

Status: Point in time view as at 29/06/2023. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: Building Safety Act 2022, Schedule 5 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 5

Section 55

MINOR AND CONSEQUENTIAL AMENDMENTS IN CONNECTION WITH PART 3

PART 1

AMENDMENTS OF THE BUILDING ACT 1984

1 The Building Act 1984 is amended as follows.

Commencement Information

- I1** Sch. 5 para. 1 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
- I2** [Sch. 5 para. 1](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 1](#)
- I3** [Sch. 5 para. 1](#) in force at 9.12.2022 for W. by [S.I. 2022/1287](#), [reg. 2\(c\)\(i\)](#)

2 (1) Section 1 is amended as follows.

(2) In subsection (1) for “Secretary of State” substitute “appropriate national authority”.

(3) In subsection (4) for the words from “subject to” to the end substitute “—

- (a) in the case of a statutory instrument made by the Secretary of State, subject to annulment in pursuance of a resolution of either House of Parliament;
- (b) in the case of a statutory instrument made by the Welsh Ministers, subject to annulment in pursuance of a resolution of Senedd Cymru.”

Commencement Information

- I4** Sch. 5 para. 2 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
- I5** [Sch. 5 para. 2](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 2](#)

3 In section 1A(1) for “Secretary of State” substitute “appropriate national authority”.

Commencement Information

- I6** Sch. 5 para. 3 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
- I7** [Sch. 5 para. 3](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 3](#)

4 (1) Section 2 is amended as follows.

(2) In subsection (1) for “Secretary of State” substitute “appropriate national authority”.

(3) In subsections (3) and (4) for “local authority” substitute “building control authority”.

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- I8** Sch. 5 para. 4 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
- I9** [Sch. 5 para. 4\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 4](#)
- I10** [Sch. 5 para. 4\(2\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 5](#)

- 5 (1) Section 3 is amended as follows.
- (2) In subsection (2) for “Secretary of State” substitute “appropriate national authority”.
- (3) After that subsection insert—
- “(2A) The regulator may at any time make a proposal to the Secretary of State for the giving of a direction under subsection (2).
- (2B) Before making a proposal, the regulator must consult such persons as it considers appropriate.
- (2C) Before giving a direction under subsection (2), other than a direction proposed by the regulator, the Secretary of State must consult—
- (a) the regulator, and
- (b) any other person that the Secretary of State considers appropriate.”
- (4) In subsection (3)—
- (a) omit “not exceeding level 5 on the standard scale”;
- (b) for “£50” substitute “level 1 on the standard scale”.

Commencement Information

- I11** Sch. 5 para. 5 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
- I12** [Sch. 5 para. 5\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 6](#)
- I13** [Sch. 5 para. 5\(2\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 7](#)

- 6 In section 4(1)(a)(i) for “Secretary of State” substitute “appropriate national authority”.

Commencement Information

- I14** Sch. 5 para. 6 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
- I15** [Sch. 5 para. 6](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 8](#)

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- 7 In section 5(3)(b) omit “of building regulations”.

Commencement Information

- I16** Sch. 5 para. 7 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

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8 Omit section 5(4).

Commencement Information

I17 Sch. 5 para. 8 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

- 9
- (1) Section 6 is amended as follows.
 - (2) For “Secretary of State”, in each place it occurs, substitute “appropriate national authority”.
 - (3) In subsection (1) for “him”, in each place it occurs, substitute “the appropriate national authority”.
 - (4) In subsection (4)(a) omit “him or”.
 - (5) In subsection (5) omit “his or”.
 - (6) After that subsection insert—
 - “(5A) A notice under subsection (3) or (5) may contain transitional or saving provision (and different provision may be made for different purposes or for different areas).
 - (5B) A body may give an approval under subsection (1) or (4), or withdraw an approval under subsection (5), only with the consent of the appropriate national authority.”
 - (7) In subsection (8) for the words from “subject to” to the end substitute “—
 - (a) in the case of a statutory instrument made by the Secretary of State, subject to annulment in pursuance of a resolution of either House of Parliament;
 - (b) in the case of a statutory instrument made by the Welsh Ministers, subject to annulment in pursuance of a resolution of Senedd Cymru.”
 - (8) After subsection (8) insert—
 - “(9) An order under subsection (8) may provide that a body is designated only in relation to—
 - (a) buildings of a specified description;
 - (b) work of a specified description;
 - (c) specified provisions of building regulations.”

Commencement Information

I18 Sch. 5 para. 9 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

I19 [Sch. 5 para. 9](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 9](#)

- 10
- (1) Section 7 is amended as follows.
 - (2) In subsection (1)(a) for the words from “document” to “provision” substitute “relevant approved document”.

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(3) After subsection (1) insert—

“(1A) In subsection (1) “relevant approved document” means a document approved for the purposes of the provision that applies in relation to the work in question.”

Commencement Information

I20 Sch. 5 para. 10 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

I21 [Sch. 5 para. 10](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 10](#)

11 (1) Section 8 is amended as follows.

(2) For “Secretary of State”, in both places it occurs, substitute “appropriate national authority”.

(3) In subsection (1) for “he” substitute “it”.

(4) After subsection (3) insert—

“(3A) If, in a case where the regulator is the building control authority—

- (a) an application for a direction under this section is made to the regulator, and
- (b) the regulator considers that the operation of a requirement in building regulations would be unreasonable in relation to the particular case,

it may give a direction dispensing with or relaxing the requirement.

(3B) No application under subsection (1) or (2) may be made in a case where the regulator is the building control authority.”

Commencement Information

I22 Sch. 5 para. 11 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

I23 [Sch. 5 para. 11\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 11](#)

I24 [Sch. 5 para. 11\(2\)\(3\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 12](#)

12 (1) Section 9 is amended as follows.

(2) For “Secretary of State”, in both places it occurs, substitute “appropriate national authority”.

(3) In subsection (1) for “or (2) above” substitute “, (2) or (3A)”.

(4) In subsection (2) for “The application” substitute “An application under section 8(1) or (2)”.

(5) In subsection (3) at the end insert “or in a case where the regulator is the building control authority.”

Commencement Information

I25 Sch. 5 para. 12 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

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- I26** Sch. 5 para. 12(1) in force at 28.6.2022 for specified purposes for E. by S.I. 2022/561, regs. 1(2), 3(f), Sch. para. 13
- I27** Sch. 5 para. 12(2) in force at 28.6.2022 for E. by S.I. 2022/561, regs. 1(2), 3(f), Sch. para. 14

- 13 (1) Section 10 is amended as follows.
- (2) In subsections (1), (2), (4) and (5) for “Secretary of State”, in each place it occurs, substitute “appropriate national authority”.
- (3) In subsections (1), (2) and (5) for “local authority”, in each place it occurs, substitute “building control authority”.
- (4) In subsection (1) after “(2)” insert “, (3A)”.
- (5) In subsection (2) omit “he, they or”.
- (6) In subsection (4) omit “himself”.

