
STATUTORY INSTRUMENTS

2024 No. 41

The Higher-Risk Buildings (Keeping and Provision of Information etc.) (England) Regulations 2024

PART 4

Limitations in relation to the duty to provide information or documents

Exception for security: provision of documents to a client

15.—(1) The duty under regulation 10(3)(b) does not apply to any security sensitive material in a document described in paragraph 24(1) (structural risks) of Schedule 1 that an AP would otherwise be required to provide to a resident client.

(2) Material is “security sensitive” where—

- (a) it relates to a building, to land or to any other thing found in or on a building or land, where that building, land or other thing is not part of the higher-risk building or contained in it, or
- (b) it is about a part of the higher-risk building for which the AP is responsible pursuant to section 74 (part of the building for which an AP is responsible) of the 2022 Act or it is about anything contained in such a part, and—
 - (i) it relates to a relevant safety item⁽¹⁾, and
 - (ii) it discloses how the item operates or how to interfere with its intended function.

Exception for security: requests for further information by a resident or owner of a residential unit

16.—(1) The duty under section 92(2) of the 2022 Act does not apply to any security sensitive information, or to any security sensitive material in a document, that falls within any of the following provisions of Schedule 1—

- (a) paragraph 16(1)(a) and 16(2)(a) (completion and partial completion of works);
- (b) paragraph 24(1) (structural risks);
- (c) paragraph 25 (building safety risk assessment);
- (d) paragraph 26 (management of building safety risks);
- (e) paragraph 27 (plans).

(2) Information or material is “security sensitive” where—

- (a) it relates to a building, to land or to any other thing found in or on a building or land, where that building, land or other thing is not part of the higher-risk building or contained in it, or
- (b) it is about a part of the higher-risk building for which the AP is responsible pursuant to section 74 (part of the building for which an AP is responsible) of the 2022 Act or it is about anything contained in such a part, and—

⁽¹⁾ See section 95(4) of the 2022 for the meaning of “relevant safety item”.

- (i) it relates to a relevant safety item⁽²⁾, and
- (ii) it discloses how the item operates or how to interfere with its intended function.

Exception for commercial sensitivity

17.—(1) This regulation applies in relation to the following—

- (a) the duty of an AP under regulation 6 to provide information or documents to another AP,
- (b) the duty of an AP under regulation 10 to provide information or documents to a client,
- (c) the duty of an AP or a PAP under regulation 11 to provide information or documents to a relevant RP,
- (d) the duty of an outgoing person under regulation 13 to provide information or documents to an AP or a PAP, and
- (e) the duty of an AP under regulation 14 to provide information or documents to a resident or owner of a residential unit.

(2) Subject to paragraphs (4) and (5), the duties specified in paragraph (1) do not apply to any information or material in a document that is commercially sensitive.

(3) For the purposes of this regulation, information or material within a document is commercially sensitive where it is not in the public domain at the time that the AP or outgoing person complies with a duty referred to in paragraph (1), and where it discloses—

- (a) customer identities that are confidential to the AP, the outgoing person or a third party,
- (b) marketing and product development strategies and analysis that are confidential to the AP, the outgoing person or a third party,
- (c) supplier identities that are confidential to the AP, the outgoing person or a third party,
- (d) cost, price or other quantitative data that is confidential and relates to the operations of the AP's or outgoing person's organisation or to the operations of a third party,
- (e) data or information covered by commercial confidentiality or non-disclosure agreements, or
- (f) any other trade secret of the AP, outgoing person, or a third party.

(4) Paragraph (2) does not apply to any information or material in a document that is significant for managing building safety.

(5) Paragraph (2) does not apply to a duty to provide—

- (a) a building assessment certificate⁽³⁾ for a higher-risk building,
- (b) the most recent written notice given by the regulator in accordance with section 81(3)(b)⁽⁴⁾ (building assessment certificates) of the 2022 Act,
- (c) information kept under paragraph 3 (registration) of Schedule 1,
- (d) information kept under paragraph 4 (key building information) of Schedule 1,
- (e) any list kept under paragraph 6(1)(a) (fire safety management) of Schedule 1,
- (f) information kept under paragraph 7 (evacuation) of Schedule 1,
- (g) information kept under paragraph 8 (Fire Safety Regulations information) of Schedule 1,
- (h) any list kept under paragraph 9(1) (structural risks) of Schedule 1,

⁽²⁾ See section 95(4) of the 2022 Act for the meaning of “relevant safety item”.

