

*Status: Point in time view as at 28/06/2022.*

*Changes to legislation: Building Act 1984, SCHEDULE 2 is up to date with all changes known to be in force on or before 19 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 2

#### RELAXATION OF BUILDING REGULATIONS FOR EXISTING WORK

##### *Application of schedule*

- 1 This Schedule applies to a direction under section 8 of this Act that will affect the application of building regulations to work that has been carried out before the giving of the direction.

##### *Cases where no direction may be given*

- 2 Neither the [<sup>F1</sup>Secretary of State][<sup>F1</sup>appropriate national authority] nor a local authority shall give a direction to which this Schedule applies—
- (a) if the local authority have, before the making of the application for the direction, become entitled under section 36(3) of this Act to pull down, remove or alter the work to which the application relates, or
  - (b) if, when the application is made, there is in force an injunction or other direction given by a court that requires the work to be pulled down, removed or altered.

#### **Textual Amendments**

- F1** Words in [Sch. 2 para. 2](#) substituted (28.6.2022 for E.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 84\(3\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 49](#)

##### *Suspension of certain provisions while application pending*

- 3 (1) Subject to the following provisions of this Schedule, after the making of an application for a direction to which this Schedule applies, and until the application is withdrawn or finally disposed of, no section 36 notice shall be given as regards the work to which the application relates on the ground that it contravenes the requirement to which the application relates.
- (2) If an application for a direction to which this Schedule applies is made less than 12 months after the completion of the work to which the application relates, section 36(4) of this Act does not prevent the giving of a notice as regards that work at any time within a period of 3 months from the date on which the application is withdrawn or finally disposed of.
- (3) If an application for a direction to which this Schedule applies is made after a section 36 notice has been given on the ground that the work to which the application relates contravenes the requirement to which the application relates (not being an application prohibited by paragraph 2 of this Schedule), section 36(3) of this Act has effect in relation to that work as if for the reference to the period there mentioned

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there were substituted a reference to a period expiring 28 days after the application is withdrawn or finally disposed of, or such longer period as a magistrates' court may allow.

- (4) Subject to the following provisions of this Schedule, if an application for a direction to which this Schedule applies is made after any person has, in consequence of the carrying out of the work to which the application relates in contravention of building regulations, become liable to a penalty continuing from day to day, the daily penalty is not recoverable in respect of any day after the making of the application and before it is withdrawn or finally disposed of.
- (5) In a case where an application is withdrawn or is finally disposed of without any direction being given, the [F2Secretary of State][F2appropriate national authority] or, as the case may be, the local authority may order that the daily penalty is not recoverable in respect of any day during such further period not exceeding 28 days as may be specified in the order.

#### Textual Amendments

- F2** Words in [Sch. 2 para. 3\(5\)](#) substituted (28.6.2022 for E.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 84\(3\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 49](#)

- 4 Paragraph 3(1), (3) and (4) above do not apply to an application that is a repetition, or substantially a repetition, of a previous application under section 8 of this Act.

#### *Saving for criminal liability incurred before making of application*

- 5 The giving of a direction to which this Schedule applies does not affect the liability of a person for an offence committed before the giving of the direction, except so far as that liability depends on the continuation of the offence after the giving of the direction.

#### *Termination of proceedings under section 36 on giving of direction*

- 6 If, before the giving of a direction to which this Schedule applies, a section 36 notice has been given, and the contravention of building regulations by virtue of which the notice was given comes to an end when the direction is given, the local authority is not, after the giving of the direction, entitled to proceed under section 36(3) of this Act by virtue of that notice.

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