



Building Safety Act 2022

2022 CHAPTER 30

PART 4

HIGHER-RISK BUILDINGS

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.

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Commencement Information

II 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
 - (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

I2 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

I3 S. 67 in force at Royal Assent, see [s. 170\(1\)\(f\)](#)

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Changes to legislation: There are currently no known outstanding effects for the Building Safety Act 2022, Cross Heading: Meaning of “higher-risk building”. (See end of Document for details)

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.

Commencement Information

I4 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

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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

I5 S. 69 in force at Royal Assent, see [s. 170\(1\)\(f\)](#)

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.

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Commencement Information

I6 S. 70 in force at Royal Assent, see [s. 170\(1\)\(f\)](#)

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