
STATUTORY INSTRUMENTS

2023 No. 909

**The Building (Higher-Risk Buildings
Procedures) (England) Regulations 2023**

PART 7

Miscellaneous

Consequential amendments to the Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023

65.—(1) The Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023⁽¹⁾ are amended as follows.

(2) In regulation 33 (building control prohibitions)—

(a) in paragraph (2) after “34,” insert “34A,”;

(b) in paragraph (4)—

(i) after sub-paragraph (e) insert—

“(ea) an application for a certificate under regulation 40 (completion certificate applications) or regulation 45 (partial completion certificates) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;”;

(ii) after sub-paragraph (f) insert—

“(fa) an application for a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;”;

(c) in paragraph (6)—

(i) after sub-paragraph (b) insert—

“(ba) a certificate under regulation 44 (completion certificate applications: decisions) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;”;

(ii) after sub-paragraph (c) insert—

“(ca) a certificate under regulation 45 (partial completion certificates) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;”;

(iii) after sub-paragraph (f) insert—

“(g) a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;”;

(d) in paragraph (8)—

(i) after sub-paragraph (f) insert—

“(fa) an application for a certificate under regulation 40 (completion certificate applications) or regulation 45 (partial completion certificates) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;”;

(ii) after sub-paragraph (g) insert—

“(h) an application for a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;”.

(3) After regulation 34 insert—

“Exception to building control prohibition: emergency repair work to existing HRB

34A.—(1) Where an applicable person proposes to carry out work to existing HRB which consists of emergency repairs then—

(a) the provision by them of a notice under regulation 10(1)(a) (notification of emergency repairs to existing HRB) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, and

(b) an application for a certificate in relation to that work under regulation 47 (regularisation of unauthorised building work) of those Regulations,

are not to be treated as a breach of the building control prohibition.

(2) Where paragraph (1) applies, the regulator is not prohibited from giving the applicable person a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023.

(3) In this regulation—

“emergency repairs” has the meaning given in regulation 10(2) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;

“the regulator” has the meaning in section 126 of the Building Act 1984;

“work to existing HRB” has the meaning given in regulation 2 of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023.”.

(4) In regulation 35 (exception to building control prohibition: work to occupied buildings)—

(a) in paragraph (4)(a)—

(i) after paragraph (i) insert—

“(ia) an application for a certificate under regulation 40 (completion certificate applications) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 in relation to the work;”;

(ii) after paragraph (ii) insert—

“(iia) an application for a certificate under regulation 45 (partial completion certificates) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 in relation to the work;”;

(b) after paragraph (5) insert—

“(5A) Where paragraph (4) applies, the regulator is not prohibited from giving the applicable person a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023.”.

(5) In regulation 36(1) (exception to building control prohibitions: purchasers) after subparagraph (a) insert—

“(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;”.

(6) In regulation 37 (exception to building control prohibitions and modification of the Building Regulations 2010: regularisation)—

(a) after paragraph (1) insert—

“(1A) Where the building is a higher-risk building, a relevant purchaser is not prohibited from giving the regulator an application for a certificate under regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 and the regulator is not prohibited from granting such a certificate.”;

(b) after paragraph (3) insert—

“(4) For the purposes of paragraph (1A), regulation 47 (regularisation of unauthorised building work) of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 is to have effect in relation to an application under that regulation by a relevant purchaser as if any work carried out by an applicable person which was not unauthorised building work (within the meaning set out in that regulation) were treated as if it were unauthorised building work.”.