Commencement Information

- I28** Sch. 5 para. 13 not in force at Royal Assent, see s. 170(4)(b)(viii)(c)
- I29** Sch. 5 para. 13(1) in force at 28.6.2022 for specified purposes for E. by S.I. 2022/561, regs. 1(2), 3(f), Sch. para. 15
- I30** Sch. 5 para. 13(2)(5)(6) in force at 28.6.2022 for E. by S.I. 2022/561, regs. 1(2), 3(f), Sch. para. 16

- 14 (1) Section 11 is amended as follows.
- (2) In subsection (1)—
- (a) for “Secretary of State” substitute “appropriate national authority”;
- (b) for “he may, either on an application made to him or of his” substitute “the authority may, either on an application made by any person (the “original applicant”) or of its”.
- (3) In subsection (2)(b)—
- (a) after “may” insert “, either on an application or of the appropriate national authority’s own accord.”;
- (b) for “Secretary of State” substitute “appropriate national authority”.
- (4) In subsection (3)—
- (a) after “(1)” insert “or (2)(b)”;
- (b) for “Secretary of State”, in both places it occurs, substitute “appropriate national authority”.
- (5) After that subsection insert—
- “(3A) The regulator may at any time make a proposal to the Secretary of State for the giving of a direction under this section.
- (3B) Before making a proposal, the regulator must consult—
- (a) such persons as it considers appropriate, and
- (b) if the proposal is for a direction that would vary or revoke a direction given on an application under subsection (1), the original applicant.
- (3C) Before giving a direction under this section, other than a direction proposed by the regulator, the Secretary of State must consult—

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- (a) the regulator,
 - (b) any other person the Secretary of State considers appropriate, and
 - (c) if the direction would vary or revoke a direction given on an application under subsection (1), the original applicant.”
- (6) For subsections (4) and (5) substitute—
- “(4) Before giving a direction under subsection (1) or (2)(b), the Welsh Ministers must consult such persons as they consider appropriate.
- (5) Where the appropriate national authority gives a direction under subsection (1) or (2)(b), it must publish notice of that fact in such way as it considers appropriate.”
- (7) In subsection (6)—
- (a) omit “not exceeding level 5 on the standard scale”;
 - (b) for “£50” substitute “level 1 on the standard scale”.
- (8) In subsection (7) for the words from “before that time” to the end substitute “an application for building control approval in relation to the proposed work was made before that time.”

Commencement Information

- I31** Sch. 5 para. 14 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
- I32** [Sch. 5 para. 14\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 17](#)
- I33** [Sch. 5 para. 14\(2\)\(3\)\(b\)\(4\)\(b\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 18](#)

- 15 (1) Section 12 is amended as follows.
- (2) In subsections (1), (3), (7), (8), (9) and (11) and the heading, for “Secretary of State”, in each place it occurs, substitute “appropriate national authority”.
- (3) In subsection (1) for “to him or of his” substitute “by any person (the “original applicant”) or of its”.
- (4) In subsection (3) for “he” substitute “it”.
- (5) In subsection (6)—
- (a) for “Secretary of State”, in the first place it occurs, substitute “appropriate national authority”;
 - (b) for the words from “him” to the end substitute “it or of its own accord.”
- (6) In subsection (7) for “(1) or (6) above” substitute “(1), (6) or (8)”.
- (7) In subsection (8) for the words from “but” to the end substitute “either on an application or of the appropriate national authority’s own accord.”
- (8) After subsection (8) insert—
- “(8A) The regulator may at any time make a proposal to the Secretary of State for—
- (a) the giving of an approval under subsection (1), or
 - (b) the varying or revocation of a certificate under subsection (6) or (8).
- (8B) Before making a proposal, the regulator must consult—

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- (a) such persons as it considers appropriate, and
 - (b) if the proposal is to vary or revoke a certificate issued on an application under subsection (1), the original applicant.
- (8C) Before giving an approval or varying or revoking a certificate under this section, unless acting on a proposal of the regulator, the Secretary of State must consult—
- (a) the regulator,
 - (b) any other person the Secretary of State considers appropriate, and
 - (c) if varying or revoking a certificate issued on an application under subsection (1), the original applicant.
- (8D) Before varying or revoking a certificate issued on an application under subsection (1), the Welsh Ministers must give the original applicant reasonable notice that they propose to do so (except in the case of a variation or revocation made on the application of that person).”
- (9) In subsection (9) for “he”, in both places it occurs, substitute “it”.
- (10) In subsection (10) for the words from “before that time” to the end substitute “an application for building control approval in relation to the proposed work was made before that time.”

Commencement Information

- I34** Sch. 5 para. 15 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
- I35** [Sch. 5 para. 15\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 19](#)
- I36** [Sch. 5 para. 15\(2\)-\(5\)\(9\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 20](#)

- 16 (1) Section 13 is amended as follows.
- (2) For “Secretary of State”, in each place it occurs, substitute “appropriate national authority”.
- (3) In subsection (1) omit “on him”.

Commencement Information

- I37** Sch. 5 para. 16 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
- I38** [Sch. 5 para. 16](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 21](#)

- 17 (1) Section 14 is amended as follows.
- (2) Omit subsections (1) to (4).
- (3) In subsection (7) for the words from “such” to the end substitute “any other person that the Welsh Ministers consider appropriate.”
- (4) In subsection (8)—
- (a) in paragraph (b) for “persons or bodies” substitute “persons”;
 - (b) for paragraph (c) substitute—
 - “(c) any other person that the Welsh Ministers consider appropriate.”

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(5) In the heading at the end insert “: Wales”.

Commencement Information

- I39** Sch. 5 para. 17 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
I40 Sch. 5 para. 17 in force at 1.4.2023 by [S.I. 2023/362](#), [reg. 2\(2\)\(a\)](#)

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- 18 In section 15 after subsection (2) insert—
- “(3) As regards a requirement of a kind mentioned in subsection (1), the regulator must consult the fire and rescue authority before exercising the power under section 8(3A) in relation to any premises or proposed premises.”

Commencement Information

- I41** Sch. 5 para. 18 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

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- 19 For the heading before section 16 substitute “Building control approval”.

Commencement Information

- I42** Sch. 5 para. 19 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

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- 20 Omit sections 16 and 17.

