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STATUTORY INSTRUMENTS

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**2022 No. 859**

**The Building Safety (Leaseholder Protections)  
(Information etc.) (England) Regulations 2022**

**Recovery of amounts from other landlords: other cases under Schedule 8**

5.—(1) This regulation applies where, in relation to a relevant building, a landlord (L) under any lease has paid or is liable to pay the cost of a relevant measure relating to a relevant defect (“the remediation amount”) which, but for paragraphs 4 to 9 and 11 of Schedule 8 to the Act, would have been payable as a service charge by the tenant under the lease.

(2) Where this regulation applies, each landlord under any lease in the building is liable to pay L a share of the remediation amount and that share is to be calculated in accordance with paragraphs (4) to (6).

(3) The amount referred to in paragraph (2) may not include any amount which L is entitled to recover under regulations 3 or 4 <sup>[F1]</sup>but nothing in this regulation prevents L from seeking to recover amounts under Regulation 3 or 4].

(4) Where the landlord is a type 1 owner, the share of the remediation amount for each such landlord is—

$$\frac{3A}{(3N_1 + 2N_2 + N_3)}$$

where—

A = the remediation amount for the relevant measure paid (or liable to be paid) by L;

N<sub>1</sub> = the total number of type 1 owners of the building;

N<sub>2</sub> = the total number of type 2 owners of the building;

N<sub>3</sub> = the total number of type 3 owners of the building.

(5) Where the landlord is a type 2 owner, the share of the remediation amount for each such landlord is—

$$\frac{2A}{(3N_1 + 2N_2 + N_3)}$$

where A, N<sub>1</sub>, N<sub>2</sub> and N<sub>3</sub> have the same meaning as in paragraph (4).

(6) Where the landlord is a type 3 owner, the share of the remediation amount for each such landlord is—

$$\frac{A}{(3N_1 + 2N_2 + N_3)}$$

where A, N<sub>1</sub>, N<sub>2</sub> and N<sub>3</sub> have the same meaning as in paragraph (4).

<sup>[F2]</sup>(7) To recover from each landlord their share of the remediation amount for which each is liable under paragraph (2) L must give to each landlord a notice which contains the information set out in paragraph (7A).

(7A) The information which the notice given under paragraph (7) must contain is—

- (a) the remediation amount that L has paid or the remediation amount which L expects to pay;
- (b) the amount which the recipient of the notice is required to pay to L (“the specified amount”);
- (c) how the specified amount was calculated;
- (d) the time limit for appealing under paragraph (8) to the First-tier Tribunal and for applying for an extension of that time limit under paragraph (8A);
- (e) the possible grounds of appeal.]

(8) A person who is notified by L of a requirement to pay a share of the remediation amount referred to in paragraph (2) may appeal <sup>F3</sup>... to the First-tier Tribunal within 30 days of the notification, specifying the grounds of appeal.

[<sup>F4</sup>(8A) A person who has received a notice under paragraph (7) may apply to the First-tier Tribunal to extend the time limit for lodging an appeal under paragraph (8).

(8B) An application under paragraph (8A) must be made within 30 days of the notification under paragraph (7).

(8C) In response to an application under paragraph (8A) the First-tier Tribunal may grant an extension of the time limit for lodging an appeal by no more than 30 days.]

(9) The grounds of appeal are—

- (a) that the remediation amount does not represent the cost of the relevant measure;
- (b) that the person is not a relevant landlord within the meaning of paragraph 12(2) of Schedule 8 to the Act; or
- (c) that the share of the remediation amount determined for the landlord is incorrect.

[<sup>F5</sup>(9A) Where an appeal made on the grounds specified in paragraph (9)(a)—

- (a) is unsuccessful, subject to the outcome of an appeal on another ground under this regulation, the person who was notified by L is required to pay the specified amount set out in the notice;
- (b) is successful, subject to the outcome of an appeal on another ground under this regulation, the First-tier Tribunal must substitute the remediation amount it rules is the correct one for the specified amount set out in the notice.

(9B) Where an appeal made on the grounds specified in paragraph (9)(b)—

- (a) is unsuccessful, subject to the outcome of an appeal on another ground under this regulation, the person who was notified by L is required to pay the specified amount set out in the notice;
- (b) is successful, the person who was notified by L is not required to pay the specified amount set out in the notice.

(9C) Where an appeal made on the grounds specified in paragraph (9)(c)—

- (a) is unsuccessful, subject to the outcome of an appeal on another ground under this regulation, the person who was notified by L is required to pay the specified amount set out in the notice;
- (b) is successful, subject to the outcome of an appeal on another ground under this regulation, the person who was notified by L is required to pay the share of the remediation amount determined by the First-tier Tribunal, calculated in accordance with paragraphs (4) to (6).]

(10) For the purposes of this regulation, the reference to landlord (L) includes a RMC or a RTM company [<sup>F6</sup>or a named manager].

(11) In this regulation—

“leasehold interest” means a long lease (which has the same meaning as in section 119 of the Act);

“type 1 owner” means a landlord who has a freehold interest in the building or a landlord who has or is treated as having a leasehold interest in respect of 90% or more of the storeys in the building as at the date of the notice under paragraph (7);

“type 2 owner” means a landlord who has or is treated as having a leasehold interest in respect of more than 40% but less than 90% of the storeys in the building as at the date of the notice under paragraph (7);

“type 3 owner” means a landlord who has or is treated as having a leasehold interest in respect of 40% or less of the storeys in the building as at the date of the notice under paragraph (7),

and where a person owns a leasehold interest in premises which form part only of a storey in the building in question they are, for the purposes of the calculations under this paragraph, to be treated as having an interest in respect of the whole storey.

[<sup>F7</sup>(12) An amount payable to L under this regulation is recoverable by L as a civil debt.]

#### Textual Amendments

- F1** Words in reg. 5(3) inserted (5.8.2023) by *The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (S.I. 2023/895)*, regs. 1(1), **7(3)**
- F2** Reg. 5(7)(7A) substituted for reg. 5(7) (5.8.2023) by *The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (S.I. 2023/895)*, regs. 1(1), **7(4)** (with reg. 7(2))
- F3** Words in reg. 5(8) omitted (5.8.2023) by virtue of *The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (S.I. 2023/895)*, regs. 1(1), **7(5)** (with reg. 7(2))
- F4** Reg. 5(8A)-(8C) inserted (5.8.2023) by *The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (S.I. 2023/895)*, regs. 1(1), **7(6)** (with reg. 7(2))
- F5** Reg. 5(9A)-(9C) inserted (5.8.2023) by *The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (S.I. 2023/895)*, regs. 1(1), **7(7)** (with reg. 7(2))
- F6** Words in reg. 5(10) inserted (5.8.2023) by *The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (S.I. 2023/895)*, regs. 1(1), **7(8)** (with reg. 7(2))
- F7** Reg. 5(12) inserted (5.8.2023) by *The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (S.I. 2023/895)*, regs. 1(1), **7(9)**

#### Commencement Information

- I1** Reg. 5 in force at 21.7.2022, see **reg. 1(1)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022, Section 5.