



Building Safety Act 2022

2022 CHAPTER 30

PART 5 **E+W**

OTHER PROVISION ABOUT SAFETY, STANDARDS ETC

Remediation of certain defects

116 Remediation of certain defects **E+W**

- (1) Sections 117 to 125 and [Schedule 8](#) make provision in connection with the remediation of relevant defects in relevant buildings.
- (2) In those sections—
 - (a) sections 117 to 121 define “relevant building”, “qualifying lease”, “the qualifying time”, “relevant defect” and “associate”;
 - (b) section 122 and [Schedule 8](#) contain protections for tenants in respect of costs connected with relevant defects, and impose liabilities on certain landlords;
 - (c) section 123 makes provision about remediation orders, under which a landlord in a relevant building is required to remedy certain relevant defects;
 - (d) section 124 makes provision about remediation contribution orders, under which an associate of a landlord in a relevant building is required to contribute towards the costs of remedying certain relevant defects;
 - (e) section 125 makes provision about cases where a company that is a landlord in a relevant building is being wound up, and confers on the court powers in respect of persons associated with the company.

Commencement Information

11 [S. 116](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

Status: Point in time view as at 28/06/2022.

Changes to legislation: Building Safety Act 2022, Cross Heading: Remediation of certain defects is up to date with all changes known to be in force on or before 15 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)

117 Meaning of “relevant building” **E+W**

- (1) This section applies for the purposes of sections 119 to 125 and [Schedule 8](#).
- (2) “Relevant building” means a self-contained building, or self-contained part of a building, in England that contains at least two dwellings and—
 - (a) is at least 11 metres high, or
 - (b) has at least 5 storeys.

This is subject to subsection (3).

- (3) “Relevant building” does not include a self-contained building or self-contained part of a building—
 - (a) in relation to which a right under Part 1 of the Landlord and Tenant Act 1987 (tenants’ right of first refusal) or Part 3 of that Act (compulsory acquisition by tenants of landlord’s interest) has been exercised,
 - (b) in relation to which the right to collective enfranchisement (within the meaning of Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993) has been exercised,
 - (c) if the freehold estate in the building or part of the building is leaseholder owned (within the meaning of regulations made by the Secretary of State), or
 - (d) which is on commonhold land.
- (4) For the purposes of this section a building is “self-contained” if it is structurally detached.
- (5) For the purposes of this section a part of a building is “self-contained” if—
 - (a) the part constitutes a vertical division of the building,
 - (b) the structure of the building is such that the part could be redeveloped independently of the remainder of the building, and
 - (c) the relevant services provided for occupiers of that part—
 - (i) are provided independently of the relevant services provided for occupiers of the remainder of the building, or
 - (ii) could be so provided without involving the carrying out of any works likely to result in a significant interruption in the provision of any such services for occupiers of the remainder of the building.
- (6) In subsection (5) “relevant services” means services provided by means of pipes, cables or other fixed installations.

Commencement Information

I2 [S. 117](#) in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

118 Section 117: height of buildings and number of storeys **E+W**

- (1) This section applies for the purpose of section 117.
- (2) The height of a building is to be measured from ground level to the finished surface of the floor of the top storey of the building (ignoring any storey which is a roof-top machinery or plant area or consists exclusively of machinery or plant rooms).
- (3) When determining the number of storeys in a building—

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- (a) any storey below ground level is to be disregarded;
 - (b) any mezzanine floor is to be regarded as a storey if its internal floor area is at least half of the internal floor area of the largest storey in the building which is not below ground level.
- (4) In subsection (2) “ground level”, in relation to a building, means—
- (a) the level of the surface of the ground immediately adjacent to the building, or
 - (b) where the level of the surface of the ground on which the building is situated is not uniform, the level of the lowest part of the surface of the ground immediately adjacent to it.
- (5) For the purposes of subsection (3) a storey is “below ground level” if any part of the finished surface of the ceiling of the storey is below the level of the surface of the ground immediately adjacent to that part of the building.

