
STATUTORY INSTRUMENTS

2022 No. 711

**BUILDING AND BUILDINGS, ENGLAND
LANDLORD AND TENANT, ENGLAND**

**The Building Safety (Leaseholder
Protections) (England) Regulations 2022**

<i>Made</i>	- - - -	<i>28th June 2022</i>
<i>Laid before Parliament</i>		<i>29th June 2022</i>
<i>Coming into force</i>	- -	<i>20th July 2022</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 117(3)(c), 121(12), 124(6) and 132(1) of, and paragraphs 3(4)(b) and (6)(c), 6(6) and (7), 10(4), 14(1) and (2) and 16 of Schedule 8 to, the Building Safety Act 2022⁽¹⁾.

Citation, commencement, extent and application, and interpretation **E+W**

1.—(1) These Regulations may be cited as the Building Safety (Leaseholder Protections) (England) Regulations 2022 and come into force on 20th July 2022.

(2) These Regulations extend to England and Wales and apply in England only.

(3) In these Regulations—

“the Act” means the Building Safety Act 2022;

[^{F1}“current landlord” means a person who is the landlord under a lease of premises in a relevant building;]

[^{F2}“landlord group” has the meaning given in paragraph 3(4) of Schedule 8 to the Act;]

“leaseholder” means a tenant under a lease of a dwelling in a building;

[^{F3}“named manager” means, in relation to a building, a person who is named in a lease as being the party with managing and repairing obligations in relation to the building or part of the building and who is a separate legal person from the freeholder of the building and the landlord of the building or part of the building;]

“remediation service charge” means a service charge⁽²⁾ which includes a charge in respect of a relevant measure⁽³⁾ relating to any relevant defect⁽⁴⁾;

⁽¹⁾ 2022 c. 30. See paragraph 1(1) for the definition of “prescribed”.

⁽²⁾ See (by virtue of paragraph 1 of Schedule 8 to the Act) the meaning of “service charge” given by section 18 of the Landlord and Tenant Act 1985 (c. 70).

[^{F4}“RMC” means a body corporate which is party to a lease of a building where—

- (a) the body corporate is limited by guarantee and the members of that body are tenants under leases of dwellings in the building (“leaseholders”), or
- (b) the majority of the shares of the body corporate are held by leaseholders; and]

“RTM company” has the same meaning as in the Commonhold and Leasehold Reform Act 2002(**5**).

Textual Amendments

- F1** Words in [reg. 1\(3\)](#) substituted (5.8.2023) by [The Building Safety \(Leaseholder Protections etc.\) \(England\) \(Amendment\) Regulations 2023 \(S.I. 2023/895\)](#), regs. 1(1), **10(a)**
- F2** Words in [reg. 1\(3\)](#) inserted (5.8.2023) by [The Building Safety \(Leaseholder Protections etc.\) \(England\) \(Amendment\) Regulations 2023 \(S.I. 2023/895\)](#), regs. 1(1), **10(b)**
- F3** Words in [reg. 1\(3\)](#) inserted (5.8.2023) by [The Building Safety \(Leaseholder Protections etc.\) \(England\) \(Amendment\) Regulations 2023 \(S.I. 2023/895\)](#), regs. 1(1), **10(c)**
- F4** Words in [reg. 1\(3\)](#) substituted (5.8.2023) by [The Building Safety \(Leaseholder Protections etc.\) \(England\) \(Amendment\) Regulations 2023 \(S.I. 2023/895\)](#), regs. 1(1), **10(d)**
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Commencement Information

- I1** Reg. 1 in force at 20.7.2022, see [reg. 1\(1\)](#)

Buildings which are not relevant buildings: leaseholder owned buildings **E+W**

2. For the purposes of section 117(3)(c) of the Act the freehold estate in the building or part of the building is leaseholder owned where—

- (a) the freehold estate is solely owned by tenants in the building, whether through a corporate structure or otherwise; and
- (b) paragraphs (a), (b) and (d) of section 117(3) of the Act do not apply in relation to the building.

Commencement Information

- I2** Reg. 2 in force at 20.7.2022, see [reg. 1\(1\)](#)

Modification of section 121(2) to (5) of the Act for certain associated persons **E+W**

3.—(1) In the definition of “the landlord group” in paragraph 3(4)(a) of Schedule 8 to the Act, the reference to a person associated with the relevant landlord is modified in accordance with paragraph (2).

(2) For the purposes of paragraph 3 of Schedule 8 to the Act, a person is not to be considered associated with the relevant landlord where they would only be associated by virtue of section [^{F5}121(4) or (5)(a)] of the Act.

(3) See paragraph 1 of Schedule 8 to the Act for the definition of “relevant measure”.

(4) See section 120 of the Act for the definition of “relevant defect”.

(5) [2002 c. 15](#). See sections 71 to 74.

Textual Amendments

- F5** Words in [reg. 3\(2\)](#) substituted (9.2.2023) by [The Building Safety \(Leaseholder Protections\) \(England\) \(Amendment\) Regulations 2023 \(S.I. 2023/126\)](#), [regs. 1\(1\), 2\(2\)](#)

Commencement Information

- I3** Reg. 3 in force at 20.7.2022, see [reg. 1\(1\)](#)

Application of section 124 of the Act (remediation contribution orders) to other buildings **E** **+W**

4.—(1) Section 124 of the Act applies in relation to a building that would, but for section 117(3) of the Act, be a relevant building⁽⁶⁾, with the modifications set out in paragraphs (2) and (3).

