



# Draft Building Safety Bill





# Draft Building Safety Bill

Presented to Parliament by the Secretary of State for  
Housing, Communities and Local Government by Command  
of Her Majesty July 2020



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## **Foreword**

### **Draft Building Safety Bill**

This Government is prioritising the urgent reform of the regulatory system for buildings. The extensive reforms brought forward in this large and complex Bill represent the most significant and fundamental changes to building safety legislation in decades.

In the days after the Grenfell Tower tragedy, when Dame Judith Hackitt started her Independent Review of Building Regulations and Fire Safety, my department had already established the Building Safety Programme to ensure residents in high-rise buildings are safe. Central to this mission is and has always been wholesale reform of the regulatory system.

At the heart of the new regime is the safety of residents in high rise buildings. They have contributed and shaped our plans. The dignity and bravery shown by the bereaved and survivors of Grenfell has ensured that in this new regime the voice of residents will never be ignored. Those that build and manage high rise buildings will need to actively demonstrate how they have considered residents safety in their work, and residents will have access to safety information about their building.

The Bill will introduce a new era of accountability, making it clear where the responsibility for managing safety risks lies throughout the design, construction and occupation of buildings in scope. There will be tougher sanctions for those that fail to meet their obligations.

Central to ensuring the regime is effective will be a powerful new Building Safety Regulator housed within the Health and Safety Executive. It will have responsibility for implementing and enforcing the more stringent regime for higher-risk buildings and will oversee the safety and performance of all buildings.

This Government has not waited for this legislation to take action and ensure residents are safe. We committed to support residents in high rise buildings with the removal of unsafe cladding and have provided £1.6 billion of funding and support to expedite this. We have also worked with industry to ensure work can continue safely throughout the Covid-19 crisis. There is no excuse, industry must act now to ensure unsafe material is removed from buildings without delay.

Industry should also prepare for the substantial changes that are coming. Many in industry have already been working to improve standards and have shaped and influenced this Bill. Now they must accelerate this work to improve industry wide culture, competence and compliance. The new Building Safety Regulator will work closely with industry to drive a change in culture that prioritises residents and ensures their safety.

I want to thank those who contributed to the discussion on building safety. Your views have been crucial in shaping the legislation so far. We know there is more to do. The reforms I am publishing today are extensive and technical. It is incumbent on us all to get this right. That is why we are publishing the draft legislation for scrutiny from Parliament, industry and from residents.

I would encourage Parliament to engage wholeheartedly in strengthening the proposals for reform set out in this draft legislation, so that together we can further improve it and ensure we deliver a reformed and improved system that keeps residents safe.

**The Rt Hon Robert Jenrick MP**

Secretary of State for Housing, Communities and Local Government

# Building Safety Bill

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A  
**B I L L**

TO

Make provision about the safety of people in or about buildings and the standard of buildings.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**PART 1**

INTRODUCTION

**1 Overview of Act**

- (1) This Act has 5 Parts, and contains provisions intended to secure the safety of people in or about buildings and to improve the standard of buildings.
- (2) Part 2 contains provision about the building safety regulator and its functions in relation to buildings in England.
- (3) It also contains definitions of “building safety risk” and “higher-risk building”.
- (4) Part 3 amends the Building Act 1984 as it applies in relation to England.
- (5) Amendments made by Part 3—
  - (a) provide that the regulator is the building control authority in relation to higher-risk buildings, and
  - (b) require the regulator to establish and maintain registers of building control approvers and building inspectors.
- (6) Part 4 is about occupied higher-risk buildings, and imposes duties on accountable persons and building safety managers.
- (7) Part 5 contains supplementary and general provisions, including—
  - (a) provision requiring a new homes ombudsman scheme to be established;
  - (b) powers to make provision about construction products;
  - (c) provision about the regulation of architects.

**PART 2**

## THE REGULATOR AND ITS FUNCTIONS

*The regulator and its general functions***2 The building safety regulator**

- (1) In this Part and Part 4 “the regulator” means the Health and Safety Executive.
- (2) Schedule 1 contains amendments of provisions of the Health and Safety at Work etc Act 1974 that relate to the regulator.

**3 The regulator’s objectives**

- (1) The regulator must exercise its building functions with a view to—
  - (a) securing the safety of people in or about buildings in relation to risks arising from buildings, and
  - (b) improving the standard of buildings.
- (2) In this Part “building function” means—
  - (a) any function of the regulator under, or under an instrument made under, this Act or the Building Act 1984;
  - (b) any prescribed function of the regulator;
  - (c) any function of the regulator under the Health and Safety at Work etc Act 1974 so far as relating to a function within paragraph (a) or (b).

**4 Duty to facilitate building safety: higher-risk buildings**

- (1) The regulator must provide such assistance and encouragement to relevant persons as it considers appropriate with a view to facilitating their securing the safety of people in or about higher-risk buildings in relation to building safety risks as regards those buildings.
- (2) For this purpose “relevant persons” means—
  - (a) residents of higher-risk buildings,
  - (b) persons upon whom duties are imposed by virtue of paragraph 4D of Schedule 1 to the Building Act 1984 (dutyholders), and
  - (c) persons who are accountable persons or building safety managers within the meaning of Part 4 of this Act.
- (3) Parts 3 and 4 contain provision conferring further functions on the regulator in relation to higher-risk buildings.

**5 Duty to keep safety and standard of buildings under review**

- (1) The regulator must keep under review—
  - (a) the safety of people in or about buildings in relation to risks arising from buildings, and
  - (b) the standard of buildings.
- (2) The regulator must, if it considers it appropriate to do so given its findings made when reviewing a matter under subsection (1), exercise its general functions in such way as it considers appropriate.



- (3) The regulator’s “general functions” are –
  - (a) its functions under the Health and Safety at Work etc Act 1974, so far as they are exercisable in relation to a building function,
  - (b) its function under section 13A of the Building Act 1984, and
  - (c) its functions under this Part.

## **6 Facilitating improvement in competence of industry and building inspectors**

- (1) The regulator must provide such assistance and encouragement as it considers appropriate to –
  - (a) persons in the built environment industry, and
  - (b) registered building inspectors,with a view to facilitating their improving the competence of persons in that industry or members of that profession (as the case may be).
- (2) For the meaning of “built environment industry” and “registered building inspector” see section 35.

## **7 Proposals and consultation relating to regulations**

- (1) This section applies to regulations under –
  - (a) any provision of this Part except section 16, 19 or 20, or
  - (b) Part 4.
- (2) The regulator may at any time make proposals to the Secretary of State for the making of regulations.
- (3) Before making a proposal, the regulator must consult such persons as it considers appropriate.
- (4) Before making regulations, other than regulations proposed by the regulator, the Secretary of State must consult –
  - (a) the regulator, and
  - (b) such other persons as the Secretary of State considers appropriate.

## **8 Duty to establish system for giving of building safety information**

The regulator must –

- (a) establish and operate a system to facilitate the voluntary giving of information about building safety to the regulator, or
- (b) make arrangements for a person to establish and operate such a system.

### *Committees*

## **9 Building Advisory Committee**

- (1) The regulator must exercise its powers under section 11A(3) of the Health and Safety at Work etc Act 1974 to establish and maintain a committee to be known as the Building Advisory Committee, with the following function.
- (2) That function is to give advice and information to the regulator about matters connected with any of the regulator’s building functions except its functions relating to the competence of –

- (a) persons in the built environment industry, and
  - (b) registered building inspectors.
- (3) The Building Regulations Advisory Committee for England, established under section 14 of the Building Act 1984, is abolished.

## **10 Committee on industry competence**

- (1) The regulator must exercise its powers under section 11A(3) of the Health and Safety at Work etc Act 1974 to establish and maintain a committee concerned with the competence of persons in the built environment industry (“industry competence”), with the following functions (and any other function that the regulator considers appropriate).
- (2) The functions are—
  - (a) monitoring industry competence;
  - (b) advising the regulator in relation to industry competence;
  - (c) advising persons in the built environment industry in relation to industry competence;
  - (d) facilitating persons in the built environment industry to improve industry competence;
  - (e) providing guidance to the public (or a section of the public) about ways of assessing the competence of persons in the built environment industry;
  - (f) carrying out analysis and research in connection with a function mentioned in any of paragraphs (a) to (e).

## **11 Residents’ panel**

- (1) The regulator must exercise its powers under section 11A(3) of the Health and Safety at Work etc Act 1974 to establish and maintain a committee with the following functions (and any other function that the regulator considers appropriate).
- (2) The committee is to consist of—
  - (a) such residents of higher-risk buildings as the regulator considers appropriate, and
  - (b) such relevant persons (if any) as it considers appropriate.
- (3) The committee is to give advice to the regulator about such matters connected with the regulator’s building functions and relating to higher-risk buildings as the regulator may specify.
- (4) The regulator must consult the committee before issuing or revising any of the following—
  - (a) guidance to residents of higher-risk buildings about any of their rights or obligations under Part 4 or regulations made under that Part;
  - (b) guidance relating to any duty under regulations made under section 80 to give information or documents to residents of higher-risk buildings or owners of flats in such buildings;
  - (c) guidance relating to any of sections 82 to 84 and 86 or regulations made under any of those sections (engagement with residents etc, and residents’ duties).

- (5) If the committee has not been established at a time when the regulator has prepared guidance to which subsection (4) applies –
  - (a) that subsection has effect as if it did not require the committee to be consulted before the guidance is issued, and
  - (b) the committee must be consulted in relation to the issued guidance as soon as reasonably practicable.
- (6) See also –
  - (a) section 23(3) (duty to consult committee about regulator’s strategic plan);
  - (b) section 85(2) (duty to consult committee about regulator’s complaints system).
- (7) In this section “relevant person” means –
  - (a) an owner of a flat in a higher-risk building,
  - (b) a body that represents, supports or promotes –
    - (i) the interests of any description of residents of higher-risk buildings or owners of flats in such buildings, or
    - (ii) the interests of any other description of persons that includes a description of such residents or owners, or
  - (c) a member of a body within paragraph (b).

## **12 Committees: power to amend or repeal**

- (1) The Secretary of State may by regulations amend or repeal any of sections 9 to 11 (provision about specific committees).
- (2) The regulations may make consequential amendments of this Act.

*Staff etc*

## **13 Local authorities and fire and rescue authorities: provision of assistance etc to regulator**

- (1) A relevant authority may at the request of the regulator do anything for the purpose of –
  - (a) facilitating the exercise by the regulator of a relevant function, or
  - (b) enabling the relevant authority to facilitate the exercise by the regulator of a relevant function.
- (2) The regulator may, for a purpose mentioned in paragraph (a) or (b) of subsection (1), direct a relevant authority to do anything specified in the direction.
- (3) The direction may specify the way in which, and the time by which, the thing is to be done.
- (4) A direction –
  - (a) may be given only if the regulator considers that it is expedient for the authority to do the specified thing, and
  - (b) must state how, in the regulator’s opinion, the doing of the thing will facilitate the exercise of a relevant function or enable the authority to facilitate that exercise.

- (5) A direction may be given only with the consent of the Secretary of State.
- (6) Before giving a direction, the regulator must –
  - (a) make a written request under subsection (1) for the authority to do the thing, and
  - (b) have regard to any written representations made by the authority in the period specified in the request.
- (7) A request under subsection (6)(a) must –
  - (a) state that the regulator may seek consent to give a direction under this section if the request is not complied with,
  - (b) state how, in the regulator’s opinion, the doing of the thing will facilitate the exercise of a relevant function or enable the authority to facilitate that exercise, and
  - (c) specify a reasonable period for the authority to make any representations as to why it should not do the thing requested.
- (8) In this section –
  - “relevant authority” means a local authority or fire and rescue authority;
  - “relevant function” means –
    - (a) a function of the regulator relating to the regulation of higher-risk buildings or higher-risk building work (as defined by section 91ZB of the Building Act 1984), or
    - (b) in the case of a local authority, a function of the regulator relating to the regulation of any work for which the regulator is the building control authority by virtue of that section.
- (9) A direction or consent under this section must be in writing.

#### **14 Provision of assistance etc: supplementary**

- (1) This section supplements section 13.
- (2) A relevant authority must ensure that any of its staff involved in providing relevant assistance to the regulator have the appropriate skills, knowledge, experience and behaviours.
- (3) For this purpose “relevant assistance” means anything done by the authority pursuant to a request or direction, for the purpose of facilitating the exercise by the regulator of a relevant function.
- (4) The Secretary of State may by regulations make provision about the reimbursement by the regulator of expenditure incurred by relevant authorities in complying with requests or directions.
- (5) The Secretary of State may pay a relevant authority such amount as the Secretary of State considers appropriate in respect of things done by the authority in complying with a request or direction.
- (6) The Secretary of State may by regulations make further provision in relation to requests and directions, including in particular things done by a relevant authority in connection with a request or direction.
- (7) In this section –
  - (a) “relevant authority” and “relevant function” have the meaning given by section 13;

- (b) any reference to a request or direction is to one made or given under that section.

## **15 Section 13: guidance**

- (1) The regulator may issue guidance to relevant authorities about their functions under section 13.
- (2) The regulator may revise or withdraw any issued guidance.
- (3) A relevant authority must have regard to any guidance under this section when exercising its functions under section 13.
- (4) Guidance under this section may be issued, revised or withdrawn only with the consent of the Secretary of State.
- (5) In this section “relevant authority” has the meaning given by section 13.

### *Building safety risks*

## **16 Meaning of “building safety risk”**

- (1) In this Part and Part 4 “building safety risk” means a risk to the safety of persons in or about a building arising from the occurrence as regards the building of any of the following—
  - (a) fire;
  - (b) structural failure;
  - (c) any other prescribed matter.
- (2) Before making regulations under subsection (1)(c), the Secretary of State must consult—
  - (a) the regulator, and
  - (b) such other persons as the Secretary of State considers appropriate.
- (3) But the regulator need not be consulted if—
  - (a) the regulations give effect to a recommendation made by the regulator under section 17, or
  - (b) the Secretary of State has under section 18 asked the regulator for its advice in relation to a proposal to make the regulations.

## **17 Recommendations about regulations under section 16**

- (1) The regulator may recommend that the Secretary of State makes regulations under section 16.
- (2) The regulator may make a recommendation to prescribe a matter under section 16(1)(c) only if it considers that if the matter occurred in a higher-risk building it would have the potential to cause a major incident.
- (3) The regulator may make a recommendation to make regulations that would result in a matter ceasing to be prescribed 16(1)(c) only if it considers that if the matter occurred in a higher-risk building it would not have the potential to cause a major incident.

- (4) When making a recommendation, the regulator must give the Secretary of State a statement of its assessment of the issues it considered when deciding to make the recommendation.
- (5) If following a recommendation the Secretary of State decides not to make the regulations, the Secretary of State must publish a document setting out—
  - (a) the regulator’s recommendation,
  - (b) the Secretary of State’s decision not to make the regulations, and
  - (c) the reasons for that decision.
- (6) In this section “major incident” means an incident resulting in—
  - (a) a significant number of deaths, or
  - (b) serious injury to a significant number of people.

## **18 Advice about regulations under section 16**

Where the Secretary of State asks the regulator to provide advice about a proposal to make regulations under section 16, it must provide that advice.

### *Higher-risk buildings*

## **19 Meaning of “higher-risk building”**

- (1) In this Part and Part 4 “higher-risk building” means a building of a prescribed description.
- (2) Before making regulations under subsection (1), the Secretary of State must consult—
  - (a) the regulator, and
  - (b) such other persons as the Secretary of State considers appropriate.
- (3) But the regulator need not be consulted if—
  - (a) the regulations give effect to a recommendation made by the regulator under section 21, or
  - (b) the Secretary of State has under section 22 asked the regulator for advice about the description of building in question.

## **20 Modification of Part 4 in relation to certain kinds of higher-risk building**

- (1) The Secretary of State may make regulations modifying Part 4 as it applies in relation to a prescribed description of higher-risk building.
- (2) Before making regulations under subsection (1), the Secretary of State must consult—
  - (a) the regulator, and
  - (b) such other persons as the Secretary of State considers appropriate.
- (3) But the regulator need not be consulted if the regulations give effect to a recommendation under section 21 or 22.

## **21 Recommendations about regulations under section 19**

- (1) Subsection (2) applies if, in respect of any description of building that is not prescribed under section 19 (higher-risk buildings), the regulator considers—

- (a) that a building safety risk is higher in that description of buildings than it is in buildings that are not of that description, and
  - (b) that if the risk materialised in a building of that description it would have the potential to cause a major incident.
- (2) The regulator must—
  - (a) recommend to the Secretary of State that the description of building is prescribed under section 19,
  - (b) if it considers that any of the relevant enactments should not apply in relation to that description of building, make a recommendation to the Secretary of State to that effect, and
  - (c) give the Secretary of State a statement of its assessment of the issues it considered when deciding to make the recommendation under paragraph (a) and any recommendation under paragraph (b).
- (3) Subsection (4) applies if—
  - (a) following a recommendation under subsection (2)(a) the Secretary of State decides not to make regulations under section 19 prescribing the description of building, or
  - (b) following a recommendation under subsection (2)(b) the Secretary of State decides not to make regulations under section 20 giving effect to the recommendation.
- (4) The Secretary of State must publish a document setting out—
  - (a) the regulator’s recommendation,
  - (b) the Secretary of State’s decision not to make the regulations, and
  - (c) the reasons for that decision.
- (5) If the regulator considers that the relevant enactments should not apply in relation to a particular description of higher-risk building, it must recommend to the Secretary of State that the description of building ceases to be a higher-risk building.
- (6) In this section—
  - “major incident” has the meaning given by section 17;
  - “the relevant enactments” means any provision of, or of regulations made under—
    - (a) Part 4 of this Act;
    - (b) the Building Act 1984 as it applies in relation to higher-risk buildings.

## **22 Advice about regulations under section 19**

- (1) If requested, the regulator must provide advice to the Secretary of State as to whether a specified description of building should be a higher-risk building.
- (2) Where—
  - (a) in response to the request, the regulator provides advice that a description of building should be a higher-risk building, and
  - (b) the regulator considers that any of the relevant enactments should not apply in relation to that description of building,it must make a recommendation to the Secretary of State to that effect.

- (3) If requested, the regulator must provide advice to the Secretary of State as to whether a specified description of higher-risk building should cease to be a higher-risk building.
- (4) In this section –
  - “the relevant enactments” has the meaning given by section 21;
  - “specified” means specified by the Secretary of State in the request.

### *Plans and reports*

## **23 Strategic plan**

- (1) The regulator must –
  - (a) prepare a strategic plan, and
  - (b) submit it to the Secretary of State for approval.
- (2) A “strategic plan” is a plan setting out how the regulator proposes to carry out its building functions in the period to which the plan relates.
- (3) Before submitting it, the regulator must consult –
  - (a) the committee mentioned in section 11 (residents’ panel), and
  - (b) such other persons as the regulator considers appropriate.
- (4) The Secretary of State may approve the plan, with or without modifications.
- (5) Before approving the plan with modifications, the Secretary of State must consult the regulator.
- (6) The regulator must publish the approved plan, and act in accordance with it.
- (7) The first plan –
  - (a) must be submitted as soon as reasonably practicable after this section comes into force, and
  - (b) must relate to a period ending with the third 31 March to occur after the day on which it is submitted.
- (8) If the committee mentioned in section 11 (residents’ panel) has not been established at the time the first plan is prepared –
  - (a) subsection (3) has effect as if it did not require the committee to be consulted before the plan is submitted, and
  - (b) the committee must be consulted in relation to the first approved plan as soon as reasonably practicable.
- (9) Any other plan –
  - (a) must be submitted before the end of the period to which the most recent approved plan relates (“the current period”), and
  - (b) must relate to the period of three years, or such other period as the Secretary of State and the regulator may agree, beginning immediately after the end of the current period.

## **24 Revised strategic plans**

- (1) This section supplements section 23.
- (2) The regulator may at any time in the period to which a plan (“the current plan”) relates –



- (a) prepare a revised plan relating to the remainder of that period (or to such other period as the Secretary of State and the regulator may agree), and
  - (b) submit it to the Secretary of State for approval.
- (3) The Secretary of State may at any time during the period to which a plan (“the current plan”) relates require the regulator to submit a revised plan for approval.
- (4) Where such a requirement is made, the revised plan –
  - (a) must be submitted as soon as reasonably practicable, and
  - (b) must relate to the remainder of the period to which the current plan relates (or to such other period as the Secretary of State and the regulator may agree).
- (5) Section 23(3) to (6) apply in relation to a revised plan.
- (6) If approved, the revised plan replaces the current plan.
- (7) In this section “plan” means a strategic plan as defined by section 23.

## **25 Annual report about information provided under mandatory reporting requirements**

- (1) As soon as reasonably practicable after the end of each financial year, the regulator must prepare and publish a report about the information provided to it during that year pursuant to the mandatory reporting requirements.
- (2) For this purpose, information is provided pursuant to the “mandatory reporting requirements” if it is provided under –
  - (a) section 78 (duty of building safety manager to report to regulator), or
  - (b) any provision of building regulations that is prescribed by the regulations for the purposes of this section.
- (3) A report under this section must not contain personal data.
- (4) In this section “financial year” means a year ending with 31 March.

## **26 Statement of regulator’s engagement with residents etc**

- (1) The regulator must from time to time publish a statement about its engagement with –
  - (a) the committee mentioned in section 11 (residents’ panel),
  - (b) residents of higher-risk buildings,
  - (c) owners of flats in higher-risk buildings, and
  - (d) bodies that represent, support or promote the interests of –
    - (i) any description of residents of higher-risk buildings or owners of flats in such buildings, or
    - (ii) persons including any description of such residents or owners.
- (2) The regulator may comply with the duty under subsection (1) by including the statement in its annual report.
- (3) In this section “annual report” means the report made under paragraph 10(3) of Schedule 2 to the Health and Safety at Work etc Act 1974.

*Enforcement***27 Authorised officers**

- (1) The regulator may authorise a person in relation to specified paragraphs of Schedule 2 (investigatory powers), for the purposes of any specified relevant building function.
- (2) A person may be authorised in relation to a paragraph of the Schedule only if they appear to the regulator to be suitably qualified to exercise any power conferred by virtue of that paragraph or do anything else mentioned in that paragraph.
- (3) An authorisation –
  - (a) must be in writing;
  - (b) may be varied or revoked by an instrument in writing.
- (4) When exercising or seeking to exercise a power conferred by virtue of Schedule 2, an authorised officer must if asked produce the authorisation (including any instrument varying it) or a duly authenticated copy.
- (5) In this section –
  - “authorised officer” means a person in respect of whom an authorisation under this section is in force;
  - “relevant building function” means any function of the regulator under, or under regulations made under –
    - (a) Part 4 of this Act (higher-risk buildings), or
    - (b) the Building Act 1984;
  - “specified” means specified in the authorisation.

**28 Authorised officers: offences**

- (1) A person who intentionally obstructs a person who is an authorised officer exercising a relevant building function commits an offence.
- (2) A person who, with intent to deceive, impersonates an authorised officer commits an offence.
- (3) In this section –
  - “authorised officer” means a person in respect of whom an authorisation under section 27 is in force;
  - “relevant building function” has the meaning given by that section.
- (4) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine.

**29 Provision of false or misleading information to regulator**

- (1) A person commits an offence if they provide false or misleading information to the regulator –
  - (a) in purported compliance with a building enactment or a requirement imposed by virtue of such an enactment,

- (b) in connection with an application made to the regulator under a building enactment, or
  - (c) for the purpose of avoiding enforcement action being taken or continued,and the person knows that, or is reckless as to whether, the information is false or misleading.
- (2) In this section –
  - “building enactment” means any provision of, or of an instrument made under –
    - (a) Part 2 or 4 of this Act, or
    - (b) the Building Act 1984;
  - “enforcement action” means action taken with a view to, or in connection with –
    - (a) securing compliance with a building enactment or a requirement imposed by virtue of such an enactment, or
    - (b) the imposition of a sanction in respect of a contravention of any such enactment or requirement.
- (3) A person guilty of an offence under this section is liable –
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (4) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (3)(a) to 12 months is to be read as a reference to 6 months.

#### *Reviews and appeals*

### **30 Review by regulator of certain decisions made by it**

- (1) This section applies in relation to a prescribed decision of the regulator.
- (2) A prescribed person may, before the end of the prescribed period, give a notice to the regulator requiring it to carry out a review of the decision in accordance with this section.
- (3) A notice under subsection (2) must –
  - (a) contain such information as may be prescribed,
  - (b) be in such form as may be prescribed,
  - (c) be given in such way as may be prescribed, and
  - (d) be accompanied by the prescribed fee.
- (4) The nature and extent of the review are to be such as appear to the regulator to be appropriate in the circumstances.
- (5) The review must take account of any representations made, or information given, by the person at a stage which gives the regulator a reasonable opportunity to consider the representations or information (and may take account of any other information).
- (6) On the conclusion of the review the regulator must either uphold or vary the decision.

- (7) The regulator must notify the person of the outcome of the review and its reasoning before the end of the prescribed day or such other day as may be agreed in writing (“the relevant day”).
- (8) Where the regulator is required to undertake a review but does not notify the person by the end of the relevant day –
  - (a) the review is treated as having concluded on that day, and the regulator is treated as having upheld the decision, and
  - (b) the regulator must, as soon as reasonably practicable after that day, notify the person of that fact.
- (9) The decisions that may be prescribed under subsection (1) are any decisions of the regulator under, or under regulations made under, this Act or the Building Act 1984 except –
  - (a) a decision made on an appeal to the regulator, or
  - (b) a decision to do any of the following –
    - (i) give a compliance notice under section 91 of this Act;
    - (ii) give a notice under section 35B, 35C or 36 of the Building Act 1984 (notices in respect of contraventions of building regulations etc);
    - (iii) make a disciplinary order under section 58H or 58T, or an order under section 58I or 58U, of that Act (misconduct of registered building inspector or building control approver);
    - (iv) give a notice under section 58Z3 or 58Z4, or act under section 58Z5, of that Act (contravention of operational standards rules).

### **31 Right of appeal: requirement for review before appeal**

- (1) This section applies to a right of appeal against a decision of a kind prescribed under subsection (1) of section 30.
- (2) The right of appeal may be exercised only if the decision has been reviewed under that section.
- (3) If on the conclusion of the review the decision is varied, the right of appeal is in respect of the decision as varied (and not the original decision).
- (4) For the purpose of any time limit as regards the exercise of the right of appeal –
  - (a) the decision is treated as made on the day the review concludes, and
  - (b) a person is treated as notified of the decision on the day they are notified of the outcome of the review.

### *Supplementary and general*

### **32 Cooperation and information sharing**

- (1) Schedule 3 –
  - (a) imposes duties of cooperation on the regulator and other persons, and
  - (b) confers powers to share information on the regulator and other persons.
- (2) Except as provided by subsection (3), the disclosure of information under the Schedule does not breach –

- (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (3) The Schedule does not authorise a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the powers conferred by the Schedule).

### **33 Fees and charges**

- (1) The Secretary of State may by regulations make provision authorising the regulator –
  - (a) to charge fees, and
  - (b) to recover charges,for or in connection with the performance of a relevant function.
- (2) The regulations may provide for the amount of any fee to be prescribed by the regulations or determined by the regulator in accordance with the regulations.
- (3) The regulations may in particular –
  - (a) provide that the amount of any charge is to be determined by the regulator in accordance with a scheme made and published by it, and
  - (b) make provision about such schemes, including the principles to be embodied in such schemes.
- (4) In this section “relevant function” means –
  - (a) any function of the regulator under, or under regulations made under, this Part or Part 4, or
  - (b) any function of the regulator under the Health and Safety at Work etc Act 1974 that is a building function.
- (5) The regulator may, with the consent of the Secretary of State, provide services to a person and may charge fees for such services at a rate agreed with the person.

### **34 Review of regulatory regime**

- (1) The Secretary of State must appoint an independent person to carry out a review of –
  - (a) the effectiveness of the regulator in –
    - (i) exercising its building functions,
    - (ii) securing the safety of people in or about buildings in relation to risks arising from buildings, and
    - (iii) improving the standard of buildings,
  - (b) the adequacy and effectiveness of the provisions of this Act and the Building Act 1984 and instruments made under either of those Acts,
  - (c) such matters connected with any of the matters mentioned in paragraphs (a) and (b) as the person considers appropriate, and
  - (d) any other matter specified in the appointment.
- (2) On completion of a review, the appointed person must make a written report to the Secretary of State –

- (a) setting out the result of the review, and
  - (b) making such recommendations (if any) as the person considers appropriate.
- (3) The Secretary of State must publish a copy of the report.
- (4) The first appointment must be made within the period of 5 years beginning with the day on which this Act is passed.
- (5) Any other appointment must be made within the period of 5 years beginning with the day on which the most recent appointment was made.
- (6) In this section “independent” means appearing to the Secretary of State to be independent of—
  - (a) the Secretary of State,
  - (b) the regulator,
  - (c) the profession of registered building inspectors, and
  - (d) the built environment industry.

