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STATUTORY INSTRUMENTS

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**2022 No. 711**

**The Building Safety (Leaseholder Protections) (England) Regulations 2022**

**Landlord's certificate**

**6.—(1)** A current landlord must provide a certificate (a “landlord’s certificate”) to a leaseholder in each of the following circumstances—

- (a) when the current landlord makes a demand to a leaseholder for the payment of a remediation service charge;
- (b) within four weeks of receipt of notification from the leaseholder that the leasehold interest is to be sold;
- (c) within four weeks of becoming aware (either themselves or by notification from another person) of a relevant defect not covered by a previous landlord’s certificate; or
- (d) within four weeks of being requested to do so by the leaseholder.
- [<sup>F1</sup>(e) within four weeks of becoming aware of a new leaseholder deed of certificate (as defined in regulation 6 of the Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022) which is in relation to a lease of a dwelling in the building of which the current landlord is the landlord and which contained information that was not included in a previous landlord’s certificate.]

(2) The landlord’s certificate under paragraph (1) must—

- (a) be in the form set out in Schedule 1,
- (b) confirm whether or not the relevant landlord (as defined in paragraph 3(1) to Schedule 8 of the Act) met the contribution condition under paragraph 3 of that Schedule,
- (c) confirm whether or not the relevant landlord (as defined in paragraph 2(4) to Schedule 8 of the Act), met the condition in paragraph 2(2) of that Schedule 8 and was responsible for<sup>(1)</sup> the relevant defect or was associated with a person responsible for a relevant defect,
- (d) contain the information referred to in paragraph (3),
- (e) be accompanied by the evidence set out in paragraph (4),
- (f) be signed by the person who is the current landlord on the date the certificate is completed.

[<sup>F2</sup>(2A) But the requirement in paragraph (2) that the landlord’s certificate contain the information referred to in paragraph (3) and be accompanied by the evidence set out in paragraph (4) is modified as set out in paragraphs (2B) to (2G).

(2B) Where the landlord’s certificate confirms that—

- (a) either the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) met the contribution condition under paragraph 3 of that Schedule or the leaseholder’s lease is not a qualifying lease as defined in section 119 of the Act, and
- (b) the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act)—

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(1) See paragraph 2(3) of Schedule 8 to the Act for the definition of “responsible for”.

- (i) met the condition in paragraph 2(2) of that Schedule, or
- (ii) did not believe at the time of completing the certificate that there was a relevant defect,

it does not have to contain the information referred to in paragraph (3) nor be accompanied by the evidence set out in paragraph (4).

(2C) Where the landlord's certificate confirms that—

- (a) the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act)—
  - (i) met the condition in paragraph 2(2) of that Schedule, or
  - (ii) did not believe at the time of completing the certificate that there was a relevant defect, and
- (b) the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) did not meet the contribution condition under paragraph 3 of that Schedule,

it does not have to contain the information referred to in paragraphs (3)(a) and (b) nor be accompanied by the evidence set out in paragraph (4)(d).

(2D) Where the landlord's certificate confirms that—

- (a) the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act) did not meet the condition in paragraph 2(2) of that Schedule, and
- (b) either the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) met the contribution condition under paragraph 3 of that Schedule, or the leaseholder's lease is not a qualifying lease as defined in section 119 of the Act,

it does not have to contain the information referred to in paragraphs (3)(a) and (c) nor be accompanied by the evidence set out in paragraphs (4)(a), (b), (e) and (f).

(2E) Where the landlord's certificate confirms that—

- (a) the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act) did not meet the condition in paragraph 2(2) of that Schedule, and
- (b) the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) is exempt from the contribution condition under paragraph 3(6) of that Schedule,

it does not have to contain the information referred to in paragraph (3)(c) nor be accompanied by the evidence set out in paragraphs (4)(a) and (b).

(2F) Where the landlord's certificate confirms that—

- (a) the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act)—
  - (i) met the condition in paragraph 2(2) of that Schedule, or
  - (ii) did not believe at the time of completing the certificate that there was a relevant defect, and
- (b) the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) is exempt from the contribution condition under paragraph 3(6) of that Schedule,

it does not have to contain the information referred to in paragraph (3) nor be accompanied by the evidence set out in paragraphs (4)(a), (b) and (d).

