



# Building Act 1984

## 1984 CHAPTER 55

### PART I

#### BUILDING REGULATIONS

##### Modifications etc. (not altering text)

- C1** Pt. 1 (ss. 1-46) restricted by [Channel Tunnel Act 1987](#) (c. 53, SIF 102), ss. 31(1), 45, **Sch. 7 Pt. VI para. 2**
- C2** Pt. 1 (ss. 1-46) modified (1.4.1991) by [National Health Service and Community Care Act 1990](#) (c. 19, SIF 113:2), s. 60(2), **Sch. 8 para. 18(1)**
- C3** Pt. 1 (ss. 1-46) modified (17.7.1992) by S.I. 1992/1732, **art. 4(1)**
- C4** Pt. 1 (ss. 1-46) excluded (18. 12. 1996) by 1996 c. 61, s. 38, **Sch. 10 para.7P**  
Pt. I (ss. 1-46) excluded (26.3.2001) by S.I. 2001/1149, **art. 4(5)** (subject to art. 1(3))
- C5** Pt. 1 (ss. 1-46) excluded (22.7.2008) by [Crossrail Act 2008](#) (c. 18), **Sch. 14 para. 8**
- C6** Pt. 1 (ss. 1-46) excluded (24.9.2014) by [The Thames Water Utilities Limited \(Thames Tideway Tunnel\) Order 2014](#) (S.I. 2014/2384), art. 1, **Sch. 19 Pt. 1 para. 3**
- C7** Pt. 1 (ss. 1-46) excluded (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017](#) (c. 7), s. 70(1), **Sch. 22 para. 1**
- C8** Pt. 1 excluded (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021](#) (c. 2), s. 64(1), **Sch. 22 para. 1(1)(a)** (with Sch. 22 para. 1(2)(3))

#### *Power to make building regulations*

### **1 Power to make building regulations.**

- (1) The [<sup>F1</sup>appropriate national authority] may, for any of the purposes of—
- (a) securing the health, safety, welfare and convenience of persons in or about buildings and of others who may be affected by buildings or matters connected with buildings,
  - [<sup>F2</sup>(b) furthering the conservation of fuel and power,
  - (c) preventing waste, undue consumption, misuse or contamination of water,

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- (d) furthering the protection or enhancement of the environment,
- (e) facilitating sustainable development, or
- (f) furthering the prevention or detection of crime,]

make regulations with respect to the [<sup>F3</sup>matters mentioned in subsection (1A) below].

[<sup>F4</sup>(1A) Those matters are—

- (a) the design and construction of buildings;
- (b) the demolition of buildings;
- (c) services, fittings and equipment provided in or in connection with buildings.]

(2) Regulations made under subsection (1) above are known as building regulations.

(3) Schedule 1 to this Act has effect with respect to the matters as to which building regulations may provide.

(4) The power to make building regulations is exercisable by statutory instrument, which is [<sup>F5</sup>—

- (a) in the case of a statutory instrument made by the Secretary of State, subject to annulment in pursuance of a resolution of either House of Parliament;
- (b) in the case of a statutory instrument made by the Welsh Ministers, subject to annulment in pursuance of a resolution of Senedd Cymru.]

#### Textual Amendments

- F1** Words in s. 1(1) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 2\(2\)](#); S.I. 2022/561, reg. 3(f), Sch. para. 2; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 1
- F2** S. 1(1)(b)-(f) substituted for (1)(b)(c) (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), [ss. 1\(1\)](#), 11(4)
- F3** Words in s. 1(1) substituted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), [ss. 1\(2\)](#), 11(4)
- F4** S. 1(1A) inserted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), [ss. 1\(3\)](#), 11(4)
- F5** Words in s. 1(4) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 2\(3\)](#); S.I. 2022/561, reg. 3(f), Sch. para. 2; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 1

#### [<sup>F6</sup>1A Buildings of special historical or architectural interest

(1) In making building regulations the [<sup>F7</sup>appropriate national authority] shall have regard, in particular, to the desirability of preserving the character of protected buildings that are of special historical or architectural interest.

(2) In this section “ protected buildings ” means—

- (a) listed buildings within the meaning of the Planning (Listed Buildings and Conservation Areas) Act 1990 (see section 1(5) of that Act); and
- (b) buildings situated in areas designated as conservation areas under section 69 of that Act.]

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### Textual Amendments

- F6** S. 1A inserted (1.2.2006) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), **ss. 2, 11(3)**; S.I. 2006/224, art. 2(a)
- F7** Words in s. 1A(1) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), **Sch. 5 para. 3**; S.I. 2022/561, reg. 3(f), Sch. para. 3; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 2

## 2 Continuing requirements.

- (1) Building regulations may impose on owners and occupiers of buildings to which building regulations are applicable such continuing requirements as the [<sup>F8</sup>appropriate national authority] considers appropriate for securing, with respect to any provision of building regulations designated in the regulations as a provision to which those requirements relate, that the purposes of that provision are not frustrated; but a continuing requirement imposed by virtue of this subsection does not apply in relation to a building unless a provision of building regulations so designated as one to which the requirement relates applies to that building.
- (2) Building regulations may impose on owners and occupiers of buildings of a prescribed class (whenever erected, and whether or not any building regulations were applicable to them at the time of their erection) continuing requirements with respect to all or any of the following matters—
- (a) the conditions subject to which any services, fittings or equipment provided in or in connection with a building of that class may be used,
  - (b) the inspection and maintenance of any services, fittings or equipment so provided,
  - (c) the making of reports to a prescribed authority on the condition of any services, fittings or equipment so provided,
- and so much of paragraph 8 of Schedule 1 to this Act as restricts the application of building regulations does not apply to regulations made by virtue of this subsection.
- (3) If a person contravenes a continuing requirement imposed by virtue of this section, the [<sup>F9</sup>local authority][<sup>F9</sup>building control authority], without prejudice to their right to take proceedings for a fine in respect of the contravention, may—
- (a) execute any work or take any other action required to remedy the contravention, and
  - (b) recover from that person the expenses reasonably incurred by them in so doing.
- (4) Where a [<sup>F10</sup>local authority][<sup>F10</sup>building control authority] have power under subsection (3) above to execute any work or take any other action, they may, instead of exercising that power, by notice require the owner or the occupier of the building to which the contravention referred to in that subsection relates to execute that work or take that action.
- (5) Sections 99 and 102 below apply in relation to a notice given under subsection (4) above, subject to the modification that references in those sections to the execution of works are references to the execution of works or the taking of other action, and references to works shall be construed accordingly.

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- (6) Sections 8, 9, 10 and 39 below have effect in relation to continuing requirements imposed by virtue of this section subject to the modification that a direction under the said sections 8 and 9 below shall, if it so provides, cease to have effect at the end of such period as may be specified in the direction.

#### Textual Amendments

- F8** Words in s. 2(1) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 4\(2\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 5](#); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 3](#)
- F9** Words in s. 2(3) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 4\(3\)](#); S.I. 2023/993, reg. 2(n)(i)
- F10** Words in s. 2(4) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 4\(3\)](#); S.I. 2023/993, reg. 2(n)(i)

### [<sup>F11</sup>2A] Continuing requirements in relation to fuel, power and emissions

- (1) Building regulations may impose, on owners and occupiers of buildings, continuing requirements that fall within subsection (2) below.
- (2) A continuing requirement falls within this subsection if—
- (a) it requires the inspection and testing of a building—
    - (i) as respects the use of fuel and power in or in connection with the building; or
    - (ii) as respects its contribution to or effect on emissions (whether or not from the building) of smoke, gases, vapours or fumes;
  - (b) it requires the inspection and testing of any service, fitting or equipment provided in or in connection with a building—
    - (i) as respects the use of fuel and power in or in connection with the service, fitting or equipment; or
    - (ii) as respects its contribution to or effect on emissions (whether or not from it or the building) of smoke, gases, vapours or fumes;
  - (c) it requires the implementation, in relation to a building, or any service, fitting or equipment provided in or in connection with a building, of—
    - (i) measures for the purpose mentioned in section 1(1)(b) above; or
    - (ii) measures (otherwise than for that purpose) that are calculated to secure, or to contribute to, the prevention or reduction of emissions (whether or not from the building in question or a thing provided in or in connection with it) of smoke, gases, vapours or fumes;
  - (d) it requires the keeping of records in relation to matters within paragraph (a), (b) or (c); or
  - (e) it requires the making of reports in relation to any of those matters to a prescribed authority.
- (3) Those requirements may be imposed in the case of buildings, or in the case of services, fittings and equipment provided in or in connection with buildings, irrespective of both—
- (a) when the buildings were erected; and
  - (b) whether building regulations were applicable to them at the time of their erection.

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- (4) Subsections (3) to (6) of section 2 above apply in relation to continuing requirements imposed by virtue of this section as they apply in relation to continuing requirements imposed by virtue of that section.
- (5) Paragraph 8(2) of Schedule 1 to this Act does not impose any restriction on the building regulations that may be made by virtue of this section.]

#### Textual Amendments

**F11** S. 2A inserted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), ss. **4(1)**, **11(4)**

#### [<sup>F12</sup>**2B** Optional requirements

- (1) Building regulations made by the Secretary of State in relation to England may include a requirement that applies only where a planning authority makes compliance with the requirement a condition of a grant of planning permission.
- (2) In the following provisions of this section, a requirement included in building regulations by virtue of subsection (1) is referred to as an “optional requirement”.
- (3) Building regulations may specify that an optional requirement is capable of applying only in respect of development of a kind described in the regulations.
- (4) Building regulations may specify conditions that must be satisfied before a planning authority may make compliance with an optional requirement a condition of the grant of planning permission.
- (5) Building regulations may specify the steps that a planning authority must take to inform a person subject to an optional requirement of the requirement.
- (6) Where building regulations include an optional requirement that would (to any extent) be inconsistent with another requirement imposed by the regulations, the building regulations must provide—
  - (a) that the other requirement does not apply in any case where the optional requirement applies, or
  - (b) that the other requirement applies in any such case with modifications specified in the regulations.
- (7) In this section —
  - “development” has the same meaning as in the Town and Country Planning Act 1990 (see section 55 of that Act);
  - “planning authority” means—
    - (a) a local planning authority within the meaning of that Act (see section 336(1));
    - (b) the Secretary of State (in the exercise of functions of granting planning permission);
  - “planning permission” has the same meaning as in that Act (see section 336(1)).]

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#### Textual Amendments

**F12** S. 2B inserted (26.3.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 42**, 115(1)(b)

*[<sup>F13</sup>Duty to review minimum energy performance requirements*

#### Textual Amendments

**F13** S. 2C and cross-heading inserted (12.5.2016) by [Housing and Planning Act 2016 \(c. 22\)](#), **ss. 165**, 216(1)(e)

### 2C **Review of minimum energy performance requirements**

The Secretary of State must carry out a review of any minimum energy performance requirements approved by the Secretary of State under building regulations in relation to dwellings in England.]

*Exemption from building regulations*

### 3 **Exemption of particular classes of buildings etc.**

- (1) Building regulations may exempt a prescribed class of buildings, services, fittings or equipment from all or any of the provisions of building regulations.
- (2) The [<sup>F14</sup>appropriate national authority] may by direction exempt from all or any of the provisions of building regulations—
  - (a) a particular building, or
  - (b) buildings of a particular class at a particular location,
 either unconditionally or subject to compliance with any conditions specified in the direction.
- [<sup>F15</sup>(2A) The regulator may at any time make a proposal to the Secretary of State for the giving of a direction under subsection (2).
- (2B) Before making a proposal, the regulator must consult such persons as it considers appropriate.
- (2C) Before giving a direction under subsection (2), other than a direction 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.]
- (3) A person who contravenes a condition specified in a direction given under subsection (2) above, or permits such a condition to be contravened, is liable on summary conviction to a fine [<sup>F16</sup>not exceeding level 5 on the standard scale], and to a further fine not exceeding [<sup>F17</sup>£50][<sup>F17</sup>level 1 on the standard scale] for each day on which the offence continues after he is convicted.

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#### Textual Amendments

- F14** Words in s. 3(2) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 5\(2\)](#); S.I. 2022/561, reg. 3(f), Sch. para. 7; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 4
- F15** S. 3(2A)-(2C) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 5\(3\)](#); S.I. 2023/993, reg. 2(n)(ii) (with reg. 4)
- F16** Words in s. 3(3) omitted (1.10.2023 except in relation to W.) by virtue of [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 5\(4\)\(a\)](#); S.I. 2023/993, reg. 2(n)(ii)
- F17** Words in s. 3(3) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 5\(4\)\(b\)](#); S.I. 2023/993, reg. 2(n)(ii)

#### 4 Exemption of educational buildings and buildings of statutory undertakers.

- (1) Nothing in this Part of this Act with respect to building regulations, and nothing in any building regulations, applies in relation to—
- (a) a building required for the purposes of a school or other educational establishment erected or to be erected according to
- <sup>F18</sup>(i) plans that have been approved by the <sup>F19</sup>appropriate national authority],
  - <sup>F20</sup>(ii) particulars submitted and approved under regulations made under section 544 of the Education Act 1996,]
  - <sup>F21</sup>(iii) . . . . .
  - <sup>F22</sup>(iv) . . . . .]
- (b) a building belonging to statutory undertakers, the United Kingdom Atomic Energy Authority . . . <sup>F23</sup> or the Civil Aviation Authority and held or used by them for the purposes of their undertaking, unless it is—
- (i) a house, . . . <sup>F24</sup> or
  - (ii) a building used as offices or showrooms, and not forming part of a railway station <sup>F25</sup> . . . <sup>F26</sup> . . .
- <sup>F27</sup>or
- (c) a building belonging to a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) and held or used by the person for the purpose of carrying out activities authorised by the licence, unless it is—
- (i) a house, or
  - (ii) a building used as offices or showrooms.]
- (2) The words “the United Kingdom Atomic Energy Authority,” in subsection (1)(b) above (together with paragraph 4 of Schedule 6 to this Act) cease to have effect upon the coming into force of the repeal of section 5(5) of the <sup>M1</sup>Atomic Energy Authority Act 1954 contained in Schedule 7 to this Act.

#### Textual Amendments

- F18** S.4(1)(a)(i)-(iv) substituted (1.11.1996) by 1996 c. 56, s. 582(1), [Sch. 37 Pt. 1 para. 59](#) (with s. 1(4), Sch. 39 paras. 30, 39)
- F19** Words in s. 4(1)(a)(i) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 6](#); S.I. 2022/561, reg. 3(f), Sch. para. 8; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 5



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- F20** S. 4(1)(a)(ii) substituted (6.11.2006 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 6](#) (with ss. 210(8), 214(4)); S.I. 2006/2895, art. 2; S.I. 2007/3611, art. 4(1), [Sch. Pt. 1](#)
- F21** S. 4(1)(a)(iii) repealed (1.9.1999) by 1998 c. 31, s. 140(3), [Sch. 31](#) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), [Sch. 1](#) (with art. 17)
- F22** S. 4(1)(a)(iv) repealed (1.4.1999) by 1998 c. 31, s. 140(3), [Sch. 31](#) (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), [Sch. 1](#)
- F23** Words repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), [Sch. 6 Pt. I](#)
- F24** Words repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), [Sch. 6 Pt. I](#)
- F25** Words in s. 4(1)(b)(ii) omitted (10.11.2011) by virtue of [The Airport Charges Regulations 2011 \(S.I. 2011/2491\)](#), reg. 1(1), [Sch. 2 para. 3\(2\)](#)
- F26** Words repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), [Sch. 6 Pt. I](#)
- F27** S. 4(1)(c) and word “or” immediately preceding it inserted (21.12.2001) by S.I. 2001/4050, art. 2, [Sch. Pt. II para. 7\(a\)](#)

#### Modifications etc. (not altering text)

- C9** S. 4 excluded by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), ss. 31(2), [Sch. 7 Pt. VI para. 2](#)
- C10** S. 4(1) excluded (1.10.2010) by [The Building Regulations 2010 \(S.I. 2010/2214\)](#), regs. 1, [34\(1\)](#) (with reg. 9)
- C11** S. 4(1) excluded by S.I. 2010/2214, reg. 34(1)(a) (as substituted (9.1.2013) by [The Building Regulations &c. \(Amendment\) Regulations 2012 \(S.I. 2012/3119\)](#), [reg. 22](#), [Sch. 1](#) (with regs. 1(3)(4), 45-47))
- C12** S. 4(1)(b) applied with modifications by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 58, [Sch. 2 para. 6\(a\)](#)

#### Marginal Citations

- M1** 1954 c. 32.

## 5 Exemption of public bodies from procedural requirements of building regulations.

- (1) Building regulations may exempt—
- (a) a local authority,
  - (b) a county council, or
  - (c) any other body that acts under an enactment for public purposes and not for its own profit and is prescribed for the purposes of this section,
- from compliance with any requirements of those regulations that are not substantive requirements.
- (2) A local authority, county council or other body that is exempted as mentioned in subsection (1) above is in subsection (3) below referred to as an “exempt body”.
- (3) Without prejudice to the obligation of an exempt body to comply with substantive requirements of building regulations, the function of enforcing building regulations that is conferred on local authorities by section 91(2) below is not exercisable in relation to work carried out by an exempt body, and accordingly—
- (a) nothing in section 36(1) to (5) below applies in relation to work so carried out, and
  - (b) a local authority may not institute proceedings under section 35 below for a contravention [<sup>F28</sup>of building regulations] by an exempt body.
- [<sup>F29</sup>(3A) In relation to higher-risk building work in England—
- (a) exemptions under subsection (1) have no effect (and accordingly bodies must comply with requirements applicable to such work, whether substantive or not), and



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- (b) subsection (3) has no effect (and accordingly the provisions mentioned in that subsection are not disapplied or otherwise affected by it in relation to such work).]
- (4) [<sup>F30</sup>In subsection (3) above, the reference to the carrying out of work includes a reference to the making of a material change of use as defined by and for the purposes of building regulations.]

#### Textual Amendments

- F28** Words in s. 5(3)(b) omitted (1.10.2023 except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), Sch. 5 para. 7; S.I. 2023/993, reg. 2(n)(iii)
- F29** S. 5(3A) inserted (1.10.2023) by The Building (Public Bodies and Higher-Risk Building Work) (England) Regulations 2023 (S.I. 2023/504), regs. 1(2), 2; S.I. 2023/993, reg. 2(f) (with reg. 4)
- F30** S. 5(4) omitted (1.10.2023 except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), Sch. 5 para. 8; S.I. 2023/993, reg. 2(n)(iii)

#### Approved documents

### 6 Approval of documents for purposes of building regulations.

- (1) For the purpose of providing practical guidance with respect to the requirements of any provision of building regulations, the [<sup>F31</sup>appropriate national authority] or a body designated by [<sup>F32</sup>the appropriate national authority] for the purposes of this section may—
- (a) approve and issue any document (whether or not prepared by [<sup>F32</sup>the appropriate national authority] or by the body concerned), or
  - (b) approve any document issued or proposed to be issued otherwise than by [<sup>F32</sup>the appropriate national authority] or by the body concerned,
- if in the opinion of the [<sup>F31</sup>appropriate national authority] or, as the case may be, the body concerned the document is suitable for that purpose.
- (2) References in this section and section 7 below to a document include references to a part of a document; and accordingly, in relation to a document of which part only is approved, a reference in the following provisions of this section or in section 7 below to the approved document is a reference only to the part of it that is approved.
- (3) An approval given under subsection (1) above takes effect in accordance with a notice that is issued by the [<sup>F31</sup>appropriate national authority] or, as the case may be, the body giving the approval and that—
- (a) identifies the approved document in question,
  - (b) states the date on which the approval of it is to take effect, and
  - (c) specifies the provisions of building regulations for the purposes of which the document is approved.
- (4) The [<sup>F31</sup>appropriate national authority] or, as the case may be, the body that gave the approval may—
- (a) from time to time approve and issue a revision of the whole or any part of an approved document issued by <sup>F33</sup>... it for the purposes of this section, and
  - (b) approve any revision or proposed revision of the whole or any part of an approved document,

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and subsection (3) above, with the necessary modifications, applies in relation to an approval that is given under this subsection to a revision as it applies in relation to an approval that is given under subsection (1) above to a document.

- (5) The [<sup>F31</sup>appropriate national authority] or, as the case may be, the body that gave the approval may withdraw <sup>F34</sup>... its approval of a document under this section; and such a withdrawal of approval takes effect in accordance with a notice that is issued by the [<sup>F31</sup>appropriate national authority] or body concerned and that—
- (a) identifies the approved document in question, and
  - (b) states the date on which the approval of it is to cease to have effect.
- [<sup>F35</sup>(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 appropriate national authority.]
- (6) References in subsections (4) and (5) above and in section 7 below to an approved document are references to that document as it has effect for the time being, regard being had to any revision of the whole or any part of it that has been approved under subsection (4) above.
- (7) Where a body ceases to be a body designated by the [<sup>F31</sup>appropriate national authority] for the purposes of this section, subsections (4) and (5) above have effect as if any approval given by that body had been given by the Secretary of State.
- (8) The power to designate a body for the purposes of this section is exercisable by order made by statutory instrument, which is [<sup>F36</sup>—
- (a) in the case of a statutory instrument made by the Secretary of State, subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) in the case of a statutory instrument made by the Welsh Ministers, subject to annulment in pursuance of a resolution of Senedd Cymru.]
- [<sup>F37</sup>(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.]

#### Textual Amendments

- F31** Words in s. 6 substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 9(2)**; S.I. 2022/561, reg. 3(f), Sch. para. 9; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 6
- F32** Words in s. 6(1) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 9(3)**; S.I. 2022/561, reg. 3(f), Sch. para. 9; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 6
- F33** Words in s. 6(4)(a) omitted (28.6.2022 for E., 5.9.2023 for W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 9(4)**; S.I. 2022/561, reg. 3(f), Sch. para. 9; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 6
- F34** Words in s. 6(5) omitted (28.6.2022 for E., 5.9.2023 for W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 9(5)**; S.I. 2022/561, reg. 3(f), Sch. para. 9; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 6

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- F35** S. 6(5A)(5B) inserted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 9(6)**; S.I. 2022/561, reg. 3(f), Sch. para. 9; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 6
- F36** Words in s. 6(8) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 9(7)**; S.I. 2022/561, reg. 3(f), Sch. para. 9; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 6
- F37** S. 6(9) inserted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 9(8)**; S.I. 2022/561, reg. 3(f), Sch. para. 9; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 6

## 7 Compliance or non-compliance with approved documents.

- (1) A failure on the part of a person to comply with an approved document does not of itself render him liable to any civil or criminal proceedings; but if, in any proceedings whether civil or criminal, it is alleged that a person has at any time contravened a provision of building regulations—
- a failure to comply with a [<sup>F38</sup>relevant approved document] may be relied upon as tending to establish liability, and
  - proof of compliance with such a document may be relied on as tending to negative liability.

[<sup>F39</sup>(1A) In subsection (1) “relevant approved document” means a document approved for the purposes of the provision that applies in relation to the work in question.]

- (2) In any proceedings, whether civil or criminal—
- a document purporting to be a notice issued as mentioned in section 6(3) above shall be taken to be such a notice unless the contrary is proved, and
  - a document that appears to the court [<sup>F40</sup>or tribunal] to be the approved document to which such a notice refers shall be taken to be that approved document unless the contrary is proved.

### Textual Amendments

- F38** Words in s. 7(1)(a) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 10(2)**; S.I. 2022/561, reg. 3(f), Sch. para. 10; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 7
- F39** S. 7(1A) inserted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 10(3)**; S.I. 2022/561, reg. 3(f), Sch. para. 10; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 7
- F40** Words in s. 7(2)(b) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 10**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

### *Relaxation of building regulations*

## 8 Relaxation of building regulations.

- (1) Subject to this section, the [<sup>F41</sup>appropriate national authority], if on an application for a direction under this section [<sup>F42</sup>it] considers that the operation of a requirement in building regulations would be unreasonable in relation to the particular case to which the application relates, may after consultation with the local authority, give a direction dispensing with or relaxing that requirement.

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- (2) If building regulations so provide as regards a requirement contained in the regulations, the power to dispense with or relax that requirement under subsection (1) above is exercisable by the local authority (instead of by the [<sup>F41</sup>appropriate national authority] after consultation with the local authority).
- (3) Building regulations made by virtue of subsection (2) above may except applications of any description.
- [<sup>F43</sup>(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.]
- (4) If—
- (a) building regulations so provide as regards any requirement contained in the regulations, and
  - (b) a public body considers that the operation of any such requirement would be unreasonable in relation to any particular work carried out or proposed to be carried out by or on behalf of the public body,
- the public body may give a direction dispensing with or relaxing that requirement.
- (5) In subsection (4) above, “public body” means—
- (a) a local authority.
  - (b) a county council, or
  - (c) any other body that is prescribed for the purposes of section 5 above.
- (6) Building regulations may provide as regards a requirement contained in the regulations that subsections (1) to (5) above do not apply.

#### Textual Amendments

- F41** Words in s. 8 substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 11\(2\)](#); S.I. 2022/561, reg. 3(f), Sch. para. 12; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 8
- F42** Word in s. 8(1) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 11\(3\)](#); S.I. 2022/561, reg. 3(f), Sch. para. 12; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 8
- F43** S. 8(3A)(3B) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 11\(4\)](#); S.I. 2023/993, reg. 2(n)(iv) (with reg. 4)

#### Modifications etc. (not altering text)

- C13** S. 8(1) modified (1.6.1992) by S.I. 1991/2768, [reg. 10\(1\)](#)  
S. 8(1) modified (1.1.2001) by S.I. 2000/2531, [reg. 11\(1\)](#)
- C14** S. 8(1)-(5) excluded by S.I. 2000/2531, reg. 11(3) (as added (6.4.2006) by [Building and Approved Inspectors \(Amendment\) Regulations 2006 \(S.I. 2006/652\)](#), regs. 1(2), [9\(2\)](#))
- C15** S. 8(1)-(5) excluded (1.10.2010) by S.I. 2010/2214, regs. 1, 11(3) (with reg. 9) (as substituted (19.4.2013) by [The Building Regulations & \(Amendment\) \(Wales\) Regulations 2013 \(S.I. 2013/747\)](#)),

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regs. 1(4), 4 (with reg. 1(2)(3)) (as amended (3.6.2013) by The Building (Amendment) Regulations 2013 (S.I. 2013/1105), regs. 1(2), 3(2) (with reg. 1(4)))

## 9 Application for relaxation.

- (1) An application under section 8(1) [<sup>F44</sup>or (2) above][<sup>F44</sup>, (2) or (3A)] shall be in such form and shall contain such particulars as may be prescribed.
- (2) [<sup>F45</sup>The application][<sup>F45</sup>An application under section 8(1) or (2)] shall be made to the local authority, and, except where the power of giving the direction is exercisable by the local authority, the local authority shall at once transmit the application to the [<sup>F46</sup>appropriate national authority] and give notice to the applicant that it has been so transmitted.
- (3) An application by a local authority in connection with a building or proposed building in the area of that authority shall be made to the [<sup>F46</sup>appropriate national authority], except where the power of giving the direction is exercisable by that authority [<sup>F47</sup>or in a case where the regulator is the building control authority.].
- (4) Schedule 2 to this Act has effect as regards as application for a direction that will affect the application of building regulations to work that has been carried out before the making of the application.

### Textual Amendments

- F44** Words in s. 9(1) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), Sch. 5 para. 12(3); S.I. 2023/993, reg. 2(n)(v)
- F45** Words in s. 9(2) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), Sch. 5 para. 12(4); S.I. 2023/993, reg. 2(n)(v)
- F46** Words in s. 9 substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), Sch. 5 para. 12(2); S.I. 2022/561, reg. 3(f), Sch. para. 14; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 9
- F47** Words in s. 9(3) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), Sch. 5 para. 12(5); S.I. 2023/993, reg. 2(n)(v)

## 10 Advertisement of proposal for relaxation of building regulations.

- (1) Not less than 21 days before giving a direction under section 8(1), (2) [<sup>F48</sup>, (3A)] or (4) above in respect of any particular work, the [<sup>F49</sup>appropriate national authority], the [<sup>F50</sup>local authority][<sup>F50</sup>building control authority] or the public body, as the case may be shall publish in a local newspaper circulating in the area where the site of the work is situated a notice—
  - (a) indicating the situation and nature of the work and the requirement to be dispensed with or relaxed, and
  - (b) stating that representations with regard to the effect that the direction may have on public health or safety may be made by a date specified in the notice, being a date not less than 21 days from the date of the notice.

and, where the direction is proposed to be made on an application, the [<sup>F49</sup>appropriate national authority] or the [<sup>F50</sup>local authority][<sup>F50</sup>building control authority] may, as a condition of entertaining the application, require the applicant to pay or undertake to pay the cost of publication.

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- (2) No notice need be published under the subsection (1) above where in appears to the [<sup>F51</sup>appropriate national authority], the [<sup>F52</sup>local authority][<sup>F52</sup>building control authority] or the public body, as the case may be, that any effect that the direction may have on public health or safety will be limited to premises adjoining the site of the work, but in that case <sup>F53</sup>... it shall give such a notice to the owner and occupier of those premises.
- (3) No notice need be published or given under subsection (1) or (2) above where the work affects only an internal part of a building.
- (4) The [<sup>F54</sup>appropriate national authority] may, instead of <sup>F55</sup>... publishing or giving a notice under subsection (1) or (2) above, require the local authority to give or publish the notice.
- (5) Before giving the direction, the [<sup>F56</sup>appropriate national authority], the [<sup>F57</sup>local authority][<sup>F57</sup>building control authority] or the public body shall consider any representation duly made in pursuance of a notice published or given under subsection (1) or (2) above.
- (6) If, after a local authority have received representations under this section, they refuse the application to which the representations relate and an appeal is brought against their refusal the local authority shall transmit [<sup>F58</sup>to the Secretary of State copies of those representations.][<sup>F58</sup>copies of the representations to—
  - (a) the regulator, in the case of a local authority for an area in England;
  - (b) the Welsh Ministers, in the case of a local authority for an area in Wales.]

#### Textual Amendments

- F48** Word in s. 10(1) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 13\(4\)](#); S.I. 2023/993, reg. 2(n)(vi)
- F49** Words in s. 10(1) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 13\(2\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 16](#); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 10](#)
- F50** Words in s. 10(1) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 13\(3\)](#); S.I. 2023/993, reg. 2(n)(vi)
- F51** Words in s. 10(2) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 13\(2\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 16](#); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 10](#)
- F52** Words in s. 10(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 13\(3\)](#); S.I. 2023/993, reg. 2(n)(vi)
- F53** Words in s. 10(2) omitted (28.6.2022 for E., 5.9.2023 for W.) by virtue of [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 13\(5\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 16](#); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 10](#)
- F54** Words in s. 10(4) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 13\(2\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 16](#); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 10](#)
- F55** Word in s. 10(4) omitted (28.6.2022 for E., 5.9.2023 for W.) by virtue of [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 13\(6\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 16](#); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 10](#)
- F56** Words in s. 10(5) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 13\(2\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 16](#); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 10](#)



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- F57** Words in s. 10(5) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 13\(3\)](#); S.I. 2023/993, reg. 2(n)(vi)
- F58** Words in s. 10(6) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 2](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

## 11 Type relaxation of building regulations.

- (1) If the [<sup>F59</sup>appropriate national authority] considers that the operation of a requirement of building regulations would be unreasonable in relation to a particular type of building matter, [<sup>F60</sup>the authority may, either on an application made by any person (the “original applicant”) or of its] own accord, give a direction dispensing with or relaxing that requirement generally in relation to that type of building matter, either—
- unconditionally, or
  - subject to compliance with any conditions specified in the direction, being conditions with respect to matters directly connected with the dispensation or relaxation.
- (2) A direction under subsection (1) above—
- if it so provides, ceases to have effect at the end of such period as may be specified in the direction,
  - may [<sup>F61</sup>, either on an application or of the appropriate national authority’s own accord,] be varied or revoked by a subsequent direction of the [<sup>F62</sup>appropriate national authority].
- (3) Building regulations may require a person making an application under subsection (1) [<sup>F63</sup>or (2)(b)] above to pay the [<sup>F64</sup>appropriate national authority] the prescribed fee, and—
- without prejudice to paragraph 10 of Schedule 1 to this Act, regulations made by virtue of this subsection may prescribe different fees for different cases, and
  - the [<sup>F64</sup>appropriate national authority] may in a particular case remit the whole or part of a fee payable by virtue of this subsection.

[<sup>F65</sup>(3A) The regulator may at any time make a proposal to the Secretary of State for the giving of a direction under this section.

- (3B) Before making a proposal, the regulator must consult—
- such persons as it considers appropriate, and
  - if the proposal is for a direction that would vary or revoke a direction given on an application under subsection (1), the original applicant.

- (3C) Before giving a direction under this section, other than a direction proposed by the regulator, the Secretary of State must consult—
- the regulator,
  - any other person the Secretary of State considers appropriate, and
  - if the direction would vary or revoke a direction given on an application under subsection (1), the original applicant.]

(4) [<sup>F66</sup>Before giving a direction under subsection (1) or (2)(b), the Welsh Ministers must consult such persons as they consider appropriate.]

(5) [<sup>F66</sup>Where the appropriate national authority gives a direction under subsection (1) or (2)(b), it must publish notice of that fact in such way as it considers appropriate.]



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- (6) A person who contravenes a condition specified in a direction given under subsection (1) above, or permits such a condition to be contravened, is liable on summary conviction to a fine [<sup>F67</sup>not exceeding level 5 on the standard scale] and to a further fine not exceeding [<sup>F68</sup>£50][<sup>F68</sup>level 1 on the standard scale] for each day on which the offence continues after he is convicted.
- (7) If at any time a direction under subsection (1) above dispensing with or relaxing a requirement of building regulations ceases to have effect by virtue of subsection (2) (a) above, or is varied or revoked under subsection (2)(b) above, that fact does not affect the continued operation of the direction (with any conditions specified in it) in a case in which [<sup>F69</sup>before that time—  
<sup>F70</sup>(b) .....]  
[<sup>F69</sup>an application for building control approval in relation to the proposed work was made before that time.]
- (8) In this section, “building matter” means any building or other matter whatsoever to which building regulations are in any circumstances applicable.

#### Textual Amendments

- F59** Words in s. 11(1) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 14(2)(a)**; S.I. 2022/561, reg. 3(f), Sch. para. 18; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 11
- F60** Words in s. 11(1) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 14(2)(b)**; S.I. 2022/561, reg. 3(f), Sch. para. 18; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 11
- F61** Words in s. 11(2)(b) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 14(3)(a)**; S.I. 2023/993, reg. 2(n)(vii)
- F62** Words in s. 11(2)(b) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 14(3)(b)**; S.I. 2022/561, reg. 3(f), Sch. para. 18; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 11
- F63** Words in s. 11(3) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 14(4)(a)**; S.I. 2023/993, reg. 2(n)(vii)
- F64** Words in s. 11(3) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 14(4)(b)**; S.I. 2022/561, reg. 3(f), Sch. para. 18; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 11
- F65** S. 11(3A)-(3C) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 14(5)**; S.I. 2023/993, reg. 2(n)(vii) (with reg. 4)
- F66** S. 11(4)(5) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 14(6)**; S.I. 2023/993, reg. 2(n)(vii)
- F67** Words in s. 11(6) omitted (1.10.2023 except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 14(7)(a)**; S.I. 2023/993, reg. 2(n)(vii)
- F68** Words in s. 11(6) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 14(7)(b)**; S.I. 2023/993, reg. 2(n)(vii)
- F69** Words in s. 11(7) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 14(8)**; S.I. 2023/993, reg. 2(n)(vii) (with reg. 3)
- F70** S. 11(7)(b) and word preceding it repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 13**

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### *Type approval of building matter*

## **12 Power of [F71 appropriate national authority] to approve type of building matter.**

- (1) This section has effect with a view to enabling the [F72 appropriate national authority], either on an application made [F73 by any person (the “original applicant”) or of its] own accord, to approve a particular type of building matter as complying, either generally or in a class of case, with particular requirements of building regulations.
  - (2) An application for the approval under subsection (1) above of a type of building matter shall comply with any requirements of building regulations as to the form of such applications and the particulars to be included in them.
  - (3) Where under subsection (1) above the [F74 appropriate national authority] approves a type of building matter as complying with particular requirements of building regulations either generally or in a class of case, [F75 it] may issue a certificate to that effect specifying—
    - (a) the type of building matter to which the certificate relates,
    - (b) the requirements of building regulations to which the certificate relates, and
    - (c) where applicable, the class or classes of case to which the certificate applies.
  - (4) A certificate under subsection (3) above, if it so provides, ceases to have effect at the end of such period as may be specified in the certificate.
  - (5) If, while a certificate under subsection (3) above is in force, it is found, in a particular case involving building matter of the type to which the certificate relates, that—
    - (a) the building matter in question is of that type, and
    - (b) the case is one to which the certificate applies,that building matter shall in that particular case be deemed to comply with the requirements of building regulations to which the certificate relates.
  - (6) The [F76 appropriate national authority] may vary a certificate under subsection (3) above, either on an application made to [F77 it or of its own accord.]
  - (7) Building regulations may require a person making an application under subsection [F78 (1) or (6) above][F78 (1), (6) or (8)] to pay the [F79 appropriate national authority] the prescribed fee, and—
    - (a) without prejudice to paragraph 10 of Schedule 1 to this Act, regulations made by virtue of this subsection may prescribe different fees for different cases, and
    - (b) the [F79 appropriate national authority] may in a particular case remit the whole or part of a fee payable by virtue of this subsection.
  - (8) The [F80 appropriate national authority] may revoke a certificate issued under subsection (3) above, [F81 but, before doing so in the case of a certificate issued on an application under subsection (1) above, he shall give the person on whose application the certificate was issued reasonable notice that he proposes to do so.][F81 either on an application or of the appropriate national authority’s own accord.]
- [F82 (8A) The regulator may at any time make a proposal to the Secretary of State for—
- (a) the giving of an approval under subsection (1), or
  - (b) the varying or revocation of a certificate under subsection (6) or (8).
- (8B) Before making a proposal, the regulator must consult—

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- (a) such persons as it considers appropriate, and
  - (b) if the proposal is to vary or revoke a certificate issued on an application under subsection (1), the original applicant.
- (8C) Before giving an approval or varying or revoking a certificate under this section, unless acting on a proposal of the regulator, the Secretary of State must consult—
- (a) the regulator,
  - (b) any other person the Secretary of State considers appropriate, and
  - (c) if varying or revoking a certificate issued on an application under subsection (1), the original applicant.
- (8D) Before varying or revoking a certificate issued on an application under subsection (1), the Welsh Ministers must give the original applicant reasonable notice that they propose to do so (except in the case of a variation or revocation made on the application of that person).]
- (9) Where the [<sup>F83</sup>appropriate national authority] issues a certificate under subsection (3) above or varies or revokes a certificate so issued, [<sup>F84</sup>it] shall publish notice of that fact in such manner as [<sup>F84</sup>it] thinks fit.
- (10) If at any time a certificate under subsection (3) above ceases to have effect by virtue of subsection (4) above, or is varied or revoked under subsection (6) or (8) above, that fact does not affect the continued operation of subsection (5) above by virtue of that certificate in a case in which [<sup>F85</sup>before that time—
- <sup>F86</sup>(b) .....]
- [<sup>F85</sup>an application for building control approval in relation to the proposed work was made before that time.]
- (11) For the purposes of subsection (3) above, or of any variation of a certificate under subsection (6) above, a class of case may be framed in any way that the [<sup>F87</sup>appropriate national authority] thinks fit.
- (12) In this section, “building matter” has the same meaning as in section 11 above.

