

## SCHEDULE 3

Regulation 66

### Transitional, supplementary and saving provisions

## PART 1

### Transitional etc provisions

#### **October 2023: HRB work and work to existing HRB**

1.—(1) Subject to sub-paragraph (5) and the requirements of paragraphs 2 and 4 to 11, this paragraph applies where before 1st October 2023—

- (a) an initial notice, in relation to HRB work or work to existing HRB for a particular building, has been given to a local authority and before that date is accepted or deemed to be accepted under section 47 of the 1984 Act, or
- (b) full plans, in relation to HRB work or work to existing HRB to a particular building, were deposited with a local authority.

(2) Where this paragraph applies, notwithstanding the commencement of section 32 of the Building Safety Act 2022, on 1st October 2023 the local authority for the area continues to be the building control authority<sup>(1)</sup> in relation to the higher-risk building and accordingly the duties and functions of local authorities under section 91 of the 1984 Act<sup>(2)</sup> continue to apply in relation to that work as if it were not higher-risk building work.

(3) Where this paragraph applies—

- (a) in a case where full plans have been deposited—
  - (i) Parts 2 to 6 of these Regulations do not apply to that work, and
  - (ii) the 2010 Regulations continue to apply to that work, including the amendments made to the 2010 Regulations by the Building Regulations etc. (Amendment) (England) Regulations 2023, but subject to Part 4 (transitional, supplementary and saving provisions) of the Building Regulations etc. (Amendment) (England) Regulations 2023;

(b) in a case where an initial notice has been given—

- (i) Parts 2 to 6 of these Regulations do not apply to that work, and
- (ii) the 2010 Regulations and the Building (Approved Inspectors etc.) Regulations 2010 continue to apply to the work, including the amendments made to those Regulations by the Building Regulations etc. (Amendment) (England) Regulations 2023 and the Building (Approved Inspectors etc. and Review of Decisions) (England) Regulations 2023 but subject to Part 4 (transitional, supplementary and saving provisions) of the Building Regulations etc. (Amendment) (England) Regulations 2023 and Part 4 (transitional, supplementary and saving provisions) of the Building (Approved Inspectors etc. and Review of Decisions) (England) Regulations 2023.

(4) In addition to the continuing application of the provisions referred to in sub-paragraph (3), not more than five working days after the day on which the work is to be regarded as sufficiently progressed the person carrying out the work must give a notice to that effect to the local authority and where sub-paragraph (1)(a) applies in relation to the work, give a copy of the notice to the approved inspector.

(1) See section 121A of the Building Act 1984 for the definition of “building control authority”, which was inserted by section 32 of the Building Safety Act 2022 (c. 30).

(2) 1984 c. 55. Section 91 is amended by section 32 of the Building Safety Act 2022 (c. 30).

**Status:** Point in time view as at 01/10/2023.

**Changes to legislation:** There are currently no known outstanding effects for the The Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, SCHEDULE 3. (See end of Document for details)

- (5) Sub-paragraphs (1) to (4) cease to apply in relation to the work where before 6th April 2024—
- (a) the approval for the work lapses by virtue of section 32 of the 1984 Act (as that provision had effect immediately before 1st October 2023), or
  - (b) the initial notice for the work, or the part of that notice which relates to the higher-risk building, is cancelled under section 52(5) of the 1984 Act (as that provision had effect immediately before 1st October 2023),

and paragraph 3 applies instead to the work.

- (6) For the purposes of this paragraph work is to be regarded as sufficiently progressed—
- (a) where the building work consists of the construction of a higher-risk building, when the pouring of concrete for—
    - (i) the permanent placement of the trench, pad or raft foundations, or
    - (ii) the permanent placement of piling,
 for that building has started;
  - (b) where the building work consists of work to an existing building, when that work has started;
  - (c) where the building work consists of a material change of use of a building, when work to effect that change of use has started.

(7) Where the work consists of work in relation to more than one higher-risk building then sub-paragraph (4) applies to each building separately.

#### Commencement Information

**11** Sch. 3 para. 1 in force at 1.10.2023, see **reg. 1(1)**

#### From October 2023: cases where full plans are rejected

2.—(1) This paragraph applies where, in relation to work to a particular building, full plans were deposited with a local authority before 1st October 2023 and in accordance with any provision of Part 1 of the 1984 Act or a local enactment the local authority has rejected those plans on or after that date (“the rejection date”).