Commencement Information

- I43** Sch. 5 para. 20 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

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- 21 (1) Section 19 is amended as follows.
- (2) For “local authority”, in each place it occurs except subsection (1), substitute “building control authority”.
- (3) In subsection (1)—

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- (a) for the words from the beginning to “plans show” substitute “Where an application for building control approval in respect of a proposed building is made to a building control authority, and it appears”;
 - (b) for “plans conform” substitute “application conforms”;
 - (c) in paragraph (a) for “the plans” substitute “the application”;
 - (d) in paragraph (b) for “passing the plans” substitute “granting the application”.
- (4) In subsection (2)—
- (a) for “plans ought under the building regulations to have been deposited, but have not been deposited,” substitute “an application for building control approval ought to have been made but was not made”;
 - (b) in paragraph (b) for “passing of plans for the building” substitute “granting of such an application”.
- (5) In subsection (4) for “plans” substitute “an application”.

Commencement Information

I44 Sch. 5 para. 21 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

- 22 (1) Section 20 is amended as follows.
- (2) For “local authority”, in each place it occurs except subsection (1), substitute “building control authority”.
- (3) In subsection (1)—
- (a) for the words from the beginning to “plans show” substitute “Where an application for building control approval in respect of any proposed work is made to a building control authority, and it appears”;
 - (b) for “plans conform” substitute “application conforms”;
 - (c) in paragraph (a) for “the plans” substitute “the application”;
 - (d) in paragraph (b) for “passing the plans”, in both places it occurs, substitute “granting the application”.
- (4) In subsection (2)—
- (a) in the words before paragraph (a), for the words from “plans” to “so deposited” substitute “an application for building control approval ought to have been made but was not made”;
 - (b) in paragraph (b) for “passing plans” substitute “granting the application”.
- (5) In subsection (3)—
- (a) in the words before paragraph (a), for the words from “plans” to “so deposited” substitute “an application for building control approval was not required by building regulations to be made and was not made”;
 - (b) in paragraph (b) for the words from “if plans” to the end substitute “if an application for building control approval in respect of the work had been required to be made and had been made, might have been imposed under subsection (1) in granting the application.”.
- (6) In subsection (5)(a) for “plans” substitute “an application”.

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- (7) In subsection (7)—
- (a) omit “not exceeding level 5 on the standard scale”;
 - (b) for “£50” substitute “level 1 on the standard scale”.
- (8) In subsection (10)—
- (a) for “Secretary of State” substitute “appropriate national authority”;
 - (b) for “his”, in both places it occurs, substitute “its”.

Commencement Information

- I45** Sch. 5 para. 22 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
- I46** [Sch. 5 para. 22\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 22](#)
- I47** [Sch. 5 para. 22\(8\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 23](#)

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- 23 (1) Section 21 is amended as follows.
- (2) For “local authority”, in each place it occurs, substitute “building control authority”.
 - (3) In subsection (3) for “plans are deposited” substitute “an application for building control approval is made”.
 - (4) In subsection (4) for the words from “plans” to “deposited with” substitute “an application for building control approval in respect of a building or an extension of a building is made to”.

Commencement Information

- I48** Sch. 5 para. 23 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

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- 24 (1) Section 22 is amended as follows.
- (2) For “local authority”, in each place it occurs, substitute “building control authority”.
 - (3) In subsection (2) for the words from “for whose drainage” to the end substitute “if building control approval has been given in respect of work comprising drainage for the building.”

Commencement Information

- I49** Sch. 5 para. 24 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

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25 In section 23(3) for “local authority”, in both places it occurs, substitute “building control authority”.

Commencement Information

I50 Sch. 5 para. 25 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

26 (1) Section 24 is amended as follows.
(2) For “local authority”, in each place it occurs, substitute “building control authority”.
(3) In subsection (1)—
(a) in paragraph (a) for the words from “plans” to “deposited with” substitute “an application for building control approval in respect of a building or an extension of a building is made to”;
(b) in the words after paragraph (b) for “plans” substitute “application”.
(4) In subsection (2) for “plans are deposited” substitute “an application for building control approval is made”.

Commencement Information

I51 Sch. 5 para. 26 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

27 (1) Section 25 is amended as follows.
(2) For “local authority”, in each place it occurs, substitute “building control authority”.
(3) In subsection (1)—
(a) for “plans of a house are, in accordance with building regulations, deposited with” substitute “an application for building control approval in respect of a house is made to”;
(b) for “the plans” substitute “the application”.
(4) In subsection (2)—
(a) for “plans are deposited” substitute “an application for building control approval is made”;
(b) for “pass the plans” substitute “grant the application”.
(5) In subsection (3) for “plans as aforesaid have been passed” substitute “application has been granted”.

Status: Point in time view as at 29/06/2023. This version of this schedule contains provisions that are not valid for this point in time.

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Commencement Information

I52 Sch. 5 para. 27 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

28 Omit section 31 (and the heading before it).

Commencement Information

I53 Sch. 5 para. 28 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

29 In the heading before section 32 for “deposit of plans” substitute “building control approval”.

Commencement Information

I54 Sch. 5 para. 29 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

30 (1) Section 33 is amended as follows.

(2) For subsections (1) and (2) substitute—

“(1) Where work to which building regulations are applicable is proposed or carried out, the building control authority has the powers under [subsection \(2\)](#) for the purpose of ascertaining whether any provision of building regulations is or would be contravened—

- (a) by or in connection with the work, or
- (b) in relation to the building that the work has been, is being or will be carried out on.

(2) The powers are—

- (a) to require a person by whom or on whose behalf the work was, is being, or is proposed to be done to carry out such reasonable tests of or in connection with the work, or in relation to the building, as may be specified in the requirement, or
- (b) to carry out any reasonable tests of or in connection with the work, or in relation to the building, and to take any samples necessary to enable them to carry out such a test. ”

(3) After subsection (3) insert—

“(3A) The tests that may be required or carried out under [subsection \(2\)](#) include in particular tests involving—

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- (a) the cutting into or laying open of any work or any building, and
- (b) the pulling down of any work.”

(4) In subsections (4), (5) and (6) for “local authority”, in each place it occurs, substitute “building control authority”.

