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STATUTORY INSTRUMENTS

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**2023 No. 909**

**The Building (Higher-Risk Buildings  
Procedures) (England) Regulations 2023**

**PART 7**

Miscellaneous

**Exempt work**

**57.** For the purposes of these Regulations, building work which consists only of work of a kind described in Schedule 2 (exempt work) is exempt work.

**Requirement for completion certificate before occupation and transitional cases**

**58.**—(1) Each of the following is prescribed as a completion certificate for the purposes of section 76(5) of the 2022 Act—

- (a) a completion certificate issued under regulation 44 (completion certificate applications: decisions);
- (b) a partial completion certificate issued under regulation 45 (partial completion certificates).

(2) For type A transitional work each of the following is also prescribed as a completion certificate for the purposes of section 76(5) of the 2022 Act—

- (a) a completion certificate issued under regulation 17 of the 2010 Regulations;
- (b) a partial completion certificate issued under regulation 17A of the 2010 Regulations;
- (c) a final certificate given by an approved inspector to a local authority in accordance with the Building (Approved Inspectors etc.) Regulations 2010(1) and not rejected by the authority.

(3) For type B transitional work each of the following is also prescribed as a completion certificate for the purposes of section 76(5) of the 2022 Act—

- (a) a transfer and completion certificate provided for by the modifications in paragraph 5(9), 10(4), or, as the case may be, 11(4) of Schedule 3;
- (b) a transfer and partial completion certificate provided for by the modifications in the paragraph 5(9), 10(4), or, as the case may be, 11(4) of Schedule 3;
- (c) a final certificate given by an approved inspector to a local authority in accordance with the Building (Approved Inspectors etc.) Regulations 2010 and not rejected by the authority.

(4) In this regulation—

“type A transitional work” means work of a kind referred to in section 76(1) of the 2022 Act which is—

- (a) completed before 1st October 2023 but occupied on or after that date,

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(1) S.I. 2010/2215 as amended by S.I. 2012/3119, S.I. 2013/1959, S.I. 2014/579, S.I. 2015/767, S.I. 2016/285, S.I. 2021/1391, S.I. 2021/1392, S.I. 2022/717, S.I. 2022/984 and S.I. 2023/520. There are other amendments not relevant to this instrument.

- (b) completed before 6th April 2024 and paragraph 1 of Schedule 3 (transitional provisions) applied to the work but paragraphs 3 and 4 of that Schedule did not apply, or
  - (c) completed on or after 6th April 2024 and paragraph 7 of Schedule 3 applied to the work;
- “type B transitional work” means work of a kind referred to in section 76(1) of the 2022 Act which is completed on or after 6th April 2024 and paragraph 5, 10 or 11 of Schedule 3 (transitional provisions) applies.

### **Electronic submission and directions**

**59.**—(1) The regulator may make a direction as to the way in which any of the following documents are given (which may include specifying cases where it must be given electronically via a website address provided for that purpose by the regulator)—

- (a) a building control approval application for HRB work;
- (b) a building control approval application for a stage of HRB work;
- (c) a building control approval application for work to existing HRB;
- (d) a notice under regulation 9(2), 9(3), 17(2) or 17(3) (notices before starting work and when work is “commenced”);
- (e) a request for approval under regulation 7(12) or 15(12);
- (f) a notification under regulation 8 (regulator’s power to require notifications etc for HRB work or stage of HRB work) or regulation 16 (regulator’s power to require notifications etc for work to existing HRB);
- (g) a notice under regulation 10(1)(a) (emergency repair work);
- (h) a notification under regulation 18(3) (change control);
- (i) a change control application;
- (j) a notice under regulation 27 (new client or change of circumstances for the client);
- (k) a notice under regulation 28 (change of circumstances for the client: disclaimer of property);
- (l) a notice under regulation 29 (new principal contractor or principal designer etc: notification);
- (m) a notice or report under regulation 33 (mandatory occurrence reporting: reporting to the regulator);
- (n) a notice under regulation 39(5) (information to be provided where work is scheme work);
- (o) a completion certificate application;
- (p) a partial completion certificate application;
- (q) a regularisation certificate application;
- (r) a notice under regulation 25A(2), 27(2) or (3), 27A(2) or (3), 27C(2) or (3), 37(1), 41(4), 42(2), 43(2), 44(3) and 44ZA(2) of the 2010 Regulations;
- (s) a copy of results under regulation 41(2) of the 2010 Regulations;
- (t) a notice of review under section 25 of the 2022 Act;
- (u) any documents that are required to accompany any application referred to in subparagraph (a) to (c), (i), (o), (p) or (q).