### 35 Interpretation of Part 2

- (1) In this Part—
  - “building” means any permanent or temporary building in England except a building of a prescribed description;
  - “building function” has the meaning given by section 3;
  - “building safety risk” has the meaning given by section 16;
  - “the built environment industry” means—
    - (a) persons carrying on, for business purposes, activities connected with the design, construction, management or maintenance of buildings, and
    - (b) employees of such persons;
 and references to a person “in” the industry are to any such person or employee;
  - “contravention” includes a failure to comply;
  - “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
  - “fire and rescue authority” means a fire and rescue authority, within the meaning of Part 1 of the Fire and Rescue Services Act 2004, for an area in England;
  - “flat” has the meaning given by section 105;
  - “higher-risk building” has the meaning given by section 19;
  - “local authority” means—
    - (a) a district council or relevant unitary authority,
    - (b) a London borough council,
    - (c) the Common Council of the City of London,
    - (d) the Sub-Treasurer of the Inner Temple,
    - (e) the Under Treasurer of the Middle Temple, or
    - (f) the Council of the Isles of Scilly;
  - “owner” has the meaning given by section 105;
  - “personal data” has the same meaning as in the Data Protection Act 2018;
  - “prescribed” means prescribed by regulations made by the Secretary of State;

“registered building inspector” has the meaning given by section 58A of the Building Act 1984;  
“the regulator” has the meaning given by section 2;  
“resident” has meaning given by section 60;  
“standard”: any reference to the standard of a building is to its standard from a technical perspective.

- (2) In subsection (1) “relevant unitary authority” means a council for a county in England so far as it is the council for an area for which there are no district councils.
- (3) The Secretary of State may by regulations provide that in any prescribed provision of this Part a reference to a building includes any of the following—
  - (a) any other structure or erection of any kind (whether temporary or permanent);
  - (b) any vehicle, vessel or other movable object of any kind, in such circumstances as may be prescribed.

### PART 3

#### BUILDING ACT 1984

##### *Building control authorities and building regulations*

### 36 Building control authorities

- (1) The Building Act 1984 is amended as follows.
  - (2) In section 91—
    - (a) in subsection (1) before paragraph (a) insert—

“(za) subsection (3),”;
    - (b) in subsection (2) after “subject to” insert “subsection (3) below and”;
    - (c) after that subsection insert—

“(3) In cases where section 91ZA or 91ZB provides that the regulator is the building control authority, it is the duty of the regulator (and not the local authority in question)—
      - (a) to carry Part 1 of this Act into execution, and
      - (b) to enforce building regulations.”;
    - (d) in the heading at the end insert “and the regulator”.
- (3) After that section insert—

#### **“91ZA The regulator: building control authority for higher-risk buildings**

- (1) The regulator is the building control authority in relation to any higher-risk building or proposed higher-risk building.
- (2) This includes the regulator being the building control authority as regards—
  - (a) any work relating to a building that is not a higher-risk building that causes it to become such a building, and
  - (b) any work relating to a higher-risk building that causes it to cease to be such a building.

**91ZB The regulator: building control authority for other work**

- (1) This section applies in relation to work of a prescribed description (“the work”) that has a prescribed connection with any higher-risk building work.
- (2) Where –
  - (a) the regulator and the person intending to carry out the work, acting jointly, give a notice under this section (a “regulator’s notice”) to the local authority for the area in which the work is to be carried out, and
  - (b) the regulator’s notice is accepted (or treated as accepted) by the local authority,
 the regulator is the building control authority in relation to the work.
- (3) A regulator’s notice may not be given if any of the following has been given to the local authority in relation to the work (or any part of it) –
  - (a) an application for building control approval;
  - (b) an initial notice (within the meaning of section 47);
  - (c) a public body’s notice (within the meaning of section 54).
- (4) In this Act “higher-risk building work” means any work for which the regulator is the building control authority by virtue of section 91ZA.

**91ZC Section 91ZB: supplementary**

- (1) This section supplements section 91ZB.
  - (2) A local authority to whom a regulator’s notice is given must reject the notice if any prescribed ground exists, and must otherwise accept the notice.
  - (3) A notice of rejection must be given within the prescribed period, and must specify the ground or grounds in question.
  - (4) Where a local authority to whom a regulator’s notice is given does not –
    - (a) give a notice of rejection in accordance with subsection (3), or
    - (b) give a notice of acceptance within the period mentioned in that subsection,
 the authority is treated as having accepted the regulator’s notice at the end of that period.
  - (5) As regards any notice under section 91ZB or this section, building regulations may make provision about –
    - (a) the form and content of the notice;
    - (b) the information and other documents that must accompany it;
    - (c) the way in which the notice, and anything that is to accompany it, is to be given.”
- (4) After section 121 insert –

**“121A Meaning of “building control authority”**

- (1) In this Act “building control authority” means –
  - (a) the regulator, in cases where section 91ZA or 91ZB provides that the regulator is the building control authority;



- (b) the relevant local authority, in any other case.
- (2) In this section “the relevant local authority” means the local authority for the area in which the building is situated or the proposed building is to be situated.”

### 37 Building regulations

In Schedule 1 to the Building Act 1984 (building regulations) after paragraph 1 insert—

*“Procedural requirements etc: general*

- 1A (1) Building regulations may make provision about the procedure that may or must be followed, in relation to any work or other matter to which building regulations are applicable.
- (2) The regulations may in particular make provision for and in connection with—
  - (a) the giving of notices;
  - (b) the making of applications to building control authorities;
  - (c) the giving or receipt of certificates;
  - (d) requiring a prescribed person, in prescribed circumstances, to consult such other person as may be prescribed.
- (3) The regulations may—
  - (a) confer on a building control authority a power to require a person to notify the authority of specified matters by the specified time;
  - (b) provide that in prescribed circumstances an application is treated as granted or is treated as refused;
  - (c) make provision about the effect of the grant of an application;
  - (d) make provision about the effect of certificates.
- (4) In sub-paragraph (3)(a) “specified” means specified by the building control authority.

*Applications for building control approval*

- 1B (1) Building regulations may in particular make provision for and in connection with applications for building control approval (including approval of changes to anything that has already been approved).
- (2) “Building control approval”—
  - (a) in relation to any work or other matter to which building regulations are applicable, means the approval by the building control authority of—
    - (i) plans of the work or other matter, and
    - (ii) such other documents, relating to compliance with any provision of building regulations, as may be prescribed (or, in a case within sub-paragraph (5), as are provided to the authority);
  - (b) in relation to a change to a relevant document, means the approval by the authority of the change.

- (3) Building regulations may –
  - (a) confer on building control authorities a power, with the consent of the applicant –
    - (i) to impose requirements (including in particular requirements of a kind mentioned in sub-paragraph (4)) when granting an application;
    - (ii) to vary requirements;
  - (b) make provision about the cases in which an application for approval of a change must be made (including provision conferring on building control authorities a power to specify the circumstances in which such an application must be made).
- (4) The requirements referred to in sub-paragraph (3)(a)(i) are –
  - (a) a requirement relating to the provision of a revised version of a specified relevant document;
  - (b) a requirement that the work or other matter does not proceed beyond a specified stage unless a specified relevant document has been given to, and approved by, the building control authority.
- (5) Building regulations may provide that in prescribed cases –
  - (a) an application may be made to the authority for approval of the plans and such other relevant documents as the applicant considers appropriate, and
  - (b) the authority may refuse the application if the applicant does not, on request, provide it with a specified relevant document.
- (6) In this paragraph –
  - (a) “relevant document” means –
    - (i) the plans mentioned in sub-paragraph (2)(a)(i), or
    - (ii) a document prescribed for the purposes of sub-paragraph (2)(a)(ii);
  - (b) “specified” means specified by the building control authority;
  - (c) a reference to a change to a document includes the replacement of it.

*Certificates: approved schemes*

- 1C (1) Building regulations may in particular make provision for and in connection with certificates that are given –
  - (a) by a member of a scheme that is approved, and
  - (b) in accordance with the scheme.
- (2) Building regulations may make provision for and in connection with –
  - (a) the approval of schemes by the Secretary of State or a person designated by the Secretary of State;
  - (b) the suspension or withdrawal of approvals (including provision about appeals to the tribunal against the suspension or withdrawal of approvals).
- (3) The regulations may provide –

- (a) that an approval has effect for a particular period (including a period specified in the approval), or
- (b) that an approval has effect until it is suspended or withdrawn.

*Obtaining, keeping and giving information and documents*

- 1D (1) Building regulations may, in relation to any work or other matter to which building regulations are applicable, make provision about—
- (a) obtaining information or documents;
  - (b) creating documents;
  - (c) keeping information or documents;
  - (d) giving information or documents.
- (2) The regulations may in particular—
- (a) provide that information or documents must be given or kept in accordance with prescribed standards;
  - (b) impose requirements as regards keeping information or documents up to date;
  - (c) confer on building control authorities or other prescribed persons a power, in prescribed circumstances, to require a person to give information to them.

*Reporting requirements: duty to establish and operate system*

- 1E (1) This paragraph applies where building regulations made by virtue of paragraph 1D require a person to give information to the regulator.
- (2) For the purpose of facilitating and securing compliance with any such requirement, the regulations may—
- (a) require a prescribed person to establish and operate a system for the giving of prescribed information to such person as may be prescribed, and
  - (b) make provision about such systems.

*Form and content of documents etc*

- 1F (1) Where building regulations provide that any document must or may be given, they may make provision about—
- (a) the form and content of the document;
  - (b) the information and other documents that must accompany it;
  - (c) the way in which the document, and anything that is to accompany it, is to be given.
- (2) Where building regulations provide that any information must or may be given, they may make provision about the way in which it is to be given.
- (3) Building regulations may provide that any of the matters mentioned in paragraphs (a) to (c) of sub-paragraph (1), or in sub-paragraph (2), are to be specified in a direction made and published in accordance with the regulations.

- (4) Building regulations may provide that—
- (a) a prescribed application must be accompanied by such prescribed documents as the applicant considers appropriate, and
  - (b) the building control authority may refuse the application if the applicant does not, on request, provide it with a document of a kind prescribed for the purposes of paragraph (a) in relation to the application.

*Inspection, testing etc*

- 1G (1) Building regulations may make provision for and in connection with—
- (a) the inspection and testing of work;
  - (b) the taking of samples.
- (2) The regulations may in particular—
- (a) prohibit the covering up of any work, for a prescribed period after a prescribed or specified event;
  - (b) provide for the cutting into, laying open, or pulling down of any work.
- (3) In sub-paragraph (2)(a) “specified” means specified by the building control authority.

*Applications to building control authorities: extension of period by agreement*

- 1H Building regulations may provide that any prescribed period for the doing of a thing by a building control authority in connection with an application made to it may be extended by agreement between the authority and the applicant.

*Appeals*

- 1I (1) Building regulations may make provision for and in connection with appeals against decisions made under, or under an instrument made under, Part 1, 2 or 2A of this Act.
- (2) The regulations may confer, in respect of a prescribed decision—
- (a) a right to appeal to the regulator or the tribunal, and
  - (b) in the case of an appeal to the regulator, a right of appeal to the tribunal against the decision of the regulator made on appeal.
- (3) The provision that may be made in connection with appeals includes provision about a right of appeal conferred by Part 1, 2 or 2A.
- (4) The regulations may in particular make provision about—
- (a) the grounds upon which an appeal may be made;
  - (b) the period within which an appeal must be made;
  - (c) the way in which any appeal is to be made;
  - (d) the powers of the regulator or tribunal on determining the appeal (including provision conferring a power to give directions and, in the case of the regulator, powers in respect of costs).

- (5) In respect of appeals to the regulator, the regulations may –
  - (a) provide that an appeal may be made only if the prescribed fee is paid to the regulator;
  - (b) make provision about procedural matters (including provision conferring on the regulator a discretion as to the procedure to be adopted)."

### 38 Dutyholders and general duties

In Schedule 1 to the Building Act 1984 (building regulations) after paragraph 5 insert –

#### *“Appointed persons*

- 5A (1) Building regulations may require prescribed appointments to be made, in relation to any work or other matter to which building regulations are applicable.
- (2) Building regulations may make provision about appointments, including provision about –
  - (a) the persons who are to make appointments;
  - (b) the persons who may be appointed;
  - (c) the time by which appointments must be made;
  - (d) the period for which persons are to be appointed;
  - (e) the termination of appointments;
  - (f) the replacement of appointed persons.
- (3) The regulations may provide that in prescribed circumstances an appointment is treated as made.
- (4) In this Schedule “appointed person”, in relation to any work or other matter to which building regulations are applicable, means a person appointed in relation to that work or matter under building regulations made by virtue of this paragraph.

#### *General duties*

- 5B (1) Building regulations may, for the purpose of facilitating compliance with any requirement of building regulations in relation to any work or other matter to which building regulations are applicable –
  - (a) impose duties on relevant persons in connection with the planning or management of the work or other matter;
  - (b) require relevant persons to co-operate with other relevant persons.
- (2) The following are “relevant persons” for this purpose –
  - (a) any appointed person;
  - (b) any prescribed person.”

### 39 Industry competence

In Schedule 1 to the Building Act 1984 (building regulations) after paragraph

5B (inserted by section 38) insert —

*“Competence requirements*

- 5C (1) Building regulations may, in relation to any work or other matter to which building regulations are applicable, impose competence requirements on —
- (a) any appointed person, or
  - (b) any prescribed person.
- (2) A “competence requirement” is a requirement relating to —
- (a) the skills, knowledge, experience and behaviours of an individual;
  - (b) the capability of a person other than an individual to perform its functions under building regulations.
- (3) The regulations may require an appointed person who is not an individual to give an individual acting under its control who has the appropriate skills, knowledge, experience and behaviours the task of managing its functions as an appointed person.”

#### **40 Lapse of building control approval etc**

- (1) The Building Act 1984 is amended as follows.
- (2) For section 32 substitute —

##### **“32 Lapse of building control approval**

- (1) This section applies where —
  - (a) an application for building control approval in respect of any work is made on any day (“the relevant day”), and
  - (b) the application is granted.
- (2) Where —
  - (a) the work relates to one building, and
  - (b) the work is not commenced within 3 years from the end of the relevant day,
 this Act and the building regulations have effect as if the application had not been made (and the approval had not been given).
- (3) Where —
  - (a) the work relates to more than one building, and
  - (b) the work relating to one or more of the buildings (“the relevant work”) is not commenced within 3 years from the end of the relevant day,
 this Act and the building regulations have effect in relation to those buildings and the relevant work as if the application had not been made (and the approval had not been given).
- (4) In subsection (1) the reference to an application for building control approval is to an application for approval of a kind mentioned in paragraph 1B(2)(a) of Schedule 1.

- (5) Building regulations may make provision about when work, or work relating to a building, is to be regarded as commenced for the purposes of this section.”
- (3) In section 47(4)(b) (time when initial notice ceases to be in force) for “below”, in the first place it occurs, substitute “(final certificates) and section 53A (lapse of initial notice)”.
- (4) In section 50 (plans certificates) omit subsection (8).
- (5) In section 52 (cancellation of initial notice) omit subsection (5).
- (6) In section 53(2) (effect of initial notice ceasing to be in force: general) –
  - (a) at the end of paragraph (a) insert “and”;
  - (b) omit paragraph (c) and the “and” immediately before it.
- (7) After section 53 insert –

**“53A Lapse of initial notice**

- (1) This section applies where –
  - (a) on any day (“the relevant day”) an initial notice is given in respect of any work, and
  - (b) the initial notice is accepted.
- (2) Where the work relates to one building and is not commenced within 3 years from the end of relevant day –
  - (a) the initial notice ceases to be in force, and
  - (b) if a plans certificate relating to the work (or any part of it) has been accepted, this Act and regulations made under it have effect as if the certificate had not been given (or accepted).
- (3) Where the work relates to more than one building, and the work in relation to one or more of the buildings (“the relevant work”) is not commenced within 3 years from the end of the relevant day –
  - (a) the initial notice ceases to be in force so far as it relates to the relevant work, and
  - (b) if a plans certificate relating to the relevant work (or any part of it) has been accepted, this Act and regulations made under it have effect as if, as regards the relevant work, the certificate had not been given (or accepted).
- (4) For the purposes of subsection (3)(b) it does not matter whether the plans certificate also relates to work other than the relevant work.
- (5) Building regulations may make provision about when work, or work relating to a building, is to be regarded as commenced for the purposes of this section.”
- (8) In section 54(4) –
  - (a) omit the “and” at the end of paragraph (a);
  - (b) after paragraph (b) insert “, and
  - (c) with the substitution, in subsection (2)(d), of a reference to paragraph 4A of Schedule 4 for the reference to section 53A.”
- (9) Schedule 4 is amended as follows.

- (10) In paragraph 1(1) for “below” substitute “(final certificates) and paragraph 4A (lapse of public body’s notice)”.
- (11) In paragraph 2 omit sub-paragraph (6).
- (12) In paragraph 4(2) omit paragraph (c) and the “and” before it.
- (13) After paragraph 4 insert—

*“Lapse of public body’s notice*

4A (1) This paragraph applies where—

- (a) on any day (“the relevant day”) a public body’s notice is given in respect of any work, and
  - (b) the public body’s notice is accepted.
- (2) Where the work relates to one building and is not commenced within 3 years from the end of the relevant day—
- (a) the public body’s notice ceases to be in force, and
  - (b) if a public body’s plans certificate relating to the work (or any part of it) has been accepted, this Act and regulations made under it have effect as if the certificate had not been given (or accepted).
- (3) Where the work relates to more than one building, and the work in relation to one or more of the buildings (“the relevant work”) is not commenced within 3 years from the end of the relevant day—
- (a) the public body’s notice ceases to be in force so far as it relates to the relevant work, and
  - (b) if a public body’s plans certificate relating to the relevant work (or any part of it) has been accepted, this Act and regulations made under it have effect as if, as regards the relevant work, the certificate had not been given (or accepted).
- (4) For the purposes of sub-paragraph (3)(b) it does not matter whether the public body’s plans certificate also relates to work other than the relevant work.
- (5) Building regulations may make provision about when work (or work relating to a building) is to be regarded as commenced for the purposes of this paragraph.”

#### **41 Determination of certain applications by Secretary of State**

After section 30 insert—

*“Determination by Secretary of State*

##### **30A Determination of certain applications by Secretary of State**

- (1) This section applies where the regulator fails to determine a prescribed application relating to higher-risk building work (“the original application”) within the relevant period.
- (2) The applicant may apply to the Secretary of State for the original application to be determined by the Secretary of State.



- (3) An application under this section may only be made –
  - (a) before the end of the prescribed period, and
  - (b) if the regulator has not determined the original application.
- (4) The regulator may not determine the original application at any time after the making of an application under this section.
- (5) For the purposes of the determination of the original application by virtue of this section, this Act and building regulations apply in relation to the Secretary of State (and any appointed person) as they apply in relation to the regulator.
- (6) Building regulations may make provision about applications under this section.
- (7) The regulations may in particular make provision –
  - (a) about the making of applications under this section;
  - (b) requiring an applicant to notify the regulator of the making of an application;
  - (c) imposing duties on the regulator in cases where an application is made;
  - (d) for and in connection with the Secretary of State appointing a person to determine the original application (including provision conferring functions on the appointed person and providing that the appointed person's decision is treated as the decision of the Secretary of State);
  - (e) about the procedure to be adopted in connection with the determination of the original application.
- (8) The provision that may be made by virtue of subsection (7)(a) includes provision about –
  - (a) the form and content of applications;
  - (b) the information and other documents that are to accompany an application;
  - (c) the way in which an application, and anything that is to accompany it, is to be given.
- (9) The applicant may appeal to the tribunal against a decision of the Secretary of State made under this section.
- (10) In this section “the relevant period” means –
  - (a) the period provided by building regulations as the period within which the regulator is to make the decision, or
  - (b) such other period for the making of the decision as the applicant and regulator agree.”

## **42 Enforcement**

- (1) The Building Act 1984 is amended as follows.
- (2) In section 35A(1)(a) (time limit for prosecution for contravention of building regulations) for “two years” substitute “ten years”.

- (3) After section 35A insert –

*“Notices in respect of contraventions*

**35B Compliance notices**

- (1) The building control authority may give a compliance notice to a person who appears to the authority to have contravened, be contravening or be likely to contravene –
  - (a) a relevant provision of building regulations, or
  - (b) a requirement imposed by virtue of such a provision.
- (2) A “compliance notice” is –
  - (a) a notice requiring the recipient to take specified steps within a specified period, or
  - (b) a notice requiring the recipient to remedy the contravention or the matters giving rise to it within a specified period.
- (3) A notice of a kind mentioned in subsection (2)(a) may specify any steps relating to –
  - (a) the remedying of the contravention, or
  - (b) avoiding the contravention occurring.
- (4) A person who, without reasonable excuse, contravenes a compliance notice commits an offence.
- (5) A person guilty of an offence under this section is liable –
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both);and (in either case) to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the person is convicted.
- (6) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (5)(a) to 12 months is to be read as a reference to 6 months.
- (7) A compliance notice may not be given in respect of a contravention that occurred more than 12 months before the day on which the notice is given.
- (8) In this section –
  - (a) “relevant provision” means any provision of building regulations except one that is prescribed for the purposes of this paragraph;
  - (b) “specified” means specified in the notice.

**35C Stop notices**

- (1) The building control authority may give a stop notice to a person appearing to the authority to be in control of any work if it appears to the authority that –

- (a) the carrying out of the work would contravene a provision of building regulations prescribed for the purposes of this paragraph,
  - (b) a compliance notice relating to the work has been contravened, or
  - (c) the work contravenes a provision of building regulations or a requirement imposed by virtue of such a provision, and the risk of serious harm condition is met.
- (2) For the purposes of subsection (1)(c) the “risk of serious harm condition” is that use of the building in question without the contravention having been remedied would be likely to present a risk of serious harm to people in or about the building.
- (3) A “stop notice” is a notice prohibiting, either immediately or from a specified time, the carrying out of specified work until the occurrence of such of the following as may be specified –
  - (a) the taking of specified steps;
  - (b) the occurrence of specified circumstances;
  - (c) the remedying of a specified contravention or the matters giving rise to it.
- (4) Where a stop notice is contravened, the person to whom the notice was given commits an offence.
- (5) A person guilty of an offence under this section is liable –
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both);and (in either case) to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the person is convicted.
- (6) It is a defence for a person charged with an offence under this section to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (7) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (5)(a) to 12 months is to be read as a reference to 6 months.
- (8) In this section –
  - (a) “specified” means specified in the notice;
  - (b) “work” includes any other matter to which building regulations are applicable.

### **35D Compliance and stop notices: supplementary**

- (1) Building regulations may make provision about compliance notices or stop notices.
- (2) The regulations may in particular make provision about –
  - (a) the form and content of notices;
  - (b) the giving of notices;
  - (c) the amendment or withdrawal of notices;

- (d) the extension of any period specified in a compliance notice for the doing of a thing.
- (3) The regulations may require a building control authority which gives a notice to a person to take reasonable steps to notify other prescribed persons.
- (4) A compliance notice, or a stop notice under section 35C(1)(a) or (b), may not be given in respect of a contravention (including a future contravention) where—
  - (a) an application for building control approval was made to a building control authority in respect of any work that is not higher-risk building work,
  - (b) the application was granted, and
  - (c) the contravention consists (or would consist) of the carrying out of work or the doing of anything else in accordance with—
    - (i) the plans, or any other document, approved by the grant of building control approval, and
    - (ii) any requirement imposed by the building control authority in connection with the work or other thing.”
- (4) In section 36(4) (time limit for notices requiring removal or alteration of non-compliant work) for “12 months” substitute “10 years”.
- (5) After section 39 insert—

**“39A Appeals against compliance notices and stop notices etc**

- (1) A person to whom a compliance notice has been given may appeal to the tribunal.
- (2) Where an appeal under subsection (1) is made—
  - (a) the compliance notice is of no effect pending the final determination or withdrawal of the appeal, and
  - (b) the specified period mentioned in section 35B(2) is treated as extended by the period—
    - (i) beginning with the day the appeal is made, and
    - (ii) ending with the day the appeal is finally determined or withdrawn.
- (3) A person to whom a compliance notice has been given may apply to the tribunal for an extension of the period for the doing of the thing specified in the notice.
- (4) Subsection (2) applies in relation to such an application as it applies in relation to an appeal under subsection (1).
- (5) A person to whom a stop notice has been given may appeal to the tribunal.
- (6) Where an appeal under subsection (5) is made—
  - (a) the appellant may apply to the tribunal for a direction that the stop notice is of no effect pending the final determination or withdrawal of the appeal, and
  - (b) unless and until any such direction is given, the stop notice continues to have effect despite the making of the appeal.”

#### **43 Liability of officers of body corporate etc**

In the Building Act 1984 before section 113 insert—

##### **“112A Liability of officers of body corporate etc**

- (1) Where an offence under this Act committed by a body corporate—
  - (a) is committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, or
  - (b) is attributable to any neglect on the part of any such person, that person as well as the body corporate commits the offence and is liable to be proceeded against and punished accordingly.
- (2) In subsection (1) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.
- (3) Subsection (1) also applies in relation to a body that is not a body corporate, with the substitution for the reference to a director of the body of a reference—
  - (a) in the case of a partnership, to a partner;
  - (b) in the case of an unincorporated body other than a partnership—
    - (i) where the body’s affairs are managed by its members, to a member of the body;
    - (ii) in any other case, to a member of the governing body.”

*Building control approvers and building inspectors*

#### **44 Regulation of building control profession**

In the Building Act 1984, after Part 2 insert—

##### **“PART 2A**

##### **REGULATION OF BUILDING CONTROL PROFESSION**

*Registered building inspectors*

##### **58A “Registered building inspector”**

In this Act “registered building inspector” means an individual registered as a building inspector in accordance with this Part.

##### **58B Register of building inspectors**

- (1) The regulator must establish and maintain a register of building inspectors.
- (2) The register may provide for different classes of building inspectors (for example, according to qualifications or experience).
- (3) The regulator must register an individual as a building inspector, or a building inspector of a particular class, if—

- (a) the individual makes an application for registration in accordance with section 58C, and
  - (b) the regulator is satisfied that the individual meets such criteria as the regulator may from time to time determine.
- (4) Registration may –
  - (a) have effect in relation to all work or in relation to work of a particular description;
  - (b) be subject to conditions.
- (5) Registration must be for a prescribed period.
- (6) The register must record, in relation to each registered building inspector –
  - (a) the individual's name and business address;
  - (b) if the individual is employed by a building control authority or a registered building control approver, the name and business address of that person;
  - (c) whether the individual's registration has effect in relation to all work or work of a particular description;
  - (d) if the individual's registration has effect in relation to work of a particular description, that description of work;
  - (e) any conditions to which the individual's registration is subject;
  - (f) the period for which the individual is registered;
  - (g) if the individual's registration has been varied by an order under section 58H(2)(b), that fact and the effect of the variation;
  - (h) if the individual's registration has been suspended by an order under section 58H(2)(c) or 58I(2), that fact and the period of the suspension;
  - (i) any matters that are prescribed.
- (7) The regulator must make the register available for inspection by the public in whatever way the regulator thinks appropriate.

#### **58C Application for registration as building inspector**

- (1) An application for registration as a building inspector must –
  - (a) be made in such form and manner, and
  - (b) be accompanied by such information and supporting evidence, as the regulator may from time to time determine.
- (2) The regulator may make different provision about those matters for different cases.
- (3) When considering an application for registration, the regulator may require the applicant to provide it with such further information or supporting evidence as the regulator may require.
- (4) The applicant may appeal to the tribunal against any decision made by the regulator on the application.

#### **58D Variation or cancellation of registration as building inspector**

- (1) A registered building inspector may apply for the variation or cancellation of their registration.

- (2) Section 58C applies to such an application as it applies to an application for registration.

**58E Code of conduct**

- (1) The regulator must prepare and publish a code of conduct for registered building inspectors.
- (2) The code must set out standards of professional conduct and practice expected of registered building inspectors.
- (3) The code may make different provision for different cases (for example, for different descriptions of work).
- (4) The regulator may revise the code of conduct at any time (and must publish any revised code).

**58F Registered building inspectors: information notices**

- (1) The regulator may by notice in writing require a registered building inspector to provide the regulator with any documents or information the regulator reasonably requires (for the purposes of an investigation under section 58G or otherwise).
- (2) The notice must specify –
  - (a) the documents or information required,
  - (b) the date by which they must be provided, and
  - (c) the form in which they must be provided.

**58G Professional misconduct investigations**

- (1) If it appears to the regulator (on receipt of a complaint or otherwise) that a registered building inspector may be guilty of professional misconduct, the regulator may investigate the matter.
- (2) In this Part “professional misconduct”, in relation to a registered building inspector, means conduct that –
  - (a) falls short of the standards of conduct and practice expected of registered building inspectors, or
  - (b) is likely to bring the profession of registered building inspectors into disrepute.
- (3) The regulator must prepare and publish a statement of the procedure it will follow when investigating a registered building inspector under this section (which must include an opportunity for the inspector to make representations).
- (4) The regulator may revise the statement at any time (and must publish any revised statement).

