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Building Safety Act 2022

2022 CHAPTER 30

PART 3

BUILDING ACT 1984

Building control authorities and building regulations

31 Higher-risk buildings etc

In the Building Act 1984 after [section 120C](#) (inserted by [Schedule 5](#)) insert—

“Higher-risk buildings etc

120D Meaning of “higher-risk building”: England

- (1) This section applies for the purposes of this Act as it applies in relation to England.
- (2) “Higher-risk building” means a building in England that—
 - (a) is at least 18 metres in height or has at least 7 storeys, and
 - (b) is of a description specified in regulations made by the Secretary of State.
- (3) The Secretary of State may by regulations make provision supplementing this section.
- (4) The regulations may in particular—
 - (a) define “building” or “storey” for the purposes of this section;
 - (b) make provision about how the height of a building is to be determined for those purposes;
 - (c) provide that “higher-risk building” does not include a building of a specified description.

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- (5) Regulations made by virtue of [subsection \(4\)\(a\)](#) may in particular define “building” so as to provide that it includes—
 - (a) any other structure or erection of any kind (whether temporary or permanent);
 - (b) any vehicle, vessel or other movable object of any kind, in such circumstances as may be specified.
- (6) The Secretary of State may by regulations amend this section (other than [subsection \(1\)](#) or [\(3\)](#) or this subsection).
- (7) For the meaning of “higher-risk building work” see section [91ZA](#).

120E Regulations under [section 120D](#): procedure

- (1) Before making regulations under [section 120D](#), the Secretary of State must consult—
 - (a) the regulator, and
 - (b) such other persons as the Secretary of State considers appropriate.
- (2) But the regulator need not be consulted if—
 - (a) the regulations give effect to a recommendation made by the regulator under [section 120G](#), or
 - (b) the Secretary of State has under [section 120H](#) asked the regulator for advice about the description of building in question.

120F Regulations under [section 120D](#): additional procedure in certain cases

- (1) This section applies if the Secretary of State proposes to make regulations under [section 120D](#) that would result in a description of building (including anything within [subsection \(5\)](#) of that section) becoming a higher-risk building for the purposes of this Act as it applies in relation to England.
- (2) The Secretary of State must ask the regulator under [section 120H\(1\)](#) for advice about the description of building, except where the regulations would give effect to a recommendation under [section 120G\(2\)](#).
- (3) The Secretary of State must carry out a cost-benefit analysis and publish it.
- (4) In this section “cost-benefit analysis” means—
 - (a) an analysis of the costs together with an analysis of the benefits that will arise if the regulations are made, and
 - (b) an estimate of those costs and of those benefits (subject to [subsection \(5\)](#)).
- (5) If, in the opinion of the Secretary of State—
 - (a) the costs or benefits cannot reasonably be estimated, or
 - (b) it is not reasonably practicable to produce an estimate,
 the cost-benefit analysis need not estimate them, but must include a statement of the Secretary of State’s opinion and an explanation for it.

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120G Recommendations about regulations under [section 120D](#)

- (1) [Subsection \(2\)](#) applies if, in respect of any description of building that is not a higher-risk building, the regulator considers—
 - (a) that a building safety risk is greater for that description of buildings than it is for buildings that are not of that description,
 - (b) that if the risk materialised as regards a building of that description it would have the potential to cause a major incident, and
 - (c) that buildings of that description should be higher-risk buildings for the purposes of this Act as it applies in relation to England.
- (2) The regulator must—
 - (a) recommend to the Secretary of State that buildings of that description should be higher-risk buildings for the purposes of this Act, and
 - (b) give the Secretary of State a statement of its assessment of the issues it considered when deciding to make the recommendation.
- (3) If, following a recommendation, the Secretary of State decides not to make regulations under [section 120D](#) giving effect to the recommendation, the Secretary of State must publish a document setting out—
 - (a) the regulator’s recommendation,
 - (b) the Secretary of State’s decision not to make the regulations, and
 - (c) the reasons for that decision.
- (4) If the regulator considers that a particular description of higher-risk building should cease to be a higher-risk building for the purposes of this Act as it applies in relation to England, it must make a recommendation to the Secretary of State to that effect.
- (5) In this section—

“building safety risk” means a risk to the safety of people in or about a building arising from any of the following occurring as regards the building—

 - (a) the spread of fire;
 - (b) structural failure;
 - (c) any other matter prescribed by regulations under section 62 of the Building Safety Act 2022 in relation to all buildings, or in relation to a description of building that includes the building;

“major incident” means an incident resulting in—

 - (a) a significant number of deaths, or
 - (b) serious injury to a significant number of people.