⁽³⁾ See section 81(1)(a) of the 2022 Act for the definition of “building assessment certificate”.

⁽⁴⁾ Section 81(3)(b) of the 2022 Act requires the regulator to notify the PAP of any refusal of an application for a building assessment certificate.

- (i) information kept under paragraph 11 (building design) of Schedule 1,
 - (j) information kept under paragraph 14 (complaints) of Schedule 1,
 - (k) any certificate kept under paragraph 16 (completion and partial completion of works) of Schedule 1,
 - (l) any document kept under paragraph 18 (registration) of Schedule 1,
 - (m) any document kept under paragraph 23 (Fire Safety Regulations information) of Schedule 1, or
 - (n) any document kept under paragraph 30 (complaints) of Schedule 1.
- (6) In this regulation—
- “AP client” means a client that—
- (a) is not a resident client, or
 - (b) is a resident client of a higher-risk building and is an AP for the same higher-risk building;
- “confidential” means—
- (a) in the case of information held by an AP, or any document or part of a document created by the AP, the information, document or part of a document in relation to which the AP has expressly recorded that it is to be treated as confidential;
 - (b) in the case of information or a document or part of a document provided to the AP by another person, the information, document or part of a document provided in relation to which that other person has notified that AP that it is to be treated as confidential;
- “information or material that is significant for managing building safety” means information or material given to—
- (a) a person who is not an AP for a higher-risk building but is a resident, an owner of a residential unit or a resident client of the higher-risk building, that is necessary to enable them to understand the building safety risks⁽⁵⁾ and how those risks to their higher-risk building are being managed by the PAP and any AP for their higher-risk building;
 - (b) an AP, a relevant RP, or an AP client, that is necessary to enable them to identify, assess or manage a building safety risk in the higher-risk building or to understand how this is being done by another person who has responsibilities in relation to fire or structural safety for that higher-risk building;
- “trade secret” means information, whether or not contained in a document or part of a document, which is not generally known or readily accessible to an AP, a RP or an AP client and has commercial value because it is secret.

Exception for personal data

- 18.**—(1) Subject to paragraph (6), this regulation applies in relation to—
- (a) the duties under regulations 6 to 8 and 10 to 12, and
 - (b) an AP’s duty to a resident or owner of a residential unit under section 92(2) of the 2022 Act and pursuant to regulation 14.
- (2) Paragraph (4) applies where regulation 7, 8, 10 or 14 would require an AP to share personal data with someone, other than the data subject, who is—
- (a) a resident,
 - (b) an owner of a residential unit, or
 - (c) a resident client who is not an AP for the same higher-risk building.

(5) See section 62(1) of the 2022 Act for the definition of “building safety risk”.

(3) Paragraph (5) applies where regulation 6, 10, 11 or 12 would require an AP or PAP to share personal data with someone, other than the data subject, who is—

- (a) another AP for the same higher-risk building,
- (b) a relevant RP,
- (c) an AP client, or
- (d) a fire and rescue authority.

(4) Where this paragraph applies, the AP is not required to provide any personal data that is not permitted personal data.

(5) Where this paragraph applies, the AP or PAP is not required to provide any personal data unless it is—

- (a) permitted personal data, or
- (b) significant for managing building safety.

(6) This regulation does not apply to any information or material in a document that an AP or PAP is required to give to a fire and rescue authority pursuant to regulation 12, where the information or document is—

- (a) information kept under paragraph 6 (fire safety management) of Schedule 1;
- (b) information kept under paragraph 7 (evacuation) of Schedule 1; or
- (c) a document kept under paragraph 22 (fire safety management) of Schedule 1.

(7) In this regulation—

“permitted personal data” means any personal data that a PAP must display in accordance with section 82(1) of the 2022 Act;

“significant for managing building safety” means any information or material within a document that is necessary to enable the AP, PAP, relevant RP, AP client or fire and rescue authority to identify, assess or manage a building safety risk in the higher-risk building or to understand how this is being done by another who has responsibilities in relation to fire or structural safety for that higher-risk building.

Limitation of liability for disclosure of information

19. Where an AP, PAP or outgoing person discloses information in accordance with Parts 3 and 4 of these Regulations, the disclosure of information does not breach—

- (a) any obligation of confidence owed by that AP, PAP or outgoing person in relation to that information;
- (b) any other restriction on the disclosure of information (however imposed outside of these Regulations).