(2) Where this paragraph applies then with effect from the rejection date the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly—

- (a) the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the higher-risk building or any proposed higher-risk building;
- (b) Parts 2 to 6 of these Regulations apply to any HRB work or work to existing HRB from the rejection date with the modifications provided in this paragraph except that regulation 47 (regularisation) does not apply in relation to any work carried out before the rejection date and accordingly any reference to a regularisation certificate in Parts 2 to 6 of these Regulations is to be ignored, and
- (c) the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from the rejection date.

(3) Within 10 working days of the rejection date the person intending to carry out the work must give a notice to the regulator setting out—

- (a) the name, address, telephone number and (if available) email address of the person intending to carry out the work;

- (b) details of the work to be carried out;
- (c) details of any existing building on the site, including the height of any existing building, the number of storeys contained in it and the use of each storey (regulations 5 and 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023<sup>(3)</sup> have effect in determining the height and the number of storeys in a building);
- (d) details of the intended use of the higher-risk building, including the intended use of each storey;
- (e) the height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;
- (f) the number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;
- (g) where the work is HRB work or is work to existing HRB which changes the number of residential or commercial units in the building, the proposed number of flats, number of residential rooms and number of commercial units to be contained in the higher-risk building;
- (h) details of the work which has been carried out together with a summary of the inspections undertaken by the local authority in relation to the work.

(4) Where any work was carried out before the rejection date the person who carried out the work or the owner must comply with any notice from the regulator requiring them within a reasonable time to cut into, lay open or pull down so much of the work as prevents the regulator from ascertaining whether the work contravenes any requirement of the building regulations.

(5) Where any work was carried out before the rejection date (“the HRB project”) and on or after that date a building control approval application for HRB work or a building control approval application for work to existing HRB is submitted to the regulator in respect of the HRB project, then in addition to the requirements of regulation 4 the person who carried out the work must provide the regulator with such plans as are necessary to show the work already carried out complies with all applicable requirements of the building regulations.

#### Commencement Information

**I2** [Sch. 3 para. 2](#) in force at 1.10.2023, see [reg. 1\(1\)](#)

### **October 2023 to April 2024: cases where building control approval lapses before 6th April 2024**

**3.—(1)** This paragraph applies where, by virtue of paragraph 1(5)(a) or (b), paragraph 1(1) to (4) ceases to apply in relation to work.

(2) Where this paragraph applies then with effect from the date paragraph 1(1) to (4) ceases to apply in relation to the work (“the cessation date”) the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly—

- (a) the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the higher-risk building or any proposed higher-risk building;
- (b) these Regulations apply to any of the work from the cessation date, and
- (c) the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from the cessation date.

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(3) [S.I. 2023/275](#).

**Status:** Point in time view as at 01/10/2023.

**Changes to legislation:** There are currently no known outstanding effects for the The Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, SCHEDULE 3. (See end of Document for details)

### Commencement Information

**I3** Sch. 3 para. 3 in force at 1.10.2023, see **reg. 1(1)**

### October 2023 to April 2024: cases of not sufficiently progressed work where an initial notice is cancelled before 6th April 2024

4.—(1) This paragraph applies where—

- (a) the initial notice for the work, or the part of that notice which relates to the higher-risk building, ceases to be in force by virtue of any provision of Part 2 of the 1984 Act (except section 52(5)) on a date before 6th April 2024 (“the cancellation date”), and
- (b) a notice under paragraph 1(4) (notice that work had sufficiently progressed) in relation to that work was not received by a local authority before the cancellation date.

(2) Where this paragraph applies—

- (a) if a plans certificate or final certificate relating to the work (or any part of the work) has been accepted before the cancellation date then with effect from that date the certificate ceases to have effect;
- (b) accordingly Parts 2 to 6 of these Regulations apply to the work from the cancellation date with the modifications provided for in paragraph (8);
- (c) subject to paragraph (d), the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from the cancellation date;
- (d) regulation 11(3) of the 2010 Regulations does not apply and accordingly the regulator may exercise the power in section 8(3A) of the 1984 Act<sup>(4)</sup> to dispense with or relax any requirement of the 2010 Regulations.

(3) Where this paragraph applies then with effect from the cancellation date the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the work to the higher-risk building (but not in relation to any other work specified in the initial notice).

(4) Where this paragraph applies, not more than five working days after the cancellation date the person which was shown on the initial notice as the approved inspector must—

- (a) give a notice to the person intending to carry out the work explaining the initial notice, or such part of the initial notice which applies to the higher-risk building, is no longer in force and the effect of sub-paragraphs (2), (3) and (5), and
- (b) give a copy of the notice to the local authority.

(5) Within 10 working days of the cancellation date the person intending to carry out the work must give a notice to the regulator setting out—

- (a) their name, address, telephone number and (if available) email address;
- (b) the location of the building;
- (c) details of the work to be carried out;
- (d) the height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

<sup>(4)</sup> Subsection (3A) was inserted by paragraph 11(4) of Schedule 5 to the Building Safety Act 2022 (c. 30).