Commencement Information

I55 Sch. 5 para. 30 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

31 Omit section 35A.

Commencement Information

I56 Sch. 5 para. 31 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

- 32 (1) Section 36 is amended as follows.
- (2) In subsections (1) to (3) for “local authority”, in each place it occurs, substitute “building control authority”.
- (3) In subsection (1) after “those regulations” insert “or a requirement imposed by virtue of any of those regulations”.
- (4) In subsection (2)—
- (a) for “any section of this Part of this Act other than section 16” substitute “any of sections 19 to 25”;
 - (b) for “plans”, in the first place it occurs, substitute “an application for building control approval”;
 - (c) for paragraphs (a) and (b) (including the “or” at the end of paragraph (b)) substitute—
 - “(a) without such an application having been made,
 - (b) notwithstanding the refusal of such an application, or”;
 - (d) in paragraph (c) for “passed the plans” substitute “granted such an application”;
 - (e) in paragraph (ii) for “passing plans” substitute “granting such an application”.
- (5) For subsection (5) substitute—
- “(5) Subsection (5A) applies where—
- (a) an application for building control approval is made to a building control authority in respect of any work that is not higher-risk building work,
 - (b) the application is granted, and

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- (c) work that is shown on the plans approved by the granting of the application (“the work”) is executed in accordance with—
- (i) the plans, and
- (ii) any requirement imposed by the building control authority.
- (5A) A section 36 notice may not be given on the ground that the work contravenes—
- (a) any building regulations or any requirement imposed by virtue of the regulations, or (as the case may be)
- (b) any requirement under any of sections 19 to 25.”
- (6) In subsection (6)—
- (a) for “does” substitute “, and sections 35B and 35C, do”;
- (b) for “local authority”, in the first place it occurs, substitute “building control authority”;
- (c) after “Attorney General” insert “, the Counsel General to the Welsh Government”;
- (d) for paragraphs (a) to (c) substitute—
- “(a) an application for building control approval was made to the local authority in respect of the work,
- (b) the application was granted,
- (c) the work was executed in accordance with—
- (i) the plans approved by the granting of the application, and
- (ii) any requirement imposed by the authority, and
- (d) the work was not higher-risk building work.”.

Commencement Information

I57 Sch. 5 para. 32 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

- 33 In section 37(1) for “local authority”, in each place it occurs, substitute “building control authority”.

Commencement Information

I58 Sch. 5 para. 33 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

- 34 In section 39(1) and (2) for “local authority”, in each place it occurs, substitute “building control authority”.

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Commencement Information

I59 Sch. 5 para. 34 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

35 In section 40(2), (3) and (6) for “local authority”, in each place it occurs, substitute “building control authority”.

Commencement Information

I60 Sch. 5 para. 35 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

36 In section 41(1)(a) for the words from “under this” to the end substitute “under, or under an instrument made under, this Part or Part 4 as it applies in relation to this Part.”.

Commencement Information

I61 Sch. 5 para. 36 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

37 In section 42(1) for “local authority”, in both places it occurs, substitute “building control authority”.

Commencement Information

I62 Sch. 5 para. 37 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

PROSPECTIVE

38 Omit sections 44 and 45 (and the heading before section 44).

Commencement Information

I63 Sch. 5 para. 38 not in force at Royal Assent, see [s. 170\(4\)\(c\)](#)

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VALID FROM 01/10/2023

39 In the heading of Part 2 for “LOCAL AUTHORITIES” substitute “BUILDING CONTROL AUTHORITIES”.

Commencement Information

I64 Sch. 5 para. 39 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

40 (1) Section 47 is amended as follows.

(2) In subsection (2)—

- (a) for “plans of it had been deposited with” substitute “an application for building control approval in respect of it had been made to”;
- (b) for “passing the plans” substitute “granting the application”.

(3) After subsection (3) insert—

“(3A) Subsection (3) does not apply in prescribed circumstances.”

Commencement Information

I65 Sch. 5 para. 40 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

I66 Sch. 5 para. 40(1) in force at 6.4.2023 for specified purposes by [S.I. 2023/362](#), [reg. 3\(1\)\(w\)\(i\)](#)

I67 Sch. 5 para. 40(3) in force at 6.4.2023 by [S.I. 2023/362](#), [reg. 3\(1\)\(w\)\(ii\)](#)

VALID FROM 01/10/2023

41 (1) Section 48 is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a) after “section” insert “[35B](#), [35C](#) or”;
- (b) in paragraph (b) omit “of building regulations”.

(3) In subsection (2)—

- (a) in paragraph (a) for “deposit of plans” substitute “making of an application for building control approval”;
- (b) in paragraph (b) for “deposited plans” substitute “plans accompanying the application for building control approval”;
- (c) in paragraph (c) for “passing or, as the case may be, the rejection of plans” substitute “approval or rejection of the application”;
- (d) for paragraph (d) substitute—

“(d) where an initial notice ceases to be in force under section [53A](#), the application for building control approval (treated by virtue of paragraph (a) as made) is to be treated as if it was not made (and the approval was not given).”

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Commencement Information

I68 Sch. 5 para. 41 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

- 42 (1) Section 51A is amended as follows.
- (2) In subsection (4)—
- (a) for “plans of it had been deposited with” substitute “an application for building control approval in respect of it had been made to”;
 - (b) for “passing the plans” substitute “granting the application”.
- (3) After subsection (5) insert—
- “(5A) Subsection (5) does not apply in prescribed circumstances.”

Commencement Information

I69 Sch. 5 para. 42 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

I70 [Sch. 5 para. 42\(1\)](#) in force at 6.4.2023 for specified purposes by [S.I. 2023/362](#), [reg. 3\(1\)\(w\)\(iii\)](#)

I71 [Sch. 5 para. 42\(3\)](#) in force at 6.4.2023 by [S.I. 2023/362](#), [reg. 3\(1\)\(w\)\(iv\)](#)

VALID FROM 01/10/2023

- 43 In section 51B(1)—
- (a) in paragraph (a) for “deposit of plans” substitute “making of an application for building control approval”;
 - (b) in paragraph (b) for “passing or, as the case may be, the rejection of plans” substitute “approval or rejection of the application”;
 - (c) in paragraph (c)—
 - (i) in the words before sub-paragraph (i) for “deposited plans” substitute “plans treated as accompanying the application for building control approval”;
 - (ii) in sub-paragraph (ii) for “the deposited plans” substitute “accompanying the application”;
 - (d) in paragraph (d) for the words from “, the cancellation” to the end substitute “and the initial notice ceases to be in force under section 53A, the application for building control approval (treated by virtue of paragraph (a) as made) is to be treated as if it was not made (and the approval was not given).”

Commencement Information

I72 Sch. 5 para. 43 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

- 44 (1) Section 52 is amended as follows.
- (2) In subsection (4) omit “not exceeding level 5 on the standard scale”.

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(3) In subsection (6) for “(5)” substitute “(5A)”.

Commencement Information

I73 Sch. 5 para. 44 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

45 In section 53 omit subsections (6) and (6A).

Commencement Information

I74 Sch. 5 para. 45 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

- 46 (1) Section 54 is amended as follows.
- (2) In subsection (1) for “Secretary of State” substitute “appropriate national authority”.
- (3) In subsection (2)—
- (a) for “plans of it had been deposited with” substitute “an application for building control approval in respect of it had been made to”;
 - (b) for “passing the plans” substitute “granting the application”.