120H Advice about regulations under [section 120D](#)

- (1) [Subsections \(2\)](#) to [\(5\)](#) apply if the Secretary of State asks the regulator for advice as to whether a specified description of building should be a higher-risk building for the purposes of this Act as it applies in relation to England.
- (2) The regulator must consider whether the following conditions are met—

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- (a) the first condition is that a building safety risk is greater for that description of buildings than it is for buildings that are not of that description;
 - (b) the second condition is that, if the risk materialised as regards a building of that description, it would have the potential to cause a major incident;
 - (c) the third condition is that buildings of that description should be higher-risk buildings for the purposes of this Act as it applies in relation to England.
- (3) The regulator must—
- (a) if the conditions mentioned in [subsection \(2\)](#) are met, recommend to the Secretary of State that buildings of that description should be higher-risk buildings for the purposes of this Act as it applies in relation to England;
 - (b) otherwise, recommend to the Secretary of State that buildings of that description should not be higher-risk buildings for those purposes.
- (4) The regulator must give the Secretary of State a statement of its assessment of the issues it considered in relation to the recommendation under [subsection \(3\)](#).
- (5) If, following a recommendation under [subsection \(3\)\(a\)](#), the Secretary of State decides not to make regulations under [section 120D](#) giving effect to the recommendation, the Secretary of State must publish a document setting out—
- (a) the regulator’s recommendation,
 - (b) the Secretary of State’s decision not to make the regulations, and
 - (c) the reasons for that decision.
- (6) If requested, the regulator must provide advice to the Secretary of State as to whether a specified description of building should cease to be a higher-risk building for the purposes of this Act as it applies in relation to England.
- (7) In this section—
- “building safety risk” has the meaning given by [section 120G](#);
 - “major incident” has the meaning given by that section;
 - “specified” means specified in the request.

120I Higher-risk buildings and higher-risk building work: Wales

- (1) This section applies for the purposes of this Act as it applies in relation to Wales.
- (2) “Higher-risk building” means a building of a description specified in regulations made by the Welsh Ministers.
- (3) “Higher-risk building work” means any work relating to a higher-risk building or a proposed higher-risk building, including—
 - (a) any work relating to a building that is not a higher-risk building that causes it to become such a building, and
 - (b) any work relating to a higher-risk building that causes it to cease to be such a building.
- (4) The Welsh Ministers may by regulations define “building” for the purposes of this section.

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- (5) The regulations may in particular provide that “building” includes—
- (a) any other structure or erection of any kind (whether temporary or permanent);
 - (b) any vehicle, vessel or other movable object of any kind, in such circumstances as may be specified.”

Commencement Information

- I1** S. 31 not in force at Royal Assent, see [s. 170\(4\)\(a\)\(i\)\(c\)](#)
- I2** [S. 31](#) in force at 28.6.2022 for specified purposes by [S.I. 2022/561](#), [regs. 1\(2\)](#), [3\(d\)](#)
- I3** [S. 31](#) in force at 9.12.2022 for specified purposes by [S.I. 2022/1287](#), [reg. 2\(a\)](#)

32 Building control authorities

- (1) The Building Act 1984 is amended as follows.
- (2) In section 91—
- (a) in subsection (1) before paragraph (a) insert—
 - “(za) [subsection \(3\)](#) of this section and regulations under [section 91ZD](#),”;
 - (b) in subsection (2) for the words from “sections” to the end substitute “—
 - (a) [subsection \(3\)](#) of this section,
 - (b) sections 5(3), 48(1) and 53(2), and
 - (c) regulations under [section 91ZD](#).”;
 - (c) after that subsection insert—
 - “(3) In cases where [section 91ZA](#) or [91ZB](#) provides that the regulator is the building control authority, it is the duty of the regulator (and not the local authority in question)—
 - (a) to carry Part 1 of this Act into execution, and
 - (b) to enforce building regulations.”;
 - (d) in the heading at the end insert “and the regulator”.
- (3) After that section insert—

“91ZA The regulator: building control authority for higher-risk buildings in England

- (1) The regulator is the building control authority in relation to any higher-risk building in England or any proposed such building.
- (2) This includes the regulator being the building control authority as regards—
- (a) any work relating to a building in England that is not a higher-risk building that causes it to become such a building, and
 - (b) any work relating to a higher-risk building in England that causes it to cease to be such a building.
- (3) In this Act “higher-risk building work”, in relation to England, means any work for which the regulator is the building control authority by virtue of this section.

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- (4) For the meaning of “higher-risk building” see [section 120D](#).

91ZB The regulator: building control authority for other work

- (1) This section applies in relation to work of a prescribed description (“the work”) that is to be carried out in England and has a prescribed connection with any higher-risk building work.
- (2) Where—
- (a) the regulator and the person intending to carry out the work, acting jointly, give a notice under this section (a “regulator’s notice”) to the local authority for the area in which the work is to be carried out, and
 - (b) the regulator’s notice is accepted (or treated as accepted) by the local authority,
- the regulator is the building control authority in relation to the work.
- (3) A regulator’s notice may not be given if any of the following has been given to the local authority in relation to the work (or any part of it)—
- (a) an application for building control approval;
 - (b) an initial notice (within the meaning of section 47);
 - (c) a public body’s notice (within the meaning of section 54).