(2) The following may not be specified as a body corporate or partnership for the purposes of section 124(3) —

- (a) a landlord under a lease of the relevant building or any part of it where that landlord is a company owned in part or in full by a majority of residential leaseholders of the building;
- (b) a person who was such a landlord at the qualifying time; or
- (c) a commonhold association, within the meaning of section 34 of the Commonhold and Leasehold Reform Act 2002.

(3) Section 124(5) applies as if, in the definition of “interested person”, after sub-paragraph (d) there were inserted—

- “(da) a special measures manager, within the meaning of paragraph 4(2) of Schedule 7;”.

Commencement Information

- I4** Reg. 4 in force at 20.7.2022, see [reg. 1\(1\)](#)

Determination of net worth of landlord group **E+W**

5.—(1) For the purposes of paragraph 3 of Schedule 8 to the Act, the net worth of the landlord group at the qualifying time is determined in accordance with this regulation.

(2) Where the relevant landlord⁽⁷⁾ is a private or public limited company⁽⁸⁾ the net worth is calculated according to the following formula—

Net Worth = Total Assets – Total Liabilities – Intangible Assets

(3) In determining net worth of a landlord group⁽⁹⁾ in accordance with paragraph (2)—

- (a) the “total assets”, “total liabilities” and “intangible assets” of the relevant landlord and landlord group are to be determined from the most recent audited or filed accounts for that group audited or filed after 14 February 2017 but before 14 February 2022;
- (b) subject to paragraph (3)(c) below, a copy of the accounts as set out in paragraph (3)(a) above must be provided to the leaseholder under regulation 6(5)(b);

⁽⁶⁾ See section 117(2) of the Act for the definition of “relevant building”.

⁽⁷⁾ See paragraph 3 of Schedule 8 to the Act for the definition of “relevant landlord” in relation to meeting the contribution condition

⁽⁸⁾ See Part 1 (sections 3 and 4) of the Companies Act 2006 for definitions of “private”, “public”, and “limited” companies.

⁽⁹⁾ See paragraph 3(4)(a) for the definition of “the landlord group”.

- (c) where audited accounts are not available, the landlord may produce as evidence for the landlord's certificate according to regulation 6 the accounts which have most recently been filed at the relevant companies' registry for the country in which the company is registered;
 - (d) where the accounts referred to in this paragraph are not prepared in pounds sterling, the value of any asset or liabilities must be converted using the Bank of England daily spot rate for the respective currency on 14 February 2022;
- (4) Where the relevant landlord itself comprises more than one person—
- (i) Those persons jointly shall be the relevant landlord;
 - (ii) The total net worth of the relevant landlord should be taken as the sum of the net worth of each person and their associates; and
 - (iii) The number of relevant buildings⁽¹⁰⁾ is the total number of relevant buildings owned either leasehold or freehold by each person and their associates.
- (5) Where the relevant landlord is an individual, the net worth is calculated according to the following formula—
- Net worth = Assets - Liabilities
- (6) In determining the net worth of a landlord group in accordance with paragraph (5), the “assets” and “liabilities” of a landlord includes those of the landlord's spouse or civil partner at the qualifying time⁽¹¹⁾.

Commencement Information

I5 Reg. 5 in force at 20.7.2022, see [reg. 1\(1\)](#)

Landlord's certificate E+W

- 6.—(1) A current landlord must provide a certificate (a “landlord's certificate”) to a leaseholder in each of the following circumstances—
- (a) when the current landlord makes a demand to a leaseholder for the payment of a remediation service charge;
 - (b) within four weeks of receipt of notification from the leaseholder that the leasehold interest is to be sold;
 - (c) within four weeks of becoming aware (either themselves or by notification from another person) of a relevant defect not covered by a previous landlord's certificate; or
 - (d) within four weeks of being requested to do so by the leaseholder.
 - [^{F6}(e) within four weeks of becoming aware of a new leaseholder deed of certificate (as defined in regulation 6 of the Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022) which is in relation to a lease of a dwelling in the building of which the current landlord is the landlord and which contained information that was not included in a previous landlord's certificate.]
- (2) The landlord's certificate under paragraph (1) must—
- (a) be in the form set out in Schedule 1,
 - (b) confirm whether or not the relevant landlord (as defined in paragraph 3(1) to Schedule 8 of the Act) met the contribution condition under paragraph 3 of that Schedule,

⁽¹⁰⁾ See section 117 of the Act for the definition of “relevant building”.

⁽¹¹⁾ See section 119(2)(d) for the definition of “the qualifying time”.

- (c) confirm whether or not the relevant landlord (as defined in paragraph 2(4) to Schedule 8 of the Act), met the condition in paragraph 2(2) of that Schedule 8 and was responsible for⁽¹²⁾ the relevant defect or was associated with a person responsible for a relevant defect,
- (d) contain the information referred to in paragraph (3),
- (e) be accompanied by the evidence set out in paragraph (4),
- (f) be signed by the person who is the current landlord on the date the certificate is completed.

^{F7}(2A) But the requirement in paragraph (2) that the landlord's certificate contain the information referred to in paragraph (3) and be accompanied by the evidence set out in paragraph (4) is modified as set out in paragraphs (2B) to (2G).

(2B) Where the landlord's certificate confirms that—

- (a) either the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) met the contribution condition under paragraph 3 of that Schedule or the leaseholder's lease is not a qualifying lease as defined in section 119 of the Act, and
- (b) the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act)—
 - (i) met the condition in paragraph 2(2) of that Schedule, or
 - (ii) did not believe at the time of completing the certificate that there was a relevant defect,

it does not have to contain the information referred to in paragraph (3) nor be accompanied by the evidence set out in paragraph (4).

