



# Building Safety Act 2022

## 2022 CHAPTER 30

### PART 4

#### HIGHER-RISK BUILDINGS

##### *Introduction*

#### 61 Overview of Part

- (1) [This Part](#) contains provisions about the management of building safety risks as regards occupied higher-risk buildings.
- (2) In [this Part](#)—
  - (a) sections 62 to 64 define “building safety risk” and make related provision;
  - (b) sections 65 to 70 define “higher-risk building”, make related provision, and confer power to modify [this Part](#) as it applies in relation to any description of higher-risk building;
  - (c) sections 71 to 75 contain other key definitions, including—
    - (i) when a building is “occupied”;
    - (ii) the definition of “accountable person” and “principal accountable person”;and provide that the First-tier Tribunal may determine who is an accountable person or the principal accountable person for a higher-risk building;
  - (d) sections 76 to 82 make provision about the registration of higher-risk buildings and about building assessment certificates;
  - (e) sections 83 to 86 make provision about the assessment and management of building safety risks, including provision requiring a safety case report to be prepared and revised;
  - (f) sections 87 to 90 contain provisions about the keeping and giving of information and documents to the regulator, other accountable persons, residents and others;

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- (g) sections 91 to 94 contain provisions about engagement with residents etc, including—
  - (i) provision requiring a residents’ engagement strategy to be prepared and revised;
  - (ii) provision requiring complaints systems to be established and operated;
- (h) sections 95 to 97 impose duties on residents and make provision for the enforcement of those duties;
- (i) section 98 to 101 contain provisions about the enforcement of [this Part](#);
- (j) section 102 and [Schedule 7](#) provide for the appointment of a special measures manager, to undertake duties under [this Part](#) in place of an accountable person, and make further provision in connection with that appointment;
- (k) sections 103 to 107 contain provisions about appeals;
- (l) sections 108 to 111 contain miscellaneous provisions, including provision about cooperation and coordination;
- (m) sections 112 to 114 provide for certain terms to be implied into leases, and contain other provisions affecting the relationship between landlord and tenant or affecting commonholds;
- (n) section 115 contains definitions applying for the purposes of [this Part](#).

**Commencement Information**

**II** S. 61 in force at Royal Assent, see [s. 170\(1\)\(f\)](#)

*Meaning of “building safety risk”*

**62 Meaning of “building safety risk”**

- (1) In [this Part](#) “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 prescribed matter.
- (2) Before making regulations under [subsection \(1\)\(c\)](#), the Secretary of State must consult—
  - (a) the regulator, and
  - (b) such other persons as the Secretary of State considers appropriate.
- (3) But the regulator need not be consulted if—
  - (a) the regulations give effect to a recommendation made by the regulator under section 63, or
  - (b) the Secretary of State has under section 64 asked the regulator for its advice in relation to a proposal to make the regulations.

**Commencement Information**

**I2** S. 62 in force at Royal Assent, see [s. 170\(1\)\(f\)](#)

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### **63 Recommendations about regulations under section 62**

- (1) The regulator may recommend that the Secretary of State makes regulations under section 62.
- (2) The regulator may make a recommendation to prescribe a matter under section 62(1)(c) for any higher-risk building only if it considers that if the matter occurred as regards a higher-risk building it would have the potential to cause a major incident.
- (3) The regulator may make a recommendation to prescribe a matter under section 62(1)(c) for a description of higher-risk building only if it considers that if the matter occurred as regards a higher-risk building of that description it would have the potential to cause a major incident.
- (4) The regulator may make a recommendation to prescribe a matter under section 62(1)(c) for a description of building that is not a higher-risk building only if—
  - (a) it considers that—
    - (i) if the matter occurred as regards a building of that description it would have the potential to cause a major incident,
    - (ii) the risk of the matter occurring is greater for that description of buildings than it is for buildings that are not of that description, and
    - (iii) **this Part** should apply (with or without modifications) in relation to buildings of that description, and
  - (b) it also recommends that buildings of that description should be higher-risk buildings for the purposes of **this Part** (and, if section 69(2)(b) applies, makes a recommendation of the kind mentioned there).
- (5) The regulator may make a recommendation to make regulations that would result in a matter ceasing to be prescribed under section 62(1)(c) only if—
  - (a) where the matter is prescribed for any higher-risk building, it considers that if the matter occurred as regards a higher-risk building it would not have the potential to cause a major incident;
  - (b) where the matter is prescribed for a description of higher-risk building, it considers that if the matter occurred as regards a higher-risk building of that description it would not have the potential to cause a major incident.
- (6) When making a recommendation, the regulator must give the Secretary of State a statement of its assessment of the issues it considered when deciding to make the recommendation.
- (7) If following a recommendation the Secretary of State decides not to make the regulations, 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.
- (8) In **this Part** “major incident” means an incident resulting in—
  - (a) a significant number of deaths, or
  - (b) serious injury to a significant number of people.

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#### Commencement Information

**I3** S. 63 in force at Royal Assent, see [s. 170\(1\)\(f\)](#)

### 64 Advice about regulations under section 62

Where the Secretary of State asks the regulator to provide advice about a proposal to make regulations under section 62, it must provide that advice.

#### Commencement Information

**I4** S. 64 in force at Royal Assent, see [s. 170\(1\)\(f\)](#)

#### *Meaning of “higher-risk building”*

### 65 Meaning of “higher-risk building” etc

- (1) In [this Part](#) “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) contains at least 2 residential units.
- (2) The Secretary of State may by regulations make provision supplementing this section.
- (3) 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 prescribed description.
- (4) Regulations made by virtue of [subsection \(3\)\(a\)](#) 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 prescribed.
- (5) The Secretary of State may by regulations amend this section (other than [subsection \(2\)](#) or [this subsection](#)).
- (6) For the meaning of “residential unit” see section 115.

#### Commencement Information

**I5** S. 65 in force at Royal Assent, see [s. 170\(1\)\(f\)](#)

### 66 Regulations under section 65: procedure

- (1) Before making regulations under section 65, the Secretary of State must consult—
  - (a) the regulator, and

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- (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 63(4) or 69, or
  - (b) the Secretary of State has under section 70 asked the regulator for advice about the description of building in question.

#### Commencement Information

**I6** S. 66 in force at Royal Assent, see [s. 170\(1\)\(f\)](#)

### 67 Regulations under section 65: additional procedure in certain cases

- (1) This section applies if the Secretary of State proposes to make regulations under section 65 that would result in a description of building (including anything within [subsection \(4\)](#) of that section) becoming a higher-risk building for the purposes of [this Part](#).
- (2) The Secretary of State must ask the regulator under section 70(1) for advice about the description of building, except where the regulations would give effect to a recommendation under section 69(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 of it.

#### Commencement Information

**I7** S. 67 in force at Royal Assent, see [s. 170\(1\)\(f\)](#)

### 68 Modification of Part in relation to certain kinds of higher-risk building

- (1) The Secretary of State may make regulations modifying [this Part](#) as it applies in relation to a prescribed description of higher-risk building.
- (2) Before making the regulations, the Secretary of State must consult—
- (a) the regulator, and
  - (b) such other persons as the Secretary of State considers appropriate.
- (3) But the regulator need not be consulted if the regulations give effect to a recommendation under section 63(4), 69 or 70.

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#### Commencement Information

**18** S. 68 in force at Royal Assent, see [s. 170\(1\)\(f\)](#)

### 69 Recommendations about definition of “higher-risk building” etc

- (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 [this Part](#) should apply (with or without modifications) in relation to buildings of that description.
- (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 Part](#),
  - (b) if it considers that regulations under section 68 should be made modifying [this Part](#) as it applies in relation to that description of building, make a recommendation to the Secretary of State to that effect, and
  - (c) give the Secretary of State a statement of its assessment of the issues it considered when deciding to make the recommendation under [paragraph \(a\)](#) and any recommendation under [paragraph \(b\)](#).
- (3) [Subsection \(4\)](#) applies if—
  - (a) following a recommendation under [subsection \(2\)\(a\)](#) the Secretary of State decides not to make regulations under section 65 giving effect to the recommendation, or
  - (b) following a recommendation under [subsection \(2\)\(b\)](#) the Secretary of State decides not to make regulations under section 68 giving effect to the recommendation.
- (4) 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.
- (5) If the regulator considers that [this Part](#) should not apply in relation to a particular description of higher-risk building, it must recommend to the Secretary of State that buildings of that description should cease to be higher-risk buildings for the purposes of [this Part](#).
- (6) For the meaning of “major incident” see section 63.