**58H Sanctions for professional misconduct**

- (1) If following an investigation under section 58G the regulator determines that an individual who is a registered building inspector is guilty of professional misconduct, the regulator may make one or more disciplinary orders.
- (2) A disciplinary order is an order –

- (a) requiring the individual to pay a financial penalty of an amount specified in the order,
  - (b) varying the individual's registration in a way specified in the order,
  - (c) suspending the individual's registration for a period specified in the order, or
  - (d) cancelling the individual's registration from a date specified in the order.
- (3) Varying the individual's registration means varying any of the matters listed in section 58B(4) (limitations and conditions).
- (4) Where the regulator makes a disciplinary order it must give a copy of the order to the individual concerned as soon as reasonably practicable.
- (5) The individual may appeal to the tribunal against a disciplinary order under this section.
- (6) A disciplinary order under subsection (2)(a) or (b) has no effect until—
  - (a) the end of the period within which an appeal may be brought, or
  - (b) if an appeal is brought before the end of that period, the determination of the appeal.
- (7) The regulator must pay into the Consolidated Fund the amount of any financial penalty paid to the regulator pursuant to a disciplinary order under subsection (2)(a).

#### **58I Interim suspension for suspected serious professional misconduct**

- (1) This section applies where the regulator considers that—
  - (a) an individual who is a registered building inspector may be guilty of professional misconduct, and
  - (b) the suspected misconduct is so serious that, if the regulator determines that the individual is guilty, it is likely to make an order under section 58H(2)(d) cancelling the individual's registration.
- (2) The regulator may by order suspend the individual's registration for a period specified in the order (which must not exceed 3 months).
- (3) The regulator may revoke the order before the end of that period.
- (4) Where the regulator makes (or revokes) an order under this section it must give a copy of the order (or notice of the revocation) to the individual concerned as soon as reasonably practicable.
- (5) The individual may appeal to the tribunal against an order under this section.

#### **58J Suspension orders: further provision**

An individual whose registration is suspended under section 58H(2)(c) or 58I(2) is not a registered building inspector for the purposes of section 46A or 54B (restricted functions) (but is a registered building inspector for the purposes of this Part).



**58K Offence of registered building inspector acting outside scope of registration**

- (1) A registered building inspector commits an offence if, without reasonable excuse—
  - (a) they give advice to a building control authority or registered building control approver in relation to work which is outside the scope of their registration, and
  - (b) they know, or ought to know, that the authority or approver is obtaining that advice for the purposes of section 46A or 54B (restricted functions).
- (2) Work is outside the scope of a registered building inspector's registration if—
  - (a) the inspector's registration does not have effect in relation to work of that description, or
  - (b) the inspector's registration is suspended.
- (3) An offence under this section is punishable on summary conviction by a fine.

**58L Offence of pretending to be a registered building inspector**

- (1) A person who is not a registered building inspector commits an offence if, with intent to deceive, the person—
  - (a) impersonates a registered building inspector, or
  - (b) uses any name, title or description which implies that the person is a registered building inspector.
- (2) An offence under this section is punishable on summary conviction by a fine.

*Registered building control approvers*

**58M “Registered building control approver”**

In this Act “registered building control approver” means a person registered as a building control approver in accordance with this Part.

**58N Register of building control approvers**

- (1) The regulator must establish and maintain a register of building control approvers.
- (2) The regulator must register a person as a building control approver if—
  - (a) the person makes an application for registration in accordance with section 58O, and
  - (b) the regulator is satisfied that the person meets such criteria as the regulator may from time to time determine.
- (3) Registration may—
  - (a) have effect in relation to all work or in relation to work of a particular description;
  - (b) be subject to conditions.
- (4) Registration must be for a prescribed period.

- (5) The register must record, in relation to each registered building control approver –
- (a) the person's name and business address;
  - (b) whether the person's registration has effect in relation to all work or work of a particular description;
  - (c) if the person's registration has effect in relation to work of a particular description, that description of work;
  - (d) any conditions to which the person's registration is subject;
  - (e) the period for which the person is registered;
  - (f) if the person's registration has been varied by an order under section 58T(2)(b), that fact and the effect of the variation;
  - (g) if the person's registration has been suspended by an order under section 58T(2)(c) or 58U(2), that fact and the period of the suspension;
  - (h) any matters that are prescribed.
- (6) The regulator must make the register available for inspection by the public in whatever way the regulator thinks appropriate.

**58O Application for registration as building control approver**

- (1) An application for registration as a building control approver must –
- (a) be made in such form and manner, and
  - (b) be accompanied by such information and supporting evidence, as the regulator may from time to time determine.
- (2) The regulator may make different provision about those matters for different cases.
- (3) When considering an application for registration, the regulator may require the applicant to provide it with such further information or supporting evidence as the regulator may require.
- (4) The applicant may appeal to the tribunal against any decision made by the regulator on the application.

**58P Variation or cancellation of registration as building control approver**

- (1) A registered building control approver may apply for the variation or cancellation of their registration.
- (2) Section 58O applies to such an application as it applies to an application for registration.

**58Q Professional conduct rules**

- (1) The regulator must prepare and publish professional conduct rules applying to registered building control approvers (in addition to operational standards rules applying to them under section 58Y).
- (2) Professional conduct rules may in particular make provision about insurance and financial propriety.
- (3) The rules may make different provision for different cases (for example, for different descriptions of work).
- (4) The regulator may revise the professional conduct rules at any time (and must publish any revised rules).

**58R Registered building control approvers: information notices**

- (1) The regulator may by notice in writing require a registered building control approver to provide the regulator with any documents or information the regulator reasonably requires for the purposes of its functions under sections 58M to 58W.
- (2) The notice must specify –
  - (a) the documents or information required,
  - (b) the date by which they must be provided, and
  - (c) the form in which they must be provided.

**58S Investigations into contraventions of professional conduct rules**

- (1) If it appears to the regulator (on receipt of a complaint or otherwise) that a registered building control approver may have contravened the professional conduct rules, the regulator may investigate the matter.
- (2) The regulator must prepare and publish a statement of the procedure it will follow when investigating a registered building control approver under this section (which must include an opportunity for the person to make representations).
- (3) The regulator may revise the statement at any time (and must publish any revised statement).

**58T Sanctions for contravention of professional conduct rules**

- (1) If following an investigation under section 58S the regulator determines that a person who is a registered building control approver has contravened the professional conduct rules, the regulator may make one or more disciplinary orders.
- (2) A disciplinary order is an order –
  - (a) requiring the person to pay a financial penalty of an amount specified in the order,
  - (b) varying the person's registration in a way specified in the order,
  - (c) suspending the person's registration for a period specified in the order, or
  - (d) cancelling the person's registration from a date specified in the order.
- (3) Varying the person's registration means varying any of the matters listed in section 58N(3) (limitations and conditions).
- (4) Where the regulator makes a disciplinary order it must as soon as reasonably practicable –
  - (a) give a copy of the order to the person concerned, and
  - (b) in prescribed cases, give a copy of the order to each local authority.
- (5) The person may appeal to the tribunal against a disciplinary order under this section.
- (6) A disciplinary order under subsection (2)(a) or (b) has no effect until –
  - (a) the end of the period within which an appeal may be brought, or

- (b) if an appeal is brought before the end of that period, the determination of the appeal.
- (7) The regulator must pay into the Consolidated Fund the amount of any financial penalty paid to the regulator pursuant to a disciplinary order under subsection (2)(a).
- (8) A person whose registration is suspended by an order under subsection (2)(c) is a registered building control approver for the purposes of this Part.
- (9) See section 58Z5(3) for further provision about cancellation of a person's registration as a building control approver.

#### **58U Interim suspension for suspected serious contravention**

- (1) This section applies where the regulator considers that—
  - (a) a person who is a registered building control approver may have contravened the professional conduct rules, and
  - (b) the suspected contravention is so serious that, if the regulator determines that the contravention has occurred, it is likely to make an order under section 58T(2)(d) cancelling the person's registration.
- (2) The regulator may by order suspend the person's registration for a period specified in the order (which must not exceed 3 months).
- (3) The regulator may revoke the order before the end of that period.
- (4) Where the regulator makes (or revokes) an order under this section it must as soon as reasonably practicable—
  - (a) give a copy of the order (or notice of the revocation) to the person concerned, and
  - (b) in prescribed cases, give a copy of the order (or notice of the revocation) to each local authority.
- (5) The person may appeal to the tribunal against an order under this section.
- (6) A person whose registration is suspended by an order under this section is a registered building control approver for the purposes of this Part.

#### **58V Offence of registered building control approver acting outside scope of registration**

- (1) A registered building control approver commits an offence if without reasonable excuse they exercise a function under this Act, or regulations made under this Act, in relation to work outside the scope of their registration.
- (2) Work is outside the scope of a registered building control approver's registration if their registration—
  - (a) does not have effect in relation to work of that description, or
  - (b) is suspended.
- (3) An offence under this section is punishable on summary conviction by a fine.

### **58W Offence of pretending to be a registered building control approver**

- (1) A person who is not a registered building control approver commits an offence if, with intent to deceive, the person—
  - (a) impersonates a registered building control approver, or
  - (b) uses any name, title or description which implies that the person is a registered building control approver.
- (2) An offence under this section is punishable on summary conviction by a fine.

#### *Delegation of regulator's registration functions*

### **58X Delegation of regulator's functions**

- (1) The regulator may delegate its registration functions to another person, to such extent and subject to such conditions as it considers appropriate.
- (2) The regulator's registration functions are its functions under sections 58A to 58W (and include the charging of any registration fees or recovery of any registration charges).
- (3) "Registration fees" and "registration charges" mean fees and charges in connection with the regulator's functions under sections 58A to 58W that are prescribed by, or determined by the regulator in accordance with, regulations under section 105A.
- (4) The regulator may vary or revoke a delegation.
- (5) The regulator—
  - (a) may make, vary or revoke a delegation only with the consent of the Secretary of State;
  - (b) must vary or revoke a delegation if directed to do so by the Secretary of State.
- (6) Schedule 3 to the Building Safety Act 2020 (information sharing) applies as if references to the regulator included references to a person to whom the regulator has delegated functions under this section.

#### *Operational standards rules*

### **58Y Operational standards rules**

- (1) The regulator may make rules ("operational standards rules") applying to local authorities and registered building control approvers in relation to their exercise of building control functions.
- (2) Operational standards rules may in particular make provision about standards to be met, and practices, procedures or methods to be adopted, in exercising building control functions.
- (3) In this Part "building control functions", in relation to a local authority or registered building control approver, means the functions of the authority or approver under this Act and regulations made under it.
- (4) The operational standards rules may make different provision for different cases (for example, for different descriptions of work).

- (5) The regulator may revise the operational standards rules at any time.
- (6) The regulator must publish the operational standards rules (and any revised rules).

#### **58Z Reporting requirements**

- (1) The regulator may direct local authorities and registered building control approvers to provide the regulator, at specified times or intervals, with specified reports, returns and other information relating to the exercise of their building control functions.
- (2) “Specified” means specified in the direction.
- (3) A direction under this section –
  - (a) must be in writing;
  - (b) may be general or specific;
  - (c) may be varied or revoked.
- (4) A registered building control approver who, without reasonable excuse, fails to comply with a direction under this section commits an offence.
- (5) An offence under subsection (4) is punishable, on summary conviction or conviction on indictment, by a fine.

#### **58Z1 Information**

- (1) The regulator may by notice in writing require a local authority or registered building control approver to provide the regulator with any documents or information relating to the exercise of their building control functions that the regulator reasonably requires.
- (2) The notice must specify –
  - (a) the documents or information required,
  - (b) the date by which they must be provided, and
  - (c) the form in which they must be provided.
- (3) A registered building control approver who, without reasonable excuse, fails to comply with a notice under this section commits an offence.
- (4) An offence under subsection (3) is punishable, on summary conviction or conviction on indictment, by a fine.

#### **58Z2 Investigations**

- (1) If it appears to the regulator (on receipt of a complaint or otherwise) that a local authority or registered building control approver may have contravened the operational standards rules, the regulator may investigate the matter.
- (2) The regulator must prepare and publish a statement of the procedure it will follow when investigating an authority or approver under this section (which must include an opportunity for the authority or approver to make representations).
- (3) The regulator may revise the statement at any time (and must publish any revised statement).

### **58Z3 Improvement notice**

- (1) The regulator may give an improvement notice to a local authority or a registered building control approver if it appears to the regulator (following an investigation under section 58Z2 or otherwise) that the authority or approver has contravened operational standards rules.
- (2) An improvement notice is a notice requiring the authority or approver to remedy the contravention by doing, or by refraining from doing, anything specified in the order.
- (3) An improvement notice may have effect—
  - (a) until it is revoked, or
  - (b) for a period specified in the notice.
- (4) Where the regulator gives an improvement notice, it must also give the local authority or registered building control approver a statement of the reasons for giving the notice.
- (5) The regulator must as soon as reasonably practicable—
  - (a) provide copies of the notice and the statement to the Secretary of State, and
  - (b) in the case of a registered building control approver, in prescribed cases provide copies of the notice and the statement to each local authority.
- (6) The local authority or registered building control approver to whom the improvement notice is given may appeal to the tribunal against the notice.

### **58Z4 Serious contravention notices**

- (1) The regulator may give a serious contravention notice to a local authority or a registered building control approver if it appears to the regulator (following an investigation under section 58Z2 or otherwise) that—
  - (a) the authority or approver has contravened operational standards rules, and
  - (b) as a result, the safety of persons in or about buildings has been, or may have been, put at risk.
- (2) A serious contravention notice is a notice requiring the authority or approver to remedy the contravention by doing, or by refraining from doing, anything specified in the order.
- (3) A serious contravention notice may have effect—
  - (a) until it is revoked, or
  - (b) for a period specified in the notice.
- (4) Where the regulator gives a serious contravention notice, it must also give the local authority or registered building control approver a statement of the reasons for giving the notice.
- (5) The regulator must as soon as reasonably practicable—
  - (a) provide copies of the notice and the statement to the Secretary of State, and

- (b) in the case of a registered building control approver, in prescribed cases provide copies of the notice and the statement to each local authority.
- (6) The local authority or registered building control approver to whom the serious contravention notice is given may appeal to the tribunal against the notice.
- (7) A person who, without reasonable excuse, contravenes a serious contravention notice commits an offence and is liable on summary conviction to a fine.

### **58Z5 Continuing failure to meet standards**

- (1) This section applies where –
  - (a) the regulator has given a local authority or registered building control approver one or more serious contravention notices under section 58Z4, and
  - (b) it appears to the regulator that the way in which the authority or approver exercises their building control functions –
    - (i) falls short of the standards expected, and
    - (ii) puts, or may put, the safety of persons in or about buildings at risk,and is likely to continue to do so.
- (2) In the case of a local authority, the regulator may recommend to the Secretary of State that the Secretary of State make an order under section 116(4) (transfer of functions to the Secretary of State or another local authority).
- (3) In the case of a registered building control approver, the regulator may cancel the approver's registration.
- (4) But before acting under subsection (2) or (3) the regulator must –
  - (a) give the authority or approver notice that it is considering acting under that subsection, and explain its reasons, and
  - (b) invite the authority or approver to make representations within a period specified in the notice (which must not be less than 14 days).
- (5) Where the regulator acts under subsection (2) or (3) it must as soon as reasonably practicable –
  - (a) notify the local authority or approver that it has done so, and
  - (b) give the local authority or approver a statement of its reasons.
- (6) Where the regulator cancels a person's registration under subsection (3) it must as soon as reasonably practicable notify each local authority.
- (7) A local authority may appeal to the tribunal against a recommendation under subsection (2).
- (8) A registered building control approver may appeal to the tribunal against the cancellation of its registration under subsection (3)."



**45 Transfer of approved inspectors' functions to registered building control approvers**

Schedule 4 amends the Building Act 1984 so as to—

- (a) transfer the functions of approved inspectors to registered building control approvers, and
- (b) make other provision consequential on section 44.

**46 Functions exercisable only with advice of registered building inspectors**

- (1) The Building Act 1984 is amended as follows.
- (2) After section 46 insert—

*“Building control authorities’ restricted functions*

**46A Building control authorities’ restricted functions**

- (1) Before each exercise of a restricted function a building control authority must obtain and consider the advice of a registered building inspector (who may, but need not, be employed by the authority).
- (2) In this section a “restricted function” means a function of a building control authority under this Part, or regulations made under this Part, that is prescribed for the purposes of this section.”
- (3) After section 54A (inserted by section 49) insert—

*“Registered building control approvers’ restricted functions*

**54B Registered building control approvers’ restricted functions**

- (1) This section applies to a registered building control approver who is not a registered building inspector.
- (2) Before each exercise of a restricted function the approver must obtain and consider the advice of a registered building inspector (who may, but need not, be employed by the approver).
- (3) In this section a “restricted function” means a function of a registered building control approver under this Part, or regulations made under this Part, that is prescribed for the purposes of this section.
- (4) A registered building control approver who contravenes subsection (2) without reasonable excuse commits an offence.
- (5) An offence under this section is punishable, on summary conviction or conviction on indictment, by a fine.”

**47 Default powers of Secretary of State**

- (1) The Building Act 1984 is amended as follows.
- (2) In section 116 (power to transfer local authority functions to Secretary of State)—
  - (a) in subsection (2) for the words from “make an order” to the end substitute “make a transfer order in respect of the body in default.”;

- (b) after subsection (2) insert—
  - “(3) The Secretary of State must consult the regulator before making an order under subsection (1) or (2).
  - (4) The Secretary of State may also make a transfer order in respect of a local authority if—
    - (a) under section 58Z5(2) the regulator recommends that the Secretary of State make a transfer order in respect of the authority, and
    - (b) the Secretary of State is satisfied that the way in which the authority exercises its functions under this Act—
      - (i) falls short of the standards expected, and
      - (ii) puts, or may put, the safety of persons in or about buildings at risk,
  - and is likely to continue to do so.
  - (5) A “transfer order”, in respect of a body or authority, is an order transferring to the Secretary of State, or to another local authority, such functions of the body or authority as may be specified in the order.”
- (3) In section 117(1) (expenses of Secretary of State) for “order under section 116(2)” substitute “a transfer order under section 116”.
- (4) In section 118 (variation or revocation of transfer order)—
  - (a) in subsection (1) for “an order under section 116(2)” substitute “a transfer order under section 116”;
  - (b) after subsection (1) insert—
    - “(1A) The Secretary of State must consult the regulator before making an order under subsection (1).”;
  - (c) in subsection (2) for the words from “by him” to the end substitute “, by the person to whom the revoked order transferred functions, in discharging those functions.”

#### **48 Higher-risk building work: registered building control approvers**

- (1) In section 47 of the Building Act 1984 (giving and acceptance of initial notice), in subsection (1)(a)—
  - (a) after “prescribed form” insert “relating to work that is not higher-risk building work”;
  - (b) after “carry out” insert “the”.
- (2) In section 51A of the Building Act 1984 (variation of work to which initial notice relates), for subsection (1) substitute—
  - “(1) This section applies where—
    - (a) it is proposed that the work to which an initial notice relates should be varied, and
    - (b) the work as varied is not higher-risk building work.”

- (3) After section 52 of the Building Act 1984 insert—

**“52A Cancellation of initial notice when work becomes higher-risk building work**

- (1) If, at a time when an initial notice is in force, it appears to the registered building control approver that the work has become higher-risk building work, the registered building control approver must, as soon as is reasonably practicable, cancel the initial notice by notice in the prescribed form given to—
  - (a) the local authority concerned, and
  - (b) the person carrying out or intending to carry out the work.
- (2) If, at a time when an initial notice is in force, it appears to the person carrying out or intending to carry out the work that the work has become higher-risk building work, the person must, as soon as is reasonably practicable, cancel the initial notice by notice in the prescribed form given to—
  - (a) the local authority concerned, and
  - (b) the registered building control approver.
- (3) If, at a time when an initial notice is in force, it appears to the local authority concerned that the work has become higher-risk building work, the authority must cancel the initial notice by notice in the prescribed form given to—
  - (a) the registered building control approver, and
  - (b) the person shown in the initial notice as the person intending to carry out the work.
- (4) A person who fails without reasonable excuse to give to a local authority a notice that the person is required to give by subsection (1) or (2) commits an offence.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine.
- (6) A notice under any of subsections (1) to (3) has the effect of cancelling the initial notice to which it relates with effect from the day on which the notice is given.
- (7) Where an initial notice ceases to be in force by virtue of this section, a new initial notice may not be given in relation to any of the work to which the cancelled notice related.

**52B Effect of initial notice ceasing to be in force where work becomes higher-risk building work**

- (1) This section applies where an initial notice ceases to be in force by virtue of section 47(4)(b)(ia) (higher-risk building work).
- (2) If, before the day on which the initial notice ceased to be in force, a final certificate—
  - (a) was given in respect of part of the work to which the initial notice relates, and
  - (b) was accepted by the local authority,the fact that the initial notice has ceased to be in force does not affect the continuing operation of section 51(3) in relation to that part of the work.

- (3) The regulator is the building control authority in relation to any of the work—
  - (a) to which the initial notice relates, and
  - (b) in respect of which no final certificate has been accepted by the local authority as mentioned in subsection (2).
- (4) Sections 91(3) (duties of local authorities) and 121A(1) (meaning of “building control authority”) apply as if, in each case, the reference to section 91ZA or 91ZB were a reference to section 52B, 91ZA or 91ZB.
- (5) In any case where this section applies, the reference in subsection (4) of section 36 to the date of the completion of the work in question has effect, in relation to a notice under subsection (1) of that section, as if it were a reference to the date on which the initial notice ceased to be in force.
- (6) If, before the initial notice ceased to be in force, an offence under section 35 was committed with respect to any of the work to which that notice relates, proceedings for that offence may be commenced by the regulator at any time within six months beginning with the day on which the function of the regulator referred to in subsection (4) became exercisable with respect to the provision of building regulations to which the offence relates.
- (7) Subsection (6) is without prejudice to any ability which, after that function has become exercisable, the regulator may have under section 35A to commence proceedings for the offence after the end of that period of six months.”
- (4) In section 47 of the Building Act 1984 (giving and acceptance of initial notice), in subsection (4)(b)—
  - (a) omit the “or” after sub-paragraph (i);
  - (b) after sub-paragraph (i) insert—
    - “(ia) it is cancelled by a notice under section 52A,”.

#### 49 Higher-risk building work: public bodies

After section 54 of the Building Act 1984 insert—

##### “54A Public bodies and higher-risk building work

- (1) The Secretary of State may by regulations make such amendments of the provisions listed in subsection (2) as the Secretary of State considers appropriate in connection with higher-risk building work.
- (2) The provisions are—
  - (a) section 5;
  - (b) section 54;
  - (c) Schedule 4.
- (3) Regulations under subsection (1)—
  - (a) may make different provision for different purposes;
  - (b) may make supplementary, incidental, transitional, transitory or saving provision;
  - (c) may make consequential amendments to any provision of this Act or any regulations made under this Act.

- (4) Regulations under subsection (1) are to be made by statutory instrument.
- (5) A statutory instrument containing regulations under subsection (1) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

## 50 Information gathering

- (1) In section 53 of the Building Act 1984 (effect of initial notice ceasing to be in force), after subsection (4) insert—
  - “(4A) For the purpose of enabling the local authority to perform the functions referred to in section 48(1), the local authority may by notice require the person shown in the initial notice as the registered building control approver to give the local authority—
    - (a) any information the authority would have obtained if the authority had performed the function of enforcing building regulations in relation to the work during the period in which the initial notice was in force, and
    - (b) any other information the local authority may reasonably require.
  - (4B) Where a person gives information to a local authority under subsection (4A), the person must give a copy of the information to the person shown in the initial notice as the person intending to carry out the work.
  - (4C) Where a person is required to give information under subsection (4A) or (4B), the information must be given before the end of the prescribed period.
  - (4D) The person shown in the initial notice as the registered building control approver must, within the prescribed period, provide the prescribed information to the person carrying out or intending to carry out the work to which the notice relates.”
- (2) In section 57 of the Building Act 1984 (offences), in subsection (1)—
  - (a) omit the “or” after paragraph (a);
  - (b) after paragraph (a) insert—
    - “(aa) fails without reasonable excuse to comply with a requirement under section 53(4A) to give information, or”.

## 51 Insurance

In section 47 of the Building Act 1984 (giving and acceptance of initial notice), for subsection (6) substitute—

- “(6) In this section “approved scheme” means a scheme that is approved for the purposes of this section by—
  - (a) the Secretary of State, or
  - (b) a body (corporate or unincorporated) that, in accordance with building regulations, is designated by the Secretary of State for the purpose.

- (6A) A scheme may be approved under subsection (6) only where it appears to the Secretary of State or the body (as the case may be) that the scheme secures the provision of adequate insurance cover in relation to any work to which an initial notice relates and is work to which the scheme applies.
- (6B) Where the Secretary of State has not designated a body under subsection (6)(b), the Secretary of State must prepare and publish guidance about what the Secretary of State considers to be adequate insurance cover.
- (6C) Where the Secretary of State has designated a body under subsection (6)(b) the body must—
  - (a) prepare guidance about what the body considers to be adequate insurance cover, and
  - (b) if the Secretary of State approves the guidance, publish the guidance.
- (6D) Where the Secretary of State has designated more than one body under subsection (6)(b), the bodies must jointly prepare, and if necessary publish, guidance in accordance with subsection (6C).
- (6E) A designation referred to in subsection (6)(b) may limit the cases in which and the terms on which the body designated may approve a scheme.
- (6F) Schedule 3 to the Building Safety Act 2020 (information sharing) applies as if references to the Secretary of State included references to a body designated by the Secretary of State under this section.”

## 52 Information

- (1) After section 56 of the Building Act 1984 insert—

### “56A Giving information by electronic means

- (1) The regulator must establish and maintain a facility (the “facility”) to enable a specified person to give specified relevant information to another person by electronic communication.
- (2) The Secretary of State may by regulations require or authorise a specified person to use the facility when giving specified relevant information to another person.
- (3) Any information given to a person in accordance with regulations made under subsection (2) is to be treated for the purposes of section 56B (requirement to keep register) as also having been given to the regulator.
- (4) Regulations under this section may require a person who is given specified relevant information otherwise than through the facility to give that information to the regulator using the facility.
- (5) Regulations under this section may make provision treating specified relevant information that is given using the facility as having been given in the prescribed form for the purposes of this Part.
- (6) In this section—

“relevant information” means information that is required or authorised to be given by this Part or regulations made under it;  
“specified” means specified in regulations made by the Secretary of State under this section.

- (7) In this section and section 56B—
  - “information” includes documents;
  - “documents” includes notices, certificates, orders, consents, demands and plans.
- (8) Regulations under this section—
  - (a) may make different provision for different purposes;
  - (b) may make consequential, supplementary, incidental, transitional, transitory or saving provision.
- (9) Regulations under this section are to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

#### **56B Requirement to keep register**

- (1) The regulator must keep a register of specified relevant information.
- (2) The information that may be specified for the purposes of subsection (1) includes in particular information given, or treated as having been given, to the regulator using the facility established under section 56A(1).
- (3) The regulator—
  - (a) must maintain the register in electronic form;
  - (b) must ensure that any specified parts of the register are available for inspection by members of the public;
  - (c) must, in specified circumstances, provide to members of the public, on request, copies of information kept in the register.
- (4) In this section—
  - “relevant information” means information that is required or authorised to be given by this Part or regulations made under it;
  - “specified” means specified in regulations made by the Secretary of State under this section.
- (5) Regulations under this section—
  - (a) may make different provision for different purposes;
  - (b) may make consequential, supplementary, incidental, transitional, transitory or saving provision.
- (6) Regulations under this section are to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

#### **56C Delegation of functions**

- (1) The regulator may by written notice delegate to a person, to such extent and subject to such conditions as the regulator considers appropriate, the functions conferred on the regulator by section 56B(1) and (3) (including the ability to charge fees in connection with the exercise of those functions).

- (2) In subsection (1) “fees” means fees that are prescribed by, or determined by the regulator in accordance with, regulations under section 105A.
  - (3) The regulator may delegate functions under subsection (1) only with the consent of the Secretary of State.
  - (4) The regulator may revoke a delegation of functions to a person by giving a written notice to the person.
  - (5) The regulator may revoke a delegation under subsection (4) only with the consent of the Secretary of State.
  - (6) Schedule 3 to the Building Safety Act 2020 (information sharing) applies as if references to the regulator included references to a person to whom the regulator has delegated functions under this section.”
- (2) In section 55 of the Building Act 1984 (appeals), after subsection (3) insert—
- “(4) On an appeal under subsection (1), the local authority must give the specified information to the regulator.
  - (5) In this section “specified” means specified in regulations made by the Secretary of State under this section.
  - (6) Regulations under subsection (5) are to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”
- (3) In section 56 of the Building Act 1984 (recording and furnishing of information), omit subsections (1) to (4).