91ZC Section 91ZB: supplementary

- (1) This section supplements section [91ZB](#).
- (2) A local authority to whom a regulator’s notice is given must reject the notice if any prescribed ground exists, and must otherwise accept the notice.
- (3) A notice of rejection must be given within the prescribed period, and must specify the ground or grounds in question.
- (4) The person intending to carry out the work may appeal to the tribunal against a decision of the local authority to reject the regulator’s notice.
- (5) Where a local authority to whom a regulator’s notice is given does not—
- (a) give a notice of rejection in accordance with [subsection \(3\)](#), or
 - (b) give a notice of acceptance within the period mentioned in that subsection,
- the authority is treated as having accepted the regulator’s notice at the end of that period.
- (6) As regards any notice under section [91ZB](#) or this section, building regulations may make provision about—
- (a) the form and content of the notice;
 - (b) the information and documents that must accompany it;
 - (c) the way in which the notice, and anything that is to accompany it, is to be given.

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91ZD Higher-risk buildings in Wales: local authority work

- (1) Building regulations may make provision about cases where a local authority for an area in Wales (“the relevant local authority”) proposes to carry out higher-risk building work in that area.
 - (2) The regulations may in particular—
 - (a) restrict (or prevent) the exercise by the relevant local authority of prescribed functions in relation to the higher-risk building work;
 - (b) require the relevant local authority to notify the Welsh Ministers of prescribed matters;
 - (c) confer on the Welsh Ministers a power to designate another local authority as the building control authority in relation to the higher-risk building work (instead of the relevant local authority);
 - (d) confer on the Welsh Ministers a power to require the relevant local authority to provide specified information, for the purposes of deciding whether to exercise the power of designation.
 - (3) The regulations may also provide, in cases where a local authority is designated as the building control authority in relation to the higher-risk building work, that the relevant local authority and the designated local authority may agree that the designated local authority is to be the building control authority in relation to any work of a prescribed description that has a prescribed connection with the higher-risk building work.
 - (4) Where, as a result of regulations made by virtue of [subsection \(2\)\(c\)](#) or [\(3\)](#), a designated local authority is the building control authority in relation to any work, as regards that work—
 - (a) prescribed functions are functions of the designated local authority (rather than the relevant local authority);
 - (b) the designated local authority (rather than the relevant local authority) must perform such functions relating to enforcement as may be prescribed.”
- (4) After section 121 insert—

“121A Meaning of “building control authority”

- (1) In this Act “building control authority” means—
 - (a) the regulator, in cases where section [91ZA](#) or [91ZB](#) provides that the regulator is the building control authority;
 - (b) the local authority mentioned in [subsection \(2\)](#), in any other case.
- (2) That local authority is—
 - (a) if, by virtue of regulations made under [section 91ZD](#) (higher-risk buildings in Wales: local authority work), a designated local authority is the building control authority, that local authority;
 - (b) otherwise, the local authority for the area in which the building is situated or the proposed building is to be situated.”

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Commencement Information

- I4** S. 32 not in force at Royal Assent, see **s. 170(4)(a)(ii)(b)(i)(c)**
I5 S. 32 in force at 6.4.2023 for specified purposes by **S.I. 2023/362, reg. 3(1)(m)**

33 Building regulations

In Schedule 1 to the Building Act 1984 (building regulations) after paragraph 1 insert—

“Procedural requirements etc: general

- 1A (1) Building regulations may make provision about the procedure that may or must be followed in relation to any work.
- (2) The regulations may in particular make provision for and in connection with—
- (a) the giving of notices;
 - (b) the making of applications to building control authorities;
 - (c) the giving or receipt of certificates;
 - (d) requiring a prescribed person, in prescribed circumstances, to consult such other person as may be prescribed.
- (3) The regulations may—
- (a) confer on a building control authority a power to require a person to notify the authority of specified matters by the specified time;
 - (b) provide that in prescribed circumstances an application is treated as granted or is treated as refused;
 - (c) make provision about the effect of the grant of an application;
 - (d) make provision about the effect of certificates;
 - (e) require a person consulted to give a substantive response to the consultation before the end of a prescribed period.
- (4) In **sub-paragraph (3)(a)** “specified” means specified by the building control authority.