#### Textual Amendments

- F71** Words in s. 12 heading substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 15\(2\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 20](#); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 12](#)
- F72** Words in s. 12(1) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 15\(2\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 20](#); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 12](#)
- F73** Words in s. 12(1) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 15\(3\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 20](#); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 12](#)
- F74** Words in s. 12(3) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 15\(2\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 20](#); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 12](#)
- F75** Word in s. 12(3) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 15\(4\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 20](#); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 12](#)

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- F76** Words in s. 12(6) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 15(5)(a)**; S.I. 2022/561, reg. 3(f), Sch. para. 20; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 12
- F77** Words in s. 12(6) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 15(5)(b)**; S.I. 2022/561, reg. 3(f), Sch. para. 20; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 12
- F78** Words in s. 12(7) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 15(6)**; S.I. 2023/993, reg. 2(n)(viii)
- F79** Words in s. 12(7) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 15(2)**; S.I. 2022/561, reg. 3(f), Sch. para. 20; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 12
- F80** Words in s. 12(8) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 15(2)**; S.I. 2022/561, reg. 3(f), Sch. para. 20; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 12
- F81** Words in s. 12(8) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 15(7)**; S.I. 2023/993, reg. 2(n)(viii)
- F82** S. 12(8A)-(8D) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 15(8)**; S.I. 2023/993, reg. 2(n)(viii) (with reg. 4)
- F83** Words in s. 12(9) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 15(2)**; S.I. 2022/561, reg. 3(f), Sch. para. 20; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 12
- F84** Word in s. 12(9) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 15(9)**; S.I. 2022/561, reg. 3(f), Sch. para. 20; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 12
- F85** Words in s. 12(10) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 15(10)**; S.I. 2023/993, reg. 2(n)(viii) (with reg. 3)
- F86** S. 12(10)(b) and word repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 13**
- F87** Words in s. 12(11) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 15(2)**; S.I. 2022/561, reg. 3(f), Sch. para. 20; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 12

#### Commencement Information

- I1** S. 12 in force at 1.12.1984 for specified purposes, see s. 134(1)(a)

### 13 Delegation of power to approve.

- (1) The [<sup>F88</sup>appropriate national authority] may be building regulations delegate to a person or body, to such extent and subject to such conditions as the [<sup>F88</sup>appropriate national authority] may think fit, the powers of approval conferred <sup>F89</sup>... by section 12 above.
- (2) So far as those powers are for the time being so delegated to a person or body, section 12 above, except subsection (7) as far as the end of paragraph (a), and any building regulations made by virtue of subsection (7) shall (subject to any prescribed conditions) have effect in relation to that person or body with the substitution of references to that person or body for references to the [<sup>F88</sup>appropriate national authority].

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### Textual Amendments

- F88** Words in s. 13 substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 16\(2\)](#); S.I. 2022/561, reg. 3(f), Sch. para. 21; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 13
- F89** Words in s. 13(1) omitted (28.6.2022 for E., 5.9.2023 for W.) by virtue of [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 16\(3\)](#); S.I. 2022/561, reg. 3(f), Sch. para. 21; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 13

### Commencement Information

- I2** S. 13 in force at 1.12.1984 for specified purposes, see [s. 134\(1\)\(a\)](#)

## *Consultation*

### 14 Consultation with Building Regulations Advisory Committee and other bodies [<sup>F90</sup>: Wales]

- <sup>F91</sup>(1) .....
- <sup>F91</sup>(2) .....
- <sup>F91</sup>(3) .....
- <sup>F91</sup>(4) .....

[<sup>F92</sup>(5) The Welsh Ministers shall appoint a committee, to be known as the Building Regulations Advisory Committee for Wales, for the purpose of advising them on the exercise of their power to make building regulations, and on other subjects connected with building regulations.

- (6) The Welsh Ministers may pay such expenses incurred by members of the Building Regulations Advisory Committee for Wales as the Welsh Ministers may determine.
- (7) Before making any building regulations containing substantive requirements, the Welsh Ministers shall consult the Building Regulations Advisory Committee for Wales and [<sup>F93</sup>any other person that the Welsh Ministers consider appropriate.]
- (8) Before making any building regulations containing provision of the kind authorised by paragraph 11(1)(c) of Schedule 1 to this Act, the Welsh Ministers shall consult—
- (a) the Building Regulations Advisory Committee for Wales,
  - (b) such [<sup>F94</sup>persons] as appear to them to be representative of local authorities in Wales, and]
- [<sup>F95</sup>(c) any other person that the Welsh Ministers consider appropriate.]

### Textual Amendments

- F90** Word in s. 14 heading inserted (1.4.2023 except in relation to W., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 17\(5\)](#); S.I. 2023/362, reg. 2(2)(a); S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 14 (with reg. 5)
- F91** S. 14(1)-(4) omitted (1.4.2023 except in relation to W., 5.9.2023 for W.) by virtue of [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 17\(2\)](#); S.I. 2023/362, reg. 2(2)(a); S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 14 (with reg. 5)

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- F92** S. 14(5)-(8) inserted (31.12.2011) by [Welsh Ministers \(Transfer of Functions\) \(No.2\) Order 2009 \(S.I. 2009/3019\)](#), arts. 1(2), **8(5)**
- F93** Words in s. 14(7) substituted (1.4.2023 except in relation to W., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), **Sch. 5 para. 17(3)**; S.I. 2023/362, reg. 2(2)(a); S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 14 (with reg. 5)
- F94** Word in s. 14(8)(b) substituted (1.4.2023 except in relation to W., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), **Sch. 5 para. 17(4)(a)**; S.I. 2023/362, reg. 2(2)(a); S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 14 (with reg. 5)
- F95** S. 14(8)(c) substituted (1.4.2023 except in relation to W., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), **Sch. 5 para. 17(4)(b)**; S.I. 2023/362, reg. 2(2)(a); S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 14 (with reg. 5)

## 15 Consultation with fire authority.

- (1) Where, in the case of a requirement as to—
- structural fire precautions,
  - the provision of means of escape from buildings in case of fire, or
  - the provision of means for securing that such means of escape can be safely and effectively used at all material times,

contained in building regulations, the power to dispense with or relax that requirement conferred by section 8(1) above is by virtue of section 8(2) above exercisable by a local authority, or a public body proposes to exercise the power conferred on it by section 8(4) above, the local authority or public body, if they are not the [<sup>F96</sup>fire and rescue authority], shall before exercising the power in relation to any premises or proposed premises consult the [<sup>F96</sup>fire and rescue authority].

- (2) In subsection (1) above, “public body” has the meaning given by section 8(5) above.

[<sup>F97</sup>(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.]

### Textual Amendments

- F96** Words in s. 15(1) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, Sch. 1 para. 57(2)(3)(a); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F97** S. 15(3) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), **Sch. 5 para. 18**; S.I. 2023/993, reg. 2(n)(ix) (with reg. 4)

[<sup>F98</sup> Passing of plans][<sup>F98</sup> Building control approval]

### Textual Amendments

- F98** S. 16 cross-heading substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), **Sch. 5 para. 19**; S.I. 2023/993, reg. 2(n)(ix)

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## 16 Passing or rejection of plans.

- [<sup>F99</sup>(1) Where plans of any proposed work are, in accordance with building regulations, deposited with a local authority, it is the duty of the local authority, subject to any other section of this Act that expressly requires or authorises them in certain cases to reject plans, to pass the plans unless—
- (a) they are defective, or
  - (b) they show that the proposed work would contravene any of the building regulations.
- (2) If the plans—
- (a) are defective, or
  - (b) show that the proposed work would contravene any of the building regulations,
- the local authority may—
- (i) reject the plans, or
  - (ii) subject to subsection (4) below, pass them subject to either or both of the conditions set out in subsection (3) below.
- (3) The conditions mentioned in subsection (2) above are—
- (a) that such modifications as the local authority may specify shall be made in the deposited plans, and
  - (b) that such further plans as they may specify shall be deposited.
- (4) A local authority may only pass plans subject to a condition such as is specified in subsection (3) above if the person by whom or on whose behalf they were deposited—
- (a) has requested them to do so, or
  - (b) has consented to their doing so.
- (5) A request or consent under subsection (4) above shall be in writing.
- (6) The authority shall within the relevant period from the deposit of the plans give notice to the person by whom or on whose behalf they were deposited whether they have been passed or rejected.
- (7) A notice that plans have been rejected shall specify the defects on account of which, or the regulation or section of this Act for non-conformity with which, or under the authority of which, they have been rejected.
- (8) A notice that plans have been passed shall—
- (a) specify any condition subject to which they have been passed, and
  - (b) state that the passing of the plans operates as an approval of them only for the purposes of the requirements of—
    - (i) the building regulations, and
    - (ii) any section of this Act (other than this section) that expressly requires or authorises the local authority in certain cases to reject plans.
- (9) Where the deposited plans are accompanied by—
- (a) a certificate given by a person approved for the purposes of this subsection to the effect that the proposed work, if carried out in accordance with the deposited plans, will comply with such provisions of the regulations prescribed for the purposes of this subsection as may be specified in the certificate, and



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- (b) such evidence as may be prescribed that an approved scheme applies, or the prescribed insurance cover has been or will be provided, in relation to the certificate,  
the local authority may not, except in prescribed circumstances, reject the plans on the ground that—
  - (i) they are defective with respect to any provisions of the building regulations that are so specified, or
  - (ii) they show that the proposed work would contravene any of those provisions.
- (10) In any case where a question arises under this section between a local authority and a person who proposes to carry out any work—
  - (a) whether plans of the proposed work are in conformity with building regulations, or
  - (b) whether the local authority are prohibited from rejecting plans of the proposed work by virtue of subsection (9) above,that person may refer the question to the Secretary of State for his determination; and an application for a reference under this subsection shall be accompanied by such fee as may be prescribed.
- (11) Where—
  - (a) deposited plans accompanied by such a certificate and such evidence as are mentioned in subsection (9) above are passed by the local authority, or
  - (b) notice of the rejection of deposited plans so accompanied is not given within the relevant period from the deposit of the plans,the authority may not institute proceedings under section 35 below for a contravention of building regulations that—
  - (i) arises out of the carrying out of the proposed work in accordance with the plans, and
  - (ii) is a contravention of any of the provisions of the regulations specified in the certificate.
- (12) For the purposes of this Part of this Act, “the relevant period”, in relation to the passing or rejection of plans, means five weeks or such extended period (expiring not later than two months from the deposit of the plans) as may before the expiration of the five weeks be agreed in writing between the person depositing the plans and the local authority.

<sup>F100</sup>(13) . . . . .]

**Textual Amendments**

**F99** S. 16 omitted (1.10.2023 except in relation to W.) by virtue of [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 20](#); S.I. 2023/993, reg. 2(n)(ix) (with regs. 3, 6)

**F100** S. 16(13) repealed (5.11.1993) by [1993 c. 50](#), s. 1(1), [Sch. 1 Pt. XIII](#) Group 1.

**Modifications etc. (not altering text)**

**C16** S. 16 excluded (21.7.1994) by [1994 c.xv](#), s. 58(9)

**C17** S. 16 excluded (1.10.2010) by [The Building Regulations 2010 \(S.I. 2010/2214\)](#), regs. 1, [13\(4\)](#) (with reg. 9)

**C18** S. 16 excluded (1.10.2010) by [The Building Regulations 2010 \(S.I. 2010/2214\)](#), regs. 1, [18\(7\)](#) (with reg. 9)

**C19** S. 16(6)-(8) applied (with modifications) (21.7.1994) by [1994 c. xv](#), s. 58(10)

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**C20** S. 16(6)-(8) amended by [Midland Metro Act 1989 \(c.xv\), s. 45\(10\)](#); and s. 16(6)-(8) extended (27.7.1993) by [1993 c. xv, s. 55\(10\)](#)

## 17 Approval of persons to give certificates etc.

- [<sup>F101</sup>(1) Building regulations may make provision for the approval of persons for the purposes of section 16(9) above—
- (a) by the Secretary of State, or
  - (b) by a body (corporate or unincorporated) that, in accordance with the regulations is designated by the Secretary of State for the purpose,
- and any such approval may limit the description of work, or the provisions of the regulations, in relation to which the person concerned is so approved.
- (2) Any such designation as is referred to in paragraph (b) of subsection (1) above may limit the cases in which and the terms on which the body designated may approve a person and, in particular, may provide that any approval given by the body shall be limited as mentioned in that subsection.
  - (3) There shall be paid on an application for any such approval as is referred to in subsection (1) above—
    - (a) where the application is made to the Secretary of State, such fee as may be prescribed,
    - (b) where the application is made to a body designated by him as mentioned in that subsection, such fee as that body may determine.
  - (4) The Secretary of State may approve for the purposes of section 16(9)
 

above any scheme that appears to him to secure the provision of adequate insurance cover in relation to any certificate that is given under paragraph (a) of that subsection and is a certificate to which the scheme applies.
  - (5) Building regulations may prescribe, for the purposes of section 16(9)
 

above the insurance cover that is to be provided in relation to any certificate that is given under paragraph (a) of that subsection and is not a certificate to which an approved scheme applies and may, in particular, prescribe the form and content of policies of insurance.
  - (6) Building regulations may—
    - (a) contain provision prescribing the period for which, subject to any provision made by virtue of paragraph (b) or (c) below, any such approval as is referred to in subsection (1) above continues in force,
    - (b) contain provision precluding the giving of, or requiring the withdrawal of, any such approval as is referred to in subsection (1) above in such circumstances as may be prescribed,
    - (c) contain provision authorising the withdrawal of any such approval or designation as is referred to in subsection (1) above,
    - (d) provide for the maintenance by the Secretary of State of a list of bodies that are for the time being designated by him as mentioned in subsection (1) above and for the maintenance by the Secretary of State and by each designated body of a list of persons for the being time approved by him or them as mentioned in that subsection,

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- (e) make provision for the supply to local authorities of copies of any list of approved persons maintained by virtue of paragraph (d) above and for such copy lists to be made available for inspection, and
  - (f) make provision for the supply, on payment of a prescribed fee, of a certified copy of any entry in a list maintained by virtue of paragraph (d) above or in a copy list held by a local authority by virtue of paragraph (e) above.
- (7) Unless the contrary is proved, in any proceedings (whether civil or criminal) a document that appears to the court to be a certified copy of an entry either in a list maintained as mentioned in subsection (6)(d) above or in a copy of such a list supplied as mentioned in subsection (6)(e) above—
- (a) is presumed to be a true copy if an entry in the current list is maintained, and
  - (b) is evidence of the matters stated in it.]

**Textual Amendments**

**F101** S. 17 omitted (1.10.2023 except in relation to W.) by virtue of [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 20](#); S.I. 2023/993, reg. 2(n)(ix) (with regs. 3, 6)

**F102**<sup>18</sup> .....

**Textual Amendments**

**F102** S. 18 repealed (1.4.2002) by [S.I. 2001/3335](#), [reg. 3\(1\)](#) (with [reg. 4](#))

**19 Use of short-lived materials.**

- (1) [<sup>F103</sup>Where plans of a building are, in accordance with building regulations, deposited with a local authority, and the plans show][<sup>F103</sup>Where an application for building control approval in respect of a proposed building is made to a building control authority, and it appears] that it is proposed to construct a building of materials to which this section applies, or to place or assemble on the site a building constructed of such materials, the authority may, notwithstanding that the [<sup>F104</sup>plans conform][<sup>F104</sup>application conforms] with the regulations—
- (a) reject [<sup>F105</sup>the plans][<sup>F105</sup>the application], or
  - (b) in [<sup>F106</sup>passing the plans][<sup>F106</sup>granting the application]—
    - (i) fix a period on the expiration of which the building must be removed, and
    - (ii) impose with respect to the use of the building such reasonable conditions, if any, as having regard to the nature of the materials used in its construction they deem appropriate,but no condition shall be imposed that conflicts with any condition imposed on the grant of planning permission for that building under Part III of [<sup>F107</sup>the Town and Country Planning Act 1990].
- (2) If a building in respect of which [<sup>F108</sup>plans ought under the building regulations to have been deposited, but have not been deposited,][<sup>F108</sup>an application for building control approval ought to have been made but was not made] appears to the authority to be

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constructed of such materials as aforesaid, the authority, without prejudice to their right to take proceedings in respect of any contravention of the regulations, may—

- (a) fix a period on the expiration of which the building must be removed, and
- (b) if they think fit, impose such conditions with respect to the use of the building as might have been imposed under subsection (1) above upon the <sup>F109</sup>passing of plans for the building<sup>F109</sup> granting of such an application].

and where they fix such a period they shall forthwith give notice thereof, and of any conditions imposed, to the owner of the building.

- (3) A <sup>F110</sup>local authority<sup>F110</sup>building control authority] may from time to time extend any period fixed, or vary any conditions imposed, under this section; but, unless an application in that behalf is made to them by the owner of the building in question, they shall not exercise their power of varying conditions except when granting an extension, or further extension, of the period fixed with respect to the building.
- (4) A person aggrieved by the action of a <sup>F110</sup>local authority<sup>F110</sup>building control authority] under this section in rejecting <sup>F111</sup>plans<sup>F111</sup>an application], or in fixing or refusing to extend any period, or in imposing or refusing to vary any conditions, may appeal to <sup>F112</sup>a magistrates' court<sup>F112</sup>the appropriate court or tribunal].
- (5) The owner of a building in respect of which a period has been fixed under this section shall, on the expiration of that period, or, as the case may be, of that period as extended, remove the building, and, if he fails to do so—
  - (a) the <sup>F110</sup>local authority<sup>F110</sup>building control authority] shall remove it and may recover from him the expenses reasonably incurred by them in so doing, and
  - (b) without prejudice to the right of the authority to exercise that power, he is liable on summary conviction to a fine not exceeding level 1 on the standard scale and to a further fine not exceeding £5 for each day during which the building is allowed to remain after he is convicted.
- (6) A person who uses a building in contravention of a condition imposed under this section, or who permits a building to be so used, is liable on summary conviction to a fine not exceeding level 1 on the standard scale and to a further fine not exceeding £5 for each day on which the offence continues after he is convicted.
- (7) Building regulations may provide that this section applies to any materials specified in the regulations as being materials that are, in the absence of special care, liable to rapid deterioration, or are otherwise unsuitable for use in the construction of permanent buildings.
- (8) This section applies in relation to an extension of an existing building as it applies in relation to a new building.
- (9) This section ceases to have effect upon the coming into force of section 20 below (which supersedes it).

#### Textual Amendments

- F103** Words in s. 19(1) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 21\(3\)\(a\)](#); S.I. 2023/993, reg. 2(n)(ix) (with reg. 3)
- F104** Words in s. 19(1) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 21\(3\)\(b\)](#); S.I. 2023/993, reg. 2(n)(ix) (with reg. 3)
- F105** Words in s. 19(1)(a) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 21\(3\)\(c\)](#); S.I. 2023/993, reg. 2(n)(ix) (with reg. 3)

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- F106** Words in s. 19(1)(b) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 21(3)(d)**; S.I. 2023/993, reg. 2(n)(ix) (with reg. 3)
- F107** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 67(1)**
- F108** Words in s. 19(2) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 21(4)(a)**; S.I. 2023/993, reg. 2(n)(ix) (with reg. 3)
- F109** Words in s. 19(2)(b) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 21(4)(b)**; S.I. 2023/993, reg. 2(n)(ix) (with reg. 3)
- F110** Words in s. 19 substituted in part (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 21(2)**; S.I. 2023/993, reg. 2(n)(ix) (with reg. 4)
- F111** Words in s. 19(4) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 21(5)**; S.I. 2023/993, reg. 2(n)(ix)
- F112** Words in s. 19(4) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 9(a)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

## PROSPECTIVE

### 20 Use of materials unsuitable for permanent building.

- (1) <sup>F113</sup>Where plans of any proposed work are, in accordance with building regulations, deposited with a local authority, and the plans show] <sup>F113</sup>Where an application for building control approval in respect of any proposed work is made to a building control authority, and it appears] that the proposed work would include or consist of work to which this section applies, the authority may, notwithstanding that the <sup>F114</sup>plans conform] <sup>F114</sup>application conforms] with the regulations—
- (a) reject <sup>F115</sup>the plans] <sup>F115</sup>the application], or
  - (b) in <sup>F116</sup>passing the plans] <sup>F116</sup>granting the application] —
    - (i) fix a period on the expiration of which the work to which this section applies or the relevant building (as the authority may in <sup>F116</sup>passing the plans] <sup>F116</sup>granting the application] direct) must be removed, and
    - (ii) if they think fit, impose with respect to the use of the relevant building or with respect to the work to which this section applies such reasonable conditions, if any, as they consider appropriate,but no condition as to the use of the relevant building shall be imposed that conflicts with any condition imposed or having effect as if imposed under <sup>F117</sup>Part III or Part VIII of the Town and Country Planning Act 1990 or under the Planning (Listed Buildings and Conservation Areas) Act 1990 or the Planning (Hazardous Substances) Act 1990].
- (2) If, in the case of any work in respect of which <sup>F118</sup>plans ought by virtue of building regulations to have been deposited with a local authority but have not been so deposited] <sup>F118</sup>an application for building control approval ought to have been made but was not made], the work appears to the authority to include or consist of work to which this section applies, the authority, without prejudice to their right to take proceedings in respect of any contravention of the regulations, may—
- (a) fix a period on the expiration of which the work to which this section applies or the relevant building (as the authority may in fixing the period direct) must be removed, and

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- (b) if they think fit, impose any conditions that might have been imposed under subsection (1) above in [F119]passing plans][F119]granting the application] for the first-mentioned work,
- and where they fix such a period they shall forthwith give notice thereof, and of any conditions imposed, to the owner of the relevant building.
- (3) If, in the case of any work appearing to the [F120]local authority][F120]building control authority] to fall within subsection (9)(b) below, [F121]plans of the work were not required by building regulations to be deposited with the authority, and were not so deposited][F121]an application for building control approval was not required by building regulations to be made and was not made], the authority may at any time within 12 months from the date of completion of the work—
- (a) fix a period on the expiration of which the work must be removed, and
- (b) if they think fit, impose any conditions that, [F122]if plans of the work had been required to be, and had been, so deposited, might have been imposed under subsection (1) above in passing the plans,][F122]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,]
- and where they fix such a period they shall forthwith give notice thereof, and of any conditions imposed, to the owner of the relevant building.
- (4) A [F120]local authority][F120]building control authority] may from time to time extend any period fixed, or vary any conditions imposed, under this section, but, unless an application in that behalf is made to them by the owner of the relevant building, they shall not exercise their power of varying conditions so imposed except when granting an extension or further extension of the period fixed with respect to the work or building, as the case may be.
- (5) A person aggrieved by the action of a [F120]local authority][F120]building control authority] under this section—
- (a) in rejecting [F123]plans][F123]an application],
- (b) in fixing or refusing to extend any period, or
- (c) in imposing or refusing to vary any conditions,
- may appeal [F124]to the Secretary of State within the prescribed time and in the prescribed manner].
- [F125](5A) The appeal is to be made to—
- (a) the regulator, in the case of action by a local authority for an area in England;
- (b) the tribunal, in the case of action by the regulator;
- (c) the Welsh Ministers, in the case of action by a local authority for an area in Wales.]
- (6) Where a period has been fixed under this section with respect to any work to which this section applies or with respect to the relevant building—
- (a) the owner of that building shall on the expiration of that period, or, as the case may be, of that period as extended, remove the work or building with respect to which the period was fixed, and
- (b) if he fails to do so, the [F120]local authority][F120]building control authority] may remove that work or building, as the case may be, and may recover from him the expenses reasonably incurred by them in doing so.



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- (7) A person who—
- (a) contravenes a condition imposed under this section or permits such a condition to be contravened, or
  - (b) contravenes subsection (6) above,
- is liable on summary conviction to a fine [<sup>F126</sup>not exceeding level 5 on the standard scale] and to a further fine not exceeding [<sup>F127</sup>£50][<sup>F127</sup>level 1 on the standard scale] for each day on which the offence continues or, as the case may be, on which the work or building is allowed to remain after he is convicted; but this subsection does not prejudice a local authority's rights under subsection (6) above.
- (8) In this section, “the relevant building” means, in any particular case, the building mentioned in paragraph (a) or, as the case may be, paragraph (b) of subsection (9) below.
- (9) This section applies to—
- (a) any work consisting of a part of a building, being a part in the construction of which there is used any material or component of a type that, in relation to a part of that description, is prescribed for the purposes of this paragraph under subsection (10) below, and
  - (b) any work provided in or in connection with a building, being work consisting of a service, fitting or item of equipment of a type so prescribed for the purposes of this paragraph.
- (10) The [<sup>F128</sup>appropriate national authority] may by building regulations—
- (a) prescribe a type of material or component for the purposes of subsection (9) (a) above if in [<sup>F129</sup>its] opinion materials or components of that type are likely to be unsuitable for use in the construction of a particular part of a permanent building in the absence of conditions with respect to the use of the building or with respect to any material or component of that type used in the construction of a part of that description,
  - (b) prescribe a type of service, fitting or equipment for the purposes of subsection (9)(b) above if in [<sup>F129</sup>its] opinion services, fittings or equipment of that type are likely to be unsuitable for provision in or in connection with a permanent building in the absence of conditions with respect to the use of the building or with respect to a service, fitting or equipment of that type so provided.
- (11) Upon section 19 above ceasing to have effect—
- (a) any building regulations made, period fixed, condition imposed or other thing done by virtue of the said section 19 shall be deemed to have been made, fixed, imposed or done by virtue of this section, and
  - (b) anything begun under the said section 19 may be continued under this Act as if begun under this section, but any appeal under section 19(4) that is pending at the time when the said section 19 ceases to have effect, and any proceedings arising out of such an appeal, shall proceed as if that section were still in force.

#### Textual Amendments

**F113** Words in s. 20(1) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 22\(3\)\(a\)](#); S.I. 2023/993, reg. 2(n)(x) (with reg. 3)



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- F114** Words in s. 20(1) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(3)(b)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F115** Words in s. 20(1)(a) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(3)(c)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F116** Words in s. 20(1)(b) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(3)(d)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F117** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 67(2)**
- F118** Words in s. 20(2) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(4)(a)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F119** Words in s. 20(2)(b) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(4)(b)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F120** Words in s. 20 substituted in part (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(2)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 4)
- F121** Words in s. 20(3) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(5)(a)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F122** Words in s. 20(3)(b) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(5)(b)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F123** Words in s. 20(5)(a) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(6)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F124** Words in s. 20(5) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 3(2)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F125** S. 20(5A) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 3(3)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F126** Words in s. 20(7) omitted (1.10.2023 except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(7)(a)**; S.I. 2023/993, reg. 2(n)(x)
- F127** Words in s. 20(7) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(7)(b)**; S.I. 2023/993, reg. 2(n)(x)
- F128** Words in s. 20(10) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(8)(a)**; S.I. 2022/561, reg. 3(f), Sch. para. 23; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 15
- F129** Word in s. 20(10) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(8)(b)**; S.I. 2022/561, reg. 3(f), Sch. para. 23; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 15

## 21 Provision of drainage.

<sup>F130</sup>(1) .....

<sup>F130</sup>(2) .....

(3) Any question arising under subsection [<sup>F131</sup>(4) below] between a [<sup>F132</sup>local authority][<sup>F132</sup>building control authority] and the person by whom, or on whose behalf, [<sup>F133</sup>plans are deposited][<sup>F133</sup>an application for building control approval is made] as to [<sup>F134</sup>whether a proposed drain shall be required to connect with a sewer] may on the application of that person be determined by [<sup>F135</sup>a magistrates' court][<sup>F135</sup>the appropriate court or tribunal].

(4) [<sup>F136</sup>Where [<sup>F137</sup>plans of a building or of an extension of a building are, in accordance with building regulations, deposited with][<sup>F137</sup>an application for building control approval in respect of a building or an extension of a building is made to] a [<sup>F132</sup>local authority][<sup>F132</sup>building control authority], the [<sup>F132</sup>local authority][<sup>F132</sup>building control

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authority], or on appeal [<sup>F138</sup>a magistrates' court][<sup>F138</sup>the appropriate court or tribunal], may require a proposed drain to connect with a sewer where]—

- (a) that sewer is within one hundred feet of the site of the building or, in the case of an extension, the site either of the extension or of the original building, and is at a level that makes it reasonably practicable to construct a drain to communicate with it, and, if it is not a public sewer, is a sewer that the person constructing the drain is entitled to use, and
  - (b) the intervening land is land through which that person is entitled to construct a drain.
- (5) Notwithstanding paragraph (a) of subsection (4) above, a drain may be required to be made to connect with a sewer that is not within the distance mentioned in that paragraph, but is otherwise such a sewer as is therein mentioned, if the authority undertake to bear so much of the expenses reasonably incurred in constructing, and in maintaining and repairing, the drain as may be attributable to the fact that the distance of the sewer exceeds the distance so mentioned.
- (6) If any question arises as to the amount of a payment to be made to a person under subsection (5) above, that question may on his application be determined by [<sup>F139</sup>a magistrates' court][<sup>F139</sup>the appropriate court or tribunal], or he may require it to be referred to arbitration.

[<sup>F140</sup>(7) This section does not apply to works in connection with which approval is required in accordance with Schedule 3 to the Flood and Water Management Act 2010 (sustainable drainage).]

#### Textual Amendments

- F130** S. 21(1)(2) repealed (1.4.2002) by S.I. 2001/3335, **reg. 3(1)** (with reg. 4)
- F131** Words in s. 21(3) substituted (1.4.2002) by S.I. 2001/3335, **reg. 3(2)(a)** (with reg. 4)
- F132** Words in s. 21 substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 23(2)**; S.I. 2023/993, reg. 2(n)(xi) (with reg. 4)
- F133** Words in s. 21(3) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 23(3)**; S.I. 2023/993, reg. 2(n)(xi) (with reg. 3)
- F134** S. 21(3)(a)(b) substituted for words (1.4.2002) by S.I. 2001/3335, **reg. 3(2)(b)** (with reg. 4)
- F135** Words in s. 21(3) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 9(b)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F136** Words in s. 21(4) substituted (1.4.2002) by S.I. 2001/3335, **reg. 3(3)** (with reg. 4)
- F137** Words in s. 21(4) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 23(4)**; S.I. 2023/993, reg. 2(n)(xi) (with reg. 3)
- F138** Words in s. 21(4) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 9(b)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F139** Words in s. 21(6) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 9(b)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F140** S. 21(7) added (2.5.2018 for W. for specified purposes, 7.1.2019 for W. in so far as not already in force) by Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 3 para. 26(1)** (with s. 49(1)(6)); S.I. 2018/557, arts. 2(b), 3(b)

#### Modifications etc. (not altering text)

- C21** Ss. 21, 22, 23 extended by S.I. 1987/798, **regs. 2(1), 4**

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## 22 Drainage of buildings in combination.

(1) Where—

- (a) a [<sup>F141</sup>local authority][<sup>F141</sup>building control authority] might under section 21 above require each of two or more buildings to be drained separately into an existing sewer, but
- (b) it appears to the authority that those buildings may be drained more economically or advantageously in combination,

the authority may, when the drains of the buildings are first laid, require that the buildings be drained in combination into the existing sewer by means of a private sewer to be constructed either by the owners of the buildings in such manner as the authority may direct or, if the authority so elect, by the authority on behalf of the owners.

(2) A [<sup>F141</sup>local authority][<sup>F141</sup>building control authority] shall not, except by agreement with the owners concerned, exercise the power conferred by subsection (1) above in respect of any building [<sup>F142</sup>for whose drainage plans have been previously passed by them.][<sup>F142</sup>if building control approval has been given in respect of work comprising drainage for the building.]

(3) A [<sup>F141</sup>local authority][<sup>F141</sup>building control authority] who make such a requirement as aforesaid shall fix—

- (a) the proportions in which the expenses of constructing, and of maintaining and repairing, the private sewer are to be borne by the owners concerned, or
- (b) in a case in which the distance of the existing sewer from the site of any of the buildings in question is or exceeds one hundred feet, the proportions in which those expenses are to be borne by the owners concerned and the [<sup>F141</sup>local authority][<sup>F141</sup>building control authority],

and shall forthwith give notice of their decision to each owner affected.

(4) An owner aggrieved by the decision of a [<sup>F141</sup>local authority][<sup>F141</sup>building control authority] under subsection (3) above may appeal to [<sup>F143</sup>a magistrates' court][<sup>F143</sup>the appropriate court or tribunal].

(5) Subject to any such appeal—

- (a) any expenses reasonably incurred in constructing, or in maintaining or repairing, the private sewer shall be borne in the proportions so fixed, and
- (b) those expenses, or, as the case may be, contributions to them, may be recovered accordingly by the persons, whether the [<sup>F141</sup>local authority][<sup>F141</sup>building control authority] or the owners, by whom they were incurred in the first instance.

(6) A sewer constructed by a [<sup>F141</sup>local authority][<sup>F141</sup>building control authority] under this section is not deemed a public sewer by reason of the fact that the expenses of its construction are in the first instance defrayed by the authority, or that some part of those expenses is borne by them.

### Textual Amendments

**F141** Words in s. 22 substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 24\(2\)](#); S.I. 2023/993, [reg. 2\(n\)\(xi\)](#) (with [reg. 4](#))

**F142** Words in s. 22(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 24\(3\)](#); S.I. 2023/993, [reg. 2\(n\)\(xi\)](#) (with [reg. 4](#))

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**F143** Words in s. 22(4) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), Sch. 6 para. 9(c); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

**Modifications etc. (not altering text)**

**C22** Ss. 21, 22, 23 extended by S.I. 1987/798, regs. 2(1), 4

**23 Provision of facilities for refuse.**

(1) ..... <sup>F144</sup>

(3) It is unlawful for any person except with the consent of the [<sup>F145</sup>local authority][<sup>F145</sup>building control authority] to close or obstruct the means of access by which refuse or faecal matter is removed from a building, and the [<sup>F145</sup>local authority][<sup>F145</sup>building control authority] in giving their consent may impose such conditions as they think fit with respect to the improvement of an alternative means of access or the substitution of other means of access.

(4) A person who contravenes subsection (3) above is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**Textual Amendments**

**F144** S. 23(1)(2) repealed by S.I. 1985/1065, reg. 18

**F145** Words in s. 23(3) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), Sch. 5 para. 25; S.I. 2023/993, reg. 2(n)(xi) (with reg. 4)

**Modifications etc. (not altering text)**

**C23** Ss. 21, 22, 23 extended by S.I. 1987/798, regs. 2(1), 4

**24 Provision of exits etc.**

(1) Where—

(a) [<sup>F146</sup>plans of a building or of an extension of a building are, in accordance with building regulations, deposited with][<sup>F146</sup>an application for building control approval in respect of a building or an extension of a building is made to] a [<sup>F147</sup>local authority][<sup>F147</sup>building control authority], and

(b) the building or, as the case may be, the building as extended will be a building to which this section applies,

the authority shall reject the [<sup>F148</sup>plans][<sup>F148</sup>application] unless they show that the building, or, as the case may be, the building as extended, will be provided with such means of ingress and egress and passages or gangways as the authority, after consultation with the [<sup>F149</sup>fire and rescue authority], deem satisfactory, regard being had to the purposes for which the building is intended to be, or is, used and the number of persons likely to resort to it at any one time.