Commencement Information

I3 S. 118 in force at 28.6.2022, see s. 170(3)(a)

119 Meaning of “qualifying lease” and “the qualifying time” **E+W**

- (1) This section applies for the purposes of sections 122 to 125 and [Schedule 8](#).
- (2) A lease is a “qualifying lease” if—
- (a) it is a long lease of a single dwelling in a relevant building,
 - (b) the tenant under the lease is liable to pay a service charge,
 - (c) the lease was granted before 14 February 2022, and
 - (d) at the beginning of 14 February 2022 (“the qualifying time”)—
 - (i) the dwelling was a relevant tenant’s only or principal home,
 - (ii) a relevant tenant did not own any other dwelling in the United Kingdom, or
 - (iii) a relevant tenant owned no more than two dwellings in the United Kingdom apart from their interest under the lease.
- (3) Where a dwelling was at the qualifying time let under two or more leases to which subsection (2)(a) and (b) apply, any of those leases which is superior to any of the other leases is not a “qualifying lease”.

[^{F1}(3A) A connected replacement lease (see section 119A) is also a “qualifying lease”.]

- (4) For the purposes of this section—
- (a) “long lease” means a lease granted for a term of years certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise;
 - (b) a person “owns” a dwelling in England, Wales or Northern Ireland if the person has a freehold interest in it or is a tenant under a long lease of it;
 - (c) “relevant tenant” means a person who, at the qualifying time, was the tenant, or any of the tenants, under the lease mentioned in subsection (2);
 - (d) “service charge” has the meaning given by section 18 of the Landlord and Tenant Act 1985.

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Textual Amendments

F1 S. 119(3A) inserted (retrospectively) by [Levelling-Up and Regeneration Act 2023 \(c. 55\), s. 243\(2\)\(5\)](#) (with s. 247)

Commencement Information

I4 S. 119 in force at 28.6.2022, see [s. 170\(3\)\(a\)](#)

[^{F2}119A Meaning of “connected replacement lease” **E+W**

- (1) For the purposes of section 119 (and this section) a lease (the “new lease”) is a “connected replacement lease” if—
- (a) the new lease is a lease of a single dwelling in a relevant building,
 - (b) the tenant under the new lease is liable to pay a service charge,
 - (c) the new lease was granted on or after 14 February 2022,
 - (d) the new lease replaces—
 - (i) one other lease, which is a qualifying lease (whether under section 119(2) or (3A)), or
 - (ii) two or more other leases, at least one of which is a qualifying lease (whether under section 119(2) or (3A)), and
 - (e) there is continuity in the property let.
- (2) For the purposes of subsection (1)(d), the new lease replaces another lease if—
- (a) the term of the new lease begins during the term of the other lease, and the new lease is granted in substitution of the other lease, or
 - (b) the term of the new lease begins at the end of the term of the other lease (regardless of when the lease is granted).
- (3) For the purposes of subsection (2)(a), the circumstances in which the new lease is granted in substitution of another lease include circumstances where—
- (a) the new lease is granted by way of a surrender and regrant of the other lease (including a deemed surrender and regrant, whether deemed under an enactment or otherwise);
 - (b) the new lease is granted under—
 - (i) section 24 of the Landlord and Tenant Act 1954 (renewed business leases),
 - (ii) section 14 of, or Schedule 1 to, the Leasehold Reform Act 1967 (extension of leases of houses), or
 - (iii) section 56 of the Leasehold Reform, Housing and Urban Development Act 1993 (extension of leases of flats),
 in a case where that provision of that Act applies by virtue of the other lease.
- (4) For the purposes of subsection (1)(e) there is continuity in the property let if—
- (a) the newly let property is exactly the same as the already let property,
 - (b) the newly let property consists of some or all of the already let property, together with other property (whether or not that other property was previously let) (a “property combination”), or
 - (c) the newly let property consists of some, but not all, of the already let property (but no other property) (a “property reduction”).