(2C) Where the landlord's certificate confirms that—

- (a) the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act)—
 - (i) met the condition in paragraph 2(2) of that Schedule, or
 - (ii) did not believe at the time of completing the certificate that there was a relevant defect, and
- (b) the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) did not meet the contribution condition under paragraph 3 of that Schedule,

it does not have to contain the information referred to in paragraphs (3)(a) and (b) nor be accompanied by the evidence set out in paragraph (4)(d).

(2D) Where the landlord's certificate confirms that—

- (a) the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act) did not meet the condition in paragraph 2(2) of that Schedule, and
- (b) either the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) met the contribution condition under paragraph 3 of that Schedule, or the leaseholder's lease is not a qualifying lease as defined in section 119 of the Act,

it does not have to contain the information referred to in paragraphs (3)(a) and (c) nor be accompanied by the evidence set out in paragraphs (4)(a), (b), (e) and (f).

(2E) Where the landlord's certificate confirms that—

- (a) the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act) did not meet the condition in paragraph 2(2) of that Schedule, and
- (b) the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) is exempt from the contribution condition under paragraph 3(6) of that Schedule,

it does not have to contain the information referred to in paragraph (3)(c) nor be accompanied by the evidence set out in paragraphs (4)(a) and (b).

⁽¹²⁾ See paragraph 2(3) of Schedule 8 to the Act for the definition of "responsible for".

(2F) Where the landlord's certificate confirms that—

- (a) the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act)—
 - (i) met the condition in paragraph 2(2) of that Schedule, or
 - (ii) did not believe at the time of completing the certificate that there was a relevant defect, and
- (b) the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) is exempt from the contribution condition under paragraph 3(6) of that Schedule,

it does not have to contain the information referred to in paragraph (3) nor be accompanied by the evidence set out in paragraphs (4)(a), (b) and (d).

(2G) Where the landlord's certificate confirms that—

- (a) the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act) did not meet the condition in paragraph 2(2) of that Schedule,
- (b) the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) did not meet the contribution condition under paragraph 3 of that Schedule, and
- (c) the value of the qualifying lease on 14th February 2022 was below £325,000 in Greater London or £175,000 elsewhere in England,

it does not have to be accompanied by the evidence set out in paragraphs (4)(e) and (f).]

[^{F8}(3) The information is—

- (a) the percentage of the storeys in the relevant building for which each relevant landlord was the landlord at the qualifying time;
- (b) in relation to the condition in paragraph 2 of Schedule 8 to the Act, where a relevant landlord was part of a landlord group at the qualifying time, details of the corporate structure of the relevant landlord and any person associated with the relevant landlord and including—
 - (i) the names of all the directors of each company in that group and directors of each corporate trustee, including in each case nominee and shadow directors or any person occupying the position of director by whatever name called;
 - (ii) the name of any other person or persons who has the right to exercise or does exercise significant control or influence directly or indirectly over the group;
 - (iii) details of the type of trust if any, the law to which it is subject and where it is tax resident; and
 - (iv) in relation to trusts with an interest in the shares of any company comprised in the group, details of the economic settlor, the named beneficiaries or class of beneficiaries and protector and any other person who has the right to exercise or does exercise significant influence or control directly or indirectly over the trust;
- (c) in relation to the condition in paragraph 3 of Schedule 8 to the Act, where the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) was part of a landlord group at the qualifying time—
 - (i) details of the corporate structure of the group, setting out—
 - (aa) the companies which make up the landlord group,
 - (bb) the beneficial owner of each company in the group, and
 - (cc) if the beneficial owner of the group or any company comprised in the group is, or includes, a trust foundation or arrangement of a similar character, details of the trust and the trustees;

- (ii) the name of any other person who has the right to exercise or does exercise significant control or influence directly or indirectly over the group;
 - (iii) details of the type of trust if any, the law to which it is subject and where it is tax resident; and
 - (iv) in relation to trusts with an interest in the shares of any company comprised in the group—
 - (aa) details of the economic settlor;
 - (bb) the named beneficiaries or class of beneficiaries and protector, and
 - (cc) any other person who has the right to exercise or does exercise significant influence or control directly or indirectly over the trust.]
- (4) The landlord certificate must be accompanied by—
- (a) the set of company accounts for the relevant landlord (in accordance with regulation 5) and, where the relevant landlord is part of a landlord group, for each company in the landlord group;
 - (b) a statement from a chartered accountant or finance director of the landlord company—
 - (i) setting out the net worth of the relevant landlord and, where the relevant landlord is part of a landlord group, of each company in the landlord group;
 - (ii) confirming the net worth is calculated in accordance with regulation 5 and paragraph 3 of Schedule 8 to the Act (the “net worth calculation”);
 - (iii) confirming the net worth calculations accurately represents the net worth of the relevant landlord (and, where the relevant landlord is part of a landlord group, of each of the companies in the landlord group);
 - (c) documents or receipts that demonstrate that the relevant building was constructed or converted before the relevant period⁽¹³⁾ and details of any relevant works⁽¹⁴⁾ which were carried out in the relevant period;
 - (d) evidence (where applicable) that—
 - (i) the person who undertook works relating to the relevant defect or commissioned those works was not the relevant landlord and was not associated with the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act) together with confirmation of the identity of the person who did undertake such works, and
 - (ii) where those works were commissioned or undertaken by a joint venture, proof the relevant landlord was not party to that joint venture, together with details of the persons who were parties to the joint venture;
 - (e) details of any relevant defects and [^{F9}any relevant measures (as defined in paragraph 1 of Schedule 8 to the Act) taken in relation to those relevant defects since 28th June 2017]; and
 - (f) details of any costs paid or due to be paid in relation to [^{F10}any relevant measures taken in relation to] any relevant defects in the relevant building since 28 June 2017, including—
 - (i) the total sum of any such costs;
 - (ii) details of the number of flats between which the costs should be divided; and
 - (iii) the leaseholder’s maximum remaining liability.