Commencement Information

I75 Sch. 5 para. 46 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

I76 [Sch. 5 para. 46\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 24](#)

I77 [Sch. 5 para. 46\(2\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 25](#)

VALID FROM 01/10/2023

47 In section 56(3) for the words from “, public body’s final certificates” to the end substitute “and public body’s final certificates.”

Commencement Information

I78 Sch. 5 para. 47 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

- 48 (1) Section 57 is amended as follows.
- (2) In subsection (1)(a)(i) for the words from “of this Act” to the end (not including the “and”) substitute “or a provision of building regulations that is designated by the regulations for the purposes of this section,”.

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(3) In subsection (2)(a) omit “not exceeding the statutory maximum”.

Commencement Information

I79 Sch. 5 para. 48 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

49 Omit section 58(2).

Commencement Information

I80 Sch. 5 para. 49 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

50 In section 68(8)(b) for “Secretary of State” substitute “appropriate national authority”.

Commencement Information

I81 Sch. 5 para. 50 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

I82 [Sch. 5 para. 50](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 26](#)

51 In section 78(7)(b) omit “and (3) below”.

Commencement Information

I83 Sch. 5 para. 51 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

I84 [Sch. 5 para. 51](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 27](#)

VALID FROM 06/04/2024

52 In section 86(1)(a) for the words from “under this” to the end substitute “under, or under an instrument made under, this Part or Part 4 as it applies in relation to this Part.”.

Commencement Information

I85 Sch. 5 para. 52 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

53 In section 90(2) for “Secretary of State” substitute “appropriate national authority”.

Commencement Information

I86 Sch. 5 para. 53 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

I87 [Sch. 5 para. 53](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 28](#)

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VALID FROM 01/10/2023

54 In the italic heading before section 91 at the end insert “etc”.

Commencement Information

188 Sch. 5 para. 54 not in force at Royal Assent, see **s. 170(4)(b)(viii)(c)**

- 55 (1) Section 91A is amended as follows.
- (2) In subsections (1), (2) and (4) for “local authority”, in each place it occurs, substitute “relevant authority”.
- (3) In subsection (2)(a) omit “, or deposited with,”.
- (4) In subsection (5)—
- (a) in the definition of “prescribed” for “Secretary of State” substitute “appropriate national authority”;
 - (b) insert at the appropriate place—
““relevant authority” means a local authority or the regulator.”
- (5) In the heading after “local authorities” insert “and the regulator”.
- (6) Omit subsections (6) to (8).

Commencement Information

189 Sch. 5 para. 55 not in force at Royal Assent, see **s. 170(4)(b)(viii)(c)**

190 Sch. 5 para. 55(1) in force at 28.6.2022 for specified purposes for E. by S.I. 2022/561, regs. 1(2), 3(f), **Sch. para. 29**

191 Sch. 5 para. 55(4)(a)(6) in force at 28.6.2022 for E. by S.I. 2022/561, regs. 1(2), 3(f), **Sch. para. 30**

VALID FROM 06/04/2024

56 After section 91A insert—

“91B Cooperation and the sharing of information: Wales

- (1) Relevant persons (as defined by subsection (7)) must cooperate with each other in the exercise of any of the following functions—
 - (a) any function of a local authority under this Act,
 - (b) any function of a Welsh fire and rescue authority under—
 - (i) section 6 or 7 of the Fire and Rescue Services Act 2004,
or
 - (ii) the Regulatory Reform (Fire Safety) Order 2005, and
 - (c) any function of a fire inspector under that Order.
- (2) A relevant person may disclose information held in connection with any of their relevant functions to another relevant person for the purposes of a relevant function of either of them.

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- (3) The Welsh Ministers and a relevant person must cooperate with each other in the exercise of any of the following functions—
- (a) a function of the Welsh Ministers under Part 2A;
 - (b) a function mentioned in the relevant paragraph of subsection (1).
- (4) The Welsh Ministers may disclose information held in connection with a function under Part 2A to a relevant person for the purposes of—
- (a) a function of the Welsh Ministers under Part 2A, or
 - (b) a function mentioned in the relevant paragraph of subsection (1).
- (5) A relevant person may disclose information held in connection with a function mentioned in the relevant paragraph of subsection (1) to the Welsh Ministers for the purposes of—
- (a) a function mentioned in the relevant paragraph of subsection (1), or
 - (b) a function of the Welsh Ministers under Part 2A.
- (6) In subsections (3) to (5) “the relevant paragraph” of subsection (1), in relation to a kind of relevant person, means the paragraph of subsection (1) relating to a relevant person of that kind.
- (7) In this section—
- “fire inspector” means an inspector or assistant inspector appointed under section 28(1) of the Fire and Rescue Services Act 2004;
- “relevant person” means a local authority in Wales, Welsh fire and rescue authority or fire inspector;
- “relevant function” means—
- (a) in relation to a local authority, any function of a local authority under—
 - (i) the Prevention of Damage by Pests Act 1949,
 - (ii) Part 2 of the Public Health Act 1961,
 - (iii) Part 11 of the Local Government (Miscellaneous Provisions) Act 1982,
 - (iv) Part 3 of the Environmental Protection Act 1990,
 - (v) Parts 1 to 4 of the Housing Act 2004, or
 - (vi) this Act,or any prescribed function of a local authority;
 - (b) in relation to a Welsh fire and rescue authority, any function of such an authority under—
 - (i) the Fire and Rescue Services Act 2004, or
 - (ii) the Regulatory Reform (Fire Safety) Order 2005,or any prescribed function of such an authority;
 - (c) in relation to a fire inspector, any function of a fire inspector under the Regulatory Reform (Fire Safety) Order 2005;
- “Welsh fire and rescue authority” means a fire and rescue authority, within the meaning of Part 1 of the Fire and Rescue Services Act 2004, for an area in Wales.

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- (8) Except as provided by subsection (9), 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).
- (9) 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

I92 Sch. 5 para. 56 not in force at Royal Assent, see [s. 170\(4\)\(a\)\(iv\)\(c\)](#)

- 57 (1) Section 92 is amended as follows.
- (2) In subsection (1) after “authority”, in both places it occurs, insert “or the regulator”.
- (3) In subsection (2)—
- (a) for “Secretary of State” substitute “appropriate national authority”;
 - (b) omit “made by statutory instrument”.