- (e) the number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023, and
  - (f) a description of any work which was carried out before the cancellation date (including details of the work in relation to which a final certificate was given and not rejected) and details of any inspections undertaken by the approved inspector in relation to that work.
- (6) With effect from the cancellation date no further building work in relation to the work described in the initial notice (“HRB project”) may be carried out until the date when the person intending to carry out building work has received confirmation in writing from the regulator that an application for building control approval made to the regulator in relation to that work is valid (“validation date”).
- (7) Where any building work was carried out before the cancellation date then—
- (a) the person who carried out the work or the owner must comply with any notice from the regulator requiring them within a reasonable time to cut into, lay open or pull down so much of the work as prevents the regulator from ascertaining whether the work contravenes any requirement of the building regulations;
  - (b) in addition to the other documents which are required to accompany the application for building control approval, the person must provide the regulator with such plans as are necessary to show the work already carried out complies with all applicable requirements of the building regulations.
- (8) Where the application for building control approval in relation to the HRB project is rejected by the regulator then with effect from the date the rejection is notified to the applicant (“rejection date”) no further building work in relation to the HRB project may be carried out until a building control approval is granted in relation to the building.
- (9) Parts 2 to 6 of these Regulations have effect in relation to the HRB project—
- (a) from the cancellation date as if—
    - (i) regulation 5(1)(b) (building control applications: for HRB work or stage of HRB work: validity and time limit) and regulation 13(1)(b) (building control applications: for work to existing HRB: validity and time limit) were omitted;
    - (ii) in relation to any change control which is proposed or occurs between the cancellation date and the date application for building control approval is determined by the regulator, Part 3 (change control) required the change to be recordable in the change control log;
    - (iii) regulation 47 (regularisation) does not apply in relation to any work carried out before the cancellation date and accordingly any reference to a regularisation certificate in Parts 2 to 6 of these Regulations in relation to such work is to be ignored;
    - (iv) regulations 50 to 56 (section 30A applications) did not apply in relation to the application for building control approval for the HRB project, and
  - (b) additionally, from the validation date until the rejection date, as if regulation 3 did not prevent work in the HRB project to be started before an application for building control approval for the work is submitted.

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**Commencement Information**

**I4** Sch. 3 para. 4 in force at 1.10.2023, see [reg. 1\(1\)](#)

*Status: Point in time view as at 01/10/2023.*

*Changes to legislation: There are currently no known outstanding effects for the The Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, SCHEDULE 3. (See end of Document for details)*

**October 2023 to April 2024: cases of sufficiently progressed work where an initial notice is cancelled before 6th April 2024**

5.—(1) This paragraph applies where—

- (a) a notice under paragraph 1(4) (notice that work had sufficiently progressed) in relation to that work was received by a local authority before 6th April 2024, and
- (b) the initial notice for the work, or the part of that notice which relates to the higher-risk building, ceases to be in force by virtue of any provision of Part 2 of the 1984 Act on a date before 6th April 2024 (“the cancellation date”).

(2) Where this paragraph applies—

- (a) if a final certificate relating to the work (or any part of the work which relates to the higher-risk building) has been accepted before the cancellation date then with effect from that date the function of enforcing building regulations that is conferred on the regulator by section 91(3) of the 1984 Act is not exercisable in relation to that work;
- (b) if a plans certificate relating to the work (or any part of the work which relates to the higher-risk building) has been accepted before the cancellation date then with effect from the notice date the certificate ceases to have effect;
- (c) accordingly Parts 2 to 6 of these Regulations apply to the work from the cancellation date with the modifications provided for in paragraph (9);
- (d) subject to paragraph (e), the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from the cancellation date;
- (e) regulation 11(3) of the 2010 Regulations does not apply and accordingly the regulator may exercise the power in section 8(3A) of the 1984 Act to dispense with or relax any requirement of the 2010 Regulations.

(3) Where this paragraph applies then with effect from the cancellation date the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the work to the higher-risk building (but not in relation to any other work specified in the initial notice).

(4) Where this paragraph applies, not more than five working days after the cancellation date the person which was shown on the initial notice as the approved inspector must—

- (a) give a notice to the person intending to carry out the work explaining the initial notice, or such part of the initial notice which applies to the higher-risk building, is no longer in force and the effect of sub-paragraphs (2), (3) and (5), and
- (b) give a copy of the notice to the local authority.