(2) A direction must specify the date on which it comes into effect, which must not be earlier than five working days after the date on which the regulator publishes it.

(3) Where the regulator has made a direction in accordance with this regulation, an application (or any document that accompanied the application), notice or request of the type mentioned in the direction must, from the date specified in the direction, be given in accordance with the direction.

(4) The regulator may, by a further direction, amend or revoke a direction made under this regulation.

### **Contraventions by the regulator not to be subject to enforcement**

**60.** The following provisions of these Regulations are prescribed for the purposes of sections 35(2) and 35B(7)(a) of the 1984 Act—

- (a) regulation 5 (building control approval applications for HRB work or stage of HRB work: validity and time limit);
- (b) regulation 6(1) and (2) (building control approval applications for HRB work or stage of HRB work: consultation);
- (c) regulation 7(1), (4) to (7), (13) and (14) (building control approval applications for HRB work or stage of HRB work: decisions);
- (d) regulation 9(4) (notice before starting work and further notice when work is “commenced”);
- (e) regulation 13 (building control approval applications for work to existing HRB: validity and time limit);
- (f) regulation 14(1) and (2) (building control approval applications for work to existing HRB: consultation);
- (g) regulation 15(1), (4) to (7), (13) and (14) (building control approval applications for work to existing HRB: decisions);
- (h) regulation 17(4) (notice before starting work and further notice when work is “commenced”);
- (i) regulation 22 (change control applications: validity and time limit);
- (j) regulation 23(1) and (2) (change control applications: consultation);
- (k) regulation 24(1), (4) to (7) and (11)(b) and (d) (change control applications: decisions);
- (l) regulation 30(4) and (6) to (8) (variation of a requirement imposed on a building control approval);
- (m) regulation 41(1) and (2) (completion certificate applications: validity and time limit);
- (n) regulation 42(1) (completion certificate applications: consultation);
- (o) regulation 43 (completion certificate applications: inspection);
- (p) regulation 44(1) to (6) and (8) (completion certificate applications: decisions);
- (q) regulation 45(5), (6), (8), (10) to (15) and (17) (partial completion certificates) except that regulation 45(8) is not prescribed in relation to the regulator consulting a sewerage undertaker;
- (r) regulation 47(6) (regularisation of unauthorised building work);
- (s) regulation 48(5) to (8) (review of regulator’s decisions);
- (t) regulation 53 (section 30A applications: determinations);
- (u) regulation 54 (section 30A applications: appointed persons);
- (v) regulation 59(2) and (4) (electronic submission and directions).

**Provisions in relation to which a stop notice may be given**

**61.** The following provisions are prescribed for the purposes of section 35C(1)(a) of the 1984 Act (stop notices)—

- (a) regulation 3 (HRB work not to be started before approval);
- (b) regulation 7(12)(b) (HRB work not to proceed until approval under a requirement is received);
- (c) regulation 11 (specified work to an existing HRB not to be started before approval);
- (d) regulation 15(12)(b) (work to existing HRB not to proceed until approval under a requirement is received);
- (e) regulation 18(6) (major change not to be carried out before approval);
- (f) regulation 24(11)(a) (major change not to proceed until approval under a requirement is received) but only in relation to a major change (as defined in regulation 26 of those Regulations).

**Local land charges**

**62.** The functions of local authorities under the Local Land Charges Act 1975(2), as they relate to higher-risk buildings, are prescribed for the purposes of paragraph (b) of the definition of “relevant function” in paragraph 2(5) of Schedule 3 to the Building Safety Act 2022.

**Consequential amendment to the Regulatory Reform (Fire Safety) Order 2005**

**63.** In article 22A(3) of the Regulatory Reform (Fire Safety) Order 2005(3) (provision of information to new responsible person), after sub-paragraph (e) insert—

- “(ea) any information given under regulation 38 or 39 of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 (fire safety information);”.

