

Status: Point in time view as at 29/06/2023. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: Building Safety Act 2022, Schedule 6 is up to date with all changes known to be in force on or before 07 August 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 6

Section 56

APPEALS AND OTHER DETERMINATIONS

VALID FROM 01/10/2023

Introduction

1 The Building Act 1984 is amended as follows.

Commencement Information

11 Sch. 6 para. 1 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

VALID FROM 01/10/2023

Transfer from Secretary of State to the regulator

2 In section 10(6) (procedure where appeal against decision of local authority under section 8) for the words from “to the Secretary of State” to the end substitute “copies of the representations to—

- (a) the regulator, in the case of a local authority for an area in England;
- (b) the Welsh Ministers, in the case of a local authority for an area in Wales.”

Commencement Information

12 Sch. 6 para. 2 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

3 (1) Section 20 (use of materials unsuitable for permanent building) is amended as follows.

(2) In subsection (5) omit the words from “to the Secretary of State” to the end.

(3) After that subsection insert—

“(5A) The appeal is to be made to—

- (a) the regulator, in the case of action by a local authority for an area in England;
- (b) the tribunal, in the case of action by the regulator;

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- (c) the Welsh Ministers, in the case of action by a local authority for an area in Wales.”

Commencement Information

I3 Sch. 6 para. 3 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

- 4 (1) Section 39 (appeal against refusal to relax building regulations) is amended as follows.
- (2) In subsection (1) omit “to the Secretary of State”.
- (3) After that subsection insert—
- “(1A) The appeal is to be made to—
- (a) the regulator, in the case of a refusal by a local authority for an area in England;
- (b) the tribunal, in the case of a refusal by the regulator;
- (c) the Welsh Ministers, in the case of a refusal by a local authority for an area in Wales.”
- (4) Omit subsections (3) to (6).

Commencement Information

I4 Sch. 6 para. 4 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

- 5 (1) Section 42 (appeal and statement of case to High Court in certain cases) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) Where the Secretary of State gives a decision on an application for a direction under section 8, any of the following may appeal to the High Court against the decision on a point of law—
- (a) the applicant;
- (b) the local authority;
- (c) the registered building control approver.”
- (3) In subsection (1)—
- (a) for “Secretary of State gives” substitute “Welsh Ministers give”;
- (b) for paragraph (b) (not including the “or” at the end) substitute—
- “(b) on an appeal under section 50,”.
- (4) In subsection (2) for paragraph (b) substitute—
- “(b) as regards an appeal under section 50, the person on whose application the appeal was made,”.
- (5) In subsection (3)—
- (a) omit “, reference”;
- (b) after “subsection” insert “(A1) or”;
- (c) in paragraph (a) for “Secretary of State” substitute “appropriate national authority”.

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(6) In subsection (4) for “Secretary of State”, in each place it occurs, substitute “appropriate national authority”.

(7) Omit subsection (7).

Commencement Information

I5 Sch. 6 para. 5 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

6 Omit section 43 (procedure on appeal to Secretary of State on certain matters).

Commencement Information

I6 Sch. 6 para. 6 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

7 After that section insert—

“43A Appeals under sections 20, 39 and 50: England

- (1) This section applies to an appeal to the regulator or the tribunal made under section 20(5), 39 or 50(2).
- (2) On determining the appeal, the regulator or the tribunal may give any directions it considers appropriate for giving effect to its determination.
- (3) Where the appeal is determined by the regulator, a relevant person may appeal to the tribunal against the regulator’s decision (and subsection (2) applies in relation to this appeal).
- (4) “Relevant person” means—
 - (a) the appellant;
 - (b) the local authority or registered building control approver.”

Commencement Information

I7 Sch. 6 para. 7 not in force at Royal Assent, see [s. 170\(4\)\(c\)](#)

8 In section 50 (plans certificates) for subsections (2) and (3) substitute—

- “(2) If a registered building control approver refuses to give a plans certificate on being asked to do so, the person intending to carry out the work may appeal to—
- (a) the regulator, in the case of work to be carried out in England;
 - (b) the Welsh Ministers, in the case of work to be carried out in Wales.”