(5) Within 10 working days of the cancellation date the person intending to carry out the work must give a notice to the regulator setting out—

- (a) the information referred to in paragraph 4(5), and
- (b) in relation to any work for which a final certificate was given and not rejected, a description of the work covered by the final certificate.

(6) With effect from the cancellation date no further building work in relation to the work described in the initial notice (“HRB project”) may be carried out until the date when the person intending to carry out building work has submitted an application for building control approval for HRB work or an application for building control approval for work to existing HRB in relation to the work and received confirmation in writing from the regulator that an application for building control approval made to the regulator in relation to that work is valid (“validation date”).

(7) In relation to building work carried out before the cancellation date then—

- (a) the person who carried out the work or the owner must comply with any notice from the regulator requiring them within a reasonable time to cut into, lay open or pull down so much of the work as prevents the regulator from ascertaining whether the work contravenes any requirement of the building regulations;
  - (b) in addition to the other documents which are required to accompany the application for building control approval, the person must provide the regulator with such plans as are necessary to show the work already carried out complies with all applicable requirements of the building regulations.
- (8) Where the application for building control approval in relation to the HRB project is rejected by the regulator then with effect from the date the rejection is notified to the applicant (“rejection date”) no further building work in relation to the HRB project may be carried out until a building control approval is granted in relation to the building.
- (9) Parts 2 to 6 of these Regulations have effect in relation to the work as if—
- (a) in Part 2—
    - (i) in relation to any work for which a final certificate was previously given before the cancellation date and not rejected—
      - (aa) paragraphs (1)(e)(viii), (2)(b) and (3) of regulation 4 (building control approval applications for HRB work or stage of HRB work) and paragraphs (1)(e)(viii), (2)(c) and (5) of regulation 12 (building control approval applications for work to existing HRB) were omitted,
      - (bb) in addition to the requirements of regulation 4 and, as the case may be, regulation 12, the person which carried out the work must provide the regulator with such plans as are necessary to show the work already carried out complies with all applicable requirements of the building regulations, together with a copy of the final certificate;
      - (cc) regulation 5(1)(b) (building control applications: for HRB work or stage of HRB work: validity and time limit) and regulation 13(1)(b) (building control applications: for work to existing HRB: validity and time limit) were omitted;
    - (ii) in relation to any other work in the HRB project—
      - (aa) paragraphs (iii) to (viii) of regulation 4(2)(b) (building control approval applications for HRB work or stage of HRB work) and paragraphs (ii) to (vi) of regulation 12(2)(c) and (5) (building control approval applications for work to existing HRB) were omitted;
      - (bb) regulation 5(1)(b) (building control applications: for HRB work or stage of HRB work: validity and time limit) and regulation 13(1)(b) (building control applications: for work to existing HRB: validity and time limit) were omitted;
  - (b) regulations 18 to 26 (change control) were omitted;
  - (c) paragraphs (2)(b), (6)(b) and (8)(c) of regulation 27 (new client etc) were omitted;
  - (d) any references to golden thread information in regulation 27 were references to fire safety information;
  - (e) paragraph (7) of regulation 29 (new principal contractor or principal designer) were omitted;
  - (f) regulation 31 (golden thread) were omitted;
  - (g) regulations 32 to 37 (mandatory occurrence reporting) were omitted;

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- (h) any references to golden thread information in regulation 38 were references to fire safety information;
- (i) in Part 5 (completion certificates), in relation to any work (including any work carried out before the cancellation date which is included in a completion certificate application)—
  - (i) any references to “completion certificate” were references to “transfer and completion certificate”;
  - (ii) any references to “partial completion certificate” were references to “transfer and partial completion certificate”;
  - (iii) paragraph (2)(d) of regulation 40 (completion certificate applications) were omitted;
  - (iv) paragraph (3)(c) of regulation 45 (partial completion certificates) were omitted;
- (j) any reference in regulations 40(1)(f) (completion certificate applications), 44(1)(c) (completion certificate applications: decisions) and 45(2)(h) and (10)(c) (partial completion certificates) to providing information to the relevant person in accordance with regulation 38 (handover of information on completion etc) were a reference to providing fire safety information to the relevant person;
- (k) any reference in regulations 4, 6, 12 and 42 to a “fire and emergency file” were a reference to a document setting out the fire safety design principles, concepts and standards applied to the development including sufficient plans to show how the work would comply with Part B (fire safety) of Schedule 1 to the 2010 Regulations in relation to the higher-risk building or proposed higher-risk building;
- (l) regulation 46 (inspections etc) were omitted in relation to any work described in a final certificate;
- (m) regulation 47 (regularisation) were omitted in relation to any work carried out before the cancellation date and accordingly any reference to a regularisation certificate in Parts 2 to 6 of these Regulations is to be ignored in relation to that work;
- (n) in regulations 48 (review of regulator’s decisions), 50 (section 30A prescribed applications) and 51 (section 30A applications: procedure)—
  - (i) any reference to completion certificate application were a reference to an application for a transfer and completion certificate, and
  - (ii) any reference to partial completion certificate application were a reference to an application for a transfer and partial completion certificate;
- (o) regulations 50 to 56 (section 30A applications) were omitted in relation to the application for building control approval for the HRB project.