⁽¹³⁾ See section 120(3) of the Act for the definition of “relevant period”.

⁽¹⁴⁾ See section 120(3) of the Act for the definition of “relevant works”.

(5) In paragraph (4)(f)(iii), the “leaseholder’s maximum remaining liability” is the maximum capped amount payable by the leaseholder in respect of a relevant measure⁽¹⁵⁾ deducting any payments made by the leaseholder in respect of any relevant measure since 28 June 2017.

(6) Where the current landlord is unable to provide any of the information required for the landlord’s certificate in paragraphs (3) and (4) the current landlord must apply to other persons who are relevant landlords requesting the information in accordance with regulation 7 which those persons must provide within 3 weeks of having been asked.

(7) ^[F11]If a current landlord] does not provide a certificate which complies with this regulation in the form outlined in ^[F12]Schedule 1] to the leaseholder, the condition in paragraph 2(2) of Schedule 8 to the Act is to be treated as met in accordance with paragraph 14(2) of Schedule 8 to the Act.

(8) In this regulation, “relevant landlord”—

- (a) in paragraphs (2)(b) ^[F13], (2B)(a), (2C)(b), (2D)(b), (2E)(b), (2F)(b), (2G)(b), (3)(c)] and (4)(a) and (b), has the meaning given in paragraph 3(1) of Schedule 8 to the Act;
- (b) otherwise, has the meaning given in paragraph 2(4) of Schedule 8 to the Act.

^[F14](9) Where a current landlord has provided a landlord’s certificate to a leaseholder they must provide a copy of that certificate to any other landlords of premises in the building, the RMC, RTM company or named manager within one week of providing the certificate to the leaseholder.

(10) Where a current landlord fails to comply with the requirement in paragraph (9) the costs of a relevant measure relating to a relevant defect in the building to which the certificate relates are prescribed costs under paragraph 16(4) of Schedule 8 to the Act and so 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 of premises in that building and must not be met from a relevant reserve fund as defined in paragraph 10 of Schedule 8 to the Act.]

Textual Amendments

- F6** Reg. 6(1)(e) inserted (5.8.2023) by [The Building Safety \(Leaseholder Protections etc.\) \(England\) \(Amendment\) Regulations 2023 \(S.I. 2023/895\)](#), regs. 1(1), **11(2)**
- F7** Reg. 6(2A)-(2G) inserted (5.8.2023) by [The Building Safety \(Leaseholder Protections etc.\) \(England\) \(Amendment\) Regulations 2023 \(S.I. 2023/895\)](#), regs. 1(1), **11(3)**
- F8** Reg. 6(3) substituted (5.8.2023) by [The Building Safety \(Leaseholder Protections etc.\) \(England\) \(Amendment\) Regulations 2023 \(S.I. 2023/895\)](#), regs. 1(1), **11(4)**
- F9** Words in reg. 6(4)(e) substituted (5.8.2023) by [The Building Safety \(Leaseholder Protections etc.\) \(England\) \(Amendment\) Regulations 2023 \(S.I. 2023/895\)](#), regs. 1(1), **11(5)(a)**
- F10** Words in reg. 6(4)(f) substituted (5.8.2023) by [The Building Safety \(Leaseholder Protections etc.\) \(England\) \(Amendment\) Regulations 2023 \(S.I. 2023/895\)](#), regs. 1(1), **11(5)(b)**
- F11** Words in reg. 6(7) substituted (5.8.2023) by [The Building Safety \(Leaseholder Protections etc.\) \(England\) \(Amendment\) Regulations 2023 \(S.I. 2023/895\)](#), regs. 1(1), **11(6)(a)**
- F12** Words in reg. 6(7) substituted (5.8.2023) by [The Building Safety \(Leaseholder Protections etc.\) \(England\) \(Amendment\) Regulations 2023 \(S.I. 2023/895\)](#), regs. 1(1), **11(6)(b)**
- F13** Words in reg. 6(8)(a) inserted (5.8.2023) by [The Building Safety \(Leaseholder Protections etc.\) \(England\) \(Amendment\) Regulations 2023 \(S.I. 2023/895\)](#), regs. 1(1), **11(7)**
- F14** Reg. 6(9)(10) inserted (5.8.2023) by [The Building Safety \(Leaseholder Protections etc.\) \(England\) \(Amendment\) Regulations 2023 \(S.I. 2023/895\)](#), regs. 1(1), **11(8)**

Commencement Information

- I6** Reg. 6 in force at 20.7.2022, see [reg. 1\(1\)](#)

(15) See paragraph 1 of Schedule 8 to the Act for the definition of “relevant measure”.

Landlord's certificate to other landlords in the building **E+W**

7. A relevant landlord within the meaning of paragraph 2(4) of Schedule 8 to the Act must, within 3 weeks of a request from the current landlord, provide the current landlord with the following information—

- (a) the percentage of the storeys in the relevant building for which they were the relevant landlord at the qualifying time;
- (b) where the relevant landlord was part of a landlord group at the qualifying time, details of the corporate structure of that landlord's group⁽¹⁶⁾ and including—
 - (i) the names of all the directors of each company in that group and directors of each corporate trustee, including in each case nominee and shadow directors or any person occupying the position of director by whatever name called;
 - (ii) the name of any other person or persons who has the right to exercise or does exercise significant control or influence directly or indirectly over the group;
 - (iii) details of the type of trust if any, the law to which it is subject and where it is tax resident; and
 - (iv) in relation to trusts with an interest in the shares of any company comprised in the group, details of the economic settlor, the named beneficiaries or class of beneficiaries and protector and any other person who has the right to exercise or does exercise significant influence or control directly or indirectly over the trust.