### 53 New initial notices

- (1) In section 53 of the Building Act 1984 (effect of initial notice ceasing to be in force), for subsection (7) substitute—
- “(7) A new initial notice relating to any of the work to which the original initial notice related (the “original work”) may be given only if—
- (a) in the case of an initial notice cancelled under—
    - (i) section 52(1)(d) or (e), or
    - (ii) section 52(5A) based on a condition in section 52(5B)(a) to (d),
 the conditions in subsection (8) are met, or
  - (b) in any other case, the conditions in subsection (9) are met.
- (8) The conditions referred to in subsection (7)(a) are that the new initial notice—
- (a) is given before the end of the period of seven days beginning with the day on which the original initial notice was cancelled or such other period as may be prescribed,
  - (b) relates to all of the original work, except for any work in respect of which a final certificate has been accepted by the local authority, and
  - (c) is not a combined initial notice and plans certificate given in accordance with section 50(4).
- (9) The conditions referred to in subsection (7)(b) are that—



- (a) before the original initial notice is cancelled, the original registered building control approver has given any final certificates that are required to be given under section 51 in respect of the original work, and
  - (b) the new initial notice relates to all of the original work, except for any work in respect of which a final certificate has been accepted by the local authority.
- (10) Where—
  - (a) a plans certificate has been given in respect of any of the original work,
  - (b) the conditions in paragraphs (a) to (c) of subsection (2) are fulfilled with respect to that certificate, and
  - (c) a new initial notice as referred to in subsection (7) is accepted, section 50(1) does not apply in relation to so much of the work to which the new initial notice relates as is work specified in the plans certificate.
- (11) Section 53B applies in relation to a new initial notice given in accordance with subsection (7)(a).”
- (2) After section 53A of the Building Act 1984 (inserted by section 40) insert—  
**“53B New initial notice: change of registered building control approver**
  - (1) This section applies where a new initial notice is given in accordance with section 53(7)(a) (change of registered building control approver in certain cases).
  - (2) Where the new initial notice is accepted by the local authority the registered building control approver must give a transfer certificate and a transfer report to the local authority before the end of the relevant period.
  - (3) A transfer certificate must—
    - (a) confirm that the registered building control approver is of the opinion that the unfinished work up to the date of the certificate does not contravene any provision of building regulations, and
    - (b) contain the prescribed information.
  - (4) A transfer report must contain any plans, documents or other information related to the confirmation in subsection (3)(a).
  - (5) In this section the “relevant period” means—
    - (a) the period of 21 days beginning with the day on which the new initial notice is accepted or such other period as may be prescribed, or
    - (b) such longer period as may be agreed by the local authority following a request from the registered building control approver.
  - (6) A transfer certificate given by a registered building control approver—
    - (a) does not impose any liability, whether civil or criminal, on the registered building control approver for any work carried out by the previous registered building control approver, and
    - (b) does not affect any liability, whether civil or criminal, of the previous registered building control approver for work carried out by that approver.

- (7) In this section “unfinished work” means all of the work to which the original initial notice related, except for any work in respect of which a final certificate was accepted by the local authority.

### **53C Consideration of transfer certificate and report**

- (1) This section applies where a registered building control approver gives a transfer certificate and a transfer report to a local authority in accordance with section 53B(2).
- (2) The local authority must, by notice, accept or reject the certificate and report before the end of the relevant period.
- (3) The local authority may reject the certificate and report only if—
  - (a) any of the prescribed grounds exist, or
  - (b) the registered building control approver fails to comply with a requirement in subsection (4) to give information to the local authority.
- (4) During the period of 21 days beginning with the day on which the transfer certificate and transfer report is given to the local authority or such other period as may be prescribed, the local authority may, by notice, require the registered building control approver to give to the local authority such information as may be specified in the notice.
- (5) The registered building control approver must give the information specified in the notice to the local authority before the end of the period of seven days beginning with the day on which the notice is given or such other period as may be prescribed.
- (6) In this section the “relevant period” means—
  - (a) the period of 21 days beginning with the day on which the transfer certificate and transfer report is given to the local authority or such other period as may be prescribed, or
  - (b) such longer period as is determined in accordance with subsection (7).
- (7) Where—
  - (a) a local authority requires a registered building control approver to give information to the local authority under subsection (4), and
  - (b) the day by which the information is required to be given would (but for this subsection) fall within the final seven days of the relevant period or would fall outside the relevant period,
 the relevant period is to be extended to the end of the period of seven days beginning with the day after the day by which the information is required to be given.
- (8) Where a local authority requires a registered building control approver to give information to the local authority under subsection (4), the local authority must give a copy of the notice to the person shown in the initial notice as the person intending to carry out the work.

### **53D Cancellation of initial notice: change of registered building control approver**

- (1) This section applies where—

- (a) a new initial notice is given in accordance with section 53(7)(a) (change of registered building control approver in certain cases), and
  - (b) the notice is accepted by the local authority.
- (2) If, at a time when the initial notice is in force –
  - (a) the registered building control approver does not give the local authority a transfer certificate and transfer report in accordance with section 53B(2), or
  - (b) the local authority rejects the transfer certificate and transfer report in accordance with section 53C,the local authority must cancel the initial notice by notice in the prescribed form given to the registered building control approver and the person shown in the initial notice as the person intending to carry out the work.
- (3) The person carrying out or intending to carry out the work to which the initial notice relates may, at a time –
  - (a) when the initial notice is in force, and
  - (b) before the local authority accepts or rejects the transfer certificate and report in accordance with section 53C,cancel the initial notice by notice in the prescribed form given to the local authority and, if it is practicable to do so, to the registered building control approver.
- (4) A notice under subsection (2) or (3) has the effect of cancelling the initial notice to which it relates with effect from the day on which the notice is given.
- (5) Where an initial notice ceases to be in force by virtue of subsection (2) or (3), a new initial notice may not be given in relation to any of the work to which the cancelled notice related.
- (6) Where an initial notice ceases to be in force by virtue of subsection (2) or (3) –
  - (a) for the purpose of enabling the local authority to perform the functions referred to in section 48(1) in relation to any part of the work, building regulations may require the local authority to be provided with plans that relate to that part of the work, and
  - (b) section 53(5), (6) and (6A) apply in relation to the notice as they apply in relation to an initial notice that ceases to be in force as referred to in section 53(1).
- (7) This section is without prejudice to any other provisions of this Part relating to when an initial notice ceases to be in force.

### **53E Restriction on functions of registered building control approvers**

- (1) This section applies where –
  - (a) a new initial notice is given in accordance with section 53(7)(a) (change of registered building control approver in certain cases), and
  - (b) the notice is accepted by the local authority.
- (2) During the period in respect of which –
  - (a) the notice is in force, but

- (b) a transfer certificate and a transfer report have not been accepted by the local authority,

the registered building control approver may not exercise the relevant functions.
- (3) In this section the “relevant functions” are the functions of a registered building control approver in –
  - (a) section 50 (plans certificates);
  - (b) section 51 (final certificates);
  - (c) section 51A (amendment notices).”
- (3) In section 47 of the Building Act 1984 (giving and acceptance of initial notice) –
  - (a) in subsection (4)(b), after sub-paragraph (ia) (inserted by section 48) insert –
    - “(ib) it is cancelled by a notice under section 53D, or;”
  - (b) after subsection (7) insert –
    - “(8) This section is subject to sections 53 and 53B (new initial notices).”
- (4) In section 55 of the Building Act 1984 (appeals) –
  - (a) in subsection (1) –
    - (i) omit the “or” after paragraph (a);
    - (ii) after paragraph (b) insert “or
    - (c) a transfer certificate or a transfer report;”;
  - (b) in subsection (2)(a), after “notice” insert “, report”;
  - (c) in subsection (2)(b), after “notice” insert “, report”.

#### **54 Cancellation of initial notice**

- (1) Section 52 of the Building Act 1984 (cancellation of initial notice) is amended in accordance with this section.
- (2) In subsection (1) –
  - (a) omit the “or” after paragraph (b);
  - (b) after paragraph (c), insert –
    - “(d) the registered building control approver is given a disciplinary order under section 58T(2)(b) (variation of registration) such that the registered building control approver is no longer able to carry out the registered building control approver’s functions with respect to the work to which the initial notice relates,
    - (e) the registered building control approver is given a disciplinary order under section 58T(2)(c) (suspension of registration) or an order under section 58U (interim suspension for suspected serious contravention), or
    - (f) it appears to the registered building control approver that a prescribed circumstance exists;”;
  - (c) for “approved inspector shall” substitute “registered building control approver, or in the case of paragraph (e) the person shown in the initial notice as the registered building control approver, must”.

(3) For subsection (3) substitute—

“(3) If, at a time when an initial notice is in force, it appears to the person carrying out or intending to carry out the work to which the notice relates that—

- (a) the registered building control approver is no longer willing or able to carry out the registered building control approver’s functions with respect to any of that work, or
- (b) a prescribed circumstance exists,

the person must cancel the initial notice by notice in the prescribed form given to the local authority concerned and, if it is practicable to do so, to the registered building control approver.”

(4) In subsection (4), after “subsection” insert “(1) or”.

(5) After subsection (5) insert—

“(5A) If, at a time when an initial notice is in force, it appears to the local authority concerned that a condition in subsection (5B) is satisfied, the authority must cancel the initial notice by notice in the prescribed form given to—

- (a) the person shown in the initial notice as the registered building control approver, and
- (b) the person shown in the initial notice as the person intending to carry out the work.

(5B) The conditions are—

- (a) the registered building control approver is given a disciplinary order under section 58T(2)(b) (variation of registration) such that the registered building control approver is no longer able to carry out the registered building control approver’s functions with respect to the work to which the initial notice relates;
- (b) the registered building control approver is given a disciplinary order under section 58T(2)(c) (suspension of registration) or an order under section 58U (interim suspension for suspected serious contravention);
- (c) the registered building control approver is given a disciplinary order under section 58T(2)(d) (cancellation of registration);
- (d) the registered building control approver has their registration cancelled under section 58Z5(3) (serious contravention notices);
- (e) a prescribed circumstance exists.”

(6) After subsection (6) insert—

“(7) Before cancelling an initial notice under subsection (5A) based on a condition in subsection (5B)(a), (b) or (e), the local authority must—

- (a) give the person shown in the initial notice as the registered building control approver a notice in the prescribed form at least seven days before the day on which the initial notice is to be cancelled, and
- (b) have regard to any representations made to the local authority during that period.”

*Miscellaneous and general***55 Functions under Part 3 of Building Act 1984**

In the Building Act 1984 after section 90 insert –

**“90A Functions under this Part: the regulator etc**

- (1) The Secretary of State may by regulations made by statutory instrument make provision –
  - (a) providing that in specified cases, a specified Part 3 function is to be a function of the regulator instead of, or in addition to, the local authority in question, or
  - (b) requiring a relevant authority proposing to exercise a specified Part 3 function, in specified cases, to notify another relevant authority of specified matters in such way and by such time as may be specified.
- (2) The regulations may make such consequential amendments of this Act as the Secretary of State considers appropriate.
- (3) Regulations under this section may make –
  - (a) incidental, transitional or saving provision;
  - (b) different provision for different purposes or for different areas.
- (4) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) In this section –
 

“Part 3 function” means a function of local authorities under any provision of this Part;

“relevant authority” means the regulator or a local authority;

“specified” means specified by regulations under this section.”

**56 Minor and consequential amendments**

Schedule 5 contains –

- (a) minor amendments of the Building Act 1984, and
- (b) amendments consequential on provision made by this Part.

**57 Appeals**

Schedule 6 makes provision about appeals under the Building Act 1984, including provision providing for –

- (a) certain appeals to be made to the regulator instead of the Secretary of State,
- (b) certain appeals to be made to the tribunal instead of a magistrates’ court, and
- (c) a right of appeal against a decision of a local authority not to consider an application for building control approval or initial notice on the ground that it is in respect of higher-risk building work.

## 58 Fees and charges

In the Building Act 1984 after section 105 insert –

### *“Fees and charges*

#### **105A Fees and charges**

- (1) The Secretary of State may by regulations make provision authorising a relevant authority –
  - (a) to charge fees, and
  - (b) to recover charges,for or in connection with the performance of any of its functions under, or under an instrument made under, this Act.
- (2) The regulations may –
  - (a) prescribe a fee or charge, or
  - (b) provide for the amount of any fee or charge to be determined by the relevant authority in accordance with the regulations.
- (3) The regulations may in particular –
  - (a) provide that the amount of any charge is to be determined by the relevant authority in accordance with a scheme made and published by it, and
  - (b) make provision about such schemes, including the principles to be embodied in such schemes.
- (4) In this section “relevant authority” means the regulator or a local authority.
- (5) Regulations under this section may –
  - (a) make different provision for different purposes;
  - (b) contain transitional or saving provision.
- (6) Regulations under this section are to be made by statutory instrument.
- (7) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

## 59 Application of amendments

The amendments of the Building Act 1984 made by this Part apply in relation to England only.

### **PART 4**

#### HIGHER-RISK BUILDINGS

### *Key definitions*

## 60 Meaning of “occupied” and “resident”

- (1) The following provisions apply for the purposes of this Part.

- (2) A higher-risk building is “occupied” if there are residents of more than one dwelling in the building.
- (3) A “resident” of a dwelling is a person who lawfully resides there.
- (4) A reference to a resident of a higher-risk building is to a resident of a dwelling in such a building.
- (5) The Secretary of State may by regulations amend –
  - (a) the definition of a higher-risk building being “occupied”;
  - (b) the definition of a “resident” of a dwelling or a higher-risk building.
- (6) For the meaning of “higher-risk building” see section 19.

## 61 Accountable person

- (1) In this Part any reference to the “accountable person” for a higher-risk building is to –
  - (a) a person who holds a legal estate in possession in any part of the common parts (subject to subsection (2)), or
  - (b) a person who is under a relevant repairing obligation in relation to any part of the common parts.
- (2) A person is not the accountable person for a higher-risk building by virtue of subsection (1)(a) if –
  - (a) the person holds a legal estate in possession in the common parts or any part of them (“the relevant common parts”), and
  - (b) each long lease of which the person is lessor provides that a particular person (who is not the lessor) is under a relevant repairing obligation in relation to all of the relevant common parts.
- (3) For the purposes of this section –
  - “common parts”, in relation to a building, means –
    - (a) the structure and exterior of the building, except so far as included in a demise of a single dwelling or of premises to be occupied for the purposes of a business, or
    - (b) any part of the building provided for the use, benefit and enjoyment of the residents of more than one dwelling (whether alone or with other persons);
  - “long lease” means –
    - (a) a lease granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture, or
    - (b) a lease for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, other than a lease by sub-demise from one which is not a long lease;
  - “relevant repairing obligation”: a person is under a relevant repairing obligation in relation to anything if the person is required, under a lease or by virtue of an enactment, to repair or maintain that thing.
- (4) In the definition of “long lease” in subsection (3), a reference to a lease includes –
  - (a) a lease granted in pursuance of Part 5 of the Housing Act 1985 (the right to buy);



- (b) a lease granted in pursuance of Part 5 of the Housing Act 1985 as it has effect by virtue of section 17 of the Housing Act 1996 (the right to acquire);
  - (c) a shared ownership lease (as defined by section 7(7) of the Leasehold Reform, Housing and Urban Development Act 1993), whether or not the tenant's total share (within the meaning of that provision) is 100%.
- (5) For the purposes of the definition of “relevant repairing obligation” in subsection (3), no account is to be taken of any requirement (however expressed) on a tenant to use, repair or maintain anything in a tenant-like manner.
- (6) The Secretary of State may make regulations modifying this Part as it applies in cases where there is more than one accountable person for a higher-risk building.
- (7) The Secretary of State may by regulations amend this section (other than subsection (6) and this subsection).

#### *Registration and certificates*

### **62 Occupation: registration requirement**

- (1) The accountable person for a higher-risk building must make an application under section 63 to register the building—
  - (a) before the building becomes occupied, and
  - (b) in other prescribed circumstances within the prescribed period.
- (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence.
- (3) A person guilty of an offence under subsection (1) is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both);and (in either case) to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the person is convicted.
- (4) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (3)(a) to 12 months is to be read as a reference to 6 months.

### **63 Registration of higher-risk buildings**

- (1) The accountable person for a higher-risk building may make an application to the regulator to register the building.
- (2) The regulator may register the building.
- (3) The regulator must publish the register in such manner as it considers appropriate.
- (4) The regulator may remove a building from the register if it appears to the regulator that—
  - (a) the building is not occupied, or

- (b) the building is not a higher-risk building.
- (5) The Secretary of State may by regulations make provision about the register, including in particular provision about—
  - (a) the information to be contained in the register;
  - (b) the procedure for removing buildings from the register.
- (6) The Secretary of State may by regulations make provision in relation to applications under this section, including in particular provision about—
  - (a) the form and content of an application;
  - (b) the information and other documents that must accompany an application;
  - (c) the way in which an application, and anything that is to accompany it, is to be given;
  - (d) the circumstances in which an application may be withdrawn or treated as withdrawn;
  - (e) the way in which an application may be withdrawn.

#### **64 Occupied building: requirement to apply for a certificate**

- (1) The accountable person for an occupied higher-risk building must, in prescribed circumstances and within the prescribed period, make an application under section 65 for a building assurance certificate in relation to the building.
- (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence.
- (3) A person guilty of an offence under subsection (2) is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both);
 and (in either case) to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the person is convicted.
- (4) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (3)(a) to 12 months is to be read as a reference to 6 months.
- (5) In this section a “building assurance certificate” has the same meaning as in section 65.

#### **65 Building assurance certificate**

- (1) The accountable person for an occupied higher-risk building may make an application to the regulator for a certificate in relation to the building (a “building assurance certificate”).
- (2) The regulator—
  - (a) must give a building assurance certificate if it is satisfied that the accountable person has not contravened a relevant duty, or
  - (b) must refuse the application and give notice to the accountable person of this if it is not so satisfied.

- (3) For this purpose “relevant duty” means a duty under, or under prescribed regulations made under, any of the following –
- (a) section 67 (duty to appoint building safety manager);
  - (b) section 71(1) (removal of building safety manager);
  - (c) section 72 (duty to assess building safety risks);
  - (d) section 73 (steps to prevent major incident);
  - (e) section 74 (duties relating to safety case report);
  - (f) section 78(4) (duties relating to mandatory occurrence reporting system);
  - (g) section 80 (duty to give information);
  - (h) section 82 (duty to produce a residents’ engagement strategy).
- (4) The Secretary of State may by regulations make further provision about building assurance certificates and notices under this section, including in particular provision about –
- (a) the period in relation to which a certificate may be given;
  - (b) the form and content of a certificate or notice;
  - (c) the way in which a certificate or notice is to be given;
  - (d) the circumstances in which a certificate must be revised and reissued;
  - (e) the grounds on which a certificate may be revoked;
  - (f) the procedure for and in connection with revising or revoking a certificate.
- (5) The accountable person must as soon as reasonably practicable after a building assurance certificate is given display the certificate in a conspicuous position in the building.

## **66 Applications for certification: further provision**

- (1) An application under section 65 must be accompanied by –
- (a) a copy of the most recent safety case report for the building unless a copy of that report has been provided in accordance with section 75(2);
  - (b) prescribed information about the mandatory occurrence reporting system operated by the accountable person;
  - (c) prescribed information demonstrating compliance by the accountable person with their duties under section 80;
  - (d) a copy of the residents’ engagement strategy.
- (2) The Secretary of State may by regulations make further provision in relation to applications under section 65, including in particular provision about –
- (a) the form and content of an application;
  - (b) the way in which an application, and anything which is to accompany it is to be given;
  - (c) the circumstances in which an application may be withdrawn or treated as withdrawn;
  - (d) the way in which an application may be withdrawn.
- (3) In this section –
- “mandatory occurrence reporting system” has the same meaning as in section 78;
  - “residents’ engagement strategy” has the same meaning as in section 82;
  - “safety case report” has the same meaning as in section 74.

*Building safety managers***67 Appointment of building safety manager**

- (1) The accountable person for a higher-risk building must before the building becomes occupied appoint a person to be the building safety manager for the building.
- (2) If at any time there is no person who is the building safety manager for an occupied higher-risk building, the accountable person for the building must as soon as reasonably practicable appoint a person to be the building safety manager for the building.
- (3) The accountable person may appoint a person under subsection (1) or (2) only if—
  - (a) the regulator has given the accountable person notice that it is not vetoing the appointment;
  - (b) where the person is an individual, the accountable person is satisfied that they have the skills, knowledge, experience and behaviours to carry out the functions of a building safety manager;
  - (c) where the person is not an individual, the accountable person is satisfied of the person's capability to perform the functions of a building safety manager.
- (4) A person who, without reasonable excuse, fails to comply with the requirement under subsection (1) or (2) commits an offence.
- (5) A person guilty of an offence under subsection (4) is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both);
 and (in either case) to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the person is convicted.
- (6) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (5)(a) to 12 months is to be read as a reference to 6 months.

**68 Regulator's power of veto over appointment**

- (1) This section applies where the accountable person for a higher-risk building proposes to appoint a person as the building safety manager for the building.
- (2) The accountable person must give the regulator notice of the proposed building safety manager.
- (3) The regulator may veto the appointment if it appears to the regulator that the person is not suitable to be a building safety manager.
- (4) Before deciding whether to veto an appointment the regulator must consult the relevant fire and rescue authority and such other persons as it considers appropriate.
- (5) The regulator must within the prescribed period notify the accountable person as to whether the appointment is vetoed.

- (6) The Secretary of State may by regulations make provision about notices under this section, including in particular provision about—
  - (a) the form and content of notices;
  - (b) the way in which a notice is to be given.
- (7) In this section “the relevant fire and rescue authority” means the authority for the area in which the building is situated.

#### **69 Terms of appointment**

- (1) Subject to the provisions of this section, a person holds the position of building safety manager in accordance with the terms of their appointment.
- (2) A building safety manager for a building may at any time resign from that position by giving notice to the accountable person for the building.
- (3) The accountable person may at any time remove a building safety manager from that position by giving notice to the building safety manager.
- (4) The Secretary of State may by regulations make provision about notices under this section, including in particular provision about—
  - (a) the form and content of notices;
  - (b) the way in which a notice is to be given.

#### **70 Nominated individual**

- (1) This section applies where a person other than an individual has been appointed as the building safety manager for a higher-risk building.
- (2) The building safety manager must as soon as reasonably practicable appoint an individual acting under its control to be the nominated individual for the building.
- (3) If at any time there is no nominated individual for the building, the building safety manager must as soon as reasonably practicable appoint another individual acting under its control to be the nominated individual for the building.
- (4) A nominated individual must manage the building safety manager’s functions.
- (5) The building safety manager may appoint an individual under subsection (2) or (3) only if satisfied that the individual has the appropriate skills, knowledge, experience and behaviours to manage their functions.

#### **71 Directions to remove building safety manager or nominated individual**

- (1) The regulator must in the circumstances described in subsection (2) give a direction to the accountable person for a higher-risk building to remove the building safety manager for the building within the specified period.
- (2) The circumstances are where it appears to the regulator that the manager is not a suitable person to carry out the functions of a building safety manager.
- (3) Where the building safety manager is not an individual, the regulator may in prescribed circumstances direct the building safety manager to change its nominated individual within the specified period.

- (4) The Secretary of State may by regulations make further provision about directions under this section, including in particular provision about –
  - (a) the form and content of a direction;
  - (b) the way in which a direction is to be given.
- (5) In this section –
  - “nominated individual” has the same meaning as in section 70;
  - “specified” means specified in the direction.

*Duties relating to building safety risks*

## **72 Assessment of building safety risks**

- (1) The accountable person for an occupied higher-risk building must as soon as reasonably practicable after the relevant time assess the building safety risks relating to the building.
- (2) Further assessments must be carried out –
  - (a) at regular intervals,
  - (b) on receipt of a notice under section 76(2)(a),
  - (c) at any time that the accountable person has reason to suspect that the current assessment is no longer valid, and
  - (d) at the direction of the regulator within a specified period.
- (3) An assessment carried out under subsection (1) or (2) must be suitable and sufficient for the purposes of enabling the accountable person to comply with their duties under section 73.
- (4) In this section –
  - “the relevant time” means the time when the building becomes occupied or, if later, when the person becomes the accountable person for the building;
  - “specified” means specified in the direction.

## **73 Steps to prevent a major incident**

- (1) The accountable person for an occupied higher-risk building must take all reasonable steps for the following purposes –
  - (a) preventing a major incident occurring as a result of a building safety risk materialising as regards the building;
  - (b) reducing the severity of the incident.
- (2) Those steps may in particular involve the accountable person carrying out works to any part of the building.
- (3) When taking the steps the accountable person must act in accordance with prescribed principles.
- (4) The steps must be taken promptly.
- (5) The regulator may direct the accountable person to take specified steps within a specified period for the purpose of complying with subsection (1).

- (6) The accountable person must make and give effect to arrangements for the purpose of ensuring the effective planning, organisation, control, monitoring and review of steps taken in accordance with this section.
- (7) In this section –
  - references to “a major incident” means an incident resulting in –
    - (a) a significant number of deaths, or
    - (b) serious injury to a significant number of people;
  - “specified” means specified in the direction.

#### **74 Safety case report**

- (1) The accountable person for an occupied higher-risk building must as soon as reasonably practicable after the relevant time prepare a report (a “safety case report”) containing –
  - (a) the accountable person’s assessment of the building safety risks relating to the building, and
  - (b) any steps that have been taken under section 73 in relation to those risks.
- (2) The accountable person must revise a safety case report if they consider it necessary or appropriate to do so –
  - (a) following a further assessment of the building safety risks relating to the building under section 72(2), and
  - (b) following the taking of further steps under section 73.
- (3) Regulations made by the Secretary of State may make further provision about the content and form of safety case reports.
- (4) In this section “the relevant time” has the same meaning as in section 72.

#### **75 Notification and provision of report to the regulator**

- (1) The accountable person for an occupied higher-risk building must as soon as reasonably practicable after preparing or revising a safety case report notify the regulator.
- (2) On a request by the regulator the accountable person must as soon as reasonably practicable give it a copy of the safety case report to review.
- (3) The Secretary of State may by regulations make provision about –
  - (a) the content and form of a notice under this section;
  - (b) the way in which a copy of a report or notice must be given.

#### **76 Management of the building by the building safety manager**

- (1) The building safety manager for an occupied higher-risk building must manage the building in accordance with the safety case report for the building.
- (2) The building safety manager for an occupied higher-risk building must as soon as reasonably practicable notify the accountable person for the building if the manager has reason to suspect –
  - (a) that the assessment under section 72 is no longer valid, or
  - (b) that further steps should be taken by the accountable person for the purpose of complying with section 73(1).



- (3) In this section “safety case report” means the report prepared under section 74.

#### **77 Duty as regards buildings insurance**

- (1) The Secretary of State may by regulations make provision requiring an accountable person for an occupied higher-risk building to ensure that there is adequate insurance against loss (or loss of a prescribed kind) arising as a result of a building safety risk materialising as regards the building.
- (2) For this purpose there is adequate insurance if a contract of insurance, complying with any requirements in the regulations, is in force.

#### *Duties relating to information and documents*

#### **78 Mandatory reporting requirements**

- (1) The building safety manager for an occupied higher-risk building must, in prescribed circumstances, give prescribed information to the regulator by the prescribed time and in the specified way.
- (2) “Specified” means specified in a direction given and published by the regulator.
- (3) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on summary conviction to a fine.
- (4) The accountable person for an occupied higher-risk building must establish and operate a mandatory occurrence reporting system.
- (5) A “mandatory occurrence reporting system” is a system for the giving of information to the building safety manager, for the purpose of enabling the manager to comply with subsection (1).
- (6) Information provided by a person (“the relevant person”) under subsection (1) is not admissible in evidence against any person in criminal proceedings except against the relevant person in proceedings for an offence under this section.

#### **79 Keeping information about higher-risk buildings**

- (1) The accountable person for a higher-risk building must—
- (a) keep prescribed information in accordance with prescribed standards, and
  - (b) as far as possible keep such information up to date.
- (2) The accountable person for a higher-risk building must keep copies of prescribed documents in accordance with prescribed standards.
- (3) Where an accountable person does not hold prescribed information or a copy of a prescribed document, they must obtain it except where it is not practicable to do so.
- (4) The Secretary of State may by regulations make provision as to when the duties in subsections (1) to (3) apply.



## **80 Provision of information etc to the regulator, residents and other persons**

- (1) The Secretary of State may by regulations make provision requiring the accountable person for a higher-risk building to give, at prescribed times, prescribed information or a copy of a prescribed document to –
  - (a) the regulator,
  - (b) residents of the building,
  - (c) owners of flats in the building, or
  - (d) any other prescribed person.
- (2) The regulations may in particular make provision about –
  - (a) the way in which the information or documents must be given;
  - (b) the form in which information must be given (and may in particular require that the information is given in an accessible form);
  - (c) the standards in accordance with which the information or documents must be given.
- (3) The regulations may make exceptions to any duty imposed under the regulations.

