
STATUTORY INSTRUMENTS

2023 No. 753

**The Building Safety (Responsible Actors
Scheme and Prohibitions) Regulations 2023**

PART 3

Planning and Building Control Prohibitions

CHAPTER 3

Building Control Prohibitions

Exception to building control prohibition: purchasers

36.—(1) The Secretary of State may on the application of an applicable person grant an exception to the building control prohibitions—

- (a) to permit the issuing by a [^{F1}relevant authority] of a certificate under regulation 17 (completion certificate) of the Building Regulations 2010;
- [^{F2}(aa) to permit the issuing by the regulator of a certificate in relation to that work under regulation 44 (completion certificate applications: decisions) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;]
- (b) to permit the acceptance by a local authority of a final certificate within the meaning of section 51 (final certificate) of the Building Act 1984 in relation to a particular building;

in respect of a specific building where the Secretary of State is satisfied that the criteria in paragraph (2) are met.

(2) The criteria in this paragraph are met where—

- (a) before the applicable person became an applicable person—
 - (i) building work in respect of the building had been commenced by the applicable person;
 - (ii) there is a person who exchanged a contract for the sale and purchase of a dwelling contained in the building, or for the building where it comprises a single dwelling (“the purchaser”);
 - (iii) the purchaser has paid or is liable to pay to the seller of the dwelling or building a deposit in accordance with the terms of that contract;
- (b) the purchaser is not in the same group as the applicable person and the purchase of the dwelling or building is an arm’s length transaction at market value and on arm’s length terms;
- (c) the purchase of the dwelling or building is for domestic and not for business or commercial purposes; and
- (d) the Secretary of State is satisfied that the interests of the purchaser will be materially prejudiced if the exception is not granted and that the grant of the exception is not contrary to or likely to frustrate the purposes of the scheme set out at regulation 5.

(3) An application under this regulation must—

- (a) be made in writing;
- (b) be supported by evidence as to each of the criteria in paragraph (2).

(4) The Secretary of State may, by notice in writing, require the applicant to provide by a time specified in the notice any further information which the Secretary of State requires to make a determination under this regulation.

(5) If a person required to provide information under paragraph (4) does not provide the specified information within the period specified in the notice, their application under this regulation is to be treated as having been refused.

(6) An application under this regulation must be made before any document referred to in paragraph (1) is sought, given, issued or accepted, and any such document sought or purported to be given, issued or accepted (as the case may be) before the Secretary of State has granted an exception under this regulation is not to be treated as validly given, issued or accepted.

[^{F3}(7) In this regulation “relevant authority” has the meaning given in regulation 2 of the Building Regulations 2010.]

Textual Amendments

- F1** Words in reg. 36(1)(a) substituted (1.10.2023) by [The Building Regulations etc. \(Amendment\) \(England\) Regulations 2023 \(S.I. 2023/911\)](#), regs. 1(2), **21(4)(a)** (with regs. 22-24)
 - F2** Reg. 36(1)(aa) inserted (1.10.2023) by [The Building \(Higher-Risk Buildings Procedures\) \(England\) Regulations 2023 \(S.I. 2023/909\)](#), regs. 1(1), **65(5)** (with Sch. 3 Pt. 1)
 - F3** Reg. 36(7) inserted (1.10.2023) by [The Building Regulations etc. \(Amendment\) \(England\) Regulations 2023 \(S.I. 2023/911\)](#), regs. 1(2), **21(4)(b)** (with regs. 22-24)
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Commencement Information

- I1** Reg. 36 in force at 4.7.2023, see [reg. 1\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023, Section 36.