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- (5) But there is no continuity in the property let by virtue of a property reduction if, as respects any lease in the relevant chain of qualifying leases, there was continuity in the property let by virtue of a property combination.
- (6) For that purpose, the “relevant” chain of qualifying leases is the chain of qualifying leases of which the new lease would be part were it a connected replacement lease.
- (7) For the purposes of subsection (1)(e) there is also continuity in the property let if the new lease is granted to rectify any error in the lease, or any lease, which the new lease replaces.
- (8) Where a dwelling is at any time on or after 14 February 2022 let under two or more leases to which subsection (1)(a) and (b) apply, any of the leases which is superior to any of the other leases is not a connected replacement lease.
- (9) For the purposes of sections 122 to 125 and Schedule 8, all of the leases in a chain of qualifying leases are to be treated as a single qualifying lease which has a term that—
 - (a) began when the term of the initial qualifying lease in that chain began, and
 - (b) ends when the term of the current connected replacement lease in that chain ends.
- (10) The Secretary of State may by regulations make provision about the meaning of “connected replacement lease” (including provision changing the meaning).
- (11) The provision that may be made in regulations under this section includes—
 - (a) provision which amends this section;
 - (b) provision which has retrospective effect.
- (12) Provision in regulations under this section made by virtue of section 168(2)(a) (consequential provision etc) may (in particular) amend this Act.
- (13) In this section—
 - “already let property”, in relation to a new lease, means the property let by the lease or leases which the new lease replaces;
 - “chain of qualifying leases” means—
 - (a) an initial qualifying lease which is the preceding qualifying lease in relation to a connected replacement lease (the “first replacement lease”),
 - (b) the first replacement lease, and
 - (c) any other connected replacement lease if the preceding qualifying lease in relation to it is—
 - (i) the first replacement lease, or
 - (ii) any other connected replacement lease which is in the chain of qualifying leases;
 - and a chain of qualifying leases may accordingly consist of different leases at different times (if further connected replacement leases are granted);
 - “current connected replacement lease”, in relation to a particular time, means a connected replacement lease during the term of which that time falls;
 - “initial qualifying lease” means a lease which is a qualifying lease under section 119(2);
 - “new lease” has the meaning given in subsection (1);
 - “newly let property” means the property let by the new lease;
 - “preceding qualifying lease”, in relation to the new lease, means—

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- (a) in a case within subsection (1)(d)(i), the lease which the new lease replaces;
- (b) in a case within subsection (1)(d)(ii), a lease which—
 - (i) the new lease replaces, and
 - (ii) is a qualifying lease.

(14) The definitions in section 119(4) also apply for the purposes of this section.]

Textual Amendments

F2 S. 119A inserted (retrospectively) by [Levelling-Up and Regeneration Act 2023 \(c. 55\), s. 243\(3\)\(5\)](#) (with s. 247)

120 Meaning of “relevant defect” **E+W**

- (1) This section applies for the purposes of sections 122 to 125 and [Schedule 8](#).
- (2) “Relevant defect”, in relation to a building, means a defect as regards the building that—
 - (a) arises as a result of anything done (or not done), or anything used (or not used), in connection with relevant works, and
 - (b) causes a building safety risk.
- (3) In subsection (2) “relevant works” means any of the following—
 - (a) works relating to the construction or conversion of the building, if the construction or conversion was completed in the relevant period;
 - (b) works undertaken or commissioned by or on behalf of a relevant landlord or management company, if the works were completed in the relevant period;
 - (c) works undertaken after the end of the relevant period to remedy a relevant defect (including a defect that is a relevant defect by virtue of this paragraph).

“The relevant period” here means the period of 30 years ending with the time this section comes into force.
- (4) In subsection (2) the reference to anything done (or not done) in connection with relevant works includes anything done (or not done) in the provision of professional services in connection with such works.
- (5) For the purposes of this section—

“building safety risk”, in relation to a building, means a risk to the safety of people in or about the building arising from—

 - (a) the spread of fire, or
 - (b) the collapse of the building or any part of it;

“conversion” means the conversion of the building for use (wholly or partly) for residential purposes;

“relevant landlord or management company” means a landlord under a lease of the building or any part of it or any person who is party to such a lease otherwise than as landlord or tenant.