#### Commencement Information

**19** S. 69 in force at Royal Assent, see [s. 170\(1\)\(f\)](#)

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## 70 Advice about definition of “higher-risk building” etc

- (1) [Subsections \(2\) to \(6\)](#) 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 Part](#).
- (2) The regulator must consider whether the following conditions are met—
  - (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 Part](#).
- (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 Part](#);
  - (b) otherwise, recommend to the Secretary of State that buildings of that description should not be higher-risk buildings for those purposes.
- (4) Where the regulator—
  - (a) makes a recommendation under [subsection \(3\)\(a\)](#), and
  - (b) considers that regulations under section 68 should be made modifying [this Part](#) as it applies in relation to buildings of the specified description,it must make a recommendation to the Secretary of State to that effect.
- (5) The regulator must give the Secretary of State a statement of its assessment of the issues it considered when deciding to make the recommendation under [subsection \(3\)](#) and any recommendation under [subsection \(4\)](#).
- (6) If, following a recommendation under [subsection \(3\)\(a\)](#), the Secretary of State decides not to make regulations under section 65 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.
- (7) If requested, the regulator must provide advice to the Secretary of State as to whether higher-risk buildings of a specified description should cease to be higher-risk buildings for the purposes of [this Part](#).
- (8) In this section “specified” means specified by the Secretary of State in the request.

### Commencement Information

**I10** S. 70 in force at Royal Assent, see [s. 170\(1\)\(f\)](#)

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### 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”.

#### Commencement Information

**III** S. 71 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

#### 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
  - (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



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- (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](#)).

#### Commencement Information

**112** S. 72 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

### 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

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- (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)).

#### Commencement Information

**I13** S. 73 in force at Royal Assent for specified purposes, see s. 170(2)(a)

## 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.

#### Commencement Information

**I14** S. 74 in force at Royal Assent for specified purposes, see s. 170(2)(a)

## 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
  - (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.

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#### Commencement Information

**I15** S. 75 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

### *Registration and certificates*

## **76 Requirement for completion certificate before occupation**

- (1) This section applies if any of the following works are carried out—
  - (a) the construction of a higher-risk building;
  - (b) the creation of additional residential units in such a building;
  - (c) works to a building that cause it to become a higher-risk building.
- (2) If a relevant residential unit is occupied before a completion certificate relating to a relevant part of the building is issued, the relevant accountable person commits an offence.
- (3) It is a defence for a person charged with an offence under this section to prove that the person had a reasonable excuse for the residential unit being occupied before such a completion certificate was issued.
- (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).

- (5) In this section—

“completion certificate” means a certificate of a prescribed description that is issued under regulations made under section 1(1) of the Building Act 1984 (building regulations);

“occupied”: a residential unit is occupied if there is a resident of it;

“relevant accountable person”, in relation to a residential unit, means the accountable person who is responsible for a relevant part of the building;

“relevant part” of a building, in relation to a residential unit, means a part of the building containing the residential unit;

“relevant residential unit” means—

- (a) in the case of works within [subsection \(1\)\(a\)](#), any residential unit in the building;
- (b) in the case of works within [subsection \(1\)\(b\)](#), any additional residential unit;
- (c) in the case of works within [subsection \(1\)\(c\)](#), any residential unit in the building except one that existed before the works began.

#### Commencement Information

**I16** S. 76 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

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## 77 Occupation: registration requirement

- (1) The principal accountable person for a higher-risk building commits an offence if the building is occupied but not registered.
- (2) It is a defence for a person charged with an offence under this section to prove that the person had a reasonable excuse for the building being occupied but not registered.
- (3) 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.
- (4) In this section “registered” means registered under section 78.

### Commencement Information

**I17** S. 77 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

## 78 Registration of higher-risk buildings

- (1) On an application by the principal accountable person for a higher-risk building the regulator may register the building.
- (2) The regulator must publish the register in such way as it considers appropriate.
- (3) The regulator may remove a building from the register if it appears to the regulator that—
  - (a) the building is not occupied, or
  - (b) the building is not a higher-risk building.
- (4) The Secretary of State may by regulations make provision about the register, including in particular provision about—
  - (a) the information to be contained in the register;
  - (b) the updating or other revision of information in the register;
  - (c) the procedure for removing buildings from the register.
- (5) The Secretary of State may by regulations make provision in relation to applications under this section, including in particular provision about—
  - (a) the form and content of an application;
  - (b) the information and documents that must accompany an application;
  - (c) the way in which an application, and anything that is to accompany it, is to be given;
  - (d) the circumstances in which an application may be withdrawn or treated as withdrawn;
  - (e) the way in which an application may be withdrawn.

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#### Commencement Information

**I18** S. 78 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

### 79 Occupied building: duty to apply for building assessment certificate

- (1) This section applies where the regulator directs the principal accountable person for an occupied higher-risk building to apply to the regulator for a building assessment certificate in relation to the building.
- (2) The principal accountable person for the building must make the application within the period of 28 days beginning with the day on which the direction is given.
- (3) A person who, without reasonable excuse, contravenes [subsection \(2\)](#) commits an offence.
- (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.
- (5) In this section “building assessment certificate” means a certificate issued under section 81.

#### Commencement Information

**I19** S. 79 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

### 80 Applications for building assessment certificates

- (1) An application under section 79 must be accompanied by—
  - (a) a copy of the most recent safety case report for the building unless a copy of that report has been provided under [section 86\(2\)](#);
  - (b) prescribed information about the mandatory occurrence reporting system operated by the principal accountable person;
  - (c) prescribed information demonstrating compliance by each accountable person for the building with their duties under section 89;
  - (d) a copy of any residents’ engagement strategy.
- (2) The Secretary of State may by regulations make further provision about applications under section 79, including in particular provision about—
  - (a) the form and content of an application;
  - (b) the way in which an application, and anything which is to accompany it, is to be given;
  - (c) the circumstances in which an application may be withdrawn or treated as withdrawn;

*Status: Point in time view as at 28/07/2022.*

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(d) the way in which an application may be withdrawn.

(3) In this section—

“mandatory occurrence reporting system” has the same meaning as in section 87;

“residents’ engagement strategy” has the same meaning as in section 91;

“safety case report” has the same meaning as in section 85.

#### Commencement Information

**I20** S. 80 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

### 81 Building assessment certificates

(1) This section applies where—

- (a) the principal accountable person for an occupied higher-risk building applies under section 79 for a certificate in relation to the building (a “building assessment certificate”),
- (b) the application is made pursuant to a direction of the regulator under that section, and
- (c) the building is registered under section 78.

(2) The regulator must assess whether the relevant duties are being complied with (and may inspect the building in connection with that assessment).

(3) The regulator—

- (a) must give a building assessment certificate if satisfied that all relevant duties are being complied with;
- (b) if not so satisfied, must (subject to [subsection \(4\)](#)) refuse the application and notify the principal accountable person of the refusal.

(4) If the regulator considers that a contravention of a relevant duty can be remedied promptly—

- (a) the regulator may give a notice under [this subsection](#) to the principal accountable person containing a brief description of the contravention and specifying a period for remedying the contravention, and
- (b) if it does so, and the contravention is remedied within that period, it may give a building assessment certificate (instead of refusing the application).

(5) In this section “relevant duty” means a duty of an accountable person for the building under, or under prescribed regulations made under, any of the following—

- (a) section 83 (duty to assess building safety risks);
- (b) section 84 (management of building safety risks);
- (c) section 85 (duties relating to safety case report);
- (d) section 87(5) (duties relating to mandatory occurrence reporting system);
- (e) section 89 (provision of information to regulator, residents etc);
- (f) section 91 (duty to produce a residents’ engagement strategy).

(6) The Secretary of State may by regulations make further provision about building assessment certificates and notices under this section, including in particular provision about—

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- (a) the period in relation to which a certificate may be given;
- (b) the form and content of a certificate or notice;
- (c) the way in which a certificate or notice is to be given.

#### Commencement Information

**I21** S. 81 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

## 82 Duty to display building assessment certificate etc

- (1) The principal accountable person for an occupied higher-risk building must ensure that the following are displayed together, in a conspicuous position in the building—
  - (a) a notice in the prescribed form containing prescribed information about accountable persons for the building;
  - (b) the most recent building assessment certificate relating to the building;
  - (c) any relevant compliance notice (see [subsection \(5\)](#)).
- (2) Where a special measures order is in force in relation to an occupied higher-risk building—
  - (a) [subsection \(1\)](#) has effect as if [paragraph \(b\)](#) were omitted, and
  - (b) the principal accountable person for the building must ensure that no building assessment certificate relating to the building is displayed in the building.
- (3) A person who, without reasonable excuse, contravenes [subsection \(1\)](#) or [\(2\)\(b\)](#) commits an offence.
- (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.
- (5) In this section—
  - “building assessment certificate” has the same meaning as in section 81;
  - “relevant compliance notice”: a compliance notice is “relevant” if—
    - (a) it has been given to an accountable person for the building,
    - (b) if it was not given to the principal accountable person for the building, the regulator has given a copy of it to the principal accountable person, and
    - (c) the regulator has not notified the principal accountable person that the notice has been withdrawn.