Commencement Information

I8 Sch. 6 para. 8 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

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- I2** Sch. 6 para. 2 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I3** Sch. 6 para. 3 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I4** Sch. 6 para. 4 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I5** Sch. 6 para. 5 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I6** Sch. 6 para. 6 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I7** Sch. 6 para. 7 not in force at Royal Assent, see [s. 170\(4\)\(c\)](#)
- I8** Sch. 6 para. 8 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

VALID FROM 01/10/2023

Transfer from magistrates' court to the tribunal: England

- 9 In the following provisions for “a magistrates’ court” substitute “the appropriate court or tribunal”—
- (a) section 19(4) (use of short-lived materials);
 - (b) section 21(3), (4) and (6) (provision of drainage);
 - (c) section 22(4) (drainage of buildings in combination);
 - (d) section 24(2) (provision of exits etc);
 - (e) section 25(2) and (5) (provision of water supply);
 - (f) section 33(6) (tests for conformity with building regulations);
 - (g) section 36(3) (period for compliance with section 36 notice);
 - (h) section 40(1) (appeal against section 36 notice);
 - (i) section 55(1) (appeal against rejection of certain notices);
 - (j) section 62(2) (disconnection of drain);
 - (k) section 68(3) (erection of public conveniences);
 - (l) section 73(2) (raising of chimney);
 - (m) section 75(2), in both places it occurs, and section 75(3) (cellars etc below subsoil);
 - (n) section 77(1), in both places it occurs (dangerous buildings);
 - (o) section 78(7)(a) (dangerous buildings - emergency measures);
 - (p) section 85(3) (maintenance of entrances to courtyards);
 - (q) section 98 (power to require occupier to permit work);
 - (r) section 102(1) (appeal against notice requiring works);
 - (s) section 103(3) (notification requirement as regards right of appeal);
 - (t) in [Schedule 2, paragraph 3\(3\)](#) (application under section 8).

Commencement Information

- I9** Sch. 6 para. 9 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

- 10 In section 7(2)(b) after “court” insert “or tribunal”.

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Commencement Information

I10 Sch. 6 para. 10 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

11 In section 25(5) after “the court”, in both places it occurs, insert “or tribunal”.

Commencement Information

I11 Sch. 6 para. 11 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

12 In section 33(6) after “the court”, in both places it occurs, insert “or tribunal”.

Commencement Information

I12 Sch. 6 para. 12 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

13 In section 37(3) for “a court” substitute “the appropriate court or tribunal”.

Commencement Information

I13 Sch. 6 para. 13 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

14 In section 40 after “the court”, in each place it occurs, insert “or tribunal”.

Commencement Information

I14 Sch. 6 para. 14 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

15 In section 55(2) after “court” insert “or tribunal”.

Commencement Information

I15 Sch. 6 para. 15 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

16 In section 62(2) after “the court” insert “or tribunal”.

Commencement Information

I16 Sch. 6 para. 16 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

17 In section 64(5)(b) after “court” insert “or tribunal”.

Commencement Information

I17 Sch. 6 para. 17 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

18 In section 70(4)(b) after “court” insert “or tribunal”.

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Commencement Information

I18 Sch. 6 para. 18 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

19 In section 75(2) after “court” insert “or tribunal”.

Commencement Information

I19 Sch. 6 para. 19 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

20 In section 77(1) after “court” insert “or tribunal”.

Commencement Information

I20 Sch. 6 para. 20 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

21 In section 78(7)(b) after “court” insert “or tribunal”.

Commencement Information

I21 Sch. 6 para. 21 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

22 In section 83(3)(b) after “court” insert “or tribunal”.

Commencement Information

I22 Sch. 6 para. 22 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

23 In section 98—

- (a) for “a complaint” substitute “an application or (as the case may be) complaint”;
- (b) after “court” insert “or tribunal”.

Commencement Information

I23 Sch. 6 para. 23 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

24 In section 102(2), (3) and (4) after “court”, in each place it occurs, insert “or tribunal”.

Commencement Information

I24 Sch. 6 para. 24 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

25 (1) Section 103 is amended as follows.

(2) After subsection (1) insert—

“(1A) Subsections (2) and (3) apply—

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- (a) where this Act provides for an appeal to the tribunal against a requirement, refusal or other decision of a relevant authority, and
- (b) in relation to an appeal of a kind mentioned in subsection (1)(a).”