(2G) Where the landlord's certificate confirms that—

- (a) the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act) did not meet the condition in paragraph 2(2) of that Schedule,
- (b) the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) did not meet the contribution condition under paragraph 3 of that Schedule, and

(c) the value of the qualifying lease on 14th February 2022 was below £325,000 in Greater London or £175,000 elsewhere in England,

it does not have to be accompanied by the evidence set out in paragraphs (4)(e) and (f).]

[<sup>F3</sup>(3) The information is—

- (a) the percentage of the storeys in the relevant building for which each relevant landlord was the landlord at the qualifying time;
- (b) in relation to the condition in paragraph 2 of Schedule 8 to the Act, where a relevant landlord was part of a landlord group at the qualifying time, details of the corporate structure of the relevant landlord and any person associated with the relevant landlord and including—
  - (i) the names of all the directors of each company in that group and directors of each corporate trustee, including in each case nominee and shadow directors or any person occupying the position of director by whatever name called;
  - (ii) the name of any other person or persons who has the right to exercise or does exercise significant control or influence directly or indirectly over the group;
  - (iii) details of the type of trust if any, the law to which it is subject and where it is tax resident; and
  - (iv) in relation to trusts with an interest in the shares of any company comprised in the group, details of the economic settlor, the named beneficiaries or class of beneficiaries and protector and any other person who has the right to exercise or does exercise significant influence or control directly or indirectly over the trust;
- (c) in relation to the condition in paragraph 3 of Schedule 8 to the Act, where the relevant landlord (as defined in paragraph 3(1) of Schedule 8 to the Act) was part of a landlord group at the qualifying time—
  - (i) details of the corporate structure of the group, setting out—
    - (aa) the companies which make up the landlord group,
    - (bb) the beneficial owner of each company in the group, and
    - (cc) if the beneficial owner of the group or any company comprised in the group is, or includes, a trust foundation or arrangement of a similar character, details of the trust and the trustees;
  - (ii) the name of any other person who has the right to exercise or does exercise significant control or influence directly or indirectly over the group;
  - (iii) details of the type of trust if any, the law to which it is subject and where it is tax resident; and
  - (iv) in relation to trusts with an interest in the shares of any company comprised in the group—
    - (aa) details of the economic settlor;
    - (bb) the named beneficiaries or class of beneficiaries and protector, and
    - (cc) any other person who has the right to exercise or does exercise significant influence or control directly or indirectly over the trust.]

(4) The landlord certificate must be accompanied by—

- (a) the set of company accounts for the relevant landlord (in accordance with regulation 5) and, where the relevant landlord is part of a landlord group, for each company in the landlord group;
- (b) a statement from a chartered accountant or finance director of the landlord company—

- (i) setting out the net worth of the relevant landlord and, where the relevant landlord is part of a landlord group, of each company in the landlord group;
  - (ii) confirming the net worth is calculated in accordance with regulation 5 and paragraph 3 of Schedule 8 to the Act (the “net worth calculation”);
  - (iii) confirming the net worth calculations accurately represents the net worth of the relevant landlord (and, where the relevant landlord is part of a landlord group, of each of the companies in the landlord group);
- (c) documents or receipts that demonstrate that the relevant building was constructed or converted before the relevant period<sup>(2)</sup> and details of any relevant works<sup>(3)</sup> which were carried out in the relevant period;
- (d) evidence (where applicable) that—
- (i) the person who undertook works relating to the relevant defect or commissioned those works was not the relevant landlord and was not associated with the relevant landlord (as defined in paragraph 2(4) of Schedule 8 to the Act) together with confirmation of the identity of the person who did undertake such works, and
  - (ii) where those works were commissioned or undertaken by a joint venture, proof the relevant landlord was not party to that joint venture, together with details of the persons who were parties to the joint venture;
- (e) details of any relevant defects and [<sup>F4</sup>any relevant measures (as defined in paragraph 1 of Schedule 8 to the Act) taken in relation to those relevant defects since 28th June 2017]; and
- (f) details of any costs paid or due to be paid in relation to [<sup>F5</sup>any relevant measures taken in relation to] any relevant defects in the relevant building since 28 June 2017, including—
- (i) the total sum of any such costs;
  - (ii) details of the number of flats between which the costs should be divided; and
  - (iii) the leaseholder’s maximum remaining liability.

