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STATUTORY INSTRUMENTS

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**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**

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;

“current landlord” of a building means a person who is the landlord under a qualifying lease(2) of that building;

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

“remediation service charge” means a service charge(3) which includes a charge in respect of a relevant measure(4) relating to any relevant defect(5);

“RMC” means a body corporate limited by guarantee which is party to a lease of a building where—

(a) the members of that body are leaseholders, or

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

(2) See section 119 of the Building Safety Act 2022 (“the Act”) for the definition of “qualifying lease”.

(3) 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).

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

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

- (b) the majority of the shares of that body are held by leaseholders; and  
 “RTM company” has the same meaning as in the Commonhold and Leasehold Reform Act 2002<sup>(6)</sup>.

#### **Buildings which are not relevant buildings: leaseholder owned buildings**

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.

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

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 121(4), (5) or (6)(a) of the Act.

#### **Application of section 124 of the Act (remediation contribution orders) to other buildings**

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<sup>(7)</sup>, 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;”.

#### **Determination of net worth of landlord group**

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<sup>(8)</sup> is a private or public limited company<sup>(9)</sup> the net worth is calculated according to the following formula—

Net Worth = Total Assets – Total Liabilities – Intangible Assets

(6) 2002 c. 15. See sections 71 to 74.

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

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

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

- (3) In determining net worth of a landlord group<sup>(10)</sup> 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);
  - (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<sup>(11)</sup> 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<sup>(12)</sup>.

### **Landlord’s certificate**

**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.
- (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,

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<sup>(10)</sup> See paragraph 3(4)(a) for the definition of “the landlord group”.

<sup>(11)</sup> See section 117 of the Act for the definition of “relevant building”.

<sup>(12)</sup> 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(13) 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.
- (3) The evidence is—
- (a) where the relevant landlord is part of a landlord group(14), details of the corporate structure of the group, setting out—
    - (i) the companies which make up the landlord group,
    - (ii) the beneficial owner of each company in the group, and
    - (iii) 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;
  - (b) 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;
  - (c) 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;
  - (d) details of the type of trust if any, the law to which it is subject and where it is tax resident; and
  - (e) in relation to trusts with an interest in the shares of any company comprised in the group—
    - (i) details of the economic settlor,
    - (ii) the named beneficiaries or class of beneficiaries and protector, and
    - (iii) 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(15) and details of any relevant works(16) which were carried out in the relevant period;

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(13) See paragraph 2(3) of Schedule 8 to the Act for the definition of “responsible for”.

(14) See paragraph 3(4) of Schedule 8 to the Act for the definition of “the landlord group”.

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

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

- (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 any works carried out to the relevant building since 28 June 2017 to remedy relevant defects; and
- (f) details of any costs paid or due to be paid in relation to any works carried out to remedy 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.

(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<sup>(17)</sup> 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) If any person who is a relevant landlord under paragraph 2(4) of Schedule 8 to the Act does not provide a certificate which complies with this regulation in the form outlined in Schedule 2 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) 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.

### **Landlord’s certificate to other landlords in the building**

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<sup>(18)</sup> 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;

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<sup>(17)</sup> See paragraph 1 of Schedule 8 to the Act for the definition of “relevant measure”.

<sup>(18)</sup> See paragraph 3(4) for the definition of “the landlord 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.

### **Disapplication of paragraph 3 of Schedule 8 to the Act**

**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.

### **Determination of the value of a qualifying lease**

**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—

$$V_y \times M_y$$

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.

### **Application of service charge restrictions to non-residential leases**

**10.—(1)** The reference in paragraph 2 of Schedule 8 to the Act which states that no service charge is payable under a qualifying lease in a relevant building in respect of a relevant measure relating to a relevant defect is modified in accordance with paragraphs (2) and (3).

(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.

### **Application to First-tier Tribunal**

**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<sup>(19)</sup> 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<sup>(20)</sup> to provide information to prove they have a qualifying lease<sup>(21)</sup>.

(3) In this regulation, “relevant landlord” has the meaning given in paragraph 16(8) of Schedule 8 to the Act.

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

**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.

### **Review**

**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<sup>(22)</sup> 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.

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<sup>(19)</sup> See paragraph 2(4) of Schedule 8 to the Act for the definition of “developer”.

<sup>(20)</sup> See The Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022.

<sup>(21)</sup> See section 119 of the Act for the definition of “qualifying lease”.

<sup>(22)</sup> 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).

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



SCHEDULE 1

Regulation 6

**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 the 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]*

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

**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 historic safety defects under the Building Safety Act 2022.

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 group net worth criteria**

At the beginning of 14th February 2022 the net worth of the landlord under the lease at the beginning of 14th February 2022 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

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

**Questions as to developer criteria**

The relevant defect to which the below statements apply is .....  
 [insert name of relevant defect to which the statement applies]

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.)	<input type="checkbox"/>
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]	<input type="checkbox"/>
On 14th February 2022 the landlord under the lease and all superior landlords were <u>not</u> responsible for the relevant defect or associated with a person responsible for a relevant defect.	<input type="checkbox"/>

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

**Work undertaken on relevant defects**

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

Date completed	Work undertaken	Total cost of works for building	Number of flats between which the 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 historical safety defects for this lease where the landlord is not connected to the developer is £..... [calculate liability for the lease based on qualifying status, property value, shared ownership status, works already undertaken and landlord group net worth in accordance with the Building Safety Act 2022]

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

**Evidence**

**The following documents accompany this leaseholder certificate**

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

<b>Accompanying documents required under Regulation 6</b>	
(a copy of each document is required)	
Organogram or other form of information showing the landlord group companies and related details (para (5)(a))	<input type="checkbox"/>
Company accounts for each company in the landlord group (para (5)(b))	<input type="checkbox"/>
Statement from chartered accountant or finance director (para (5)(c))	<input type="checkbox"/>
Confirmation of the identity of any person who undertook work to remedy defects in the building (para (5)(d)(i))	<input type="checkbox"/>
Details of the parties to any joint venture which undertook works to remedy defects in the building (para (5)(d)(ii))	<input type="checkbox"/>
Evidence of any relevant defects and works carried out to remedy those defects since 14 February 2017 (para (5)(e))	<input type="checkbox"/>
Evidence of any costs paid in relation to the works carried out to remedy those defects, details of the number of flats between which the costs should be divided and evidence of the leaseholder's maximum remaining liability (para (5)(f))	<input type="checkbox"/>
Evidence of the relevant percentage of the building owned by each landlord (where there are superior landlords in the building) (Regulation 7 para (1))	<input type="checkbox"/>
Organograms for each superior landlord in the building where appropriate (Regulation 7 para (2))	<input type="checkbox"/>

Signed by .....

*[full name of landlord under the lease]*

Signature
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Date .....

**WARNING** 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

Regulation 9

Uprating values

<i>Year</i>	<i>M<sub>y</sub></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
1979	17.45
1980	14.39
1981	13.61
1982	13.34
1983	11.95
1984	10.86

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<i>Year</i>	<i>M<sub>y</sub></i>
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
2013	1.43
2014	1.28
2015	1.19
2016	1.10
2017	1.04
2018	1.04

<i>Year</i>	<i>M<sub>y</sub></i>
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

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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](http://www.legislation.gov.uk). A copy may be inspected at the Department for Levelling Up, Housing and Communities, 2 Marsham Street, London SW1P 4DF.