(2) Any question arising under subsection (1) above between a [<sup>F147</sup>local authority][<sup>F147</sup>building control authority] and the person by whom, or on whose behalf, [<sup>F150</sup>plans are deposited][<sup>F150</sup>an application for building control approval is made] as to whether the means of ingress or egress or passages or gangways already existing, or proposed to be provided, ought to be accepted by the authority as satisfactory may

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on the application of that person be determined by [<sup>F151</sup>a magistrates' court][<sup>F151</sup>the appropriate court or tribunal].

- (3) Where building regulations imposing requirements as to the provision of means of escape in case of fire are applicable to a proposed building or proposed extension of a building, or would be so applicable but for a direction under section 8 above dispensing with such requirements—
- (a) this section, and
  - (b) any provision of a local Act that has effect in place of this section,
- does not apply in relation to the proposed building or extension.
- (4) Subject to subsection (3) above, this section applies to—
- (a) a theatre, and a hall or other building that is used as a place of public resort,
  - (b) a restaurant, shop, store or warehouse to which members of the public are admitted and in which more than twenty persons are employed,
  - [<sup>F152</sup>(c) premises in respect of which a club premises certificate has effect under the Licensing Act 2003,]
  - (d) a school not exempted from the operation of building regulations, and
  - (e) a church, chapel or other place of public worship
- but not—
- (i) a private house to which members of the public are admitted occasionally or exceptionally,
  - (ii) a building that was used as a church, chapel or other place of public worship immediately before the date on which section 36 of the <sup>M2</sup>Public Health Acts Amendment Act 1890, or a corresponding provision in a local Act, came into operation in the district or rating district, or
  - (iii) a building that was so used immediately before the 1st October 1937 (the date of commencement of the <sup>M3</sup>Public Health Act 1936) in a district or rating district where neither the said section 36 nor such a corresponding provision ever came into operation.

#### Textual Amendments

- F146** Words in s. 24(1)(a) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 26\(3\)\(a\)](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 3)
- F147** Words in s. 24 substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 26\(2\)](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 4)
- F148** Words in s. 24(1) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 26\(3\)\(b\)](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 3)
- F149** Words in s. 24(1) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 57\(2\)\(3\)\(b\)](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art 2
- F150** Words in s. 24(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 26\(4\)](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 3)
- F151** Words in s. 24(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 9\(d\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F152** S. 24(4)(c) substituted (24.11.2005) by [Licensing Act 2003 \(c. 17\)](#), s. 201(2), [Sch. 6 para. 91](#) (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2)



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**Modifications etc. (not altering text)**

**C24** S. 24 excluded by [Fire Safety and Safety of Places of Sport Act 1987 \(c. 27, SIF 45A\)](#), **ss. 26(1), 33(1)** (d)

**Marginal Citations**

**M2** 1890 c. 59.

**M3** 1936 c. 49.

**25 Provision of water supply.**

(1) Where <sup>F153</sup>plans of a house are, in accordance with building regulations, deposited with <sup>F153</sup>an application for building control approval in respect of a house is made to <sup>F154</sup>a <sup>F154</sup>local authority <sup>F154</sup>building control authority], the authority shall reject <sup>F155</sup>the plans <sup>F155</sup>the application] unless a proposal is put before them that appears to them to be satisfactory for providing the occupants of the house with a supply of wholesome water sufficient for their domestic purposes—

- (a) by connecting the house to a supply of water in pipes provided by . . . <sup>F156</sup> water undertakers,
- (b) if in all the circumstances it is not reasonable to require the house to be connected as aforesaid, by otherwise taking water into the house by means of a pipe, or
- (c) if in all the circumstances neither of the preceding alternatives can reasonably be required, by providing a supply of water within a reasonable distance of the house,

and the authority are satisfied that the proposal can and will be carried into effect.

(2) Any question arising under subsection (1) above between a <sup>F154</sup>local authority <sup>F154</sup>building control authority] and the person by whom, or on whose behalf, <sup>F157</sup>plans are deposited <sup>F157</sup>an application for building control approval is made] as to whether the <sup>F154</sup>local authority <sup>F154</sup>building control authority] ought to <sup>F158</sup>pass the plans <sup>F158</sup>grant the application] may on the application of that person be determined by <sup>F159</sup>a magistrates' court <sup>F159</sup>the appropriate court or tribunal].

(3) If, after any such <sup>F160</sup>plans as aforesaid have been passed <sup>F160</sup>application has been granted], it appears to the <sup>F154</sup>local authority <sup>F154</sup>building control authority] that the proposal for providing a supply of water—

- (a) has not been carried into effect, or
- (b) has not resulted in a supply of wholesome water sufficient for the domestic purposes of the occupants,

the authority shall give notice to the owner of the house prohibiting him from occupying it, or permitting it to be occupied, until the authority, being satisfied that such a supply has been provided, have granted him a certificate to that effect.

(4) Until a certificate is granted under subsection (3) above, the owner shall not occupy the house or permit it to be occupied.

(5) A person aggrieved by the refusal of the authority to grant such a certificate may apply to <sup>F161</sup>a magistrates' court <sup>F161</sup>the appropriate court or tribunal] for an order authorising the occupation of the house, and, if the court <sup>F162</sup>or tribunal] is of opinion that a certificate ought to have been granted, the court <sup>F162</sup>or tribunal] may make an

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order authorising the occupation of the house, and such an order shall have the like effect as a certificate of the [<sup>F154</sup>local authority][<sup>F154</sup>building control authority].

(6) A person who contravenes subsection (4) above is liable on summary conviction to a fine not exceeding level 1 on the standard scale and to a further fine not exceeding £2 for each day on which the offence continues after he is convicted.

[<sup>F163</sup>(7) [<sup>F164</sup>Section 67 of the Water Industry Act 1991] (standards of wholesomeness of water) and any regulations made under that section shall apply for the purposes of subsection (1) above as they apply for the purposes of [<sup>F165</sup>Chapter III of Part III] of that Act.]

**Textual Amendments**

- F153** Words in s. 25(1) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 27\(3\)\(a\)](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 3)
- F154** Words in s. 25 substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 27\(2\)](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 4)
- F155** Words in s. 25(1) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 27\(3\)\(b\)](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 3)
- F156** Word repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, [Sch. 27 Pt. I](#)
- F157** Words in s. 25(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 27\(4\)\(a\)](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 3)
- F158** Words in s. 25(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 27\(4\)\(b\)](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 3)
- F159** Words in s. 25(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 9\(e\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F160** Words in s. 25(3) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 27\(5\)](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 3)
- F161** Words in s. 25(5) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 9\(e\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F162** Words in s. 25(5) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 11](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F163** S. 25(7) inserted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 70(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F164** Words in s. 25(7) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), [Sch. 1 para. 39\(3\)\(a\)](#)
- F165** Words in s. 25(7) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), [Sch. 1 para. 39\(3\)\(b\)](#).

26–29 ..... <sup>F166</sup>

**Textual Amendments**

- F166** Ss. 26–29 repealed by [S.I. 1985/1065](#), [reg. 18](#)



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### Determination of questions

30 ..... F167

#### Textual Amendments

F167 S. 30 repealed by S.I. 1985/1603, art. 3

*[<sup>F168</sup>Determination by appropriate national authority*

#### Textual Amendments

F168 S. 30A and cross-heading inserted (6.4.2023 except in relation to W., 5.9.2023 for W. for specified purposes) by Building Safety Act 2022 (c. 30), ss. 37, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(p); S.I. 2023/914, reg. 2(b)(iv)

### 30A Determination of certain applications by appropriate national authority

- (1) This section applies where the building control authority 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 appropriate national authority for the original application to be determined by that authority.
- (3) An application under this section may be made only—
  - (a) before the end of the prescribed period, and
  - (b) if the building control authority has not determined the original application.
- (4) The building control authority may not determine the original application at any time after the making of an application under this section.
- (5) Building regulations may make provision about applications under this section, including in particular provision—
  - (a) about the making of such applications;
  - (b) requiring an applicant to notify the building control authority of the making of an application;
  - (c) imposing duties on the building control authority in cases where an application is made;
  - (d) for and in connection with the appropriate national authority appointing a person to determine the original application (including provision conferring functions on that person and providing that their decision is treated as the decision of the appropriate national authority);
  - (e) about the procedure to be adopted in connection with the determination of the original application.
- (6) The provision that may be made by virtue of subsection (5)(a) includes provision about—
  - (a) the form and content of applications;

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- (b) the information and 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.
- (7) For the purposes of determining the original application by virtue of this section, this Act and building regulations apply in relation to the appropriate national authority (and any person appointed by virtue of [subsection \(5\)\(d\)](#)) as they apply in relation to the building control authority.
- (8) The applicant may appeal to—
- (a) the tribunal, against a decision of the Secretary of State made under this section;
  - (b) a magistrates’ court, against a decision of the Welsh Ministers made under this section.
- (9) In this section “the relevant period” means—
- (a) the period provided by building regulations as the period within which the building control authority is to make the decision, or
  - (b) if the regulations provide that that period may be extended by agreement between the applicant and the building control authority and such an agreement is made, the agreed period.]

**Modifications etc. (not altering text)**

**C25** S. 30A restricted (1.10.2023) by [The Building \(Higher-Risk Buildings Procedures\) \(England\) Regulations 2023 \(S.I. 2023/909\)](#), regs. 1(1), **50(2)** (with Sch. 3 Pt. 1)

*[<sup>F169</sup>Proposed departure from plans]*

**Textual Amendments**

**F169** S. 31 and cross-heading omitted (1.10.2023 except in relation to W.) by virtue of [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), **Sch. 5 para. 28**; S.I. 2023/993, reg. 2(n)(xi)

**31** [<sup>F169</sup> **Proposed departure from plans.**]

[<sup>F169</sup>(1) Where plans of any proposed work have been passed under section 16 above by a local authority, the person by or on whose behalf the plans were in accordance with building regulations deposited with the authority may, and in such cases as may be prescribed shall, for the purpose of obtaining the approval of the authority to any proposed departure or deviation from the plans as passed, deposit plans of the departure or deviation.

(2) Section 16 above applies in relation to plans deposited under subsection (1) above as it applies in relation to the plans originally deposited.]

**Commencement Information**

**I3** S. 31 in force at 1.12.1984 for specified purposes, see s. 134(1)(a)

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## *Lapse of [F170 deposit of plans][F170 building control approval]*

### Textual Amendments

**F170** Words in s. 32 cross-heading substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), Sch. 5 para. 29; S.I. 2023/993, reg. 2(n)(xi) (with reg. 3)

## 32 [F171 Lapse of deposit of plans.][F171 Lapse of building control approval]

[F171(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, the relevant provisions 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, the relevant provisions 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) In this section “the relevant provisions” means this Act and regulations made under it except the following provisions and any regulations made under them—

- (a) sections 56, 56A, 56B and 91A (records and registers etc);
- (b) section 105B (fees and charges).

(6) 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.]

### Textual Amendments

**F171** S. 32 substituted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by Building Safety Act 2022 (c. 30), ss. 36(2), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(o); S.I. 2023/914, reg. 2(b)(iii); S.I. 2023/993, reg. 2(g) (with regs. 3, 5)

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### *Tests for conformity with building regulations*

#### **33 Tests for conformity with building regulations.**

- (1) <sup>F172</sup>Where work to which building regulations are applicable is proposed or carried out, the building control authority has the powers under [subsection \(2\)](#) for the purpose of ascertaining whether any provision of building regulations is or would be contravened—
  - (a) by or in connection with the work, or
  - (b) in relation to the building that the work has been, is being or will be carried out on.]
- (2) <sup>F172</sup>The powers are—
  - (a) to require a person by whom or on whose behalf the work was, is being, or is proposed to be done to carry out such reasonable tests of or in connection with the work, or in relation to the building, as may be specified in the requirement, or
  - (b) to carry out any reasonable tests of or in connection with the work, or in relation to the building, and to take any samples necessary to enable them to carry out such a test. ]
- (3) Without prejudice to the generality of subsection (2) above, the matters with respect to which tests may be required or carried out under that subsection include—
  - (a) tests of the soil or subsoil of the site of a building,
  - (b) tests of any material, component or combination of components that has been, is being or is proposed to be used in the construction of a building, and tests of any service, fitting or equipment that has been, is being or is proposed to be provided in or in connection with a building.
- <sup>F173</sup>(3A) The tests that may be required or carried out under [subsection \(2\)](#) include in particular tests involving—
  - (a) the cutting into or laying open of any work or any building, and
  - (b) the pulling down of any work.]
- (4) A <sup>F174</sup>[local authority]<sup>F174</sup>[building control authority] have power, for the purpose of ascertaining whether there is or has been, in the case of a building, a contravention of a continuing requirement that applies in relation to that building—
  - (a) to require the owner or occupier of the building to carry out such reasonable tests as may be specified in the requirement under this paragraph, or
  - (b) themselves to carry out any tests that they have power to require under paragraph (a) above, and to take any samples necessary to enable them to carry out such a test;

and in this subsection “continuing requirement” means a continuing requirement imposed by building regulations made by virtue of section 2(1) or (2) <sup>F175</sup>[or 2A] above.
- (5) The expense of carrying out any tests that a person is required to carry out under this section shall be met by that person, except that the <sup>F176</sup>[local authority]<sup>F176</sup>[building control authority], on an application made to them, may, if they think it reasonable to do so, direct that the expense of carrying out any such tests, or such part of that expense as may be specified in the direction, shall be met by the local authority.
- (6) Any question arising under this section between a <sup>F177</sup>[local authority]<sup>F177</sup>[building control authority] and a person as to the reasonableness of—

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- (a) a test specified in a requirement imposed on him by the authority under this section,
  - (b) a refusal by the authority to give a direction under subsection (5) above on an application made by him, or
  - (c) a direction under that subsection given on such an application,
- may on the application of that person be determined by [<sup>F178</sup>a magistrates' court][<sup>F178</sup>the appropriate court or tribunal]; and in a case falling within paragraph (b) or (c) above the court [<sup>F179</sup>or tribunal] may order the expense to which the application relates to be met by the [<sup>F177</sup>local authority][<sup>F177</sup>building control authority] to such extent as the court [<sup>F179</sup>or tribunal] thinks just.

#### Textual Amendments

- F172** S. 33(1)(2) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 30(2)**; S.I. 2023/993, reg. 2(n)(xi)
- F173** S. 33(3A) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 30(3)**; S.I. 2023/993, reg. 2(n)(xi)
- F174** Words in s. 33(4) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 30(4)**; S.I. 2023/993, reg. 2(n)(xi) (with reg. 4)
- F175** Words in s. 33(4) inserted (16.11.2004) by Sustainable and Secure Buildings Act 2004 (c. 22), **ss. 4(2), 11(4)**
- F176** Words in s. 33(5) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 30(4)**; S.I. 2023/993, reg. 2(n)(xi) (with reg. 4)
- F177** Words in s. 33(6) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 30(4)**; S.I. 2023/993, reg. 2(n)(xi) (with reg. 4)
- F178** Words in s. 33(6) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 9(f)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F179** Words in s. 33(6) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 12**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

#### Commencement Information

- I4** S. 33 in force at 1.10.2023 for E. by S.I. 2023/992, **art. 2**

### *Classification of buildings*

#### **34 Classification of buildings.**

For the purposes of building regulations and of a direction given or instrument made with reference to building regulations, buildings may be classified by reference to size, description, design, purpose, location or any other characteristic whatsoever.

### *Breach of building regulations*

#### **35 [<sup>F180</sup>Penalty for contravening building regulations.][<sup>F180</sup>Offence of contravening building regulations etc]**

- [<sup>F180</sup>(1)** A person who contravenes a provision of building regulations, or a requirement imposed by virtue of any such provision, commits an offence.

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- (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—
- (a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
- and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction.]

#### Textual Amendments

**F180** S. 35 substituted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), [ss. 39\(2\)](#), [170\(4\)\(b\)\(c\)](#); S.I. 2023/362, [reg. 3\(1\)\(r\)](#); S.I. 2023/914, [reg. 2\(b\)\(vi\)](#); S.I. 2023/993, [reg. 2\(i\)](#) (with [reg. 7](#))

#### Modifications etc. (not altering text)

- C26** S. 35 excluded (1.4.2010) by [The Building \(Local Authority Charges\) Regulations 2010 \(S.I. 2010/404\)](#), [regs. 1, 13](#)
- C27** S. 35 excluded by S.I. 2010/2214, [reg. 47](#) (as substituted (W.) (8.6.2018) by [The Building Regulations c. \(Amendment\) \(Excepted Energy Buildings\) \(Wales\) Regulations 2018 \(S.I. 2018/558\)](#), [regs. 1\(2\), 12](#) (with [reg. 29](#)))
- C28** S. 35 excluded by S.I. 2010/2214, [reg. 47](#) (as substituted (W.) (1.11.2018) by [The Building \(Amendment\) \(Wales\) Regulations 2018 \(S.I. 2018/552\)](#), [regs. 1\(3\), 4](#) (with [reg. 6](#)))

### [<sup>F181</sup>35A Time limit for prosecution for contravention of <sup>F182</sup>... building regulations

[<sup>F183</sup>(1) Despite anything in section 127(1) of the Magistrates' Courts Act 1980 (c. 43), an information relating to [<sup>F184</sup>an offence under section 35 above] may be tried by a magistrates' court if it is laid at any time—

- (a) within the period of two years beginning with the day on which the offence was committed, and
- (b) within the period of six months beginning with the relevant date.

<sup>F185</sup>(2) .....

<sup>F186</sup>(3) .....

(4) In subsection (1)(b) above, “ the relevant date ” means the date on which evidence sufficient to justify the proceedings comes to the knowledge of the person commencing the proceedings.

(5) In the case of proceedings commenced by a local authority—



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

<sup>F187</sup>(6) . . . . .]]

**Textual Amendments**

- F181** S. 35A inserted (21.8.2006) by [Climate Change and Sustainable Energy Act 2006 \(c. 19\)](#), **ss. 13(1), 28(1)**
- F182** Word in s. 35A repealed (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 317(2)(5), 325(1)**, **Sch. 16**; S.I. 2008/2358, art. 4(a)
- F183** S. 35A omitted (1.10.2023 except in relation to W.) by virtue of [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), **Sch. 5 para. 31**; S.I. 2023/993, reg. 2(n)(xi) (with reg. 7)
- F184** Words in s. 35A(1) substituted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 317(3)(5), 325(1)**; S.I. 2008/2358, art. 4(a)
- F185** S. 35A(2) repealed (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 317(4)(5), 325(1)**, **Sch. 16**; S.I. 2008/2358, art. 4(a)
- F186** S. 35A(3) repealed (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 317(4)(5), 325(1)**, **Sch. 16**; S.I. 2008/2358, art. 4(a)
- F187** S. 35A(6) repealed (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 317(4)(5), 325(1)**, **Sch. 16**; S.I. 2008/2358, art. 4(a)

*<sup>F188</sup>Notices in respect of contraventions*

**Textual Amendments**

- F188** **Ss. 35B-35D** and cross-heading inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), **ss. 38(1), 170(4)(b)(c)**; S.I. 2023/362, **reg. 3(1)(q)**; S.I. 2023/914, **reg. 2(b)(v)**; S.I. 2023/993, reg. 2(h)

**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—

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- (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 the maximum summary term for either-way offences or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
- and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction.
- (6) A compliance notice may not be given in respect of a contravention which occurred more than 12 months before the day on which the notice is given.
- (7) 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 the maximum summary term for either-way offences or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

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

- (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 contravention of the stop notice.
- (7) In this section “specified” means specified in the notice.

### **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\(1\)\(a\)](#), 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.]

### **36 Removal or alteration of offending work.**

- (1) If any work to which building regulations are applicable contravenes any of those regulations [<sup>F189</sup>or a requirement imposed by virtue of any of those regulations], the [<sup>F190</sup>local authority][<sup>F190</sup>building control authority], without prejudice to their right to take proceedings for a fine in respect of the contravention, may by notice require the owner—
  - (a) to pull down or remove the work, or
  - (b) if he so elects, to effect such alterations in it as may be necessary to make it comply with the regulations.
- (2) If, in a case where the [<sup>F190</sup>local authority][<sup>F190</sup>building control authority] are, by [<sup>F191</sup>any section of this Part of this Act other than section 16][<sup>F191</sup>any of sections 19 to 25], expressly required or authorised to reject [<sup>F192</sup>plans][<sup>F192</sup>an application for building control approval], any work to which building regulations are applicable is executed—
  - (a) [<sup>F193</sup>without such an application having been made,]

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- (b) [F193] notwithstanding the refusal of such an application, or]
- (c) otherwise than in accordance with any requirements subject to which the authority [F194] passed the plans][F194] granted such an application],

the authority may by notice to the owner—

- (i) require him to pull down or remove the work, or
- (ii) require him either to pull down or remove the work or, if he so elects, to comply with any other requirements specified in the notice, being requirements that they might have made under the section in question as a condition of [F195] passing plans][F195] granting such an application].

- (3) If a person to whom a notice has been given under subsection (1) or (2) above fails to comply with the notice before the expiration of 28 days, or such longer period as [F196] a magistrates' court][F196] the appropriate court or tribunal] may on his application allow, the [F190] local authority][F190] building control authority] may—

- (a) pull down or remove the work in question, or
- (b) effect such alterations in it as they deem necessary,

and may recover from him the expenses reasonably incurred by them in doing so.

- (4) A notice under subsection (1) or (2) above (called a “section 36 notice”) shall not be given after the expiration of [F197] 12 months][F197] 10 years] from the date of the completion of the work in question.

- (5) [F198] 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) This section [F199] does][F199], and sections 35B and 35C, do] not affect the right of a [F200] local authority][F200] building control authority], the Attorney General [F201], the Counsel General to the Welsh Government] or any other person to apply for an injunction for the removal or alteration of any work on the ground that it contravenes any regulation or any provision of this Act; but if—

- (a) [F202] an application for building control approval was made to the local authority in respect of the work,]
- (b) [F202] the application was granted,]
- (c) [F202] 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, and
- (d) the work was not higher-risk building work,]

the court on granting an injunction has power to order the local authority to pay to the owner of the work such compensation as the court thinks just, but before making any

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such order the court shall in accordance with rules of court cause the local authority, if not a party to the proceedings, to be joined as a party to them.

#### Textual Amendments

- F189** Words in s. 36(1) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(3\)](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 7)
- F190** Words in s. 36(1)-(3) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(2\)](#); S.I. 2023/993, reg. 2(n)(xi) (with regs. 4, 7)
- F191** Words in s. 36(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(4\)\(a\)](#); S.I. 2023/993, reg. 2(n)(xi) (with regs. 3, 7)
- F192** Words in s. 36(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(4\)\(b\)](#); S.I. 2023/993, reg. 2(n)(xi) (with regs. 3, 7)
- F193** S. 36(2)(a)(b) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(4\)\(c\)](#); S.I. 2023/993, reg. 2(n)(xi) (with regs. 3, 7)
- F194** Words in s. 36(2)(c) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(4\)\(d\)](#); S.I. 2023/993, reg. 2(n)(xi) (with regs. 3, 7)
- F195** Words in s. 36(2)(ii) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(4\)\(e\)](#); S.I. 2023/993, reg. 2(n)(xi) (with regs. 3, 7)
- F196** Words in s. 36(3) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 9\(g\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F197** Words in s. 36(4) substituted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), [ss. 39\(3\)](#), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(r); S.I. 2023/914, reg. 2(b)(vi); S.I. 2023/993, reg. 2(i) (with reg. 7)
- F198** S. 36(5)(5A) substituted for s. 36(5) (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(5\)](#); S.I. 2023/993, reg. 2(n)(xi) (with regs. 3, 7)
- F199** Words in s. 36(6) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(6\)\(a\)](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 7)
- F200** Words in s. 36(6) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(6\)\(b\)](#); S.I. 2023/993, reg. 2(n)(xi) (with regs. 4, 7)
- F201** Words in s. 36(6) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(6\)\(c\)](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 7)
- F202** S. 36(6)(a)-(d) substituted for s. 36(6)(a)-(c) (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(6\)\(d\)](#); S.I. 2023/993, reg. 2(n)(xi) (with regs. 3, 7)

#### Modifications etc. (not altering text)

- C29** S. 36(2)-(6) amended by [Midland Metro Act 1989 \(c. xv\)](#), [s. 45\(10\)](#)s. 36(2)-(6) extended (27.7.1993) by 1993 c. xv, [s. 55\(10\)](#).S. 36(2)-(6) applied with modifications (21.7.1994) by 1994 c. XV, s. 58(10)

### 37 Obtaining of report where section 36 notice given.

(1) In a case where—

- (a) a person to whom a section 36 notice has been given gives to the [F203]local authority][F203]building control authority] by whom the notice was given notice of his intention to obtain from a suitably qualified person a written report concerning work to which the section 36 notice relates, and
- (b) such a report is obtained and submitted to the [F203]local authority][F203]building control authority] and, as a result of their consideration of it, the [F203]local authority][F203]building control authority] withdraw the section 36 notice,

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the [<sup>F203</sup>local authority][<sup>F203</sup>building control authority] may pay to the person to whom the section 36 notice was given such amount as appears to them to represent the expenses reasonably incurred by him in consequence of their having given him that notice including, in particular, his expenses in obtaining the report.

- (2) Subject to subsection (3) below, if a person to whom a section 36 notice has been given gives notice under subsection (1)(a) above, then, so far as regards the matters to which the section 36 notice relates, the reference to 28 days in section 36(3) above shall be construed as a reference to 70 days.
- (3) Notice under subsection (1)(a) above shall be given before the expiry of the period of 28 days referred to in section 36(3) above, or, as the case may be, within such longer period as [<sup>F204</sup>a court][<sup>F204</sup>the appropriate court or tribunal] allows under section 36(3); and, where such a longer period has been so allowed before notice is given under subsection (1)(a) above, subsection (2) above does not apply.

#### Textual Amendments

**F203** Words in s. 37(1) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 33](#); S.I. 2023/993, [reg. 2\(n\)\(xi\)](#) (with [reg. 4](#))

**F204** Words in s. 37(3) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 13](#); S.I. 2023/993, [reg. 2\(o\)\(i\)](#) (with [reg. 6](#))

### 38 Civil liability.

- (1) Subject to this section—
  - (a) breach of a duty imposed by building regulations, so far as it causes damage, is actionable, except in so far as the regulations provide otherwise, and
  - (b) as regards such a duty, building regulations may provide for a prescribed defence to be available in an action for breach of that duty brought by virtue of this subsection.
- (2) Subsection (1) above, and any defence provided for in regulations made by virtue of it, do not apply in the case of a breach of such a duty in connection with a building erected before the date on which that subsection comes into force unless the regulations imposing the duty apply to or in connection with the building by virtue of section 2(2) [<sup>F205</sup>or 2A] above or paragraph 8 of Schedule 1 to this Act.
- (3) This section does not affect the extent (if any) to which breach of—
  - (a) a duty imposed by or arising in connection with this Part of this Act or any other enactment relating to building regulations, or
  - (b) a duty imposed by building regulations in a case to which subsection (1) above does not apply,
 is actionable, or prejudice a right of action that exists apart from the enactments relating to building regulations.
- (4) In this section, “damage” includes the death of, or injury to, any person (including any disease and any impairment of a person’s physical or mental condition).



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#### Textual Amendments

**F205** Words in s. 38(2) inserted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), ss. 4(3), 11(4)

#### Commencement Information

**I5** S. 38 in force at 1.12.1984 for specified purposes, see s. 134(1)(a)

### *Appeals in certain cases*

## **39 Appeal against refusal etc. to relax building regulations.**

(1) If a [<sup>F206</sup>local authority][<sup>F206</sup>building control authority] refuse an application to dispense with or relax a requirement in building regulations that they have power to dispense with or relax, the applicant may by notice in writing appeal [<sup>F207</sup>to the Secretary of State] within one month from the date on which the [<sup>F206</sup>local authority][<sup>F206</sup>building control authority] notify the applicant of their refusal.

[<sup>F208</sup>(1A) The appeal is to be made to—

- (a) the regulator, in the case of a refusal by a local authority for an area in England;
- (b) the tribunal, in the case of a refusal by the regulator;
- (c) the Welsh Ministers, in the case of a refusal by a local authority for an area in Wales.]

(2) If, within—

- (a) a period of two months beginning with the date of an application, or
  - (b) such extended period as may at any time be agreed in writing between the applicant and the [<sup>F209</sup>local authority][<sup>F209</sup>building control authority],
- the [<sup>F209</sup>local authority][<sup>F209</sup>building control authority] do not notify the applicant of their decision on the application, subsection (1) above applies in relation to the application as if the [<sup>F209</sup>local authority][<sup>F209</sup>building control authority] had refused the application and notified the applicant of their decision at the end of the said period.

(3) [<sup>F210</sup>The notice of appeal shall set out the grounds of appeal, and a copy of the notice of appeal shall be sent to the local authority.]

(4) [<sup>F210</sup>The local authority, on receiving a copy of the notice of appeal, shall at once transmit to the Secretary of State a copy of the application and a copy of all the documents furnished by the applicant for the purposes of his application.]

(5) [<sup>F210</sup>The local authority shall at the same time give to the Secretary of State in writing any representations that they desire to make as regards the appeal, and shall send a copy to the appellant.]

(6) [<sup>F210</sup>If the Secretary of State allows the appeal, he shall give such directions for dispensing with or relaxing building regulations as may be appropriate.]

#### Textual Amendments

**F206** Words in s. 39(1) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 34](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 4)

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- F207** Words in s. 39(1) omitted (1.10.2023 except in relation to W.) by virtue of [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 4\(2\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F208** S. 39(1A) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 4\(3\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F209** Words in s. 39(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 34](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 4)
- F210** S. 39(3)-(6) omitted (1.10.2023 except in relation to W.) by virtue of [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 4\(4\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

### [<sup>F211</sup>39A Appeals against compliance notices and stop notices etc

- (1) A person to whom a compliance notice has been given may appeal to the appropriate court or 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 on which the appeal is made, and
    - (ii) ending with the day on which the appeal is finally determined or withdrawn.
- (3) A person to whom a compliance notice has been given may apply to the appropriate court or 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 appropriate court or tribunal.
- (6) Where an appeal under [subsection \(5\)](#) is made—
  - (a) the appellant may apply to the appropriate court or 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.]

#### Textual Amendments

- F211** [S. 39A](#) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), [ss. 38\(2\)](#), 170(4)(b)(c); S.I. 2023/362, [reg. 3\(1\)\(q\)](#); S.I. 2023/914, [reg. 2\(b\)\(v\)](#); S.I. 2023/993, [reg. 2\(h\)](#)

### 40 Appeal against section 36 notice.

- (1) A person aggrieved by the giving of a section 36 notice may appeal to [<sup>F212</sup>a magistrates' court][<sup>F212</sup>the appropriate court or tribunal]<sup>F213</sup>....

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- (2) Subject to subsection (3) below, on an appeal under this section the court [<sup>F214</sup>or tribunal] shall—
- (a) if it determines that the [<sup>F215</sup>local authority][<sup>F215</sup>building control authority] were entitled to give the notice, confirm the notice, and
  - (b) in any other case, give the [<sup>F215</sup>local authority][<sup>F215</sup>building control authority] a direction to withdraw the notice.
- (3) If, in a case where the appeal is against a notice under section 36(2) above, the court [<sup>F214</sup>or tribunal] is satisfied that—
- (a) the [<sup>F216</sup>local authority][<sup>F216</sup>building control authority] were entitled to give the notice, but
  - (b) in all the circumstances of the case the purpose for which was enacted the section of this Act by virtue of which the notice was given has been substantially achieved,
- the court [<sup>F214</sup>or tribunal] may give a direction under subsection (2)(b) above.
- (4) An appeal under this section shall be brought—
- (a) within 28 days of the giving of the section 36 notice, or
  - (b) in a case where the person to whom the section 36 notice was given gives notice under section 37(1)(a) above, within 70 days of the giving of the section 36 notice.
- (5) Where an appeal is brought under this section—
- (a) the section 36 notice is of no effect pending the final determination or withdrawal of the appeal, and
  - (b) section 36(3) above has effect in relation to that notice as if after the words “28 days” there were inserted the words “(beginning, in a case where an appeal is brought under section 40 below, on the date when the appeal is finally determined or, as the case may be, withdrawn)”.
- (6) If, on an appeal under this section, there is produced to the court [<sup>F214</sup>or tribunal] a report that has been submitted to the [<sup>F217</sup>local authority][<sup>F217</sup>building control authority] under section 37(1) above, the court [<sup>F214</sup>or tribunal], in making an order as to costs, may treat the expenses incurred in obtaining the report as expenses incurred for the purposes of the appeal.

#### Textual Amendments

- F212** Words in s. 40(1) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 9\(h\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F213** Words in s. 40(1) repealed (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 110(1), [Sch. 8 para. 279](#), [Sch. 10](#); S.I. 2005/910, art. 3(y)
- F214** Words in s. 40 inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 14](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F215** Words in s. 40(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 35](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 4)
- F216** Words in s. 40(3) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 35](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 4)
- F217** Words in s. 40(6) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 35](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 4)

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#### 41 Appeal to Crown Court.

- (1) Where a person—
- (a) is aggrieved by an order, determination or other decision of a magistrates' court [F218 under this Part of this Act, or under Part IV of this Act as it applies in relation to this Part,] [F218 under, or under an instrument made under, this Part or Part 4 as it applies in relation to this Part,] and
  - (b) is not by any other enactment authorised to appeal to the Crown Court.
- he may appeal to the Crown Court.
- (2) Subsection (1) above does not confer a right of appeal in a case in which each of the parties concerned might under this Act have required that the dispute should be determined by arbitration instead of by a magistrates' court.

#### Textual Amendments

**F218** Words in s. 41(1)(a) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022](#) (c. 30), s. 170(4)(b)(c), [Sch. 5 para. 36](#); S.I. 2023/993, reg. 2(n)(xi)

#### 42 Appeal and statement of case to High Court in certain cases.

- [F219(A1) Where the Secretary of State gives a decision on an application for a direction under section 8, any of the following may appeal to the High Court against the decision on a point of law—
- (a) the applicant;
  - (b) the local authority;
  - (c) the registered building control approver.]
- (1) Where the [F220 Secretary of State gives] [F220 Welsh Ministers give] a decision in proceedings—
- (a) on an appeal under section 20 or 39 above,
  - (b) [F221 on an appeal under section 50,] or
  - (c) on an application for a direction under section 8 above where the power of giving the direction is not exercisable by the [F222 local authority] [F222 building control authority],
- the relevant person or the [F222 local authority] [F222 building control authority] or, as the case may be, the approved inspector may appeal to the High Court against the decision on a point of law.
- (2) In subsection (1) above, “the relevant person” means—
- (a) as regards an appeal under the said section 20 or 39, the appellant,
  - (b) [F223 as regards an appeal under section 50, the person on whose application the appeal was made,]
  - (c) as regards such an application as is mentioned in subsection (1)(c) above, the applicant.
- (3) At any stage of the proceedings on such an appeal [F224, reference] or application as is mentioned in subsection [F225 (A1) or] (1) above—
- (a) the [F226 Secretary of State] [F226 appropriate national authority] may state a question of law arising in the course of the proceedings in the form of a special case for the decision of the High Court, and

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- (b) a decision of the High Court on a case so stated is deemed to be a judgment of the court within the meaning of section 16 of the <sup>M4</sup>[<sup>F227</sup>Senior Courts Act 1981] (appeals from the High Court to the Court of Appeal).
- (4) In relation to proceedings in the High Court or the Court of Appeal brought by virtue of this section, the power to make rules of court includes power to make rules—
- (a) prescribing the powers of the High Court or the Court of Appeal with respect to the remitting of the matter with the opinion or direction of the court for re-hearing and determination by the [<sup>F228</sup>Secretary of State][<sup>F228</sup>appropriate national authority], and
- (b) providing for the [<sup>F228</sup>Secretary of State][<sup>F228</sup>appropriate national authority], either generally or in such circumstances as may be prescribed by the rules, to be treated as a party to any such proceedings and to be entitled to appear and to be heard accordingly.
- (5) No appeal to the Court of Appeal shall be brought by virtue of this section except with the leave of the High Court or the Court of Appeal.
- (6) In this section, “decision” includes a direction, and references to the giving of a decision shall be construed accordingly.
- (7) [<sup>F229</sup>Until such day as the Secretary of State may by order appoint, subsections (1) and (2) above have effect as if—
- (a) in subsection (1)(b), for “section 16 above or 50 below” there were substituted “section 30 above”,
- (b) in subsection (1), the words “or, as the case may be, the approved inspector” were omitted, and
- (c) in subsection (2)(b), for “section 16 or 50” there were substituted “section 30” and the words “(jointly with the local authority)” were inserted after “application”.]

#### Textual Amendments

- F219** S. 42(A1) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 5(2)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F220** Words in s. 42(1) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 5(3)(a)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F221** S. 42(1)(b) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 5(3)(b)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F222** Words in s. 42(1) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 37**; S.I. 2023/993, reg. 2(n)(xi) (with reg. 4)
- F223** S. 42(2)(b) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 5(4)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F224** Word in s. 42(3) omitted (1.10.2023 except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 5(5)(a)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F225** Words in s. 42(3) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 5(5)(b)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F226** Words in s. 42(3)(a) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 5(5)(c)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F227** Words in s. 42(3)(b) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, art. 2(d)

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**F228** Words in s. 42(4) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 5(6)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

**F229** S. 42(7) omitted (1.10.2023 except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 5(7)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

**Commencement Information**

**I6** S. 42(4)-(6) in force at 1.12.1984 for specified purposes, see s. 134(1)(a)

**Marginal Citations**

**M4** 1981 c. 54.

**43 Procedure on appeal to Secretary of State on certain matters.**

[<sup>F230</sup>(1) On an appeal to the Secretary of State under section 20 or 39 above, the Secretary of State may at his discretion afford to the appellant and the local authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(2) On determining such an appeal, the Secretary of State shall give such directions, if any, as he considers appropriate for giving effect to his determination.

