
STATUTORY INSTRUMENTS

2023 No. 993

**The Building Safety Act 2022 (Commencement
No. 5 and Transitional Provisions) Regulations 2023**

Transitional provisions in relation to building control authority for higher-risk building work before 1st October 2023

4.—(1) Subject to paragraph (4), notwithstanding the insertion of section 91ZA into the 1984 Act by section 32 of the 2022 Act, where plans in relation to higher-risk building work were deposited with a local authority in accordance with section 16 of the 1984 Act before 1st October 2023 then—

- (a) section 121A of the 1984 Act has effect in relation to the plans as if the local authority were the building control authority in relation to the building work and not the regulator⁽¹⁾, and
- (b) the 1984 Act has effect as if the regulator amendments had not been made,

until the plans end date.

(2) Subject to paragraph (4), notwithstanding the amendment of section 47 of the 1984 Act by section 46(1) of the 2022 Act, where an initial notice which relates to higher-risk building work was given to a local authority before 1st October 2023 then the local authority continues to be the building control authority in relation to the notice, as if the section 46(1) of the 2022 Act had not been made, until the notice end date.

(3) Where an amendment notice which relates to higher-risk building work was given to a local authority before 1st October 2023 and the notice has not been rejected, accepted or treated as accepted by that date then, notwithstanding the amendment of section 51A of the 1984 Act⁽²⁾ by section 46(2) of the 2022 Act, the local authority continues to be the building control authority in relation to the notice as if section 46(2) of the 2022 Act had not been made, until the notice is rejected, accepted or treated as accepted and where the amendment notice is not rejected paragraph (2) then applies to the initial notice as varied by the amendment notice.

(4) In relation to any case to which Schedule 3 to the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 applies then paragraph (1) or, as the case may be, paragraph (2) has effect subject to the provisions of Schedule 3 to those Regulations which are applicable in that case.

(5) In this regulation—

“amendment notice” has the meaning in section 51A of the 1984 Act;

“higher-risk building work” means any work for which the regulator would have been the building control authority by virtue of section 91ZA of the 1984 Act had that provision been in force at the time when the initial notice was given or the plans deposited;

“notice end date” means the date when—

- (a) the notice is rejected by the local authority in accordance with section 47 of the 1984 Act,
- (b) the notice ceases to be in force in accordance with section 47(4)(b)(ii) of that Act,

(1) The regulator is defined in section 126 of the 1984 Act, the definition was inserted by paragraph 81 of Schedule 5 to the 2022 Act.

(2) Section 51A was inserted by [S.I. 1996/1905](#).

- (c) the notice is cancelled in accordance with section 52 or 52A of that Act⁽³⁾,
 - (d) the notice lapses in accordance with section 53A of that Act⁽⁴⁾, or
 - (e) the building work to which the notice relates is completed,
- whichever occurs first;

“plans end date” means the date when—

- (a) the plans are rejected under any provision of the 1984 Act or regulations made under it (as that provision had effect immediately before 1st October 2023),
 - (b) the plans lapse in accordance with section 32 of the 1984 Act, or
 - (c) the building work to which the plans relate is completed,
- whichever occurs first;

“the regulator amendments” means the amendments provided for in sections 32(1) to (3) and 37 of, and paragraphs 5(3), 11(4), 14(5), 15(8), 18, 21(2), 22(2), 23(2), 24, 25, 26(2), 27(2), 30(4), 32(2) and (6)(b), 33, 34, 35, 37, 39, 55(2), (4)(b) and (5), 57, 58(3)(b) and (4), 61, 62, 63, 64, 65, 66, 68, 69, 70 and 72(4) of Schedule 5 to, the 2022 Act.

⁽³⁾ Section 52A was inserted into the 1984 Act by section 46 of the 2022 Act.
⁽⁴⁾ Section 53A was inserted into the 1984 Act by section 36 of the 2022 Act.