#### Commencement Information

**I5** [Sch. 3 para. 5](#) in force at 1.10.2023, see [reg. 1\(1\)](#)

#### **From April 2024: local authority to notify regulator where work has not sufficiently progressed**

**6.—(1)** No later than 6th March 2024, each local authority must give the regulator a notice stating in respect of each relevant building for which it has not by that date received a notice under paragraph 1(4)—

- (a) the name and address of the building;
- (b) the name, address, telephone number and (if available) email address of the person carrying out the work;



- (c) details of the intended use of the higher-risk building, including the intended use of each storey;
  - (d) the proposed height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023<sup>(5)</sup>;
  - (e) the proposed number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;
  - (f) the proposed number of flats, number of residential rooms and number of commercial units proposed to be contained in the higher-risk building;
  - (g) the provision to be made for the drainage of the building;
  - (h) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes a requirement, the precautions to be taken in the building over a drain, sewer or disposal main to comply with the requirements of that paragraph;
  - (i) the steps to be taken to comply with any local enactment that applies;
  - (j) details of the work which has been carried out together with a summary of the inspections undertaken by the local authority in relation to the work.
- (2) In this paragraph a “relevant building” is a building in relation to which paragraph 1(1)(b) applies.

#### Commencement Information

**I6** Sch. 3 para. 6 in force at 1.10.2023, see [reg. 1\(1\)](#)

#### From April 2024: cases where work is to be regarded as sufficiently progressed

- 7.—(1) This paragraph applies where—
- (a) a notice under paragraph 1(4) (notice that work had sufficiently progressed) in relation to work to that building was received by a local authority before 6th April 2024, and
  - (b) in any case where an initial notice was given in relation to the work, the approved inspector which gave the initial notice has become a registered building control approver before 6th April 2024.
- (2) Where this paragraph applies, with effect from 6th April 2024—
- (a) in a case where full plans have been deposited—
    - (i) Parts 2 to 6 of these Regulations continue not to apply to that work, and
    - (ii) the 2010 Regulations continue to apply to the work but subject to Part 4 (transitional, supplementary and saving provisions) of the Building Regulations etc. (Amendment) (England) Regulations 2023;
  - (b) in a case where an initial notice was given in relation to the work by an approved inspector then for so long as the initial notice continues in force—
    - (i) the initial notice given by the approved inspector is treated as if it were given instead by that person in their capacity as a registered building control approver,
    - (ii) Parts 2 to 6 of these Regulations continue not to apply to that work, and

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(5) [S.I. 2023/275](#).

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- (iii) the 2010 Regulations and the Building (Approved Inspectors etc.) Regulations 2010 continue to apply to the work, but subject to Part 4 (transitional, supplementary and saving provisions) of the Building Regulations etc. (Amendment) (England) Regulations 2023 and Part 4 (transitional, supplementary and saving provisions) of the Building (Approved Inspectors etc. and Review of Decisions) (England) Regulations 2023.

(3) Where this paragraph applies then with effect from 6th April 2024 the local authority for the area, and not the regulator, continues to be the building control authority in relation to the higher-risk building and accordingly the duties and functions of local authorities under section 91 of the 1984 Act continue to apply in relation to the work.

#### Commencement Information

**17** Sch. 3 para. 7 in force at 1.10.2023, see [reg. 1\(1\)](#)

#### From April 2024: cases of work not sufficiently progressed with an initial notice

**8.—(1)** This paragraph applies where, in relation to work to a particular building, paragraph 1 applies in respect of work for which an initial notice was in force, but a notice under paragraph 1(4) (notice that work had sufficiently progressed) was not received by a local authority in relation to the building before 6th April 2024.

(2) Where this paragraph applies—

- (a) for the purposes of section 47(4)(b)(ii) of the 1984 Act the initial notice, or such part of the initial notice which applies to the higher-risk building, ceases to be in force with effect from 6th April 2024;
- (b) if a plans certificate or final certificate relating to the work (or any part of the work) has been accepted before 6th April 2024 then with effect from that date the certificate ceases to have effect;
- (c) subject to paragraph (d), the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from that date;
- (d) regulation 11(3) of the 2010 Regulations does not apply and accordingly the regulator may exercise the power in section 8(3A) of the 1984 Act to dispense with or relax any requirement of the 2010 Regulations.

