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STATUTORY INSTRUMENTS

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**2023 No. 895**

**The Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023**

**Citation, commencement, extent and application**

1.—(1) These Regulations may be cited as the Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 and come into force on the day after the day on which they are made.

(2) These Regulations extend to England and Wales and apply in England only.

**Amendment of the Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022**

2. The Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022<sup>(1)</sup> are amended in accordance with regulations 3 to 8.

**Amendment of regulation 1**

3. In regulation 1(3) (citation, commencement, extent, application and interpretation)—

(a) after the definition of “the Act” insert—

““current landlord” means a person who is the landlord under a lease of premises in a relevant building<sup>(2)</sup>;

“named manager” means, in relation to a building, a person who is named in a lease as being the party with managing and repairing obligations in relation to the building or part of the building and who is a separate legal person from the freeholder of the building and any landlord of the building or part of the building;”

(b) after the definition of “RTM company” insert—

““shared ownership lease” means a lease—

(a) granted on payment of a premium calculated by reference to a percentage of the value of the demised premises or the cost of providing them, or

(b) under which the tenant (or the tenant’s personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of those premises.”.

**Amendment of regulation 2**

4.—(1) In regulation 2 (remediation orders) after paragraph (1) insert—

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(1) [S.I. 2022/859](#).

(2) See section 117 of the Act for the definition of “relevant building”.

“(1A) For the purposes of section 123(5) of the Act (remediation orders) the Homes and Communities Agency (established by section 1 of the Housing and Regeneration Act 2008(3)) is prescribed as an interested person.”.

(2) After regulation 2 (remediation orders) insert—

**“Remediation contribution orders**

**2A.** For the purposes of section 124(5) of the Act (remediation contribution orders) the following persons are prescribed as an interested person—

- (a) the Homes and Communities Agency;
- (b) the named manager in relation to the relevant building;
- (c) the RMC in relation to the relevant building; and
- (d) the RTM company in relation to the relevant building.”.

**Amendment of regulation 3 and transitional provision**

**5.—**(1) Regulation 3 (recovery of amounts from other landlords under paragraph 2 of Schedule 8) is amended as follows.

(2) But the amendments made by paragraphs (3), (5), (6), (7) and (8) do not apply in respect of a notice given before this regulation comes into force by a landlord under regulation 3(3) of the Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022.

(3) For paragraphs (2) and (3) substitute—

“(2) Where this regulation applies the responsible landlord is liable to pay L the remediation amount, and where, in relation to a particular relevant defect, two or more persons are responsible landlords, each person is jointly and severally liable for the remediation amount.

(3) To recover the remediation amount from the responsible landlord or responsible landlords liable under paragraph (2) L must give to at least one responsible landlord a notice which contains the information set out in paragraph (3B).

(3A) Only a responsible landlord to whom L has given a notice under paragraph (3) can be required to pay the remediation amount.

(3B) The information which the notice given under paragraph (3) must contain is—

- (a) the remediation amount that L has paid or the remediation amount that L expects to pay;
- (b) the time limit for appealing under paragraph (5) to the First-tier Tribunal and for applying under paragraph (5A) for an extension of that time limit;
- (c) the possible grounds of appeal.”.

(4) In paragraph (4) after “5” insert “but nothing in this regulation prevents L from seeking to recover amounts under regulation 4 or 5”.

(5) In paragraph (5) omit “that notice”.

(6) After paragraph (5) insert—

“(5A) A person who has received a notice under paragraph (3) may apply to the First-tier Tribunal to extend the time limit for lodging an appeal under paragraph (5).

(5B) An application under paragraph (5A) must be made within 30 days of the notification under paragraph (3).

- (5C) In response to an application under paragraph (5A) the First-tier Tribunal may grant an extension of the time limit for lodging an appeal by no more than 30 days.”.
- (7) After paragraph (6) insert—
- “(6A) Where an appeal made on the grounds specified in paragraph (6)(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 remediation amount set out in the notice unless that person’s liability has been discharged by payment of the remediation amount by another recipient of 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 remediation amount in the notice.
- (6B) Where an appeal made on the grounds specified in paragraph (6)(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 remediation amount set out in the notice unless that person’s liability has been discharged by payment of the remediation amount by another recipient of the notice;
  - (b) is successful, the person who was notified by L is not required to pay the remediation amount set out in the notice.”.
- (8) In paragraph (7) after “company” insert “or a named manager”.
- (9) After paragraph (8) insert—
- “(9) Where two or more landlords are liable for remediation costs under the Act, L must give a notice under paragraph (3) to at least one landlord which fulfils the “responsible for” criteria set out in paragraph 2(3) of Schedule 8 to the Act.
- (10) An amount payable to L under this regulation is recoverable by L as a civil debt.”.

#### **Amendment of regulation 4 and transitional provision**

**6.—**(1) Regulation 4 (recovery of amounts from other landlords: cases under paragraph 3 of Schedule 8) is amended as follows.

(2) But the amendments made by paragraphs (3), (5), (6), (7) and (8) do not apply in respect of a notice given before the date this regulation comes into force by a landlord under regulation 4(2) of the Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022.

(3) For paragraph (2) substitute—

“(2) Where this regulation applies the contributing landlord is liable to pay L the remediation amount.

(2A) To recover the remediation amount from the contributing landlord who is liable under paragraph (2) L must give the contributing landlord a notice which sets out the information listed in paragraph (2B).

(2B) The information which the notice given under paragraph (2A) must contain is—

- (a) the remediation amount that L has paid or the remediation amount which L expects to pay;
- (b) the time limit for appealing under paragraph (4) to the First-tier Tribunal and for applying for an extension of that time limit under paragraph (4A);
- (c) the possible grounds of appeal.”.

