



# Building Safety Act 2022

## 2022 CHAPTER 30

### PART 4

#### HIGHER-RISK BUILDINGS

##### *Meaning of “accountable person” and other key definitions*

#### **71 Meaning of “occupied” higher-risk building etc**

- (1) The following provisions apply for the purposes of [this Part](#).
- (2) A higher-risk building is “occupied” if there are residents of more than one residential unit in the building.
- (3) A reference to a resident of a higher-risk building is to a resident of a residential unit in such a building.
- (4) The Secretary of State may by regulations—
  - (a) amend the definition of a higher-risk building being “occupied”;
  - (b) amend the definition of a “resident” of a higher-risk building;
  - (c) define, for the purposes of [this Part](#), the meaning of being a “resident” of a residential unit.
- (5) See—
  - (a) section 65 for the meaning of “higher-risk building”;
  - (b) section 115 for the meaning of “residential unit”.

#### **72 Meaning of “accountable person”**

- (1) In [this Part](#) an “accountable person” for a higher-risk building is—
  - (a) a person who holds a legal estate in possession in any part of the common parts (subject to [subsection \(2\)](#)), or

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- (b) a person who does not hold a legal estate in any part of the building but who is under a relevant repairing obligation in relation to any part of the common parts.

This subsection is subject to subsection (5) (special rule for commonhold land).

- (2) A person (“the estate owner”) who holds a legal estate in possession in the common parts of a higher-risk building or any part of them (“the relevant common parts”) is not an accountable person for the building by virtue of subsection (1)(a) if—
  - (a) each long lease of which the estate owner is lessor provides that a particular person, who does not hold a legal estate in any part of the building, is under a relevant repairing obligation in relation to all of the relevant common parts, or
  - (b) all repairing obligations relating to the relevant common parts which would otherwise be obligations of the estate owner are functions of an RTM company.
- (3) Subsection (4) applies where—
  - (a) under a lease, a person (“the estate owner”) holds a legal estate in possession in the common parts of a higher-risk building or any part of them (“the relevant common parts”), and
  - (b) a landlord under the lease is under a relevant repairing obligation in relation to any of the relevant common parts.
- (4) For the purposes of this section and section 73—
  - (a) the legal estate in possession in so much of the relevant common parts as are within subsection (3)(b) is treated as held by the landlord (instead of the estate owner), and
  - (b) if (and so far as) the landlord’s actual legal estate in those common parts is held under a lease, the legal estate in possession mentioned in paragraph (a) is treated as held under that lease (and, accordingly, subsection (3) and this subsection may apply in relation to it).
- (5) Where a higher-risk building is on commonhold land, the commonhold association is the accountable person for the building for the purposes of this Part.
- (6) For the purposes of this section—
  - “common parts”, in relation to a building, means—
    - (a) the structure and exterior of the building, except so far as included in a demise of a single dwelling or of premises to be occupied for the purposes of a business, or
    - (b) any part of the building provided for the use, benefit and enjoyment of the residents of more than one residential unit (whether alone or with other persons);
  - “commonhold association” and “commonhold land” have the same meaning as in Part 1 of the Commonhold and Leasehold Reform Act 2002 (see sections 34 and 1 respectively);
  - “long lease”: for the meaning of “long lease” see section 115;
  - “possession”: a reference to “possession” does not include the receipt of rents and profits or the right to receive the same;
  - “relevant repairing obligation”: a person is under a relevant repairing obligation in relation to anything if the person is required, under a lease or by virtue of an enactment, to repair or maintain that thing;

“RTM company” has the same meaning as in Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002 (right to manage).

- (7) The Secretary of State may by regulations amend this section (other than [this subsection](#)).

### **73 Meaning of “principal accountable person”**

- (1) In [this Part](#) the “principal accountable person” for a higher-risk building is—
- (a) in relation to a building with one accountable person, that person;
  - (b) in relation to a building with more than one accountable person, the accountable person who—
    - (i) holds a legal estate in possession in the relevant parts of the structure and exterior of the building, or
    - (ii) is within [section 72\(1\)\(b\)](#) because of a relevant repairing obligation (within the meaning of that section) in relation to the relevant parts of the structure and exterior of the building.
- (2) For the purposes of this section—
- (a) the reference to “the relevant parts of the structure and exterior” of a building is to its structure and exterior except so far as included in a demise of a single dwelling or of premises to be occupied for the purposes of a business;
  - (b) the reference to “possession” does not include the receipt of rents and profits or the right to receive the same.
- (3) [Subsection \(1\)\(b\)](#) is subject to [section 75\(2\)](#) (powers of tribunal where more than one accountable person is within [subsection \(1\)\(b\)](#)).

### **74 Part of building for which an accountable person is responsible**

In [this Part](#), any reference to the part of a higher-risk building for which an accountable person is responsible is to such part of the building (including all of it) as is determined by or in accordance with regulations.

### **75 Determinations by the tribunal**

- (1) An interested person may apply to the tribunal for a determination, as regards a higher-risk building, of any of the following—
- (a) the person or persons who are accountable persons for the building;
  - (b) the person who is the principal accountable person for the building;
  - (c) the part of the building for which any accountable person for the building is responsible.
- (2) Where, on an application under [subsection \(1\)\(b\)](#), it appears to the tribunal that there is more than one accountable person within [section 73\(1\)\(b\)](#), the principal accountable person is such one of those accountable persons as the tribunal considers appropriate.
- (3) In this section “interested person” means—
- (a) the regulator,
  - (b) a person who holds a legal estate in any part of the common parts (or who claims to hold such an estate), or

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- (c) a person who is under a relevant repairing obligation in relation to any part of the common parts (or who claims to be under such an obligation).
- (4) In [subsection \(3\)](#) “relevant repairing obligation” and “common parts” have the same meaning as in section 72.