#### Commencement Information

**I22** S. 82 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

*Status: Point in time view as at 28/07/2022.*

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### *Duties relating to building safety risks*

#### **83 Assessment of building safety risks**

- (1) An accountable person for an occupied higher-risk building must as soon as reasonably practicable after the relevant time assess the building safety risks as regards the part of the building for which they are responsible.
- (2) Further such assessments must be made—
  - (a) at regular intervals,
  - (b) at any time that the accountable person has reason to suspect that the current assessment is no longer valid, and
  - (c) at the direction of the regulator, within a period specified in the direction.
- (3) An assessment under [subsection \(1\)](#) or [\(2\)](#) must be suitable and sufficient for the purposes of enabling the accountable person to comply with their duties under section 84.
- (4) In this section “the relevant time” means—
  - (a) the time when the building becomes occupied, or
  - (b) if later, the time when the person becomes an accountable person for the building.

#### **Commencement Information**

**I23** S. 83 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

#### **84 Management of building safety risks**

- (1) An accountable person for an occupied higher-risk building must take all reasonable steps for the following purposes—
  - (a) preventing a building safety risk materialising as regards the part of the building for which they are responsible;
  - (b) reducing the severity of any incident resulting from such a risk materialising.
- (2) Those steps may in particular involve the accountable person carrying out works to the part of the building for which they are responsible.
- (3) When taking the steps the accountable person must act in accordance with prescribed principles.
- (4) The steps must be taken promptly.
- (5) The accountable person must make and give effect to arrangements for the purpose of ensuring the effective planning, organisation, control, monitoring and review of steps taken under this section.

#### **Commencement Information**

**I24** S. 84 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)



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## 85 Safety case report

- (1) The principal accountable person for an occupied higher-risk building must as soon as reasonably practicable after the relevant time prepare a report (a “safety case report”) containing—
  - (a) any assessment of the building safety risks made under section 83 by an accountable person for the building, and
  - (b) a brief description of any steps taken under section 84 by an accountable person for the building.
- (2) The principal accountable person must revise a safety case report if they consider it necessary or appropriate to do so following—
  - (a) any further assessment under section 83 made by an accountable person for the building, or
  - (b) the taking of further steps under section 84 by an accountable person for the building.
- (3) The Secretary of State may by regulations make further provision about the content and form of safety case reports.
- (4) In this section “the relevant time” means—
  - (a) the time when the building becomes occupied, or
  - (b) if later, the time when the person becomes the principal accountable person for the building.

### Commencement Information

**I25** S. 85 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

## 86 Notification and provision of report to the regulator

- (1) The principal accountable person for an occupied higher-risk building must notify the regulator as soon as reasonably practicable after preparing or revising a safety case report.
- (2) Where the regulator asks the principal accountable person to provide it with a copy of the safety case report, the principal accountable person must give a copy of it to the regulator as soon as reasonably practicable.
- (3) The Secretary of State may by regulations make provision about—
  - (a) the content and form of notifications under this section;
  - (b) the way in which a notification or copy of a report must be given.
- (4) In this section “safety case report” has the same meaning as in section 85.

### Commencement Information

**I26** S. 86 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

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### *Duties relating to information and documents*

#### **87 Mandatory reporting requirements**

- (1) An accountable person for an occupied higher-risk building must, in prescribed circumstances, give prescribed information to the regulator by the prescribed time and in the specified way.
- (2) The information that may be prescribed is information that relates to a building safety risk as regards the part of the building for which an accountable person is responsible.
- (3) In [subsection \(1\)](#) “specified” means specified in a direction given and published by the regulator.
- (4) A person who, without reasonable excuse, contravenes [subsection \(1\)](#) commits an offence and is liable on summary conviction to a fine.
- (5) The principal accountable person for an occupied higher-risk building must establish and operate an effective mandatory occurrence reporting system which complies with prescribed requirements.
- (6) A “mandatory occurrence reporting system” is a system for the giving of information to accountable persons for the building for the purpose of enabling them to comply with [subsection \(1\)](#).
- (7) Information provided by a person under [subsection \(1\)](#) is not admissible in evidence against that person in criminal proceedings except—
  - (a) in proceedings for an offence under section 24 or this section,
  - (b) in proceedings for an offence of perverting the course of justice, or
  - (c) if in the proceedings—
    - (i) in giving evidence the person makes a statement inconsistent with the information, and
    - (ii) evidence as to the information that was provided is adduced, or a question relating to it is asked, by or on behalf of the person.

#### **Commencement Information**

**I27** S. 87 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

#### **88 Keeping information about higher-risk buildings**

- (1) An accountable person for a higher-risk building must—
  - (a) keep prescribed information in accordance with prescribed standards, and
  - (b) so far as possible keep such information up to date.
- (2) An accountable person for a higher-risk building must keep copies of prescribed documents in accordance with prescribed standards.
- (3) Where an accountable person does not hold prescribed information or a copy of a prescribed document, they must obtain it except where it is not practicable to do so.
- (4) The Secretary of State may by regulations make provision as to when the duties in [subsections \(1\) to \(3\)](#) apply.

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#### Commencement Information

**I28** S. 88 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

### **89 Provision of information etc to the regulator, residents and other persons**

- (1) The Secretary of State may by regulations make provision requiring an accountable person for a higher-risk building to give prescribed information or a copy of a prescribed document to—
  - (a) the regulator,
  - (b) another accountable person for the building,
  - (c) residents of the building,
  - (d) owners of residential units in the building, or
  - (e) any other prescribed person.
- (2) The regulations may in particular make provision about—
  - (a) when information or a copy of a document must be given;
  - (b) the way in which information or copy of a document must be given;
  - (c) the form in which information must be given (and may in particular require that the information is given in an accessible form);
  - (d) the standards in accordance with which information or a copy of a document must be given.
- (3) The regulations may make exceptions to any duty imposed under the regulations.
- (4) Subject to [subsection \(5\)](#), the regulations may provide that the disclosure of information under this section does not breach—
  - (a) any obligation of confidence owed by the accountable person in relation to that information;
  - (b) any other restriction on the disclosure of information (however imposed).
- (5) This section does not authorise a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the powers conferred by this section).
- (6) Where the regulations provide that any information or document must be given to the regulator, they may make provision about the admissibility in any criminal proceedings of the information or document.

#### Commencement Information

**I29** S. 89 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

### **90 Provision of information etc on change in accountable person**

- (1) This section applies where at any time (“the relevant time”) an accountable person for a higher-risk building (the “outgoing person”) ceases to be responsible for all or any part of the building.
- (2) The outgoing person must give prescribed information and a copy of any prescribed document to any person who, immediately after the relevant time—

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- (a) is an accountable person for the building, and
  - (b) is responsible for a part of the building for which the outgoing person ceased to be responsible at the relevant time.
- (3) The information and documents must be given—
- (a) by the prescribed time,
  - (b) in the prescribed way, and
  - (c) in accordance with prescribed standards.
- (4) The outgoing person must give prescribed information to the regulator in the prescribed way, as soon as reasonably practicable after the relevant time.
- (5) Subject to [subsection \(6\)](#), regulations made by the Secretary of State under this section may provide that the disclosure of information under this section does not breach—
- (a) any obligation of confidence owed by the outgoing person in relation to that information;
  - (b) any other restriction on the disclosure of information (however imposed).
- (6) This section does not authorise a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the powers conferred by this section).
- (7) A person who, without reasonable excuse, contravenes [subsection \(2\)](#) or [\(4\)](#) commits an offence and 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.

#### Commencement Information

**I30** S. 90 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

### *Engagement with residents etc*

## **91 Residents' engagement strategy**

- (1) The principal accountable person for an occupied higher-risk building must—
- (a) as soon as reasonably practicable after the relevant time prepare a strategy (a “residents’ engagement strategy”) for promoting the participation of relevant persons in the making of building safety decisions;
  - (b) review the strategy at prescribed times, and revise it if they consider it necessary or appropriate to do so;
  - (c) in prescribed circumstances, consult relevant persons and prescribed persons on the strategy and take any representations made on the consultation into account when next reviewing the strategy;
  - (d) act in accordance with the strategy.