**Consequential amendments to the Community Infrastructure Levy Regulations 2010**

**64.**—(1) The Community Infrastructure Levy Regulations 2010(4) are amended as follows.

(2) In regulation 2(1) (interpretation) in the definition of “compliance certificate”—

- (a) omit “either”;
- (b) omit “or” at the end of paragraph (a) and insert—

“(aa) regulation 44 (completion certificate applications: decisions) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, or”.

**Consequential amendments to the Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023**

**65.**—(1) The Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023(5) are amended as follows.

(2) In regulation 33 (building control prohibitions)—

- (a) in paragraph (2) after “34,” insert “34A,”;
- (b) in paragraph (4)—

(2) 1975 c. 76.

(3) S.I. 2005/1541. Article 22A was inserted by section 156(8) of the Building Safety Act 2022 (c. 30).

(4) S.I. 2010/948. The definition of “compliance certificate” was inserted by S.I. 2014/385.

(5) S.I. 2023/753.

- (i) after sub-paragraph (e) insert—
  - “(ea) an application for a certificate under regulation 40 (completion certificate applications) or regulation 45 (partial completion certificates) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;”;
- (ii) after sub-paragraph (f) insert—
  - “(fa) an application for a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;”;
- (c) in paragraph (6)—
  - (i) after sub-paragraph (b) insert—
    - “(ba) a certificate under regulation 44 (completion certificate applications: decisions) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;”;
  - (ii) after sub-paragraph (c) insert—
    - “(ca) a certificate under regulation 45 (partial completion certificates) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;”;
  - (iii) after sub-paragraph (f) insert—
    - “(g) a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;”;
- (d) in paragraph (8)—
  - (i) after sub-paragraph (f) insert—
    - “(fa) an application for a certificate under regulation 40 (completion certificate applications) or regulation 45 (partial completion certificates) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;”;
  - (ii) after sub-paragraph (g) insert—
    - “(h) an application for a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;”.
- (3) After regulation 34 insert—

**“Exception to building control prohibition: emergency repair work to existing HRB**

**34A.**—(1) Where an applicable person proposes to carry out work to existing HRB which consists of emergency repairs then—

- (a) the provision by them of a notice under regulation 10(1)(a) (notification of emergency repairs to existing HRB) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, and
  - (b) an application for a certificate in relation to that work under regulation 47 (regularisation of unauthorised building work) of those Regulations,
- are not to be treated as a breach of the building control prohibition.

- (2) Where paragraph (1) applies, the regulator is not prohibited from giving the applicable person a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023.
- (3) In this regulation—
- “emergency repairs” has the meaning given in regulation 10(2) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;
- “the regulator” has the meaning in section 126 of the Building Act 1984;
- “work to existing HRB” has the meaning given in regulation 2 of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023.”.
- (4) In regulation 35 (exception to building control prohibition: work to occupied buildings)—
- (a) in paragraph (4)(a)—
- (i) after paragraph (i) insert—
- “(ia) an application for a certificate under regulation 40 (completion certificate applications) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 in relation to the work;”;
- (ii) after paragraph (ii) insert—
- “(iia) an application for a certificate under regulation 45 (partial completion certificates) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 in relation to the work;”;
- (b) after paragraph (5) insert—
- “(5A) Where paragraph (4) applies, the regulator is not prohibited from giving the applicable person a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023.”.
- (5) In regulation 36(1) (exception to building control prohibitions: purchasers) after subparagraph (a) insert—
- “(aa) to permit the issuing by the regulator of a certificate in relation to that work under regulation 44 (completion certificate applications: decisions) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;”.
- (6) In regulation 37 (exception to building control prohibitions and modification of the Building Regulations 2010: regularisation)—
- (a) after paragraph (1) insert—
- “(1A) Where the building is a higher-risk building, a relevant purchaser is not prohibited from giving the regulator an application for a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 and the regulator is not prohibited from granting such a certificate.”;
- (b) after paragraph (3) insert—
- “(4) For the purposes of paragraph (1A), regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 is to have effect in relation to an application under that regulation by a relevant purchaser as if any work carried out by an applicable person which was not unauthorised building work (within the meaning set out in that regulation) were treated as if it were unauthorised building work.”.

### **Transitional, supplementary and saving provisions**

- 66.** The transitional, supplementary and saving provisions set out in Schedule 3 have effect.