Commencement Information

I93 Sch. 5 para. 57 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

I94 [Sch. 5 para. 57\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 31](#)

I95 [Sch. 5 para. 57\(3\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 32](#)

VALID FROM 01/10/2023

- 58 (1) Section 94 is amended as follows.
- (2) The existing provision becomes subsection (1) of that section.
- (3) In that subsection—
- (a) in the words before paragraph (a) after “made by” insert “or under”;
 - (b) after paragraph (b) insert—
 - “(ba) in the case of an authorised officer of the regulator, by—
 - (i) leaving it at the relevant address (see subsection (2)), or
 - (ii) sending it in a prepaid letter addressed to the officer at the relevant address;”;
 - (c) in paragraph (c) for “other person” substitute “person other than an officer of a local authority or an authorised officer of the regulator”;
 - (d) after paragraph (c) insert—
 - “(ca) in the case of a partnership, by—

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- (i) delivering it to any partner,
 - (ii) leaving it at the principal office of the partnership, or
 - (iii) sending it in a prepaid letter addressed to the partnership at its principal office;”;
- (e) after paragraph (f) insert—
- “(g) by sending it by email to an electronic address at which the person has agreed to receive documents or has agreed to receive the document.”

(4) After that subsection insert—

“(2) In subsection (1)—

“agreed” means agreed in writing;

“authorised officer” means a person in respect of whom an authorisation under section 22 of the Building Safety Act 2022 is in force;

“the relevant address” means—

- (a) the address specified by the officer in writing, or
- (b) if no address has been specified, the principal office of the regulator.”

Commencement Information

I96 Sch. 5 para. 58 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

59 Omit section 94A.

Commencement Information

I97 Sch. 5 para. 59 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

60 In section 95 after subsection (2) insert—

“(2A) Subsections (1) and (2) do not apply in relation to premises used wholly or mainly as a private dwelling.”

Commencement Information

I98 Sch. 5 para. 60 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

Status: Point in time view as at 29/06/2023. This version of this schedule contains provisions that are not valid for this point in time.

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VALID FROM 01/10/2023

61 In section 97 after “authority” insert “or the regulator”.

Commencement Information

I99 Sch. 5 para. 61 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

62 In section 99(2)(a) after “authority” insert “or the regulator (as the case may be)”.

Commencement Information

I100 Sch. 5 para. 62 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

63 (1) Section 100 is amended as follows.
 (2) For “local authority”, in each place it occurs, substitute “relevant authority”.
 (3) After subsection (3) insert—
 “(4) In this section “relevant authority” means a local authority or the regulator.”

Commencement Information

I101 Sch. 5 para. 63 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

64 (1) Section 101 is amended as follows.
 (2) In subsection (1) for “local authorities” substitute “any relevant authority”.
 (3) In subsection (2) for “local authority” substitute “relevant authority”.
 (4) After that subsection insert—
 “(3) In this section “relevant authority” means a local authority or the regulator.”

Commencement Information

I102 Sch. 5 para. 64 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

Status: Point in time view as at 29/06/2023. This version of this schedule contains provisions that are not valid for this point in time.

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VALID FROM 01/10/2023

65 In section 102(3)(b)(ii) after “authority” insert “or the regulator”.

Commencement Information

I103 Sch. 5 para. 65 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

66 (1) Section 104 is amended as follows.
(2) In the provision—
(a) after “authority”, in the first place it occurs, insert “or the regulator”;
(b) after “authority”, in the second place it occurs, insert “or regulator”.
(3) In the heading after “authority” insert “or regulator”.

Commencement Information

I104 Sch. 5 para. 66 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

67 (1) Section 106 is amended as follows.
(2) In subsection (2) omit “Subject to subsection (3) below,”.
(3) Omit subsection (3).

Commencement Information

I105 Sch. 5 para. 67 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

I106 [Sch. 5 para. 67](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 33](#) (with [reg. 7\(2\)](#))

VALID FROM 01/10/2023

68 (1) Section 107 is amended as follows.
(2) For “local authority”, in each place it occurs, substitute “relevant authority”.
(3) After subsection (5) insert—
“(6) In this section “relevant authority” means a local authority or the regulator.”

Commencement Information

I107 Sch. 5 para. 68 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

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VALID FROM 01/10/2023

- 69 (1) Section 108 is amended as follows.
- (2) For “local authority”, in each place it occurs, substitute “relevant authority”.
- (3) After subsection (4) insert—
- “(5) In this section “relevant authority” means a local authority or the regulator.”

Commencement Information

I108 Sch. 5 para. 69 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

- 70 (1) Section 110 is amended as follows.
- (2) In the existing provision (which becomes subsection (1) of that section) for “local authority”, in each place it occurs, substitute “relevant authority”.
- (3) After that subsection insert—
- “(2) In this section “relevant authority” means a local authority or the regulator.”

Commencement Information

I109 Sch. 5 para. 70 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

- 71 In section 111 for “Secretary of State” substitute “appropriate national authority”.

Commencement Information

I110 Sch. 5 para. 71 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

I111 [Sch. 5 para. 71](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 34](#)

VALID FROM 01/10/2023

- 72 (1) Section 112 is amended as follows.
- (2) The existing provision becomes subsection (1) of that section.
- (3) In that subsection for “level 1” substitute “level 3”.
- (4) After that subsection insert—
- “(2) Subsection (1) does not apply where the person obstructed is an authorised officer (within the meaning of section 22 of the Building Safety Act 2022).”

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Commencement Information

I112 Sch. 5 para. 72 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

VALID FROM 01/10/2023

73 In section 113(b) after “authority” insert “, the regulator, the Welsh Ministers, the Counsel General to the Welsh Government”.

Commencement Information

I113 Sch. 5 para. 73 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

- 74 (1) Section 119 is amended as follows.
- (2) In the existing provision (which becomes subsection (1) of that section)—
- (a) for “Secretary of State” substitute “appropriate national authority or the regulator”;
 - (b) for “he” substitute “it”.
- (3) After that subsection insert—
- “(2) Section 250 of the Local Government Act 1972 (power to direct inquiries) applies in relation to a local inquiry caused to be held by the regulator as it applies in relation to one caused to be held by the Secretary of State.”

Commencement Information

I114 Sch. 5 para. 74 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

I115 Sch. 5 para. 74(1) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 35](#)

I116 Sch. 5 para. 74(2) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 36](#)

75 In the italic heading before section 120 at the end insert “and regulations”.

Commencement Information

I117 Sch. 5 para. 75 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

I118 Sch. 5 para. 75 in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 37](#)

- 76 (1) Section 120 is amended as follows.
- (2) In subsection (1) for the words from “section” to “this Act,” substitute “section 134(1)”.
- (3) In subsection (2)—
- (a) omit “30(3) above or”;
 - (b) after “Secretary of State” insert “or Welsh Ministers”;
 - (c) for “him” substitute “the Secretary of State or Welsh Ministers”.