## **81 Provision of information etc to a new accountable person**

- (1) This section applies where a person has ceased to be the accountable person for a higher-risk building (the “outgoing person”) and another person has become the accountable person for the building (the “new accountable person”).
- (2) The outgoing person must give prescribed information or a copy of prescribed documents to the new accountable person by the prescribed time and in accordance with prescribed standards.
- (3) A person who contravenes subsection (2) commits an offence and is liable –
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both);and (in either case) to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the person is convicted.
- (4) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (3)(a) to 12 months is to be read as a reference to 6 months.

### *Engagement with residents etc*

## **82 Residents’ engagement strategy**

- (1) The accountable person for an occupied higher-risk building must as soon as reasonably practicable after the relevant time prepare a strategy (a “residents’ engagement strategy”) for promoting the participation of relevant persons in the making of building safety decisions.
- (2) “Building safety decision” means a decision by the accountable person or building safety manager for the building that –
  - (a) is about the management of the building, and

- (b) is made in connection with the performance of a duty of the accountable person or the building safety manager under this Part or regulations made under it.
- (3) The strategy must include information about –
  - (a) the information that will be provided to relevant persons about decisions relating to the management of the building,
  - (b) the aspects of those decisions that the accountable person will consult relevant persons about,
  - (c) the arrangements for obtaining and taking account of the views of relevant persons, and
  - (d) how the appropriateness of the accountable person’s methods for promoting participation will be measured and kept under review.
- (4) The accountable person must –
  - (a) review the strategy at prescribed intervals, and
  - (b) revise the strategy if they consider it necessary or appropriate to do so.
- (5) The accountable person must as soon as reasonably practicable after preparing or revising the strategy give each resident of the building who is aged 16 or over a copy of it.
- (6) The duty to give a copy of the strategy to a resident does not apply if the accountable person is not aware of the resident and has taken all reasonable steps to make themselves aware of residents of the building.
- (7) The Secretary of State may by regulations –
  - (a) make further provision about the content of a residents’ engagement strategy, and
  - (b) make provision about the way in which a strategy is to be given under this section.
- (8) In this section –
  - “relevant persons” are –
    - (a) residents of the higher-risk building who are aged 16 or over, and
    - (b) owners of flats in the building;
  - “the relevant time” has the same meaning as in section 72.
- (9) The Secretary of State may by regulations amend subsection (3).

### **83 Requests for further information**

- (1) This section applies where –
  - (a) a resident of an occupied higher-risk building aged 16 or over, or
  - (b) an owner of a flat in the building,
 makes a request to the accountable person for the building to give them prescribed information or a copy of a prescribed document.
- (2) The accountable person must as soon as reasonably practicable give the resident or owner the information or document requested.
- (3) The Secretary of State may by regulations make provision about –
  - (a) the way in which information or a copy of a document must be given under this section;

- (b) the form in which information must be given under this section (and may in particular require that the information is given in an accessible form).
- (4) The Secretary of State may by regulations make provision as to circumstances in which the accountable person is not required by subsection (2) to provide a copy of a document or some or all of the information requested.
- (5) This section does not authorise a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the powers conferred by this section).

#### **84 Complaints procedure: accountable person**

- (1) The accountable person for an occupied higher-risk building must as soon as reasonably practicable after the relevant time establish a system for the investigation of relevant complaints.
- (2) The building safety manager for the building must operate the complaints system.
- (3) The Secretary of State may by regulations make provision in relation to the establishment and operation of complaints systems under this section.
- (4) Regulations under subsection (3) may in particular make provision about—
  - (a) how a complaint may be made (including imposing requirements on the accountable person for the building to refer complaints to the building safety manager);
  - (b) the period within which a complaint must be considered and dealt with;
  - (c) the circumstances in which an a building safety manager must refer a complaint to the regulator.
- (5) In this section —
  - “relevant complaint” means a complaint relating to—
    - (a) the building safety risks as regards the building, or
    - (b) compliance by the accountable person or building safety manager for the building with any of their duties under, or under regulations made under, this Part;
  - “the relevant time” has the same meaning as in section 72.

#### **85 Complaints procedure: regulator**

- (1) The regulator must establish and operate a system for the investigation of relevant complaints to—
  - (a) the regulator, or
  - (b) the building safety manager for the building and referred by them to the regulator.
- (2) The regulator must consult the committee mentioned in section 11 (residents’ panel) about the complaints system—
  - (a) before the system is established or, if the committee has not been established at that time, as soon as reasonably practicable after it has been established, and

- (b) before making any significant change to the system.
- (3) The Secretary of State may by regulations make provision in relation to the establishment and operation of the complaints system under this section.
- (4) Regulations under subsection (3) may in particular make provision about—
  - (a) the period within which a complaint must be considered and dealt with;
  - (b) action that the regulator must consider taking in response to a complaint.
- (5) In this section “relevant complaint” means a complaint relating to—
  - (a) the building safety risks as regards an occupied higher-risk building, or
  - (b) compliance by the accountable person or building safety manager for an occupied higher-risk building with any of their duties under, or under regulations made under, this Part.

#### *Residents' duties*

### **86 Duties on residents**

- (1) A resident of an occupied higher-risk building aged 16 or over —
  - (a) must keep in repair and proper working order any relevant resident’s item,
  - (b) must take reasonable care to avoid damaging any relevant safety item, and
  - (c) must comply with a request, made by the accountable person for the building, for information reasonably required for the purposes of a duty under section 72 or 73.
- (2) Where it appears to the accountable person for an occupied higher-risk building that a resident has contravened (or is contravening) a duty under subsection (1), the accountable person may give the relevant person a notice under this section.
- (3) A notice under this section is a notice that—
  - (a) specifies the duty in question and the alleged contravention;
  - (b) specifies any steps that the accountable person considers the resident should take in order to remedy the contravention, and a reasonable time for the taking of those steps;
  - (c) specifies anything that the accountable person considers the resident should refrain from doing, to avoid further contraventions of the duty in question;
  - (d) contains an explanation of the steps that the accountable person may take under this section if the notice is not complied with.
- (4) The Secretary of State may by regulations make provision about notices under this section, including—
  - (a) provision about the form of a notice and the way a notice is to be given, and
  - (b) further provision about the content of a notice.
- (5) The county court may, on an application made by the accountable person, make an order under this section if satisfied that—

- (a) a notice under this section has been given,
  - (b) the contravention alleged in the notice occurred, and
  - (c) it is necessary to make the order.
- (6) An order under this section may –
  - (a) require a resident of an occupied higher-risk building aged 16 or over to provide specified information or do a specified thing, by a specified time;
  - (b) prohibit such a resident from doing a specified thing.
- (7) In this section –
  - “relevant resident’s item”, in relation to a resident, means any electrical or gas installation or appliance that –
    - (a) is in the dwelling in which the resident resides or is in premises occupied or controlled by a resident of the dwelling in connection with the dwelling, and
    - (b) is not an installation or appliance for which a person other than a resident of the dwelling is under a duty to keep in repair or proper working order;
  - “relevant safety item” means anything that –
    - (a) is in, or forms part of, the common parts (as defined by section 61), and
    - (b) is intended to improve the safety of persons in or about the building in relation to a building safety risk.
- (8) The Secretary of State may by regulations amend subsection (1) or (7).

## **87 Access to dwellings etc**

- (1) The county court may, on an application made by the accountable person for an occupied higher-risk building, make an order under this section in respect of any premises in the building occupied or controlled by a resident of the building if satisfied that –
  - (a) a request in writing for entry to the premises at a reasonable time has been made to the resident,
  - (b) the request is within subsection (4) or (5),
  - (c) entry to the premises has not been given, and
  - (d) it is necessary to make the order for the relevant purpose.
- (2) In this section “the relevant purpose” means –
  - (a) in relation to a request within subsection (4), the purpose of facilitating the performance by the accountable person of the duty mentioned in the request;
  - (b) in relation to a request within subsection (5), the purpose of determining whether the duty mentioned in the request has been contravened.
- (3) An order under this section –
  - (a) requires the resident to allow the accountable person, or a person authorised by the accountable person, to enter the premises at a reasonable time on a specified date or within a specified period for the relevant purpose;

- (b) may, if it appears to court necessary for the relevant purpose, authorise the taking of measurements, photographs, recordings or samples by the accountable person or authorised person.
- “Specified” here means specified in the order.
- (4) A request is within this subsection if it—
    - (a) is made in connection with the performance by the accountable person of a duty under section 72 or 73 (assessment of building safety risks etc),
    - (b) sets out the duty, and
    - (c) contains an explanation of why it is necessary to enter the premises for the purpose of performing the duty.
  - (5) A request is within this subsection if it—
    - (a) contains an explanation of why the accountable person considers that a duty under section 86 (residents’ duties) may have been contravened,
    - (b) sets out the duty, and
    - (c) contains an explanation of why it is necessary to enter the premises for the purpose of determining whether the duty has been contravened.

*Recovery of safety related costs*

## 88 Higher-risk buildings: implied building safety terms

After section 17 of the Landlord and Tenant Act 1985 insert—

*“Higher-risk buildings: implied building safety terms*

### 17A Implied building safety terms

- (1) This section applies to a long lease of a dwelling in a higher-risk building.
- (2) In the lease there is implied a covenant by the landlord—
  - (a) to comply with section 17H (building safety charges: landlord obligations) in relation to building safety charges payable by the tenant;
  - (b) where the landlord is an accountable person for the building—
    - (i) to carry out the prescribed building safety measures in relation to the building, and
    - (ii) to cooperate with any other accountable persons for the building in connection with the carrying out of prescribed building safety measures;
  - (c) where the landlord is not an accountable person for the building, to cooperate with all accountable persons for the building in connection with the carrying out of prescribed building safety measures;
  - (d) where a special measures manager has been appointed for the building by an order under Part 4 of the Building Safety Act 2020—
    - (i) to cooperate with the manager in connection with the manager carrying out any functions under the order or under Part 4 of the Building Safety Act 2020, and

- (ii) to pay to the manager any amounts that are required to be paid by the landlord under the order;
  - (e) to take all reasonable steps to apply for any relevant financial support available to the landlord for the costs of carrying out prescribed building safety measures in relation to the building.
- (3) In the lease there is implied a covenant by the tenant –
  - (a) to pay to the landlord, within 28 days of a demand, any building safety charges that are required be paid by the tenant in accordance with sections 17G to 17X;
  - (b) to allow the landlord, or any person authorised by the landlord in writing, to enter the dwelling for the purposes of –
    - (i) carrying out prescribed building safety measures, or
    - (ii) inspecting or accessing any part of the building in connection with carrying out prescribed building safety measures;
  - (c) where the tenant is a resident of the higher-risk building, to carry out the duties of a resident of a higher-risk building under sections 86 and 87 of the Building Safety Act 2020.
- (4) The covenant implied by subsection (3)(b) requires entry to the dwelling to be allowed –
  - (a) only at reasonable times, and
  - (b) only if at least 48 hours’ notice in writing has been given to the tenant.
- (5) In this section –
  - “accountable person” has the meaning given in section 61 of the Building Safety Act 2020;
  - “building safety charge” has the meaning given in section 17G;
  - “building safety costs” has the meaning given in section 17G;
  - “lease of a dwelling” means a lease by which a part of a higher-risk building is let wholly or mainly as a private residence and
  - “dwelling” means that part of the higher-risk building;
  - “prescribed building safety measure” means a building safety measure prescribed under section 17G;
  - “relevant financial support” includes any grant or other funding available to the landlord for the costs of carrying out prescribed building safety measures in relation to the building;
  - “resident” has the meaning given in section 60 of the Building Safety Act 2020;
  - “special measures manager” has the meaning given in section 96 of the Building Safety Act 2020.

## **17B Meaning of long lease**

- (1) In section 17A “long lease” means –
  - (a) a lease granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture, or
  - (b) a lease for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, other than a lease by sub-demise from one which is not a long lease.



- (2) In subsection (1) a reference to a lease includes—
- (a) a lease granted in pursuance of Part 5 of the Housing Act 1985 (the right to buy);
  - (b) a lease granted in pursuance of Part 5 of the Housing Act 1985 as it has effect by virtue of section 17 of the Housing Act 1996 (the right to acquire);
  - (c) a shared ownership lease, whether or not the tenant’s total share is 100%.
- (3) In this section “shared ownership lease” and “total share” have the meaning given in section 7(7) of the Leasehold Reform, Housing and Urban Development Act 1993.

#### **17C Restrictions on contracting out of section 17A**

A covenant or agreement, whether contained in a lease to which section 17A (implied building safety terms) applies or in an agreement collateral to such a lease, is void in so far as it purports—

- (a) to exclude or limit the obligations of the landlord or the tenant under that section, or
- (b) to authorise any forfeiture or impose on the tenant any penalty, disability or obligation in the event of the tenant enforcing or relying upon the obligations of the landlord.

#### **17D Jurisdiction of county court**

The county court has jurisdiction to deal with any claim or other proceedings arising under or in connection with section 17A (implied building safety terms) notwithstanding that by reason of the amount of the claim or otherwise the case would not, apart from this section, be within the jurisdiction of the county court.

#### **17E Specific performance of implied building safety terms**

In proceedings relating to a breach of a covenant in section 17A(2) or (3)(b) or (c) (implied building safety terms), the court may order specific performance of the covenant—

- (a) whether or not the breach relates to a part of the higher-risk building let to the tenant, and
- (b) notwithstanding any equitable rule restricting the scope of the remedy, whether on the basis of a lack of mutuality or otherwise.

#### **17F Interpretation**

In sections 17A to 17E (implied building safety terms)—

“higher-risk building” has the meaning given in section 19 of the Building Safety Act 2020;

“tenant” and “landlord” mean, respectively, the person for the time being entitled to the term of a lease and to the reversion expectant on it.”

### **89 Building safety charges**

- (1) After section 17F of the Landlord and Tenant Act 1985 (inserted by section 88)



insert—

*“Building safety charges*

**17G Building safety charges**

- (1) A relevant landlord may, by written demand, require a relevant tenant to pay a building safety charge to the landlord.
- (2) “Building safety charge” means a charge in respect of building safety costs.
- (3) “Building safety costs” are the costs or estimated costs incurred or to be incurred by or on behalf of an accountable person for a higher-risk building in connection with the person carrying out prescribed building safety measures.
- (4) “Building safety measures” are the measures that an accountable person for a higher-risk building is required by Part 4 of the Building Safety Act 2020 to carry out in relation to the building.
- (5) “Prescribed” means prescribed in regulations made by the Secretary of State under this section.
- (6) Regulations under subsection (5)—
  - (a) may make different provision for different purposes;
  - (b) may make consequential, supplementary, incidental, transitional, transitory or saving provision.
- (7) Regulations under subsection (5) are to be made by statutory instrument, which is to be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section “costs” includes overheads.
- (9) A building safety charge is in respect of building safety costs whether the costs are incurred, or are to be incurred, in the annual accounting period for which the building safety charge is payable or in an earlier or later period.
- (10) In sections 17G to 17X—
  - “relevant landlord” means a landlord under a lease to which section 17A applies;
  - “relevant tenant” means a tenant under a lease to which section 17A applies.

**17H Building safety charges: landlord obligations**

- (1) A relevant landlord may not require a relevant tenant to pay a building safety charge in respect of an annual accounting period unless the landlord has given the following information to the tenant—
  - (a) details of the accounting period to be used in respect of calculating building safety costs and charges;
  - (b) a budget in respect of the accounting period including an estimate of—
    - (i) the building safety costs to be incurred, and
    - (ii) the building safety charges to be payable by the tenant;

- (c) where a building safety charge to be payable by the tenant is in respect of additional building safety costs to be incurred that are not included in the budget given under subsection (1)(b), a separate budget including an estimate of—
    - (i) the additional building safety costs to be incurred, and
    - (ii) the additional building safety charges to be payable by the tenant.
- (2) Where a relevant landlord requires a relevant tenant to pay a building safety charge in respect of an annual accounting period, the landlord must—
  - (a) in calculating the building safety charge payable by the tenant, apportion the building safety costs related to the higher-risk building between all dwellings in the building in accordance with section 17I;
  - (b) hold any amounts received from the tenant in respect of building safety charges on trust in a designated account in accordance with sections 17U and 17V;
  - (c) provide the tenant, within 28 days of the end of the accounting period, a reconciliation account setting out in respect of the period—
    - (i) the prescribed building safety measures carried out;
    - (ii) the building safety costs incurred in respect of those measures;
    - (iii) the amount of those building safety costs in respect of which building safety charges were not payable and the reasons why they were not payable;
    - (iv) the total amount of building safety charges due from all relevant tenants in the higher-risk building;
    - (v) the total amount of building safety charges received from all relevant tenants in the higher-risk building;
    - (vi) the amount of any balance remaining in the designated account referred to in paragraph (b) at the end of the period;
    - (vii) any penal or enforcement action taken by the regulator under the Building Safety Act 2020 and the costs incurred by the landlord in respect of that action;
  - (d) use the amount of any balance remaining in the designated account referred to in paragraph (b) at the end of the period towards reducing the building safety charges payable by relevant tenants in the higher-risk building in the following annual accounting period.
- (3) A relevant landlord may not serve a relevant tenant with a demand for building safety charges more than once in any three month period.
- (4) A relevant tenant may withhold payment of a building safety charge in respect of an annual accounting period if, before the demand for the charge is made—
  - (a) the tenant has not been given the information required by subsection (1), or
  - (b) the tenant has not been provided with any reconciliation account required by subsection (2)(c) in respect of the previous annual accounting period.

- (5) Where a relevant tenant withholds payment of a building safety charge under this section, any provisions of the lease relating to non-payment or late payment of any sums due under the lease do not have effect in relation to the withheld payment for the period in which the tenant so withholds the payment.
- (6) The Secretary of State may by regulations amend subsections (1) to (3) to alter the obligations of a relevant landlord in relation to requiring the payment of building safety charges.
- (7) Regulations under subsection (6) –
  - (a) may make different provision for different purposes;
  - (b) may make supplementary, incidental, transitional, transitory or saving provision;
  - (c) may make consequential amendments to any provision of this Act or any regulations made under this Act.
- (8) Regulations under subsection (6) are to be made by statutory instrument.
- (9) A statutory instrument containing regulations under subsection (6) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

#### **17I Apportionment of building safety costs**

- (1) This section applies where a relevant landlord is required to apportion building safety costs to a dwelling in a higher-risk building in accordance with section 17H(2)(a).
- (2) Where the lease of a dwelling contains a method for apportioning the building safety costs to the dwelling, the landlord must apportion the building safety costs using that method.
- (3) Where the lease of a dwelling does not contain such a method, the landlord must, subject to subsection (5), apportion the building safety costs to the dwelling using –
  - (a) any method contained in the lease for apportioning relevant costs between all dwellings in the building in order to calculate the service charge payable by the tenant under the lease, or
  - (b) any method agreed in writing with the tenant for apportioning the building safety costs to the dwelling.
- (4) Where subsection (6) or (7) applies, the landlord or the tenant (as the case may be) may apply to the appropriate tribunal for a determination of a fair method for apportioning the building safety costs to the dwelling.
- (5) Where a method for apportioning the building safety costs to the dwelling is determined following an application under subsection (4), the landlord must apportion the building safety costs using that method.
- (6) This subsection applies where –
  - (a) the building safety costs are apportioned to the dwelling using a method in accordance with subsection (3), and

- (b) the landlord or the tenant (as the case may be) considers that the method is not a fair method for apportioning the building safety costs.
- (7) This subsection applies where –
  - (a) subsection (3)(a) does not apply, and
  - (b) a method for apportioning the building safety costs to the dwelling has not been agreed with the tenant under subsection (3)(b).
- (8) In this section –
  - “lease of a dwelling” means a lease by which a part of a higher-risk building is let wholly or mainly as a private residence and
  - “dwelling” means that part of the higher-risk building;
  - “relevant costs” has the meaning given in section 18;
  - “service charge” has the meaning given in section 18.

#### **17J Limitation of building safety charges: reasonableness**

Building safety costs may be taken into account in determining the amount of a building safety charge payable by a relevant tenant –

- (a) only to the extent that they are reasonably incurred, and
- (b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard,

and the amount payable is to be limited accordingly.

#### **17K Limitation of building safety charges: consultation requirements**

- (1) Where this section applies to any qualifying building safety works or qualifying building safety agreement, the relevant contributions of relevant tenants are limited in accordance with subsection (6) or (7) (or both) unless –
  - (a) the consultation requirements have been either –
    - (i) complied with in relation to the works or agreement, or
    - (ii) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal (see section 17L),
  - (b) section 17M (urgent cases) applies to the works, or
  - (c) section 17N (special measures) applies to the works or agreement.
- (2) In this section “relevant contribution”, in relation to a relevant tenant and any works or agreement, is the amount which the tenant may be required to contribute by the payment of building safety charges to building safety costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying building safety works if building safety costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying building safety agreement –
  - (a) if building safety costs incurred under the agreement exceed an appropriate amount, or

- (b) if building safety costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount –
  - (a) an amount prescribed by, or determined in accordance with, the regulations, and
  - (b) an amount which results in the relevant contribution of any one or more relevant tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the building safety costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of relevant tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of subsection (5), the amount of the relevant contribution of the relevant tenant, or each of the relevant tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

#### **17L Consultation requirements: supplementary**

- (1) Where a relevant person applies to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying building safety works or qualifying building safety agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.
- (2) In sections 17G to 17X –
  - “qualifying building safety works” means works of a description prescribed by regulations made by the Secretary of State, and
  - “qualifying building safety agreement” means an agreement of a description prescribed by regulations made by the Secretary of State entered into, by or on behalf of an accountable person, for the higher-risk building.
- (3) In section 17K and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.
- (4) Regulations under subsection (3) may in particular include provision requiring the landlord or an accountable person –
  - (a) to provide details of proposed works or agreements to relevant tenants or the recognised tenants’ association representing them,
  - (b) to obtain estimates for proposed works or agreements,
  - (c) to invite relevant tenants or the recognised tenants’ association to propose the names of persons from whom the landlord or an accountable person should try to obtain other estimates,

- (d) to have regard to observations made by relevant tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and
  - (e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.
- (5) Regulations under subsection (2) may not prescribe as a qualifying building safety agreement an agreement under which an accountable person appoints a building safety manager.
- (6) Regulations under section 17K, this section or section 17M—
  - (a) may make provision generally or only in relation to specific cases, and
  - (b) may make different provision for different purposes.
- (7) Regulations under section 17K, this section or section 17M are to be made by statutory instrument, which is to be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section—
  - “building safety manager” has the meaning given in section 67 of the Building Safety Act 2020;
  - “relevant person” means—
    - (a) an accountable person for the higher-risk building, or
    - (b) a person acting jointly with such an accountable person.

#### **17M Consultation requirements: urgent cases**

- (1) This section applies to qualifying building safety works where the works are required to be undertaken pursuant to a compliance notice or an urgent action notice issued by the regulator.
- (2) Where this section applies to works—
  - (a) the landlord, or
  - (b) if the landlord is not an accountable person for the building, an accountable person,
 must give each relevant tenant in the higher-risk building an exemption notice in accordance with this section.
- (3) An exemption notice must—
  - (a) be given in the prescribed form;
  - (b) be accompanied by a copy of the compliance notice or urgent action notice;
  - (c) be certified by an accountable person for the higher-risk building as being true.
- (4) Where this section applies to works, the costs of the works may be taken into account in determining the amount of a building safety charge payable by a relevant tenant only if an exemption notice in respect of the works has been given to the tenant in accordance with this section.
- (5) In this section—
  - “compliance notice” has the meaning given in section 91 of the Building Safety Act 2020;

“prescribed” means prescribed in regulations made by the Secretary of State under this section;

“urgent action notice” means has the meaning given in section 91 of the Building Safety Act 2020.

#### **17N Consultation requirements: special measures**

- (1) This section applies to—
  - (a) qualifying building safety works carried out, or
  - (b) a qualifying building safety agreement entered into, by a special measures manager at the direction of the regulator.
- (2) In this section “special measures manager” has the meaning given in section 96 of the Building Safety Act 2020.

#### **17O Limitation of building safety charges: excluded costs**

- (1) This section applies where—
  - (a) any of the costs in subsection (3) are incurred or are to be incurred by or on behalf of an accountable person for a higher-risk building in connection with the person carrying out prescribed building safety measures, and
  - (b) the costs would, but for this section, be building safety costs for the purposes of section 17G.
- (2) The costs are not building safety costs for the purposes of section 17G and may not be taken into account in determining the amount of a building safety charge payable by a relevant tenant.
- (3) The costs referred to in subsection (1)(a) are—
  - (a) costs incurred or to be incurred solely as a result of any penalty imposed or enforcement action taken by the regulator;
  - (b) costs incurred or to be incurred by reason of any negligence, breach of contract or unlawful act on the part of an accountable person;
  - (c) prescribed costs incurred or to be incurred in connection with the carrying out of prescribed building safety measures.
- (4) In subsection (3)(c) “prescribed costs” means costs of a description prescribed in regulations made by the Secretary of State under this section.
- (5) Regulations under subsection (4)—
  - (a) may make different provision for different purposes;
  - (b) may make consequential, supplementary, incidental, transitional, transitory or saving provision.
- (6) Regulations under subsection (4) are to be made by statutory instrument, which is to be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **17P Limitation of building safety charges: financial support**

- (1) This section applies where—
  - (a) building safety costs are incurred or are to be incurred by or on behalf of an accountable person in respect of works, and



- (b) relevant financial support has been or is to be paid to the accountable person in respect of those works.
- (2) The amount of the support must be deducted from the building safety costs and the amount of the building safety charge payable must be reduced accordingly.
- (3) In this section “relevant financial support” includes any grant or other funding available to the accountable person for the costs of carrying out prescribed building safety measures in relation to the building.

**17Q Limitation of building safety charges: time limit on making demands**

- (1) If any of the building safety costs taken into account in determining the amount of any building safety charge were incurred more than 18 months before a demand for payment of the building safety charge is served on the relevant tenant, then the tenant is not be liable to pay so much of the building safety charge as reflects the costs so incurred.
- (2) But subsection (1) does not apply if, within the period of 18 months beginning with the date when the building safety costs in question were incurred, the relevant tenant was notified in writing that those costs had been incurred and that the tenant would subsequently be required to contribute to them by the payment of a building safety charge.

**17R Limitation of building safety charges: costs of proceedings**

- (1) A relevant tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the relevant landlord in connection with proceedings before a court, the First-tier Tribunal or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as building safety costs to be taken into account in determining the amount of any building safety charge payable by the tenant or any other person or persons specified in the application.
- (2) Section 20C(2) applies to an application under subsection (1) as it applies to an application under section 20C(1).
- (3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

**17S Notice to accompany demands for building safety charges**

- (1) A demand for the payment of a building safety charge must be accompanied by a summary of the rights and obligations of relevant tenants of dwellings in relation to building safety charges.
- (2) The Secretary of State may make regulations prescribing requirements as to the form and content of such summaries of rights and obligations.
- (3) A relevant tenant may withhold payment of a building safety charge which has been demanded if subsection (1) is not complied with in relation to the demand.
- (4) Where a relevant tenant withholds payment of a building safety charge under this section, any provisions of the lease relating to non-payment or late payment of any sums due under the lease do not have effect in



relation to the withheld payment for the period in which the tenant so withholds the payment.

- (5) Regulations under subsection (2) may make different provision for different purposes.
- (6) Regulations under subsection (2) are to be made by statutory instrument, which is to be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **17T Liability to pay building safety charges: jurisdiction**

- (1) An application may be made to the appropriate tribunal for a determination whether a building safety charge is payable and, if it is, as to –
  - (a) the person by whom it is payable,
  - (b) the person to whom it is payable,
  - (c) the amount which is payable,
  - (d) the date at or by which it is payable, and
  - (e) the manner in which it is payable.
- (2) Subsection (1) applies whether or not any payment has been made.
- (3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for prescribed building safety measures, a building safety charge would be payable for the costs and, if it would, as to –
  - (a) the person by whom it would be payable,
  - (b) the person to whom it would be payable,
  - (c) the amount which would be payable,
  - (d) the date at or by which it would be payable, and
  - (e) the manner in which it would be payable.
- (4) No application under subsection (1) or (3) may be made in respect of a matter which –
  - (a) has been agreed or admitted by the tenant,
  - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
  - (c) has been the subject of determination by a court, or
  - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.
- (6) An agreement by the relevant tenant (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination –
  - (a) in a particular manner, or
  - (b) on particular evidence,of any question which may be the subject of an application under subsection (1) or (3).
- (7) The jurisdiction conferred on the appropriate tribunal in respect of any matter by virtue of this section is in addition to any jurisdiction of a court in respect of the matter.