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Commencement Information

I5 S. 120 in force at 28.6.2022, see s. 170(3)(a)

121 Associated persons **E+W**

- (1) For the purposes of sections 122 to 125 and [Schedule 8](#), a partnership or body corporate is associated with another person in the circumstances mentioned in subsections (2) to (5).
- (2) Where a person's interest in a relevant building was held on trust at the qualifying time, any partnership or body corporate which was a beneficiary of the trust at that time is to be regarded, for the purposes of the provisions mentioned in subsection (1) as they apply in relation to the relevant building, as associated with the person.
- (3) A partnership is associated with any person who was a partner in the partnership, other than a limited partner, at any time in the period of 5 years ending at the qualifying time ("the relevant period").
- (4) A body corporate is associated with any person who was a director of the body corporate at any time in the relevant period.
- (5) 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 both of them.

Subsections (6) to (8) set out the cases in which a body corporate is regarded as controlling another body corporate.

- (6) A body corporate (X) controls a company (Y) if X possesses or is entitled to acquire—
 - (a) at least half of the issued share capital of Y,
 - (b) such rights as would entitle X to exercise at least half of the votes exercisable in general meetings of Y,
 - (c) such part of the issued share capital of Y as would entitle X to at least half of the amount distributed, if the whole of the income of Y were in fact distributed among the shareholders, or
 - (d) such rights as would, in the event of the winding up of Y or in any other circumstances, entitle it to receive at least half of the assets of Y which would then be available for distribution among the shareholders.
- (7) A body corporate (X) controls a limited liability partnership (Y) if X—
 - (a) holds a majority of the voting rights in Y,
 - (b) is a member of Y and has a right to appoint or remove a majority of other members, or
 - (c) is a member of Y and controls alone, or pursuant to an agreement with other members, a majority of the voting rights in Y.
- (8) A body corporate (X) controls another body corporate (Y) if X has the power, directly or indirectly, to secure that the affairs of Y are conducted in accordance with X's wishes.

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- (9) In subsection (7) a reference to “voting rights” is to the rights conferred on members in respect of their interest in a limited liability partnership to vote on those matters which are to be decided on by a vote of the members of the limited liability partnership.
- (10) In determining whether one body corporate (X) controls another, X is treated as possessing—
- (a) any rights and powers possessed by a person as nominee for it, and
 - (b) any rights and powers possessed by a body corporate which it controls (including rights and powers which such a body corporate would be taken to possess by virtue of this paragraph).
- (11) In this section “partnership” means—
- (a) a partnership within the meaning of the Partnership Act 1890, or
 - (b) a limited partnership registered under the Limited Partnerships Act 1907, or a firm or entity of a similar character formed under the law of a country or territory outside the United Kingdom (and the reference to “limited partner” is to be read accordingly).
- (12) The Secretary of State may by regulations provide that, in relation to a prescribed reference in a provision mentioned in subsection (1) to anyone associated with another person, subsections (2) to (5) have effect with prescribed modifications.

Commencement Information

I6 S. 121 in force at 28.6.2022, see s. 170(3)(a)

122 Remediation costs under qualifying leases etc **E+W**

Schedule 8—

- (a) provides that certain service charge amounts relating to relevant defects in a relevant building are not payable, and
- (b) makes provision for the recovery of those amounts from persons who are landlords under leases of the building (or any part of it).

Commencement Information

I7 S. 122 in force at 28.6.2022, see s. 170(3)(a)

123 Remediation orders **E+W**

- (1) The Secretary of State may by regulations make provision for and in connection with remediation orders.
- (2) A “remediation order” is an order, made by the First-tier Tribunal on the application of an interested person, requiring a relevant landlord to remedy specified relevant defects in a specified relevant building by a specified time.
- (3) In this section “relevant landlord”, in relation to a relevant defect in a relevant building, means a landlord under a lease of the building or any part of it who is required, under the lease or by virtue of an enactment, to repair or maintain anything relating to the relevant defect.