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- (2) “Building safety decision” means a decision by an accountable person for the building that—
- (a) is about the management of the building, and
  - (b) is made in connection with the performance of a duty of the accountable person under, or under regulations made under, [this Part](#).
- (3) The strategy must include information about—
- (a) the information that will be provided to relevant persons about decisions relating to the management of the building,
  - (b) the aspects of those decisions that relevant persons will be consulted about,
  - (c) the arrangements for obtaining and taking account of the views of relevant persons, and
  - (d) how the appropriateness of methods for promoting participation will be measured and kept under review.
- (4) As soon as reasonably practicable after the strategy is prepared or revised, each accountable person for the building must give a copy of the strategy to—
- (a) each resident of the building who—
    - (i) is aged 16 or over, and
    - (ii) resides in a residential unit in the part of the building for which the accountable person is responsible;
  - (b) each owner of a residential unit in that part of the building;
  - (c) any prescribed person.
- (5) The duty under [subsection \(4\)\(a\)](#) does not apply in relation to a resident if the accountable person—
- (a) is not aware of the resident, and
  - (b) has taken all reasonable steps to make themselves aware of persons who reside in residential units in the part of the building for which the accountable person is responsible.
- (6) The Secretary of State may by regulations—
- (a) make further provision about the content of a residents’ engagement strategy;
  - (b) make provision about the preparation, review or revision of a residents’ engagement strategy, in cases where there is more than one accountable person for the building;
  - (c) make provision about the way in which a copy of the strategy is to be given;
  - (d) make provision about consultations under this section.
- (7) In this section—
- “relevant persons” are—
    - (a) residents of the higher-risk building who are aged 16 or over, and
    - (b) owners of residential units in the building;
  - “the relevant time” has the meaning given by section 85.

**Commencement Information**

**I31** S. 91 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

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## 92 Requests for further information

- (1) This section applies where—
  - (a) a resident of an occupied higher-risk building who is aged 16 or over, or
  - (b) an owner of a residential unit in the building,
 makes a request to an accountable person for the building to give them prescribed information or a copy of a prescribed document.
- (2) The accountable person must as soon as reasonably practicable give the resident or owner the information or document requested.
- (3) The Secretary of State may by regulations make provision about—
  - (a) the way in which information or a copy of a document must be given under this section;
  - (b) the form in which information must be given under this section (and may in particular require that the information is given in an accessible form).
- (4) The Secretary of State may by regulations provide that in prescribed circumstances an accountable person is not required by [subsection \(2\)](#) to provide a copy of a document or some or all of the information requested.
- (5) Subject to [subsection \(6\)](#), the regulations may provide that the disclosure of information under this section does not breach—
  - (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (6) This section does not authorise a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the powers conferred by this section).

### Commencement Information

**I32** S. 92 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

## 93 Complaints procedure operated by principal accountable person

- (1) The principal accountable person for an occupied higher-risk building must as soon as reasonably practicable after the relevant time establish and operate a system for the investigation of relevant complaints.
- (2) The Secretary of State may by regulations make provision about the establishment and operation of complaints systems under this section.
- (3) The regulations may in particular make provision—
  - (a) about the way in which complaints may be made;
  - (b) about the period within which a complaint must be considered and dealt with;
  - (c) requiring the principal accountable person to refer a complaint to the regulator.
- (4) In this section—
 

“relevant complaint” means a complaint relating to—

  - (a) a building safety risk as regards the building, or
  - (b) the performance by an accountable person for the building of any duty under, or under regulations made under, [this Part](#);

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“the relevant time” has the meaning given by section 85.

**Commencement Information**

**I33** S. 93 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

**94 Complaints procedure operated by the regulator**

- (1) The regulator must establish and operate a system for the investigation of relevant complaints that are made, or referred under section 93, to the regulator.
- (2) The regulator must consult the committee mentioned in section 11 (residents’ panel)—
  - (a) before the complaints system is established or, if the committee has not been established at the time the complaints system is established, as soon as reasonably practicable after the committee is established, and
  - (b) before making any significant change to the complaints system.
- (3) The Secretary of State may by regulations make provision about the establishment and operation of the complaints system under this section.
- (4) The regulations may in particular make provision about—
  - (a) the period within which a complaint must be considered and dealt with;
  - (b) action that the regulator must consider taking in response to a complaint.
- (5) In this section “relevant complaint” means a complaint relating to—
  - (a) a building safety risk as regards an occupied higher-risk building,
  - (b) the performance by an accountable person for an occupied higher-risk building of any duty under, or under regulations made under, [this Part](#), or
  - (c) the performance by a special measures manager of any function conferred on the manager by a special measures order.

**Commencement Information**

**I34** S. 94 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

*Residents’ etc duties*

**95 Duties on residents and owners**

- (1) This section applies to—
  - (a) a resident of a residential unit in an occupied higher-risk building who is aged 16 or over;
  - (b) an owner of a residential unit in such a building.
- (2) A person to whom this section applies—
  - (a) must not act in a way that creates a significant risk of a building safety risk materialising;
  - (b) must not interfere with a relevant safety item;

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- (c) must comply with a request, made by the appropriate accountable person, for information reasonably required for the purposes of a duty under section 83 or 84.
- (3) For the purposes of [subsection \(2\)\(b\)](#) a person “interferes” with a relevant safety item if they, without reasonable excuse—
  - (a) damage it,
  - (b) remove it, or
  - (c) do anything to, or in relation to, it that interferes with its intended function.
- (4) In this section—
  - “appropriate accountable person” means the accountable person for the building who is responsible for the part of the building comprising the residential unit;
  - “relevant safety item” means—
    - (a) anything that—
      - (i) is in, or forms part of, the common parts (as defined by section 72), and
      - (ii) is intended to improve the safety of people in or about the building in relation to a building safety risk, or
    - (b) any other prescribed thing.

#### Commencement Information

**I35** S. 95 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

## 96 Contravention notices

- (1) This section applies where it appears to the appropriate accountable person that a relevant person has contravened or is contravening a duty under section [95\(2\)](#).
- (2) The appropriate accountable person may give a contravention notice to the relevant person.
- (3) A “contravention notice” is a notice that—
  - (a) specifies the alleged contravention;
  - (b) specifies any steps that the appropriate accountable person considers the relevant person should take in order to remedy the contravention, and a reasonable time for the taking of those steps;
  - (c) specifies anything that the appropriate accountable person considers the relevant person should refrain from doing, to avoid further contraventions of the duty;
  - (d) contains an explanation of the steps that the appropriate accountable person may take under this section if the notice is not complied with.
- (4) Where it appears to the appropriate accountable person that the relevant person has contravened or is contravening the duty under section [95\(2\)\(b\)](#), the contravention notice may require the relevant person to pay to the appropriate accountable person a sum specified in the notice.
- (5) A sum may be specified in a contravention notice under [subsection \(4\)](#) only if—



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- (a) it is necessary to repair or replace the relevant safety item as a result of the contravention, and
  - (b) the sum specified does not exceed the reasonable cost of repairing or replacing (as the case may be) that item.
- (6) The Secretary of State may by regulations make provision about contravention notices, including—
- (a) provision about the form of a notice and the way a notice is to be given, and
  - (b) further provision about the content of a notice.
- (7) The county court may, on an application made by the appropriate accountable person, make an order under this section if satisfied that—
- (a) a contravention notice has been given,
  - (b) the contravention alleged in the notice occurred, and
  - (c) it is necessary to make the order.
- (8) An order under this section may—
- (a) require a relevant person to provide specified information or do a specified thing, by a specified time;
  - (b) prohibit a relevant person from doing a specified thing;
  - (c) where a contravention notice requires a sum to be paid under [subsection \(4\)](#), require a relevant person to pay to the appropriate accountable person a specified sum.
- “Specified” here means specified in the order.
- (9) A sum specified in an order under [subsection \(8\)\(c\)](#) may not exceed the sum specified in the contravention notice.
- (10) In this section—
- “appropriate accountable person” has the same meaning as in section 95;
  - “relevant person” means a person who is subject to the duties under section 95 (see [subsection \(1\)](#) of that section).

#### Commencement Information

**I36** S. 96 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

## 97 Access to premises

- (1) This section applies where —
- (a) an accountable person for an occupied higher-risk building makes a request to a relevant person to enter relevant premises,
  - (b) the request is made for the purpose of—
    - (i) facilitating the performance of a duty under section 83 or 84 (assessment of building safety risk etc), or
    - (ii) determining whether a duty under section 95 (duties on residents and owners) has been contravened,
  - (c) the request is within [subsection \(2\)](#), and
  - (d) entry to the premises is not given.