(3) Where this paragraph applies, with effect from 6th April 2024 the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the work to the higher-risk building (but not in relation to any other work specified in the initial notice).

(4) The provisions of paragraph 4(4) to (9) also apply but as if any reference to the cancellation date were a reference to 6th April 2024.

#### Commencement Information

**18** Sch. 3 para. 8 in force at 1.10.2023, see [reg. 1\(1\)](#)

### **From April 2024: cases of work not sufficiently progressed with full plans**

9.—(1) This paragraph applies where in relation to work to a particular building paragraph 1 applies in respect of work for which full plans were deposited but a notice under paragraph 1(4) (notice that work had sufficiently progressed) was not received by a local authority in relation to the building before 6th April 2024.

(2) Where this paragraph applies, with effect from 6th April 2024 the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the work to the higher-risk building (but not in relation to any other work specified in the full plans).

(3) Where this paragraph applies the person intending to carry out the work must, within 4 weeks beginning with 6th April 2024, give to the regulator a notice setting out—

- (a) the name and address of the building;
  - (b) the name, address, telephone number and (if available) email address of the client, the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);
  - (c) details of the work to be carried out;
  - (d) details of the intended use of the higher-risk building, including the intended use of each storey;
  - (e) the proposed height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;
  - (f) the proposed number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;
  - (g) the proposed number of flats, number of residential rooms and number of commercial units to be contained in the higher-risk building;
  - (h) the provision to be made for the drainage of the building;
  - (i) where paragraph H4 of Schedule 1 to the 2010 Regulations imposes a requirement, the precautions to be taken in the building over a drain, sewer or disposal main to comply with the requirements of that paragraph;
  - (j) the steps to be taken to comply with any local enactment that applies;
  - (k) details of the work which has been carried out together with a summary of the inspections undertaken by the local authority in relation to the work.
- (4) The notice under sub-paragraph (3) must be accompanied by—
- (a) a plan to a scale of not less than 1:1250 showing—
    - (i) the size and position of the proposed building and its relationship to adjoining boundaries;
    - (ii) the boundaries of the curtilage of the building, and the size, position and use of every other building or proposed building within the curtilage;
    - (iii) the width and position of any street on or within the boundaries of the curtilage of the building;
  - (b) where work has started, a copy of the notice given to the local authority under regulation 16(1) (commencement notice) of the 2010 Regulations;

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- (c) such other documents or plans which were provided to the local authority by the person intending to carry out the work for the purpose of demonstrating the compliance of the work or the proposed work with applicable requirements of the building regulations;
  - (d) a statement setting out—
    - (i) any conditions imposed on the full plans;
    - (ii) any changes (including any conditions related to the changes), agreed with the local authority, to the full plans;
    - (iii) any work carried out otherwise than in accordance with the full plans (including otherwise than in accordance with any condition impose on the plans);
  - (e) copy of any report produced by the local authority in relation to each inspection of the work together with a copy of any notes and photographs relating to the inspections;
  - (f) a statement setting out details of any enforcement action taken by the local authority in relation to the work.
- (5) The person intending to carry out the work must give a copy of the notice to the local authority.
- (6) Where this paragraph applies, with effect from 6th April 2024—
- (a) the 2010 Regulations continue to apply to the work, but subject to—
    - (i) Part 4 (transitional, supplementary and saving provisions) of the Building Regulations etc. (Amendment) (England) Regulations 2023;
    - (ii) the modifications set out in paragraph (7);
  - (b) subject to the modifications in paragraph (c), additionally the following provisions of these Regulations apply in relation to the work—
    - (i) regulation 8 (regulator’s power to require notifications etc for HRB work or stage of HRB work);
    - (ii) where work has not started, regulation 9(2) (notice before work);
    - (iii) regulation 9(3) (notice when work has commenced);
    - (iv) regulation 16 (regulator’s power to require notifications etc for work to existing HRB);
    - (v) where work has not started, regulation 17(2) (notice before work);
    - (vi) regulation 17(3) (notice when work has commenced);
    - (vii) regulations 18 (except paragraphs (3) and (4)), and 19 to 29 (change control etc) but as if—
      - (aa) any reference to an agreed document were a reference to the full plans;
      - (bb) sub-paragraphs (xi) and (xii) in paragraph (a), and sub-paragraphs (xi) and (xii) in paragraph (b), of the definition of “major change” in regulation 26 were omitted;
      - (cc) paragraphs (a) and (b) of the definition of “notifiable change” in regulation 26 were omitted;
    - (viii) regulation 31 (golden thread), but as if regulation 31(1) required the client to establish the electronic facility—
      - (aa) within 45 days beginning with 6th April 2024, or
      - (bb) before a completion certificate application or a partial completion certificate application is submitted,
 whichever occurs first;