Commencement Information

17 Reg. 7 in force at 20.7.2022, see [reg. 1\(1\)](#)

Disapplication of paragraph 3 of Schedule 8 to the Act **E+W**

8. The following persons are prescribed for the purposes of paragraph 3(6)(c) of Schedule 8 to the Act—

- (a) government departments and any arm's length bodies;
- (b) the Crown;
- (c) NHS Foundation trusts.

Commencement Information

18 Reg. 8 in force at 20.7.2022, see [reg. 1\(1\)](#)

Determination of the value of a qualifying lease **E+W**

9.—(1) Subject to paragraph (2), for the purposes of paragraph 4 and/or paragraph 6(6) of Schedule 8 to the Act the value of a qualifying lease is—

- (a) where the leasehold interest of the dwelling ("D") to which the qualifying lease relates was most recently disposed of after 31 December 2020, the price paid at completion (in pounds sterling to the nearest pound) for that leasehold interest;
- (b) where the most recent disposal of D took place on the open market on or before 31 December 2020, to be determined by applying the following formula—

⁽¹⁶⁾ See paragraph 3(4) for the definition of "the landlord group".

$$V_y \times M_y$$

where—

V_y is the price paid at completion (in pounds sterling to the nearest pound) for D;

M_y is the multiplier for the year in which that disposal took place, as set out in the table in Schedule 2.

(2) Where it is not possible to identify the price paid on completion of the most recent disposal of D then the value of the qualifying leasehold interest is to be treated as equal to the value of the substitute qualifying lease.

(3) In this regulation—

- (a) “substitute qualifying lease” means a qualifying lease of the most recently disposed of dwelling in the same building, ignoring any dwellings which had an internal floorspace which is more than 15% larger or 15% smaller than D; and
- (b) any reference to a disposal means a disposal on the open market.

Commencement Information

I9 Reg. 9 in force at 20.7.2022, see [reg. 1\(1\)](#)

Application of service charge restrictions to non-residential leases **E+W**

10.—(1) The reference in paragraph 2 of Schedule 8 to the Act which states that no service charge is payable under a ^{F15}... lease in a relevant building in respect of a relevant measure relating to a relevant defect is modified in accordance with [^{F16}paragraph (2)].

(2) For the purposes of paragraph 2 of Schedule 8 to the Act—

- (a) no service charge is payable under a non-residential lease in a relevant building where the conditions set out in paragraph 2(2) of the Act are met; and
- (b) the reference in paragraph 10(2) of Schedule 8 to the Act applies to non-residential leases.

Textual Amendments

F15 Word in [reg. 10\(1\)](#) omitted (5.8.2023) by virtue of [The Building Safety \(Leaseholder Protections etc.\) \(England\) \(Amendment\) Regulations 2023 \(S.I. 2023/895\)](#), regs. 1(1), **12(a)**

F16 Words in [reg. 10\(1\)](#) substituted (5.8.2023) by [The Building Safety \(Leaseholder Protections etc.\) \(England\) \(Amendment\) Regulations 2023 \(S.I. 2023/895\)](#), regs. 1(1), **12(b)**

Commencement Information

I10 Reg. 10 in force at 20.7.2022, see [reg. 1\(1\)](#)

Application to First-tier Tribunal **E+W**

11.—(1) This regulation applies where a leaseholder or relevant landlord (the “applicant”) wishes to apply to the First-tier Tribunal for an order under paragraph 16(5) of Schedule 8 to the Act.

(2) The applicant can make an application under paragraph (1) above where—

- (a) the applicant believes that a relevant landlord has made a false claim in the landlord’s certificate provided under regulation 6, including but not limited to—

- (i) stating that the relevant landlord is not the developer⁽¹⁷⁾ of the relevant building or is not associated with the developer; or
 - (ii) stating the relevant landlord does not meet the contribution condition;
 - (b) the relevant landlord or current landlord has not given the leaseholder sufficient time⁽¹⁸⁾ to provide information to prove they have a qualifying lease⁽¹⁹⁾.
- (3) In this regulation, “relevant landlord” has the meaning given in paragraph 16(8) of Schedule 8 to the Act.

Commencement Information

I11 Reg. 11 in force at 20.7.2022, see [reg. 1\(1\)](#)

Persons entitled to apply to the High Court for an information order in connection with a building liability order **E+W**

12. For the purposes of section 132 of the Act, any person making, or intending to make, an application for a building liability order under section 130 of the Act may apply to the High Court for an information order.

Commencement Information

I12 Reg. 12 in force at 20.7.2022, see [reg. 1\(1\)](#)

Review **E+W**

- 13.—**(1) The Secretary of State must from time to time—
- (a) carry out a review of the regulatory provision contained in these Regulations, and
 - (b) publish a report settling out the conclusions of the review.
- (2) The first report must be published before the end of the period of five years beginning with the date on which these Regulations come into force.
- (3) Subsequent reports must be published at intervals not exceeding five years.
- (4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015⁽²⁰⁾ requires that a report published under this regulation must, in particular—
- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),
 - (b) assess the extent to which those objectives are achieved,
 - (c) assess whether those objectives remain appropriate, and
 - (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involved less onerous regulatory provision.

⁽¹⁷⁾ See paragraph 2(4) of Schedule 8 to the Act for the definition of “developer”.