(3) Without prejudice to paragraph 10(c) of Schedule 1 to this Act, building regulations may, in connection with such an appeal, include such supplementary provisions with respect to procedure as the Secretary of State thinks fit.]

**Textual Amendments**

**F230** S. 43 omitted (1.10.2023 except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 6**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

**Commencement Information**

**I7** S. 43(3) in force at 1.12.1984 for specified purposes, see s. 134(1)(a)

[<sup>F231</sup>**43A Appeals under sections 20, 39 and 50: England**

(1) This section applies to an appeal to the regulator or the tribunal made 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.]



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### Textual Amendments

**F231** S. 43A inserted (1.10.2023) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(c), [Sch. 6 para. 7](#); [S.I. 2023/993](#), reg. 2(o)(i) (with reg. 6)

PROSPECTIVE

### *Application of building regulations to Crown etc.*

#### **44 Application to Crown.**

- (1) Except in so far as buildings regulations provide otherwise, the substantive requirements of building regulations—
  - (a) apply in relation to work carried out or proposed to be carried out by or on behalf of a Crown authority (whether or not in relation to a Crown building) as they would apply if the person by or on behalf of whom the work was or is to be carried out were not a Crown authority, and
  - (b) so far as they consist of continuing requirements, apply to Crown authorities (whether or not in relation to Crown buildings) as they apply to persons who are not Crown authorities.
- (2) In so far as building regulations so provide as regards any of the substantive requirements of building regulations, those requirements—
  - (a) apply in relation to work carried out or proposed to be carried out as mentioned in subsection (1)(a) above in inner London, and
  - (b) so far as they consist of continuing requirements, apply to Crown authorities there as mentioned in subsection (1)(b) above,  
even if those requirements do not apply there in the case of work carried out or proposed to be carried out otherwise than by or on behalf of a Crown authority or, in the case of continuing requirements, do not apply there to persons other than Crown authorities.
- (3) Except in so far as building regulations provide otherwise, building regulations and the enactments relating to building regulations—
  - (a) apply in relation to work carried out or proposed to be carried out in relation to a Crown building otherwise than by or on behalf of a Crown authority, and, in the case of section 2 above and building regulations made by virtue of it, apply in relation to a Crown building to persons other than Crown authorities, as they would apply if the building were not a Crown building, and
  - (b) apply in relation to work carried out or proposed to be carried out by or on behalf of a government department acting for a person other than a Crown authority as they would apply if the work had been or were to be carried out by that person.
- (4) Section 38 above and any building regulations made by virtue of subsection (1) of that section apply in relation to duties imposed by building regulations in their application in accordance with subsections (1) to (3) above.
- (5) Where—

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- (a) work is carried out or proposed to be carried out by or on behalf of a Crown authority, or
- (b) a Crown authority is or (apart from any dispensation or relaxation) will be subject to continuing requirements,

that authority may exercise the like powers of dispensing with or relaxing the substantive requirements of building regulations or, as the case may be, the continuing requirements in question as are conferred on the Secretary of State and local authorities by virtue of section 8 above (other than a power that by virtue of paragraph 6 of Schedule 1 to this Act is exercisable otherwise than by a local authority), subject to—

- (i) the like requirements as to consultation (if any) as apply by virtue of paragraph 3 of Schedule 1 to this Act in the case of a local authority (but not the requirements of the said section 8 as to consultation with the local authority), and
- (ii) the like requirements as in the case of the Secretary of State apply by virtue of section 10 above,

and no application is necessary for the exercise of any such powers by virtue of this subsection.

- (6) In relation to continuing requirements, references in subsection (5) above to section 8 above are references to it as modified by section 2(6) above.
- (7) For the purposes of subsection (5) above, work carried out or proposed to be carried out by or on behalf of a government department acting for another Crown authority shall be treated as carried out or proposed to be carried out by or on behalf of that department (and not by or on behalf of the other Crown authority).
- (8) In this section—

“continuing requirement” means a continuing requirement of building regulations imposed by virtue of section 2(1) or (2)(a) or (b) above;

“Crown authority” means the Crown Estate Commissioners, a Minister of the Crown, a government department, any other person or body whose functions are performed on behalf of the crown (not being a person or body whose functions are performed on behalf of Her Majesty in her private capacity), or a person acting in right of the Duchy of Lancaster or the Duchy of Cornwall;

“Crown building” means a building in which there is a Crown interest or a Duchy interest;

“Crown interest” means an interest belonging to Her Majesty in right of the Crown, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department;

“Duchy interest” means an interest belonging to Her Majesty in right of the Duchy of Lancaster, or belonging to the Duchy of Cornwall.

- (9) If any question arises under this section as to which Crown authority is entitled to exercise any such powers as are mentioned in subsection (5) above, that question shall be referred to the Treasury, whose decision is final.
- (10) This section, with any necessary modifications, applies in relation to the making of a material change in the use of a building within the meaning of building regulations made for the purposes of paragraph 8(1)(e) of Schedule 1 to this Act as it applies in relation to the carrying out of work.

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**Modifications etc. (not altering text)**

C30 S. 44 extended (17.7.1992) by S.I. 1992/1732, art. 4(1)(a)

**45 Application to United Kingdom Atomic Energy Authority.**

- (1) The provisions of section 44(1) and (4) to (10) above apply in relation to the United Kingdom Atomic Energy Authority (in this section referred to as “the Authority”) as if—
- (a) the Authority were a Crown authority,
  - (b) a building belonging to or occupied by the Authority were a Crown building, and
  - (c) the references in subsection (1) to not being a Crown authority were references to being neither a Crown authority nor the Authority,
- but the said provisions do not by virtue of this subsection apply in relation to dwelling-houses or offices belonging to or occupied by the Authority.
- (2) Subject to the said provisions as applied by subsection (1) above, building regulations and the enactments relating to building regulations do not apply in relation to buildings belonging to or occupied by the Authority, except dwelling-houses and offices.

*Inner London*

**46 Inner London.**

In its application to inner London, this Part of this Act has effect subject to Part I of Schedule 3 to this act.

*<sup>F232</sup>Building control authorities: restricted activities and functions*

**Textual Amendments**

F232 S. 46A and cross-heading inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by Building Safety Act 2022 (c. 30), ss. 44(2), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(t); S.I. 2023/914, reg. 2(b)(ix)

**46A Building control authorities: restricted activities and functions**

- (1) A building control authority may carry out a restricted activity in relation to any work only through a registered building inspector, acting on the authority’s behalf, whose registration has effect in relation to work of that description.
- (2) Before each exercise of a restricted function in relation to any work, a building control authority must obtain and consider the advice of a registered building inspector whose registration has effect in relation to work of that description.
- (3) The registered building inspector who carries out the restricted activity, or advises on the exercise of the restricted function, may (but need not) be employed by the authority.

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(4) In this section—

“restricted activity” means an activity that is prescribed for the purposes of this section;

“restricted function” means a function of a building control authority under—

- (a) this Part,
  - (b) Part 3, or
  - (c) regulations made under this Part or Part 3,
- that is prescribed for the purposes of this section.]

## PART II

### SUPERVISION OF BUILDING WORK ETC. OTHERWISE THAN BY [F233]LOCAL AUTHORITIES][F233]BUILDING CONTROL AUTHORITIES]

#### Textual Amendments

**F233** Words in Pt. 2 heading substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022](#) (c. 30), s. 170(4)(b)(c), [Sch. 5 para. 39](#); S.I. 2023/993, reg. 2(n)(xii) (with reg. 4)

#### *Supervision of plans and work by approved inspectors*

#### 47 Giving and acceptance of initial notice.

(1) If—

- (a) a notice in the prescribed form [F234]relating to work that is not higher-risk building work] (called an “initial notice”) is given jointly to a local authority by a person intending to carry out [F235]the] work and a person who is an approved inspector in relation to that work,
- (b) the initial notice is accompanied by such plans of the work as may be prescribed,
- (c) [F236]...and
- (d) the initial notice is accepted by the local authority,

then, so long as the initial notice continues in force, the approved inspector by whom the notice was given shall undertake such functions as may be prescribed with respect to the inspection of plans of the work [F237]to which the notice relates], the supervision of that work and the giving [F238]and receiving] of certificates and other notices.

(2) A local authority to whom an initial notice is given—

- (a) may not reject the notice except on prescribed grounds, and
- (b) shall reject the notice if any of the prescribed grounds exists,

and, in a case where the work to which an initial notice relates is work of such a description that, if [F239]plans of it had been deposited with][F239]an application for building control approval in respect of it had been made to] the local authority, the authority could, under any enactment, have imposed requirements as a condition of [F240]passing the plans][F240]granting the application], the local authority may impose the like requirements as a condition of accepting the initial notice.

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- (3) Unless, within the prescribed period, the local authority to whom an initial notice is given give notice of rejection, specifying the ground or grounds in question, to each of the persons by whom the initial notice was give, the authority is conclusively presumed to have accepted the initial notice and to have done so without imposing any such requirements as are referred to in subsection (2) above.

[<sup>F241</sup>(3A) Subsection (3) does not apply in prescribed circumstances.]

- (4) An initial notice—

- (a) comes into force when it is accepted by the local authority, either by notice given within the prescribed period to each of the persons by whom it was given or by virtue of subsection (3) above, and
- (b) subject to section 51(3) [<sup>F242</sup>below][<sup>F242</sup>(final certificates) and [section 53A](#) (lapse of initial notice)], continues in force until—
  - (i) it is cancelled by a notice under section 52 below, [<sup>F243</sup>or]
    - [<sup>F244</sup>(ia) it is cancelled, in whole or in part, by a notice under section [52A](#),]
    - [<sup>F245</sup>(ib) it is cancelled by a notice under section [53D](#), or]
  - (ii) the occurrence of, or the expiry of a prescribed period of time beginning on the date of, such event as may be prescribed;
 and building regulations may empower a local authority to extend (whether before or after its expiry) any such period of time as is referred to in paragraph (ii) above.

- (5) The form prescribed for an initial notice may be such as to require—

- (a) either or both of the persons by whom the notice is to be given to furnish information relevant for the purposes of this Act, Part II or IV of the <sup>M5</sup>Public Health Act 1936 or any provision of building regulations, and
- (b) the approved inspector by whom the notice is to be given to enter into undertakings with respect to his performance of any of the functions referred to in subsection (1) above.

[<sup>F246</sup>(6) .....

[<sup>F247</sup>(7) .....

[<sup>F248</sup>(8) This section is subject to sections 53 and [53B](#) (new initial notices).]

**Textual Amendments**

**F234** Words in [s. 47\(1\)\(a\)](#) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), **ss. 46(1)(a)**, 170(4)(b)(c); S.I. 2023/362, [reg. 3\(1\)\(u\)](#); S.I. 2023/914, [reg. 2\(b\)\(x\)](#); S.I. 2023/993, [reg. 2\(1\)](#) (with [regs. 4, 8](#))

**F235** Word in [s. 47\(1\)\(a\)](#) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), **ss. 46(1)(b)**, 170(4)(b)(c); S.I. 2023/362, [reg. 3\(1\)\(u\)](#); S.I. 2023/914, [reg. 2\(b\)\(x\)](#); S.I. 2023/993, [reg. 2\(1\)](#) (with [regs. 4, 8](#))

**F236** [S. 47\(1\)\(c\)](#) omitted (28.7.2022) by virtue of [Building Safety Act 2022 \(c. 30\)](#), **ss. 48(2)(a)**, 170(4)(b)(c); S.I. 2022/561, [reg. 4](#); S.I. 2022/774, [reg. 2](#)

**F237** Words in [s. 47\(1\)](#) substituted (14.10.1996) by S.I. 1996/1905, **art. 3(2)(a)**

**F238** Words in [s. 47\(1\)](#) inserted (1.2.2006) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), **ss. 8(2)**, 11(3); S.I. 2006/224, [art. 2\(c\)](#)

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- F239** Words in s. 47(2) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 40(2)(a)**; S.I. 2023/993, reg. 2(n)(xiii)
- F240** Words in s. 47(2) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 40(2)(b)**; S.I. 2023/993, reg. 2(n)(xiii)
- F241** S. 47(3A) inserted (6.4.2023 except in relation to W., 5.9.2023 for W. in so far as not already in force) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 40(3)**; S.I. 2023/362, reg. 3(1)(w)(ii); S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 16
- F242** Words in s. 47(4)(b) substituted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by Building Safety Act 2022 (c. 30), **ss. 36(3)**, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(o); S.I. 2023/914, reg. 2(b)(iii); S.I. 2023/993, reg. 2(g) (with regs. 3, 5)
- F243** Word in s. 47(4)(b) omitted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), **ss. 46(4)(a)**, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(u); S.I. 2023/914, reg. 2(b)(x); S.I. 2023/993, reg. 2(l) (with reg. 8)
- F244** S. 47(4)(b)(ia) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by Building Safety Act 2022 (c. 30), **ss. 46(4)(b)**, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(u); S.I. 2023/914, reg. 2(b)(x); S.I. 2023/993, reg. 2(l) (with reg. 8)
- F245** S. 47(4)(b)(ib) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by Building Safety Act 2022 (c. 30), **ss. 51(3)(a)**, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)
- F246** S. 47(6) omitted (28.7.2022) by virtue of Building Safety Act 2022 (c. 30), **ss. 48(2)(b)**, 170(4)(b)(c); S.I. 2022/561, reg. 4; S.I. 2022/774, reg. 2
- F247** S. 47(7) omitted (28.7.2022) by virtue of Building Safety Act 2022 (c. 30), **ss. 48(2)(b)**, 170(4)(b)(c); S.I. 2022/561, reg. 4; S.I. 2022/774, reg. 2
- F248** S. 47(8) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by Building Safety Act 2022 (c. 30), **ss. 51(3)(b)**, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)

#### Modifications etc. (not altering text)

- C31** S. 47 excluded (21.7.1994) by 1994 c. xv, s. 58(9)

#### Marginal Citations

- M5** 1936 c. 49.

## 48 Effect of initial notice.

- (1) So long as an initial notice continues in force, the function of enforcing building regulations that is conferred on a local authority by section 91(2) below is not exercisable in relation to the work [<sup>F249</sup>to which the notice relates], and accordingly—
- (a) a local authority may not give a notice under section [<sup>F250</sup>35B, 35C or] 36(1) above in relation to [<sup>F251</sup>that work], and
  - (b) a local authority may not institute proceedings under section 35 above for a contravention [<sup>F252</sup>of building regulations] that arises out of the carrying out of [<sup>F251</sup>that work].
- (2) For the purposes of the enactments specified in subsection (3) below—
- (a) the giving of an initial notice accompanied by such plans as are referred to in section 47(1)(b) above shall be treated as the [<sup>F253</sup>deposit of plans][<sup>F253</sup>making of an application for building control approval],



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- (b) the plans accompanying an initial notice shall be treated as the <sup>F254</sup>deposited plans<sup>F254</sup> plans accompanying the application for building control approval],
  - (c) the acceptance or rejection of an initial notice shall be treated as the <sup>F255</sup>passing or, as the case may be, the rejection of plans<sup>F255</sup> approval or rejection of the application], and
  - (d) <sup>F256</sup>where an initial notice ceases to be in force under section 53A, the application for building control approval (treated by virtue of paragraph (a) as made) is to be treated as if it was not made (and the approval was not given).]
- (3) The enactments referred to in subsection (2) above are—
- (a) section 36(2) above,
  - (b) section 36(5) above, in so far as it relates to a notice under section 36(2) above and to non-compliance with any such requirement as is referred to in that subsection,
  - (c) section 36(6) above, in so far as it relates to a contravention of this Act,
  - (d) section 18(2) above, and
  - (e) sections 219 to 225 of the <sup>M6</sup>Highways Act 1980 (the advance payments code).

<sup>F257</sup>(4) . . . . .

**Textual Amendments**

- F249** Words in s. 48(1) substituted (14.10.1996) by S.I. 1996/1905, **art. 3(3)(a)**
- F250** Words in s. 48(1)(a) inserted (1.10.2023 except in relation to W.) by **Building Safety Act 2022 (c. 30)**, s. 170(4)(b)(c), **Sch. 5 para. 41(2)(a)**; S.I. 2023/993, reg. 2(n)(xiv)
- F251** Words in s. 48(1)(a)(b) substituted (14.10.1996) by S.I. 1996/1905, **art. 3(3)(b)**
- F252** Words in s. 48(1)(b) omitted (1.10.2023 except in relation to W.) by virtue of **Building Safety Act 2022 (c. 30)**, s. 170(4)(b)(c), **Sch. 5 para. 41(2)(b)**; S.I. 2023/993, reg. 2(n)(xiv)
- F253** Words in s. 48(2)(a) substituted (1.10.2023 except in relation to W.) by **Building Safety Act 2022 (c. 30)**, s. 170(4)(b)(c), **Sch. 5 para. 41(3)(a)**; S.I. 2023/993, reg. 2(n)(xiv)
- F254** Words in s. 48(2)(b) substituted (1.10.2023 except in relation to W.) by **Building Safety Act 2022 (c. 30)**, s. 170(4)(b)(c), **Sch. 5 para. 41(3)(b)**; S.I. 2023/993, reg. 2(n)(xiv)
- F255** Words in s. 48(2)(c) substituted (1.10.2023 except in relation to W.) by **Building Safety Act 2022 (c. 30)**, s. 170(4)(b)(c), **Sch. 5 para. 41(3)(c)**; S.I. 2023/993, reg. 2(n)(xiv)
- F256** S. 48(2)(d) substituted (1.10.2023 except in relation to W.) by **Building Safety Act 2022 (c. 30)**, s. 170(4)(b)(c), **Sch. 5 para. 41(3)(d)**; S.I. 2023/993, reg. 2(n)(xiv)
- F257** S. 48(4) repealed (1.10.2006) by **Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541)**, art. 1(3), **Sch. 2 para. 33(2)**, **Sch. 4** (with art. 49) (as amended by **The Regulatory Reform (Fire Safety) Subordinate Provisions Order 2006 (S.I. 2006/484)**, **arts. 1(1), 2**)

**Modifications etc. (not altering text)**

- C32** S. 48(2) amended by **Midland Metro Act 1989 (c. xv)**, **s. 45(10)**; s. 48(2) extended (27.7.1993) by **1993 c. xv**, **s. 55(10)**; s. 48(2) applied (with modifications) (21.7.1994) by **1994 c. xv**, **s. 58(10)**

**Marginal Citations**

- M6** 1980 c. 66.

**49 Approved inspectors.**

- (1) In this Act, “approved inspector” means a person who, in accordance with building regulations, is approved for the purposes of this Part of this Act—

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- (a) by the Secretary of State, or
  - (b) by a body (corporate or unincorporated) that, in accordance with the regulations, is designated by the Secretary of State for the purpose.
- (2) Any such approval as is referred to in subsection (1) above may limit the description of work in relation to which the person concerned is an approved inspector.
- (3) Any such designation as is referred to in subsection (1)(b) above may limit the cases in which and the terms on which the body designated may approve a person and, in particular, may provide that any approval given by the body shall be limited as mentioned in subsection (2) above.
- (4) There shall be paid on an application for any such approval as is referred to in subsection (1) above—
- (a) where the application is made to the Secretary of State, such fee as may be prescribed,
  - (b) where the application is made to a body designated by him as mentioned in that subsection, such fee as that body may determine.
- (5) Building regulations may—
- (a) contain provision prescribing the period for which, subject to any provision made by virtue of paragraph (b) or (c) below, any such approval as is referred to in subsection (1) above continues in force,
  - (b) contain provision precluding the giving of, or requiring the withdrawal of, any such approval as is referred to in subsection (1) above in such circumstances as may be prescribed,
  - (c) contain provision authorising the withdrawal of any such approval or designation as is referred to in subsection (1) above,
  - (d) provide for the maintenance—
    - (i) by the Secretary of State of a list of bodies that are for the time being designated by him as mentioned in subsection (1) above, and
    - (ii) by the Secretary of State and by each designated body of a list of persons for the time being approved by him or them as mentioned in that subsection,
  - (e) make provision for the supply to local authorities of copies of any list of approved inspectors maintained by virtue of paragraph (d) above and for such copy lists to be made available for inspection, and
  - (f) make provision for the supply, on payment of a prescribed fee, of a certified copy of any entry in a list maintained by virtue of paragraph (d) above or in a copy list held by a local authority by virtue of paragraph (e) above.
- (6) Unless the contrary is proved, in any proceedings (whether civil or criminal) a document that appears to the court to be a certified copy of an entry either in a list maintained as mentioned in subsection (5)(d) above or in a copy of such a list supplied as mentioned in subsection (5)(e) above—
- (a) is presumed to be a true copy of an entry in the current list so maintained, and
  - (b) is evidence of the matters stated in it.
- (7) An approved inspector may make such charges in respect of the carrying out of the functions referred to in section 47(1) above as may in any particular case be agreed between him and the person who intends to carry out the work in question or, as the case may be, by whom that work is being or has been carried out.

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- (8) Nothing in this Part of this Act prevents an approved inspector from arranging for plans or work to be inspected on his behalf by another person; but such a delegation—
- (a) shall not extend to the giving of a certificate under section 50 or 51 below, and
  - (b) shall not affect any liability, whether civil or criminal, of the approved inspector which arises out of functions conferred on him by this Part of this Act or by building regulations,
- and, without prejudice to the generality of paragraph (b) above, an approved inspector is liable for negligence on the part of a person carrying out an inspection on his behalf in like manner as if it were negligence by a servant of his acting in the course of his employment.

## 50 Plans certificates.

[<sup>F258</sup>(1) In this Part a “plans certificate” means a certificate by a registered building control approver that the relevant conditions are met in relation to the work specified in the certificate (which must be work in relation to which the approver has given an initial notice).

- (1A) The relevant conditions are that the registered building control approver—
- (a) has inspected—
    - (i) full plans of the work, or
    - (ii) plans of the work that the approver is satisfied are sufficient for the purposes of giving a plans certificate in relation to the work,
  - (b) is satisfied that the plans are not defective,
  - (c) is satisfied that work carried out in accordance with the plans would not contravene any provision of building regulations, and
  - (d) has complied with any prescribed requirements as to consultation or otherwise.

(1B) Subsection (1C) applies if the person intending to carry out work to which an initial notice relates asks the registered building control approver who gave the initial notice to give a plans certificate in respect of the work.

(1C) If the relevant conditions are met, the approver must give a plans certificate to the local authority and the person intending to carry out the work.

(1D) A plans certificate must be in the prescribed form.]

- (2) [<sup>F260</sup>If a registered building control approver refuses to give a plans certificate on being asked to do so, the person intending to carry out the work may appeal to—
- (a) the regulator, in the case of work to be carried out in England;
  - (b) the Welsh Ministers, in the case of work to be carried out in Wales.]

(3)

(4) Building regulations may authorise the giving of an initial notice combined with a [<sup>F261</sup>certificate under subsection (1)][<sup>F261</sup>plans certificate] above, and may prescribe a single form for such a combined notice and certificate; and where such a prescribed form is used—

- (a) a reference in this Part of this Act to an initial notice or to a plans certificate includes a reference to that form, but

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- (b) should the form cease to be in force as an initial notice by virtue of section 47(4) above, nothing in that subsection affects the continuing validity of the form as a plans certificate.
- (5) A plans certificate—
- (a) may relate either to the whole or to part only of the work [<sup>F262</sup>to which the initial notice concerned relates], and
- (b) does not have effect unless it is accepted by the local authority to whom it is given.
- (6) A local authority to whom a plans certificate is given—
- (a) may not reject the certificate except on prescribed grounds, and
- (b) shall reject the certificate if any of the prescribed grounds exists.
- (7) Unless, within the prescribed period, the local authority to whom a plans certificate is given give notice of rejection, specifying the ground or grounds in question, to—
- (a) the approved inspector by whom the certificate was given, and
- (b) the other person to whom the approved inspector gave the certificate,
- the authority shall be conclusively presumed to have accepted the certificate.
- [<sup>F263</sup>(7A) Building regulations may make further provision in connection with plans certificates, including in particular provision—
- (a) requiring a plans certificate to be given to the local authority in prescribed cases;
- (b) about the consequences of failing to comply with such a requirement (for example, for an initial notice to cease to have effect in whole or in part);
- (c) requiring a plans certificate stating that the condition in [subsection \(1A\)\(a\)\(ii\)](#) is met to include prescribed information about the further plans that the registered building control approver considers need to be provided.]
- (8) [<sup>F264</sup>If it appears to a local authority by whom a plans certificate has been accepted that the work to which the certificate relates has not been commenced within the period of three years beginning on the date on which the certificate was accepted, the authority may rescind their acceptance of the certificate by notice, specifying the ground or grounds in question, given—
- (a) to the approved inspector by whom the certificate was given, and
- (b) to the person shown in the initial notice concerned as the person intending to carry out the work.]

#### Textual Amendments

**F258** S. 50(1)-(1D) substituted for s. 50(1) (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by [Building Safety Act 2022 \(c. 30\)](#), [ss. 49\(2\)\(a\)](#), [170\(4\)\(b\)\(c\)](#); [S.I. 2023/362](#), [reg. 3\(1\)\(v\)](#); [S.I. 2023/914](#), [reg. 2\(b\)\(xii\)](#)

**F259** Words in s. 50(1)(a) substituted (14.10.1996) by [S.I. 1996/1905](#), [art. 3\(4\)\(a\)](#)

**F260** S. 50(2) substituted for s. 50(2)(3) (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), [s. 170\(4\)\(b\)\(c\)](#), [Sch. 6 para. 8](#); [S.I. 2023/993](#), [reg. 2\(o\)\(i\)](#) (with [regs. 6, 8](#))

**F261** Words in s. 50(4) substituted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by [Building Safety Act 2022 \(c. 30\)](#), [ss. 49\(2\)\(b\)](#), [170\(4\)\(b\)\(c\)](#); [S.I. 2023/362](#), [reg. 3\(1\)\(v\)](#); [S.I. 2023/914](#), [reg. 2\(b\)\(xii\)](#)

**F262** Words in s. 50(5)(a) substituted (14.10.1996) by [S.I. 1996/1905](#), [art. 3\(4\)\(b\)](#)

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**F263** S. 50(7A) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by Building Safety Act 2022 (c. 30), ss. 49(2)(c), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)

**F264** S. 50(8) omitted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), ss. 36(4), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(o); S.I. 2023/914, reg. 2(b)(iii); S.I. 2023/993, reg. 2(g) (with regs. 3, 5)

## 51 Final certificates.

<sup>F265</sup> [(1) Where an approved inspector is satisfied that any work to which an initial notice given by him relates has been completed, he shall give to the local authority by whom the initial notice was accepted such certificate with respect to the completion of the work and the discharge of his functions as may be prescribed (called a “final certificate”).]

(2) Section 50(5) to (7) above has effect in relation to a final certificate as if any reference in those subsections to a plans certificate were a reference to a final certificate.

(3) Where a final certificate—

(a) has been given with respect to any of the work [<sup>F266</sup>to which an initial notice relates], and

(b) has been accepted by the local authority concerned,

the initial notice ceases to apply to that work, but section 48(1) above continues to apply, by virtue of this subsection, in relation to that work as if the initial notice continued in force in relation to it.

### Textual Amendments

**F265** S. 51(1) substituted (14.10.1996) by S.I. 1996/1905, art.4

**F266** Words in s. 51(3)(a) substituted (14.10.1996) by S.I. 1996/1905, art. 3(5)

### Modifications etc. (not altering text)

**C33** S. 51(1) restricted (*prosp.*) by Smoke Detectors Act 1991 (c. 37, SIF 15), ss. 5(3), 7(3).

## <sup>F267</sup> 51A Variation of work to which initial notice relates.

[ This section applies where—

<sup>F268</sup> (1) (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.]

(2) If—

(a) a notice in the prescribed form (called an “amendment notice”)—

(i) is given to the local authority by whom the initial notice was accepted, and

(ii) is jointly given by the approved inspector who gave the initial notice and by the person shown in the amendment notice as the person intending to carry out the relevant work,

(b) the amendment notice is accompanied by such plans of the proposed variation as may be prescribed,

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<sup>F269</sup>(c) .....

(d) the amendment notice—

- (i) is accepted by the local authority giving notice of acceptance within the prescribed period to each of the persons by whom the amendment notice was given, or
- (ii) is deemed to have been accepted by the local authority by virtue of subsection (5) below,

the work to which the initial notice relates shall be treated as varied as proposed in the amendment notice.

(3) A local authority to whom an amendment notice is given—

- (a) may not reject the notice except on prescribed grounds, and—
- (b) shall reject the notice if any of the prescribed grounds exists.

(4) Where the relevant work is of such a description that, if [<sup>F270</sup>plans of it had been deposited with][<sup>F270</sup>an application for building control approval in respect of it had been made to] the local authority, the authority could, under any enactment, have imposed requirements as a condition of [<sup>F271</sup>passing the plans][<sup>F271</sup>granting the application], the local authority may impose the like requirements as a condition of accepting the amendment notice.

(5) Unless, within the prescribed period, the local authority to whom an amendment notice is given give notice of rejection, specifying the ground or grounds in question, to each of the persons by whom the notice was given, the authority is conclusively presumed to have accepted it and to have done so without imposing any such requirements as are referred to in subsection (4) above.

[ Subsection (5) does not apply in prescribed circumstances.]

<sup>F272</sup>(5A)

(6) Section 47(5) shall apply in relation to the form prescribed for an amendment notice as it applies in relation to the form prescribed for an initial notice.

(7) In this section, references to the relevant work are to the work to which the initial notice, as proposed to be varied, relates.]

**Textual Amendments**

- F267** Ss. 51A, 51B, 51C inserted (14.10.1996) by S.I. 1996/1905, art.2
- F268** S. 51A(1) substituted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by Building Safety Act 2022 (c. 30), ss. 46(2), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(u); S.I. 2023/914, reg. 2(b)(x); S.I. 2023/993, reg. 2(l) (with regs. 4, 8)
- F269** S. 51A(2)(c) omitted (28.7.2022) by virtue of Building Safety Act 2022 (c. 30), ss. 48(3), 170(4)(b)(c); S.I. 2022/561, reg. 4; S.I. 2022/774, reg. 2
- F270** Words in s. 51A(4) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), Sch. 5 para. 42(2)(a); S.I. 2023/993, reg. 2(n)(xv)
- F271** Words in s. 51A(4) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), Sch. 5 para. 42(2)(b); S.I. 2023/993, reg. 2(n)(xv)
- F272** S. 51A(5A) inserted (6.4.2023 except in relation to W., 5.9.2023 for W. in so far as not already in force) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), Sch. 5 para. 42(3); S.I. 2023/362, reg. 3(1)(w)(iv); S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 17



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**[<sup>F273</sup>51B Effect of amendment notice**

- (1) For the purposes of the enactments specified in section 48(3) above—
  - (a) the giving of an amendment notice accompanied by such plans as are referred to in section 51A(2)(b) above shall be treated as the [<sup>F274</sup>deposit of plans][<sup>F274</sup>making of an application for building control approval],
  - (b) the acceptance or rejection of an amendment notice shall be treated as the [<sup>F275</sup>passing, or, as the case may be, the rejection of plans][<sup>F275</sup>approval or rejection of the application],
  - (c) where an initial notice is varied by an amendment notice, the [<sup>F276</sup>deposited plans][<sup>F276</sup>plans treated as accompanying the application for building control approval] shall be treated—
    - (i) as including the plans accompanying the amendment notice, and
    - (ii) as excluding such of the plans previously treated as [<sup>F277</sup>the deposited plans][<sup>F277</sup>accompanying the application] as are superseded by the plans accompanying the amendment notice, and
  - (d) where an initial notice has been varied by an amendment notice[<sup>F278</sup>, the cancellation of the initial notice under section 52(5) below shall be treated as a declaration under section 32 above that the deposit of plans constituted by the giving of the amendment notice is of no effect.][<sup>F278</sup>and the initial notice ceases to be in force under section 53A, the application for building control approval (treated by virtue of paragraph (a) as made) is to be treated as if it was not made (and the approval was not given).]

<sup>F279</sup>(2) . . . . .]

**Textual Amendments**

- F273** Ss. 51A, 51B, 51C inserted (14.10.1996) by S.I. 1996/1905, **art.2**
- F274** Words in s. 51B(1)(a) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 43(a)**; S.I. 2023/993, reg. 2(n)(xvi)
- F275** Words in s. 51B(1)(b) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 43(b)**; S.I. 2023/993, reg. 2(n)(xvi)
- F276** Words in s. 51B(1)(c) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 43(c)(i)**; S.I. 2023/993, reg. 2(n)(xvi)
- F277** Words in s. 51B(1)(c)(ii) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 43(c)(ii)**; S.I. 2023/993, reg. 2(n)(xvi)
- F278** Words in s. 51B(1)(d) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 43(d)**; S.I. 2023/993, reg. 2(n)(xvi)
- F279** S. 51B(2) repealed (1.10.2006) by Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541), art. 1(3), Sch. 2 para. 33(3), **Sch. 4** (with art. 49) (as amended by The Regulatory Reform (Fire Safety) Subordinate Provisions Order 2006 (S.I. 2006/484), **arts. 1(1), 2**)

**[<sup>F280</sup>51C Change of person intending to carry out work**

- (1) This section applies where it is proposed that the work to which an initial notice relates should be carried out by a different person.
- (2) If—
  - (a) the approved inspector who gave the initial notice, and

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- (b) the person who now proposes to carry out the work to which the initial notice relates,  
 jointly give written notice of the proposal to the local authority by whom the initial notice was accepted, the initial notice shall be treated as showing as the person intending to carry out the work to which it relates the person mentioned in the notice under this section.]

#### Textual Amendments

**F280** Ss. 51A, 51B, 51C inserted (14.10.1996) by S.I. 1996/1905, art.2

## 52 Cancellation of initial notice.

- (1) If, at a time when an initial notice is in force—
- (a) the approved inspector becomes or expects to become unable to carry out (or to continue to carry out) his functions with respect to any of the work [<sup>F281</sup>to which the initial notice relates],
  - (b) the approved inspector is of the opinion that any of the work is being so carried out that he is unable adequately to carry out his functions with respect to it, [<sup>F282</sup>or]
  - (c) the approved inspector is of the opinion that there is a contravention of any provision of building regulations with respect to any of that work and the circumstances are as mentioned in subsection (2) below,
  - [<sup>F283</sup>(d) the registered building control approver is given a disciplinary order under section 58U(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 58U(2)(c) (suspension of registration) or an order under section 58V (interim suspension for suspected serious contravention), or
  - (f) it appears to the registered building control approver that a prescribed circumstance exists,]
- the [<sup>F284</sup>approved inspector shall][<sup>F284</sup>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] cancel the initial notice by notice in the prescribed form given to the local authority concerned and to the person carrying out or intending to carry out the work.
- (2) The circumstances referred to in subsection (1)(c) above are—
- (a) that the approved inspector has, in accordance with building regulations, given notice of the contravention to the person carrying out the work [<sup>F285</sup>or intending to carry out the work], and
  - (b) that, within the prescribed period, [<sup>F286</sup>the prescribed steps are not taken by the person who, in accordance with building regulations, is required to take them].
- [<sup>F287</sup>(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—

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- (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) If a person fails without reasonable excuse to give to a local authority a notice that he is required to give by subsection [F289(1) or] (3) above, he is liable on summary conviction to a fine [F290] not exceeding level 5 on the standard scale].
- (5) [F291] If, at a time when an initial notice is in force, it appears to the local authority by whom the initial notice was accepted that the work to which the initial notice relates has not been commenced within the period of three years beginning on the date on which the initial notice was accepted, the authority may cancel the initial notice by notice in the prescribed form given
- (a) to the approved inspector by whom the initial notice was given, and
- (b) to the person shown in the initial notice as the person intending to carry out the work.]
- [F292] (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 58U(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 58U(2)(c) (suspension of registration) or an order under section 58V (interim suspension for suspected serious contravention);
- (c) the registered building control approver is given a disciplinary order under section 58U(2)(d) (cancellation of registration);
- (d) the registered building control approver has their registration cancelled under section 58Z6(2) (serious contravention notices);
- (e) a prescribed circumstance exists.]
- (6) A notice under subsection (1), (3)
- or (5) above has the effect of cancelling the initial notice to which it relates with effect from the day on which the notice is given.
- [F293] (7) Before cancelling an initial notice under subsection (5A) based on a condition in subsection (5B)(a), (b) or (e), the local authority must—

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- (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.]

