision of information by relevant authorities to—
    - (i) other relevant authorities, or
    - (ii) persons specified, or of a description specified, in construction products regulations;
  - (b) the provision of information to relevant authorities by—
    - (i) persons specified, or of a description specified, in construction products regulations, or
    - (ii) other persons identified by relevant authorities.
- (2) Provision under [sub-paragraph \(1\)](#) may include provision—
- (a) as to the circumstances in which information may or must be provided (which may include circumstances in which the information could not otherwise have been lawfully provided or disclosed);
  - (b) as to how information may or must be provided;
  - (c) as to the uses to which information provided may be put;
  - (d) for the purpose of preventing the further disclosure of information (including provision for the creation of criminal offences);
  - (e) 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.

#### Commencement Information

**I320** Sch. 11 para. 17 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

- 18 (1) Construction products regulations may make provision for and in relation to the publication by relevant authorities of information held by them in connection with their construction product functions.
- (2) Provision under [sub-paragraph \(1\)](#) may include provision as to—
- (a) the circumstances in which information may or must be published (which may include circumstances in which the information could not otherwise have been lawfully published);
  - (b) how, where and in what form information may or must be published.

#### Commencement Information

**I321** Sch. 11 para. 18 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

- 19 (1) Construction products regulations may make provision prohibiting the disclosure of information held by relevant authorities in connection with their construction product functions.
- (2) Provision under [sub-paragraph \(1\)](#) may include provision for the creation of criminal offences.

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#### Commencement Information

**I322** Sch. 11 para. 19 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

#### Commencement Information

**I320** Sch. 11 para. 17 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

**I321** Sch. 11 para. 18 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

**I322** Sch. 11 para. 19 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

#### General and supplementary

- 20 (1) Construction products regulations may make—
- (a) different provision for different purposes;
  - (b) different provision for or in relation to different parts of the United Kingdom;
  - (c) transitional, transitory, consequential and supplementary provision or savings.
- (2) The provision made by [paragraphs 2 to 19](#) does not limit the power conferred by [paragraph 1](#).

#### Commencement Information

**I323** Sch. 11 para. 20 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

- 21 (1) Construction products regulations may make provision by repealing, amending or re-enacting—
- (a) retained EU law (and in particular the 2011 Regulation and the 2013 Regulations);
  - (b) the 2019 and 2020 Regulations;
  - (c) any other enactment other than an Act.
- (2) Construction products regulations may under [paragraph 20\(1\)\(c\)](#) make consequential provision amending section 148 (liability relating to construction products), which may in particular include the omission or amendment of subsection (2)(b) and (c) of that section.

#### Commencement Information

**I324** Sch. 11 para. 21 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

- 22 (1) Where construction products regulations contain provision creating a criminal offence, the provision 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),

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- (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.
- (2) In [sub-paragraph \(1\)\(e\)\(i\)](#), the “relevant period” means—
- (a) in relation to an offence that is triable only summarily—
    - (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.

#### Commencement Information

**I325** Sch. 11 para. 22 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

#### Commencement Information

**I323** Sch. 11 para. 20 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

**I324** Sch. 11 para. 21 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

**I325** Sch. 11 para. 22 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)

#### Procedure

- 23 (1) Construction products regulations are to be made by statutory instrument.
- (2) Construction products regulations which contain provision specified in [sub-paragraph \(3\)](#) (with or without other provision) may not be made unless a draft of the instrument containing them has been laid before, and approved by resolution of, each House of Parliament.
- (3) The provision referred to in [sub-paragraph \(2\)](#) is—
- (a) the first provision to be made under [paragraph 10\(1\)](#) (list of safety-critical products);
  - (b) provision omitting a construction product from the list of safety-critical products under [paragraph 10\(1\)](#);
  - (c) provision creating a criminal offence;
  - <sup>F1</sup>(d) .....

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- (e) provision under paragraph 21(2) (consequential provision relating to liability for construction products).
- (4) A statutory instrument containing construction products regulations to which the requirements specified in sub-paragraph (2) do not apply is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F1** Sch. 11 para. 23(3)(d) omitted (29.6.2023) by virtue of Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(1)(d), Sch. 3 para. 11

#### Commencement Information

**I326** Sch. 11 para. 23 in force at Royal Assent, see s. 170(3)(d)

### Interpretation

24 In this Schedule—

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

“the 2013 Regulations” means the Construction Products Regulations 2013 (S.I. 2013/1387);

“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);

“authorised representative” means a person of a description specified in the regulations who is authorised to act on behalf of a person carrying out an activity in relation to construction products;

“construction product” has the meaning specified in construction products regulations;

“construction product functions”, in relation to a relevant authority, means—

- (a) the authority’s functions under construction products regulations, the 2011 Regulation or the 2019 or 2020 Regulations (including functions relating to the provision or receipt of information), and
- (b) any other functions of the authority relating to construction product requirements;

“construction product requirements” means requirements imposed by or under construction products regulations, the 2011 Regulation or the 2019 or 2020 Regulations;

“construction products regulations” has the meaning given in paragraph 1(2);

“data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“EU harmonised standard” means a harmonised standard adopted at any time by a standardisation body of the European Union;

“international standard” means a standard adopted by an international standardising body (which for these purposes has the same meaning as it



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has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 16 April 1994, as modified from time to time);

“local authority” means—

- (a) a county or district council in England,
- (b) a London borough council,
- (c) the Common Council of the City of London,
- (d) the Council of the Isles of Scilly,
- (e) a county or county borough council in Wales,
- (f) a council constituted under section 2 of the Local Government etc (Scotland) Act 1994, and
- (g) a district council in Northern Ireland;

references to the “marketing” of products are to making them available on the market in the United Kingdom;

“persons carrying out activities in relation to construction products” include (without limitation)—

- (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;

“relevant authority” means—

- (a) the Secretary of State or other Minister of the Crown, and
- (b) a local authority (including, in England, Wales and Scotland, a local authority in its capacity as a local weights and measures authority);

“requirement” includes a prohibition or restriction;

“safety-critical products” has the meaning given in [paragraph 10](#);

“technical assessment” means a documented assessment of the performance of a construction product.