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- (ix) regulation 32 (mandatory occurrence reporting system), but as if the reference to establishing the system before the construction phase begins were a reference to establishing it within 10 days beginning with 6th April 2024;
  - (x) regulations 33 to 37 (mandatory occurrence reporting) but as if any reference to an agreed document is to be treated as a reference to the full plans;
  - (xi) regulations 38 and 39 (handover of information on completion etc);
  - (xii) regulation 40 (completion certificate applications) but as if paragraphs (i), (ii) and (iii) of paragraph (2)(d) were omitted;
  - (xiii) regulations 41 to 44 (completion certificates etc);
  - (xiv) regulation 45 (partial completion certificate applications) but as if paragraphs (i), (ii) and (iii) of paragraph (3)(c) were omitted;
  - (xv) regulation 46 (inspections etc);
  - (xvi) regulations 48 to 56 (reviews and appeals etc) but only to the extent those provisions apply in relation to a change control application or completion certificate application or a partial completion certificate application;
  - (xvii) regulation 58 (requirement for completion certificate before occupation);
  - (xviii) regulation 59 (electronic submission and directions);
  - (c) any reference in regulations 23, 26, 40, 42 and 45 to a “fire and emergency file” were a reference to a document setting out the fire safety design principles, concepts and standards applied to the development including sufficient plans to show how the work would comply with Part B (fire safety) of Schedule 1 to the 2010 Regulations in relation to the higher-risk building or proposed higher-risk building.
- (7) The 2010 Regulations have effect with the following modifications—
- (a) as if any reference in any provision to a local authority, however so expressed, were a reference to the regulator;
  - (b) as if regulations 16(3) to (5), 17, 17A, 18, 18A, 18B, 38, 39, 40, 40A and 40B of the 2010 Regulations were omitted.
- (8) Where the regulator receives any document under sub-paragraph (6) it may, by notice in writing, require the client—
- (a) to provide further information specified in the notice by the time specified in the notice;
  - (b) to take such steps (including tests) as are specified in the notice by the time specified in the notice to demonstrate the work will comply with all applicable requirements of the building regulations.
- (9) Where a notice is given to the client under sub-paragraph (8), that person must not start or, as the case may be, continue the work to which the notice relates for a period of 10 days beginning on the day after the day on which the notice is received.

#### Commencement Information

**19** Sch. 3 para. 9 in force at 1.10.2023, see **reg. 1(1)**

**From April 2024: cases where work has sufficiently progressed but approved inspector is not a registered building control approver**

**10.**—(1) This paragraph applies where—

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- (a) paragraph 1 applies in relation to a particular building in respect of work for which an initial notice was in force on 6th April 2024 but the approved inspector which gave the notice was not a registered building control approver on that date, and
  - (b) a notice under paragraph 1(4) (notice that work had sufficiently progressed) in relation to that work was received by a local authority before 6th April 2024.
- (2) Where this paragraph applies—
- (a) for the purposes of section 47(4)(b)(ii) of the 1984 Act the initial notice or, such part of the notice which relates to the higher-risk building, ceases to be in force with effect from 6th April 2024;
  - (b) if a final certificate relating to the work (or any part of the work which relates to the higher-risk building) has been accepted before 6th April 2024 then with effect from the notice date the function of enforcing building regulations that is conferred on the regulator by section 91(3) of the 1984 Act is not exercisable in relation to that work;
  - (c) if a plans certificate relating to the work (or any part of the work which relates to the higher-risk building) has been accepted before 6th April 2024 then with effect from the notice date the certificate ceases to have effect;
  - (d) accordingly Parts 2 to 6 of these Regulations apply to the work from 6th April 2024 with the modifications provided for in paragraph 5(9) (as applied by paragraph (4));
  - (e) subject to paragraph (f), the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from that date;
  - (f) regulation 11(3) of the 2010 Regulations does not apply and accordingly the regulator may exercise the power in section 8(3A) of the 1984 Act to dispense with or relax any requirement of the 2010 Regulations.
- (3) Where this paragraph applies, with effect from 6th April 2024 the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the work to the higher-risk building (but not in relation to any other work specified in the initial notice).
- (4) The provisions of paragraph 5(4) to (9) also apply but as if any reference to the cancellation date were a reference to 6th April 2024.