**17U Building safety charge contributions to be held on trust**

- (1) This section applies where relevant tenants of a higher-risk building may be required to pay building safety charges to a relevant landlord in respect of building safety costs related to the building.
- (2) Any sums paid to the landlord by way of building safety charges in relation to the building, and any investments representing those sums, are (together with any income accruing thereon) to be held by the landlord either –
  - (a) as a single trust fund, or
  - (b) in two or more separate trust funds.
- (3) The landlord must hold any trust fund –
  - (a) on trust to defray costs incurred in connection with the matters for which the relevant building safety charges were payable, and
  - (b) subject to that, on trust for the contributing tenants for the time being.
- (4) Subject to subsections (5) to (7), the contributing tenants are to be treated as entitled by virtue of subsection (3)(b) to such shares in the residue of any such fund as are proportionate to their respective liabilities to pay building safety charges.
- (5) On the termination of the lease of any of the contributing tenants, the tenant is not entitled to any part of any trust fund, and (except where subsection (6) applies) any part of any such fund which is attributable to building safety charges paid is accordingly to continue to be held on the trusts referred to in subsection (3).
- (6) On the termination of the lease of the last of the contributing tenants, any trust fund is to be dissolved as at the date of the termination of the lease, and any assets comprised in the fund immediately before its dissolution are to be retained by the landlord for their own use and benefit.
- (7) Subsections (4) to (6) have effect in relation to any of the contributing tenants subject to any express terms of the tenant's lease (whenever it was granted) which relate to the distribution, either before or after the termination of the lease, of amounts attributable to building safety charges paid.
- (8) Subject to subsection (7), the provisions of this section prevail over the terms of any express or implied trust created by a lease so far as inconsistent with those provisions.
- (9) If the Secretary of State by regulations so provides, any sums standing to the credit of any trust fund may, instead of being invested in any other manner authorised by law, be invested in such manner as may be specified in the regulations.
- (10) Regulations under this section may –
  - (a) make different provision for different purposes;
  - (b) contain such supplementary, incidental, consequential, transitional, transitory or saving provision as the Secretary of State considers appropriate.

- (11) Regulations under this section are to be made by statutory instrument which is to be subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) In this section “contributing tenants” means the tenants referred to in subsection (1).

**17V Building safety charge contributions to be held in designated account**

- (1) The landlord must hold any sums standing to the credit of any trust fund in a designated account at a relevant financial institution.
- (2) An account is a designated account in relation to sums standing to the credit of a trust fund if –
  - (a) the relevant financial institution has been notified in writing that sums standing to the credit of the trust fund are to be (or are) held in it, and
  - (b) any other sums held in the account are sums standing to the credit of one or more other trust funds,and the account is an account of a description specified in regulations made by the Secretary of State.
- (3) The Secretary of State may by regulations provide that a landlord who holds more than one trust fund in the same designated account cannot move any of those funds to another designated account unless conditions specified in the regulations are met.
- (4) Any of the contributing tenants may by notice in writing require the landlord –
  - (a) to afford the tenant reasonable facilities for –
    - (i) inspecting documents evidencing that subsection (1) is, or regulations under subsection (3) are, being complied with, and
    - (ii) taking copies of or extracts from such documents, or
  - (b) to take copies of or extracts from any such documents referred to in paragraph (a)(i) and either send them to the tenant or afford the tenant reasonable facilities for collecting them (as specified by the tenant).
- (5) If the tenant is represented by a recognised tenants’ association and the tenant consents, the notice may be served by the secretary of the association instead of by the tenant (and in that case any requirement imposed by it is to afford reasonable facilities, or to send copies or extracts, to the secretary).
- (6) A notice under subsection (4) is duly served on the landlord if it is served on –
  - (a) the landlord, or
  - (b) a person who collects the building safety charge on behalf of the landlord.
- (7) Where a notice is served on a person under subsection (6)(b), that person must forward the request as soon as is reasonably practicable to the landlord.

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- (8) The landlord must comply with a requirement imposed by a notice under subsection (4) within the period of 21 days beginning with the day on which the landlord receives the notice.
  - (9) Where a notice under subsection (4) requires the landlord to afford facilities for inspecting documents –
    - (a) the landlord must do so free of charge, but
    - (b) the landlord may treat as part of the costs of management any costs incurred by the landlord in doing so.
  - (10) The landlord may make a reasonable charge for doing anything else in compliance with a requirement imposed by a notice under subsection (4).
  - (11) A contributing tenant may withhold payment of a building safety charge if the tenant has reasonable grounds for believing that the landlord has failed to comply with the duty imposed on the landlord by subsection (1).
  - (12) Where a relevant tenant withholds payment of a building safety charge under this section, any provisions of the lease relating to non-payment or late payment of any sums due under the lease do not have effect in relation to the withheld payment for the period in which the tenant so withholds the payment.
  - (13) Regulations under subsection (3) may include provision about –
    - (a) the circumstances in which a contributing tenant who has reasonable grounds for believing that the landlord has not complied with a duty imposed on the tenant by the regulations may withhold payment of a building safety charge;
    - (b) the period for which payment may be so withheld;
    - (c) the amount of building safety charge that may be so withheld, and the regulations may provide that any provisions of the contributing tenant’s lease relating to non-payment or late payment of any sums due under the lease do not have effect in relation to the withheld payment for the period in which the payment is so withheld.
  - (14) Nothing in this section or in regulations under subsection (3) applies to the landlord if the circumstances are such as are specified in regulations made by the Secretary of State.
  - (15) Regulations under this section may –
    - (a) make different provision for different purposes;
    - (b) contain such supplementary, incidental, consequential, transitional, transitory or saving provision as the Secretary of State considers appropriate.
  - (16) Regulations under this section are to be made by statutory instrument which is to be subject to annulment in pursuance of a resolution of either House of Parliament.
  - (17) In this section “relevant financial institution” has the meaning given by regulations made by the Secretary of State.
  - (18) Expressions used both in section 17U and this section have the same meaning as in section 17U.

### **17W Failure to comply with section 17V**

- (1) A person commits an offence if the person fails, without reasonable excuse, to comply with a duty imposed on the person by or by virtue of section 17V.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (3) Proceedings for an offence under this section may be brought by a local housing authority (within the meaning of section 1 of the Housing Act 1985).

### **17X Interpretation**

In sections 17G to 17X—

- “accountable person” has the meaning given in section 61 of the Building Safety Act 2020;
  - “building safety charge” has the meaning given in section 17G;
  - “building safety measure” has the meaning given in section 17G and “prescribed building safety measure” means a building safety measure prescribed under that section;
  - “building safety costs” has the meaning given in section 17G;
  - “dwelling” has the meaning given in section 17A;
  - “higher-risk building” has the meaning given in section 19 of the Building Safety Act 2020;
  - “qualifying building safety agreement” has the meaning given in 17L;
  - “qualifying building safety works” has the meaning given in section 17L;
  - “recognised tenants’ association” has the meaning given in section 29;
  - “regulator” has the meaning given in section 2 of the Building Safety Act 2020.”
- (2) In section 18 of the Landlord and Tenant Act 1985 (service charges), after subsection (2) insert—
- “(2A) Where a cost or estimated cost is both—
- (a) a relevant cost under subsection (2), and
  - (b) a building safety cost under section 17G(3),
- the cost or estimated cost is to be treated for the purposes of this Act as if it is a building safety cost only (and accordingly it may not be taken into account in determining the amount of a service charge payable).”

### *Enforcement*

## **90 Duty on regulator to enforce Part**

The regulator must enforce the provisions of this Part.

**91 Compliance notices**

- (1) The regulator may give a compliance notice to a relevant person who appears to the regulator to have contravened, be contravening or be likely to contravene a relevant requirement.
- (2) A “compliance notice” is—
  - (a) a notice requiring the relevant person to take specified steps within a specified period, or
  - (b) a notice requiring the relevant person to remedy the contravention or the matters giving rise to it within a specified period.
- (3) A notice of a kind mentioned in subsection (2)(a) may specify any steps relating to—
  - (a) the remedying the contravention, or
  - (b) avoiding the contravention occurring.
- (4) Where it appears to the regulator that the contravention has placed or will place people in or about the building in imminent danger the regulator may specify that the compliance notice is a notice to which this subsection applies (an “urgent action notice”).
- (5) A person who, without reasonable excuse, contravenes a compliance notice commits an offence.
- (6) A person guilty of an offence under subsection (5) is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both);
 and (in either case) to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the person is convicted.
- (7) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (6)(a) to 12 months is to be read as a reference to 6 months.
- (8) In this section—
 

“relevant person” means the accountable person or building safety manager for a higher-risk building;

“relevant requirement” means any requirement on a relevant person under, or under regulations made under, this Part except one that is prescribed for the purposes of this section;

“specified” means specified in the notice.

**92 Compliance notices: supplementary**

- (1) The Secretary of State may by regulations make further provision about compliance notices.
- (2) The regulations may in particular make provision about—
  - (a) the form and content of notices;
  - (b) the giving of notices;
  - (c) the amendment or withdrawal of notices;
  - (d) the extension of any period specified in a compliance notice for the doing of a thing.

- (3) Subsection (4) applies where the regulator has given a compliance notice to an accountable person or building safety manager for a higher-risk building.
- (4) The regulator must take reasonable steps to notify –
  - (a) the local authority for the area in which the building is situated;
  - (b) the fire and rescue authority for the area in which the building is situated;
  - (c) where the accountable person for the building is a registered provider of social housing, the Regulator of Social Housing;
  - (d) any other prescribed person.

### **93 Appeals against compliance notice**

- (1) A person to whom a compliance notice has been given may appeal to the tribunal.
- (2) Where an appeal under subsection (1) is made and the compliance notice is not an urgent action notice –
  - (a) the compliance notice is of no effect pending the final determination or withdrawal of the appeal, and
  - (b) the specified period mentioned in section 91(2)(a) is treated as extended by the period –
    - (i) beginning with the day the appeal is made, and
    - (ii) ending with the day the appeal is finally determined or withdrawn.
- (3) Where an appeal under subsection (1) is made and the compliance notice is an urgent action notice –
  - (a) the appellant may apply to the tribunal for a direction that the compliance notice is of no effect pending the final determination or withdrawal of the appeal, and
  - (b) unless and until any such direction is given, the compliance notice continues to have effect despite the making of the appeal.
- (4) In this section “urgent action notice” has the meaning given by section 91(4).
- (5) The Secretary of State may by regulations make provision about appeals under this section, including in particular provision about –
  - (a) the grounds of appeal;
  - (b) the powers of the tribunal on determining an appeal (including provision conferring a power to give directions).

### **94 Offence: contravention giving rise to risk of death and serious injury**

- (1) It is an offence for an accountable person for a higher-risk building to contravene, without reasonable excuse, any relevant requirement where that failure places one or more people in or about the building at critical risk.
- (2) A person guilty of an offence under subsection (1) is liable –
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both);



and (in either case) to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the person is convicted.

- (3) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (2)(a) to 12 months is to be read as a reference to 6 months.
- (4) In this section –
  - “critical risk” means a significant risk of death or serious injury arising from a building safety risk;
  - “relevant requirement” means any requirement on an accountable person under, or under regulations made under, this Part except one that is prescribed for the purposes of this section.

### *Special measures*

## **95 Notification by regulator before making application under section 96**

- (1) This section applies where the regulator proposes to make an application under section 96 in relation to an occupied higher-risk building.
- (2) The regulator must give the accountable person for the building notice of the proposal.
- (3) The regulator may not make the application before the end of the period of 14 days beginning with the day on which the notice is given.
- (4) The Secretary of State may by regulations make provision in relation to notices under this section, including in particular provision –
  - (a) about the form and content of the notice;
  - (b) about the way in which the notice must be given;
  - (c) as to the making of representations by the accountable person in response to the notice;
  - (d) requiring the regulator to take account of such representations.

## **96 Order appointing special measures manager**

- (1) This section applies where –
  - (a) the regulator applies to the tribunal for an order under this section in relation to an occupied higher-risk building, and
  - (b) no building assurance certificate is in force in relation to the building.
- (2) The tribunal may by order appoint a person to be a manager (a “special measures manager”) for the building, to carry out such functions mentioned in subsection (3) as the tribunal considers appropriate.
- (3) The functions are –
  - (a) any function relating to the management of the building safety risks (including in particular any function under, or under regulations made under, this Part);
  - (b) any function as a receiver.
- (4) The tribunal may make the order only if satisfied –



- (a) that there has been a serious failure, or repeated failures, by the accountable person for the building to comply with their duties under, or under regulations made under, this Part, or
  - (b) that there have been repeated failures by the accountable person to hold any amounts received in respect of building safety charges in accordance with the relevant requirements.
- (5) An order may make provision with respect to—
  - (a) any matter relating to the exercise of the manager’s functions, and
  - (b) any incidental or ancillary matter.
- (6) In particular it may include provision—
  - (a) modifying any provision of, or of regulations made under, this Part as it applies in relation to the building;
  - (b) for rights and liabilities arising under contracts to which the special measures manager is not a party to become rights and liabilities of the manager;
  - (c) for the manager to be entitled to bring a claim accruing before or after the date of the appointment;
  - (d) for a person specified in the order to pay the manager remuneration.
- (7) The Secretary of State may by regulations amend subsection (4).
- (8) In subsection (4) —
  - “building safety charge” has the same meaning as in section 17G of the Landlord and Tenant Act 1985;
  - “the relevant requirements” means the requirements under section 17H, 17U and 17V of that Act.

## **97 Orders under section 96: supplementary**

- (1) This section applies where an order under section 96 is made in relation to a higher-risk building.
- (2) The special measures manager for the building must as soon as reasonably practicable display the order in a conspicuous position in the building.
- (3) Any person who, immediately before the time the order is made, is the building safety manager for the building ceases at that time to be the building safety manager for the building.
- (4) In respect of the period for which the order is in force, the relevant functions do not apply in relation to the accountable person for the building.
- (5) Any compliance notice given under section 91 that relates to the building ceases to have effect (but this does not affect any liability incurred as a result of a contravention of a compliance notice occurring before the making of the order).
- (6) On an application by the regulator, the special measures manager or the accountable person for the building, the tribunal may give directions to the manager or any other person with respect to—
  - (a) any matter relating to the exercise of the manager’s functions, and
  - (b) any incidental or ancillary matter.

- (7) The Secretary of State may by regulations make provision about how monies received by a person appointed under section 96 are to be dealt with and accounted for.
- (8) In this section “the relevant functions” means the functions of an accountable person for a higher-risk building under, or under regulations made under, this Part except the functions under subsection (6) and section 100(1) (powers to apply to tribunal).

#### **98 Amendment of other orders on making of order under section 96**

- (1) This section applies where—
  - (a) a tribunal makes an order under section 96 appointing a special measures manager for a higher-risk building, and
  - (b) an order under section 24 of the Landlord and Tenant Act 1987 appointing a manager in relation to that building is in force (a “section 24 order”).
- (2) The tribunal may amend the section 24 order so as to ensure that the functions to be carried out by virtue of that order do not include any function that the order under section 96 provides is to be carried by the special measures manager.
- (3) After section 24(2B) of the Landlord and Tenant Act 1987 insert—
  - “(2C) Where an order under section 96 of the Building Safety Act 2020 appointing a special measures manager in relation to the building is in force, an order under this section may not provide for a manager to carry out a function which the section 96 order provides is to be carried out by the special measures manager.”

#### **99 Notifications about orders under section 96**

- (1) The regulator must take all reasonable steps to notify prescribed persons, within the prescribed period, of—
  - (a) the making of an order under section 96 in relation to an occupied higher-risk building, and
  - (b) the variation or revocation of such an order.
- (2) The Secretary of State may by regulations make provision about notices under this section, including in particular provision about—
  - (a) the form and content of the notice;
  - (b) any information or documents that must accompany the notice;
  - (c) the way in which the notice, and anything that is to accompany it, must be given.

#### **100 Variation or revocation of orders under section 96**

- (1) On an application made by the regulator or the accountable person for the higher-risk building in question, the tribunal may vary or revoke an order under section 96.
- (2) The Secretary of State may by regulations make provision about the grounds on which an order may be varied or revoked.

- (3) Where the order is varied or revoked, the tribunal may give directions to any person with respect—
  - (a) to any matter relating to the variation or revocation, and
  - (b) any incidental or ancillary matter.

*Miscellaneous and general*

**101 Guidance**

- (1) The regulator may issue guidance about any of the following matters—
  - (a) the assessment by the accountable person of the matters mentioned in section 67(3)(b) and (c) (appointment of building safety manager: assessment of competence);
  - (b) the performance of any duties under section 78 (mandatory reporting requirements);
  - (c) the performance of any duties under section 79 or 80 (duty to keep or give information);
  - (d) the performance of any duties under section 83 (duty to give further information to residents);
  - (e) the performance of any duties under section 84 (complaints procedure).
- (2) The regulator may revise or withdraw any issued guidance.
- (3) Where in any proceedings it is alleged that a person has contravened a provision mentioned in subsection (1)—
  - (a) proof of a failure to comply with any applicable guidance may be relied on as tending to establish that there was such a contravention, and
  - (b) proof of compliance with any applicable guidance may be relied on as tending to establish that there was no such contravention.
- (4) In any proceedings, a document purporting to be guidance under this section is to be taken to be such guidance unless the contrary is proved.
- (5) Guidance under this section may be issued, revised or withdrawn only with the consent of the Secretary of State.
- (6) In this section any reference to a provision includes regulations made under the provision.

**102 Cooperation and coordination**

- (1) Subsection (2) applies to the accountable person for an occupied higher-risk building if there are one or more other persons who are responsible persons within the meaning of article 3 of the Regulatory Reform (Fire Safety) Order 2005 in relation to the building.
- (2) The accountable person must cooperate with each responsible person for the purpose of each responsible person carrying out their duties under the Order.
- (3) In article 22 of the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541) (cooperation and coordination) after paragraph (2) insert—
  - “(3) Paragraph (4) applies to a responsible person in relation to premises if there are one or more other persons who are accountable persons

within the meaning of section 61 of the Building Safety Act 2020 for the premises.

- (4) The responsible person must cooperate with each accountable person for the purpose of each accountable person carrying out their duties under the Act.”

### **103 Appeals against decisions of the regulator**

- (1) This section applies in relation to a prescribed decision of the regulator made under, or under regulations made under, this Part (other than a decision to give a compliance notice).
- (2) A prescribed person may appeal to the tribunal against the decision.
- (3) An appeal may be made only on prescribed grounds.
- (4) The Secretary of State may by regulations –
  - (a) provide for the suspension during the appeal period of the effect of a notice given or other thing done by the regulator, or make other provision about the effect during the appeal period of an appeal (including provision conferring powers on the tribunal);
  - (b) make provision about the powers of the tribunal on determining the appeal (including provision conferring a power to give directions).
- (5) In subsection (4)(a) “the appeal period” means the period beginning with the making of the appeal and ending with the final determination or withdrawal of the appeal.

### **104 Managers appointed under Part 2 of the Landlord and Tenant Act 1987**

- (1) Section 24 of the Landlord and Tenant Act 1987 (appointment of a manager by a tribunal) is amended as follows.
- (2) After subsection (2ZA) insert –
 

“(2ZB) Subsection (2)(a) does not apply in respect of a breach of a building safety obligation by a building safety manager.

“(2ZC) In this section –

“building safety manager” has the meaning given in section 105 of the Building Safety Act 2020;

“building safety obligation” means an obligation of a building safety manager under Part 4 of the Building Safety Act 2020.”
- (3) After subsection (2C) (inserted by section 98) insert –
 

“(2D) An order under this section may not provide for a manager to carry out a function in relation to a building where Part 4 of the Building Safety Act 2020 provides for that function to be carried out by the building safety manager for that building.”

### **105 Interpretation of Part 4**

In this Part –

- “the accountable person” has the meaning given by section 61;
- “building safety manager” means a person appointed under section 67;

- “building safety risk” has the meaning given by section 16;
- “contravention” includes a failure to comply;
- “the data protection legislation” has the meaning given by section 35;
- “fire and rescue authority” has the meaning given by section 35;
- “flat” means premises—
  - (a) which form part of a building,
  - (b) which are constructed or adapted for use as a separate dwelling, and
  - (c) either the whole or a material part of which lie above or below some other part of the building;
- “higher-risk building” has the meaning given by section 19;
- “local authority” has the meaning given by section 35;
- “occupied”: any reference to an “occupied” higher-risk building is to be read in accordance with section 60;
- “owner” means the person—
  - (a) for the time being receiving the rackrent of the premises in question, whether on the person’s own account or as agent or trustee for another person, or
  - (b) who would so receive it if those premises were let at a rackrent; and for this purpose “rackrent” has the meaning given by section 126 of the Building Act 1984;
- “prescribed” means prescribed by regulations made by the Secretary of State;
- “the regulator” has the meaning given by section 2;
- “resident” has the meaning given by section 60;
- “special measures manager” means a person appointed under section 96;
- “the tribunal” means the First-tier Tribunal.

## PART 5

### SUPPLEMENTARY AND GENERAL

#### *New homes ombudsman scheme*

#### **106 The new homes ombudsman scheme**

- (1) The Secretary of State must make arrangements for there to be a scheme which meets the conditions in subsection (2).
- (2) The conditions are that—
  - (a) membership of the scheme is open to all developers,
  - (b) the scheme enables relevant owners of new build homes to have complaints against members of the scheme investigated and determined by an independent individual, and
  - (c) the scheme meets the requirements in Schedule 7.
- (3) The scheme is to be known as “the new home ombudsman scheme” and the individual who is to investigate and determine complaints under the scheme is to be known as “the new homes ombudsman”.

- (4) The scheme may also include provision for persons other than relevant owners of new build homes to have complaints against members of the scheme investigated and determined under the scheme.
- (5) Arrangements under subsection (1) may be arrangements –
  - (a) with another person under which that other person agrees to establish and maintain the new homes ombudsman scheme in accordance with the terms of the arrangements, or
  - (b) under which the new homes ombudsman scheme is established and maintained by (or by a person appointed by) the Secretary of State.
- (6) The Secretary of State may –
  - (a) give financial assistance (by way of grant, loan, guarantee or in any other form) to a person who establishes and maintains the new homes ombudsman scheme;
  - (b) make payments to such a person (otherwise than as financial assistance) in accordance with arrangements under subsection (1).
- (7) For the purposes of this section, a person is a “relevant owner” of a home if the person –
  - (a) is an individual,
  - (b) has a relevant interest in land that includes the home, and
  - (c) meets the occupation condition.
- (8) A person meets the occupation condition if –
  - (a) in relation to a home in England and Wales or Northern Ireland, the person occupies the home or is the landlord under a lease of land that includes the home granted for a term not exceeding 21 years to another individual for that individual’s occupation of the home, or
  - (b) in relation to a home in Scotland, the person occupies the home or is the landlord under a lease of land that includes the home granted to another individual for that individual’s occupation of the home.
- (9) For the purposes of this section, a home is a “new build home” if –
  - (a) the home is, or is contained in –
    - (i) a building the construction of which began after the coming into force of this section, or
    - (ii) a building that has been converted so that it consists of or contains the home, where the conversion began after the coming into force of this section,
  - (b) there is a person who is, or was, a developer in relation to the home, and
  - (c) no more than two years have elapsed since the first acquisition, by any person, of a relevant interest in land that includes the home from the person mentioned in paragraph (b).
- (10) In this section –
 

“developer” has the meaning given in section 107;

“home” means a private residence;

“occupies” means occupies as a private residence (and “occupation” is to be construed accordingly);

“relevant interest” means –

  - (a) in relation to land in England and Wales, a legal estate which is –
    - (i) an estate in fee simple absolute in possession, or

- (ii) a term of years absolute granted for a term of more than 21 years from the date of the grant;
- (b) in relation to land in Scotland, the interest of an owner of land;
- (c) in relation to land in Northern Ireland, a legal estate which is—
  - (i) an estate in fee simple absolute in possession,
  - (ii) an estate in fee simple in possession subject to a rent payable under a fee farm grant, or
  - (iii) a term of years absolute granted for a term of more than 21 years from the date of the grant.

### 107 Meaning of developer

- (1) A “developer” is a person—
  - (a) who undertakes or commissions—
    - (i) the construction of a new building that is to consist of or contain a home,
    - (ii) the conversion of an existing building so that it consists of or contains a home, or
    - (iii) the conversion of an existing building so as to alter the number of homes contained in it,with a view to granting, or disposing of, a relevant interest in land that includes the home or, in the case of a conversion within sub-paragraph (iii), any of the homes, or
  - (b) who is of a description specified in regulations made by the Secretary of State.
- (2) Regulations under subsection (1)(b) may, among other things, specify a description of persons by reference to a connection with a person mentioned in subsection (1)(a).
- (3) In subsection (1)(a), “home” and “relevant interest” have the meanings given in section 106.

### 108 Power to require persons to join scheme

- (1) The Secretary of State may by regulations—
  - (a) require persons who are developers, or developers of a specified description, to become members of the new homes ombudsman scheme;
  - (b) require persons who are required to become members of the scheme under paragraph (a) to remain members of the scheme for a period specified in the regulations (even if they are no longer developers);
  - (c) make provision for sanctions to be imposed in respect of a breach of a requirement imposed by regulations under paragraph (a) or (b);
  - (d) make provision for the investigation of suspected breaches of such a requirement.

In this subsection, “developer” has the meaning given in section 107 and “specified” means specified in the regulations.

- (2) Provision made by virtue of subsection (1)(a) or (b) may require persons who are members of the new homes ombudsman scheme to—
  - (a) obtain a certificate confirming their membership of the scheme;
  - (b) display or publish the certificate in accordance with the regulations;





- (2) In section 3 (the register), after subsection (2) insert—
  - “(2A) The Register shall show disciplinary orders made in relation to a registered person for such period as may be prescribed.”
- (3) In section 9 (competence to practise)—
  - (a) in subsection (1), in the words after paragraph (c), after “practical experience” insert “or undertaken such recent training”,
  - (b) after subsection (1) insert—
    - “(1A) Before prescribing recent practical experience or training for the purposes of subsection (1) the Board shall consult the bodies representative of architects which are incorporated by royal charter and such other professional and educational bodies as it thinks appropriate.”, and
  - (c) after subsection (2) insert—
    - “(3) Where the Board decides that the name of a person to whom paragraph (b) of subsection (1) applies is by virtue of that subsection to be removed from Part 1 of the Register—
      - (a) the person shall be entitled to apply to the Board within a prescribed period for an extension of time to gain the prescribed experience or undertake the prescribed training or to otherwise satisfy the Board of the person’s competence to practise, and
      - (b) the Board shall not remove the name of the person from the Register unless—
        - (i) the person has not made an application for an extension of time within the prescribed period,
        - (ii) an extension of time granted by the Board has expired and the Board is not satisfied that the person has gained the prescribed experience or undertaken the prescribed training or is otherwise competent to practise, or
        - (iii) the Board has decided not to grant an extension of time in respect of an application made by the person.”

## 112 Power of Architects Registration Board to charge fees

In the Architects Act 1997, after section 24 insert—

### “24A Fees

- (1) The Secretary of State may make regulations for, and relating to, the charging of fees by the Board in respect of services which it provides.
- (2) Regulations under this section may in particular make provision about—
  - (a) the services, or types of services, in respect of which the Board may charge a fee;
  - (b) the persons who are liable to pay a fee;
  - (c) how fees charged by the Board are to be calculated;
  - (d) how fees charged by the Board are to be paid.
- (3) In this section, a “service” —

- (a) includes any exercise by the Board of its power to prescribe qualifications for the purposes of section 4(1)(a);
  - (b) does not include any service in respect of which a fee may be prescribed under any other provision of this Act.
- (4) Regulations under this section are to be made by statutory instrument.
  - (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

### *Housing complaints*

#### **113 Housing complaints made to a housing ombudsman**

- (1) Schedule 2 to the Housing Act 1996 is amended in accordance with subsections (2) and (3).
- (2) In paragraph 7 (determinations by housing ombudsman) –
  - (a) after sub-paragraph (1) insert –
    - “(1A) However, a housing ombudsman under an approved scheme may not investigate or determine any complaint where –
      - (a) the social landlord has procedures for considering the complaint, and
      - (b) those procedures have not been exhausted at the time the complaint is made to the ombudsman.”;
  - (b) in sub-paragraph (2), in the opening words, for “He” substitute “The housing ombudsman”.
- (3) Omit paragraphs 7A to 7C (complaints to a housing ombudsman to be referred by designated person and exceptions).
- (4) The amendments made by this section apply in relation to a complaint made to a housing ombudsman –
  - (a) after the time this section comes into force, or
  - (b) before the time this section comes into force, but only if a determination by a housing ombudsman is still pending in respect of the complaint at such time.

### *General*

#### **114 Liability of officers of body corporate etc**

- (1) Where an offence under Part 2 or 4 committed by a body corporate –
  - (a) is committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, or
  - (b) is attributable to any neglect on the part of any such person,
 that person as well as the body corporate commits the offence and is liable to be proceeded against and punished accordingly.
- (2) In subsection (1) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

- (3) Subsection (1) also applies in relation to a body that is not a body corporate, with the substitution for the reference to a director of the body of a reference—
- (a) in the case of a partnership, to a partner;
  - (b) in the case of an unincorporated body other than a partnership—
    - (i) where the body's affairs are managed by its members, to a member of the body;
    - (ii) in any other case, to a member of the governing body.