#### Textual Amendments

- F281** Words in s. 52(1)(a) substituted (14.10.1996) by S.I. 1996/1905, **art. 3(6)(a)**
- F282** Word in s. 52(1) omitted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by virtue of Building Safety Act 2022 (c. 30), **ss. 50(2)(a)**, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)
- F283** S. 52(1)(d)-(f) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by Building Safety Act 2022 (c. 30), **ss. 50(2)(b)**, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)
- F284** Words in s. 52(1) substituted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by Building Safety Act 2022 (c. 30), **ss. 50(2)(c)**, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)
- F285** Words in s. 52(2)(a) inserted (1.2.2006) by Sustainable and Secure Buildings Act 2004 (c. 22), **ss. 8(3)(a)**, 11(3); S.I. 2006/224, art. 2(c)
- F286** Words in s. 52(2)(b) substituted (1.2.2006) by Sustainable and Secure Buildings Act 2004 (c. 22), **ss. 8(3)(b)**, 11(3); S.I. 2006/224, art. 2(c)
- F287** S. 52(3) substituted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by Building Safety Act 2022 (c. 30), **ss. 50(3)**, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)
- F288** Words in s. 52(3) substituted (14.10.1996) by S.I. 1996/1905, **art. 3(6)(b)**
- F289** Words in s. 52(4) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by Building Safety Act 2022 (c. 30), **ss. 50(4)**, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)
- F290** Words in s. 52(4) omitted (1.10.2023 except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 44(2)**; S.I. 2023/993, reg. 2(n)(xviii)
- F291** S. 52(5) omitted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), **ss. 36(5)**, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(o); S.I. 2023/914, reg. 2(b)(iii); S.I. 2023/993, reg. 2(g) (with regs. 3, 5)
- F292** S. 52(5A)(5B) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by Building Safety Act 2022 (c. 30), **ss. 50(5)**, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)
- F293** S. 52(7) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by Building Safety Act 2022 (c. 30), **ss. 50(6)**, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)

#### <sup>F294</sup> 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 some or all of the work has become higher-risk building work, the registered building control approver must, as soon as is reasonably practicable, cancel the relevant part of 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.

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- (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 some or all of the work has become higher-risk building work, the person must, as soon as is reasonably practicable, cancel the relevant part of the initial notice by notice in the prescribed form given to—
- (a) the local authority concerned, and
  - (b) the registered building control approver.
- (3) Where a person is required to give a notice under subsection (1) or (2) in relation to higher-risk building work in England, the person must, as soon as is reasonably practicable, give a copy of that notice to the regulator.
- (4) If, at a time when an initial notice is in force, it appears to the local authority concerned that some or all of the work has become higher-risk building work, the authority must cancel the relevant part of 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.
- (5) Where a local authority is required to give a notice under subsection (4) in relation to higher-risk building work in England, the local authority must give a copy of that notice to the regulator.
- (6) A person commits an offence if they fail without reasonable excuse to—
- (a) give to a local authority a notice that the person is required to give by subsection (1) or (2);
  - (b) give to the regulator a copy of a notice that the person is required to give by subsection (3).
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine.
- (8) Where a notice is given under any of subsections (1), (2) and (4) (a “cancellation notice”)—
- (a) the part of the initial notice to which the cancellation notice relates is cancelled with effect from the day on which the cancellation notice is given, and
  - (b) a new initial notice may not be given in relation to any of the work to which the cancelled part of the initial notice related.
- (9) In this section “the relevant part of the initial notice” means so much of the initial notice as relates to work that has become higher-risk building work.

#### Textual Amendments

**F294** Ss. 52A, 52B inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by Building Safety Act 2022 (c. 30), ss. 46(3), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(u); S.I. 2023/914, reg. 2(b)(x); S.I. 2023/993, reg. 2(l) (with reg. 8)

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## **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, whether in whole or in part, by virtue of section 47(4)(b)(ia) (higher-risk building work).
- (2) If, before the day on which the relevant part of the initial notice ceased to be in force, a final certificate—
  - (a) was given in respect of part of the work to which the relevant part of the initial notice relates, and
  - (b) was accepted by the local authority,
 the fact that the relevant part of 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 building control authority in relation to any of the uncertified work is—
  - (a) in England, the regulator, and
  - (b) in Wales, the relevant local authority (within the meaning of section 121A(2)).
- (4) In subsection (3), the “uncertified work” means any of the work—
  - (a) to which the relevant part of 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).
- (5) Sections 91(3) (duties of the regulator) 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.
- (6) 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 relevant part of the initial notice ceased to be in force.
- (7) In this section “the relevant part of the initial notice” means so much of the initial notice as was cancelled by a notice under section 52A (cancellation of initial notice when work becomes higher-risk building work).]

### **Textual Amendments**

**F294** Ss. 52A, 52B inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), [ss. 46\(3\)](#), [170\(4\)\(b\)\(c\)](#); [S.I. 2023/362](#), [reg. 3\(1\)\(u\)](#); [S.I. 2023/914](#), [reg. 2\(b\)\(x\)](#); [S.I. 2023/993](#), [reg. 2\(l\)](#) (with [reg. 8](#))

## **53 Effect of initial notice ceasing to be in force.**

- (1) This section applies where an initial notice ceases to be in force by virtue of section 47(4)(b)(i) or (ii) above.
- (2) Building regulations may provide that, if—
  - (a) a plans certificate was given before the day on which the initial notice ceases to be in force, [<sup>F295</sup>and]
  - (b) that certificate was accepted by the local authority (before, on or after that day), [<sup>F296</sup>and



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- (c) before that day, that acceptance was not rescinded by a notice under section 50(8) above,]
- then with respect to the work specified in the certificate, such of the functions of a local authority referred to in section 48(1) above as may be prescribed for the purposes of this subsection either are not exercisable or are exercisable only in prescribed circumstances.
- (3) 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 [<sup>F297</sup>to which the initial notice relates], and
  - (b) was accepted by the local authority (before, on or after that day),
- the fact that the initial notice has ceased to be in force does not affect the continuing operation of section 51(3) above in relation to that part of the work.
- (4) Notwithstanding anything in subsections (2) and (3) above, for the purpose of enabling the local authority to perform the functions referred to in section 48(1) above in relation to any part of the work not specified in a plans certificate or final certificate, as the case may be, building regulations may require the local authority to be provided with plans that relate not only to that part but also to the part to which the certificate in question relates.
- [<sup>F298</sup>(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 to which the initial notice relates 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 is required to give information under subsection (4A), the information must be given before the end of the prescribed period.
- (4C) The person shown in the initial notice as the registered building control approver (the “outgoing approver”) must, before the end of the prescribed period, give the person carrying out or intending to carry out the work to which the initial notice relates—
- (a) any information given to a local authority under subsection (4A),
  - (b) any other information that the outgoing approver obtained or created in relation to the work during the period in which the initial notice was in force, and
  - (c) any other information that the person carrying out or intending to carry out the work may by notice reasonably require for the purpose of enabling a person other than the outgoing approver to perform the functions referred to in section 48(1) in relation to the work.
- (4D) A notice under subsection (4C)(c)—
- (a) may only require information to be given in relation to work carried out during the period in which the initial notice was in force;
  - (b) may require information to be provided in a specified format.]
- (5) In any case where this section applies, the reference in subsection (4) of section 36 above to the date of the completion of the work in question has effect, in relation to

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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) <sup>F299</sup>Subject to any provision of building regulations made by virtue of subsection (2) above, if, before the initial notice ceased to be in force, an offence under section 35 above was committed with respect to any of the work <sup>F300</sup>to which that notice relates], proceedings for that offence may be commenced by the local authority at any time within six months beginning with the day on which the function of the local authority referred to in section 48(1) above became exercisable with respect to the provision of building regulations to which the offence relates.]

<sup>F301</sup>(6A) <sup>F302</sup>Subsection (6) above is without prejudice to any ability which, after that function has become exercisable, the local authority may have under section 35A above to commence proceedings for the offence after the end of that period of six months.]]

<sup>F303</sup>(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 that ceases to be in force by virtue of—
  - (i) being cancelled under section 52(1)(d) or (e),
  - (ii) being cancelled under section 52(5A) based on a condition in section 52(5B)(a) to (d), or
  - (iii) such other provision as may be prescribed,
 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 ceased to be in force 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 ceases to be in force, the original registered building control approver has given a final certificate under section 51 in respect of any part of the work which they are satisfied has been completed, 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) and (b) 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(1C) 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).

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- (12) The appropriate national authority may issue guidance about the process for—
- (a) the giving of a new initial notice under subsection (7);
  - (b) the giving of a transfer certificate and a transfer report under section 53B;
  - (c) the consideration of a transfer certificate and a transfer report under section 53C.
- (13) The appropriate national authority may revise or withdraw any issued guidance.
- (14) The following must have regard to guidance issued under subsection (12)—
- (a) a local authority;
  - (b) a registered building control approver;
  - (c) a person carrying out or intending to carry out work to which a new initial notice given under subsection (7) relates.]

### Textual Amendments

- F295** Word in s. 53(2)(a) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by Building Safety Act 2022 (c. 30), ss. 36(6)(a), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(o); S.I. 2023/914, reg. 2(b)(iii); S.I. 2023/993, reg. 2(g) (with regs. 3, 5)
- F296** S. 53(2)(c) and word omitted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), ss. 36(6)(b), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(o); S.I. 2023/914, reg. 2(b)(iii); S.I. 2023/993, reg. 2(g) (with regs. 3, 5)
- F297** Words in s. 53(3)(a) substituted (14.10.1996) by S.I. 1996/1905, art. 3(7)(a)
- F298** S. 53(4A)-(4D) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by Building Safety Act 2022 (c. 30), ss. 52(1), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)
- F299** S. 53(6) omitted (1.10.2023 except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), Sch. 5 para. 45; S.I. 2023/993, reg. 2(n)(xix)
- F300** Words in s. 53(6) substituted (14.10.1996) by S.I. 1996/1905, art. 3(7)(b)
- F301** S. 53(6A) inserted (21.8.2006) by Climate Change and Sustainable Energy Act 2006 (c. 19), ss. 13(2), 28(1)
- F302** S. 53(6A) omitted (1.10.2023 except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), Sch. 5 para. 45; S.I. 2023/993, reg. 2(n)(xix)
- F303** S. 53(7)-(14) substituted for s. 53(7) (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by Building Safety Act 2022 (c. 30), ss. 51(1), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)
- F304** Words in s. 53(7) words substituted (14.10.1996) by S.I. 1996/1905, art. 3(7)(c)

### [<sup>F305</sup>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 the relevant day—
- (a) the initial notice ceases to be in force, and

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- (b) if a plans certificate relating to the work (or any part of it) has been accepted, the relevant provisions 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, the relevant provisions 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) In this section “the relevant provisions” has the meaning given by [section 32](#).
- (6) 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.]

#### Textual Amendments

**F305** [S. 53A](#) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), [ss. 36\(7\)](#), [170\(4\)\(b\)\(c\)](#); [S.I. 2023/362](#), [reg. 3\(1\)\(o\)](#); [S.I. 2023/914](#), [reg. 2\(b\)\(iii\)](#); [S.I. 2023/993](#), [reg. 2\(g\)](#) (with [regs. 3, 5](#))

#### [<sup>F306</sup>**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 take all reasonable steps to determine whether the unfinished work contravenes any provision of building regulations (including where necessary by carrying out inspections and laying open any work).
- (3) If the registered building control approver determines that the unfinished work does not contravene any provision of building regulations, the approver must give a transfer certificate and a transfer report to the local authority before the end of the relevant period.
- (4) If the registered building control approver is unable to make the determination referred to in [subsection \(3\)](#), the approver must—
  - (a) give the person carrying out or intending to carry out the work a notice setting out why they were unable to make the determination, and
  - (b) give a copy of that notice to the local authority.
- (5) A transfer certificate must—
  - (a) confirm that the registered building control approver has determined that the unfinished work up to the date of the certificate does not contravene any provision of building regulations, and

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- (b) contain the prescribed information.
- (6) A transfer report must contain any plans, documents or other information related to the confirmation in subsection (5)(a).
- (7) 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.
- (8) 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.
- (9) 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.

#### Textual Amendments

**F306** Ss. 53B-53E inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by Building Safety Act 2022 (c. 30), ss. 51(2), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)

### 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(3).
- (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—

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- (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.

#### Textual Amendments

**F306** Ss. 53B-53E inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by [Building Safety Act 2022 \(c. 30\)](#), ss. 51(2), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)

### 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(3), 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.



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- (5) Where an initial notice ceases to be in force by virtue of subsection (2) or (3), a new initial notice may not, except in prescribed circumstances, 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) applies in relation to the notice as it applies 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.

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#### Textual Amendments

**F306** Ss. 53B-53E inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by [Building Safety Act 2022 \(c. 30\)](#), **ss. 51(2), 170(4)(b)(c)**; S.I. 2023/362, [reg. 3\(1\)\(v\)](#); S.I. 2023/914, [reg. 2\(b\)\(xii\)](#)

### 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 under, or under regulations made under—
- (a) section 50 (plans certificates);
  - (b) section 51 (final certificates);
  - (c) section 51A (amendment notices).]

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#### Textual Amendments

**F306** Ss. 53B-53E inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by [Building Safety Act 2022 \(c. 30\)](#), **ss. 51(2), 170(4)(b)(c)**; S.I. 2023/362, [reg. 3\(1\)\(v\)](#); S.I. 2023/914, [reg. 2\(b\)\(xii\)](#)

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### *Supervision of their own work by public bodies*

#### **54 Giving, acceptance and effect of public body’s notice.**

- (1) This section applies where a body (corporate or unincorporated that acts under an enactment for public purposes and not for its own profit and is, or is of a description that is, approved by the <sup>F307</sup>appropriate national authority] in accordance with building regulations (in this Part of this Act referred to as a “public body”)—
- (a) intends to carry out in relation to a building belonging to it work to which the substantive requirements of building regulations apply.
  - (b) considers that the work can be adequately supervised by its own servants or agents, and
  - (c) gives to the local authority in whose district the work is to be carried out notice in the prescribed form (called a “public body’s notice”) together with such plans of the work as may be prescribed.

<sup>F308</sup>(1A) A public body’s notice is of no effect to the extent that it relates to higher-risk building work in England (and accordingly Schedule 4 does not have effect in relation to such work).]

- (2) A public body’s notice is of no effect unless it is accepted by the local authority to whom it is given; and that local authority—
- (a) may not reject the notice except on prescribed grounds, and
  - (b) shall reject the notice if any of the prescribed grounds exists,
- and, in a case where the work to which the public body’s notice relates is work of such a description that, if <sup>F309</sup>plans of it had been deposited with] <sup>F309</sup>an application for building control approval in respect of it had been made to] the local authority, the authority could, under an enactment, have imposed requirements as a condition of <sup>F310</sup>passing the plans] <sup>F310</sup>granting the application], the local authority may impose the like requirements as a condition of accepting the public body’s notice.
- (3) Unless, within the prescribed period, the local authority to whom a public body’s notice is given give notice of rejection, specifying the ground or grounds in question, the authority is conclusively presumed to have accepted the public body’s notice and to have done so without imposing any such requirements as are referred to in subsection (2) above.
- (4) Section 48 above has effect for the purposes of this section—
- (a) with the substitution of a reference to a public body’s notice for any reference to an initial notice, <sup>F311</sup>and]
  - (b) with the substitution, in subsection (2)(a), of a reference to subsection (1)(c) of this section for the reference to section 47(1)(b) <sup>F312</sup>, and
  - (c) with the substitution, in subsection (2)(d), of a reference to paragraph 4A of Schedule 4 for the reference to section 53A.]
- (5) The form prescribed for a public body’s notice may be such as to require the public body by whom it is to be given—
- (a) to furnish information relevant for the purposes of this Act, Part II or IV of the <sup>M7</sup>Public Health Act 1936 or any provision of building regulations, and
  - (b) to enter into undertakings with respect to consultation and other matters.
- (6) Where a public body’s notice is given and accepted by the local authority to whom it is given, the provisions of Schedule 4 to this Act have effect, being provisions that

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correspond, as nearly as may be, to those made by the preceding provisions of this Part of this Act for the case where an initial notice is given and accepted.

#### Textual Amendments

- F307** Words in s. 54(1) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 46\(2\)](#); S.I. 2022/561, reg. 3(f), Sch. para. 25; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 18
- F308** S. 54(1A) inserted (1.10.2023) by [The Building \(Public Bodies and Higher-Risk Building Work\) \(England\) Regulations 2023 \(S.I. 2023/504\)](#), regs. 1(2), [3](#); S.I. 2023/993, reg. 2(f) (with reg. 4)
- F309** Words in s. 54(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 46\(3\)\(a\)](#); S.I. 2023/993, reg. 2(n)(xx)
- F310** Words in s. 54(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 46\(3\)\(b\)](#); S.I. 2023/993, reg. 2(n)(xx)
- F311** Word in s. 54(4)(a) omitted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by virtue of [Building Safety Act 2022 \(c. 30\)](#), [ss. 36\(8\)\(a\)](#), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(o); S.I. 2023/914, reg. 2(b)(iii); S.I. 2023/993, reg. 2(g) (with regs. 3, 5)
- F312** S. 54(4)(c) and words inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), [ss. 36\(8\)\(b\)](#), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(o); S.I. 2023/914, reg. 2(b)(iii); S.I. 2023/993, reg. 2(g) (with regs. 3, 5)

#### Marginal Citations

M7 1936 c. 49.

### [<sup>F313</sup>54A Public bodies and higher-risk building work

- (1) The appropriate national authority may by regulations make such amendments of the provisions listed in subsection (2) as the authority considers appropriate in connection with higher-risk building work.
- (2) The provisions are—
- (a) section 5;
  - (b) section 54;
  - (c) Schedule 4.]

#### Textual Amendments

- F313** S. 54A inserted (1.4.2023 except in relation to W., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), [ss. 47](#), 170(4)(b)(c); S.I. 2023/362, reg. 2(1)(e); S.I. 2023/914, reg. 2(b)(xi)

[<sup>F314</sup>Registered building control approvers: restricted activities and functions

#### Textual Amendments

- F314** S. 54B and cross-heading inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by [Building Safety Act 2022 \(c. 30\)](#), [ss. 44\(3\)](#), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(t); S.I. 2023/914, reg. 2(b)(ix)

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## 54B Registered building control approvers: restricted activities and functions

- (1) This section applies to a registered building control approver who is not a registered building inspector.
- (2) The approver may carry out a restricted activity in relation to any work only through a registered building inspector, acting on the approver's behalf, whose registration has effect in relation to work of that description.
- (3) Before each exercise of a restricted function in relation to any work, the approver must obtain and consider the advice of a registered building inspector whose registration has effect in relation to work of that description.
- (4) The registered building inspector who carries out the restricted activity, or advises on the exercise of the restricted function, may (but need not) be employed by the approver.
- (5) In this section—
  - “restricted activity” means an activity that is prescribed for the purposes of this section;
  - “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.
- (6) A registered building control approver who contravenes subsection (2) or (3) without reasonable excuse commits an offence.
- (7) An offence under this section is punishable on summary conviction by a fine.]

### *Supplementary*

## 55 Appeals.

- (1) A person aggrieved by the local authority's rejection of—
    - (a) an initial notice [<sup>F315</sup>, amendment notice] or a public body's notice, [<sup>F316</sup> or]
    - (b) a plans certificate, a final certificate, a public body's plans certificate or a public body's final certificate, [<sup>F317</sup> or]
    - (c) a transfer certificate and a transfer report,]
 may appeal to [<sup>F318</sup> a magistrates' court][<sup>F318</sup> the appropriate court or tribunal]<sup>F319</sup> ....
  - (2) On an appeal under subsection (1) above, the court [<sup>F320</sup> or tribunal] shall—
    - (a) if it determines that the notice [<sup>F321</sup>, report] or certificate was properly rejected, confirm the rejection, and
    - (b) in any other case, give a direction to the local authority to accept the notice [<sup>F322</sup>, report] or certificate.
- <sup>F323</sup>(2A) Where a local authority cancels an initial notice, in whole or in part, by giving a notice (a “cancellation notice”) under section 52A(4)—
- (a) the person shown in the initial notice as the person intending to carry out the work, or
  - (b) the registered building control approver,
- may appeal to the appropriate court or tribunal.

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- (2B) On an appeal under subsection (2A), the court or tribunal must determine whether the relevant part of the initial notice was properly cancelled.
- (2C) In a case where the court or tribunal determines that the relevant part of the initial notice was not properly cancelled—
- (a) the determination does not have the effect of reinstating the relevant part of the initial notice;
  - (b) section 52B(2) and (6) continue to apply in relation to the relevant part of the initial notice;
  - (c) a new initial notice relating to any of the work to which the relevant part of the original initial notice related (the “original work”) may be given only if the new initial notice—
    - (i) is given before the end of the period of seven days beginning with the day on which the appeal is determined or such other period as may be prescribed, and
    - (ii) 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;
  - (d) the court or tribunal may give such directions as it considers appropriate in consequence of the determination (which may include giving directions to the regulator).
- (2D) Where—
- (a) a plans certificate has been given in respect of any of the original work,
  - (b) the conditions in paragraphs (a) and (b) of section 53(2) are fulfilled with respect to that certificate, and
  - (c) a new initial notice as referred to in subsection (2C)(c) is accepted,
- section 50(1C) 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.
- (2E) Where—
- (a) a new initial notice is given in accordance with subsection (2C)(c), and
  - (b) the registered building control approver shown in the new initial notice is different to the registered building control approver shown in the original initial notice,
- sections 53B to 53E apply as if any reference in those sections to a new initial notice given in accordance with section 53(7)(a) were a reference to a new initial notice given in accordance with section 55(2C)(c).
- (2F) In this section the “relevant part of the initial notice” means so much of the initial notice as was subject to the cancellation notice.]
- (3) Where a person is aggrieved by a determination, confirmation, direction or other decision of a magistrates’ court under this section, he may appeal to the Crown Court.
- [<sup>F324</sup>(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) The Secretary of State may make regulations under this section only in relation to England.]

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**Textual Amendments**

- F315** Words in s. 55(1)(a) inserted (14.10.1996) by S.I. 1996/1905, **art. 3(8)**
- F316** Word in s. 55(1) omitted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by virtue of Building Safety Act 2022 (c. 30), **ss. 51(4)(a)(i), 170(4)(b)(c)**; S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)
- F317** S. 55(1)(c) and word inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by Building Safety Act 2022 (c. 30), **ss. 51(4)(a)(ii), 170(4)(b)(c)**; S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)
- F318** Words in s. 55(1) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 9(i)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F319** Words in s. 55(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 280, **Sch. 10**; S.I. 2005/910, art. 3(y)
- F320** Words in s. 55(2) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 15**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F321** Word in s. 55(2)(a) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by Building Safety Act 2022 (c. 30), **ss. 51(4)(b), 170(4)(b)(c)**; S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)
- F322** Word in s. 55(2)(b) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by Building Safety Act 2022 (c. 30), **ss. 51(4)(c), 170(4)(b)(c)**; S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)
- F323** S. 55(2A)-(2F) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by Building Safety Act 2022 (c. 30), **ss. 46(5), 170(4)(b)(c)**; S.I. 2023/362, reg. 3(1)(u); S.I. 2023/914, reg. 2(b)(x); S.I. 2023/993, reg. 2(l) (with reg. 8)
- F324** S. 55(4)-(6) inserted (6.4.2023 for specified purposes except in relation to W.) by Building Safety Act 2022 (c. 30), **ss. 53(2), 170(4)(b)(c)**; S.I. 2023/362, reg. 3(1)(v)

**56 Recording and furnishing of information.**

(1) Every local authority [<sup>F325</sup>in Wales] shall keep, in such manner as may be prescribed, a register containing such information as may be prescribed with respect to initial notices [<sup>F326</sup>amendment notices, notices under section 51C above,], [<sup>F327</sup>public body’s notices][<sup>F327</sup>, transfer reports] and certificates given to them, including information [<sup>F328</sup>(where applicable)] as to whether such notices [<sup>F329</sup>, reports] or certificates have been accepted or rejected.

<sup>F330</sup>(2) .....

(3) The reference in subsection (1) above to certificates is a reference to plans certificates, final certificates [<sup>F331</sup>, transfer certificates][<sup>F332</sup>, public body’s final certificates and certificates given under section 16(9) above.][<sup>F332</sup>and public body’s final certificates.]

(4) Every register kept under this section [<sup>F333</sup>by a local authority in Wales] shall be available for inspection by the public at all reasonable hours.

(5) Where an initial notice or a public body’s notice has continued in force for any period, the local authority by whom it was accepted may require the approved inspector or public body by whom it was given to furnish them with any information that—

(a) they would have obtained themselves if during that period their function of enforcing building regulations had continued to be exercisable in relation to the work [<sup>F334</sup>to which the notice relates], and



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- (b) they require for the purpose of performing their duty under section 230 of the <sup>M8</sup>Local Government Act 1972 (reports and returns), and that section shall have effect as if during that period that function had continued to be so exercisable.

#### Textual Amendments

- F325** Words in s. 56(1) inserted (6.4.2023 for specified purposes except in relation to W.) by Building Safety Act 2022 (c. 30), **ss. 53(3)(a)(i)**, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v)
- F326** Words in S. 56(1) inserted (14.10.1996) by S.I. 1996/1905, **art. 3(9)(a)(i)**
- F327** Words in s. 56(1) inserted (6.4.2023 for specified purposes except in relation to W.) by Building Safety Act 2022 (c. 30), **ss. 53(3)(a)(ii)**, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v)
- F328** Words in s. 56(1) inserted (14.10.1996) by S.I. 1996/1905, **art. 3(9)(ii)**
- F329** Word in s. 56(1) inserted (6.4.2023 for specified purposes except in relation to W.) by Building Safety Act 2022 (c. 30), **ss. 53(3)(a)(iii)**, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v)
- F330** S. 56(2) omitted (28.7.2022) by virtue of Building Safety Act 2022 (c. 30), **ss. 48(4)**, 170(4)(b)(c); S.I. 2022/561, reg. 4; S.I. 2022/774, reg. 2
- F331** Words in s. 56(3) inserted (6.4.2023 for specified purposes except in relation to W.) by Building Safety Act 2022 (c. 30), **ss. 53(3)(b)**, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v)
- F332** Words in s. 56(3) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 47**; S.I. 2023/993, reg. 2(n)(xxi)
- F333** Words in s. 56(4) inserted (6.4.2023 for specified purposes except in relation to W.) by Building Safety Act 2022 (c. 30), **ss. 53(3)(c)**, 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(v)
- F334** Words in s. 56(5)(a) substituted (14.10.1996) by S.I. 1996/1905, **art. 3(9)(c)**

#### Marginal Citations

- M8** 1972 c. 70.

### [<sup>F335</sup>56A Giving information by electronic means: England

- (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;

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“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) The Secretary of State may make regulations under this section only in relation to England.

#### Textual Amendments

**F335** Ss. 56A-56C inserted (6.4.2023 for specified purposes) by [Building Safety Act 2022 \(c. 30\)](#), ss. 53(1), 170(4)(c); S.I. 2023/362, reg. 3(1)(v)

### 56B Requirement to keep register: England

- (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) The Secretary of State may make regulations under this section only in relation to England.

#### Textual Amendments

**F335** Ss. 56A-56C inserted (6.4.2023 for specified purposes) by [Building Safety Act 2022 \(c. 30\)](#), ss. 53(1), 170(4)(c); S.I. 2023/362, reg. 3(1)(v)

### 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—  
     (a) section 56A(1);

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- (b) 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 105B.
- (3) The regulator may delegate different functions to different persons under subsection (1).
- (4) The regulator may delegate functions under subsection (1) only with the consent of the Secretary of State.
- (5) The regulator may revoke a delegation of functions to a person by giving a written notice to the person.
- (6) The regulator may revoke a delegation under subsection (5) only with the consent of the Secretary of State.
- (7) Schedule 3 to the Building Safety Act 2022 (information sharing) applies as if references to the regulator included references to a person to whom the regulator has delegated functions under subsection (1)(b).]

#### Textual Amendments

**F335** Ss. 56A-56C inserted (6.4.2023 for specified purposes) by Building Safety Act 2022 (c. 30), ss. 53(1), 170(4)(c); S.I. 2023/362, reg. 3(1)(v)

## 57 Offences.

- (1) If a person—
  - (a) gives a notice or certificate that—
    - [<sup>F336</sup>(i) purports to comply with the requirements of this Part [<sup>F337</sup>of this Act, section 16(9) above or building regulations falling within paragraph 4A(1)(a) or (b) of Schedule 1 to this Act,]<sup>F337</sup> or a provision of building regulations that is designated by the regulations for the purposes of this section,] and]
    - (ii) contains a statement that he knows to be false or misleading in a material particular, [<sup>F338</sup>or]
  - [<sup>F339</sup>(aa) fails without reasonable excuse to comply with a requirement under section 53(4A) to give information, or]
  - (b) recklessly gives a notice or certificate that—
    - (i) purports to comply with those requirements, and
    - (ii) contains a statement that is false or misleading in a material particular, he is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above is liable—
  - (a) on summary conviction, to a fine [<sup>F340</sup>not exceeding the statutory maximum] or imprisonment for a term not exceeding six months or both, and
  - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both.
- (3) Where an approved inspector or person approved for the purposes of section 16(9) above is convicted of an offence under this section, the court by or before which he

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is convicted shall, within one month of the date of conviction, forward a certificate of the conviction to the person by whom the approval was given.

#### Textual Amendments

- F336** S. 57(1)(a)(i) substituted (1.2.2006) by Sustainable and Secure Buildings Act 2004 (c. 22), **ss. 8(4), 11(3)**; S.I. 2006/224, art. 2(c)
- F337** Words in s. 57(1)(a)(i) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 48(2)**; S.I. 2023/993, reg. 2(n)(xxi)
- F338** Word in s. 57(1) omitted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by virtue of Building Safety Act 2022 (c. 30), **ss. 52(2)(a), 170(4)(b)(c)**; S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)
- F339** S. 57(1)(aa) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes) by Building Safety Act 2022 (c. 30), **ss. 52(2)(b), 170(4)(b)(c)**; S.I. 2023/362, reg. 3(1)(v); S.I. 2023/914, reg. 2(b)(xii)
- F340** Words in s. 57(2)(a) omitted (1.10.2023 except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 48(3)**; S.I. 2023/993, reg. 2(n)(xxi)

## 58 Construction of Part II.

(1) In this Part of this Act—

- <sup>F341</sup>[‘amendment notice’ has the meaning given by section 51A(2) above;]  
“final certificate” has the meaning given by section 51(1) above;  
“initial notice” has the meaning given by section 47(1) above;  
“plans certificate” has the meaning given by section 50(1) above;  
“public body” and “public body’s notice” have the meanings given by section 54(1) above;  
“public body’s final certificate” has the meaning given by paragraph 3 of Schedule 4 to this Act;  
“public body’s plans certificate” has the meaning given by paragraph 2 of Schedule 4 to this Act.

(2) [<sup>F342</sup>A reference in this part of this Act to the carrying out of work includes a reference to the making of a material change of use, as defined by and for the purposes of building regulations.]

(3) A reference in this Part of this Act to an initial notice given by an approved inspector is a reference to a notice given by him jointly with another person as mentioned in section 47(1)(a) above.

#### Textual Amendments

- F341** Words in s. 58(1) inserted (14.10.1996) by S.I. 1996/1905, **art. 3(10)**
- F342** S. 58(2) omitted (1.10.2023 except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 49**; S.I. 2023/993, reg. 2(n)(xxi)

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## [<sup>F343</sup>PART 2A

### REGULATION OF BUILDING CONTROL PROFESSION

#### Textual Amendments

**F343** Pt. 2A inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 for specified purposes except in relation to W) by [Building Safety Act 2022](#) (c. 30), [ss. 42, 170\(4\)](#); [S.I. 2023/362, reg. 3\(1\)\(s\)](#); [S.I. 2023/914, reg. 2\(b\)\(viii\)](#) (with [reg. 7](#)); [S.I. 2023/993, reg. 2\(k\)](#)

#### *Interpretation*

#### **58A “Regulatory authority”**

In this Act the “regulatory authority” means—

- (a) in relation to England, the regulator;
- (b) in relation to Wales, the Welsh Ministers.

#### *Registered building inspectors*

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

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

#### **58C Register of building inspectors**

- (1) The regulatory authority 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 regulatory authority 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 58D](#), and
  - (b) the authority is satisfied that the individual meets such criteria as the authority 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;

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- (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 58I\(2\)\(b\)](#), that fact and the effect of the variation;
  - (h) if the individual's registration has been suspended by an order under [section 58I\(2\)\(c\)](#) or [58J\(2\)](#), that fact and the period of the suspension;
  - (i) any matters that are prescribed.
- (7) The regulatory authority must make the register available for inspection by the public in whatever way the authority thinks appropriate.

#### **58D 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 regulatory authority may from time to time determine.
- (2) The regulatory authority may make different provision about those matters for different cases.
- (3) When considering an application for registration, the regulatory authority may require the applicant to provide it with such further information or supporting evidence as the authority may require.
- (4) The applicant may appeal to the appropriate court or tribunal against any decision made by the regulatory authority on the application.

#### **58E 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 58D](#) applies to such an application as it applies to an application for registration.

#### **58F Code of conduct**

- (1) The regulatory authority 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 regulatory authority may revise the code of conduct at any time (and must publish any revised code).



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### **58G Registered building inspectors: information notices**

- (1) The regulatory authority may by notice in writing require a registered building inspector to provide the authority with any documents or information the authority reasonably requires for the purposes its functions under sections 58B to 58M.
- (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.

### **58H Professional misconduct investigations**

- (1) If it appears to the regulatory authority (on receipt of a complaint or otherwise) that a registered building inspector may be guilty of professional misconduct, the authority 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 regulatory authority 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 regulatory authority may revise the statement at any time (and must publish any revised statement).

### **58I Sanctions for professional misconduct**

- (1) If following an investigation under section 58H the regulatory authority determines that an individual who is a registered building inspector is guilty of professional misconduct, the authority 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 58C(4) (limitations and conditions).
- (4) Where the regulatory authority 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 appropriate court or tribunal against a disciplinary order under this section.
- (6) A disciplinary order under subsection (2)(a) or (b) has no effect until—

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- (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) Where the regulatory authority is the regulator, it must pay into the Consolidated Fund the amount of any financial penalty paid to it pursuant to a disciplinary order under [subsection \(2\)\(a\)](#).

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

- (1) This section applies where the regulatory authority 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 authority determines that the individual is guilty, it is likely to make an order under [section 58I\(2\)\(d\)](#) cancelling the individual’s registration.
- (2) The regulatory authority may by order suspend the individual’s registration for a period specified in the order (which must not exceed 3 months).
- (3) The regulatory authority may revoke the order before the end of that period.
- (4) Where the regulatory authority 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 appropriate court or tribunal against an order under this section.

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

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

### **58L Offences relating to registration**

- (1) A registered building inspector commits an offence if, without reasonable excuse, they carry out a restricted activity on behalf of a building control authority or a registered building control approver—
- (a) in relation to work which is outside the scope of their registration, or
  - (b) while their registration is suspended.
- (2) “Restricted activity”—
- (a) in relation to a building control authority, has the meaning given by [section 46A](#);
  - (b) in relation to a registered building control approver, has the meaning given by [section 54B](#).
- (3) 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—

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- (i) in relation to work which is outside the scope of their registration, or
  - (ii) while their registration is suspended, 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).
- (4) A registered building inspector commits an offence if, with intent to deceive, they do anything which implies that work which is outside the scope of their registration is within the scope of their registration.
- (5) A registered building inspector whose registration is suspended commits an offence if, with intent to deceive, they do anything which implies that their registration is not suspended.
- (6) For the purposes of this section, work is outside the scope of a registered building inspector's registration if the inspector's registration does not have effect in relation to work of that description.
- (7) An offence under this section is punishable on summary conviction by a fine.

#### **58M Offence of acting as, or 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) does anything (including using 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*

#### **58N “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.

#### **58O Register of building control approvers**

- (1) The regulatory authority must establish and maintain a register of building control approvers.
- (2) The regulatory authority must register a person as a building control approver if—
- (a) the person makes an application for registration in accordance with [section 58P](#), and
  - (b) the authority is satisfied that the person meets such criteria as the authority 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.

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- (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 58U(2)(b), that fact and the effect of the variation;
  - (g) if the person's registration has been suspended by an order under section 58U(2)(c) or 58V(2), that fact and the period of the suspension;
  - (h) any matters that are prescribed.
- (6) The regulatory authority must make the register available for inspection by the public in whatever way the authority thinks appropriate.

**58P 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 regulatory authority may from time to time determine.
- (2) The regulatory authority may make different provision about those matters for different cases.
- (3) When considering an application for registration, the regulatory authority may require the applicant to provide it with such further information or supporting evidence as the authority may require.
- (4) The applicant may appeal to the appropriate court or tribunal against any decision made by the regulatory authority on the application.

**58Q 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 58P applies to such an application as it applies to an application for registration.

**58R Professional conduct rules**

- (1) The regulatory authority must prepare and publish professional conduct rules applying to registered building control approvers (in addition to operational standards rules applying to them under section 58Z).
- (2) Professional conduct rules may in particular make provision about insurance and financial propriety.

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- (3) The rules may make different provision for different cases (for example, for different descriptions of work).
- (4) The regulatory authority may revise the professional conduct rules at any time (and must publish any revised rules).

#### **58S Registered building control approvers: information notices**

- (1) The regulatory authority may by notice in writing require a registered building control approver to provide the authority with any documents or information the authority reasonably requires for the purposes of its functions under sections 58N to 58X.
- (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.

#### **58T Investigations into contraventions of professional conduct rules**

- (1) If it appears to the regulatory authority (on receipt of a complaint or otherwise) that a registered building control approver may have contravened the professional conduct rules, the authority may investigate the matter.
- (2) The regulatory authority 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 regulatory authority may revise the statement at any time (and must publish any revised statement).

#### **58U Sanctions for contravention of professional conduct rules**

- (1) If following an investigation under section 58T the regulatory authority determines that a person who is a registered building control approver has contravened the professional conduct rules, the authority 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 58O(3) (limitations and conditions).
- (4) Where the regulatory authority 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—
    - (i) to each local authority in England, where the regulatory authority is the regulator, or

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- (ii) to each local authority in Wales, where the regulatory authority is the Welsh Ministers.
- (5) The person may appeal to the appropriate court or 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) Where the regulatory authority is the regulator, it must pay into the Consolidated Fund the amount of any financial penalty paid to it 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 58Z6\(2\)](#) for further provision about cancellation of a person’s registration as a building control approver.

