

This Statutory Instrument has been made in consequence of a defect in S.I. 2022/711 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2023 No. 126

BUILDING AND BUILDINGS, ENGLAND

LANDLORD AND TENANT, ENGLAND

**The Building Safety (Leaseholder Protections) (England)
(Amendment) Regulations 2023**

<i>Made</i>	- - - -	<i>6th February 2023</i>
<i>Laid before Parliament</i>		<i>8th February 2023</i>
<i>Coming into force</i>		<i>9th February 2023</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 121(12) of the Building Safety Act 2022(a).

Citation and commencement

1.—(1) These Regulations may be cited as the Building Safety (Leaseholder Protections) (England) (Amendment) Regulations 2023 and come into force on 9th February 2023.

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

Amendment of the Building Safety (Leaseholder Protections) (England) Regulations 2022

2.—(1) The Building Safety (Leaseholder Protections) (England) Regulations 2022(b) are amended as follows.

(2) In regulation 3(2) (modification of section 121(2) to (5) of the Building Safety Act 2022 for certain associated persons) for “121(4), (5) or (6)(a)” substitute “121(4) or (5)(a)”.

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

6th February 2023

Lee Rowley
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities

(a) 2022 c. 30.
(b) S.I. 2022/711.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Building Safety (Leaseholder Protections) (England) Regulations 2022 (S.I. 2022/711) (“the 2022 Regulations”), along with The Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022 (S.I. 2022/859), support the leaseholder protection provisions in sections 116 to 125 of, and Schedule 8 to, the Building Safety Act 2022 (“the Act”).

This instrument amends regulation 3 of the 2022 Regulations by amending the list of persons who are not to be considered associated with the relevant landlord for the purposes of paragraph 3 of Schedule 8 to the Act.

Paragraph 3(4)(a) of Schedule 8 to the Act defines the term “landlord group” which is used in paragraph 3 for the purpose of determining whether the contribution condition is met. The “landlord group” means the relevant landlord and any person associated with the relevant landlord. For the purpose of Schedule 8, section 121(1) says that a partnership or body corporate is associated with another person in the circumstances mentioned in subsections (2) to (5) of that section. But section 121(12) enables the Secretary of State to make provision in regulations (in relation to a prescribed reference in Schedule 8 to anyone associated with another person) for section 121(2) to (5) to have effect with prescribed modifications.

Regulation 3 of the 2022 Regulations modified the reference in paragraph 3(4)(a) of Schedule 8 to the Act to a person associated with the relevant landlord by carving out from associated person someone who would only be associated by virtue of the following:

- (i) section 121(4) (which provides that a body corporate is associated with any person who was a director of the body corporate at any time in the relevant period);
- (ii) 121(5) (which provides that a body corporate is associated with another body corporate if (a) at any time in the relevant period a person was a director of both of them, or (b) at the qualifying time, one of them controlled the other or a third body corporate controlled by both of them); or
- (iii) section 121(6)(a) (which provides that a body corporate (X) controls a company (Y) if X possesses or is entitled to acquire at least half of the issued share capital of Y).

Regulation 2 of this instrument amends regulation 3 of the 2022 Regulations by removing two of the modifications so that a person would be associated with the relevant landlord for the purposes of paragraph 3 in the circumstances set out in section 121(5)(b) and section 121(6)(a).

An impact assessment covering the leaseholder protection provisions in both the Act and the regulations made under it (S.I. 2022/711 and S.I. 2022/859), using illustrative examples to demonstrate how the leaseholder protection provisions work in practice, was published on 20 June 2022 and the analysis contained in it reflects the policy achieved by this statutory instrument. The impact assessment along with the explanatory memorandum for these Regulations is available at www.legislation.gov.uk. A copy of both may be inspected at the Department for Levelling Up, Housing and Communities at 2 Marsham Street, London, SW1P 4DF.

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