Applications for building control approval

- 1B (1) Building regulations may in particular make provision for and in connection with applications for building control approval (including approval of changes to anything that has already been approved).
- (2) “Building control approval”—
- (a) in relation to any work, means the approval by the building control authority of—
 - (i) plans of the work, and
 - (ii) such other documents, relating to compliance with any provision of building regulations, as may be prescribed (or, in a case within **sub-paragraph (5)**, as are provided to the authority);

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- (b) in relation to a change to a relevant document, means the approval by the authority of the change.
- (3) Building regulations may—
 - (a) confer on building control authorities a power, with the consent of the applicant—
 - (i) to impose requirements (including in particular requirements of a kind mentioned in [sub-paragraph \(4\)](#)) when granting an application;
 - (ii) to vary requirements;
 - (b) make provision about the cases in which an application for approval of a change must be made (including provision conferring on building control authorities a power to specify the circumstances in which such an application must be made).
- (4) The requirements referred to in [sub-paragraph \(3\)\(a\)](#) are—
 - (a) a requirement relating to the provision of a revised version of a specified relevant document;
 - (b) a requirement that the work does not proceed beyond a specified stage unless a specified relevant document has been given to, and approved by, the building control authority.
- (5) Building regulations may provide that in prescribed cases—
 - (a) an application may be made to the authority for approval of the plans and such other relevant documents as the applicant considers appropriate, and
 - (b) the authority may refuse the application if the applicant does not, on request, provide it with a specified relevant document.
- (6) In this paragraph—
 - (a) “relevant document” means—
 - (i) the plans mentioned in [sub-paragraph \(2\)\(a\)\(i\)](#), or
 - (ii) a document prescribed for the purposes of [sub-paragraph \(2\)\(a\)\(ii\)](#);
 - (b) “specified” means specified by the building control authority;
 - (c) a reference to a change to a document includes the replacement of it.

Certificates: approved schemes

- 1C (1) Building regulations may in particular make provision for and in connection with certificates that are given—
 - (a) by a member of a scheme that is approved,
 - (b) in accordance with the scheme, and
 - (c) in accordance with any prescribed requirement relating to the provision of insurance cover in respect of work to which the certificate relates.
- (2) Building regulations may make provision for and in connection with—
 - (a) the approval of schemes by the appropriate national authority or a person designated by that authority;

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- (b) the suspension or withdrawal of approvals (including provision about appeals to the appropriate court or tribunal against the suspension or withdrawal of approvals).
- (3) The regulations may in particular provide that a scheme may be approved (and may remain approved) only if prescribed requirements relating to the provision of insurance cover are complied with.
- (4) The regulations may provide—
 - (a) that an approval has effect for a particular period (including a period specified in the approval), or
 - (b) that an approval has effect until it is suspended or withdrawn.
- (5) The requirements relating to insurance cover that may be prescribed include in particular a requirement that insurance cover is provided through a scheme of insurance approved by the appropriate national authority or a person designated by that authority.

Obtaining, keeping and giving information and documents

- 1D
- (1) Building regulations may, in relation to any work, make provision about—
 - (a) obtaining information or documents;
 - (b) creating documents;
 - (c) keeping information or documents;
 - (d) giving information or documents.
 - (2) The regulations may in particular—
 - (a) provide that information or documents must be given or kept in accordance with prescribed standards;
 - (b) impose requirements as regards keeping information or documents up to date;
 - (c) confer on building control authorities or other prescribed persons a power, in prescribed circumstances, to require a person to give information to them.
 - (3) Where building regulations provide that any information or document must be given, they may make provision about the admissibility in any criminal proceedings of the information or document.

Reporting requirements: duty to establish and operate system

- 1E
- (1) This paragraph applies where building regulations made by virtue of [paragraph 1D](#) require a person to give information—
 - (a) in relation to work in England, to the regulator;
 - (b) in relation to work in Wales, to the building control authority.
 - (2) For the purpose of facilitating and securing compliance with any such requirement, the regulations may—
 - (a) require a prescribed person to establish and operate a system for the giving of prescribed information to such person as may be prescribed, and
 - (b) make provision about such systems.

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Form and content of documents etc

- 1F (1) Where building regulations provide that any document must or may be given, they may make provision about—
- (a) the form and content of the document;
 - (b) the information and other documents that must accompany it;
 - (c) the way in which the document, and anything that is to accompany it, is to be given.
- (2) Where building regulations provide that any information must or may be given, they may make provision about the way in which it is to be given.
- (3) Building regulations may provide that any of the matters mentioned in paragraphs (a) to (c) of [sub-paragraph \(1\)](#), or in [sub-paragraph \(2\)](#), are to be specified in a direction made and published in accordance with the regulations.
- (4) Building regulations may provide that—
- (a) a prescribed application must be accompanied by such prescribed documents as the applicant considers appropriate, and
 - (b) the building control authority may refuse the application if the applicant does not, on request, provide it with a document of a kind prescribed for the purposes of paragraph (a) in relation to the application.

Inspection, testing etc

- 1G (1) Building regulations may make provision for and in connection with—
- (a) the inspection and testing of work;
 - (b) the inspection and testing of buildings;
 - (c) the inspection and testing of services, fittings and equipment provided in connection with buildings;
 - (d) the taking of samples.
- (2) The regulations may in particular—
- (a) prohibit the covering up of any work, for a prescribed period after a prescribed or specified event;
 - (b) provide for the cutting into or laying open of any work or building, or the pulling down of any work.
- (3) In [sub-paragraph \(2\)\(a\)](#) “specified” means specified by the building control authority.