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

- (1) This section applies where the regulatory authority 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 authority determines that the contravention has occurred, it is likely to make an order under [section 58U\(2\)\(d\)](#) cancelling the person’s registration.
- (2) The regulatory authority may by order suspend the person’s registration for a period specified in the order (which must not exceed 3 months).
- (3) The regulatory authority may revoke the order before the end of that period.
- (4) Where the regulatory authority 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)—
    - (i) to each local authority in England, where the regulatory authority is the regulator, or
    - (ii) to each local authority in Wales, where the regulatory authority is the Welsh Ministers.
- (5) The person may appeal to the appropriate court or 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.



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### **58W 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—
  - (a) in relation to work outside the scope of their registration, or
  - (b) while their registration is suspended.
- (2) A registered building control approver commits an offence if, with intent to deceive, they do anything which implies that work which is outside the scope of their registration is within the scope of their registration.
- (3) A registered building control approver whose registration is suspended commits an offence if, with intent to deceive, they do anything which implies that their registration is not suspended.
- (4) For the purposes of this section, work is outside the scope of a registered building control approver’s registration if their registration does not have effect in relation to work of that description.
- (5) An offence under this section is punishable on summary conviction by a fine.

### **58X 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) does anything (including using 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 registration functions*

### **58Y Delegation of registration functions**

- (1) The regulatory authority may delegate its registration functions to another person, to such extent and subject to such conditions as it considers appropriate.
- (2) The regulatory authority’s registration functions are its functions under sections 58B to 58X (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 regulatory authority’s functions under sections 58B to 58X that are—
  - (a) prescribed by regulations under section 105B, or
  - (b) determined by the regulatory authority in accordance with regulations under that section.
- (4) The regulatory authority may vary or revoke a delegation.
- (5) Where the regulatory authority is the regulator, it—
  - (a) may make, vary or revoke a delegation only with the consent of the Secretary of State;

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- (b) must vary or revoke a delegation if directed to do so by the Secretary of State.
- (6) Section 58Z9 of this Act (sharing of information between regulatory authorities) and Schedule 3 to the Building Safety Act 2022 (information sharing between regulator and other authorities) apply as if references to the regulator included references to a person to whom the regulator has delegated functions under this section.
- (7) The following provisions of this Act apply as if references to the Welsh Ministers included references to a person to whom the Welsh Ministers have delegated functions under this section—
  - (a) section 58Z9 (sharing of information between regulatory authorities);
  - (b) section 91B (cooperation and sharing of information between Welsh Ministers and other authorities);
  - (c) section 131A (application to the Crown).

### *Operational standards rules*

#### **58Z Operational standards rules**

- (1) The regulatory authority 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 regulatory authority may revise the operational standards rules at any time.
- (6) The regulatory authority must publish the operational standards rules (and any revised rules).

#### **58Z1 Reporting requirements**

- (1) The regulatory authority may direct local authorities and registered building control approvers to provide it, 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.

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- (5) An offence under subsection (4) is punishable on summary conviction by a fine.

### **58Z2 Information: Wales**

- (1) This section applies where the Welsh Ministers are the regulatory authority.
- (2) The Welsh Ministers may by notice in writing require a local authority or registered building control approver to provide the Welsh Ministers with any documents or information relating to the exercise of their building control functions that the Welsh Ministers reasonably require.
- (3) 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.
- (4) A registered building control approver who, without reasonable excuse, fails to comply with a notice under this section commits an offence.
- (5) An offence under subsection (4) is punishable on summary conviction by a fine.

### **58Z3 Investigations**

- (1) If it appears to the regulatory authority (on receipt of a complaint or otherwise) that a local authority or registered building control approver may have contravened the operational standards rules, the regulatory authority may investigate the matter.
- (2) The regulatory authority 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 regulatory authority may revise the statement at any time (and must publish any revised statement).

### **58Z4 Improvement notice**

- (1) The regulatory authority may give an improvement notice to a local authority or a registered building control approver if it appears to the regulatory authority (following an investigation under section 58Z3 or otherwise) that the local authority or registered building control approver has contravened operational standards rules.
- (2) An improvement notice is a notice requiring the local authority or registered building control 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 regulatory authority 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.

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- (5) Where the regulatory authority gives an improvement notice to a registered building control approver, in prescribed cases it must as soon as reasonably practicable provide copies of the notice and the statement—
  - (a) to each local authority in England, where the regulatory authority is the regulator, or
  - (b) to each local authority in Wales, where the regulatory authority is the Welsh Ministers.
- (6) Where the regulatory authority giving an improvement notice is the regulator, it must as soon as reasonably practicable provide copies of the notice and the statement of reasons to the Secretary of State.
- (7) The local authority or registered building control approver to whom the improvement notice is given may appeal to the appropriate court or tribunal against the notice.

### **58Z5 Serious contravention notices**

- (1) The regulatory authority may give a serious contravention notice to a local authority or a registered building control approver if it appears to the regulatory authority (following an investigation under section 58Z3 or otherwise) that the condition in subsection (2) or (3) is met.
- (2) The condition in this subsection is that—
  - (a) the local authority or registered building control approver has contravened operational standards rules, and
  - (b) as a result of the contravention the safety of persons in or about buildings has been, or may have been, put at risk.
- (3) This condition in this subsection is that the local authority or registered building control approver—
  - (a) has been given an improvement notice under section 58Z4, and
  - (b) has failed to remedy the contravention of operational standards rules in respect of which the notice was given.
- (4) A serious contravention notice is a notice requiring the local authority or registered building control approver to remedy the contravention in question by doing, or by refraining from doing, anything specified in the order.
- (5) A serious contravention notice may have effect—
  - (a) until it is revoked, or
  - (b) for a period specified in the notice.
- (6) Where the regulatory authority 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.
- (7) Where the regulatory authority gives a serious contravention notice to a registered building control approver, in prescribed cases it must as soon as reasonably practicable provide copies of the notice and the statement—
  - (a) to each local authority in England, where the regulatory authority is the regulator, or
  - (b) to each local authority in Wales, where the regulatory authority is the Welsh Ministers.

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- (8) Where the regulatory authority giving a serious contravention notice is the regulator, it must as soon as reasonably practicable provide copies of the notice and the statement of reasons to the Secretary of State.
- (9) The local authority or registered building control approver to whom the serious contravention notice is given may appeal to the appropriate court or tribunal against the notice.
- (10) A person who, without reasonable excuse, contravenes a serious contravention notice commits an offence and is liable on summary conviction to a fine.

### **58Z6 Continuing failure to meet standards: registered building control approvers**

- (1) This section applies where—
  - (a) the regulatory authority has given a registered building control approver one or more serious contravention notices under [section 58Z5](#), and
  - (b) it appears to the regulatory authority that the way in which the 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) The regulatory authority may cancel the approver’s registration.
- (3) But before cancelling a registered building control approver’s registration under [subsection \(2\)](#) the regulatory authority must—
  - (a) give the approver notice that it is considering its registration under that subsection, and explain its reasons, and
  - (b) invite the approver to make representations within a period specified in the notice (which must not be less than 14 days).
- (4) Where the regulatory authority cancels a registered building control approver’s registration under [subsection \(2\)](#) it must as soon as reasonably practicable—
  - (a) notify the approver that it has done so,
  - (b) give the approver a statement of its reasons, and
  - (c) notify—
    - (i) each local authority in England, where the regulatory authority is the regulator, or
    - (ii) each local authority in Wales, where the regulatory authority is the Welsh Ministers.
- (5) A registered building control approver may appeal to the appropriate court or tribunal against the cancellation of its registration under [subsection \(2\)](#).

### **58Z7 Continuing failure to meet standards: local authorities in England**

- (1) This section applies where—
  - (a) the regulatory authority is the regulator,
  - (b) the regulatory authority has given a local authority one or more serious contravention notices under [section 58Z5](#), and

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- (c) it appears to the regulatory authority that the way in which the local authority 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) The regulatory authority 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) But before making a recommendation under [subsection \(2\)](#) the regulatory authority must—
  - (a) give the local authority notice that it is considering making a recommendation under that subsection, and explain its reasons, and
  - (b) invite the authority to make representations within a period specified in the notice (which must not be less than 14 days).
- (4) Where the regulatory authority makes a recommendation under [subsection \(2\)](#) it must as soon as reasonably practicable—
  - (a) notify the local authority that it has done so, and
  - (b) give the local authority a statement of its reasons.
- (5) A local authority may appeal to the tribunal against a recommendation under [subsection \(2\)](#).

*Inspection of local authorities and registered building control approvers*

**58Z8 Inspections**

- (1) The regulatory authority may carry out an inspection of a local authority, or a registered building control approver, in relation to their exercise of building control functions.
- (2) The purposes for which an inspection may be carried out include—
  - (a) ascertaining the efficiency and effectiveness of the local authority or registered building control approver in exercising their building control functions;
  - (b) verifying any information provided by the local authority or registered building control approver to the regulatory authority, in connection with their building control functions.

*Information sharing*

**58Z9 Sharing of information between regulatory authorities**

- (1) The regulator may disclose information held in connection with a function under this Part to the Welsh Ministers for the purposes of—
  - (a) a function of the regulator under this Part, or
  - (b) a function of the Welsh Ministers under this Part.
- (2) The Welsh Ministers may disclose information held in connection with a function under this Part to the regulator for the purposes of—



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- (a) a function of the Welsh Ministers under this Part, or
  - (b) a function of the regulator under this Part.
- (3) Except as provided by subsection (4), the disclosure of information under this section 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).
- (4) 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).

### *Appeals*

#### **58Z10 Appeal to Crown Court**

An appeal lies to the Crown Court against a decision of a magistrates' court under this Part.]

## **PART III**

### **OTHER PROVISIONS ABOUT BUILDINGS**

#### *Drainage*

#### **59 Drainage of building.**

- (1) If it appears to a local authority that in the case of a building—
- (a) satisfactory provision has not been, and ought to be, made for drainage<sup>F344</sup> . . . ,
  - (b) a cesspool, private sewer, drain, soil pipe, rain-water pipe, spout, sink or other necessary appliance provided for the building is insufficient or, in the case of a private sewer or drain communicating directly or indirectly with a public sewer, is so defective as to admit subsoil water,
  - (c) a cesspool or other such work or appliance as aforesaid provided for the building is in such a condition as to be prejudicial to health or a nuisance, or
  - (d) a cesspool, private sewer or drain formerly used for the drainage of the building, but no longer used for it, is prejudicial to health or a nuisance,
- they shall by notice require the owner of the building to make satisfactory provision for the drainage of the building, or, as the case may be, require either the owner or the occupier of the building to do such work as may be necessary for renewing, repairing or cleansing the existing cesspool, sewer, drain, pipe, spout, sink or other appliance, or for filling up, removing or otherwise rendering innocuous the disused cesspool, sewer or drain.
- (2) Sections 99 and 102 below apply in relation to a notice given under subsection (1) above.
- (3) Subsections (4), (5) and (6) of section 21 above apply in relation to a drain that a local authority require to be constructed under this section as they apply in relation to such a proposed drain as is mentioned in that section.

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- (4) Subsection (1) above, so far as it empowers a local authority to take action in the cases mentioned in paragraphs (a) and (b) of the subsection, does not apply in relation to a building belonging to statutory undertakers . . . [<sup>F345</sup>the Civil Aviation Authority or a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) and held or used by such a body or person for the purpose of that body's or that person's undertaking], unless it is—
- (a) a house, . . . <sup>F346</sup> or
  - (b) a building used as offices or showrooms, and not forming part of a railway station <sup>F347</sup> . . . <sup>F346</sup> . . .
- [<sup>F348</sup>(5) For the purposes of subsection (4) above, the undertaking of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 shall be taken to be the person's undertaking as licence holder.]
- [<sup>F349</sup>(6) In subsection (1) above, “drainage” includes the conveyance, by means of a sink and any other necessary appliance, of refuse water and the conveyance of rainwater from roofs.]
- [<sup>F350</sup>(7) Schedule 3 to the Flood and Water Management Act 2010 extends the power under subsection (1)(c) of this section to sustainable drainage systems as defined in regulations under that Schedule.]

#### Textual Amendments

- F344** Words in s. 59(1)(a) omitted (1.4.2002) by virtue of S.I. 2001/3335, **reg. 3(4)(a)** (with reg. 4)
- F345** Words in s. 59(4) substituted (21.12.2001) by S.I. 2001/4050, art. 2, **Sch. Pt. II para. 7(b)(i)**
- F346** Words repealed by **Airports Act 1986 (c. 31, SIF 9)**, s. 83(5), **Sch. 6 Pt. I**
- F347** Words in s. 59(4)(b) omitted (10.11.2011) by virtue of **The Airport Charges Regulations 2011 (S.I. 2011/2491)**, reg. 1(1), **Sch. 2 para. 3(3)**
- F348** S. 59(5) inserted (21.12.2001) by S.I. 2001/4050, **art. 2 Sch. Pt. II para. 7(b)(ii)**
- F349** S. 59(5) added (1.4.2002) by S.I. 2001/3335, **reg. 3(4)(b)** and renumbered as s. 59(6) (1.4.2002) by S.I. 2002/440, **reg. 4**
- F350** S. 59(7) added (2.5.2018 for W. for specified purposes, 7.1.2019 for W. in so far as not already in force) by **Flood and Water Management Act 2010 (c. 29)**, s. 49(3), **Sch. 3 para. 26(3)** (with s. 49(1)(6)); S.I. 2018/557, arts. 2(b), 3(b)

#### Modifications etc. (not altering text)

- C34** S. 59 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt I para. 5** (with ss. 42, 46)..
- C35** S. 59 modified (1.10.2011) by SI 2010/675, Sch. 23 Pt. 8 para. 3 Table 9 (as substituted (1.10.2011) by **The Environmental Permitting (England and Wales) (Amendment) Regulations 2011 (S.I. 2011/2043)**, reg. 1(b), **Sch. 1**)
- C36** S. 59 modified (1.1.2017) by **The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)**, reg. 1(1), Sch. 23 paras. 1(3), 2 Table 9 (with regs. 1(3), 77-79, Sch. 4)
- C37** S. 59(1)(c) applied (2.5.2018 for W. for specified purposes, 7.1.2019 for W. in so far as not already in force) by **Flood and Water Management Act 2010 (c. 29)**, s. 49(3), **Sch. 3 para. 26(2)** (with s. 49(1)(6)); S.I. 2018/557, arts. 2(b), 3(b)
- C38** S. 59(4) applied with modifications by **Airports Act 1986 (c. 31, SIF 9)**, s. 58, **Sch. 2 para. 6(b)**

## 60 Use and ventilation of soil pipes.

- (1) A pipe for conveying rain-water from a roof shall not be used for the purpose of conveying the soil or drainage from a sanitary convenience.

*Status:* Point in time view as at 01/10/2023. This version of this Act contains provisions that are prospective.

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Building Act 1984. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The soil pipe from a water-closet shall be properly ventilated.
- (3) A pipe for conveying surface water from premises shall not be permitted to act as a ventilating shaft to a drain or sewer conveying foul water.
- (4) If it appears to the local authority . . . <sup>F351</sup> that there is on any premises a contravention of any provision of this section, they may by notice require the owner or the occupier of those premises to execute such work as may be necessary to remedy the matter.
- (5) Sections 99 and 102 below apply in relation to a notice given under subsection (4) above.

#### Textual Amendments

**F351** Words repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 69, 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 8 para. 7, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

## 61 Repair etc, of drain.

- (1) No person shall—
  - (a) except in case of emergency, repair, reconstruct or alter the course of an underground drain that communicates with a sewer, or with a cesspool or other receptacle for drainage, or
  - (b) where in a case of emergency any such works have been executed without notice, cover over the drain or sewer,without giving to the local authority at least 24 hours' notice of his intention to do so.
- (2) While any such work as aforesaid is being executed, all persons concerned shall permit the proper officer, or any other authorised officer, of the local authority to have free access to the work.
- (3) A person who fails to comply with this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) This section does not apply to—
  - (a) so much of a drain or sewer constructed by, or belonging to, a railway company as runs under, across or along their railway, or
  - (b) so much of a drain or sewer constructed by, or belonging to, dock undertakers as is situated in or on land of the undertakers that is held or used by them for the purposes of their undertaking.

#### Modifications etc. (not altering text)

**C39** S. 61(2)(3) excluded (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\)](#), s. 70(1), **Sch. 22 para. 2**

**C40** S. 61(2) excluded (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\)](#), s. 64(1), **Sch. 22 para. 2(a)**

**C41** S. 61(3) excluded (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\)](#), s. 64(1), **Sch. 22 para. 2(b)**

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## 62 Disconnection of drain.

- (1) Where a person—
- (a) reconstructs in the same or a new position a drain that communicates with a sewer or another drain,
  - (b) executes any works to such a drain so as permanently to discontinue its use, or
  - (c) executes any works on premises served by such a drain so as permanently to discontinue its use,
- he shall cause any drains or parts of drains thereby becoming disused or unnecessary to be disconnected and sealed at such points as the local authority may reasonably require.
- (2) Any question as to the reasonableness of a requirement of a local authority under this section shall be determined by [<sup>F352</sup>a magistrates' court][<sup>F352</sup>the appropriate court or tribunal], and the court [<sup>F353</sup>or tribunal] may vary the requirement as it thinks fit.
- (3) No one shall be required under this section to carry out any work in land outside the premises served by the drain if he has not right to carry out that work, but, subject to section 101 below, the person undertaking the reconstruction of the drain or the execution of the works may break open any street for the purpose of complying with a requirement under this section.
- (4) Before a person complies with a requirement under this section, he shall give at least 48 hours' notice to the local authority, and a person who fails to comply with this subsection is liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (5) A person who knowingly fails to comply with subsection (1) above is liable on summary conviction to a fine not exceeding level 1 on the standard scale and to a further fine not exceeding £1 for each day on which the default continues after he is convicted.
- (6) This section does not apply in relation to anything done in the course of the demolition of a building, or of part of a building, being a demolition as respects which the local authority have power under section 81 below to serve a notice on the person undertaking the demolition.

### Textual Amendments

**F352** Words in s. 62(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 9\(j\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

**F353** Words in s. 62(2) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 16](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

### Modifications etc. (not altering text)

**C42** S. 62 modified (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\)](#), s. 70(1), [Sch. 22 para. 3](#)

**C43** S. 62 modified (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\)](#), s. 64(1), [Sch. 22 para. 3](#)

## 63 Improper construction or repair of water-closet or drain.

- (1) If a water-closet, drain or soil pipe is so constructed or repaired as to be prejudicial to health or a nuisance, the person who undertook or executed the construction or repair

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is liable on summary conviction to a fine not exceeding level 1 on the standard scale, unless he shows that the prejudice to health or nuisance could not have been avoided by the exercise of reasonable care.

- (2) A person charged with an offence under this section (hereafter in this section referred to as “the original defendant”) is entitled, upon information duly laid by him and on giving to the prosecutor not less than three clear days’ notice of his intention, to have any other person, being his agent or servant, to whose act or default he alleges that the offence was due brought before the court at the time appointed for the hearing of the charge; and—
- (a) if after the commission of the offence has been proved the original defendant proves that the offence was due to the act or default of that other person, that other person may be convicted of the offence, and
  - (b) if the original defendant further proves that he used all due diligence to secure that the water-closet, drain or soil pipe in question was so constructed or repaired as not to be prejudicial to health or a nuisance, he shall be acquitted of the offence.
- (3) Where the original defendant seeks to avail himself of subsection (2) above—
- (a) the prosecutor as well as the person whom the original defendant charges with the offence has the right to cross-examine the original defendant, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence, and
  - (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party to them.
- (4) In this section in its application to Greater London, a reference to a water-closet includes a reference to a urinal.

#### *Provision of sanitary conveniences*

### **64 Provision of closets in building.**

- (1) If it appears to a local authority—
- (a) that a building is without sufficient closet accommodation,
  - (b) that a part of a building, being a part that is occupied as a separate dwelling, is without sufficient closet accommodation, or
  - (c) that any closets provided for or in connection with a building are in such a state as to be prejudicial to health or a nuisance and cannot without reconstruction be put into a satisfactory condition,
- the authority shall, by notice to the owner of the building, require him to provide the building with such closets or additional closets, or such substituted closets, being in each case either water-closets or earth-closets, as may be necessary.
- (2) Unless a sufficient water supply and sewer are available, the authority shall not require the provision of a water-closet except in substitution for an existing water-closet.
- (3) Sections 99 and 102 below apply in relation to a notice given under subsection (1) above.
- (4) Among the grounds on which an appeal may be brought under section 102 below against such a notice is that—

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- (a) the need for the works to be executed under the notice would not, in whole or in part, arise but for the occupation of part of the building as a separate dwelling, and the occupation of that part as a separate dwelling is a matter in respect of which the appellant has a cause of action, and
  - (b) the person against whom the appellant has a cause of action ought to contribute towards the expenses of executing the works.
- (5) Where the grounds on which an appeal under section 102 below is brought include the ground specified in subsection (4) above—
- (a) the appellant shall serve a copy of his notice of appeal on the person or persons referred to in that ground of appeal, and
  - (b) on the hearing of the appeal the court [<sup>F354</sup>or tribunal] may make such order as it thinks fit with respect to—
    - (i) the contribution to be made by any such person towards the cost of the works, or
    - (ii) the proportion in which any expenses that may be recoverable by the local authority are to be borne by the appellant and any such other person.
- (6) This section does not apply to—
- (a) a factory,
  - (b) a building that is used as a workplace, or
  - (c) premises to which the <sup>M9</sup>Offices, Shops and Railway Premises Act 1963 applies.

#### Textual Amendments

**F354** Words in s. 64(5)(b) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 17**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

#### Modifications etc. (not altering text)

**C44** S. 64(1) applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), **Sch.2.S. 64(1)** applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), **Sch.2.**

**C45** S. 64(1): certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), **Sch.2.S. 64(1)**: certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), **Sch.2.**

#### Marginal Citations

**M9** 1963 c. 41.

## 65 Provision of sanitary conveniences in workplace.

- (1) A building that is used as a workplace shall be provided with—
- (a) sufficient and satisfactory accommodation in the way of sanitary conveniences, regard being had to the number of persons employed in, or in attendance at, the building, and
  - (b) where persons of both sexes are employed or in attendance, sufficient and satisfactory separate accommodation for persons of each sex, unless the local authority are satisfied that in the circumstances of the particular case the provision of such separate accommodation is unnecessary.



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- (2) If it appears to the local authority that subsection (1) above is not complied with in the case of any building, they shall by notice require the owner or the occupier of the building to make such alterations in the existing conveniences, and to provide such additional conveniences, as may be necessary.
- (3) Sections 99 and 102 below apply in relation to a notice given under subsection (2) above.
- (4) This section does not apply to premises to which the Offices, Shops and Railway Premises Act 1963 applies.

**Modifications etc. (not altering text)**

- C46** S. 65 applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), **Sch.2**. S. 65 applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**.
- C47** S. 65: certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**. S. 65: certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), **Sch.2**.

**66 Replacement of earth-closets etc.**

- (1) If a building has a sufficient water supply and sewer available, the local authority may, subject to this section, by notice to the owner of the building require that any closets, other than water-closets, provided for, or in connection with, the building shall be replaced by water-closets, notwithstanding that the closets are not insufficient in number and are not prejudicial to health or a nuisance.
- (2) A notice under subsection (1) above shall—
  - (a) require the owner to execute the necessary works, or
  - (b) require that the authority themselves shall be allowed to execute them,and shall state the effect of subsection (3) below.
- (3) Where the local authority give a notice under subsection (1) above—
  - (a) if it requires the owner to execute the works, the owner is entitled to recover from them one-half of the expenses reasonably incurred by him in the execution of the works, and
  - (b) if it requires that they shall be allowed to execute the works, they are entitled to recover from the owner one-half of the expenses reasonably incurred by them in the execution of the works.
- (4) Where the owner of a building proposes to provide it with a water-closet in substitution for a closet of any other type, the local authority may, if they think fit, agree to pay him a part, not exceeding one-half, of the expenses reasonably incurred in effecting the replacement, notwithstanding that a notice has not been given by them under subsection (1) above.
- (5) Sections 99 and 102 below apply in relation to a notice given under subsection (1) above, subject to the following modifications—
  - (a) no appeal lies on the ground that the works are unnecessary, and
  - (b) any reference in the said section 99 to the expenses reasonably incurred in executing works is a reference to one-half of those expenses.

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## 67 Loan of temporary sanitary conveniences.

- (1) A local authority may, at the request of the occupier of any premises connected with a cesspool, sewer or drain on which any work of maintenance, improvement or repair that necessitates the disconnection of the sanitary conveniences provided for or in connection with the premises is to be carried out—
- (a) by a local authority, or
  - (b) by the owner or occupier of the premises in pursuance of section 59 above,
- supply on loan temporary sanitary conveniences in substitution for any sanitary conveniences so disconnected.
- (2) Subject to the following provisions of this section, the local authority may make reasonable charges for supplying, removing and cleansing any temporary sanitary conveniences lent under this section for more than seven days.
- (3) No charge may be made under subsection (2) above—
- (a) for the use of the temporary sanitary conveniences for the first seven days, or
  - (b) in a case where the work is made necessary by a defect in a public sewer . . . <sup>F355</sup>
- (4) No charge may be made under subsection (2) above where the work is made necessary—
- (a) . . . . . <sup>F356</sup>
  - (b) by a defect in a cesspool, private sewer or drain in respect of which the local authority have served a notice under section 59 above,
- but, if the temporary sanitary conveniences are provided for a period of more than seven days, the reasonable expenses of supplying, removing and cleansing them are recoverable from the owner of the premises (but not any charge for the use of them for the first seven days).
- (5) In proceedings to recover expenses under subsection (4) above, the court may—
- (a) inquire whether the expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings, and
  - (b) make such order concerning the expenses or their apportionment as appears to the court to be just,
- but the court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has had notice of the proceedings and an opportunity of being heard.

### Textual Amendments

**F355** Words repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, [Sch. 27 Pt. I](#)

**F356** S. 67(4)(a) repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, [Sch. 27 Pt. I](#)

## 68 Erection of public conveniences.

- (1) No person shall erect a public sanitary convenience in, or so as to be accessible from, a street without the consent of the local authority, who may give their consent upon such terms as to the use of the convenience or its removal at any time, if required by them, as they think fit.

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- (2) A person who contravenes subsection (1) above is liable on summary conviction to a fine not exceeding level 1 on the standard scale, without prejudice to the right of the authority under subsection (4) below to require the convenience to be removed.
- (3) A person aggrieved by the refusal of a local authority to give a consent under subsection (1) above, or by any terms imposed by them, may appeal to [<sup>F357</sup>a magistrates' court][<sup>F357</sup>the appropriate court or tribunal].
- (4) The local authority may by notice require—
- (a) the owner of a sanitary convenience—
    - (i) that has been erected in contravention of subsection (1) above, or
    - (ii) that the authority are, by virtue of the terms of a consent given under that subsection, entitled to require to be removed,to remove it, or
  - (b) the owner of a sanitary convenience that opens on a street, and is so placed or constructed as to be a nuisance or offensive to public decency, to remove it or permanently close it.
- (5) Sections 99 and 102 below apply in relation to a notice given under subsection (4) above.
- (6) In this section, a reference to a local authority, in relation to a street that is a highway for which the local authority are not the highway authority, is a reference to the highway authority.
- (7) Subsection (1) above does not apply to a sanitary convenience erected—
- (a) by a railway company within their railway station or its yard or approaches, or
  - (b) by dock undertakers in or on land that belongs to them and is held or used by them for the purposes of their undertaking.
- (8) This section does not affect the powers of—
- (a) a county council . . . <sup>F358</sup> under section 87 of the <sup>M10</sup>Public Health Act 1936,
  - (b) the [<sup>F359</sup>appropriate national authority] under section 112 of the <sup>M11</sup>Highways Act 1980, or
  - (c) a county council under section 114(1) of the Highways Act 1980.

#### Textual Amendments

**F357** Words in s. 68(3) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 9(k)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

**F358** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**

**F359** Words in s. 68(8)(b) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 50**; S.I. 2022/561, reg. 3(f), Sch. para. 26; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 19

#### Marginal Citations

**M10** 1936 c. 49.

**M11** 1980 c. 66.

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## *Buildings*

### 69 Provision of water supply in occupied house.

F360

#### Textual Amendments

**F360** S. 69 repealed (with saving) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 20(2), 40(4), 41(1), 57(6), 58, [Sch. 27 Pt. I](#)

### 70 Provision of food storage accommodation in house.

- (1) If it appears to a local authority that a house, or part of a building that is occupied as a separate dwelling, is without sufficient and suitable accommodation for the storage of food, the local authority may by notice require the owner of the house or building to provide the house or building with sufficient and suitable accommodation for that purpose.
- (2) Sections 99 and 102 below apply in relation to a notice given under subsection (1) above.
- (3) Among the grounds on which an appeal may be brought under section 102 below against such a notice are—
  - (a) that it is not reasonably practicable to comply with the notice;
  - (b) that—
    - (i) the need for the works to be executed under the notice would not, in whole or in part, arise but for the occupation of part of the building as a separate dwelling, and that the occupation of that part as a separate dwelling is a matter in respect of which the appellant has a cause of action, and
    - (ii) the person against whom the appellant has a cause of action ought to contribute towards the expenses of executing the works.
- (4) Where the grounds on which an appeal under section 102 below is brought include the ground specified in subsection (3)(b) above—
  - (a) the appellant shall serve a copy of his notice of appeal on the person or persons referred to in that ground of appeal, and
  - (b) on the hearing of the appeal the court [<sup>F361</sup>or tribunal] may make such order as it thinks fit with respect to—
    - (i) the contribution to be made by any such person towards the cost of the works, or
    - (ii) the proportion in which any expenses that may be recoverable by the local authority are to be borne by the appellant and any such other person.

#### Textual Amendments

**F361** Words in s. 70(4)(b) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 18](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

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#### Modifications etc. (not altering text)

- C48** S. 70 applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), **Sch.2**. S. 70 applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**.
- C49** S. 70: certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), **Sch.2**. S. 70: certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), **Sch.2**.

### <sup>F362</sup>71 Entrances, exits etc. to be required in certain cases.

#### Textual Amendments

- F362** S. 71 repealed (1.10.2006) by Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541), art. 1(3), Sch. 2 para. 33(4), **Sch. 4** (with art. 49) (as amended by The Regulatory Reform (Fire Safety) Subordinate Provisions Order 2006 (S.I. 2006/484), arts. 1(1), 2)

### 72 Means of escape from fire.

- (1) If it appears to a local authority, after consultation with the [<sup>F363</sup>fire and rescue authority], that—
- a building to which this section applies is not provided, or
  - a proposed building that will be building to which this section applies will not be provided,
- with such means of escape in case of fire as the local authority, after such consultation, deem necessary from each storey whose floor is more that twenty feet above the surface of the street or ground on any side of the building, the authority shall by notice require the owner of the building, or, as the case may be, the person proposing to erect the building, to execute such work or make such other provision in regard to the matters aforesaid as may be necessary.
- (2) Sections 99 and 102 below apply in relation to a notice given under subsection (1) above in so far as it requires a person to execute works.
- (3) In so far as such a notice requires a person to make provision otherwise than by the execution of works, he is, if he fails to comply with the notice, liable on summary conviction to a fine not exceeding level 4 on the standard scale and to a further fine not exceeding £2 for each day on which the offence continues after he is convicted.
- (4) In proceedings under subsection (3) above, it is open to the defendant to question the reasonableness of the authority's requirements.
- (5) Where building regulations imposing requirements as to the provision of means of escape in case of fire are applicable to a proposed building or proposed extension of a building, or would be so applicable but for a direction under section 8 above dispensing with such requirements—
- this section, and
  - any provision of a local Act that has effect in place of this section,
- does not apply in relation to the proposed building or extension.

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- (6) This section applies to a building that exceeds two storeys in height and in which the floor of any upper storey is more than twenty feet above the surface of the street or ground on any side of the building and that—
  - <sup>F364</sup>(a) .....
  - <sup>F365</sup>(b) .....
  - <sup>F365</sup>(c) .....
- <sup>F366</sup>(7) .....

**Textual Amendments**

**F363** Words in s. 72(1) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 57\(2\)\(3\)\(f\)](#); [S.I. 2004/2304](#), art. 2; [S.I. 2004/2917](#), art. 2

**F364** S. 72(6)(a) repealed (6.4.2007 for E.) by [Housing Act 2004 \(c. 34\)](#), ss. 53(3), 270(4)(5)(a), [Sch. 16](#); [S.I. 2007/1068](#), art. 2

**F365** S. 72(6)(b)(c) repealed (1.10.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), art. 1(3), [Sch. 2 para. 33\(5\)\(a\)](#), [Sch. 4](#) (with art. 49) (as amended by [The Regulatory Reform \(Fire Safety\) Subordinate Provisions Order 2006 \(S.I. 2006/484\)](#), [arts. 1\(1\), 2](#))

**F366** S. 72(7) repealed (1.10.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), art. 1(3), [Sch. 2 para. 33\(5\)\(b\)](#), [Sch. 4](#) (with art. 49) (as amended by [The Regulatory Reform \(Fire Safety\) Subordinate Provisions Order 2006 \(S.I. 2006/484\)](#), [arts. 1\(1\), 2](#))

**73 Raising of chimney.**

- (1) Where, after the <sup>M12</sup>3rd October 1961 (which was the date of commencement of the relevant provisions of the Public Health Act 1961)—
  - (a) a person erects or raises a building (in this section referred to as “the taller building”) to a greater height than an adjoining building, and
  - (b) any chimneys or flues of an adjoining building are in a party wall between the two buildings or are six feet or less from the nearest part of the taller building,
 the local authority may by notice—
  - (i) require that person, within such time as may be specified in the notice, to build up those chimneys and flues, if it is reasonably practicable so to do, so that their top will be of the same height as the top of the chimneys of the taller building or the top of the taller building, whichever is the higher, and
  - (ii) require the owner or occupier of the adjoining building to allow the first-mentioned person to enter on that building and carry out such work as may be necessary to comply with the notice served on him,
 except that, if the said owner or occupier, within fourteen days from the date of service of the notice on him, serves on the first-mentioned person and on the local authority a notice (in this section referred to as a “counter-notice”) that he elects to carry out the work himself, the owner or occupier shall comply with the notice served under paragraph (i) above instead of the first-mentioned person and may recover the expenses reasonably incurred in so doing from that person.
- (2) A person on whom a notice is served under paragraph (i) or paragraph (ii) of subsection (1) above may appeal to [<sup>F367</sup>a magistrates’ court][<sup>F367</sup>the appropriate court or tribunal].



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(3) If—

- (a) a person on whom a notice is served under paragraph (i) of subsection (1) above fails to comply with the notice, except in a case where the owner or occupier of an adjoining building has refused to allow entry on that building, or has refused to allow the carrying out of any such work as may be necessary to comply with the notice, or has served a counter-notice, or
- (b) a person on whom a notice is served under paragraph (ii) of subsection (1) above fails to comply with the notice or, having served a counter-notice, fails to comply with the notice served under paragraph (i) of that subsection,

he is liable on summary conviction to a fine not exceeding level 1 on the standard scale, and the local authority may themselves carry out such work as may be necessary to comply with the notice served under the said paragraph (1), and recover the expenses reasonably incurred in doing so from the person on whom that notice was served.

**Textual Amendments**

**F367** Words in s. 73(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 9\(I\)](#); S.I. 2023/993, [reg. 2\(o\)\(i\)](#) (with [reg. 6](#))

**Marginal Citations**

**M12** 1961 c. 64.

**74 Cellars and rooms below subsoil water level.**

- (1) No person shall without the consent of the local authority construct a cellar or room in, or as part of, a house, shop, inn, hotel or office if the floor level of the cellar or room is lower than the ordinary level of the subsoil water on, under or adjacent to the site of the house, shop, inn, hotel or office.
- (2) Subsection (1) above does not apply to—
  - <sup>F368</sup>(a) .....
  - (b) the construction of a cellar or room in connection with a shop, inn, hotel or office that forms part of a railway station.
- (3) If a person constructs a cellar or room in contravention of subsection (1) above, or of any condition attached to a consent under this section—
  - (a) he is liable on summary conviction to a fine not exceeding level 1 on the standard scale, and
  - (b) the local authority may by notice require him either to alter the cellar or room so that its construction will no longer contravene the said subsection or condition or, if he so elects, to fill it in or otherwise make it unusable.
- (4) Sections 99 and 102 below apply in relation to a notice given under subsection (3) above, subject to the following modifications—
  - (a) section 99(1) requires the notice to indicate the nature of the works of alteration and that of the works for making the cellar or room unusable, and
  - (b) section 99(2) authorises the local authority to execute, subject to that subsection, at their election either the works of alteration or the works for making the cellar or room unusable.