*Status: Point in time view as at 28/07/2022.*

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- (2) A request is within [this subsection](#) if it—
- (a) is in writing,
  - (b) sets out the purpose for which it is made,
  - (c) contains an explanation of why it is necessary to enter the premises for that purpose,
  - (d) requests access to the premises at a reasonable time, and
  - (e) is made at least 48 hours before the time mentioned in [paragraph \(d\)](#).
- (3) The accountable person may apply to the county court for an order—
- (a) requiring the relevant person to allow the accountable person, or a person authorised by the accountable person, to enter the relevant premises at a reasonable time for the purpose mentioned in the request, and
  - (b) if necessary for that purpose, authorising the taking of measurements, photographs, recordings or samples by the accountable person or authorised person.
- (4) The county court—
- (a) may make an order under [subsection \(3\)\(a\)](#) or [\(b\)](#) if satisfied that it is necessary to do so for the purpose mentioned in the request;
  - (b) must, if it does so, specify a date on which, or in a period within which, the accountable person or authorised person may enter the relevant premises for that purpose.
- (5) In this section—
- “relevant person” in relation to relevant premises means—
- (a) a resident of those premises who is aged 16 or over;
  - (b) where those premises are controlled but not occupied, a person controlling those premises;
  - (c) in any other case, an owner of those premises;
- “relevant premises” means any premises in the part of the building for which the accountable person is responsible that are occupied or controlled by—
- (a) a resident of a residential unit in the building, or
  - (b) an owner of a residential unit in the building.

#### Commencement Information

**I37** S. 97 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

### Enforcement

#### 98 Duty on regulator to enforce Part

The regulator must enforce the provisions of [this Part](#) and regulations made under it.

#### Commencement Information

**I38** S. 98 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

*Status: Point in time view as at 28/07/2022.*

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## 99 Compliance notices

- (1) The regulator may give a compliance notice to an accountable person for a higher-risk building who appears to the regulator to have contravened, be contravening or be likely to contravene a relevant requirement.
- (2) A “compliance notice” is—
  - (a) a notice requiring the accountable person to take specified steps within a specified period, or
  - (b) a notice requiring the accountable person 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) Where it appears to the regulator that the contravention has placed or will place people in or about the building in imminent danger, the regulator may specify that the compliance notice is a notice to which [this subsection](#) applies (an “urgent action notice”).
- (5) A person who, without reasonable excuse, contravenes a compliance notice commits an offence.
- (6) 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.
- (7) In this section—

“relevant requirement” means any requirement on an accountable person under, or under regulations made under, [this Part](#) except one that is prescribed for the purposes of this section;

“specified” means specified in the notice.

### Commencement Information

**I39** S. 99 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

## 100 Compliance notices: supplementary

- (1) The Secretary of State may by regulations make further provision about compliance 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;

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- (d) the extension of any period specified in a compliance notice for the doing of a thing.
- (3) **Subsection (4)** applies where the regulator has given a compliance notice to an accountable person for a higher-risk building.
- (4) The regulator must take reasonable steps to notify—
  - (a) the local authority for the area in which the building is situated;
  - (b) the fire and rescue authority for the area in which the building is situated;
  - (c) where the accountable person for the building is a registered provider of social housing, the Regulator of Social Housing;
  - (d) any other prescribed person.

#### Commencement Information

**I40** S. 100 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

### 101 Offence: contravention giving rise to risk of death and serious injury

- (1) An accountable person for a higher-risk building commits an offence if—
  - (a) without reasonable excuse, the accountable person contravenes a relevant requirement, and
  - (b) the contravention places one or more people in or about the building at critical risk.
- (2) In **subsection (1)**—
  - “critical risk” means a significant risk of death or serious injury arising from a building safety risk;
  - “relevant requirement” means any requirement on an accountable person under, or under regulations made under, [this Part](#) except one that is prescribed for the purposes of this section.
- (3) 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.

#### Commencement Information

**I41** S. 101 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

*Status: Point in time view as at 28/07/2022.*

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## *Special measures*

### **102 Special measures**

[Schedule 7](#) provides for the appointment of a special measures manager, to undertake duties under [this Part](#) in place of an accountable person, and makes further provision in connection with that appointment.

#### **Commencement Information**

**I42** S. 102 in force at Royal Assent for specified purposes, see [s. 170](#)

## *Appeals etc*

### **103 Appeals against compliance notice etc**

- (1) A person to whom a compliance notice has been given may appeal to the tribunal.
- (2) An appeal may be on the grounds—
  - (a) that the person has not contravened, is not contravening, or is not likely to contravene, a relevant requirement;
  - (b) that it is unreasonable to require the person to do any thing specified to be done in the notice.
- (3) Where an appeal under [subsection \(1\)](#) is made and the compliance notice is not an urgent action notice—
  - (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 99\(2\)\(a\)](#) is treated as extended by the period—
    - (i) beginning with the day on which the appeal is made, and
    - (ii) ending with the day on which the appeal is finally determined or withdrawn.
- (4) Where an appeal under [subsection \(1\)](#) is made and the compliance notice is an urgent action notice—
  - (a) the appellant may apply to the tribunal for a direction that the compliance 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 compliance notice continues to have effect despite the making of the appeal.
- (5) A person to whom a compliance notice has been given may apply to the tribunal for an extension of the period for the doing of any thing specified to be done in the notice.
- (6) [Subsections \(3\)](#) and [\(4\)](#) apply to such an application as they apply to an appeal under [subsection \(1\)](#).
- (7) In this section “urgent action notice” has the meaning given by [section 99\(4\)](#).

*Status: Point in time view as at 28/07/2022.*

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#### Commencement Information

**I43** S. 103 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

### 104 Appeals against decisions of the regulator made under [this Part](#)

- (1) This section applies in relation to a decision of the regulator—
  - (a) not to register a building on an application under section 78(1);
  - (b) to remove a building from the register under section 78(3);
  - (c) to refuse an application for a building assessment certificate under section 81(3);
  - (d) to give a direction under section 83(2).
- (2) An affected person may appeal the decision.
- (3) An appeal may be on the grounds—
  - (a) that the decision was based on an error of fact;
  - (b) that the decision was wrong in law;
  - (c) that the decision was unreasonable.
- (4) In this section “an affected person” means—
  - (a) in relation to a decision of the regulator mentioned in [paragraph \(a\)](#) or [\(b\)](#) of [subsection \(1\)](#), an accountable person for the higher-risk building (or a person who would be an accountable person for the building if the building were a higher-risk building);
  - (b) in relation to a decision of the regulator mentioned in [paragraph \(c\)](#) of [subsection \(1\)](#), an accountable person for the higher-risk building;
  - (c) in relation to a decision of the regulator mentioned in [paragraph \(d\)](#) of [subsection \(1\)](#), the accountable person subject to the direction.

#### Commencement Information

**I44** S. 104 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

### 105 Appeals against decisions of the regulator made under regulations

- (1) This section applies in relation to a prescribed decision of the regulator made under regulations made under [this Part](#).
- (2) A prescribed person may appeal to the tribunal against the decision.
- (3) An appeal may be made only on prescribed grounds.

#### Commencement Information

**I45** S. 105 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

*Status: Point in time view as at 28/07/2022.*

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## 106 Appeals: supplementary

- (1) This section applies in relation to an appeal to the tribunal under section 103(1), 104 or 105.
- (2) The tribunal—
  - (a) must consider afresh the decision appealed against, and
  - (b) may take into account evidence that was not available to the regulator.
- (3) The tribunal may confirm, vary or quash the decision of the regulator.
- (4) The Secretary of State may, by regulations—
  - (a) provide for the suspension during the appeal period of the effect of a notice (other than a compliance notice) given or other thing done by the regulator;
  - (b) make other provision about the effect during the appeal period of an appeal (including provision conferring powers on the tribunal).
- (5) In subsection (4) “the appeal period” means the period beginning with the making of the appeal and ending with the final determination or withdrawal of the appeal.

### Commencement Information

**I46** S. 106 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

## 107 Enforcement of decisions of the First-tier and Upper Tribunal

- (1) A decision of the First-tier Tribunal or Upper Tribunal made under or in connection with [this Part](#) is enforceable with the permission of the county court in the same way as an order of that court.
- (2) [Subsection \(1\)](#) does not apply to a decision of the First-tier Tribunal or Upper Tribunal ordering the payment of a sum (as to which see section 28 of the Tribunals, Courts and Enforcement Act 2007 (enforcement)).