Applications to building control authorities: extension of period by agreement

- 1H Building regulations may provide that any prescribed period for the doing of a thing by a building control authority in connection with an application made to it may be extended by agreement between the authority and the applicant.

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Appeals

- II (1) Building regulations may make provision for and in connection with appeals against decisions made under, or under an instrument made under, Part 1, 2 or 2A of this Act.
- (2) The regulations may confer, in respect of a prescribed decision—
- (a) in relation to England—
 - (i) a right to appeal to the regulator or the tribunal, and
 - (ii) in the case of an appeal to the regulator, a right of appeal to the tribunal against the decision of the regulator made on appeal;
 - (b) in relation to Wales—
 - (i) a right to appeal to the Welsh Ministers or a magistrates' court, and
 - (ii) in the case of an appeal to the Welsh Ministers, a right of appeal to a magistrates' court or a right of appeal to the High Court, against the decision of the Welsh Ministers made on appeal.
- (3) The provision that may be made in connection with appeals includes provision about a right of appeal conferred by Part 1, 2 or 2A.
- (4) The regulations may in particular make provision about—
- (a) the grounds upon which an appeal may be made;
 - (b) the period within which an appeal must be made;
 - (c) the way in which any appeal is to be made;
 - (d) the powers of the court, tribunal or other person determining the appeal (including provision conferring a power to give directions and, in the case of the regulator or Welsh Ministers, powers in respect of costs).
- (5) In respect of appeals to the regulator or the Welsh Ministers, the regulations may make provision about procedural matters (including provision conferring a discretion as to the procedure to be adopted).
- (6) In respect of appeals to the Welsh Ministers, the regulations may in particular make provision for and in connection with the Welsh Ministers 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 Welsh Ministers).”

Commencement Information

I6 S. 33 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(ii\)\(c\)](#)

I7 S. 33 in force at 6.4.2023 in force for E. and for W. except for specified purposes by [S.I. 2023/362, reg. 3\(1\)\(n\)](#)

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34 Dutyholders and general duties

In Schedule 1 to the Building Act 1984 (building regulations) after paragraph 5 insert—

“Appointed persons

- 5A (1) Building regulations may require prescribed appointments to be made in relation to any work.
- (2) Building regulations may make provision about appointments, including provision about—
- the persons who are to make appointments;
 - the persons who may be appointed;
 - the time by which appointments must be made;
 - the period for which persons are to be appointed;
 - the termination of appointments;
 - the replacement of appointed persons.
- (3) The regulations may provide that in prescribed circumstances an appointment is treated as made.
- (4) In this Schedule “appointed person”, in relation to any work, means a person appointed in relation to that work under building regulations made by virtue of this paragraph.

General duties

- 5B (1) Building regulations may, for the purpose of facilitating compliance with any requirement of building regulations in relation to any work to which building regulations are applicable—
- impose duties on relevant persons in connection with the planning or management of the work;
 - require relevant persons to co-operate with other relevant persons.
- (2) The following are “relevant persons” for this purpose—
- any appointed person;
 - any prescribed person.”

Commencement Information

- I8** S. 34 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(iii\)\(c\)](#)
- I9** S. 34 in force at 6.4.2023 by [S.I. 2023/362](#), [reg. 3\(1\)\(n\)](#)

35 Industry competence

In Schedule 1 to the Building Act 1984 (building regulations) after [paragraph 5B](#) (inserted by section 34) insert—

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“Competence requirements

- 5C (1) Building regulations may, in relation to any work, impose competence requirements on—
- (a) any appointed person, or
 - (b) any prescribed person.
- (2) A “competence requirement” is a requirement relating to—
- (a) the skills, knowledge, experience and behaviours of an individual;
 - (b) the capability of a person other than an individual to perform its functions under building regulations.
- (3) The regulations may require an appointed person who is not an individual to give an individual acting under its control who has the appropriate skills, knowledge, experience and behaviours the task of managing its functions as an appointed person.”

Commencement Information

I10 S. 35 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(iii\)\(c\)](#)

I11 S. 35 in force at 6.4.2023 by [S.I. 2023/362](#), [reg. 3\(1\)\(n\)](#)

36 Lapse of building control approval etc

- (1) The Building Act 1984 is amended as follows.
- (2) For section 32 substitute—

“32 Lapse of building control approval

- (1) This section applies where—
 - (a) an application for building control approval in respect of any work is made on any day (“the relevant day”), and
 - (b) the application is granted.
- (2) Where—
 - (a) the work relates to one building, and
 - (b) the work is not commenced within 3 years from the end of the relevant day,
 the relevant provisions have effect as if the application had not been made (and the approval had not been given).
- (3) Where—
 - (a) the work relates to more than one building, and
 - (b) the work relating to one or more of the buildings (“the relevant work”) is not commenced within 3 years from the end of the relevant day,
 the relevant provisions have effect in relation to those buildings and the relevant work as if the application had not been made (and the approval had not been given).