⁽¹⁸⁾ See The Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022.

⁽¹⁹⁾ See section 119 of the Act for the definition of “qualifying lease”.

⁽²⁰⁾ 2015 c.26. Section 30(3) was amended by section 19 of the Enterprise Act 2016 (c. 12), and paragraph 36 of Schedule 8 to the European Union (Withdrawal) Act 2018 (c. 16).

Changes to legislation: There are currently no known outstanding effects for the The Building Safety (Leaseholder Protections) (England) Regulations 2022. (See end of Document for details)

.....

Commencement Information

I13 Reg. 13 in force at 20.7.2022, see [reg. 1\(1\)](#)

Signed by the authority of the Secretary of State for Levelling Up, Housing and Communities

28th June 2022

Greenhalgh
Minister for Building Safety and Fire
Department for Levelling Up, Housing and
Communities

Textual Amendments

F17 Sch. 1 substituted (5.8.2023) by The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (S.I. 2023/895), reg. 1(1), Sch.

Building Safety Act 2022

Landlord's certificate

This certificate relates to the lease of:
[insert name and address of the relevant building]

The lease was granted on:
[insert date lease was granted]

The dwelling to which this lease relates is:
[insert name or number of the dwelling to which the lease relates]

Name and address of the relevant landlord under the lease:
[insert name and address of the landlord under the lease on 14th February 2022]

Name and address of the current landlord under the lease:
[insert name and address of the current landlord under the lease]

Name and address of any superior relevant landlords under the lease:

1.
2.
3.
4.
5.

[insert name and address of any superior landlords under the lease at the beginning of 14th February 2022]

Changes to legislation: There are currently no known outstanding effects for the The Building Safety (Leaseholder Protections) (England) Regulations 2022. (See end of Document for details)

IMPORTANT NOTE: Answers to the questions below are needed to confirm whether or not any of the relevant landlords under the lease are responsible for historical safety defects under the Building Safety Act 2022 and, if so, to what extent.

Failure to return a completed, signed copy of this certificate, along with the evidence from any superior landlords under this lease, to the leaseholder will result in you being held responsible for all historical safety defects under the lease to which this certificate relates.

In answering the questions below you must provide information about the property as at 14th February 2022, not the current date.

If you were not the landlord of the property on 14th February 2022 it is still you who are responsible for completing, signing and returning this certificate, but you may need to seek the answers to the questions below from someone else e.g. the person who was the landlord on that date.

Questions as to developer criteria

The relevant defect to which the below statement applies is
[insert name of relevant defect to which the statement applies; where the landlord certificate is required but no relevant defect has been identified, please answer "N/A" and place an X in box 4 below]

1. On 14th February 2022 the landlord under the lease was responsible for the relevant defect or associated with a person responsible for a relevant defect. (The definition of 'responsible' is set out in paragraph 2(3) of Schedule 8 to the Building Safety Act 2022.)

2. On 14th February 2022 at least one superior landlord was responsible for the relevant defect or was associated with a person responsible for a relevant defect.

The superior landlords responsible for the defect are
.....
[insert name of relevant landlords to which the statement applies]

3. On 14th February 2022, the landlord under the lease and all superior landlords were not responsible for the relevant defect or associated with a person responsible for a relevant defect.

4. No relevant defect that requires remediation was identified at the point this certificate was produced.

[place an X in the box next to the ONE statement which applies]

Questions as to qualifying lease

1. The leaseholder has not provided a leaseholder deed of certificate at the point this certificate was issued. They are assumed not to qualify for the qualifying lease protections until they demonstrate otherwise.

2. The leaseholder has provided a leaseholder deed of certificate, but does not qualify for the qualifying lease protections.

Changes to legislation: There are currently no known outstanding effects for the The Building Safety (Leaseholder Protections) (England) Regulations 2022. (See end of Document for details)

3. The leaseholder has provided a leaseholder deed of certificate demonstrating that they qualify for the leaseholder protections.

[place an X in the box next to the ONE statement which applies in relation to the leaseholder]

Questions as to group net worth criteria

Please note: You are only required to complete this section where the lease is a qualifying lease.

At the beginning of 14th February 2022 the net worth of the landlord under the lease listed above and all the companies (if any) within the landlord group(d) of that landlord was £..... *[insert net worth of the landlord group]* and the number of relevant buildings for that landlord and its group on that date (N) was *[insert number of relevant buildings for the landlord group]*

1. The net worth of the landlord group was less than N x £2,000,000

2. The net worth of the landlord group was equal to or more than N x £2,000,000

3. The landlord is exempt from the net worth assessment as it is a private registered provider of social housing, a local authority, a government department, an arm's length body, an NHS Foundation Trust or the Crown. The landlord is: *[specify category]*

[place an X in the box next to the ONE statement which applies in relation to the landlord group]

Determination of the value of a qualifying lease

Please note: You are only required to complete this section where both of the following criteria apply:

- you do not meet the contribution condition; and
- the lease is a qualifying lease.

On 14th February 2022 the value of the qualifying lease listed above was £..... *[insert value of the lease on 14th February 2022, calculated in accordance with SI 2022/859]*

Work undertaken on relevant defects

Please note: You are only required to complete this section where all of the following criteria apply:

- you do not meet the contribution condition;
- the lease is a qualifying lease; and
- the value of the lease on 14th February 2022 was more than £175,000 (£325,000 in Greater London).