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Commencement Information

- I119** Sch. 5 para. 76 not in force at Royal Assent, see **s. 170(4)(b)(viii)(c)**
- I120** Sch. 5 para. 76(1) in force at 28.6.2022 for specified purposes for E. by S.I. 2022/561, regs. 1(2), 3(f), **Sch. para. 38**
- I121** Sch. 5 para. 76(3) in force at 28.6.2022 for E. by S.I. 2022/561, regs. 1(2), 3(f), **Sch. para. 39**

77 After section 120 insert—

“120A Regulations

- (1) This section applies to regulations under section 54A, 55, 56A, 56B, 90A, 91A, 92, 105B, 105C, 120D, 120I or 125A.
- (2) A power to make regulations includes power to make—
 - (a) consequential, supplementary, incidental, transitional, transitory or saving provision;
 - (b) different provision for different purposes or for different areas.
- (3) Regulations may describe a building by reference to its height, size, design, use, purpose or any other characteristic.
- (4) Regulations under section 54A may make such consequential amendments of this Act as the appropriate national authority considers appropriate.
- (5) Regulations under section 90A may make such consequential amendments of this Act as the Secretary of State considers appropriate.
- (6) Regulations are to be made by statutory instrument.
- (7) A statutory instrument containing (whether alone or with other provision)—
 - (a) regulations under section 54A, 90A, 105C or 125A, or
 - (b) regulations under section 120D(2)(b) or (6), or regulations made by virtue of section 120D(4)(c),
 may not be made by the Secretary of State unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (8) Any other statutory instrument containing regulations made by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) A statutory instrument containing (whether alone or with other provision) regulations under section 54A, 120I(2) or 125A may not be made by the Welsh Ministers unless a draft of the instrument has been laid before and approved by a resolution of Senedd Cymru.
- (10) Any other statutory instrument containing regulations made by the Welsh Ministers is subject to annulment in pursuance of a resolution of Senedd Cymru.

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120B Proposals and consultation relating to regulations made by the Secretary of State

- (1) The regulator may at any time make proposals to the Secretary of State for the making of regulations under this Act.
- (2) Before making a proposal, the regulator must consult such persons as it considers appropriate.
- (3) Before making any regulations under this Act, other than regulations proposed by the regulator, the Secretary of State must consult—
 - (a) the regulator, and
 - (b) any other person that the Secretary of State considers appropriate.
- (4) This section does not apply in relation to regulations under [section 120D](#).

120C Consultation relating to regulations made by the Welsh Ministers

- (1) Before making any regulations under this Act except building regulations or regulations under [section 120I](#), the Welsh Ministers must consult such persons as they consider appropriate.
- (2) Before making any regulations under [section 120I](#), the Welsh Ministers must consult—
 - (a) the Building Regulations Advisory Committee for Wales, and
 - (b) any other person that the Welsh Ministers consider appropriate.
- (3) See also section 14 (consultation requirements for building regulations).”

Commencement Information

- I122** Sch. 5 para. 77 not in force at Royal Assent, see [s. 170\(4\)\(a\)\(v\)\(b\)\(viii\)\(c\)](#)
- I123** Sch. 5 para. 77 in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 40](#)
- I124** Sch. 5 para. 77 in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 41](#)
- I125** Sch. 5 para. 77 in force at 9.12.2022 for specified purposes for W. by [S.I. 2022/1287](#), [reg. 2\(c\)\(ii\)](#)
- I126** Sch. 5 para. 77 in force at 1.4.2023 in so far as not already in force by [S.I. 2023/362](#), [reg. 2\(2\)\(b\)](#) (with [reg. 5\(1\)](#))

- 78 (1) Section 121 is amended as follows.
- (2) In subsection (2) for “Secretary of State” substitute “appropriate national authority”.
- (3) After subsection (3) insert—
- “(4) Nothing in this section applies in relation to [section 120D](#) or [120I](#).”

Commencement Information

- I127** Sch. 5 para. 78 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
- I128** Sch. 5 para. 78 in force at 28.6.2022 for E. by [S.I. 2022/561](#), regs. 1(2), 3(f), [Sch. para. 42](#)
- I129** Sch. 5 para. 78 in force at 9.12.2022 for W. by [S.I. 2022/1287](#), [reg. 2\(c\)\(iii\)](#)

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VALID FROM 01/10/2023

79 Omit section 124.

Commencement Information

I130 Sch. 5 para. 79 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

80 After section 125 insert—

“125A Meaning of work

- (1) In the relevant provisions references to work include a material change of use as defined by building regulations.
- (2) The appropriate national authority may by regulations provide that in a specified relevant provision references to work include any specified matter.
- (3) “Relevant provision” means any provision of the following—
 - (a) Part 1 except sections 2(3) to (5), 20(9), 21(7), 22(2), 33(3A), 36, 37 and paragraph 1G of Schedule 1;
 - (b) Part 2;
 - (c) Part 2A;
 - (d) sections [91ZA](#) to [91ZD](#);
 - (e) section 101A;
 - (f) section 105C;
 - (g) [section 120I\(3\)](#).
- (4) In this section “specified” means specified by regulations under this section.”

Commencement Information

I131 Sch. 5 para. 80 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

I132 Sch. 5 para. 80 in force at 6.4.2023 for specified purposes by [S.I. 2023/362](#), [reg. 3\(1\)\(w\)\(v\)](#)

81 (1) Section 126 is amended as follows.

(2) At the appropriate place insert—

- ““appropriate court or tribunal” means—
- (a) in relation to England, the tribunal;
 - (b) in relation to Wales, a magistrates’ court;”;

““appropriate national authority” means—

 - (a) in relation to England, the Secretary of State;
 - (b) in relation to Wales, the Welsh Ministers;”;

““building control approval” has the meaning given by paragraph [1B](#) of Schedule 1;”;

““building control authority” has the meaning given by [section 121A](#);”;

““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”;

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““higher-risk building”—

- (a) in relation to England, has the meaning given by [section 120D](#);
- (b) in relation to Wales, has the meaning given by [section 120I](#)”;

“““higher-risk building work”—

- (a) in relation to England, has the meaning given by [section 91ZA](#);
- (b) in relation to Wales, has the meaning given by [section 120I](#)”;

““““maximum summary term for either-way offences”, with reference to imprisonment for an offence, means—

- (a) if the offence is committed before the time when paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force, 6 months;
- (b) if the offence is committed after that time, 12 months”;

““““the regulator” means the Health and Safety Executive”;

““““the tribunal” means the First-tier Tribunal”.

(3) Omit the definition of “relevant period”.