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- (4) In [subsection \(1\)](#) the reference to an application for building control approval is to an application for approval of a kind mentioned in [paragraph 1B\(2\)\(a\)](#) of Schedule 1.
- (5) In this section “the relevant provisions” means this Act and regulations made under it except the following provisions and any regulations made under them—
 - (a) sections 56, [56A](#), [56B](#) and 91A (records and registers etc);
 - (b) [section 105B](#) (fees and charges).
- (6) Building regulations may make provision about when work, or work relating to a building, is to be regarded as commenced for the purposes of this section.”
- (3) In section 47(4)(b) (time when initial notice ceases to be in force) for “below”, in the first place it occurs, substitute “(final certificates) and [section 53A](#) (lapse of initial notice)”.
- (4) In section 50 (plans certificates) omit [subsection \(8\)](#).
- (5) In section 52 (cancellation of initial notice) omit [subsection \(5\)](#).
- (6) In section 53(2) (effect of initial notice ceasing to be in force: general)—
 - (a) at the end of [paragraph \(a\)](#) insert “and”;
 - (b) omit paragraph (c) and the “and” immediately before it.
- (7) After section 53 insert—

“53A Lapse of initial notice

- (1) This section applies where—
 - (a) on any day (“the relevant day”) an initial notice is given in respect of any work, and
 - (b) the initial notice is accepted.
- (2) Where the work relates to one building and is not commenced within 3 years from the end of the relevant day—
 - (a) the initial notice ceases to be in force, and
 - (b) if a plans certificate relating to the work (or any part of it) has been accepted, the relevant provisions have effect as if the certificate had not been given (or accepted).
- (3) Where the work relates to more than one building, and the work in relation to one or more of the buildings (“the relevant work”) is not commenced within 3 years from the end of the relevant day—
 - (a) the initial notice ceases to be in force so far as it relates to the relevant work, and
 - (b) if a plans certificate relating to the relevant work (or any part of it) has been accepted, the relevant provisions have effect as if, as regards the relevant work, the certificate had not been given (or accepted).
- (4) For the purposes of [subsection \(3\)\(b\)](#) it does not matter whether the plans certificate also relates to work other than the relevant work.
- (5) In this section “the relevant provisions” has the meaning given by [section 32](#).

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- (6) Building regulations may make provision about when work, or work relating to a building, is to be regarded as commenced for the purposes of this section.”
- (8) In section 54(4)—
- (a) omit the “and” at the end of [paragraph \(a\)](#);
 - (b) after [paragraph \(b\)](#) insert “, and
 - (c) with the substitution, in subsection (2)(d), of a reference to [paragraph 4A](#) of [Schedule 4](#) for the reference to [section 53A](#).”
- (9) [Schedule 4](#) is amended as follows.
- (10) In [paragraph 1\(1\)](#) for “below” substitute “(final certificates) and [paragraph 4A](#) (lapse of public body’s notice)”.
- (11) In [paragraph 2](#) omit sub-paragraph (6).
- (12) In [paragraph 4\(2\)](#) omit [paragraph \(c\)](#) and the “and” before it.
- (13) After [paragraph 4](#) insert—

“Lapse of public body’s notice

- 4A (1) This paragraph applies where—
- (a) on any day (“the relevant day”) a public body’s notice is given in respect of any work, and
 - (b) the public body’s notice is accepted.
- (2) Where the work relates to one building and is not commenced within 3 years from the end of the relevant day—
- (a) the public body’s notice ceases to be in force, and
 - (b) if a public body’s plans certificate relating to the work (or any part of it) has been accepted, the relevant provisions have effect as if the certificate had not been given (or accepted).
- (3) Where the work relates to more than one building, and the work in relation to one or more of the buildings (“the relevant work”) is not commenced within 3 years from the end of the relevant day—
- (a) the public body’s notice ceases to be in force so far as it relates to the relevant work, and
 - (b) if a public body’s plans certificate relating to the relevant work (or any part of it) has been accepted, the relevant provisions have effect as if, as regards the relevant work, the certificate had not been given (or accepted).
- (4) For the purposes of [sub-paragraph \(3\)\(b\)](#) it does not matter whether the public body’s plans certificate also relates to work other than the relevant work.
- (5) In this paragraph “the relevant provisions” has the meaning given by [section 32](#).
- (6) Building regulations may make provision about when work (or work relating to a building) is to be regarded as commenced for the purposes of this paragraph.”