(4) In paragraph (3) after “5” insert “but nothing in this regulation prevents L from seeking to recover amounts under regulation 3 or 5”.

- (5) In paragraph (4) omit “that notice”.
- (6) After paragraph (4) insert—
- “(4A) A person who has received a notice under paragraph (2A) may apply to the First-tier Tribunal to extend the time limit for lodging an appeal under paragraph (4).
- (4B) An application under paragraph (4A) must be made within 30 days of the notification under paragraph (2A).
- (4C) In response to an application under paragraph (4A) the First-tier Tribunal may grant an extension of the time limit for lodging an appeal by no more than 30 days.”.
- (7) After paragraph (5) insert—
- “(5A) Where an appeal made on the grounds specified in paragraph (5)(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 remediation 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 remediation amount determined by the First-tier Tribunal.
- (5B) Where an appeal made on the grounds specified in paragraph (5)(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 remediation 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 not required to pay the remediation amount set out in the notice.”.
- (8) In paragraph (6) after “company” insert “or a named manager”.
- (9) For paragraph (7) substitute—
- “(7) In this regulation “the contributing landlord” means the person who—
- (a) is the landlord under the qualifying lease referred to in paragraph (1) provided that they met the contribution condition in paragraph 3 of Schedule 8 to the Act on 14th February 2022; or
- (b) after 14th February 2022 became the owner of that landlord’s interest.”.
- (10) After paragraph (7) insert—
- “(8) An amount payable to L under this regulation is recoverable by L as a civil debt.”.

### **Amendment of regulation 5 and transitional provision**

7.—(1) Regulation 5 (recovery of amounts from other landlords: other cases under Schedule 8) is amended as follows.

(2) But the amendments made by paragraphs (4), (5), (6), (7) and (8) do not apply in respect of a notice given before the date on which this regulation comes into force by a landlord under regulation 5(7) of the Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022.

(3) In paragraph (3) after “4” insert “but nothing in this regulation prevents L from seeking to recover amounts under Regulation 3 or 4”.

(4) For paragraph (7) substitute—

“(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.”.

(5) In paragraph (8) omit “that notice”.

(6) After paragraph (8) insert—

“(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.”.

(7) After paragraph (9) insert—

“(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).”.

(8) In paragraph (10) after “company” insert “or a named manager”.

(9) After paragraph (11) insert—

“(12) An amount payable to L under this regulation is recoverable by L as a civil debt.”.

### **Amendment of regulation 6**

**8.**—(1) Regulation 6 (leaseholder deed of certificate: landlord’s steps and requirements for leaseholders) is amended as follows.

(2) Omit paragraph (1).

(3) In paragraph (4)(c) after “certificate” insert “and the evidence referred to in paragraph (7)”.

(4) After paragraph (10) insert—

“(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.”.

### **Amendment of the Building Safety (Leaseholder Protections) (England) Regulations 2022**

**9.** The Building Safety (Leaseholder Protections) (England) Regulations 2022(4) are amended in accordance with regulations 10 to 13.

### **Amendment of regulation 1**

**10.** In regulation 1(3) (citation, commencement, extent, application and interpretation)—

(a) for the definition of “current landlord” substitute—

““current landlord” means a person who is the landlord under a lease of premises in a relevant building(5);”;

(b) after the definition of “current landlord” insert—

““landlord group” has the meaning given in paragraph 3(4) of Schedule 8 to the Act;”

(c) after the definition of “leaseholder” insert—

““named manager” means, in relation to a building, a person who is named in a lease as being the party with managing and repairing obligations in relation to the building or part of the building and who is a separate legal person from the freeholder of the building and the landlord of the building or part of the building;”

(d) for the definition of “RMC” substitute—

““RMC” means a body corporate which is party to a lease of a building where—

(a) the body corporate is limited by guarantee and the members of that body are tenants under leases of dwellings in the building (“leaseholders”), or

(b) the majority of the shares of the body corporate are held by leaseholders; and”.

### **Amendment of regulation 6**

**11.**—(1) Regulation 6 (landlord’s certificate) is amended as follows.

(2) In paragraph (1) after sub-paragraph (d) insert—

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(4) S.I. 2022/711.

(5) See section 117 of the Act for the definition of “relevant building”.

“(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.”.

(3) After paragraph (2) insert—

“(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)—
  - (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).”.

(4) For paragraph (3) substitute—

“(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.”.
- (5) In paragraph (4)—
  - (a) in sub-paragraph (e) for “any works carried out to the relevant building since 28th June 2017 to remedy relevant defects” substitute “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
  - (b) in sub-paragraph (f) for “any works carried out to remedy” substitute “any relevant measures taken in relation to”.
- (6) In paragraph (7)—
  - (a) for “If any person who is a relevant landlord under paragraph 2(4) of Schedule 8 to the Act” substitute “If a current landlord”;
  - (b) for “Schedule 2” substitute “Schedule 1”.
- (7) In paragraph (8)(a) after “(2)(b)” insert “, (2B)(a), (2C)(b), (2D)(b), (2E)(b), (2F)(b), (2G)(b), (3)(c)”.
- (8) After paragraph (8) insert—
  - “(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.
  - (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.”.

## **Amendment of regulation 10**

- 12.** In regulation 10(1) (application of service charge restrictions to non-residential leases)—
  - (a) omit “qualifying”;
  - (b) for “paragraphs (2) and (3)” substitute “paragraph (2)”.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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**Substitution of Schedule 1**

13. For Schedule 1 substitute the new Schedule 1 set out in the Schedule to these Regulations.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

*Lee Rowley*  
Parliamentary Under Secretary of State  
Department for Levelling Up, Housing and  
Communities

4th August 2023