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- (5) If the owner for the time being of the house, shop, inn, hotel or office causes or permits a cellar or room forming part of it to be used in a manner that he knows to be in contravention of a condition attached to a consent under this section, he is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

#### Textual Amendments

**F368** S. 74(2)(a) repealed (24.11.2005) by [Licensing Act 2003 \(c. 17\)](#), s. 201(2), Sch. 6 para. 92, Sch. 7 (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2) (with art. 4)

#### Modifications etc. (not altering text)

**C50** S. 74(1) excluded (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\)](#), s. 70(1), [Sch. 22 para. 5\(1\)](#)

**C51** S. 74(1) excluded (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\)](#), s. 64(1), [Sch. 22 para. 5\(1\)](#)

## 75 Consents under s. 74.

- (1) A consent under section 74 above may be given subject to such conditions as to the construction or use of the premises as may be specified in it, and conditions specified in such a consent are binding on successive owners of the house, shop inn, hotel or office.
- (2) If a local authority—
- (a) refuse an application for such a consent, or
  - (b) attach any conditions to such a consent,
- the person applying for the consent may appeal to [<sup>F369</sup>a magistrates' court][<sup>F369</sup>the appropriate court or tribunal] against the refusal or, as the case may be, against any of the conditions, and if [<sup>F369</sup>a magistrates' court][<sup>F369</sup>the appropriate court or tribunal] allows an appeal against a refusal to grant a consent it may direct the local authority to give their consent subject to such conditions, if any, as appear to the court [<sup>F370</sup>or tribunal] to be appropriate.
- (3) An application may be made at any time to the local authority for the variation or withdrawal of a condition attached to such a consent, and, if the local authority refuse the application, the applicant may appeal to [<sup>F369</sup>a magistrates' court][<sup>F369</sup>the appropriate court or tribunal].

#### Textual Amendments

**F369** Words in s. 75(2)(3) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 9\(m\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

**F370** Words in s. 75(2) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 19](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

*Defective premises, demolition etc.*

## 76 Defective premises.

- (1) If it appears to a local authority that—

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- (a) any premises are in such a state (in this section referred to as a “defective state”) as to be prejudicial to health or a nuisance, and
- (b) unreasonable delay in remedying the defective state would be occasioned by following the procedure prescribed by [<sup>F371</sup>section 80 of the Environmental Protection Act 1990],

the local authority may serve on the person on whom it would have been appropriate to serve an abatement notice under the said section 93 (if the local authority had proceeded under that section) a notice stating that the local authority intend to remedy the defective state and specifying the defects that they intend to remedy.

- (2) Subject to subsection (3) below, the local authority may, after the expiration of nine days after service of a notice under subsection (1) above, execute such works as may be necessary to remedy the defective state, and recover the expenses reasonably incurred in so doing from the person on whom the notice was served.
- (3) If, within seven days after service of a notice under subsection (1) above, the person on whom the notice was served serves a counter-notice that he intends to remedy the defects specified in the first-mentioned notice, the local authority shall take no action in pursuance of the first-mentioned notice unless the person who served the counter-notice—
  - (a) fails within what seems to the local authority a reasonable time to begin to execute works to remedy the said defects, or
  - (b) having begun to execute such works fails to make such progress towards their completion as seems to the local authority reasonable.
- (4) In proceedings to recover expenses under subsection (2) above, the court—
  - (a) shall inquire whether the local authority were justified in concluding that the premises were in a defective state, or that unreasonable delay in remedying the defective state would have been occasioned by following the procedure prescribed by [<sup>F371</sup>section 80 of the Environmental Protection Act 1990], and
  - (b) if the defendant proves that he served a counter-notice under subsection (3) above, shall inquire whether the defendant failed to begin the works to remedy the defects within a reasonable time, or failed to make reasonable progress towards their completion,

and if the court determines that—

- (i) the local authority were not justified in either of the conclusions mentioned in paragraph (a) of this subsection, or
- (ii) there was no failure under paragraph (b) of this subsection,

the local authority shall not recover the expenses or any part of them.

- (5) Subject to subsection (4) above, in proceedings to recover expenses under subsection (2) above, the court may—
  - (a) inquire whether the said expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings, and
  - (b) make such order concerning the expenses or their apportionment as appears to the court to be just,

but the court shall not order the expenses or any part of them to be borne by a person other than the defendant in the proceedings unless the court is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.

- (6) A local authority shall not serve a notice under subsection (1) above, or proceed with the execution of works in accordance with a notice so served, if the execution of the

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works would, to their knowledge, be in contravention of a building preservation order under section 29 of the <sup>M13</sup>Town and Country Planning Act 1947.

- (7) The power conferred on a local authority by subsection (1) above may be exercised notwithstanding that the local authority might instead have proceeded under [<sup>F372</sup>Part VI of the Housing Act 1985 (repair notices)].

#### Textual Amendments

**F371** Words substituted by [Environmental Protection Act 1990 \(c.43, SIF 46:4\)](#), s. 162(1), **Sch. 15 para. 24**

**F372** Words substituted by [Housing \(Consequential Provisions\) Act 1985 \(c.71, SIF 61\)](#), ss. 4, 5(2), **Sch. 2 para. 58(2)**, **Sch. 4**

#### Modifications etc. (not altering text)

**C52** S. 76 applied (with modifications) (07. 08. 1991) by [S.I. 1991/1773](#), art. 8(2)(3), **Sch.2**. S. 76 applied (with modifications) (10. 01. 1992) by [S.I. 1991/2913](#), art. 8(2)(3), **Sch.2**.

**C53** S. 76: certain functions transferred (07. 08. 1991) by [S.I. 1991/1773](#), art. 8(1)(3), **Sch.2**. S. 76: certain functions transferred (10. 01. 1992) by [S.I. 1991/2913](#), art. 8(1)(3), **Sch.2**.

**C54** S. 76 modified (E.) (6.4.2010) by [The Bristol Port Health Authority Order 2010 \(S.I. 2010/1214\)](#), arts. 1, 4, **Sch.**

**C55** S. 76 modified (E.) (6.4.2010) by [The Cowes Port Health Authority Order 2010 \(S.I. 2010/1216\)](#), arts. 1(1), 4, **Sch.**

**C56** S. 76 modified (E.) (6.4.2010) by [The Cornwall Port Health Authority Order 2010 \(S.I. 2010/1215\)](#), arts. 1(1), 4, **Sch.** (with art. 2)

**C57** S. 76 applied (with modifications) (E.) (24.3.2011) by [The Hull and Goole Port Health Authority Order 2011 \(S.I. 2011/939\)](#), arts. 1(1), 9, **Sch. 2**

**C58** S. 76 functions transferred and modified (E.) (14.6.2016) by [The River Tees Port Health Authority Order 2016 \(S.I. 2016/644\)](#), arts. 1(1), 9, **Sch. 2**

**C59** S. 76 functions transferred and modified (E.) (31.3.2017) by [The Weymouth Port Health Authority Order 2017 \(S.I. 2017/558\)](#), arts. 1(1), 9, **Sch. 2** (with art. 9(3))

#### Marginal Citations

**M13** 1947 c. 51.

## 77 Dangerous building.

- (1) If it appears to a local authority that a building or structure, or part of a building or structure, is in such a condition, or is used to carry such loads, as to be dangerous, the authority may apply to [<sup>F373</sup>a magistrates' court][<sup>F373</sup>the appropriate court or tribunal], and the court [<sup>F374</sup>or tribunal] may—
- (a) where danger arises from the condition of the building or structure, make an order requiring the owner thereof—
    - (i) to execute such work as may be necessary to obviate the danger or,
    - (ii) if he so elects, to demolish the building or structure, or any dangerous part of it, and remove any rubbish resulting from the demolition, or
  - (b) where danger arises from overloading of the building or structure, make an order restricting its use until [<sup>F373</sup>a magistrates' court][<sup>F373</sup>the appropriate court or tribunal], being satisfied that any necessary works have been executed, withdraws or modifies the restriction.
- (2) If the person on whom an order is made under subsection (1)(a) above fails to comply with the order within the time specified, the local authority may—

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- (a) execute the order in such manner as they think fit, and
- (b) recover the expenses reasonably incurred by them in doing so from the person in default,

and, without prejudice to the right of the authority to exercise those powers, the person is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

[<sup>F375</sup>(3) This section has effect subject to the provisions [<sup>F376</sup>the Planning (Listed Buildings and Conservation Areas) Act 1990] relating to listed buildings, buildings subject to building preservation [<sup>F376</sup>notices] and buildings in conservation areas.]

#### Textual Amendments

- F373** Words in s. 77(1) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 9(n)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F374** Words in s. 77(1) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 20**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F375** S. 77(3) inserted by Housing and Planning Act 1986 (c. 63, SIF 15), s. 40, **Sch. 9 para. 6(2)**
- F376** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 67(3)**

#### Modifications etc. (not altering text)

- C60** S. 77 applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**. S. 77 applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**. S. 77 excluded (20.9.2000) by 2000 c. vii, s. 45(4)
- C61** S. 77: certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**. S. 77: certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), **Sch. 2**.

## 78 Dangerous building—emergency measures.

- (1) If it appears to a local authority that—
  - (a) a building or structure, or part of a building or structure, is in such a state, or is used to carry such loads, as to be dangerous, and
  - (b) immediate action should be taken to remove the danger,they may take such steps as may be necessary for that purpose.
- (2) Before exercising their powers under this section, the local authority shall, if it is reasonably practicable to do so, give notice of their intention to the owner and occupier of the building, or of the premises on which the structure is situated.
- (3) Subject to this section, the local authority may recover from the owner the expenses reasonably incurred by them under this section.
- (4) So far as expenses incurred by the local authority under this section consist of expenses of fencing off the building or structure, or arranging for it to be watched, the expenses shall not be recoverable in respect of any period—
  - (a) after the danger has been removed by other steps under this section, or
  - (b) after an order made under section 77(1) above for the purpose of its removal has been complied with or has been executed as mentioned in subsection (2) of that section.
- (5) In proceedings to recover expenses under this section, the court shall inquire whether the local authority might reasonably have proceeded instead under section 77(1)

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above, and, if the court determines that the local authority might reasonably have proceeded instead under that subsection, the local authority shall not recover the expenses or any part of them.

(6) Subject to subsection (5) above, in proceedings to recover expenses under this section, the court may—

- (a) inquire whether the expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings, and
- (b) make such order concerning the expenses or their apportionment as appears to the court to be just,

but the court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless it is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.

(7) Where in consequence of the exercise of the powers conferred by this section the owner or occupier of any premises sustains damage, but section 106(1) below does not apply because the owner or occupier has been in default—

- (a) the owner or occupier may apply to [<sup>F377</sup>a magistrates' court][<sup>F377</sup>the appropriate court or tribunal] to determine whether the local authority were justified in exercising their powers under this section so as to occasion the damage sustained, and
- (b) if the court [<sup>F378</sup>or tribunal] determines that the local authority were not so justified, the owner or occupier is entitled to compensation, and section 106(2) <sup>F379</sup>... applies in relation to any dispute as regards compensation arising under this subsection.

(8) The proper officer of a local authority may, as an officer of the local authority, exercise the powers conferred on the local authority by subsection (1) above.

(9) This section does not apply to premises forming part of a mine or quarry within the meaning of the <sup>M14</sup>Mines and Quarries Act 1954.

#### Textual Amendments

- F377** Words in s. 78(7)(a) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022](#) (c. 30), s. 170(4)(b)(c), [Sch. 6 para. 9\(o\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F378** Words in s. 78(7)(b) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022](#) (c. 30), s. 170(4)(b)(c), [Sch. 6 para. 21](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F379** Words in s. 78(7)(b) omitted (28.6.2022 for E., 5.9.2023 for W.) by virtue of [Building Safety Act 2022](#) (c. 30), s. 170(4)(b)(c), [Sch. 5 para. 51](#); S.I. 2022/561, reg. 3(f), [Sch. para. 27](#); S.I. 2023/914, reg. 2(b) (xiii), [Sch. para. 20](#)

#### Modifications etc. (not altering text)

- C62** [S. 78](#) applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), [Sch. 2](#). [S. 78](#) applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), [Sch. 2](#).
- C63** [S. 78](#): certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), [Sch.2](#). [S. 78](#): certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), [Sch.2](#).

#### Marginal Citations

- M14** 1954 c. 70.



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## 79 Ruinous and dilapidated buildings and neglected sites.

- (1) If it appears to a local authority that a building or structure is by reason of its ruinous or dilapidated condition seriously detrimental to the amenities of the neighbourhood, the local authority may by notice require the owner thereof—
- (a) to execute such works of repair or restoration, or
  - (b) if he so elects, to take such steps for demolishing the building or structure, or any part thereof, and removing any rubbish or other material resulting from or exposed by the demolition,
- as may be necessary in the interests of amenity.
- (2) If it appears to a local authority that—
- (a) rubbish or other material resulting from, or exposed by, the demolition or collapse of a building or structure is lying on the site or on any adjoining land, and
  - (b) by reason thereof the site or land is in such a condition as to be seriously detrimental to the amenities of the neighbourhood,
- the local authority may by notice require the owner of the site or land to take such steps for removing the rubbish or material as may be necessary in the interests of amenity.
- (3) Sections 99 and 102 below apply in relation to a notice given under subsection (1) or (2) above, subject to the following modifications—
- (a) section 99(1) requires the notice to indicate the nature of the works of repair or restoration and that of the works of demolition and removal of rubbish or material, and
  - (b) section 99(2) authorises the local authority to execute, subject to that subsection, at their election either the works of repair or restoration or the works of demolition and removal of rubbish or material.
- (4) This section does not apply to an advertisement as defined in <sup>F380</sup>section 336(1) of the Town and Country Planning Act 1990].
- <sup>F381</sup>(5) This section has effect subject to the provisions of <sup>F382</sup>the Planning (Listed Buildings and Conservation Areas) Act 1990] relating to listed buildings, buildings subject to building preservation <sup>F382</sup>[ notices] and buildings in conservation areas.]

### Textual Amendments

**F380** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 67\(4\)\(a\)](#)

**F381** [S. 79\(5\)](#) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 15\), s. 40, Sch. 9 para. 6\(2\)](#)

**F382** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 67\(4\)\(b\)](#)

### Modifications etc. (not altering text)

**C64** [S. 79](#) applied (with modifications) (07. 08. 1991) by [S.I. 1991/1773, art. 8\(2\)\(3\), Sch. 2.S. 79](#) applied (with modifications) (10. 01. 1992) by [S.I. 1991/2913, art. 8\(2\)\(3\), Sch.2.S. 79](#) excluded (20.9.2000) by [2000 c. vii, s. 45\(4\)](#)

**C65** [S. 79](#): certain functions transferred (07. 08. 1991) by [S.I. 1991/1773, art. 8\(1\)\(3\), Sch.2.S. 79](#): certain functions transferred (10. 01. 1992), by [S.I. 1991/2913, art. 8\(1\)\(3\), Sch.2.](#)

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## 80 Notice to local authority of intended demolition.

- (1) This section applies to any demolition of the whole or part of a building except—
- (a) a demolition in pursuance of a demolition order [<sup>F383</sup>or obstructive building order]made under [<sup>F384</sup>Part IX of the Housing Act 1985], and
  - (b) a demolition—
    - (i) of an internal part of a building, where the building is occupied and it is intended that it should continue to be occupied,
    - (ii) of a building that has a cubic content (as ascertained by external measurement) of not more than 1750 cubic feet, or, where a greenhouse, conservatory, shed or prefabricated garage forms part of a larger building, of that greenhouse, conservatory, shed or prefabricated garage, or
    - (iii) without prejudice to sub-paragraph (ii) above, of an agricultural building ([<sup>F385</sup>within the meaning of any of paragraphs 3 to 7 of Schedule 5 to the Local Government Finance Act 1988]), unless it is contiguous to another building that is not itself an agricultural building or a building of a kind mentioned in that sub-paragraph.
- (2) No person shall begin a demolition to which this section applies unless—
- (a) he has given the local authority notice of his intention to do so, and
  - (b) either—
    - (i) the local authority have given a notice to him under section 81 below, or
    - (ii) the relevant period (as defined in that section) has expired.
- (3) A notice under subsection (2) above shall specify the building to which it relates and the works of demolition intended to be carried out, and it is the duty of a person giving such a notice to a local authority to send or give a copy of it to—
- (a) the occupier of any building adjacent to the building,
  - [<sup>F386</sup>(b) any public gas supplier (as defined in Part I of the Gas Act 1986) in whose authorised area (as so defined) the building is situated,]
  - [<sup>F387</sup>(c) the public electricity supplier (as defined in Part I of the Electricity Act 1989) in whose authorised area (as so defined) the building is situated and any other person authorised by a licence under that Part to supply electricity to the building;]
- (4) A person who contravenes subsection (2) above is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### Textual Amendments

- F383** Words inserted (*retrosp.* 1.4.1986) by Housing and Planning Act 1986 (c. 63, SIF 15), s. 24(1), **Sch. 5 para. 11(1)(2)**
- F384** Words substituted by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), ss. 4, 5(2), Sch. 2 para. 58(3), **Sch. 4**
- F385** Words substituted by S.I. 1990/1285, art. 2, **Sch. para. 7**
- F386** S. 80(3)(b) substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 30, **Sch. 8 para. 33**
- F387** S. 80(3)(c) substituted by Electricity Act 1989 (c.29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 31, **Sch. 17 para. 33**

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**Modifications etc. (not altering text)**

- C66** S. 80 excluded (7.12.2022) by [The A417 Missing Link Development Consent Order 2022 \(S.I. 2022/1248\)](#), arts. 1, 3 (with art. 4)
- C67** S. 80(2)(b) excluded (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\)](#), s. 64(1), [Sch. 22 para. 6](#)
- C68** S. 80(2)(b) excluded (3.11.2022) by [The Network Rail \(Huddersfield to Westtown \(Dewsbury\) Improvements\) Order 2022 \(S.I. 2022/1067\)](#), arts. 1, 5(3)
- C69** S. 80(3)(b) amended (1.3.1996) by 1995 c. 45, s. 16(1), [Sch. 4 para. 2\(2\)\(i\)](#); S.I. 1996/218, [art.2](#)

**81 Local authority’s power to serve notice about demolition.**

- (1) A local authority may give a notice under this section to—
- a person on whom a demolition order [<sup>F388</sup>or obstructive building order] has been served under [<sup>F389</sup>Part IX of the Housing Act 1985],
  - a person who appears to them not to be intending to comply with an order made under section 77 above or a notice given under section 79 above, and
  - a person who appears to them to have begun or to be intending to begin a demolition to which section 80 above otherwise applies.
- (2) Nothing contained in a notice under this section prejudices or affects the operation of any of the relevant statutory provisions, as defined in section 53(1) of the <sup>M15</sup>Health and Safety at Work etc. Act 1974 [<sup>F390</sup>or the relevant provisions]; and accordingly, if a requirement of such a notice is inconsistent with a requirement imposed by or under the said Act of 1974 [<sup>F391</sup>or the relevant provisions], the latter requirement prevails.
- [<sup>F392</sup>(2A) For the purposes of subsection (2), “relevant provisions” means the relevant statutory provisions (within the meaning of Part 3 of the Energy Act 2013) other than—
- the provisions of the Nuclear Safeguards Act 2000; and
  - any provision of nuclear regulations identified in accordance with section 74(9) of the 2013 Act as being made for the nuclear safeguards purposes.]
- (3) Where—
- a person has given a notice under section 80 above, or
  - the local authority have served a demolition order [<sup>F388</sup>or obstructive building order] on a person under [<sup>F389</sup>Part IX of the Housing Act 1985],
- a notice under this section may only be given to the person in question within the relevant period.
- (4) In this section and section 80 above, “the relevant period” means—
- in a case such as is mentioned in subsection (3)(a) above, six weeks from the giving of the notice under section 80 above, or such longer period as the person who gave that notice may in writing allow, and
  - in a case such as is mentioned in subsection (3)(b) above, seven days after the local authority served a copy of the demolition order [<sup>F388</sup>or obstructive building order] in accordance with [<sup>F389</sup>Part IX of the Housing Act 1985], or such longer period as the person on whom the copy was served may in writing allow.

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- (5) It is the duty of the local authority to send or give a copy of a notice under this section to the owner and occupier of any building adjacent to the building to which the notice relates.
- (6) It is also the duty of the local authority to send or give a copy of a notice under this section—
- (a) if it contains such a requirement as is specified in section 82(1)(h) below, to the statutory undertakers concerned, and
- [<sup>F393</sup>(b) if it contains such a requirement as is specified in section 82(1)(i) below, to the fire and rescue authority, if they are not themselves the fire and rescue authority.]
- <sup>F394</sup>(7) . . . . .

#### Textual Amendments

- F388** Words inserted by Housing and Planning Act 1986 (c. 63, SIF 15), s. 24, **Sch. 5 para. 11(1)**
- F389** Words substituted by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), ss. 4, 5(2), Sch. 2 para. 58(3), **Sch. 4**
- F390** Words in s. 81(2) inserted (1.4.2014) by The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014 (S.I. 2014/469), art. 1(2), **Sch. 2 para. 3(2)(a)** (with Sch. 4)
- F391** Words in s. 81(2) inserted (1.4.2014) by The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014 (S.I. 2014/469), art. 1(2), **Sch. 2 para. 3(2)(b)** (with Sch. 4)
- F392** S. 81(2A) inserted (1.4.2014) by The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014 (S.I. 2014/469), art. 1(2), **Sch. 2 para. 3(3)** (with Sch. 4)
- F393** S. 81(6)(b) substituted (1.10.2006) by Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541), art. 1(3), **Sch. 2 para. 33(6)(a)** (with art. 49) (as amended by The Regulatory Reform (Fire Safety) Subordinate Provisions Order 2006 (S.I. 2006/484), **arts. 1(1), 2**)
- F394** S. 81(7) repealed (1.10.2006) by Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541), art. 1(3), Sch. 2 para. 33(6)(b), **Sch. 4** (with art. 49) (as amended by The Regulatory Reform (Fire Safety) Subordinate Provisions Order 2006 (S.I. 2006/484), **arts. 1(1), 2**)

#### Modifications etc. (not altering text)

- C70** S. 81 applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), **Sch.2.S. 81** applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**.
- C71** S. 81: certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), **Sch.2.S. 81**: certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), **Sch. 2**.
- C72** S. 81 excluded (11.2.2021) by High Speed Rail (West Midlands - Crewe) Act 2021 (c. 2), s. 64(1), **Sch. 22 para. 6**
- C73** Ss. 81, 82 excluded (3.11.2022) by The Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 2022 (S.I. 2022/1067), arts. 1, **5(3)**
- C74** S. 81(1)(b) applied (with modifications) (13.7.2004) by London Local Authorities Act 2004 (c. i), ss. 1(1), **10(1)**

#### Marginal Citations

- M15** 1974 c. 37.

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## 82 Notices under section 81.

- (1) A notice under section 81(1) above may require the person to whom it is given—
- (a) to shore up any building adjacent to the building to which the notices relates,
  - (b) to weatherproof any surfaces of an adjacent building that are exposed by the demolition,
  - (c) to repair and make good any damage to an adjacent building caused by the demolition or by the negligent act or omission of any person engaged in it,
  - (d) to remove material or rubbish resulting from the demolition and clearance of the site,
  - (e) to disconnect and seal, at such points as the local authority may reasonably require, any sewer or drain in or under the building,
  - (f) to remove any such sewer or drain, and seal any sewer or drain with which the sewer or drain to be removed is connected,
  - (g) to make good to the satisfaction of the local authority the surface of the ground disturbed by anything done under paragraph (e) or (f) above,
  - (h) to make arrangements with the relevant statutory undertakers for the disconnection of the supply of gas, electricity and water to the building,
  - [<sup>F395</sup>(i) to make such arrangements with regard to the burning of structures or materials on the site as may be reasonably required by the fire and rescue authority;]
  - (j) to take such steps relating to the conditions subject to which, the demolition is to be undertaken, and the condition in which the site is to be left on completion of the demolition, as the local authority may consider reasonably necessary for the protection of the public and the preservation of public amenity.
- (2) No one shall be required under paragraph (c), (e) or (f) of subsection (1) above to carry out any work in land outside the premises on which the works of demolition are being carried out if he has no right to carry out that work, but, subject to section 101 below, the person undertaking the demolition, or the local authority acting in his default, may break open any street for the purpose of complying with any such requirement.
- (3) Before a person complies with a requirement under paragraph (e), (f) or (g) of subsection (1) above, he shall give to the local authority—
- (a) at least 48 hours' notice, in the case of a requirement under paragraph (e) or (f), or
  - (b) at least 24 hours' notice, in the case of a requirement under paragraph (g),
- and a person who fails to comply with this subsection is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (4) This section does not authorise interference with apparatus or works of statutory undertakers authorised by an enactment to carry on an undertaking for the supply of electricity, [<sup>F396</sup>or gas or with apparatus or works of a water undertaker or sewerage undertaker].
- (5) Without prejudice to the generality of subsection (4) above, this section does not exempt a person from—
- (a) the obligation to obtain any consent required under [<sup>F397</sup>[<sup>F398</sup>section 174 of the Water Industry Act 1991 or section 176 of the Water Resources Act 1991] (interference with water supplies or with waterworks)]
  - (b) criminal liability under any enactment relating to the supply of gas or electricity, or

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(c) the requirements of regulations under section 31 of the <sup>M16</sup>Gas Act 1972 (public safety).

(6) Section 99 below applies in relation to a notice given under section 81(1) above.

#### Textual Amendments

- F395** S. 82(1)(i) substituted (1.10.2006) by Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541), art. 1(3), **Sch. 2 para. 33(7)** (with art. 49) (as amended by The Regulatory Reform (Fire Safety) Subordinate Provisions Order 2006 (S.I. 2006/484), **arts. 1(1), 2**)
- F396** Words substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 70(2)(a), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F397** Words substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 70(2)(b), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F398** Words in s. 82(5)(a) substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 39(4)**.

#### Modifications etc. (not altering text)

- C73** Ss. 81, 82 excluded (3.11.2022) by The Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 2022 (S.I. 2022/1067), arts. 1, **5(3)**
- C75** S. 82 applied (with modifications) (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**  
 S. 82 applied (with modifications) (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**
- C76** S. 82: certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), **Sch.2**  
 S. 82: certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(1)(3), **Sch.2**
- C77** S. 82 excluded (11.2.2021) by High Speed Rail (West Midlands - Crewe) Act 2021 (c. 2), s. 64(1), **Sch. 22 para. 6**
- C78** S. 82(4) amended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(8), **Sch. 8 para. 33**
- C79** S. 82(4) amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 1(7), **Sch. 17 para. 33**
- C80** S. 82(4) amended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para.2(8)**; S.I. 1996/218, **art.2**

#### Marginal Citations

- M16** 1972 c. 60.

### 83 Appeal against notice under s. 81.

- (1) Section 102 below applies in relation to a notice given under section 81 above.
- (2) Among the grounds on which an appeal may be brought under section 102 below against such a notice are—
- (a) in the case of a notice requiring an adjacent building to be shored up, that the owner of the building is not entitled to the support of that building by the building that is being demolished, and ought to pay, or contribute towards, the expenses of shoring it up,
  - (b) in the case of a notice requiring any surfaces of an adjacent building to be weatherproofed, that the owner of the adjacent building ought to pay, or contribute towards, the expenses of weatherproofing those surfaces.
- (3) Where the grounds on which an appeal under section 102 below is brought include a ground specified in subsection (2) above—
- (a) the appellant shall serve a copy of his notice of appeal on the person or persons referred to in that ground of appeal, and



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- (b) on the hearing of the appeal the court [<sup>F399</sup>or tribunal] may make such order as it thinks fit—
- (i) in respect of the payment of, or contribution towards, the cost of the works by any such person, or
  - (ii) as to how any expenses that may be recoverable by the local authority are to be borne between the appellant and any such person.

#### Textual Amendments

**F399** Words in s. 83(3)(b) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 22](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

### *Yards and passages*

#### **84 Paving and drainage of yards and passages.**

- (1) If a court or yard appurtenant to, or a passage giving access to, buildings to which this section applies—
- (a) is not so formed, flagged, asphalted or paved, or
  - (b) is not provided with such works on, above or below its surface,
- as to allow of the satisfactory drainage of its surface or subsoil [<sup>F400</sup>to a proper outfall][<sup>F400</sup>(having regard both to the need to remove water from the court, yard or passage and also to the need to dispose of it satisfactorily in the course of or after its removal)], the local authority may by notice require any person who is the owner of any of the buildings to execute all such works as may be necessary to remedy the defect.
- (2) Sections 99 and 102 below apply in relation to a notice given under subsection (1) above.
- (3) The buildings to which this section applies are houses and industrial and commercial buildings.
- (4) This section applies in relation to any court, yard or passage that is used in common by the occupiers of two or more houses, or a house and a commercial or industrial building, but is not a highway maintainable at the public expense.

#### Textual Amendments

**F400** Words in s. 84(1) substituted (2.5.2018 for W. for specified purposes, 7.1.2019 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 3 para. 26\(4\)](#) (with s. 49(1)(6)); S.I. 2018/557, arts. 2(b), 3(b)

#### Modifications etc. (not altering text)

- C81** S. 84 applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), [Sch.2](#). S. 84 applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), [Sch.2](#).
- C82** S. 84: certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), [Sch.2](#). S. 84: certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), [Sch.2](#).

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## 85 Maintenance of entrances to courtyards.

- (1) Except with the consent of the local authority—
  - (a) an entrance to a court or yard on which two or more houses front or abut shall not be closed, narrowed, reduced in height or otherwise altered so as to impede the free circulation of air through the entrance, and
  - (b) no permanent structure shall be erected so as to impede the free circulation of air through such an entrance.
- (2) A local authority in giving a consent under this section may impose such conditions as they think fit with respect to the provision of other openings or means of access, or other means for securing free circulation of air throughout the court or yard.
- (3) A person aggrieved by the refusal of a local authority to give a consent under this section, or by a condition imposed by them, may appeal to [<sup>F401</sup>a magistrates' court][<sup>F401</sup>the appropriate court or tribunal].
- (4) A person who contravenes this section is liable on summary conviction to a fine not exceeding level 1 on the standard scale and to a further fine not exceeding £2 for each day on which the offence continues after he is convicted.

### Textual Amendments

**F401** Words in s. 85(3) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 9\(p\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

### *Appeal to Crown Court*

## 86 Appeal to Crown Court.

- (1) Where a person—
  - (a) is aggrieved by an order, determination or other decision of a magistrates' court under this Part of this Act, or under Part IV of this Act as it applies in relation to this Part, and
  - (b) is not by any other enactment authorised to appeal to the Crown Court, he may appeal to the Crown Court.
- (2) Subsection (1) above does not confer a right of appeal in a case in which each of the parties concerned might under this Act have required that the dispute should be determined by arbitration instead of by a magistrates' court.

### *Application of provisions to Crown property*

## 87 Application of provisions to Crown property.

- (1) This section applies to any house, building or other premises being property belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a government department, or held in trust for Her Majesty for purposes of a government department.
- (2) In relation to any such property, the appropriate authority may agree with—
  - (a) the council of the county, or

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(b) the local authority of the district,

in which the property is situated that any particular provisions of this Part of this Act, and of Part IV of this Act so far as it relates to this Part, shall apply to the property; and, while the agreement is in force, those provisions shall apply to that property accordingly, subject to the terms of the agreement.

[<sup>F402</sup>(2A) Subsection (2) above shall apply in relation to property in Wales as if—

(a) in paragraph (a) the reference to a county included a reference to a county borough; and

(b) paragraph (b) were omitted.]

(3) Any such agreement may contain such consequential and incidental provisions (including, with the approval of the Treasury, provisions of a financial character) as appear to the appropriate authority to be necessary or equitable.

(4) In this section, “the appropriate authority” means—

(a) in the case of property belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners or other government department having the management of the property,

(b) in the case of property belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy,

(c) in the case of property belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints, and

(d) in the case of property belonging to a government department or held in trust for Her Majesty for purposes of a government department, that department,

and, if a question arises as to what authority is the appropriate authority in relation to any property, that question shall be referred to the Treasury, whose decision is final.

#### Textual Amendments

**F402** S. 87(2A) inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 15(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); s.I. 1996/396, art. 3, Sch.1

#### Modifications etc. (not altering text)

**C83** S. 87 modified (17.7.1992) by S.I. 1992/1732, **art. 4(2)**

### *Inner London*

#### **88 Inner London.**

(1) In its application to inner London, this Part of this Act has effect subject to Part II of Schedule 3 to this Act.

(2) Part III of Schedule 3 to this Act has effect with respect to building and the drainage of buildings in the inner London boroughs.

(3) Part IV of Schedule 3 to this Act has effect with respect to the making of byelaws . . .

<sup>F403</sup>\_\_

(a) for the inner London boroughs, with respect to certain matters, and

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- (b) for the inner London boroughs, the Inner Temple and the Middle Temple, with respect to certain other matters.

**Textual Amendments**

**F403** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)

*Miscellaneous*

**89 References in Acts to building byelaws.**

- (1) Subject to subsection (2) below, for any reference to—
- (a) building byelaws as defined in section 343 of the <sup>M17</sup>Public Health Act 1936, or
  - (b) byelaws made under Part II of that Act with respect to buildings, works and fittings,
- that occurs in an Act, or in an instrument having effect under an Act, there is substituted a reference to building regulations.

- (2) ..... <sup>F404</sup>

**Textual Amendments**

**F404** S. 89(2) repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 3, 5(2), [Sch. 1 Pt. I, Sch. 4](#)

**Marginal Citations**

**M17** 1936 c. 49.

**90 Facilities for inspecting local Acts.**

- (1) In an area in which there is in force a local Act containing provisions that impose an obligation or restriction as to the construction, nature or situation of buildings, the local authority shall keep a copy of those provisions at their offices for inspection by the public at all reasonable times free of charge.
- (2) Any question as to what provisions of a local Act are provisions of which a copy is to be so kept shall, on the application of the local authority, be determined by the [<sup>F405</sup>appropriate national authority].

**Textual Amendments**

**F405** Words in s. 90(2) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 53](#); S.I. 2022/561, reg. 3(f), [Sch. para. 28](#); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 21](#)

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## [<sup>F406</sup>90A Functions under this Part: the regulator etc

- (1) The Secretary of State may by regulations provide that in specified cases, a specified function under this Part of local authorities in England is to be a function of the regulator instead of, or in addition to, the local authority in question.
- (2) The Secretary of State may by regulations provide that in specified cases, a relevant authority proposing to exercise a specified function under this Part must notify a specified relevant authority of specified matters.
- (3) The notification must be made in the specified way and by the specified time.
- (4) In this section—
  - “relevant authority” means the regulator or a local authority for an area in England;
  - “specified” means specified by regulations under this section.]

### Textual Amendments

**F406** S. 90A inserted (1.10.2023) by [Building Safety Act 2022 \(c. 30\)](#), [ss. 54](#), 170(4)(c); S.I. 2023/993, [reg. 2\(m\)](#)

## PART IV

### GENERAL

#### *Duties of local authorities [<sup>F407</sup> etc]*

### Textual Amendments

**F407** Word in [s. 91 cross-heading](#) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), [s. 170\(4\)\(b\)\(c\)](#), [Sch. 5 para. 54](#); S.I. 2023/993, [reg. 2\(n\)\(xxii\)](#)

## 91 Duties of local authorities [<sup>F408</sup> and the regulator].

- (1) It is the duty of local authorities to carry this Act into execution in their areas, subject to—
  - [<sup>F409</sup>(za) [subsection \(3\)](#) of this section and regulations under [section 91ZD](#),]
  - (a) the provisions of this Act relating to certain other authorities or persons,
  - (b) the provisions of Part I of the <sup>M18</sup>Public Health Act 1936 relating to united districts and joint boards,
  - (c) section 151 of the <sup>M19</sup>Local Government, Planning and Land Act 1980 (urban development areas), and
  - (d) section 1(3) of the <sup>M20</sup>Public Health (Control of Disease) Act 1984 (port health authorities).
- (2) It is the function of local authorities to enforce building regulations in their areas, subject to [<sup>F410</sup>sections 5(3), 48(1) and 53(2) above . . . <sup>F411</sup>]. [<sup>F410</sup>—
  - (a) [subsection \(3\)](#) of this section,
  - (b) sections 5(3), 48(1) and 53(2), and

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(c) regulations under section 91ZD.]

[<sup>F412</sup>(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.]

#### Textual Amendments

- F408** Words in s. 91 heading inserted (6.4.2023 for specified purposes except in relation to W., 1.10.2023 in so far as not already in force except in relation to W.) by Building Safety Act 2022 (c. 30), ss. 32(2)(d), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(m); S.I. 2023/993, reg. 2(f) (with reg. 4)
- F409** S. 91(1)(za) inserted (6.4.2023 for specified purposes except in relation to W., 1.10.2023 in so far as not already in force except in relation to W.) by Building Safety Act 2022 (c. 30), ss. 32(2)(a), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(m); S.I. 2023/993, reg. 2(f) (with reg. 4)
- F410** Words in s. 91(2) substituted (6.4.2023 for specified purposes except in relation to W., 1.10.2023 in so far as not already in force except in relation to W.) by Building Safety Act 2022 (c. 30), ss. 32(2)(b), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(m); S.I. 2023/993, reg. 2(f) (with reg. 4)
- F411** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, Sch. 17
- F412** S. 91(3) inserted (6.4.2023 for specified purposes except in relation to W., 1.10.2023 in so far as not already in force except in relation to W.) by Building Safety Act 2022 (c. 30), ss. 32(2)(c), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(m); S.I. 2023/993, reg. 2(f) (with reg. 4)

#### Marginal Citations

- M18** 1936 c. 49.  
**M19** 1980 c. 65.  
**M20** 1984 c. 22.