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Commencement Information

I12 S. 36 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(iii\)\(c\)](#)

I13 S. 36 in force at 6.4.2023 for specified purposes by [S.I. 2023/362, reg. 3\(1\)\(o\)](#)

37 Determination of certain applications by Secretary of State or Welsh Ministers

After section 30 of the Building Act 1984 insert—

“Determination by appropriate national authority

30A Determination of certain applications by appropriate national authority

- (1) This section applies where the building control authority fails to determine a prescribed application relating to higher-risk building work (“the original application”) within the relevant period.
- (2) The applicant may apply to the appropriate national authority for the original application to be determined by that authority.
- (3) An application under this section may be made only—
 - (a) before the end of the prescribed period, and
 - (b) if the building control authority has not determined the original application.
- (4) The building control authority may not determine the original application at any time after the making of an application under this section.
- (5) Building regulations may make provision about applications under this section, including in particular provision—
 - (a) about the making of such applications;
 - (b) requiring an applicant to notify the building control authority of the making of an application;
 - (c) imposing duties on the building control authority in cases where an application is made;
 - (d) for and in connection with the appropriate national authority appointing a person to determine the original application (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 original application.
- (6) The provision that may be made by virtue of [subsection \(5\)\(a\)](#) includes provision about—
 - (a) the form and content of applications;
 - (b) the information and documents that are to accompany an application;
 - (c) the way in which an application, and anything that is to accompany it, is to be given.

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- (7) For the purposes of determining the original application by virtue of this section, this Act and building regulations apply in relation to the appropriate national authority (and any person appointed by virtue of [subsection \(5\)\(d\)](#)) as they apply in relation to the building control authority.
- (8) The applicant may appeal to—
- (a) the tribunal, against a decision of the Secretary of State made under this section;
 - (b) a magistrates’ court, against a decision of the Welsh Ministers made under this section.
- (9) In this section “the relevant period” means—
- (a) the period provided by building regulations as the period within which the building control authority is to make the decision, or
 - (b) if the regulations provide that that period may be extended by agreement between the applicant and the building control authority and such an agreement is made, the agreed period.”

Commencement Information

I14 S. 37 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(iii\)\(c\)](#)

I15 S. 37 in force at 6.4.2023 by [S.I. 2023/362](#), [reg. 3\(1\)\(p\)](#)

38 Compliance and stop notices

- (1) In the Building Act 1984 before section 36 insert—

“Notices in respect of contraventions

35B Compliance notices

- (1) The building control authority may give a compliance notice to a person who appears to the authority to have contravened, be contravening or be likely to contravene—
- (a) a relevant provision of building regulations, or
 - (b) a requirement imposed by virtue of such a provision.
- (2) A “compliance notice” is—
- (a) a notice requiring the recipient to take specified steps within a specified period, or
 - (b) a notice requiring the recipient to remedy the contravention or the matters giving rise to it within a specified period.
- (3) A notice of a kind mentioned in [subsection \(2\)\(a\)](#) may specify any steps relating to—
- (a) the remedying of the contravention, or
 - (b) avoiding the contravention occurring.
- (4) A person who, without reasonable excuse, contravenes a compliance notice commits an offence.

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- (5) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
- and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction.
- (6) A compliance notice may not be given in respect of a contravention which occurred more than 12 months before the day on which the notice is given.
- (7) In this section—
- (a) “relevant provision” means any provision of building regulations except one that is prescribed for the purposes of this paragraph;
 - (b) “specified” means specified in the notice.

35C Stop notices

- (1) The building control authority may give a stop notice to a person appearing to the authority to be in control of any work if it appears to the authority that—
- (a) the carrying out of the work would contravene a provision of building regulations prescribed for the purposes of this paragraph,
 - (b) a compliance notice relating to the work has been contravened, or
 - (c) the work contravenes a provision of building regulations or a requirement imposed by virtue of such a provision, and the risk of serious harm condition is met.
- (2) For the purposes of [subsection \(1\)\(c\)](#) the “risk of serious harm condition” is that use of the building in question without the contravention having been remedied would be likely to present a risk of serious harm to people in or about the building.
- (3) A “stop notice” is a notice prohibiting, either immediately or from a specified time, the carrying out of specified work until the occurrence of such of the following as may be specified—
- (a) the taking of specified steps;
 - (b) the occurrence of specified circumstances;
 - (c) the remedying of a specified contravention or the matters giving rise to it.
- (4) Where a stop notice is contravened, the person to whom the notice was given commits an offence.
- (5) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

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and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction.

- (6) It is a defence for a person charged with an offence under this section to prove that the person took all reasonable precautions and exercised all due diligence to avoid the contravention of the stop notice.
- (7) In this section “specified” means specified in the notice.

