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STATUTORY INSTRUMENTS

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**2022 No. 859**

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

**Leaseholder deed of certificate: landlord's steps and requirements for leaseholders**

6.—<sup>F1</sup>(1) . . . . .

(2) Subject to paragraph (3), before the notification date a landlord under a lease that meets the conditions in paragraphs (a) to (c) of section 119(2) of the Act must give a notice in writing to the leaseholder which complies with paragraph (4).

(3) The requirement in paragraph (2) does not apply where, before the notification date, the landlord under the lease has received a leaseholder deed of certificate in respect of the lease.

(4) The notice under paragraph (2) must—

- (a) state it is a notice for the purposes of paragraphs 13 and 15 of Schedule 8 to the Act;
- (b) include a copy of the form of the leaseholder deed of certificate referred to in regulation 7 (leaseholder deed of certificate);
- (c) include a statement to the effect that failure to provide a completed leaseholder deed of certificate [<sup>F2</sup>and the evidence referred to in paragraph (7)]—
  - (i) will result in the lease being treated, for the purposes of sections 116 to 122 of the Act, as if it were not a qualifying lease;
  - (ii) where the lease is a shared ownership lease, may result in the landlord assuming the leaseholder owns a 100% share; and
  - (iii) may result in a higher value for the qualifying lease being used under or pursuant to any provision in Schedule 8 to the Act (remediation costs under qualifying leases etc); and
- (d) provide the date (which must be no less than 8 weeks from the date of receipt of the notice under paragraph (5)(a)) by which a reply to the notice must be received (“the reply date”) and the address of the landlord to which the reply must be sent.

(5) The landlord must give the leaseholder the notice under paragraph (2)—

- (a) by leaving it at the address of the leaseholder or sending it to that address by prepaid first class letter; and
- (b) where the leaseholder has provided the landlord with an email address, by transmitting it to that email address.

(6) Subject to paragraph (9), where a leaseholder receives a notice under paragraph (2) then by the reply date the leaseholder must—

- (a) provide the landlord under the lease with a leaseholder deed of certificate which complies with the requirements of regulation 7 together with the evidence referred to in paragraph (7); or
- (b) reply to the landlord in writing stating that the leaseholder will not provide a leaseholder deed of certificate.

- (7) The evidence which must accompany a leaseholder deed of certificate is—
- (a) where the dwelling to which the lease relates was disposed of on the open market before 14th February 2022—
    - (i) evidence of the most recent sale before that date, including an official copy of the register of title at HM Land Registry which shows the date of the sale in question; and
    - (ii) evidence of the price paid at completion (in pounds sterling to the nearest pound) in respect of that sale;
  - (b) additionally, where the dwelling was owned under a shared ownership lease at the beginning of 14th February 2022—
    - (i) a copy of the shared ownership lease; and
    - (ii) evidence of the percentage share under the shared ownership lease held on that date.
- (8) If by the date which is 14 days before the reply date the landlord has not received a reply from the leaseholder, the landlord must—
- (a) no later than 7 days before the reply date, give the leaseholder a further notice which, in addition to complying with sub-paragraphs (a), (b) and (c) of paragraph (4) and paragraph (5)—
    - (i) states that no reply to the notice under paragraph (2) has been received;
    - (ii) sets out the reply date; and
    - (iii) states that the leaseholder may make a request under paragraph (9);
  - (b) where the landlord has a telephone number for the leaseholder, telephone the leaseholder to draw the further notice to the leaseholder’s attention.
- (9) If requested by the leaseholder before the reply date, the landlord must allow the leaseholder an additional four weeks from the reply date to comply with the requirements under paragraph (6) (a) and (b).
- (10) The landlord may not charge the leaseholder for sending any notice under this regulation.
- [<sup>F3</sup>(10A) Within one week of receiving a leaseholder deed of certificate the current landlord must provide a copy of the certificate to any RMC, RTM company or named manager in relation to the building to which the certificate relates.
- (10B) Where a current landlord fails to comply with the requirement in paragraph (10A) the costs of a relevant measure relating to a relevant defect in the building to which the leaseholder deed of 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.]
- (11) In this regulation “the notification date” means the day which is five days after the day on which the landlord becomes aware that—
- (a) the interest in the property owned by the leaseholder is to be sold; or
  - (b) there is a relevant defect in relation to the building in question.

#### Textual Amendments

- F1** Reg. 6(1) omitted (5.8.2023) by virtue of [The Building Safety \(Leaseholder Protections etc.\) \(England\) \(Amendment\) Regulations 2023 \(S.I. 2023/895\)](#), regs. 1(1), **8(2)**
- F2** Words in reg. 6(4)(c) inserted (5.8.2023) by [The Building Safety \(Leaseholder Protections etc.\) \(England\) \(Amendment\) Regulations 2023 \(S.I. 2023/895\)](#), regs. 1(1), **8(3)**

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**Changes to legislation:** *There are currently no known outstanding effects for the The Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022, Section 6. (See end of Document for details)*

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**F3** Reg. 6(10A)(10B) inserted (5.8.2023) by The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (S.I. 2023/895), regs. 1(1), **8(4)**

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**Commencement Information**

**I1** Reg. 6 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 6.