Changes to legislation: There are currently no known outstanding effects for the The Building Safety (Leaseholder Protections) (England) Regulations 2022. (See end of Document for details)

The following relevant measures relating to relevant defects have been carried out to the relevant building since 28 June 2017:

Date completed	Work undertaken	Total cost of works for building	Number of flats for between which costs should be divided	This lease's share of costs

Total amount paid for this lease since 28 June 2017: £..... [sum of this property's share of costs to date in the table above]

Based on the information provided in this certificate and the information provided by the leaseholder in the deed of certificate, the maximum liability for relevant measures relating to relevant defects for this qualifying lease for non-cladding defects and interim measure costs is £..... [calculate liability for the qualifying lease based on property value, shared ownership status and works already undertaken in accordance with the Building Safety Act 2022]

Evidence

The following documents form part of this landlord certificate

[place an X in the box next to each document provided, fill in additional details if required]

<p>Accompanying documents required under Regulation 6</p>
<p>A copy of each document listed below is required in accordance with regulation 6, except where one of the following applies:</p> <ol style="list-style-type: none"> 1. Where you (the current landlord) or a superior landlord met the developer test or there is no known defect at the time of completing this certificate <u>and</u> you met the contribution condition or the lease is not a qualifying lease, you <u>do not</u> need to provide information and evidence under regulation 6(3) and (4). <input type="checkbox"/> 2. Where you or a superior landlord met the developer test or there is no known defect at the time of completing this certificate <u>and</u> you did not meet the contribution condition, you <u>do not</u> need to provide information and evidence under regulation 6(3)(a) and (b), and (4)(d). <input type="checkbox"/> 3. Where you or a superior landlord did not meet the developer test <u>and</u> you met the contribution condition or the lease is not a qualifying lease, you <u>do not</u> need to provide information and evidence under regulation 6(3)(a) and (c), and (4)(a), (b), (e) and (f). <input type="checkbox"/> 4. Where you or a superior landlord did not meet the developer test <u>and</u> you are exempt from the contribution condition (in accordance with paragraph 3 of Schedule 8 to the Building Safety Act 2022), you <u>do not</u> need to provide information and evidence under regulation 6(3)(c), and (4)(a) and (b). <input type="checkbox"/> 5. Where you or a superior landlord met the developer test or there is no known defect at the time of completing this certificate <u>and</u> you are exempt from the contribution condition (in accordance with paragraph 3 of Schedule 8 to the Building Safety Act 2022), you <u>do not</u> need to provide information and evidence under regulation 6(3), and (4)(a), (b) and (d). <input type="checkbox"/>

Changes to legislation: There are currently no known outstanding effects for the The Building Safety (Leaseholder Protections) (England) Regulations 2022. (See end of Document for details)

<p>6. Where your or a superior landlord did not meet the developer test, you did not meet the contribution condition <u>and</u> the value of the lease on 14 February 2022 was below £325,000 in Greater London or £175,000 elsewhere in England, you <u>do not</u> need to provide information and evidence under regulation 6(4)(e) and (f). <input type="checkbox"/></p> <p><i>[place an X in the box next to the ONE statement which applies (if any), and insert "N/A" in the applicable boxes below]</i></p>	
A. Evidence of the relevant percentage of the building owned by each landlord (where there are superior landlords in the building) (regulation 6(3)(a))	<input type="checkbox"/>
B. Organogram or other form of information showing the landlord group companies and related details in relation to the developer test (regulation 6(3)(b))	<input type="checkbox"/>
C. Organogram or other form of information showing the landlord group companies and related details in relation to the contribution condition (regulation 6(3)(c))	<input type="checkbox"/>
D. Most recent company accounts for each company in the landlord group audited or filed after 14 February 2017 but before 14 February 2022 (regulation 6(4)(a))	<input type="checkbox"/>
E. Statement from chartered accountant or finance director (regulation 6(4)(b))	<input type="checkbox"/>
F. Documents demonstrating that the relevant building was constructed or converted before the relevant period and details of any relevant works which were carried out in the relevant period (regulation 6(4)(c)).	<input type="checkbox"/>
G. Confirmation of the identity of any person who undertook works relating to the relevant defect or commissioned those works (regulation 6(4)(d)(i))	<input type="checkbox"/>
H. Details of the parties to any joint venture which commissioned or undertook works relating to the relevant defect in the building (regulation 6(4)(d)(ii))	<input type="checkbox"/>
I. Evidence of any relevant defects and works carried out to remedy those defects since 28 June 2017 (regulation 6(4)(e))	<input type="checkbox"/>
J. Evidence of any costs paid in relation to the works carried out to remedy those relevant defects, details of the number of flats between which the costs should be divided and evidence of the leaseholder's maximum remaining liability (regulation 6(4)(f))	<input type="checkbox"/>

Signed by:
[full name of landlord under the lease]

Signature

Date:

Changes to legislation: There are currently no known outstanding effects for the The Building Safety (Leaseholder Protections) (England) Regulations 2022. (See end of Document for details)

WARNING: If any person who is a relevant landlord under paragraph 2(4) of Schedule 8 to the Building Safety Act 2022 does not provide a certificate which complies with regulation 6 in the form outlined in this certificate to the leaseholder, the condition in paragraph 2(2) of Schedule 8 to the Act is to be treated as met in accordance with paragraph 14(2) of Schedule 8 to the Act.

Dishonestly making a false representation or failing to disclose information required may be a criminal offence under section 2 or 3 of the Fraud Act 2006. Under section 12 of that Act a director, manager, secretary or other similar officer of a corporation may also be criminally liable.