**115 Power to make consequential provision**

- (1) The Secretary of State may by regulations make provision that is consequential on this Act.
- (2) Regulations under this section may amend, repeal or revoke provision made by or under—
  - (a) an Act passed before this Act or later in the same session of Parliament as this Act, or
  - (b) retained direct EU legislation.

## 116 Regulations

- (1) In this section “regulations” means regulations under any provision of this Act except section 118 (commencement and transitional provision) or Schedule 8 (construction products regulations).
- (2) A power to make regulations includes power to make—
  - (a) consequential, supplementary, incidental, transitional, transitory or saving provision;
  - (b) different provision for different purposes or for different areas.
- (3) Regulations may describe a building by reference to its height, size, design, use, purpose or any other characteristic.
- (4) Regulations are to be made by statutory instrument.
- (5) A statutory instrument containing any of the following (whether alone or with other provision) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament—
  - (a) regulations under section 12 (power to amend or repeal provisions relating to committees);
  - (b) regulations under section 16 (meaning of “building safety risk”);
  - (c) regulations under section 19 (meaning of “higher-risk building”);
  - (d) regulations under section 20 (modifications of Part 4 for description of higher-risk building);
  - (e) regulations under section 60 (power to amend definition of “occupied” higher-risk building etc);
  - (f) regulations under section 61 (power to amend definition of “accountable person” and modify Part for case where more than one accountable person for building);
  - (g) regulations under section 82(9) (power to amend content of residents’ engagement strategy);
  - (h) regulations under section 86(8) (power to amend residents’ duties);
  - (i) regulations under section 96(7) (power to amend grounds for appointing special measures manager);

- (j) regulations under section 107 (meaning of “developer” for new homes ombudsman scheme);
  - (k) regulations under section 108 (power to require persons to join new homes ombudsman scheme);
  - (l) regulations under section 115 that amend or repeal provision made by an Act or retained direct principal EU legislation;
  - (m) regulations under paragraph 4(7) of Schedule 3 (power to amend persons to whom duties and powers in that paragraph apply).
- (6) Any other statutory instrument containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

## 117 Extent

- (1) Part 1 extends to England and Wales, Scotland and Northern Ireland.
- (2) Parts 2 to 4 extend to England and Wales only, subject to subsection (5).
- (3) This Part extends to England and Wales, Scotland and Northern Ireland, subject as follows.
- (4) Section 114 extends to England and Wales only.
- (5) Any amendment or repeal made by this Act has the same extent as the provision amended or repealed.

**118 Commencement and transitional provision**

- (1) The provisions of this Act come into force on such day as the Secretary of State may by regulations appoint, subject as follows.
- (2) The following provisions of this Act come into force on the day on which this Act is passed—
  - (a) section 16,
  - (b) section 19,
  - (c) section 78,
  - (d) sections 115 to 117,
  - (e) this section, and
  - (f) section 119.
- (3) The following provisions come into force at the end of the period of two months beginning with the day on which this Act is passed—
  - (a) section 110 (and Schedule 8),
  - (b) section 111, and
  - (c) section 112.
- (4) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Act.
- (5) The powers to make regulations under this section include power to make different provision for different purposes or for different areas.
- (6) Regulations under this section are to be made by statutory instrument.
- (7) A statutory instrument containing regulations under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament.

**119 Short title**

This Act may be cited as the Building Safety Act 2020.

## SCHEDULES

### SCHEDULE 1

Section 2

#### AMENDMENTS OF THE HEALTH AND SAFETY AT WORK ETC ACT 1974

- 1 The Health and Safety at Work etc Act 1974 is amended as follows.
- 2 (1) Section 11 (functions of the Executive) is amended as follows.
  - (2) In subsection (5) –
    - (a) in paragraph (a) after “functions” insert “other than its building functions”;
    - (b) in paragraph (b) after “activities” insert “other than its building functions”.
  - (3) In subsection (6)(b) at the end insert “or to its building functions.”
- 3 After section 11 insert –

**“11A Powers of the Executive: buildings in England**

- (1) The Executive may do such things and make such arrangements as it considers appropriate in connection with any of its building functions.
- (2) In particular, it may –
  - (a) assist and encourage persons concerned with matters relevant to those functions;
  - (b) make arrangements for –
    - (i) the carrying out of research and the publication of the results of research;
    - (ii) the provision of training and information;
  - (c) encourage research and the provision of training and information by others;
  - (d) make arrangements for the provision of a service providing information or advice on such matters, and to such persons, as it considers appropriate;
  - (e) institute criminal proceedings.
- (3) And it may –
  - (a) appoint persons or committees of persons to provide it with advice, or to do such other things as it considers appropriate, in connection with any of its building functions, and
  - (b) remunerate those persons.

Nothing in paragraph (b) limits section 13(8).

- (4) Any amounts paid under subsection (3)(b) are to be such as may be determined by the Secretary of State.”
- 4 In section 12(3) (control of the Executive) after “provisions” insert “, or the building enactments,”.
- 5 (1) Section 13 (powers of the Executive) is amended as follows.
- (2) In subsection (6) after “Part” insert “or in connection with its building functions”.
- (3) In subsection (7) after “functions” insert “except its building functions”.
- 6 In section 27 (information powers) after subsection (4) insert—
- “(5) In this section any reference to the Executive’s functions does not include its building functions.”
- 7 In section 53 (general interpretation) at the appropriate place insert—
- ““the building enactments” means the provisions of, and of instruments made under—
- (a) the Building Act 1984, and
- (b) Parts 2 and 4 of the Building Safety Act 2020;”;
- ““building function” has the meaning given by section 3 of the Building Safety Act 2020;”.
- 8 In Schedule 2 (constitution of the Executive) —
- (a) in paragraph 2(3)(d)(iii) at the end insert “, building safety, building standards or fire safety.”;
- (b) in paragraph 9(3)(b) after “provisions” insert “, or the building enactments,”.

## SCHEDULE 2

Section 27

### AUTHORISED OFFICERS: INVESTIGATORY POWERS

#### *Entry to non-domestic premises without warrant*

- 1 (1) An authorised officer may enter any non-domestic premises which the officer has reason to believe it is necessary for the officer to enter for a relevant purpose—
- (a) at any reasonable time, or
- (b) at any time, in a situation which in the officer’s opinion is or may be dangerous.
- (2) The officer may be accompanied by any person, and bring anything, required for any purpose for which the officer is exercising the power of entry.
- (3) If the officer has reasonable cause to expect any obstruction in the exercise of any relevant power, the officer may be accompanied by a constable.
- (4) The officer may —
- (a) take measurements and photographs, and may make recordings;
- (b) take samples of anything.

- (5) The officer may seize anything if it appears to the officer –
  - (a) to be evidence of an offence under this Act or the Building Act 1984, and
  - (b) to be necessary to seize it to prevent the evidence being concealed, lost, altered or destroyed.

*Entry to non-domestic premises with warrant*

- 2 (1) A justice of the peace may issue a warrant in respect of non-domestic premises specified in the warrant if satisfied, on an information in writing made by an authorised officer, that it is necessary –
  - (a) for an authorised officer to enter the premises for a relevant purpose, and
  - (b) to confer a power to enter by force (if necessary).
- (2) The warrant authorises any authorised officer to enter the premises at any time (subject to sub-paragraph (3)) for the purposes specified in the warrant, by force (if necessary).
- (3) The warrant may limit the times at which the power of entry may be exercised.
- (4) Sub-paragraphs (2) to (5) of paragraph 1 apply in relation to the power of entry conferred by a warrant under this paragraph as they apply in relation to the power of entry conferred by sub-paragraph (1) of that paragraph.

*Entry to domestic premises (with warrant)*

- 3 (1) A justice of the peace may issue a warrant in respect of domestic premises specified in the warrant if satisfied, on an information in writing made by an authorised officer, that –
  - (a) it is necessary for an authorised officer to enter the premises for a relevant purpose, and
  - (b) one of the following conditions is met –
    - (i) that entry to the premises for the relevant purpose has been, or is likely to be, refused;
    - (ii) that no person entitled to grant entry to the premises can be found;
    - (iii) that requesting entry may frustrate or seriously prejudice the purpose of entry.
- (2) The warrant –
  - (a) authorises any authorised officer to enter the premises at any time (subject to sub-paragraph (3)) for the purposes specified in the warrant, and
  - (b) confers such additional powers as may be specified in the warrant.
- (3) The warrant may limit the times at which the power of entry may be exercised.
- (4) For this purpose “additional powers” means –
  - (a) the power to enter by force (if necessary);
  - (b) the powers under sub-paragraphs (2) to (5) of paragraph 1.



- (5) An additional power may be specified in the warrant only if the justice of the peace is satisfied that it is necessary to confer the power.

*Power to require information, documents etc*

- 4 (1) An authorised officer may for a relevant purpose require a person to give specified information, or produce specified documents, to the officer by such time as may be specified.
- (2) In the case of a document consisting of information held in electronic form, the officer may require it to be produced—
- (a) in a legible form, or
  - (b) in a form from which it can readily be produced in legible form.
- (3) The officer may inspect and take copies of (or of any information in) any document that is produced.
- (4) An authorised officer may for a relevant purpose require a person to provide such facilities and assistance to the officer as may be specified, by such time as may be specified.
- (5) In this paragraph—  
“document” includes information recorded in any form;  
“specified”, in relation to a requirement, means specified in writing by the person imposing the requirement.

*Retention of evidence etc*

- 5 Anything that has been seized under paragraph 1(5), or any document produced under paragraph 4, may be retained for so long as is necessary in all the circumstances.

*Offence of failing to provide information, documents etc*

- 6 (1) A person who fails without reasonable excuse to comply with a requirement under paragraph 4 commits an offence.
- (2) A person guilty of an offence under this paragraph is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (3) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in sub-paragraph (2)(a) to 12 months is to be read as a reference to 6 months.

*Interpretation*

- 7 In this Schedule—  
“authorised officer”, in relation to the exercise of any power conferred by or the doing of anything else mentioned in a paragraph of this Schedule for the purpose of a relevant building function, means a person authorised under section 27 in relation to that paragraph for the purposes of that function;

“domestic premises” means premises (in England or Wales) used wholly or mainly as a private dwelling;

“non-domestic premises” means premises (in England or Wales) that are not domestic premises;

“relevant purpose”, in relation to an authorised officer, means the purpose of any relevant building function specified in the officer’s authorisation.

*Saving for material subject to legal professional privilege*

- 8 Nothing in this Schedule confers power to –
- (a) seize anything, or
  - (b) compel the production by any person of a document or information, in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

### SCHEDULE 3

Section 32

#### COOPERATION AND INFORMATION SHARING

*Interpretation*

- 1 In this Schedule any reference to a function under an enactment includes a function under an instrument made under the enactment.

*Local authorities*

- 2 (1) The regulator and a local authority must cooperate with each other in the exercise of –
- (a) any building function of the regulator, and
  - (b) any relevant function of the authority.
- (2) The regulator may disclose to a local authority information held in connection with any of its building functions, for the purpose of any of those functions or any relevant function of the authority.
- (3) A local authority may disclose to the regulator information held in connection with any relevant function, for the purpose of any relevant function or any building function of the regulator.
- (4) In this paragraph “relevant function” means any function of a local authority under any of the following –
- (a) the Prevention of Damage by Pests Act 1949;
  - (b) Part 2 of the Public Health Act 1961;
  - (c) Part 11 of the Local Government (Miscellaneous Provisions) Act 1982;
  - (d) the Building Act 1984;
  - (e) Part 3 of the Environmental Protection Act 1990;
  - (f) Parts 1 to 4 of the Housing Act 2004;
  - (g) section 13 of this Act;
- and any other prescribed function of a local authority.

- 3 (1) The regulator and a fire and rescue authority must cooperate with each other in the exercise of—
  - (a) any function of the regulator under the Building Act 1984, so far as relating to higher-risk buildings,
  - (b) any function of the regulator under Part 4 of this Act,
  - (c) any function of the authority under section 6 or 7 of the Fire and Rescue Services Act 2004 or the Regulatory Reform (Fire Safety) Order 2005, so far as relating to higher-risk buildings, and
  - (d) any function of the authority under section 13 of this Act.
- (2) The regulator may disclose to a fire and rescue authority information held in connection with any of its building functions, for the purpose of—
  - (a) any of those functions, or
  - (b) any function of the authority under the Fire and Rescue Services Act 2004 or the Regulatory Reform (Fire Safety) Order 2005.
- (3) A fire and rescue authority may disclose to the regulator information held in connection with any of its functions under section 6 or 7 of the Fire and Rescue Services Act 2004 or the Regulatory Reform (Fire Safety) Order 2005, for the purpose of—
  - (a) any of those functions, or
  - (b) any building function of the regulator.

- 4 (1) The regulator and a person mentioned in sub-paragraph (4) must cooperate with each other in the exercise of—
  - (a) any building function of the regulator, and
  - (b) any relevant function of the person.
- (2) The regulator may disclose to a person mentioned in sub-paragraph (4) any prescribed information, for the purposes of a prescribed function of either of them.
- (3) A person mentioned in sub-paragraph (4) may disclose to the regulator any prescribed information, for the purposes of a prescribed function of either of them.
- (4) The persons are—
  - (a) the Regulator of Social Housing;
  - (b) a person who administers a relevant scheme.
- (5) “Relevant scheme” means—
  - (a) a scheme approved under Schedule 2 to the Housing Act 1996 (housing complaints: social landlords),
  - (b) a redress scheme to which persons are required by virtue of section 83 of the Enterprise and Regulatory Reform Act 2013 (lettings agency work) to be members,
  - (c) a redress scheme to which persons are required by virtue of section 84 of that Act (property management work) to be members, or
  - (d) the new homes ombudsman scheme.
- (6) In this paragraph “relevant function” means—

- (a) in relation to the Regulator of Social Housing, any of its functions;
  - (b) in relation to a person who administers a relevant scheme, any function relating to that scheme.
- (7) The Secretary of State may by regulations amend any of sub-paragraphs (4) to (6).

*Secretary of State*

- 5 (1) The regulator may disclose to the Secretary of State information held in connection with any of its building functions, for the purpose of any of those functions or any relevant function of the Secretary of State.
- (2) The Secretary of State may disclose to the regulator information held in connection with any relevant function, for the purpose of any relevant function or any building function of the regulator.
- (3) In this paragraph “relevant function” means any function of the Secretary of State (whether or not under an enactment) that relates to buildings.

*Police*

- 6 The regulator may disclose to a constable information held by it in connection with any of its building functions, for the purposes of criminal investigation or proceedings.

## SCHEDULE 4

Section 45

TRANSFER OF APPROVED INSPECTORS’ FUNCTIONS TO REGISTERED BUILDING CONTROL  
APPROVERS

- 1 The Building Act 1984 is amended as follows.
- 2 In section 42(1) (appeals) for “approved inspector” substitute “registered building control approver”.
- 3 In the heading before section 47, for “approved inspectors” substitute “registered building control approvers”.
- 4 (1) Section 47 (giving and acceptance of initial notice) is amended as follows.
- (2) In subsection (1) –
- (a) in paragraph (a) for “an approved inspector” substitute “a registered building control approver”;
  - (b) in the words after paragraph (d) for “approved inspector” substitute “registered building control approver”.
- (3) In subsection (5)(b) –
- (a) for “approved inspector” substitute “registered building control approver”;
  - (b) for “his” substitute “their”.
- 5 Omit section 49 (approved inspectors).
- 6 (1) Section 50 (plans certificates) is amended as follows.

- (2) In subsection (1) –
  - (a) in the words before paragraph (a) for “an approved inspector” substitute “a registered building control approver”;
  - (b) in paragraph (a) for “him” substitute “them”;
  - (c) in the words after paragraph (c) for “he” substitute “they”.
- (3) In subsection (7) for “approved inspector”, in both places it occurs, substitute “registered building control approver”.
- 7 In section 51(1) (final certificates) –
  - (a) for “an approved inspector” substitute “a registered building control approver”;
  - (b) for “him” substitute “them”;
  - (c) for “he” substitute “they”;
  - (d) for “his” substitute “their”.
- 8 In section 51A(2)(a)(ii) (variation of work) for “approved inspector” substitute “registered building control approver”.
- 9 In section 51C(2)(a) (change of person carrying out work) for “approved inspector” substitute “registered building control approver”.
- 10 (1) Section 52 (cancellation of initial notice) is amended as follows.
  - (2) In subsection (1) –
    - (a) in paragraph (a) –
      - (i) for “approved inspector” substitute “registered building control approver”;
      - (ii) for “his” substitute “their”;
    - (b) in paragraph (b) –
      - (i) for “approved inspector” substitute “registered building control approver”;
      - (ii) for “he is” substitute “they are”;
      - (iii) for “his” substitute “their”;
    - (c) in paragraph (c) for “approved inspector” substitute “registered building control approver”.
  - (3) In subsection (2)(a) for “approved inspector” substitute “registered building control approver”.
- 11 In section 56(5) (powers to require information) for “approved inspector” substitute “registered building control approver”.
- 12 In section 57 (offences), for subsection (3) substitute –
  - “(3) Where a registered building control approver is convicted of an offence under this section, the court by or before which they are convicted must, within one month of the date of conviction, forward a certificate of the conviction to –
    - (a) the regulator, or
    - (b) if the regulator has delegated its functions in relation to the register of building control approvers to another person under section 58X, that person.”
- 13 In section 58(3) (construction of Part 2) –

- (a) for “an approved inspector” substitute “a registered building control approver”;
  - (b) for “him” substitute “them”.
- 14 In section 126 (general interpretation) –
- (a) omit the definition of “approved inspector”;
  - (b) at the appropriate place insert –
    - ““registered building control approver” has the meaning given by section 58M;”;
    - ““registered building inspector” has the meaning given by section 58A;”.

## SCHEDULE 5

Section 56

## MINOR AND CONSEQUENTIAL AMENDMENTS IN CONNECTION WITH PART 3

## PART 1

## AMENDMENTS OF THE BUILDING ACT 1984

- 1 The Building Act 1984 is amended as follows.
- 2 In section 2(3) and (4) for “local authority” substitute “building control authority”.
- 3 In section 3(3) –
  - (a) omit “not exceeding level 5 on the standard scale”;
  - (b) for “£50” substitute “level 1 on the standard scale”.
- 4 In section 5(3)(b) omit “of building regulations”.
- 5 (1) Section 6 is amended as follows.
  - (2) After subsection (5) insert –
    - “(5A) A notice under subsection (3) or (5) may contain transitional or saving provision (and different provision may be made for different purposes or for different areas).
    - (5B) A body may give an approval under subsection (1) or (4), or withdraw an approval under subsection (5), only with the consent of the Secretary of State.”
  - (3) After subsection (8) insert –
    - “(9) An order under subsection (8) may provide that a body is designated only in relation to –
      - (a) buildings of a specified description;
      - (b) work of a specified description;
      - (c) specified provisions of building regulations.”
- 6 (1) Section 7 is amended as follows.
  - (2) In subsection (1)(a) for the words from “document” to “provision” substitute “relevant approved document”.

- (3) After subsection (1) insert—
- “(1A) In subsection (1) “relevant approved document” means a document approved for the purposes of the provision that applies in relation to the work or other matter in question.”
- 7 In section 8 after subsection (3) insert—
- “(3A) If, in a case where the regulator is the building control authority—
- (a) an application for a direction under this section is made to the regulator, and
- (b) the regulator considers that the operation of a requirement in building regulations would be unreasonable in relation to the particular case,
- it may give a direction dispensing with or relaxing the requirement.
- (3B) No application under subsection (1) or (2) may be made in a case where the regulator is the building control authority.”
- 8 (1) Section 9 is amended as follows.
- (2) In subsection (1) for “or (2) above” substitute “, (2) or (3A)”.
- (3) In subsection (2) for “The application” substitute “An application under section 8(1) or (2)”.
- (4) In subsection (3) at the end insert “or in a case where the regulator is the building control authority.”
- 9 (1) Section 10 is amended as follows.
- (2) In subsection (1) after “(2)” insert “, (3A)”.
- (3) In subsections (1), (2) and (5) for “local authority”, in each place it occurs, substitute “building control authority”.
- 10 (1) Section 11 is amended as follows.
- (2) In subsection (6)—
- (a) omit “not exceeding level 5 on the standard scale”;
- (b) for “£50” substitute “level 1 on the standard scale”.
- (3) In subsection (7) for the words from “before that time” to the end substitute “an application for building control approval in relation to the proposed work was made before that time.”
- 11 In section 12(10) for the words from “before that time” to the end substitute “an application for building control approval in relation to the proposed work was made before that time.”
- 12 Before section 14 insert—
- “13A Proposals and consultation relating to building regulations**
- (1) The regulator may at any time make proposals to the Secretary of State for the making of building regulations.
- (2) Before making a proposal, the regulator must consult such persons as it considers appropriate.

- (3) Before making building regulations, other than regulations proposed by the regulator, the Secretary of State must consult—
      - (a) the regulator, and
      - (b) any other person that the Secretary of State considers appropriate.”
- 13 (1) Section 14 is amended as follows.
  - (2) Omit subsections (1) to (4).
  - (3) In the heading at the end insert “: Wales”.
- 14 In section 15 after subsection (2) insert—
  - “(3) As regards a requirement of a kind mentioned in subsection (1), the regulator must consult the fire and rescue authority before exercising the power under section 8(3A) in relation to any premises or proposed premises.”
- 15 Omit sections 16 and 17.
- 16 (1) Section 19 is amended as follows.
  - (2) For “local authority”, in each place it occurs except subsection (1), substitute “building control authority”.
  - (3) In subsection (1) —
    - (a) for the words from the beginning to “plans show” substitute “Where an application for building control approval in respect of a proposed building is made to a building control authority, and it appears”;
    - (b) for “plans conform” substitute “application conforms”;
    - (c) in paragraph (a) for “the plans” substitute “the application”;
    - (d) in paragraph (b) for “passing the plans” substitute “granting the application”.
  - (4) In subsection (2) —
    - (a) for “plans ought under the building regulations to have been deposited, but have not been deposited,” substitute “an application for building control approval ought to have been made but was not made”;
    - (b) in paragraph (b) for “passing of plans for the building” substitute “granting of such an application”.
  - (5) In subsection (4) for “plans” substitute “an application”.
- 17 (1) Section 20 is amended as follows.
  - (2) For “local authority”, in each place it occurs except subsection (1), substitute “building control authority”.
  - (3) In subsection (1) —
    - (a) for the words from the beginning to “plans show” substitute “Where an application for building control approval in respect of any proposed work is made to a building control authority, and it appears”;
    - (b) for “plans conform” substitute “application conforms”;
    - (c) in paragraph (a) for “the plans” substitute “the application”;



- (d) in paragraph (b) for “passing the plans”, in both places it occurs, substitute “granting the application”.
  - (4) In subsection (2) –
    - (a) in the words before paragraph (a), for the words from “plans” to “so deposited” substitute “an application for building control approval ought to have been made but was not made”;
    - (b) in paragraph (b) for “passing plans” substitute “granting the application”.
  - (5) In subsection (3) –
    - (a) in the words before paragraph (a), for the words from “plans” to “so deposited” substitute “an application for building control approval was not required by building regulations to be made and was not made”;
    - (b) in paragraph (b) for the words from “if plans” to the end substitute “if an application for building control approval in respect of the work had been required to be made and had been made, might have been imposed under subsection (1) in granting the application,”.
  - (6) In subsection (5)(a) for “plans” substitute “an application”.
  - (7) In subsection (7) –
    - (a) omit “not exceeding level 5 on the standard scale”;
    - (b) for “£50” substitute “level 1 on the standard scale”.
- 18 (1) Section 21 is amended as follows.
- (2) For “local authority”, in each place it occurs, substitute “building control authority”.
  - (3) In subsection (3) for “plans are deposited” substitute “an application for building control approval is made”.
  - (4) In subsection (4) for the words from “plans” to “deposited with” substitute “an application for building control approval in respect of a building or an extension of a building is made to”.
- 19 (1) Section 22 is amended as follows.
- (2) For “local authority”, in each place it occurs, substitute “building control authority”.
  - (3) In subsection (2) for the words from “for whose drainage” to the end substitute “if building control approval has been given in respect of work comprising drainage for the building.”
- 20 In section 23(3) for “local authority”, in both places it occurs, substitute “building control authority”.
- 21 (1) Section 24 is amended as follows.
- (2) For “local authority”, in each place it occurs, substitute “building control authority”.
  - (3) In subsection (1) –
    - (a) in paragraph (a) for the words from “plans” to “deposited with” substitute “an application for building control approval in respect of a building or an extension of a building is made to”;

- (b) in the words after paragraph (b) for “plans” substitute “application”.
- (4) In subsection (2) for “plans are deposited” substitute “an application for building control approval is made”.
- 22 (1) Section 25 is amended as follows.
- (2) For “local authority”, in each place it occurs, substitute “building control authority”.
- (3) In subsection (1) –
- (a) for “plans of a house are, in accordance with building regulations, deposited with” substitute “an application for building control approval in respect of a house is made to”;
- (b) for “the plans” substitute “the application”.
- (4) In subsection (2) –
- (a) for “plans are deposited” substitute “an application for building control approval is made”;
- (b) for “pass the plans” substitute “grant the application”.
- (5) In subsection (3) for “plans as aforesaid have been passed” substitute “application has been granted”.
- 23 Omit section 31.
- 24 (1) Section 33 is amended as follows.
- (2) In subsections (1), (2), (4), (5) and (6) for “local authority”, in each place it occurs, substitute “building control authority”.
- (3) After subsection (3) insert –
- “(3A) The tests that may be required or carried out under subsection (2) include in particular tests involving the cutting into, laying open, or pulling down of any work.”
- 25 For section 35 substitute –
- “35 Offence of contravening building regulations etc**
- (1) A person who contravenes a provision of building regulations, or a requirement imposed by virtue of any such provision, commits an offence.
- (2) Building regulations may provide that subsection (1) does not apply in relation to a prescribed provision of the regulations.
- (3) Building regulations may provide that, in relation to a prescribed provision of the regulations, it is a defence for a person charged with an offence under this section to prove such matters relating to the contravention as may be prescribed.
- (4) A person guilty of an offence under this section is liable on summary conviction to –
- (a) a fine, and
- (b) a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the person is convicted.”

26 (1) Section 35A is amended as follows.

(2) After subsection (5) insert –

“(5A) In the case of proceedings commenced by the regulator –

- (a) evidence is to be regarded for the purposes of subsection (4) as sufficient to justify the proceedings if in the opinion of an authorised officer it is sufficient to justify the proceedings, and
- (b) a certificate of the authorised officer as to the date on which evidence which, in the officer’s opinion, was sufficient to justify the proceedings came to the knowledge of the person commencing the proceedings is conclusive evidence of that fact.

In this subsection “authorised officer” means a person in respect of whom an authorisation under section 27 of the Building Safety Act 2020 is in force.”

27 (1) Section 36 is amended as follows.

(2) In subsections (1) to (3) for “local authority”, in each place it occurs, substitute “building control authority”.

(3) In subsection (1) after “those regulations” insert “or a requirement imposed by virtue of any of those regulations”.

(4) In subsection (2) –

- (a) for “any section of this Part of this Act other than section 16” substitute “any of sections 19 to 25”;
- (b) for “plans”, in the first place it occurs, substitute “an application for building control approval”;
- (c) for paragraphs (a) and (b) (including the “or” at the end of paragraph (b)) substitute –
  - “(a) without such an application having been made,
  - (b) notwithstanding the refusal of such an application, or”;
- (d) in paragraph (c) for “passed the plans” substitute “granted such an application”;
- (e) in paragraph (ii) for “passing plans” substitute “granting such an application”.

(5) For subsection (5) substitute –

“(5) Subsection (5A) applies where –

- (a) an application for building control approval is made to a building control authority in respect of any work that is not higher-risk building work,
- (b) the application is granted, and
- (c) work that is shown on the plans approved by the granting of the application (“the work”) is executed in accordance with –
  - (i) the plans, and
  - (ii) any requirement imposed by the building control authority.