#### **Commencement Information**

**I327** Sch. 11 para. 24 in force at Royal Assent, see [s. 170\(3\)\(d\)](#)



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### Changes and effects yet to be applied to :

- s. 29 applied by [S.I. 2023/907 reg. 8\(6\)](#)
- s. 32(1)(4) coming into force by [S.I. 2023/914 reg. 2\(a\)](#)
- s. 32(3) coming into force by [S.I. 2023/914 reg. 2\(a\)](#)
- s. 33 coming into force by [S.I. 2023/914 reg. 2\(b\)\(i\)](#)
- s. 34 coming into force by [S.I. 2023/914 reg. 2\(b\)\(ii\)](#)
- s. 35 coming into force by [S.I. 2023/914 reg. 2\(b\)\(ii\)](#)
- s. 36 coming into force by [S.I. 2023/914 reg. 2\(b\)\(iii\)](#)
- s. 37 coming into force by [S.I. 2023/914 reg. 2\(b\)\(iv\)](#)
- s. 38 coming into force by [S.I. 2023/914 reg. 2\(b\)\(v\)](#)
- s. 39 coming into force by [S.I. 2023/914 reg. 2\(b\)\(vi\)](#)
- s. 41 coming into force by [S.I. 2023/914 reg. 2\(b\)\(vii\)](#)
- s. 42 coming into force by [S.I. 2023/914 reg. 2\(b\)\(viii\)](#)
- s. 42 coming into force by [S.I. 2023/914 reg. 4\(a\)](#)
- s. 42 coming into force by [S.I. 2023/914 reg. 4\(b\)](#)
- s. 44 coming into force by [S.I. 2023/914 reg. 2\(b\)\(ix\)](#)
- s. 46 coming into force by [S.I. 2023/914 reg. 2\(b\)\(x\)](#)
- s. 47 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xi\)](#)
- s. 49 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xii\)](#)
- s. 50 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xii\)](#)
- s. 51 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xii\)](#)
- s. 52 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xii\)](#)
- s. 56 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiv\)](#)
- s. 57 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xvi\)](#)
- s. 156(1)-(3)(5)-(11) coming into force by [S.I. 2023/362 reg. 4](#)
- s. 156(1)-(3)(5)-(7)(9)-(11) coming into force by [S.I. 2023/914 reg. 3](#)
- s. 156(8) coming into force by [S.I. 2023/914 reg. 3](#)
- Sch. 5 para. 2 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 1](#)
- Sch. 5 para. 3 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 2](#)
- Sch. 5 para. 4(1)(2) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 3](#)
- Sch. 5 para. 5(1)(2) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 4](#)
- Sch. 5 para. 6 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 5](#)
- Sch. 5 para. 9 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 6](#)
- Sch. 5 para. 10 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 7](#)
- Sch. 5 para. 11(1)(2)(3) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 8](#)
- Sch. 5 para. 12(1)(2) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 9](#)
- Sch. 5 para. 13(1)(2)(5)(6) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 10](#)
- Sch. 5 para. 14(1)(2)para. 14(3)(b)para. 14(4)(b) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 11](#)
- Sch. 5 para. 15(1)-(5)(9) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 12](#)
- Sch. 5 para. 16 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 13](#)
- Sch. 5 para. 17 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 14](#)
- Sch. 5 para. 22(1)(8) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 15](#)
- Sch. 5 para. 40(1)(3) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 16](#)
- Sch. 5 para. 42(1)(3) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 17](#)
- Sch. 5 para. 46(1)(2) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 18](#)
- Sch. 5 para. 50 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 19](#)
- Sch. 5 para. 51 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 20](#)
- Sch. 5 para. 53 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)Sch. para. 21](#)

- Sch. 5 para. 55(1)para. 55(4)(a)(6) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)](#)[Sch. para. 22](#)
- Sch. 5 para. 57(1)(3) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)](#)[Sch. para. 23](#)
- Sch. 5 para. 67 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)](#)[Sch. para. 24](#)
- Sch. 5 para. 71 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)](#)[Sch. para. 25](#)
- Sch. 5 para. 74(1)(2) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)](#)[Sch. para. 26](#)
- Sch. 5 para. 75 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)](#)[Sch. para. 27](#)
- Sch. 5 para. 76(1)(3) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)](#)[Sch. para. 28](#)
- Sch. 5 para. 80 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)](#)[Sch. para. 29](#)
- Sch. 5 para. 81(2) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)](#)[Sch. para. 30](#)
- Sch. 5 para. 82 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)](#)[Sch. para. 31](#)
- Sch. 5 para. 83(1)(2)(7)(8)(9) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)](#)[Sch. para. 32](#)
- Sch. 5 para. 83(3) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)](#)[Sch. para. 32](#)
- Sch. 5 para. 84(1)(3) coming into force by [S.I. 2023/914 reg. 2\(b\)\(xiii\)](#)[Sch. para. 33](#)
- Sch. 6 para. 30 coming into force by [S.I. 2023/914 reg. 2\(b\)\(xv\)](#)