Commencement Information

I133 Sch. 5 para. 81 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

I134 Sch. 5 para. 81(1) in force at 28.6.2022 for specified purposes for E. by S.I. 2022/561, [regs. 1\(2\), 3\(f\)](#), [Sch. para. 43](#)

I135 Sch. 5 para. 81(1) in force at 9.12.2022 for W. by S.I. 2022/1287, [reg. 2\(c\)\(iv\)](#)

I136 Sch. 5 para. 81(2) in force at 28.6.2022 for specified purposes for E. by S.I. 2022/561, [regs. 1\(2\), 3\(f\)](#), [Sch. para. 44](#)

I137 Sch. 5 para. 81(2) in force at 9.12.2022 for specified purposes for W. by S.I. 2022/1287, [reg. 2\(c\)\(iv\)](#)

82 In section 134 after subsection (1) insert—

“(1A) Except so far as relating to the provisions listed in subsection (1B), the reference in subsection (1) to the Secretary of State is to be read, in relation to Wales, as a reference to the Welsh Ministers.

(1B) The provisions mentioned in subsection (1A) are sections 38, 44, 45 and 133(2) and Schedule 7.”

Commencement Information

I138 Sch. 5 para. 82 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

I139 Sch. 5 para. 82 in force at 28.6.2022 for E. by S.I. 2022/561, [regs. 1\(2\), 3\(f\)](#), [Sch. para. 45](#)

83 (1) Schedule 1 is amended as follows.

(2) In paragraph 1(b) for “Secretary of State” substitute “appropriate national authority”.

(3) Omit paragraphs 2 to 5.

(4) In paragraph 6—

- (a) for “local authorities”, in both places it occurs, substitute “building control authorities”;
- (b) for “local authority” substitute “building control authority”.

(5) In paragraph 7A(4) for “under paragraph 4A” substitute “by virtue of [paragraph 1A](#)”.

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(6) In paragraph 8—

- (a) in sub-paragraph (1)(e) omit the words “for the purposes of this paragraph”;
- (b) in sub-paragraph (2) for “(6)” substitute “(7)”;
- (c) after sub-paragraph (6) insert—

“(7) The provision that may be made by building regulations includes provision imposing a requirement to do things for the purpose mentioned in section 1(1)(b) (conserving fuel and power) in any case where a building becomes a building of a prescribed description.”

(7) Omit paragraph 9.

(8) For paragraph 10 substitute—

“10 (1) Building regulations may make supplementary, incidental, transitional, transitory or saving provision.

(2) Building regulations may make—

- (a) different provision for different purposes, and
- (b) different provision for different areas.

(3) The power conferred by sub-paragraph (2)(a) includes in particular the power to make different provision for—

- (a) higher-risk buildings or proposed higher-risk buildings, or
- (b) higher-risk building work,

and different provision for different descriptions of such buildings or work.

(4) Nothing in sub-paragraph (3) is to be read as limiting the effect of section 34 (classification of buildings).”

(9) In paragraph 11 for “Secretary of State”, in both places it occurs, substitute “appropriate national authority”.

Commencement Information

I140 Sch. 5 para. 83 not in force at Royal Assent, see **s. 170(4)(b)(viii)(c)**

I141 Sch. 5 para. 83(1) in force at 28.6.2022 for specified purposes for E. by S.I. 2022/561, regs. 1(2), 3(f), **Sch. para. 46**

I142 Sch. 5 para. 83(1) in force at 6.4.2023 for specified purposes by S.I. 2023/362, **reg. 3(1)(w)(vi)**

I143 Sch. 5 para. 83(2)(7)(9) in force at 28.6.2022 for E. by S.I. 2022/561, regs. 1(2), 3(f), **Sch. para. 47** (with reg. 7(1))

I144 Sch. 5 para. 83(3) in force at 28.6.2022 for specified purposes for E. by S.I. 2022/561, regs. 1(2), 3(f), **Sch. para. 47** (with reg. 7(1))

I145 Sch. 5 para. 83(8) in force at 6.4.2023 by S.I. 2023/362, **reg. 3(1)(w)(vii)**

84 (1) Schedule 2 is amended as follows.

(2) For “local authority”, in each place it occurs, substitute “building control authority”.

(3) In paragraphs 2 and 3(5) for “Secretary of State” substitute “appropriate national authority”.

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Commencement Information

- I146** Sch. 5 para. 84 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
I147 [Sch. 5 para. 84\(1\)](#) in force at 28.6.2022 for specified purposes for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 48](#)
I148 [Sch. 5 para. 84\(3\)](#) in force at 28.6.2022 for E. by [S.I. 2022/561](#), [regs. 1\(2\), 3\(f\)](#), [Sch. para. 49](#)

85 In Schedule 3, in paragraph 4 for “section 14(3)” substitute “[section 120B\(3\)](#)”.

Commencement Information

- I149** Sch. 5 para. 85 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)
I150 [Sch. 5 para. 85](#) in force at 1.4.2023 by [S.I. 2023/362](#), [reg. 2\(2\)\(c\)](#)

VALID FROM 01/10/2023

86 In Schedule 4, in paragraph 4 omit sub-paragraph (6).

Commencement Information

- I151** Sch. 5 para. 86 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

PART 2

OTHER AMENDMENTS

Parliamentary Commissioner Act 1967 (c. 13)

87 In Schedule 2 to the Parliamentary Commissioner Act 1967, omit the entry relating to the Building Regulations Advisory Committee for England.

Commencement Information

- I152** Sch. 5 para. 87 not in force at Royal Assent, see [s. 170\(4\)\(c\)](#)
I153 [Sch. 5 para. 87](#) in force at 1.4.2023 by [S.I. 2023/362](#), [reg. 2\(2\)\(d\)](#)

Freedom of Information Act 2000 (c. 36)

88 In Schedule 1 to the Freedom of Information Act 2000, in Part 6 omit the entry relating to the Building Regulations Advisory Committee for England.

Commencement Information

- I154** Sch. 5 para. 88 not in force at Royal Assent, see [s. 170\(4\)\(c\)](#)
I155 [Sch. 5 para. 88](#) in force at 1.4.2023 by [S.I. 2023/362](#), [reg. 2\(2\)\(e\)](#)

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PROSPECTIVE

Sustainable and Secure Buildings Act 2004 (c. 22)

- 89 (1) The Sustainable and Secure Buildings Act 2004 is amended as follows.
- (2) In section 3 omit subsections (8) and (9).
- (3) In section 4 omit subsection (4).

Commencement Information

I156 Sch. 5 para. 89 not in force at Royal Assent, see [s. 170\(4\)\(c\)](#)

VALID FROM 01/10/2023

The Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541)

- 90 (1) The Regulatory Reform (Fire Safety) Order 2005 is amended as follows.
- (2) Omit article 45.
- (3) In article 52(1) omit sub-paragraph (k).

Commencement Information

I157 Sch. 5 para. 90 not in force at Royal Assent, see [s. 170\(4\)\(b\)\(viii\)\(c\)](#)

Status:

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Changes to legislation:

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