Notes

- a. a qualifying lease has the meaning in section 119 of the Building Safety Act 2022.
- b. a relevant building has the meaning in section 117 of the Building Safety Act 2022, and for the purposes of this certificate includes the relevant buildings for the whole landlord group on 14th February 2022 (see paragraph 3 of Schedule 8 to the Act).
- c. the net worth is to be determined in accordance with regulations made under paragraph 3(4)(b) of Schedule 8 to the Building Safety Act 2022.
- d. the landlord group has the meaning in paragraph 3(4) of Schedule 8 to the Building Safety Act 2022.
- e. “responsible for” has the meaning given in paragraph 2(3) of Schedule 8 to the Building Safety Act 2022.
- f. a relevant defect has the meaning in section 120 of the Building Safety Act 2022.
- g. “associated with” has the meaning given in section 121 of the Building Safety Act 2022.

SCHEDULE 2 **E+W**

Regulation 9

Uprating values

Commencement Information
I14 Sch. 2 in force at 20.7.2022, see [reg. 1\(1\)](#)

<i>Year</i>	<i>M_y</i>
1970 or earlier	72.14
1971	64.15
1972	47.16
1973	34.53
1974	32.22
1975	30.58
1976	28.29
1977	26.38
1978	22.65

Changes to legislation: There are currently no known outstanding effects for the The Building Safety (Leaseholder Protections) (England) Regulations 2022. (See end of Document for details)

<i>Year</i>	<i>M_y</i>
1979	17.45
1980	14.39
1981	13.61
1982	13.34
1983	11.95
1984	10.86
1985	9.97
1986	8.70
1987	7.38
1988	5.71
1989	4.80
1990	4.89
1991	5.00
1992	5.25
1993	5.36
1994	5.22
1995	5.21
1996	5.11
1997	4.63
1998	4.17
1999	3.72
2000	3.10
2001	2.72
2002	2.25
2003	1.92
2004	1.69
2005	1.61
2006	1.51
2007	1.37
2008	1.43
2009	1.59
2010	1.51
2011	1.52
2012	1.49

Changes to legislation: There are currently no known outstanding effects for the The Building Safety (Leaseholder Protections) (England) Regulations 2022. (See end of Document for details)

<i>Year</i>	<i>M_y</i>
2013	1.43
2014	1.28
2015	1.19
2016	1.10
2017	1.04
2018	1.04
2019	1.05
2020	1.04

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 116 to 125 of, and Schedule 8 to, the Building Safety Act 2022 (c. 30) (“the Act”) make provision in relation to remediation of certain defects in buildings over 11 metres in height (or of at least 5 storeys). In particular, those provisions include protections from liability for leaseholders in specific circumstances.

These Regulations support those leaseholder protection provisions.

Regulation 2 defines “leaseholder owned” for the purpose of the definition of “relevant building” in section 117 of the Act, as leaseholder owned buildings are not ‘relevant buildings’ for the purposes of these provisions.

Regulation 3 modifies the definition of ‘associated’ in section 121 of the Act in relation that term as used in paragraph 3 of Schedule 8 to the Act, to limit the circumstances in which companies are considered to be associated when calculating the value of the company group.

Regulation 4 expands the list of people who can apply for a remediation contribution order under section 124 of the Act to include leaseholder owned buildings, but does not permit a remediation contribution order to be sought against the landlord of a leaseholder owned building or a commonhold association.

Regulation 5 sets out how a landlord or a landlord’s group should prove their net worth and, therefore, whether or not they fulfil the contribution condition in paragraph 3 of Schedule 8 to the Act. The regulation contains information on what the landlord needs to put into their certificate to demonstrate their worth to the leaseholder, whether the landlord is a company or an individual.

Regulation 6 sets out the further information (including details of the landlord’s net worth) which should be included in a certificate provided to the tenants known as the Landlord’s certificate. This certificate will also have details of the group structure of all the landlords at the relevant building, dates of when the building was built, converted or had works carried out on it, the cost of any remediation works, how much the tenant has already contributed to those works, and the maximum amount for which the tenant might still be liable.

Regulation 7 sets out the information which other landlords in the building must provide to the current landlord in order for the current landlord to be able to provide the Landlord's certificate to the tenant.

Regulation 8 stipulates that government departments and any arms' length bodies, the Crown, and NHS foundation trusts will not have to provide details of their net worth and do not fall within in the scope of paragraph 3 of Schedule 8 to the Act.

Regulation 9 sets out how the value of a leasehold interest is determined, as if a tenant has a lease under a certain value (see paragraph 4 of Schedule 8 to the Act) they will not pay any service charge and if the lease is over a certain value (paragraph 6 of Schedule 8 to the Act) they will pay more than the permitted maximum. It also sets out how to ascertain the value when the leasehold interest has not been sold on the open market recently.

Regulation 10 states that where the landlord is the developer and therefore, under paragraph 2 of Schedule 8 to the Act, has to pay for remediation of all of the building with no payments by any leaseholders whether qualifying or not, the landlord cannot take the monies to pay for the remediation out of any commercial service charge reserve fund.

Regulation 11 provides that tenants and other landlords in a building can apply to the First-tier Tribunal to appeal where they believe that any landlord in the building has not provided all the information required under these regulations.

Regulation 12 allows anyone applying to the High Court for a building liability order (see section 130 of the Act) to also be able to apply for information on the corporate structure of person against whom they are applying for the order.

Regulation 13 provides for a periodic review of regulatory provisions of these Regulations.

An impact assessment is available with the explanatory memorandum for these Regulations at www.legislation.gov.uk. A copy may be inspected at the Department for Levelling Up, Housing and Communities, 2 Marsham Street, London SW1P 4DF.

Changes to legislation:

There are currently no known outstanding effects for the The Building Safety (Leaseholder Protections) (England) Regulations 2022.