### Commencement Information

**I47** S. 107 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

## Miscellaneous and general

## 108 Guidance

- (1) The regulator may issue guidance about any of the following matters—
  - (a) the performance of any duties under section 87 (mandatory reporting requirements);
  - (b) the performance of any duties under section 88 or 89 (duty to keep or give information);
  - (c) the performance of any duties under section 92 (duty to give further information to residents);
  - (d) the performance of any duties under section 93 (complaints procedure).

*Status: Point in time view as at 28/07/2022.*

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- (2) The regulator may revise or withdraw any issued guidance.
- (3) Where in any proceedings it is alleged that a person has contravened a provision mentioned in [subsection \(1\)](#)—
  - (a) proof of a failure to comply with any applicable guidance may be relied on as tending to establish that there was such a contravention, and
  - (b) proof of compliance with any applicable guidance may be relied on as tending to establish that there was no such contravention.
- (4) In any proceedings, a document purporting to be guidance under this section is to be taken to be such guidance unless the contrary is proved.
- (5) Guidance under this section may be issued, revised or withdrawn only with the consent of the Secretary of State.
- (6) In this section any reference to a provision includes regulations made under the provision.

#### Commencement Information

**I48** S. 108 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

### 109 Cooperation and coordination

- (1) [Subsection \(2\)](#) applies if there is more than one accountable person for an occupied higher-risk building.
- (2) When carrying out their duties under, or under regulations made under, [this Part](#), each accountable person must so far as possible—
  - (a) cooperate with every other accountable person for the building, and
  - (b) coordinate with every other accountable person for the building.
- (3) [Subsection \(4\)](#) applies to an accountable person for an occupied higher-risk building if there are one or more other persons who are responsible persons within the meaning of article 3 of the Regulatory Reform (Fire Safety) Order 2005 in relation to the building.
- (4) The accountable person must cooperate with each responsible person for the purpose of each responsible person carrying out their duties under the Order.

#### Commencement Information

**I49** S. 109 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

### 110 Managers appointed under Part 2 of the Landlord and Tenant Act 1987

- (1) Section 24 of the Landlord and Tenant Act 1987 (appointment of a manager by a tribunal) is amended as follows.
- (2) After subsection (2ZA) insert—
 

“(2ZB) Subsection (2)(a) does not apply in respect of a breach of a building safety obligation by an accountable person for a higher-risk building.



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(2ZC) In this section—

“accountable person” has the meaning given in section 72 of the Building Safety Act 2022;

“building safety obligation” means an obligation of an accountable person under Part 4 of the Building Safety Act 2022 or regulations made under that Part;

“higher-risk building” has the meaning given in section 65 of the Building Safety Act 2022.”

(3) After subsection (2D) (inserted by paragraph 8(3) of Schedule 7) insert—

“(2E) An order under this section may not provide for a manager to carry out a function in relation to a higher-risk building where Part 4 of the Building Safety Act 2022 or regulations made under that Part provide for that function to be carried out by an accountable person for that building.”

#### Commencement Information

**I50** S. 110 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

## 111 Building safety directors of resident management companies

(1) This section applies in relation to a resident management company that is an accountable person for a higher-risk building.

(2) The articles of association of the resident management company have effect as if they included such provision as may be prescribed relating to—

- (a) eligibility for appointment as a director of the company, for a building safety purpose;
- (b) the appointment of a director for such a purpose;
- (c) the entitlement to remuneration of a director appointed for such a purpose;
- (d) the removal of a director so appointed.

(3) Subsection (2) has effect—

- (a) whether or not the provision is adopted by the company;
- (b) whether the company was formed before or after the coming into force of this section;
- (c) notwithstanding anything in the company’s articles of association.

(4) In this section—

“building safety purpose” means the purpose of supporting the resident management company in complying with its duties under this Part or under regulations made under this Part;

“resident management company” has the meaning given by regulations made by the Secretary of State.

#### Commencement Information

**I51** S. 111 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

*Status: Point in time view as at 28/07/2022.*

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*Landlord and tenant etc*

**112 Implied terms in leases and recovery of safety related costs**

- (1) The Landlord and Tenant Act 1985 is amended in accordance with subsections (2) to (6).
- (2) After section 30B insert—

*“Higher-risk buildings in England*

**30C Implied terms relating to building safety**

- (1) This section applies to a lease of premises which consist of or include a dwelling in a higher-risk building.
- (2) In the lease there is implied a covenant by the landlord—
  - (a) where the landlord is an accountable person for the higher-risk building, to comply with their building safety duties;
  - (b) to cooperate with any person in connection with a relevant person complying with their building safety duties;
  - (c) where a special measures order in relation to the higher-risk building is in force, to comply with that order so far as it relates to the landlord.
- (3) In the lease there is implied a covenant by the tenant—
  - (a) to allow the landlord, a relevant person or a person authorised in writing by the landlord or a relevant person to enter the premises for a relevant building safety purpose;
  - (b) where the tenant is a resident of the higher-risk building, to comply with their duties under sections 95 and 97 of the Building Safety Act 2022;
  - (c) where a special measures order in relation to the higher-risk building is in force, to comply with that order so far as it relates to the tenant.
- (4) In the covenant implied by subsection (2)(b), “cooperate”, in relation to a person, includes—
  - (a) taking any steps which are reasonably required by the person to facilitate compliance by a relevant person with their building safety duties;
  - (b) where the person is a relevant person (or a person authorised in writing by a relevant person), providing any information (including names and contact details of residents and tenants of the premises) to the person which is reasonably required in connection with the relevant person complying with their building safety duties.
- (5) In the covenant implied by subsection (3)(a), a relevant building safety purpose means—
  - (a) inspecting the premises in connection with a relevant person complying with their building safety duties;
  - (b) carrying out works to the premises, where such works are required to be carried out in connection with a relevant person complying with their building safety duties;

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- (c) accessing a part of the higher-risk building that is not let to the tenant in order to—
  - (i) inspect that part of the building in connection with a relevant person complying with their building safety duties;
  - (ii) carry out works to that part of the building, where such works are required to be carried out in connection with a relevant person complying with their building safety duties.
- (6) The covenant implied by subsection (3)(a) requires entry to the premises to be allowed—
  - (a) only at reasonable times, and
  - (b) only if the tenant has been given at least 48 hours’ notice in writing.
- (7) Except as provided by subsection (8), the disclosure of information in accordance with subsections (2)(b) and (4)(b) does not breach—
  - (a) any obligation of confidence owed by the landlord in relation to that information;
  - (b) any other restriction on the disclosure of information (however imposed).
- (8) Subsections (2)(b) and (4)(b) do not require a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the duty imposed by subsections (2)(b) and (4)(b)).
- (9) In this section—
  - “building safety duties”—
    - (a) in relation to an accountable person, means any duties of the accountable person under Part 4 of the Building Safety Act 2022, or regulations made under that Part of that Act;
    - (b) in relation to a special measures manager, means any duties of the manager included in the special measures order appointing the manager;
  - “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
  - “relevant person” means—
    - (a) an accountable person for the higher-risk building;
    - (b) a special measures manager for the higher-risk building;
  - “resident” and “resident of a higher-risk building” have the same meaning as in Part 4 of the Building Safety Act 2022 (see section 71(3) and (4)(c) of that Act);
  - “works” includes alterations, improvements and installations.