(5) In paragraph (4)(f)(iii), the “leaseholder’s maximum remaining liability” is the maximum capped amount payable by the leaseholder in respect of a relevant measure<sup>(4)</sup> deducting any payments made by the leaseholder in respect of any relevant measure since 28 June 2017.

(6) Where the current landlord is unable to provide any of the information required for the landlord’s certificate in paragraphs (3) and (4) the current landlord must apply to other persons who are relevant landlords requesting the information in accordance with regulation 7 which those persons must provide within 3 weeks of having been asked.

(7) [<sup>F6</sup>If a current landlord] does not provide a certificate which complies with this regulation in the form outlined in [<sup>F7</sup>Schedule 1] to the leaseholder, the condition in paragraph 2(2) of Schedule 8 to the Act is to be treated as met in accordance with paragraph 14(2) of Schedule 8 to the Act.

(8) In this regulation, “relevant landlord”—

- (a) in paragraphs (2)(b) [<sup>F8</sup>, (2B)(a), (2C)(b), (2D)(b), (2E)(b), (2F)(b), (2G)(b), (3)(c)] and (4)(a) and (b), has the meaning given in paragraph 3(1) of Schedule 8 to the Act;
- (b) otherwise, has the meaning given in paragraph 2(4) of Schedule 8 to the Act.

[<sup>F9</sup>(9) Where a current landlord has provided a landlord’s certificate to a leaseholder they must provide a copy of that certificate to any other landlords of premises in the building, the RMC, RTM company or named manager within one week of providing the certificate to the leaseholder.

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(2) See section 120(3) of the Act for the definition of “relevant period”.

(3) See section 120(3) of the Act for the definition of “relevant works”.

(4) See paragraph 1 of Schedule 8 to the Act for the definition of “relevant measure”.

(10) Where a current landlord fails to comply with the requirement in paragraph (9) the costs of a relevant measure relating to a relevant defect in the building to which the certificate relates are prescribed costs under paragraph 16(4) of Schedule 8 to the Act and so are not to be regarded as relevant costs to be taken into account in determining the amount of a service charge payable under a relevant lease of premises in that building and must not be met from a relevant reserve fund as defined in paragraph 10 of Schedule 8 to the Act.]

#### Textual Amendments

- F1** Reg. 6(1)(e) inserted (5.8.2023) by The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (S.I. 2023/895), regs. 1(1), **11(2)**
- F2** Reg. 6(2A)-(2G) inserted (5.8.2023) by The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (S.I. 2023/895), regs. 1(1), **11(3)**
- F3** Reg. 6(3) substituted (5.8.2023) by The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (S.I. 2023/895), regs. 1(1), **11(4)**
- F4** Words in reg. 6(4)(e) substituted (5.8.2023) by The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (S.I. 2023/895), regs. 1(1), **11(5)(a)**
- F5** Words in reg. 6(4)(f) substituted (5.8.2023) by The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (S.I. 2023/895), regs. 1(1), **11(5)(b)**
- F6** Words in reg. 6(7) substituted (5.8.2023) by The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (S.I. 2023/895), regs. 1(1), **11(6)(a)**
- F7** Words in reg. 6(7) substituted (5.8.2023) by The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (S.I. 2023/895), regs. 1(1), **11(6)(b)**
- F8** Words in reg. 6(8)(a) inserted (5.8.2023) by The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (S.I. 2023/895), regs. 1(1), **11(7)**
- F9** Reg. 6(9)(10) inserted (5.8.2023) by The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (S.I. 2023/895), regs. 1(1), **11(8)**

#### Commencement Information

- I1** Reg. 6 in force at 20.7.2022, see **reg. 1(1)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Building Safety (Leaseholder Protections) (England) Regulations 2022, Section 6.