35D Compliance and stop notices: supplementary

- (1) Building regulations may make provision about compliance notices or stop notices.
- (2) The regulations may in particular make provision about—
- (a) the form and content of notices;
 - (b) the giving of notices;
 - (c) the amendment or withdrawal of notices;
 - (d) the extension of any period specified in a compliance notice for the doing of a thing.
- (3) The regulations may require a building control authority which gives a notice to a person to take reasonable steps to notify other prescribed persons.
- (4) A compliance notice, or a stop notice under [section 35C\(1\)\(a\)](#), may not be given in respect of a contravention (including a future contravention) where—
- (a) an application for building control approval was made to a building control authority in respect of any work that is not higher-risk building work,
 - (b) the application was granted, and
 - (c) the contravention consists (or would consist) of the carrying out of work or the doing of anything else in accordance with—
 - (i) the plans, or any other document, approved by the grant of building control approval, and
 - (ii) any requirement imposed by the building control authority in connection with the work or other thing.”
- (2) After section 39 of that Act insert—

“39A Appeals against compliance notices and stop notices etc

- (1) A person to whom a compliance notice has been given may appeal to the appropriate court or tribunal.
- (2) Where an appeal under [subsection \(1\)](#) is made—
- (a) the compliance notice is of no effect pending the final determination or withdrawal of the appeal, and
 - (b) the specified period mentioned in [section 35B\(2\)](#) is treated as extended by the period—
 - (i) beginning with the day on which the appeal is made, and

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- (ii) ending with the day on which the appeal is finally determined or withdrawn.
- (3) A person to whom a compliance notice has been given may apply to the appropriate court or tribunal for an extension of the period for the doing of the thing specified in the notice.
- (4) Subsection (2) applies in relation to such an application as it applies in relation to an appeal under subsection (1).
- (5) A person to whom a stop notice has been given may appeal to the appropriate court or tribunal.
- (6) Where an appeal under subsection (5) is made—
 - (a) the appellant may apply to the appropriate court or tribunal for a direction that the stop notice is of no effect pending the final determination or withdrawal of the appeal, and
 - (b) unless and until any such direction is given, the stop notice continues to have effect despite the making of the appeal.”

Commencement Information

I16 S. 38 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(iii\)\(c\)](#)

I17 S. 38 in force at 6.4.2023 for specified purposes by [S.I. 2023/362, reg. 3\(1\)\(q\)](#)

39 Breach of building regulations

- (1) The Building Act 1984 is amended as follows.
- (2) For section 35 substitute—

“35 Offence of contravening building regulations etc

- (1) A person who contravenes a provision of building regulations, or a requirement imposed by virtue of any such provision, commits an offence.
- (2) Building regulations may provide that subsection (1) does not apply in relation to a prescribed provision of the regulations.
- (3) Building regulations may provide that, in relation to a prescribed provision of the regulations, it is a defence for a person charged with an offence under this section to prove such matters relating to the contravention as may be prescribed.
- (4) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction.”

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- (3) In section 36(4) (time limit for notices requiring removal or alteration of non-compliant work) for “12 months” substitute “10 years”.

Commencement Information

I18 S. 39 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(iii\)\(c\)](#)

I19 S. 39 in force at 6.4.2023 for specified purposes by [S.I. 2023/362, reg. 3\(1\)\(r\)](#)

VALID FROM 01/10/2023

40 Liability of officers of body corporate etc

In the Building Act 1984 before section 113 insert—

“112A Liability of officers of body corporate etc

- (1) Where an offence under this Act committed by a body corporate—
 - (a) is committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, or
 - (b) is attributable to any neglect on the part of any such person, that person as well as the body corporate commits the offence and is liable to be proceeded against and punished accordingly.
- (2) In [subsection \(1\)](#) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.
- (3) [Subsection \(1\)](#) also applies in relation to a body that is not a body corporate, with the substitution for the reference to a director of the body of a reference—
 - (a) in the case of a partnership, to a partner;
 - (b) in the case of an unincorporated body other than a partnership—
 - (i) where the body’s affairs are managed by its members, to a member of the body;
 - (ii) in any other case, to a member of the governing body.”

Commencement Information

I20 S. 40 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(iii\)\(c\)](#)

41 Revocation etc of certain provision made under section 2(2) of ECA 1972

- (1) In this section “combined instrument” means an instrument containing (whether alone or with other provision)—
 - (a) provision made under section 1(1) of the Building Act 1984 (building regulations), and

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- (b) provision made under section 2(2) of the European Communities Act 1972 (provision implementing EU obligations etc).
- (2) Regulations under section 1(1) of the Building Act 1984 may revoke a combined instrument so far as it is made under section 2(2) of the European Communities Act 1972.
- (3) Nothing in paragraph 13 or 14 of Schedule 8 to the European Union (Withdrawal) Act 2018 (procedure etc for SIs amending or revoking regulations etc made under section 2(2) of the 1972 Act) is to be read as applying to a statutory instrument that amends a combined instrument so far as the combined instrument is made under section 2(2) of the European Communities Act 1972.

Commencement Information

I21 S. 41 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(iii\)\(c\)](#)

I22 S. 41 in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\)](#), [3\(e\)](#)

Status:

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Changes to legislation:

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