### **30D Liability for building safety costs**

- (1) This section applies to a relevant lease of premises which consist of or include a dwelling in a higher-risk building.
- (2) In this section “relevant lease”—
  - (a) means a lease—

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- (i) that is granted for a term certain of 7 years or more, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture, and
  - (ii) under which the tenant is liable to pay a service charge (within the meaning of section 18), but
  - (b) does not include a relevant social housing tenancy.
- (3) The relevant lease has effect—
- (a) as if the matters for which the service charge is payable under the lease included the taking of building safety measures by or on behalf of a relevant person (insofar as this would not otherwise be the case), and
  - (b) where the lease contains different methods for apportioning different relevant costs (within the meaning of section 18), as if it provided for any costs for which the tenant is liable by virtue only of paragraph (a) to be apportioned in the same way as costs incurred in connection with insuring the building.
- (4) “Building safety measure” means any of the following—
- (a) applying for registration of a higher-risk building in accordance with section 78 of the Building Safety Act 2022;
  - (b) applying for a building assessment certificate in accordance with section 79 of that Act;
  - (c) displaying a building assessment certificate in accordance with section 82 of that Act;
  - (d) assessing building safety risks in accordance with section 83 of that Act;
  - (e) taking reasonable steps in accordance with section 84 of that Act (management of building safety risks), other than steps involving the carrying out of works as referred to in section 84(2);
  - (f) preparing and revising a safety case report in accordance with section 85 of that Act;
  - (g) notifying the regulator of a safety case report, and giving a copy of a safety case report to the regulator, in accordance with section 86 of that Act;
  - (h) establishing and operating a mandatory occurrence reporting system, and giving information to the regulator, in accordance with section 87 of that Act;
  - (i) keeping information and documents in accordance with section 88 of that Act;
  - (j) giving information and documents to any person in accordance with section 89, 90 or 92 of that Act;
  - (k) complying with any duty under section 91 of that Act (residents’ engagement strategy);
  - (l) establishing and operating a system for the investigation of complaints in accordance with section 93 of that Act;
  - (m) giving a contravention notice to a resident, and making an application to the county court, in accordance with section 96 of that Act;

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- (n) making a request to enter premises, or making an application to the county court, in accordance with section 97 of that Act (access to premises).
- (5) For the purposes of this section any of the following incurred in connection with the taking of a building safety measure are to be regarded as incurred in taking the measure—
  - (a) legal and other professional fees;
  - (b) fees payable to the regulator;
  - (c) management costs.
- (6) In this section—
  - “landlord” includes any person who has a right under the lease to enforce payment of a service charge (within the meaning of section 18);
  - “relevant person” means—
    - (a) if the landlord is an accountable person for the building, the landlord or a special measures manager for the building;
    - (b) otherwise, any superior landlord who is an accountable person for the building or a special measures manager for the building;
  - “relevant social housing tenancy” has the meaning given in section 132 of the Land Registration Act 2002;
  - “tenant” includes any person who has an obligation under the lease to pay a service charge (within the meaning of section 18).
- (7) The Secretary of State may by regulations made by statutory instrument amend subsection (4) so as to add, remove or modify a building safety measure.
- (8) The regulations may make incidental, transitional or saving provision.
- (9) A statutory instrument containing regulations under subsection (7) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

### **30E Liability for remuneration of building safety director of resident management company etc**

- (1) This section applies to a lease of premises which consist of or include a dwelling in a higher-risk building if—
  - (a) the landlord is an accountable person for the building,
  - (b) the landlord is—
    - (i) a resident management company within the meaning of section 111 of the Building Safety Act 2022, or
    - (ii) an RTM company within the meaning of Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002 (right to manage), and
  - (c) the tenant is liable to pay a service charge.
- (2) The lease has effect—

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- (a) as if it contained provision authorising the appointment of a person (whether or not a leaseholder or a resident of the building) as a director of the landlord for a building safety purpose,
  - (b) as if the matters for which the service charge is payable under the lease included remunerating any director of the landlord appointed for a building safety purpose (insofar as this would not otherwise be the case), and
  - (c) where the lease contains different methods for apportioning different relevant costs (within the meaning of section 18), as if it provided that any costs for which the tenant is liable by virtue only of paragraph (b) to be apportioned in the same way as costs incurred in connection with insuring the building.
- (3) In this section—
- “building safety purpose” means the purpose of supporting the landlord in complying with its duties under Part 4 of the Building Safety Act 2022 or under regulations made under that Part;
  - “landlord” includes any person who has a right under the lease to enforce payment of a service charge;
  - “service charge” has the meaning given by section 18;
  - “tenant” includes any person who has an obligation under the lease to pay a service charge.

### **30F Restrictions on contracting out of sections 30C to 30E**

- (1) A covenant or agreement, whether contained in a lease to which section 30C (implied terms) applies or in an agreement collateral to such a lease, is void in so far as it purports—
  - (a) to exclude or limit the obligations of the landlord or the tenant under section 30C, or
  - (b) to authorise any forfeiture or impose on the tenant any penalty, disability or obligation in the event of the tenant enforcing or relying upon the obligations of the landlord.
- (2) A covenant or agreement, whether contained in a lease to which section 30D or 30E applies or in an agreement collateral to such a lease, is void insofar as it purports to modify the effect of section 30D(3) or 30E(2).

### **30G Jurisdiction of county court**

The county court has jurisdiction to deal with any claim or other proceedings arising under or in connection with any of sections 30C to 30E (implied terms etc) notwithstanding that by reason of the amount of the claim or otherwise the case would not, apart from this section, be within the jurisdiction of the county court.

### **30H Specific performance of implied terms**

In proceedings relating to a breach of a covenant in section 30C(2) or (3) (implied building safety terms), the court may order specific performance of the covenant—

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- (a) notwithstanding any equitable rule restricting the scope of the remedy, whether on the basis of a lack of mutuality or otherwise, and
- (b) in the case of a breach of a covenant in section 30C(2) or (3)(b) or (c), whether or not the breach relates to a part of the higher-risk building let to the tenant.

### **30I Interpretation of building safety provisions**

In sections 30C to 30H—

“accountable person” has the meaning given in section 115 of the Building Safety Act 2022;

“higher-risk building” has the meaning given in section 115 of that Act;

“lease” does not include a mortgage term;

“special measures manager” has the meaning given in paragraph 1 of Schedule 7 to the Building Safety Act 2022;

“special measures order” has the meaning given in paragraph 1 of Schedule 7 to that Act.”

- (3) After section 20E (inserted by section 133) insert—

#### **“20F Limitation of service charges: excluded costs for higher-risk buildings**

- (1) This section applies in relation to a lease to which section 30D (higher-risk buildings: building safety costs) applies.
- (2) Excluded costs are not to be regarded as relevant costs to be taken into account in determining the amount of service charge payable by a tenant under the lease.
- (3) In this section “excluded costs” means any of the following incurred in connection with Part 4 of the Building Safety Act 2022 or regulations made under that Part—
  - (a) costs incurred or to be incurred by or on behalf of a relevant person solely as a result of any penalty imposed or enforcement action taken by the regulator;
  - (b) legal costs incurred or to be incurred by or on behalf of a relevant person in connection with special measures order proceedings;
  - (c) costs incurred or to be incurred by or on behalf of a relevant person by reason of any negligence, breach of contract or unlawful act on the part of that relevant person or a person acting on their behalf;
  - (d) costs of a description prescribed by regulations made by the Secretary of State that are incurred or to be incurred by or on behalf of an accountable person or special measures manager for the building in connection with the taking of building safety measures.
- (4) In this section—

“building safety measures” has the meaning given by section 30D;

“enforcement action” means action taken with a view to, or in connection with—

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- (a) securing compliance with Part 4 of the Building Safety Act 2022 or regulations made under that Part, or
  - (b) the imposition of a sanction in respect of a contravention of that Part or those regulations;
- “the regulator” has the meaning given by section 115 of the Building Safety Act 2022;
- “relevant person” means—
- (a) where the landlord under the lease is an accountable person for the higher-risk building, the landlord or a special measures manager for the higher-risk building;
  - (b) where the landlord is not such an accountable person, any superior landlord who is an accountable person for the higher-risk building or a special measures manager for the higher-risk building;
- “special measures order proceedings” means any proceedings relating to the making, variation or discharge of, or the giving of directions in relation to, a special measures order under Schedule 7 to the Building Safety Act 2022 (including any appeals in relation to such proceedings).
- (5) Regulations under this section are to be made by statutory instrument.
  - (6) A power to make regulations includes power to make—
    - (a) incidental, transitional or saving provision;
    - (b) different provision for different purposes.
  - (7) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”
- (4) In section 21 (service charge information) after subsection (6) insert—
- “(6A) In particular, regulations which make provision about higher-risk buildings (within the meaning of Part 4 of the Building Safety Act 2022) need not contain provision of a kind mentioned in subsection (2) or (3).”
- (5) In section 30 (meaning of “landlord” and “tenant”)—
- (a) after the definition of “landlord” insert—
    - ““services” includes, in relation to a dwelling in a higher-risk building (as defined by section 30I), building safety measures within the meaning of section 30D;”;
  - (b) in the heading for ““flat”, “landlord” and “tenant”” substitute ““landlord”, “tenant” etc”.
- (6) In section 32(1) (business tenancies), after the entry relating to section 17 insert—
- “section 30C (implied terms relation to building safety),  
 section 30D (building safety costs),  
 section 30E (liability for remuneration of building safety director of resident management company etc).”
- (7) In section 172(1)(a) of the Commonhold and Leasehold Reform Act 2002 (application to Crown)—
- (a) for “30B” substitute “30I”;
  - (b) after “agents” insert “and building safety”.



