
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 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⁽¹⁾ for a higher-risk building,

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

- (b) the most recent written notice given by the regulator in accordance with section 81(3)(b)(2) (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,
 - (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⁽³⁾ 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.

(2) 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.

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

Status: This is the original version (as it was originally made).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