



# Building Safety Act 2022

## 2022 CHAPTER 30

### PART 4

#### HIGHER-RISK BUILDINGS

##### *Meaning of “accountable person” and other key definitions*

#### **71 Meaning of “occupied” higher-risk building etc**

- (1) The following provisions apply for the purposes of [this Part](#).
- (2) A higher-risk building is “occupied” if there are residents of more than one residential unit in the building.
- (3) A reference to a resident of a higher-risk building is to a resident of a residential unit in such a building.
- (4) The Secretary of State may by regulations—
  - (a) amend the definition of a higher-risk building being “occupied”;
  - (b) amend the definition of a “resident” of a higher-risk building;
  - (c) define, for the purposes of [this Part](#), the meaning of being a “resident” of a residential unit.
- (5) See—
  - (a) section 65 for the meaning of “higher-risk building”;
  - (b) section 115 for the meaning of “residential unit”.

#### **72 Meaning of “accountable person”**

- (1) In [this Part](#) an “accountable person” for a higher-risk building is—
  - (a) a person who holds a legal estate in possession in any part of the common parts (subject to [subsection \(2\)](#)), or

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- (b) a person who does not hold a legal estate in any part of the building but who is under a relevant repairing obligation in relation to any part of the common parts.

This subsection is subject to [subsection \(5\)](#) (special rule for commonhold land).

- (2) A person (“the estate owner”) who holds a legal estate in possession in the common parts of a higher-risk building or any part of them (“the relevant common parts”) is not an accountable person for the building by virtue of [subsection \(1\)\(a\)](#) if—
  - (a) each long lease of which the estate owner is lessor provides that a particular person, who does not hold a legal estate in any part of the building, is under a relevant repairing obligation in relation to all of the relevant common parts, or
  - (b) all repairing obligations relating to the relevant common parts which would otherwise be obligations of the estate owner are functions of an RTM company.
- (3) [Subsection \(4\)](#) applies where—
  - (a) under a lease, a person (“the estate owner”) holds a legal estate in possession in the common parts of a higher-risk building or any part of them (“the relevant common parts”), and
  - (b) a landlord under the lease is under a relevant repairing obligation in relation to any of the relevant common parts.
- (4) For the purposes of this section and section 73—
  - (a) the legal estate in possession in so much of the relevant common parts as are within [subsection \(3\)\(b\)](#) is treated as held by the landlord (instead of the estate owner), and
  - (b) if (and so far as) the landlord’s actual legal estate in those common parts is held under a lease, the legal estate in possession mentioned in [paragraph \(a\)](#) is treated as held under that lease (and, accordingly, [subsection \(3\)](#) and [this subsection](#) may apply in relation to it).
- (5) Where a higher-risk building is on commonhold land, the commonhold association is the accountable person for the building for the purposes of [this Part](#).
- (6) For the purposes of this section—
  - “common parts”, in relation to a building, means—
    - (a) the structure and exterior of the building, except so far as included in a demise of a single dwelling or of premises to be occupied for the purposes of a business, or
    - (b) any part of the building provided for the use, benefit and enjoyment of the residents of more than one residential unit (whether alone or with other persons);
  - “commonhold association” and “commonhold land” have the same meaning as in Part 1 of the Commonhold and Leasehold Reform Act 2002 (see sections 34 and 1 respectively);
  - “long lease”: for the meaning of “long lease” see section 115;
  - “possession”: a reference to “possession” does not include the receipt of rents and profits or the right to receive the same;
  - “relevant repairing obligation”: a person is under a relevant repairing obligation in relation to anything if the person is required, under a lease or by virtue of an enactment, to repair or maintain that thing;

“RTM company” has the same meaning as in Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002 (right to manage).

- (7) The Secretary of State may by regulations amend this section (other than [this subsection](#)).

### **73 Meaning of “principal accountable person”**

- (1) In [this Part](#) the “principal accountable person” for a higher-risk building is—
- (a) in relation to a building with one accountable person, that person;
  - (b) in relation to a building with more than one accountable person, the accountable person who—
    - (i) holds a legal estate in possession in the relevant parts of the structure and exterior of the building, or
    - (ii) is within [section 72\(1\)\(b\)](#) because of a relevant repairing obligation (within the meaning of that section) in relation to the relevant parts of the structure and exterior of the building.
- (2) For the purposes of this section—
- (a) the reference to “the relevant parts of the structure and exterior” of a building is to its structure and exterior except so far as included in a demise of a single dwelling or of premises to be occupied for the purposes of a business;
  - (b) the reference to “possession” does not include the receipt of rents and profits or the right to receive the same.
- (3) [Subsection \(1\)\(b\)](#) is subject to [section 75\(2\)](#) (powers of tribunal where more than one accountable person is within [subsection \(1\)\(b\)](#)).

### **74 Part of building for which an accountable person is responsible**

In [this Part](#), any reference to the part of a higher-risk building for which an accountable person is responsible is to such part of the building (including all of it) as is determined by or in accordance with regulations.

### **75 Determinations by the tribunal**

- (1) An interested person may apply to the tribunal for a determination, as regards a higher-risk building, of any of the following—
- (a) the person or persons who are accountable persons for the building;
  - (b) the person who is the principal accountable person for the building;
  - (c) the part of the building for which any accountable person for the building is responsible.
- (2) Where, on an application under [subsection \(1\)\(b\)](#), it appears to the tribunal that there is more than one accountable person within [section 73\(1\)\(b\)](#), the principal accountable person is such one of those accountable persons as the tribunal considers appropriate.
- (3) In this section “interested person” means—
- (a) the regulator,
  - (b) a person who holds a legal estate in any part of the common parts (or who claims to hold such an estate), or

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- (c) a person who is under a relevant repairing obligation in relation to any part of the common parts (or who claims to be under such an obligation).
- (4) In [subsection \(3\)](#) “relevant repairing obligation” and “common parts” have the same meaning as in section 72.