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#### Commencement Information

**I52** S. 112 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

### 113 Provision of building safety information

- (1) The Landlord and Tenant Act 1987 is amended in accordance with subsections (2) to (4).
- (2) After section 47 insert—

#### **“47A Building safety information to be contained in demands for rent etc: England**

- (1) Where premises to which this Part applies are premises in England which consist of or include a dwelling in a higher-risk building, any written demand given to a tenant of the premises must contain the relevant building safety information.
- (2) Where—
  - (a) a tenant of such premises is given such a demand, but
  - (b) the demand does not contain the relevant building safety information, any part of the amount demanded which consists of a service charge or an administration charge (“the relevant amount”) is to be treated for all purposes as not being due from the tenant to the landlord at any time before the landlord gives the relevant building safety information to the tenant.
- (3) But the relevant amount is not to be so treated in relation to any time when—
  - (a) by virtue of an order of any court or tribunal there is in force an appointment of a receiver or manager whose functions include the receiving of service charges or administration charges from the tenant, or
  - (b) a special measures order (within the meaning of Schedule 7 to the Building Safety Act 2022) is in force.
- (4) In this section—
  - “demand” has the meaning given in section 47;
  - “higher-risk building” has the meaning given in section 115 of the Building Safety Act 2022;
  - “relevant building safety information” has the meaning given in section 49A.”
- (3) After section 49 insert—

#### **“49A Notification by landlord of building safety information: England**

- (1) Where premises to which this Part applies are premises in England which consist of or include a dwelling in a higher-risk building, the landlord must give the tenant a notice containing the relevant building safety information.
- (2) Where a landlord fails to give a notice to a tenant in accordance with subsection (1), any rent, service charge or administration charge otherwise

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due from the tenant to the landlord is to be treated for all purposes as not being due from the tenant to the landlord at any time before the landlord gives the notice to the tenant.

(3) But any such rent, service charge or administration charge is not to be so treated in relation to any time when—

- (a) by virtue of an order of any court or tribunal there is in force an appointment of a receiver or manager whose functions include the receiving of rent, service charges or administration charges from the tenant, or
- (b) a special measures order (within the meaning of Schedule 7 to the Building Safety Act 2022) is in force.

(4) The requirement to give a notice to a tenant under subsection (1) may be satisfied by giving the notice to them at a time when they are a prospective tenant.

(5) In this section “relevant building safety information” means—

- (a) the fact that the premises consist of or include a dwelling in a higher-risk building;
- (b) the name of each person listed in subsection (6);
- (c) an email address and telephone number through which each person listed in subsection (6) may be contacted;
- (d) a postal address in England and Wales at which notices (including notices in proceedings) may be served by the tenant on the principal accountable person for the higher-risk building;
- (e) a postal address for the regulator;
- (f) such other information as may be prescribed in regulations made by the Secretary of State.

(6) The persons are—

- (a) the principal accountable person for the higher-risk building;
- (b) any special measures manager for the higher-risk building;
- (c) the regulator.

(7) In this section—

“higher-risk building” has the meaning given in section 115 of the Building Safety Act 2022;

“principal accountable person” has the meaning given in section 115 of that Act;

“the regulator” has the meaning given in section 115 of that Act;

“special measures manager” has the meaning given in paragraph 1 of Schedule 7 to that Act.”

(4) In section 53(2)(b) (regulations and orders), after “42A” insert “or 49A”.

(5) In section 172(1)(d) of the Commonhold and Leasehold Reform Act 2002 (application to Crown), for “49” substitute “49A”.

#### Commencement Information

**I53** S. 113 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

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## 114 Commonholds

- (1) The Commonhold and Leasehold Reform Act 2002 is amended as follows.
- (2) In section 13(3) (joint unit-holders), after paragraph (fa) insert—  
“(faa) section 38A(1),”.
- (3) In section 14 (use and maintenance)—
  - (a) in the heading, for “and maintenance” substitute “, maintenance and building safety”;
  - (b) after subsection (3) insert—  
“(4) A commonhold community statement for a higher-risk commonhold must make provision requiring the commonhold association to comply with its duties under Part 4 of the Building Safety Act 2022, or regulations made under that Part of the Act, in relation to each commonhold unit.”
- (4) In section 26 (use and maintenance)—
  - (a) in the heading, for “and maintenance” substitute “, maintenance and building safety”;
  - (b) the existing subsection becomes subsection (1);
  - (c) after that subsection insert—  
“(2) A commonhold community statement for a higher-risk commonhold must make provision requiring the commonhold association to comply with its duties under Part 4 of the Building Safety Act 2022, or regulations made under that Part of that Act, in relation to the common parts.”
- (5) In section 31(5) (form and content of commonhold community statement), after paragraph (d) insert—
  - (da) to give information;
  - (db) to apply for grants or other funding;”.
- (6) In section 32(5)(a) (regulations), after “38,” insert “38A,”.
- (7) In section 38 (commonhold assessment), after subsection (2) insert—
  - (3) In subsection (1)(a) “expenses of the association” does not include building safety expenses of the association (within the meaning of section 38A).”
- (8) After section 38 insert—

### “38A Building safety assessment

- (1) A commonhold community statement for a higher-risk commonhold must make provision—
  - (a) requiring the directors of the commonhold association to make an annual estimate of the income required to be raised from unit-holders to meet the building safety expenses of the association,
  - (b) enabling the directors of the commonhold association to make estimates from time to time of income required to be raised from unit-holders in addition to the annual estimate,

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- (c) specifying the percentage of any estimate made under paragraph (a) or (b) which is to be allocated to each unit,
  - (d) requiring each unit-holder to make payments in respect of the percentage of any estimate which is allocated to their unit, and
  - (e) requiring the directors of the commonhold association to serve notices on unit-holders specifying payments required to be made by them and the date on which each payment is due.
- (2) For the purpose of subsection (1)(c)—
- (a) the percentages allocated by a commonhold community statement to the commonhold units must amount in aggregate to 100;
  - (b) a commonhold community statement may specify 0 per cent in relation to a unit.
- (3) In this section—
- “building safety expenses of the association” means the expenses incurred by the commonhold association or special measures manager for the higher-risk building in connection with taking measures that the association or manager is required or permitted to take under [Part 4](#) of the Building Safety Act 2022, or regulations made under that Part of that Act;
- “special measures manager” means a person appointed under paragraph 4 of Schedule 7 to the Building Safety Act 2022.”
- (9) In section 69(1) (interpretation), before the definition of “instrument” insert—
- ““higher-risk building” has the meaning given by section 115 of the Building Safety Act 2022,
- “higher-risk commonhold” means a commonhold in England that includes all or any part of a higher-risk building,”.

#### Commencement Information

**I54** S. 114 in force at Royal Assent for specified purposes, see [s. 170\(2\)\(a\)](#)

### Interpretation

## 115 Interpretation of [Part 4](#)

In [this Part](#)—

- “accountable person” has the meaning given by section 72;
- “building safety risk” has the meaning given by section 62;
- “compliance notice” has the same meaning as in section 99;
- “contravention” includes a failure to comply;
- “the data protection legislation” has the meaning given by section 30;
- “fire and rescue authority” has the meaning given by section 30;
- “higher-risk building” has the meaning given by section 65;
- “local authority” has the meaning given by section 30;
- “long lease” means—

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(a) a lease granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture, or

(b) a lease for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, other than a lease by sub-demise from one which is not a long lease;

“major incident” has the meaning given by section 63;

“maximum summary term for either-way offences” has the meaning given by section 30;

“occupied”: any reference to an “occupied” higher-risk building is to be read in accordance with section 71;

“owner” means the person—

(a) for the time being receiving the rackrent of the premises in question, whether on the person’s own account or as agent or trustee for another person, or

(b) who would so receive it if those premises were let at a rackrent;

and for this purpose “rackrent” has the meaning given by section 126 of the Building Act 1984;

“prescribed” means prescribed by regulations made by the Secretary of State;

“principal accountable person” has the meaning given by section 73;

“registered provider of social housing” has the meaning given by section 80 of the Housing and Regeneration Act 2008;

“the regulator” has the meaning given by section 2;

“resident” and “resident of a higher-risk building” have the meaning given by section 71;

“residential unit” means—

(a) a dwelling, or

(b) any other unit of living accommodation;

“responsible”: any reference to the part of a higher-risk building for which an accountable person is responsible is to be read in accordance with section 74;

“special measures manager” has the meaning given by [paragraph 1 of Schedule 7](#);

“special measures order” has the meaning given by [paragraph 1 of Schedule 7](#);

“the tribunal” means the First-tier Tribunal.

#### Commencement Information

**I55** S. 115 in force at Royal Assent, see [s. 170\(1\)\(g\)](#)

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