(3) In subsection (2)—

- (a) for “local” substitute “relevant”;
- (b) after “making of the” insert “application or”.

(4) In subsection (3) “local” substitute “relevant”.

(5) After that subsection insert—

“(4) In this section “relevant authority” means a local authority or the regulator.”

(6) In the heading for “magistrates’ court” substitute “appropriate court or tribunal”.

Commencement Information

I25 Sch. 6 para. 25 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

26 In section 104 after “court”, in both places it occurs, insert “or tribunal”.

Commencement Information

I26 Sch. 6 para. 26 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

27 In section 105 after “court” insert “or tribunal”.

Commencement Information

I27 Sch. 6 para. 27 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

28 In [Schedule 2](#) in [paragraph 2\(b\)](#) after “court” insert “or tribunal”.

Commencement Information

I28 Sch. 6 para. 28 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

Commencement Information

- I9** Sch. 6 para. 9 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I10** Sch. 6 para. 10 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I11** Sch. 6 para. 11 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I12** Sch. 6 para. 12 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I13** Sch. 6 para. 13 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I14** Sch. 6 para. 14 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I15** Sch. 6 para. 15 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I16** Sch. 6 para. 16 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I17** Sch. 6 para. 17 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I18** Sch. 6 para. 18 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I19** Sch. 6 para. 19 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

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- I20** Sch. 6 para. 20 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I21** Sch. 6 para. 21 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I22** Sch. 6 para. 22 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I23** Sch. 6 para. 23 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I24** Sch. 6 para. 24 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I25** Sch. 6 para. 25 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I26** Sch. 6 para. 26 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I27** Sch. 6 para. 27 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)
- I28** Sch. 6 para. 28 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

VALID FROM 01/10/2023

Enforcement

29 After section 105 insert—

“105A Enforcement of decisions of the First-tier and Upper Tribunal

- (1) A decision of the First-tier Tribunal or Upper Tribunal made under or in connection with this Act is enforceable with the permission of the county court in the same way as an order of that court.
- (2) Subsection (1) does not apply to a decision of the First-tier Tribunal or Upper Tribunal ordering the payment of a sum (as to which see section 27 of the Tribunals, Courts and Enforcement Act 2007 (enforcement)).”

Commencement Information

- I29** Sch. 6 para. 29 not in force at Royal Assent, see [s. 170\(4\)\(c\)](#)

Appeal: local authority decision not to consider application etc

30 After section 101 insert—

“Appeal against refusal to consider application etc

101A Appeal: refusal to consider application etc on ground is higher-risk building work

- (1) This section applies where—
 - (a) a local authority for an area in England refuses to consider an application for building control approval, or
 - (b) a local authority refuses to consider an initial notice (within the meaning of section 47) or an amendment notice (within the meaning of section 51A),
 on the ground that all or part of the work to which the application or notice relates is higher-risk building work.

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- (2) The person intending to carry out the work may appeal to the appropriate national authority, before the end of the prescribed period, on the ground that none of the work is higher-risk building work.
- (3) Building regulations may make provision about appeals under this section, including in particular provision—
 - (a) about the making of an appeal;
 - (b) requiring an appellant to notify the local authority of the making of an appeal;
 - (c) imposing duties on the local authority in cases where an appeal is made;
 - (d) for and in connection with the appropriate national authority appointing a person to determine the appeal (including provision conferring functions on that person and providing that their decision is treated as the decision of the appropriate national authority);
 - (e) about the procedure to be adopted in connection with the determination of the appeal.
- (4) The provision that may be made by virtue of subsection (3)(a) includes provision about—
 - (a) the form and content of a notice of appeal;
 - (b) the information and documents that are to accompany a notice of appeal;
 - (c) the way in which a notice of appeal, and anything that is to accompany it, is to be given.
- (5) The decision made on the appeal is final (subject to subsection (6)).
- (6) The appellant or the local authority may, before the end of the prescribed period and with the permission of the High Court, appeal to the High Court against the decision of the appropriate national authority on a point of law.”

Commencement Information

I30 Sch. 6 para. 30 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ix\)\(c\)](#)

I31 [Sch. 6 para. 30](#) in force at 6.4.2023 for specified purposes by [S.I. 2023/362](#), [reg. 3\(1\)\(x\)](#)

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