



Building Safety Act 2022

2022 CHAPTER 30

PART 5

OTHER PROVISION ABOUT SAFETY, STANDARDS ETC

Liability relating to construction products

149 Liability for past defaults relating to cladding products

- (1) This section applies where Conditions A to D are met.
- (2) Condition A is that, at any time before the coming into force of this section—
 - (a) a person fails to comply with a cladding product requirement in relation to a cladding product,
 - (b) a person who markets or supplies a cladding product makes a misleading statement in relation to it, or
 - (c) a person manufactures a cladding product that is inherently defective.
- (3) Condition B is that, after Condition A has been met, the cladding product is attached to, or included in, the external wall of a relevant building in the course of works carried out in the construction of, or otherwise in relation to, the building.
- (4) Condition C is that, when those works are completed—
 - (a) in a case where the relevant building consists of a dwelling, the building is unfit for habitation, or
 - (b) in a case where the relevant building contains one or more dwellings, a dwelling contained in the building is unfit for habitation.
- (5) Condition D is that the facts referred to in subsection (2)(a), (b) or (c) were the cause, or one of the causes, of the building or dwelling being unfit for habitation.
- (6) The person referred to in subsection (2)(a), (b) or (c) is liable to pay damages to a person with a relevant interest in relation to the relevant building for personal injury,

Changes to legislation: There are currently no known outstanding effects for the Building Safety Act 2022, Section 149. (See end of Document for details)

damage to property or economic loss suffered by that person as a result of the facts referred to in subsection (4)(a) or (b).

- (7) A term of an agreement which purports to exclude or restrict, or has the effect of excluding or restricting, any liability arising under this section is void.
- (8) For the purposes of section 10B(2) of the Limitation Act 1980 and section 18ZD(2) of the Prescription and Limitation (Scotland) Act 1973, the right of action that a person has by virtue of this section is to be regarded as having accrued—
- (a) in a case where the works referred to in subsection (3) are carried out in the construction of the relevant building, when the construction is completed, and
 - (b) in any other case, when the works are completed.
- (9) Where an action is brought under this section in England and Wales that, but for section 10B(2) of the Limitation Act 1980, would have been barred by that Act, a court hearing the action must dismiss it in relation to any defendant if satisfied that it is necessary to do so to avoid a breach of that defendant’s Convention rights.
- (10) Where an action is brought under this section in Scotland that, but for section 18ZD(2) of the Prescription and Limitation (Scotland) Act 1973, would have been barred by that Act, a court hearing the action must dismiss it in relation to any defender if satisfied that it is necessary to do so to avoid a breach of that defender’s Convention rights.
- (11) In this section “cladding product requirement” means—
- (a) in relation to a time before IP completion day, a requirement relating to a cladding product under—
 - (i) the 1991 Regulations, or
 - (ii) the 2011 Regulation as it had effect in EU law at that time, and
 - (b) in relation to a time after IP completion day, a requirement relating to a cladding product under—
 - (i) the 2011 Regulation, or
 - (ii) the 2019 Regulations.
- (12) In this section—
- “cladding product” means a cladding system or any component of a cladding system;
- “Convention rights” has the same meaning as in the Human Rights Act 1998;
- “external wall”, in relation to a building, includes any part of a roof pitched at an angle of more than 70 degrees to the horizontal if that part of the roof adjoins a space within the building to which persons have access otherwise than for the purpose of carrying out repairs or maintenance.

Commencement Information

II S. 149 in force at 28.6.2022, see s. 170(3)(e)

Changes to legislation:

There are currently no known outstanding effects for the Building Safety Act 2022, Section 149.