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- (4) In subsection (3) the reference to a landlord under a lease includes any person who is party to the lease otherwise than as landlord or tenant.
- (5) In this section “interested person”, in relation to a relevant building, means—
 - (a) the regulator (as defined by section 2),
 - (b) a local authority (as defined by section 30) for the area in which the relevant building is situated,
 - (c) a fire and rescue authority (as defined by section 30) for the area in which the relevant building is situated,
 - (d) a person with a legal or equitable interest in the relevant building or any part of it, or
 - (e) any other person prescribed by the regulations.
- (6) In this section “specified” means specified in the order.
- (7) A decision of the First-tier Tribunal or Upper Tribunal made under or in connection with this section (other than one ordering the payment of a sum) is enforceable with the permission of the county court in the same way as an order of that court.

Commencement Information

18 S. 123 in force at 28.6.2022, see s. 170(3)(a)

124 Remediation contribution orders **E+W**

- (1) The First-tier Tribunal may, on the application of an interested person, make a remediation contribution order in relation to a relevant building if it considers it just and equitable to do so.
- (2) “Remediation contribution order”, in relation to a relevant building, means an order requiring a specified body corporate or partnership to make payments to a specified person, for the purpose of meeting costs incurred or to be incurred in remedying relevant defects (or specified relevant defects) relating to the relevant building.
- (3) A body corporate or partnership may be specified only if it is—
 - (a) a landlord under a lease of the relevant building or any part of it,
 - (b) a person who was such a landlord at the qualifying time,
 - (c) a developer in relation to the relevant building, or
 - (d) a person associated with a person within any of paragraphs (a) to (c).
- (4) An order may—
 - (a) require the making of payments of a specified amount, or payments of a reasonable amount in respect of the remediation of specified relevant defects (or in respect of specified things done or to be done for the purpose of remedying relevant defects);
 - (b) require a payment to be made at a specified time, or to be made on demand following the occurrence of a specified event.
- (5) In this section—

“associated”: see section 121;

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“developer”, in relation to a relevant building, means a person who undertook or commissioned the construction or conversion of the building (or part of the building) with a view to granting or disposing of interests in the building or parts of it;

“interested person”, in relation to a relevant building, means—

- (a) the Secretary of State,
- (b) the regulator (as defined by section 2),
- (c) a local authority (as defined by section 30) for the area in which the relevant building is situated,
- (d) a fire and rescue authority (as defined by section 30) for the area in which the relevant building is situated,
- (e) a person with a legal or equitable interest in the relevant building or any part of it, or
- (f) any other person prescribed by regulations made by the Secretary of State;

“partnership” has the meaning given by section 121;

“relevant building”: see section 117;

“relevant defect”: see section 120;

“specified” means specified in the order.

- (6) The Secretary of State may by regulations provide that this section applies, with or without modifications, in relation to a building that would, but for section 117(3), be a relevant building.

Commencement Information

I9 S. 124 in force at 28.6.2022, see s. 170(3)(a)

125 Meeting remediation costs of insolvent landlord **E+W**

- (1) This section applies if, in the course of the winding up of a company which is a landlord under a lease of a relevant building or any part of it, it appears—
 - (a) that there are relevant defects relating to the building, and
 - (b) that the company is under an obligation (howsoever imposed) to remedy any of the relevant defects or is liable to make a payment relating to any costs incurred or to be incurred in remedying any of the relevant defects.
- (2) The court may, on the application of a person acting as an insolvency practitioner in relation to the company, by order require a body corporate or partnership associated with the company—
 - (a) to make such contributions to the company’s assets as the court considers to be just and equitable, or
 - (b) to make such payments to a specified person as the court considers to be just and equitable for the purpose of meeting costs incurred or to be incurred in remedying relevant defects mentioned in subsection (1)(b).

Section 124(4) applies for the purposes of this section.

- (3) An order may be made where proceedings for the winding up of the company were commenced before (as well as after) the coming into force of this section.

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(4) In this section—

“act as an insolvency practitioner” has the meaning given by section 388 of the Insolvency Act 1986;

“associated”: see section 121;

“the court” means a court having jurisdiction to wind up the company;

“partnership” has the meaning given by section 121;

“relevant building”: see section 117;

“relevant defect”: see section 120;

“specified” means specified in the order.

Commencement Information

I10 S. 125 in force at 28.6.2022, see s. 170(3)(a)

Status:

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Changes to legislation:

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