#### Commencement Information

**I10** Sch. 3 para. 10 in force at 1.10.2023, see [reg. 1\(1\)](#)

#### From April 2024: cases where work has sufficiently progressed and then initial notice ceases

- 11.**—(1) This paragraph applies where—
- (a) paragraph 1 applies in relation to a particular building in respect of work for which an initial notice was in force on 6th April 2024;
  - (b) a notice under paragraph 1(4) (notice that work had sufficiently progressed) in relation to that work was received by a local authority before 6th April 2024;
  - (c) the initial notice for the work, or such part of the notice which relates to the higher-risk building, ceases to be in force by virtue of any provision of Part 2 of the 1984 Act on a date after 6th April 2024 (“the cancellation date”).
- (2) Where this paragraph applies—

- (a) if a final certificate relating to the work (or any part of the work which relates to the higher-risk building) has been accepted before the cancellation date then with effect from the notice date the function of enforcing building regulations that is conferred on the regulator by section 91(3) of the 1984 Act is not exercisable in relation to that work;
- (b) if a plans certificate relating to the work (or any part of the work which relates to the higher-risk building) has been accepted before the cancellation date then with effect from the notice date the certificate ceases to have effect;
- (c) accordingly Parts 2 to 6 of these Regulations apply to the work from the cancellation date with the modifications provided for in paragraph 5(9) (as applied by paragraph (4));
- (d) subject to paragraph (e), the 2010 Regulations, to the extent they apply to higher-risk buildings, apply to any of the work from that date;
- (e) regulation 11(3) of the 2010 Regulations does not apply and accordingly the regulator may exercise the power in section 8(3A) of the 1984 Act to dispense with or relax any requirement of the 2010 Regulations.

(3) Where this paragraph applies, with effect from the cancellation date the regulator, and not the local authority for the area, is the building control authority in relation to the higher-risk building and accordingly the duties and functions of the regulator under section 91 of the 1984 Act apply in relation to the work to the higher-risk building (but not in relation to any other work specified in the initial notice).

(4) The provisions of paragraph 5(4) to (9) also apply.

#### Commencement Information

**III** Sch. 3 para. 11 in force at 1.10.2023, see [reg. 1\(1\)](#)

## PART 2

### Enforcement and interpretation

#### Contravention of certain provisions not to be an offence etc

**12.—(1)** The following provisions of this Schedule are prescribed for the purposes of section 35(2) of the 1984 Act as provisions in relation to which section 35(1) does not apply—

- (a) paragraphs 4(4) and 5(4) (including as applied by paragraphs 15(4) and 16(4)) (duties of approved inspectors);
- (b) paragraph 6 (from April 2024: local authority to notify regulator where work has not sufficiently progressed).

**(2)** The following provisions of this Schedule are prescribed for the purposes of section 35B(7) of the 1984 Act as provisions in relation to which a compliance notice<sup>(6)</sup> may not be given—

- (a) paragraphs 4(4) and 5(4) (including as applied by paragraphs 15(4) and 16(4)) (duties of approved inspectors);
- (b) paragraph 6 (from April 2024: local authority to notify regulator where work has not sufficiently progressed).

<sup>(6)</sup> See the definition of “compliance notice” in section 35B(2) of the Building Act 1984, as inserted by section 38(1) of the Building Safety Act 2022.

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#### Commencement Information

**I12** Sch. 3 para. 12 in force at 1.10.2023, see [reg. 1\(1\)](#)

#### Interpretation

**13.**—(1) For the purposes of this Schedule—

“initial notice” is a notice given under section 47 of the 1984 Act;

“full plans” means plans deposited with a local authority for the purposes of section 16 of the 1984 Act in accordance with regulations 12(2)(b) and 14 of the 2010 Regulations (as those provisions had effect immediately before 1st October 2023).

(2) Subject to sub-paragraph (3), any reference to work to which an initial notice relates is to be construed as a reference to that work as varied by an amendment notice given under section 51A of the 1984 Act<sup>(7)</sup> which has been accepted.

(3) Sub-paragraph (2) does not apply where the amendment notice under section 51A of the 1984 Act is given on or after 1st October 2023 and is such that the work as varied becomes higher-risk building work.

#### Commencement Information

**I13** Sch. 3 para. 13 in force at 1.10.2023, see [reg. 1\(1\)](#)

(7) Section 51A was inserted by [S.I. 1996/1905](#) and amended by sections 46(2) and 48(3) of, and paragraph 42(3) of Schedule 5 to, the Building Safety Act 2022.



**Status:**

Point in time view as at 01/10/2023.

**Changes to legislation:**

There are currently no known outstanding effects for the The Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, SCHEDULE 3.