(5A) A section 36 notice may not be given on the ground that the work contravenes –

- (a) any building regulations or any requirement imposed by virtue of the regulations, or (as the case may be)
  - (b) any requirement under any of sections 19 to 25.”
- (6) In subsection (6) –
  - (a) for “does” substitute “, and sections 35B and 35C, do”;
  - (b) for “local authority”, in the first place it occurs, substitute “building control authority”;
  - (c) for paragraphs (a) to (c) substitute –
    - “(a) an application for building control approval was made to the local authority in respect of the work,
    - (b) the application was granted, and
    - (c) the work was executed in accordance with –
      - (i) the plans approved by the granting of the application, and
      - (ii) any requirement imposed by the authority,”.
- 28 In section 37(1) for “local authority”, in each place it occurs, substitute “building control authority”.
- 29 Omit section 38.
- 30 In section 39(1) and (2) for “local authority”, in each place it occurs, substitute “building control authority”.
- 31 In section 40(2), (3) and (6) for “local authority”, in each place it occurs, substitute “building control authority”.
- 32 In section 42(1) for “local authority”, in both places it occurs, substitute “building control authority”.
- 33 In the heading of Part 2 for “LOCAL AUTHORITIES” substitute “BUILDING CONTROL AUTHORITIES”.
- 34 (1) Section 47 is amended as follows.
  - (2) In subsection (2) –
    - (a) for “plans of it had been deposited with” substitute “an application for building control approval in respect of it had been made to”;
    - (b) for “passing the plans” substitute “granting the application”.
  - (3) After subsection (3) insert –
    - “(3A) Subsection (3) does not apply in prescribed circumstances.”
- 35 (1) Section 48 is amended as follows.
  - (2) In subsection (1) –
    - (a) in paragraph (a) after “section” insert “35B, 35C or”;
    - (b) in paragraph (b) omit “of building regulations”.
  - (3) In subsection (2) –
    - (a) in paragraph (a) for “deposit of plans” substitute “making of an application for building control approval”;
    - (b) in paragraph (b) for “deposited plans” substitute “plans accompanying the application for building control approval”;

- (c) in paragraph (c) for “passing or, as the case may be, the rejection of plans” substitute “approval or rejection of the application”;
  - (d) for paragraph (d) substitute—
    - “(d) an initial notice ceasing to be in force under section 53A is treated as section 32 providing that this Act and building regulations have effect as if the application for building control approval was not made (and the approval was not given).”
- 36 (1) Section 51A is amended as follows.
  - (2) In subsection (4) for —
    - (a) for “plans of it had been deposited with” substitute “an application for building control approval in respect of it had been made to”;
    - (b) for “passing the plans” substitute “granting the application”.
  - (3) After subsection (5) insert—
    - “(5A) Subsection (5) does not apply in prescribed circumstances.”
- 37 In section 51B(1) —
  - (a) in paragraph (a) for “deposit of plans” substitute “making of an application for building control approval”;
  - (b) in paragraph (b) for “passing or, as the case may be, the rejection of plans” substitute “approval or rejection of the application”;
  - (c) in paragraph (c) —
    - (i) in the words before sub-paragraph (i) for “deposited plans” substitute “plans treated as accompanying the application for building control approval”;
    - (ii) in sub-paragraph (ii) for “the deposited plans” substitute “accompanying the application”;
  - (d) for paragraph (d) for the words from “the cancellation” to the end substitute “the initial notice ceasing to be in force under section 53A is treated as section 32 providing that this Act and building regulations have effect as if the application for building control approval was not made (and the approval was not given).”
- 38 (1) Section 52 is amended as follows.
  - (2) In subsection (4) omit “not exceeding level 5 on the standard scale”.
  - (3) In subsection (6) for “(5)” substitute “(5A)”.
- 39 In section 54(2) —
  - (a) for “plans of it had been deposited with” substitute “an application for building control approval in respect of it had been made to”;
  - (b) for “passing the plans” substitute “granting the application”.
- 40 In section 57(1)(a)(i) for the words from “of this Act” to the end (not including the “and”) substitute “or a provision of building regulations that is designated by the regulations for the purposes of this section,”
- 41 In the italic heading before section 91 at the end insert “and the regulator”.
- 42 (1) Section 91A is amended as follows.

- (2) In subsections (1), (2) and (4) for “local authority”, in each place it occurs, substitute “relevant authority”.
  - (3) In subsection (2)(a) omit “, or deposited with,”.
  - (4) In subsection (5) insert at the appropriate place—  
““relevant authority” means a local authority or the regulator.”
  - (5) In the heading after “local authorities” insert “and the regulator”.
- 43 In section 92(1) after “authority”, in both places it occurs, insert “or the regulator”.
- 44 In section 94A(7)(a) omit “16(6),”.
- 45 In section 95 after subsection (2) insert—  
“(2A) Subsections (1) and (2) do not apply in relation to premises used wholly or mainly as a private dwelling.”
- 46 In section 97 after “authority” insert “or the regulator”.
- 47 In section 99(2)(a) after “authority” insert “or the regulator (as the case may be)”.
- 48 (1) Section 100 is amended as follows.  
(2) For “local authority”, in each place it occurs, substitute “relevant authority”.  
(3) After subsection (3) insert—  
“(4) In this section “relevant authority” means a local authority or the regulator.”
- 49 (1) Section 101 is amended as follows.  
(2) In subsection (1) for “local authorities” substitute “any relevant authority”.  
(3) In subsection (2) for “local authority” substitute “relevant authority”.  
(4) After that subsection insert—  
“(3) In this section “relevant authority” means a local authority or the regulator.”
- 50 In section 102(3)(b)(ii) after “authority” insert “or the regulator”.
- 51 (1) Section 104 is amended as follows.  
(2) In the provision—  
(a) after “authority”, in the first place it occurs, insert “or the regulator”;  
(b) after “authority”, in the second place it occurs, insert “or regulator”.  
(3) In the heading after “authority” insert “or regulator”.
- 52 (1) Section 106 is amended as follows.  
(2) In subsection (2) omit “Subject to subsection (3) below,”.  
(3) Omit subsection (3).
- 53 (1) Section 107 is amended as follows.  
(2) For “local authority”, in each place it occurs, substitute “relevant authority”.

- (3) After subsection (5) insert—
- “(6) In this section “relevant authority” means a local authority or the regulator.”
- 54 (1) Section 108 is amended as follows.
- (2) For “local authority”, in each place it occurs, substitute “relevant authority”.
- (3) After subsection (4) insert—
- “(5) In this section “relevant authority” means a local authority or the regulator.”
- 55 (1) Section 110 is amended as follows.
- (2) In the existing provision (which becomes subsection (1) of that section) for “local authority”, in each place it occurs, substitute “relevant authority”.
- (3) After that subsection insert—
- “(2) In this section “relevant authority” means a local authority or the regulator.”
- 56 (1) Section 112 is amended as follows.
- (2) The existing provision becomes subsection (1) of that section.
- (3) In that subsection for “level 1” substitute “level 3”.
- (4) After that subsection insert—
- “(2) Subsection (1) does not apply where the person obstructed is an authorised officer (within the meaning of section 27 of the Building Safety Act 2020).”
- 57 In section 113(b) after “authority” insert “, the regulator”.
- 58 (1) Section 119 is amended as follows.
- (2) In the existing provision (which becomes subsection (1) of that section) —
- (a) after “Secretary of State” insert “or the regulator”;
- (b) after “he” insert “or it”.
- (3) After that subsection insert—
- “(2) Section 250 of the Local Government Act 1972 (power to direct inquiries) applies in relation to a local inquiry caused to be held by the regulator as it applies in relation to one caused to be held by the Secretary of State.”
- 59 In section 120(1) omit—
- (a) “16(13)”;
- (b) “, or under paragraph 5(2) of Schedule 1 to this Act,”.
- 60 Omit section 124.
- 61 (1) Section 126 is amended as follows.
- (2) At the appropriate place insert—
- ““building control approval” has the meaning given by paragraph 1B of Schedule 1;”;

- 
- ““building control authority” has the meaning given by section 121A;”;
  - ““higher-risk building” has the meaning given by section 19 of the Building Safety Act 2020;”;
  - ““higher-risk building work” has the meaning given by section 91ZB of this Act;”;
  - ““the regulator” means the Health and Safety Executive;”;
  - ““the tribunal” means the First-tier Tribunal;”.
- (3) Omit the definition of “relevant period”.
- 62 (1) Schedule 1 is amended as follows.
- (2) Omit paragraphs 2 to 5.
- (3) In paragraph 6 –
- (a) for “local authorities”, in both places it occurs, substitute “building control authorities”;
  - (b) for “local authority” substitute “building control authority”.
- (4) In paragraph 8 –
- (a) in sub-paragraph (2) for “(6)” substitute “(7)”;
  - (b) after sub-paragraph (6) insert –
    - “(7) The provision that may be made by building regulations includes provision imposing a requirement to do things for the purpose mentioned in section 1(1)(b) (conserving fuel and power) in any case where a building becomes a building of a prescribed description.”
- (5) Omit paragraph 9.
- (6) For paragraph 10 substitute –
- “10 (1) Building regulations may make supplementary, incidental, transitional or saving provision.
  - (2) Building regulations may make –
    - (a) different provision for different purposes, and
    - (b) different provision for different areas.
  - (3) The power conferred by sub-paragraph (2)(a) includes in particular the power to make different provision for –
    - (a) higher-risk buildings or proposed higher-risk buildings, or
    - (b) higher-risk building work,
 and different provision for different descriptions of such buildings or work.
  - (4) Nothing in sub-paragraph (3) is to be read as limiting the effect of section 34 (classification of buildings).”
- 63 In Schedule 2 for “local authority”, in each place it occurs, substitute “building control authority”.



PART 2

OTHER AMENDMENTS

*Parliamentary Commissioner Act 1967 (c. 13)*

- 64 In Schedule 2 to the Parliamentary Commissioner Act 1967, omit the entry relating to the Building Regulations Advisory Committee for England.

*Freedom of Information Act 2000 (c. 36)*

- 65 In Schedule 1 to the Freedom of Information Act 2000, in Part 6 omit the entry relating to the Building Regulations Advisory Committee for England.

*Sustainable and Secure Buildings Act 2004 (c. 22)*

- 66 In the Sustainable and Secure Buildings Act 2004, in section 4 omit subsection (3).

SCHEDULE 6

Section 57

APPEALS AND OTHER DETERMINATIONS

- 1 The Building Act 1984 is amended as follows.

*Transfer from Secretary of State to the regulator*

- 2 In section 10(6) (procedure where appeal against decision of local authority under section 8) for “Secretary of State” substitute “regulator”.

- 3 (1) Section 20 (use of materials unsuitable for permanent building) is amended as follows.

(2) In subsection (5) omit the words from “to the Secretary of State” to the end.

(3) After that subsection insert—

“(5A) The appeal is to be made to—

- (a) the regulator, in the case of action by a local authority;  
(b) the tribunal, in the case of action by the regulator.”

- 4 (1) Section 39 (appeal against refusal to relax building regulations) is amended as follows.

(2) In subsection (1) omit “to the Secretary of State”.

(3) After that subsection insert—

“(1A) The appeal is to be made to—

- (a) the regulator, in the case of a refusal by a local authority;  
(b) the tribunal, in the case of a refusal by the regulator.”

(4) Omit subsections (3) to (6).

- 5 (1) Section 42 (appeal and statement of case to High Court in certain cases) is amended as follows.

- (2) In subsection (1) –
  - (a) omit paragraphs (a) and (b);
  - (b) for “relevant person” substitute “applicant”.
- (3) Omit subsection (2).
- (4) In subsection (3) omit “appeal, reference or”.
- (5) Omit subsection (7).
- 6 Omit section 43 (procedure on appeal to Secretary of State on certain matters).
- 7 After that section insert –

**“43A Appeals under section 20, 39 and 50**

- (1) This section applies to an appeal under section 20(5), 39 or 50(2).
- (2) On determining the appeal, the regulator or the tribunal may give any directions it considers appropriate for giving effect to its determination.
- (3) Where the appeal is determined by the regulator, a relevant person may appeal to the tribunal against the regulator’s decision (and subsection (2) applies in relation to this appeal).
- (4) “Relevant person” means –
  - (a) the appellant;
  - (b) the local authority or registered building control approver.”
- 8 In section 50 (plans certificates) for subsections (2) and (3) substitute –
 

“(2) If a registered building control approver refuses to give a plans certificate on being requested to do so, the person intending to carry out the work may appeal to the regulator.”

*Transfer from magistrates’ court to the tribunal*

- 9 In the following provisions for “a magistrates’ court” substitute “the tribunal” –
  - (a) section 19(4) (use of short-lived materials);
  - (b) section 21(3), (4) and (6) (provision of drainage);
  - (c) section 22(4) (drainage of buildings in combination);
  - (d) section 24(2) (provision of exits etc);
  - (e) section 25(2) and (5) (provision of water supply);
  - (f) section 33(6) (tests for conformity with building regulations);
  - (g) section 36(3) (period for compliance with section 36 notice);
  - (h) section 40(1) (appeal against section 36 notice);
  - (i) section 55(1) (appeal against rejection of certain notices);
  - (j) section 62(2) (disconnection of drain);
  - (k) section 68(3) (erection of public conveniences);
  - (l) section 73(2) (raising of chimney);
  - (m) section 75(2), in both places it occurs, and section 75(3) (cellars etc below subsoil);
  - (n) section 77(1), in both places it occurs (dangerous buildings);

- (o) section 78(7)(a) (dangerous buildings - emergency measures);
  - (p) section 85(3) (maintenance of entrances to courtyards);
  - (q) section 98 (power to require occupier to permit work);
  - (r) section 102(1) (appeal against notice requiring works);
  - (s) section 103(3) (notification requirement as regards right of appeal);
  - (t) in Schedule 2, paragraph 3(3) (application under section 8).
- 10 In section 7(2)(b) after “court” insert “or tribunal”.
- 11 In section 25(5) for “the court”, in both places it occurs, substitute “the tribunal”.
- 12 In section 33(6) for “the court”, in both places it occurs, substitute “the tribunal”.
- 13 In section 37(3) for “a court” substitute “the tribunal”.
- 14 In section 40 for “the court”, in each place it occurs, substitute “the tribunal”.
- 15 Omit section 41.
- 16 (1) Section 55 is amended as follows.
- (2) In subsection (2) for “court” substitute “tribunal”.
  - (3) Omit subsection (3).
- 17 In section 62(2) for “the court” substitute “the tribunal”.
- 18 In section 64(5)(b) for “court” substitute “tribunal”.
- 19 In section 70(4)(b) for “court” substitute “tribunal”.
- 20 In section 75(2) for “the court” substitute “the tribunal”.
- 21 In section 77(1) for “the court” substitute “the tribunal”.
- 22 In section 78(7)(b) for “court” substitute “tribunal”.
- 23 In section 83(3)(b) for “court” substitute “tribunal”.
- 24 Omit section 86.
- 25 In section 98 –
- (a) for “a complaint” substitute “an application”;
  - (b) for “the court” substitute “the tribunal”.
- 26 In section 102(2), (3) and (4) for “court”, in each place it occurs, substitute “tribunal”.
- 27 (1) Section 103 is amended as follows.
- (2) For subsection (1) substitute –
    - “(1) This section applies where this Act provides for an appeal to the tribunal against a requirement, refusal or other decision of a relevant authority.”
  - (3) In subsection (2) –
    - (a) for “local” substitute “relevant”;
    - (b) for “complaint” substitute “application”.

- (4) In subsection (3) “local” substitute “relevant”.
- (5) After that subsection insert—
  - “(4) In this section “relevant authority” means a local authority or the regulator.”
- (6) For the heading substitute “Appeal to the tribunal: procedure”.

28 In section 104—

- (a) for “a court” substitute “the tribunal”;
- (b) for “the court” substitute “the tribunal”.

29 In section 105 after “court” insert “or tribunal”.

30 In Schedule 2 in paragraph 2(b) after “court” insert “or tribunal”.

*Appeal: local authority decision not to consider application etc*

31 After section 101 insert—

*“Appeal against refusal to consider application etc*

**101A Appeal: refusal to consider application etc on ground is higher-risk building work**

- (1) This section applies where a local authority refuses to consider—
  - (a) an application for building control approval,
  - (b) an initial notice (within the meaning of section 47), or
  - (c) an amendment notice (within the meaning of section 51A),
 on the ground that all or part of the work to which it relates is higher-risk building work.
- (2) The person intending to carry out the work may appeal to the Secretary of State, before the end of the prescribed period, on the ground that none of the work is higher-risk building work.
- (3) An appeal is made by—
  - (a) giving a notice in the prescribed form, and prescribed information, to the Secretary of State in the prescribed way, and
  - (b) paying the prescribed fee.
- (4) The Secretary of State must appoint a person to determine the appeal (“the appointed person”).
- (5) On the appeal—
  - (a) the appointed person may allow or dismiss the appeal, and
  - (b) the appointed person’s decision is treated as that of the Secretary of State.
- (6) The decision made on the appeal is final (subject to subsection (7)).
- (7) The appellant or the authority may, before the end of the prescribed period and with the permission of the High Court, appeal to the High Court against the decision of the Secretary of State on a point of law.

- (8) In this section “prescribed” means prescribed by regulations made by the Secretary of State by statutory instrument.
- (9) The regulations may make provision about the procedure for the determination of appeals under this section (including provision conferring powers on the Secretary of State or the appointed person).
- (10) The regulations may make—
  - (a) different provision for different purposes;
  - (b) transitional or saving provision.
- (11) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

## SCHEDULE 7

Section 106

### REQUIREMENTS OF THE NEW HOMES OMBUDSMAN SCHEME

- 1 The new homes ombudsman scheme must be readily accessible and its procedures easy to use.
- 2 The scheme must include provision about each of the following—
  - (a) the appointment of the new homes ombudsman;
  - (b) the procedure for becoming and remaining a member of the scheme, which may include a requirement to pay a fee and a requirement to provide information;
  - (c) the matters in relation to which complaints against members of the scheme may be made under the scheme (which may include complaints about non-compliance with a code of practice issued or approved under section 109);
  - (d) the procedure for making complaints under the scheme;
  - (e) the investigation and determination by the new homes ombudsman of complaints made under the scheme;
  - (f) the enforcement of determinations made by the new homes ombudsman;
  - (g) the making of recommendations by the new homes ombudsman, where following the investigation of a complaint the ombudsman identifies widespread or regular unacceptable standards of conduct or standards of quality of work on the part of members of the scheme, about changes that members may make in order to improve those standards;
  - (h) the acceptance and handling of complaints transferred from a scheme previously available under section 106 but which is no longer available;
  - (i) the manner in which complaints about the operation of the scheme may be made by members of the scheme or by persons who have asked for a complaint to be investigated under the scheme;
  - (j) arrangements for a person exercising functions under the scheme to do so jointly with a person exercising functions under another redress scheme, including for the making of joint determinations by

- the new homes ombudsman and an independent person making determinations under another redress scheme;
- (k) where the scheme is established and maintained by a person other than the Secretary of State, the provision of information to the Secretary of State;
  - (l) the making of reports on the operation of the scheme.
- 3 The scheme may provide for different categories of member and the provision mentioned in paragraph 2(b) may differ as between such categories.
- 4 The provision mentioned in paragraph 2(d) must not include any requirement to pay a fee.
- 5 The provision mentioned in paragraph 2(e) must include provision—
- (a) requiring the new homes ombudsman, in determining a complaint, to have regard to any code of practice issued or approved under section 109,
  - (b) for the new homes ombudsman to require members of the scheme to provide information, and
  - (c) for the new homes ombudsman to require members of the scheme to provide complainants whose complaints are determined to be well-founded with any one or more of the forms of redress in paragraph 6.
- 6 The forms of redress are—
- (a) paying compensation;
  - (b) making an apology;
  - (c) providing an explanation;
  - (d) taking such other action in the interests of the complainant as the new homes ombudsman may specify.
- 7 The provision mentioned in paragraph 2(f) may include provision for the expulsion of a member from the scheme (and the requirement in section 106(2)(a) is not to be read as preventing the new homes ombudsman scheme from including such provision).
- 8 In paragraph 2(j), “redress scheme” means a scheme under which complaints against members of the scheme may be made to, and investigated and determined by, an independent person.

## SCHEDULE 8

Section 110

### CONSTRUCTION PRODUCTS REGULATIONS

#### *Introductory*

- 1 (1) The Secretary of State may by regulations make provision in relation to the marketing and supply of construction products in the United Kingdom.
- (2) In this Schedule, regulations under this paragraph are called “construction products regulations”.

- 2 Construction products regulations may –
  - (a) make provision for and in relation to designated standards for construction products,
  - (b) impose requirements on manufacturers, importers and distributors of construction products for which there are designated standards under the regulations, and
  - (c) confer powers on relevant authorities to impose requirements on manufacturers, importers and distributors of such products.
- 3 (1) Provision under paragraph 2(a) may include provision –
  - (a) for the designation by the Secretary of State of standards prepared in accordance with the regulations;
  - (b) for the designation by the Secretary of State of EU harmonised standards or other overseas standards;
  - (c) for EU harmonised standards or other overseas standards to be designated standards for the purposes of the regulations.

(2) Provision under sub-paragraph (1)(a) may include provision as to –

  - (a) the persons by whom standards may be proposed;
  - (b) the means by which and persons by whom standards are to be prepared;
  - (c) the matters to be covered by a standard.
- 4 (1) Provision under paragraph 2(b) may include provision for the imposition of requirements relating to –
  - (a) declarations of performance in respect of products which are or are to be marketed;
  - (b) the marking or packaging of products;
  - (c) the provision of information, including information about risk, to persons to whom products are supplied;
  - (d) the monitoring, assessment and verification of product performance, including sample testing;
  - (e) the storage and transportation of products;
  - (f) the withdrawal of products from the market or recall of products from persons to whom they have been supplied;
  - (g) recording and investigating complaints;
  - (h) the production and retention of documentation;
  - (i) the notification of risks to relevant authorities;
  - (j) information which must or may be provided to relevant authorities;
  - (k) co-operation with relevant authorities;
  - (l) the appointment by manufacturers, importers and distributors of authorised representatives.

(2) Provision about declarations of performance under sub-paragraph (1)(a) may include provision as to –

  - (a) the technical documentation to be prepared in relation to a declaration of performance;
  - (b) the content of a declaration of performance;
  - (c) the form of a declaration of performance;

- (d) how a declaration of performance is to be supplied or made available.
- (3) Provision about the marking of products under sub-paragraph (1)(b) may include provision as to—
  - (a) the form and content of any marking;
  - (b) circumstances in which products must or must not be marked.
- (4) Requirements which may be imposed on manufacturers, importers or distributors under paragraph 2(b) may also be imposed on the authorised representatives of such persons.
- 5 (1) Provision under paragraph 2(c) may include provision conferring powers on a relevant authority to impose requirements on manufacturers, importers and distributors where—
  - (a) there has been no failure to comply with requirements imposed under paragraph 2(b), but
  - (b) in the view of the relevant authority the products nevertheless risk causing death or serious injury to any person.
- (2) Those powers may include powers by notice to—
  - (a) require a person to warn others of the risks attaching to a product;
  - (b) require the marking of a product in respect of the risks attaching to it;
  - (c) suspend for a specified period or prohibit the marketing or supply of a product (or suspend or prohibit the marketing and supply of the product without the consent of a specified person);
  - (d) require the withdrawal of a product from the market;
  - (e) require the recall of a product from persons to whom it has been supplied.
- (3) Provision under sub-paragraph (2) may include provision for appeals against a notice.
- 6 (1) Provision under paragraph 2 may include any provision—
  - (a) which is made by the 2011 Regulation, or
  - (b) which relates to any matter in respect of which provision is made by the 2011 Regulation.
- (2) The references in sub-paragraph (1) to the 2011 Regulation are to that Regulation as it forms part of the law of England and Wales, Scotland or Northern Ireland immediately after IP completion day.

#### *Safety-critical products*

- 7 (1) Construction products regulations may—
  - (a) impose requirements on manufacturers, importers and distributors of construction products to which this paragraph applies, or
  - (b) confer powers on relevant authorities to impose requirements on manufacturers, importers and distributors of such products.
- (2) This paragraph applies to construction products—
  - (a) for which there are no designated standards under paragraph 2,
  - (b) for which there are no standards which are designated standards for the purposes of the 2011 Regulation,
  - (c) which are not the subject of a UK technical assessment, and



- (d) which are safety-critical products.
- 8 (1) For the purposes of this Schedule, “safety-critical products” means construction products which are included in a list contained in construction products regulations for the purposes of those regulations.
- (2) A construction product may only be included in a list under sub-paragraph (1) if, in the view of the Secretary of State, any failure of the product would risk causing death or serious injury to any person.
- (3) Before including a product in the list, or amending the list, the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- 9 Paragraph 4 applies for the purposes of provision that may be made under paragraph 7(1)(a) as it applies for the purposes of paragraph 2(b).
- 10 (1) Provision under paragraph 7(1)(b) may include provision conferring powers on a relevant authority to impose requirements on manufacturers, importers and distributors where—
- (a) there has been no failure to comply with requirements imposed under paragraph 7(1)(a), but
- (b) in the view of the relevant authority the products nevertheless risk causing death or serious injury to any person.
- (2) Those powers may include powers by notice to—
- (a) require a person to warn others of the risks attaching to a product;
- (b) require the marking of a product in respect of the risks attaching to it;
- (c) suspend for a specified period or prohibit the marketing or supply of a product (or suspend or prohibit the marketing and supply of the product without the consent of a specified person);
- (d) require the withdrawal of a product from the market;
- (e) require the recall of a product from persons to whom it has been supplied.
- (3) Provision under sub-paragraph (2) may include provision for appeals against a notice.

*General safety requirements*

- 11 (1) Construction products regulations may impose requirements on manufacturers, importers and distributors of construction products which are not safe products and—
- (a) for which there are no designated standards under paragraph 2,
- (b) for which there are no standards which are designated standards for the purposes of the 2011 Regulation,
- (c) which are not the subject of a UK technical assessment, and
- (d) which are not safety-critical products.
- (2) Those requirements may include requirements relating to the assessment of risk and the taking of steps to avoid or reduce risk, including any of the requirements referred to in paragraph 4(1)(b) to (l).
- 12 For the purposes of paragraph 11 a construction product is a “safe product” if, under normal conditions of use (including duration of use and any

conditions relating to installation or maintenance), and taking into account any packaging, warnings or information with which it is supplied –

- (a) the product does not present any risk to the health or safety of persons, or
- (b) if it does, the risk is as low as it can be compatibly with using the product at all.

### *Enforcement*

- 13 (1) Construction products regulations may make provision for and in relation to –
  - (a) monitoring compliance with requirements imposed by or under the regulations and investigating suspected non-compliance;
  - (b) securing compliance with the requirements imposed by or under the regulations;
  - (c) penalties for –
    - (i) non-compliance with requirements imposed by or under the regulations;
    - (ii) obstruction of persons carrying out functions under the regulations.
- (2) Provision under sub-paragraph (1)(a) may include –
  - (a) provision for relevant authorities to carry out market surveillance and test purchases;
  - (b) provision for relevant authorities to search premises and to seize and retain products (including provision for the payment of compensation);
  - (c) provision requiring the retention and provision of information (including provision for relevant authorities to require the provision of information).
- (3) Provision under sub-paragraph (1)(b) may include provision conferring powers on a relevant authority by notice to –
  - (a) require a person to warn others of the risks attaching to a product;
  - (b) require the marking of a product in respect of the risks attaching to it;
  - (c) suspend for a specified period or prohibit the marketing or supply of a product (or suspend or prohibit the marketing and supply of the product without the consent of a specified person);
  - (d) require the withdrawal of a product from the market;
  - (e) require the recall of a product from persons to whom it has been supplied.
- (4) Provision under sub-paragraph (1)(b) may also include provision for the forfeiture of products by court order (or, in Scotland, order of the sheriff).
- (5) Provision under sub-paragraph (1)(c) may include –
  - (a) provision creating criminal offences;
  - (b) in relation to England and Wales and Northern Ireland, provision for the prosecution by relevant authorities of criminal offences created under paragraph (a);
  - (c) provision conferring powers on relevant authorities to impose civil penalties (including fines).



*General and supplementary*

- 15 (1) Construction products regulations may make—
- (a) different provision for different purposes;
  - (b) different provision for or in relation to different parts of the United Kingdom;
  - (c) transitional, transitory, consequential and supplementary provision or savings.
- (2) The provision made by paragraphs 2 to 14 does not limit the power conferred by paragraph 1.
- 16 (1) Construction product regulations may make provision by repealing, amending or re-enacting—
- (a) retained EU law (and in particular the 2011 Regulation);
  - (b) the Construction Products Regulations 2013 (S.I. 2013/1387);
  - (c) any enactment other than this Act, whenever passed or made.
- (2) Construction products regulations making consequential provision under paragraph 15(1)(c) may also amend this Schedule.

*Procedure*

- 17 (1) Construction products regulations are to be made by statutory instrument.
- (2) Construction products regulations which contain provision specified in sub-paragraph (3) (with or without other provision) may not be made unless a draft of the instrument containing them has been laid before, and approved by resolution of, each House of Parliament.
- (3) The provision referred to in sub-paragraph (2) is—
- (a) the first provision to be made under paragraph 8(1) (list of safety-critical products);
  - (b) provision under paragraph 13(5)(a) (creation of criminal offences);
  - (c) provision which repeals or amends retained EU law or any Act.
- (4) A statutory instrument containing construction products regulations to which sub-paragraph (2) does not apply is subject to annulment in pursuance of a resolution of either House of Parliament.

*Interpretation*

- 18 In this Schedule—
- the “2011 Regulation” means Regulation (EU) No. 305/2011 (regulation laying down harmonised conditions for the marketing of construction products) as it forms part of the law of England and Wales, Scotland or Northern Ireland;
  - “authorised representative” has the same meaning as in the 2011 Regulation (see Article 12.22);
  - “construction products” means products which are designed to be incorporated permanently into building or civil engineering works (with or without further processing);
  - “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“UK technical assessment” has the same meaning as in the 2011 Regulation (see Article 2.13E).