#### [<sup>F413</sup>91ZA] The regulator: building control authority for higher-risk buildings in England

- (1) The regulator is the building control authority in relation to any higher-risk building in England or any proposed such building.
- (2) This includes the regulator being the building control authority as regards—
  - (a) any work relating to a building in England 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 in England that causes it to cease to be such a building.
- (3) In this Act “higher-risk building work”, in relation to England, means any work for which the regulator is the building control authority by virtue of this section.
- (4) For the meaning of “higher-risk building” see section 120D.

#### Textual Amendments

- F413** Ss. 91ZA-91ZD inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by Building Safety Act 2022 (c. 30), ss. 32(3), 170(4); S.I. 2023/362, reg. 3(1)(m); S.I. 2023/914, reg. 2(a); S.I. 2023/993, reg. 2(f) (with reg. 4)



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

- (1) This section applies in relation to work of a prescribed description (“the work”) that is to be carried out in England and 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).

### **Textual Amendments**

**F413** Ss. 91ZA-91ZD inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), [ss. 32\(3\)](#), [170\(4\)](#); [S.I. 2023/362](#), [reg. 3\(1\)\(m\)](#); [S.I. 2023/914](#), [reg. 2\(a\)](#); [S.I. 2023/993](#), [reg. 2\(f\)](#) (with [reg. 4](#))

## **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) The person intending to carry out the work may appeal to the tribunal against a decision of the local authority to reject the regulator’s notice.
- (5) 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.
- (6) 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 documents that must accompany it;
  - (c) the way in which the notice, and anything that is to accompany it, is to be given.

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### Textual Amendments

**F413** Ss. 91ZA-91ZD inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), [ss. 32\(3\)](#), 170(4); S.I. 2023/362, [reg. 3\(1\)\(m\)](#); S.I. 2023/914, [reg. 2\(a\)](#); S.I. 2023/993, [reg. 2\(f\)](#) (with [reg. 4](#))

## 91ZD Higher-risk buildings in Wales: local authority work

- (1) Building regulations may make provision about cases where a local authority for an area in Wales (“the relevant local authority”) proposes to carry out higher-risk building work in that area.
- (2) The regulations may in particular—
  - (a) restrict (or prevent) the exercise by the relevant local authority of prescribed functions in relation to the higher-risk building work;
  - (b) require the relevant local authority to notify the Welsh Ministers of prescribed matters;
  - (c) confer on the Welsh Ministers a power to designate another local authority as the building control authority in relation to the higher-risk building work (instead of the relevant local authority);
  - (d) confer on the Welsh Ministers a power to require the relevant local authority to provide specified information, for the purposes of deciding whether to exercise the power of designation.
- (3) The regulations may also provide, in cases where a local authority is designated as the building control authority in relation to the higher-risk building work, that the relevant local authority and the designated local authority may agree that the designated local authority is to be the building control authority in relation to any work of a prescribed description that has a prescribed connection with the higher-risk building work.
- (4) Where, as a result of regulations made by virtue of [subsection \(2\)\(c\)](#) or [\(3\)](#), a designated local authority is the building control authority in relation to any work, as regards that work—
  - (a) prescribed functions are functions of the designated local authority (rather than the relevant local authority);
  - (b) the designated local authority (rather than the relevant local authority) must perform such functions relating to enforcement as may be prescribed.]

### Textual Amendments

**F413** Ss. 91ZA-91ZD inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), [ss. 32\(3\)](#), 170(4); S.I. 2023/362, [reg. 3\(1\)\(m\)](#); S.I. 2023/914, [reg. 2\(a\)](#); S.I. 2023/993, [reg. 2\(f\)](#) (with [reg. 4](#))

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**[<sup>F414</sup>91A Registers to be kept by local authorities [<sup>F415</sup>and the regulator]**

- (1) A [<sup>F416</sup>local authority][<sup>F416</sup>relevant authority] shall keep in a register such information and documents as may be prescribed in connection with their functions, powers and duties conferred or imposed by or under this Act.
- (2) The information and documents that may be prescribed for the purposes of subsection (1) above include, in particular—
  - (a) documents that are given or issued to [<sup>F417</sup>, or deposited with,] a [<sup>F418</sup>local authority][<sup>F418</sup>relevant authority] in accordance with provision made by or under this Act, or copies of such documents;
  - (b) copies of documents that are given, made or issued by a [<sup>F418</sup>local authority][<sup>F418</sup>relevant authority] in accordance with provision so made;
  - (c) information with respect to documents of the kind mentioned in paragraph (a) or (b);
  - (d) information with respect to matters to which such documents relate.
- (3) Information and documents that are required to be kept in a register under subsection (1) above shall be so kept for the prescribed period.
- (4) A [<sup>F419</sup>local authority][<sup>F419</sup>relevant authority]—
  - (a) shall maintain the register required under subsection (1) above in the prescribed manner;
  - (b) shall ensure that the register is available for inspection by members of the public during prescribed periods;
  - (c) shall, in prescribed circumstances, provide to members of the public, on request, copies of information and documents kept in the register;
  - (d) may, in prescribed circumstances, charge a member of the public to whom they provide such copies a fee calculated in the prescribed manner.
- (5) In this section—
  - “documents” includes notices, certificates, orders, consents, demands and plans;
  - “prescribed” means prescribed by regulations made by the [<sup>F420</sup>appropriate national authority] under this section.
  - [<sup>F421</sup>“relevant authority” means a local authority or the regulator.]

<sup>F422</sup>(6) .....

<sup>F422</sup>(7) .....

<sup>F422</sup>(8) .....]

**Textual Amendments**

**F414** S. 91A inserted (1.2.2006 for specified purposes) by [Sustainable and Secure Buildings Act 2004](#) (c. 22), [ss. 7, 11\(3\)](#); S.I. 2006/224, [art. 2\(b\)](#)

**F415** Words in s. 91A heading inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022](#) (c. 30), [s. 170\(4\)\(b\)\(c\)](#), [Sch. 5 para. 55\(5\)](#); S.I. 2023/993, [reg. 2\(n\)\(xxiii\)](#) (with [reg. 4](#))

**F416** Words in s. 91A(1) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022](#) (c. 30), [s. 170\(4\)\(b\)\(c\)](#), [Sch. 5 para. 55\(2\)](#); S.I. 2023/993, [reg. 2\(n\)\(xxiii\)](#) (with [reg. 4](#))

**F417** Words in s. 91A(2)(a) omitted (1.10.2023 except in relation to W.) by virtue of [Building Safety Act 2022](#) (c. 30), [s. 170\(4\)\(b\)\(c\)](#), [Sch. 5 para. 55\(3\)](#); S.I. 2023/993, [reg. 2\(n\)\(xxiii\)](#)

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- F418** Words in s. 91A(2) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 55(2)**; S.I. 2023/993, reg. 2(n)(xxiii) (with reg. 4)
- F419** Words in s. 91A(4) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 55(2)**; S.I. 2023/993, reg. 2(n)(xxiii) (with reg. 4)
- F420** Words in s. 91A(5) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 55(4)(a)**; S.I. 2022/561, reg. 3(f), Sch. para. 30; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 22
- F421** Words in s. 91A(5) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 55(4)(b)**; S.I. 2023/993, reg. 2(n)(xxiii) (with reg. 4)
- F422** S. 91A(6)-(8) omitted (28.6.2022 for E., 5.9.2023 for W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 55(6)**; S.I. 2022/561, reg. 3(f), Sch. para. 30; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 22

## Documents

### 92 Form of documents.

- (1) All—
- (a) notices, orders, consents, demands and other documents authorised or required by or under this Act to be given, made or issued by a local authority [<sup>F423</sup>or the regulator], and
  - (b) notices and applications authorised or required by or under this Act to be given or made to, or to any officer of, a local authority [<sup>F423</sup>or the regulator],
- shall be in writing.
- (2) The [<sup>F424</sup>appropriate national authority] may, by regulations <sup>F425</sup>..., prescribe the form of any notice, advertisement, certificate or other document to be used for any of the purposes of this Act, and if forms are so prescribed those forms or forms to the like effect may be used in all cases to which those forms are applicable.

#### Textual Amendments

- F423** Words in s. 92(1) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 57(2)**; S.I. 2023/993, reg. 2(n)(xxiv) (with reg. 4)
- F424** Words in s. 92(2) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 57(3)(a)**; S.I. 2022/561, reg. 3(f), Sch. para. 32; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 23
- F425** Words in s. 92(2) omitted (28.6.2022 for E., 5.9.2023 for W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 57(3)(b)**; S.I. 2022/561, reg. 3(f), Sch. para. 32; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 23

### 93 Authentication of documents.

- (1) A notice, order, consent, demand or other document that a local authority are authorised or required by or under this Act to give, make or issue may be signed on behalf of the authority—
- (a) by the proper officer of the authority or the district surveyor, as respects documents relating to matters within his province, or
  - (b) by an officer of the authority authorised by them in writing to sign documents of the particular kind or, as the case may be, the particular document.

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- (2) A document purporting to bear the signature of an officer—
- (a) expressed to hold an office by virtue of which he is under this section empowered to sign such a document, or
  - (b) expressed to be authorised by the local authority to sign such a document or the particular document,
- is deemed, for the purposes of this Act and of any building regulations and orders made under it, to have been duly given, made or issued by authority of the local authority, until the contrary is proved.
- (3) In subsection (2) above, “signature” includes a facsimile of a signature by whatever process reproduced.

#### 94 Service of documents.

- [<sup>F426</sup>(1)] A notice, order, consent, demand or other document that is authorised or required by or under this Act to be given to or served on a person may, in any case for which no other provision is made by [<sup>F427</sup> or under] this Act, be given or served either—
- (a) by delivering it to that person,
  - (b) in the case of an officer of a local authority, by leaving it, or sending it in a prepaid letter addressed to him, at his office,
  - [<sup>F428</sup>(ba)] in the case of an authorised officer of the regulator, by—
    - (i) leaving it at the relevant address (see subsection (2)), or
    - (ii) sending it in a prepaid letter addressed to the officer at the relevant address;]
  - (c) in the case of any [<sup>F429</sup> other person][<sup>F429</sup> person other than an officer of a local authority or an authorised officer of the regulator], by leaving it, or sending it in a prepaid letter addressed to him, at his usual or last known residence,
  - [<sup>F430</sup>(ca)] in the case of a partnership, by—
    - (i) delivering it to any partner,
    - (ii) leaving it at the principal office of the partnership, or
    - (iii) sending it in a prepaid letter addressed to the partnership at its principal office;]
  - (d) in the case of an incorporated company or body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it in a prepaid letter addressed to him at that office,
  - (e) in the case of a document to be given to or served on a person as being the owner of any premises by virtue of the fact that he receives the rackrent thereof as agent for another, or would so receive it if the premises were let at a rackrent, by leaving it, or sending it in a prepaid letter addressed to him, at his place of business,
  - (f) in the case of a document to be given to or served on the owner or the occupier of any premises, if it is not practicable after reasonable inquiry to ascertain the name and address of the person to or on whom it should be given or served, or if the premises are unoccupied, by addressing it to the person concerned by the description of “owner” or “occupier” of the premises (naming them) to which it relates, and delivering it to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

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[<sup>F431</sup>(g) by sending it by email to an electronic address at which the person has agreed to receive documents or has agreed to receive the document.]

[<sup>F432</sup>(2) In subsection (1)—

“agreed” means agreed in writing;

“authorised officer” means a person in respect of whom an authorisation under section 22 of the Building Safety Act 2022 is in force;

“the relevant address” means—

- (a) the address specified by the officer in writing, or
- (b) if no address has been specified, the principal office of the regulator.]

#### Textual Amendments

- F426** S. 94 renumbered as s. 94(1) (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 58\(2\)](#); S.I. 2023/993, reg. 2(n)(xxv)
- F427** Words in s. 94(1) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 58\(3\)\(a\)](#); S.I. 2023/993, reg. 2(n)(xxv)
- F428** S. 94(1)(ba) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 58\(3\)\(b\)](#); S.I. 2023/993, reg. 2(n)(xxv) (with reg. 4)
- F429** Words in s. 94(1)(c) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 58\(3\)\(c\)](#); S.I. 2023/993, reg. 2(n)(xxv)
- F430** S. 94(1)(ca) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 58\(3\)\(d\)](#); S.I. 2023/993, reg. 2(n)(xxv)
- F431** S. 94(1)(g) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 58\(3\)\(e\)](#); S.I. 2023/993, reg. 2(n)(xxv)
- F432** S. 94(2) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 58\(4\)](#); S.I. 2023/993, reg. 2(n)(xxv) (with reg. 4)

#### [<sup>F433</sup> **Electronic service of documents**

94A

[<sup>F434</sup>(1) This section applies where—

- (a) section 94 authorises the giving or serving of a document by its delivery to a particular person (“the recipient”), and
  - (b) the document is of a kind mentioned in subsection (7).
- (2) Transmission of the document to the recipient by means of an electronic communication has effect for the purposes of section 94 as delivery of the document to the recipient if, and only if, the conditions in subsection (3) are met.
- (3) The conditions are—
- (a) that the recipient has stated a willingness to receive the document by means of an electronic communication,
  - (b) that the statement has not been withdrawn, and
  - (c) that the document was transmitted to an electronic address specified by the recipient.
- (4) A statement may be limited to documents of a specified description.
- (5) A statement may require a document to be in a specified electronic form.
- (6) A statement may be modified or withdrawn—



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- (a) in a case where the statement was made by being published, by publishing the modification or withdrawal in the same or in a similar manner;
  - (b) in any other case, by giving a notice to the person to whom the statement was made.
- (7) The documents are—
- (a) a notice under section 16(6), 47, 50(7) or (8), 51A, 51C, 52, 54 or paragraph 1(1) or 2(5) or (6) of Schedule 4;
  - (b) a document containing plans or evidence which accompanies a notice under section 47(1), 51A(2) or 54(1);
  - (c) a certificate under section 50(1), 51(1) or paragraph 2(1) or 3(1) of Schedule 4;
  - (d) a combined notice and certificate under section 50(4) or paragraph 2(2) of Schedule 4.
- (8) In this section—
- “electronic address” includes any number or address used for the purposes of receiving electronic communications;
  - “electronic communication” means an electronic communication within the meaning of the Electronic Communications Act 2000;
  - “specified” means specified in a statement made for the purposes of subsection (3)(a).]]

#### Textual Amendments

**F433** S. 94A inserted (1.10.2008) by [Building \(Electronic Communications\) Order 2008 \(S.I. 2008/2334\)](#), arts. 1, 2

**F434** S. 94A omitted (1.10.2023 except in relation to W.) by virtue of [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 59](#); S.I. 2023/993, reg. 2(n)(xxv)

#### Modifications etc. (not altering text)

**C84** S. 94A modified by SI 2000/2531, reg. 22B (as inserted (1.10.2008) by [Building \(Electronic Communications\) Order 2008 \(S.I. 2008/2334\)](#), arts. 1, 3)

**C85** S. 94A modified by SI 2000/2532, reg. 31A (as inserted (1.10.2008) by [Building \(Electronic Communications\) Order 2008 \(S.I. 2008/2334\)](#), arts. 1, 4)

**C86** S. 94A modified (1.10.2010) by [The Building \(Approved Inspectors etc.\) Regulations 2010 \(S.I. 2010/2215\)](#), regs. 1, 32 (as amended (W.) (17.6.2016) by [The Building Regulations c. \(Amendment\) \(Wales\) Regulations 2016 \(S.I. 2016/611\)](#), regs. 1(4), 3(4)(b) (with reg. 1(3))

**C87** S. 94A modified (1.10.2010) by [The Building Regulations 2010 \(S.I. 2010/2214\)](#), regs. 1, 48(1) (with reg. 9) (as amended (9.1.2013) by [The Building Regulations &c. \(Amendment\) Regulations 2012 \(S.I. 2012/3119\)](#), [reg. 26](#), [Sch. 1](#) (with regs. 1(3), 45-47)

### Entry on premises

#### 95 Power to enter premises.

- (1) Subject to this section, an authorised officer of a local authority, on producing, if so required, some duly authenticated document showing his authority, has a right to enter any premises at all reasonable hours—

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- (a) for the purpose of ascertaining whether there is, or has been, on or in connection with the premises, a contravention of this Act, or of any building regulations, that it is the duty of the local authority to enforce,
  - (b) for the purpose of ascertaining whether or not circumstances exist that would authorise or require the local authority to take any action, or execute any work, under this Act or under building regulations,
  - (c) for the purpose of taking any action, or executing any work, authorised or required by this Act, or by building regulations, or by an order made under this Act, to be taken, or executed, by the local authority, or
  - (d) generally for the purpose of the performance by the local authority of their functions under this Act or under building regulations.
- (2) Admission to premises, other than a factory or workplace, shall not be demanded as of right unless 24 hours' notice of the intended entry has been given to the occupier.
- [<sup>F435</sup>(2A) Subsections (1) and (2) do not apply in relation to premises used wholly or mainly as a private dwelling.]
- (3) If it is shown to the satisfaction of a justice of the peace on sworn information in writing that—
- (a) admission to any premises has been refused, or refusal is apprehended, or the premises are unoccupied, or the occupier is temporarily absent, or the case is one of urgency, or an application for admission would defeat the object of the entry, and
  - (b) there is reasonable ground for entry into the premises for any of the purposes mentioned in subsection (1) above,
- the justice may by warrant under his hand authorise the local authority by any authorised officer to enter the premises, if need be by force.
- (4) A warrant shall not be issued under subsection (3) above unless the justice is satisfied that—
- (a) notice of the intention to apply for a warrant has been given to the occupier, or
  - (b) the premises are unoccupied, or the occupier is temporarily absent, or the case is one of urgency, or the giving of the notice would defeat the object of the entry.

#### Textual Amendments

**F435** S. 95(2A) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 60](#); [S.I. 2023/993](#), reg. 2(n)(xxv)

## 96 Supplementary provisions as to entry.

- (1) An authorised officer entering premises by virtue of section 95 above, or of a warrant issued under it, may take with him such other persons as may be necessary, and on leaving unoccupied premises that he has entered by virtue of such a warrant he shall leave them as effectually secured against trespassers as he found them.
- (2) A warrant issued under that section shall continue in force until the purpose for which the entry is necessary has been satisfied.
- (3) A person who—

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- (a) is admitted into a factory or workplace in compliance with that section or a warrant issued under it, and
  - (b) discloses to another person information obtained by him in the factory or workplace with regard to a manufacturing process or trade secret,
- is liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding three months, unless the disclosure was made in the performance of his duty.

### *Execution of works*

#### **97 Power to execute work.**

A local authority [<sup>F436</sup>or the regulator] may, by agreement with the owner or occupier of any premises, themselves execute at his expense—

- (a) any work that they have under this Act required him to execute, or
- (b) any work in connection with the construction, laying, alteration or repair of a sewer or drain that he is entitled to execute,

and for that purpose they have all the rights that he would have.

#### **Textual Amendments**

**F436** Words in s. 97 inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 61](#); S.I. 2023/993, reg. 2(n)(xxv) (with reg. 4)

#### **98 Power to require occupier to permit work.**

If, on [<sup>F437</sup>a complaint][<sup>F437</sup>an application or (as the case may be) complaint] made by the owner of premises, it appears to [<sup>F438</sup>a magistrates' court][<sup>F438</sup>the appropriate court or tribunal] that the occupier of those premises prevents the owner from executing any work that he is by or under this Act required to execute, the court [<sup>F439</sup>or tribunal] may order the occupier to permit the execution of the work.

#### **Textual Amendments**

**F437** Words in s. 98 substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 23\(a\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

**F438** Words in s. 98 substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 9\(q\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

**F439** Words in s. 98 inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 23\(b\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

#### **99 Content and enforcement of notice requiring works.**

- (1) A notice in relation to which it is declared by any provision of this Act that this section applies shall indicate the nature of the works to be executed and state the time within which they are to be executed.

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- (2) Subject to any right of appeal conferred by section 102 below, if the person required by such a notice to execute works fails to execute them within the time limited by the notice—
- (a) the local authority [<sup>F440</sup>or the regulator (as the case may be)] may themselves execute the works and recover from that person the expenses reasonably incurred by them in doing so, and
  - (b) without prejudice to that power, he is liable on summary conviction to a fine not exceeding level 4 on the standard scale and to a further fine not exceeding £2 for each day on which the default continues after he is convicted.
- (3) This section has effect subject to any modification specified in the provision under which the notice is given.

#### Textual Amendments

**F440** Words in s. 99(2)(a) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 62](#); S.I. 2023/993, [reg. 2\(n\)\(xxv\)](#) (with [reg. 4](#))

### 100 Sale of materials.

- (1) A [<sup>F441</sup>local authority][<sup>F441</sup>relevant authority] may sell any materials that—
- (a) have been removed by them from any premises, including a street, when executing works under this Act or otherwise carrying this Act into effect, and
  - (b) are not before the expiration of three days from the date of their removal claimed by the owner and taken away by him.
- (2) Where a [<sup>F441</sup>local authority][<sup>F441</sup>relevant authority] sell materials under this section, they shall pay the proceeds to the person to whom the materials belonged, after deducting the amount of any expenses recoverable by them from him.
- (3) This section does not apply to refuse removed by a [<sup>F441</sup>local authority][<sup>F441</sup>relevant authority].

[<sup>F442</sup>(4) In this section “relevant authority” means a local authority or the regulator.]

#### Textual Amendments

**F441** Words in s. 100 substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 63\(2\)](#); S.I. 2023/993, [reg. 2\(n\)\(xxv\)](#) (with [reg. 4](#))

**F442** S. 100(4) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 63\(3\)](#); S.I. 2023/993, [reg. 2\(n\)\(xxv\)](#) (with [reg. 4](#))

### 101 Breaking open of streets.

- (1) For the purposes of any section of this Act that confers powers on [<sup>F443</sup>local authorities][<sup>F443</sup>any relevant authority] to construct, lay or maintain sewers, drains or pipes, [<sup>F444</sup>[<sup>F445</sup>section 158 of the Water Industry Act 1991] (street works) shall apply, with the necessary modifications, as [<sup>F446</sup>it applies] for the purpose of conferring power on a water undertaker or sewerage undertaker to lay a relevant pipe, within the meaning of [<sup>F447</sup>that section].]

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[<sup>F448</sup>(2) [<sup>F449</sup>That section] shall also so apply so far as necessary for the purposes of any power to lay or maintain a sewer or drain which is conferred by this Act on a person other than a [<sup>F450</sup>local authority][<sup>F450</sup>relevant authority].]

[<sup>F451</sup>(3) In this section “relevant authority” means a local authority or the regulator.]

#### Textual Amendments

- F443** Words in s. 101(1) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 64(2)**; S.I. 2023/993, reg. 2(n)(xxv) (with reg. 4)
- F444** Words in s. 101(1) substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 70(3)(a), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F445** words in s. 101(1) substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 39(5)(a)**.
- F446** Words in s. 101(1) substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 39(5)(a)**.
- F447** Words in s. 101(1) substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 39(5)(a)**.
- F448** S. 101(2) substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 70(3)(b), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F449** Words in s. 101(2) substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 39(5)(b)**.
- F450** Words in s. 101(2) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 64(3)**; S.I. 2023/993, reg. 2(n)(xxv) (with reg. 4)
- F451** S. 101(3) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 64(4)**; S.I. 2023/993, reg. 2(n)(xxv) (with reg. 4)

[<sup>F452</sup>*Appeal against refusal to consider application etc*

#### Textual Amendments

- F452** S. 101A and cross-heading inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 30**; S.I. 2023/362, reg. 3(1)(x); S.I. 2023/914, reg. 2(b)(xv); S.I. 2023/993, reg. 2(o)(ii) (with reg. 6)

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

- (1) This section applies where—
- a local authority for an area in England refuses to consider an application for building control approval, or
  - a local authority refuses to consider an initial notice (within the meaning of section 47) or an amendment notice (within the meaning of section 51A),
- on the ground that all or part of the work to which the application or notice relates is higher-risk building work.
- (2) The person intending to carry out the work may appeal to the appropriate national authority, before the end of the prescribed period, on the ground that none of the work is higher-risk building work.

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- (3) Building regulations may make provision about appeals under this section, including in particular provision—
- (a) about the making of an appeal;
  - (b) requiring an appellant to notify the local authority of the making of an appeal;
  - (c) imposing duties on the local authority in cases where an appeal is made;
  - (d) for and in connection with the appropriate national authority appointing a person to determine the appeal (including provision conferring functions on that person and providing that their decision is treated as the decision of the appropriate national authority);
  - (e) about the procedure to be adopted in connection with the determination of the appeal.
- (4) The provision that may be made by virtue of subsection (3)(a) includes provision about—
- (a) the form and content of a notice of appeal;
  - (b) the information and documents that are to accompany a notice of appeal;
  - (c) the way in which a notice of appeal, and anything that is to accompany it, is to be given.
- (5) The decision made on the appeal is final (subject to subsection (6)).
- (6) The appellant or the local 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 appropriate national authority on a point of law.]

*Appeal against notice requiring works*

**102 Appeal against notice requiring works.**

- (1) Where a person is given a notice in relation to which it is declared by any provision of this Act that this section applies, he may appeal to [F453a magistrates' court][F453the appropriate court or tribunal] on any of the following grounds that are appropriate in the circumstances of the particular case—
- (a) that the notice or requirement is not justified by the terms of the provision under which it purports to have been given,
  - (b) that there has been some informality, defect or error in, or in connection with, the notice,
  - (c) that the authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary,
  - (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose,
  - (e) that the notice might lawfully have been served on the occupier of the premises in question instead of on the owner, or on the owner instead of on the occupier, and that it would have been equitable for it to have been so served,
  - (f) where the works are works for the common benefit of the premises in question and other premises, that some other person, being the owner or occupier of premises to be benefited, ought to contribute towards the expenses of executing any works required.



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- (2) If and in so far as an appeal under this section is based on the ground of some informality, defect or error in or in connection with the notice, the court [<sup>F454</sup>or tribunal] shall dismiss the appeal, if it is satisfied that the informality, defect or error was not a material one.
- (3) The appellant—
- (a) shall, where the grounds upon which the appeal is brought include a ground specified in subsection (1)(e) or (f) above, serve a copy of his notice of appeal on each other person referred to, and
  - (b) may, in the case of any appeal under this section, serve a copy of his notice of appeal on any other person having an estate or interest in the premises in question,
- and on the hearing of the appeal the court [<sup>F455</sup>or tribunal] may make such order as it thinks fit with respect to—
- (i) the person by whom any works are to be executed and the contribution to be made by any other person towards the cost of the works, or
  - (ii) the proportions in which any expenses that may become recoverable by the local authority [<sup>F456</sup>or the regulator] are to be borne by the appellant and such other person.
- (4) In exercising its powers under subsection (3) above, the court [<sup>F457</sup>or tribunal] shall have regard—
- (a) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy and to the nature of the works required, and
  - (b) in any case, to the degree of benefit to be derived by the different persons concerned.
- (5) This section has effect subject to any modification specified in the provision under which the notice is given.

#### Textual Amendments

**F453** Words in s. 102(1) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022](#) (c. 30), s. 170(4)(b)(c), [Sch. 6 para. 9\(r\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

**F454** Words in s. 102(2) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022](#) (c. 30), s. 170(4)(b)(c), [Sch. 6 para. 24](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

**F455** Words in s. 102(3) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022](#) (c. 30), s. 170(4)(b)(c), [Sch. 6 para. 24](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

**F456** Words in s. 102(3)(b)(ii) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022](#) (c. 30), s. 170(4)(b)(c), [Sch. 5 para. 65](#); S.I. 2023/993, reg. 2(n)(xxv) (with reg. 4)

**F457** Words in s. 102(4) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022](#) (c. 30), s. 170(4)(b)(c), [Sch. 6 para. 24](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

#### *General provisions about appeals and applications*

### **103 Procedure on appeal or application to [<sup>F458</sup>magistrates' court][<sup>F458</sup>appropriate court or tribunal].**

- (1) Where this Act provides—

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- (a) for an appeal to a magistrates' court against a requirement, refusal or other decision of a local authority, or
- (b) for a matter to be determined by, or for an application in respect of a matter to be made to, a magistrates' court,

the procedure shall be by way of complaint for an order.

[<sup>F459</sup>(1A) Subsections (2) and (3) apply—

- (a) where this Act provides for an appeal to the tribunal against a requirement, refusal or other decision of a relevant authority, and
- (b) in relation to an appeal of a kind mentioned in subsection (1)(a).]

(2) The time within which such an appeal may be brought is 21 days from the date on which notice of the [<sup>F460</sup>local][<sup>F460</sup>relevant] authority's requirement, refusal or other decision was served upon the person desiring to appeal, and for the purposes of this subsection the making of the [<sup>F461</sup>application or] complaint is deemed to be the bringing of the appeal.

(3) In a case where such an appeal lies, the document notifying to the person concerned the [<sup>F462</sup>local][<sup>F462</sup>relevant] authority's decision in the matter shall state the right of appeal to [<sup>F463</sup>a magistrates' court][<sup>F463</sup>the appropriate court or tribunal] and the time within such an appeal may be brought.

[<sup>F464</sup>(4) In this section “relevant authority” means a local authority or the regulator.]

#### Textual Amendments

- F458** Words in s. 103 heading substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 25\(6\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F459** S. 103(1A) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 25\(2\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F460** Word in s. 103(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 25\(3\)\(a\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F461** Words in s. 103(2) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 25\(3\)\(b\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F462** Word in s. 103(3) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 25\(4\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F463** Words in s. 103(3) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 9\(s\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F464** S. 103(4) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 25\(5\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

#### 104 Local authority [<sup>F465</sup>or regulator] to give effect to appeal.

Where upon an appeal under this Act a court [<sup>F466</sup>or tribunal] varies or reverses a decision of a local authority [<sup>F467</sup>or the regulator], it is the duty of the local authority [<sup>F468</sup>or regulator] to give effect to the order of the court [<sup>F466</sup>or tribunal] and, in particular, to grant or issue any necessary consent, certificate or other document, and to make any necessary entry in any register.

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#### Textual Amendments

- F465** Words in s. 104 heading inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 66\(3\)](#); S.I. 2023/993, reg. 2(n)(xxv) (with reg. 4)
- F466** Words in s. 104 inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 26](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F467** Words in s. 104 inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 66\(2\)\(a\)](#); S.I. 2023/993, reg. 2(n)(xxv) (with reg. 4)
- F468** Words in s. 104 inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 66\(2\)\(b\)](#); S.I. 2023/993, reg. 2(n)(xxv) (with reg. 4)

### 105 Judge not disqualified by liability to rates.

A judge of a court [<sup>F469</sup>or tribunal] or a justice of the peace is not disqualified from acting in cases arising under this Act by reason only of his being, as one of several ratepayers, or as one of any other class of persons, liable in common with the others to contribute to, or be benefited by, a rate or fund out of which expenses of a local authority are to be defrayed.

#### Textual Amendments

- F469** Words in s. 105 inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 27](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

### [<sup>F470</sup>105A] Enforcement of decisions of the First-tier and Upper Tribunal

- (1) A decision of the First-tier Tribunal or Upper Tribunal made under or in connection with this Act is enforceable with the permission of the county court in the same way as an order of that court.
- (2) Subsection (1) does not apply to a decision of the First-tier Tribunal or Upper Tribunal ordering the payment of a sum (as to which see section 27 of the Tribunals, Courts and Enforcement Act 2007 (enforcement)).]

#### Textual Amendments

- F470** [S. 105A](#) inserted (1.10.2023) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(c), [Sch. 6 para. 29](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

### [<sup>F471</sup>Fees, charges and levies

#### Textual Amendments

- F471** [S. 105B](#) and cross-heading inserted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), [ss. 57](#), 170(4)(b)(c); S.I. 2022/561, reg. 3(g); S.I. 2023/914, reg. 2(b)(xvi)

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**105B Fees and charges**

- (1) The appropriate national authority 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;
 and may make provision about the effect of failing to pay a fee or charge 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—
  - (a) in relation to England, the regulator or a local authority for an area in England;
  - (b) in relation to Wales, the Welsh Ministers or a local authority for an area in Wales.]

*Compensation, and recovery of sums*

**106 Compensation for damage.**

- (1) A local authority shall make full compensation to a person who has sustained damage by reason of the exercise by the authority, in relation to a matter as to which he has not himself been in default, of any of their powers under this Act.
- (2) <sup>F472</sup>... Any dispute arising under this section as to the fact of damage, or as to the amount of compensation, shall be determined by arbitration.
- <sup>F473</sup>(3) .....

**Textual Amendments**

**F472** Words in s. 106(2) omitted (28.6.2022 for E., 5.9.2023 for W.) by virtue of [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 67\(2\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 33](#); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 24](#)

**F473** S. 106(3) omitted (28.6.2022 for E., 5.9.2023 for W.) by virtue of [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 67\(3\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 33](#) (with reg. 7(2)); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 24](#) (with reg. 8)

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## 107 Recovery of expenses etc.

- (1) Where a <sup>F474</sup>local authority<sup>F474</sup> <sup>F474</sup>relevant authority<sup>F474</sup> have incurred expenses for whose repayment the owner of the premises in respect of which the expenses were incurred is liable, either under this Act or by agreement with the authority, those expenses, together with interest from the date of service of a demand for the expenses, may be recovered by the authority—
- (a) from the person who is the owner of the premises at the date on which the works are completed, or
  - (b) if he has ceased to be the owner of the premises before the date on which a demand for the expenses is served, either from him or from the person who is the owner at the date on which the demand is served,
- and, as from the date of the completion of the works, the expenses and interest accrued due thereon are, until recovered, a charge on the premises and on all estates and interests in them.
- (2) A <sup>F474</sup>local authority<sup>F474</sup> <sup>F474</sup>relevant authority<sup>F474</sup>, for the purpose of enforcing a charge under subsection (1) above, have all the same powers and remedies under the <sup>M21</sup>Law of Property Act 1925 and otherwise as if they were mortgagees by deed having powers of sale and lease, or accepting surrenders of leases and appointing a receiver.
- (3) The rate of interest chargeable under subsection (1) above is such reasonable rate as the authority may determine.
- (4) A sum that a <sup>F474</sup>local authority<sup>F474</sup> <sup>F474</sup>relevant authority<sup>F474</sup> are entitled to recover under this Act, and with respect to whose recovery provision is not made by any other section of this Act, may be recovered as a simple contract debt in any court of competent jurisdiction.
- (5) Where—
- (a) a person has been given a notice in relation to which section 102 above applies, and
  - (b) the <sup>F474</sup>local authority<sup>F474</sup> <sup>F474</sup>relevant authority<sup>F474</sup> take proceedings against him for the recovery of expenses that they are entitled to recover from him,
- it is not open to him to raise any question that he could have raised on an appeal under that section.

<sup>F475</sup>(6) In this section “relevant authority” means a local authority or the regulator.]

### Textual Amendments

**F474** Words in s. 107 substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 68\(2\)](#); S.I. 2023/993, reg. 2(n)(xxvi) (with reg. 4)

**F475** S. 107(6) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 68\(3\)](#); S.I. 2023/993, reg. 2(n)(xxvi) (with reg. 4)

### Modifications etc. (not altering text)

**C88** Ss. 107-110 applied (with modifications) (13.7.2004) by [London Local Authorities Act 2004 \(c. i\)](#), ss. 1(1), [s. 10\(3\)-\(5\)](#)

### Marginal Citations

**M21** 1925 c. 20.

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## 108 Payment by instalments.

- (1) A [<sup>F476</sup>local authority][<sup>F476</sup>relevant authority] may by order declare any expenses recoverable by them under section 107(1) above to be payable with interest by instalments within a period not exceeding 30 years, until the whole amount is paid.
- (2) An order may be made under subsection (1) above at any time with respect to an unpaid balance of expenses and accrued interest, but the period for repayment shall not in any case extend beyond 30 years from the service of the first demand for the expenses.
- (3) Any such instalments and interest, or any part thereof, may be recovered from the owner or occupier for the time being of the premises in respect of which the expenses were incurred, and if recovered from the occupier, may be deducted by him from the rent of the premises; but an occupier shall not be required to pay at any one time a sum in excess of the amount that—
  - (a) was due from him on account of rent at, or
  - (b) has become due from him on account of rent since,
 the date on which he received a demand from the [<sup>F476</sup>local authority][<sup>F476</sup>relevant authority] together with a notice requiring him not to pay rent to his landlord without deducting the sum so demanded.
- (4) The rate of interest chargeable under subsection (1) above is such reasonable rate as the authority may determine.

[<sup>F477</sup>(5) In this section “relevant authority” means a local authority or the regulator.]

### Textual Amendments

**F476** Words in s. 108 substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 69\(2\)](#); S.I. 2023/993, reg. 2(n)(xxvi) (with reg. 4)

**F477** S. 108(5) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 69\(3\)](#); S.I. 2023/993, reg. 2(n)(xxvi) (with reg. 4)

### Modifications etc. (not altering text)

**C88** Ss. 107-110 applied (with modifications) (13.7.2004) by [London Local Authorities Act 2004 \(c. i\)](#), ss. 1(1), [s. 10\(3\)-\(5\)](#)

<sup>F478</sup>109 .....

### Textual Amendments

**F478** S. 109 repealed (5.11.1993) by [1993 c. 50](#), s. 1(1), [Sch. 1 Pt.1](#) Group 4.

## 110 Liability of agent or trustee.

- [<sup>F479</sup>(1)] Where a [<sup>F480</sup>local authority][<sup>F480</sup>relevant authority] claim to recover expenses under this Act from a person as being the owner of the premises in respect of which the expenses were incurred, and that person proves that—
  - (a) he is receiving the rent of those premises merely as agent or trustee for some other person, and



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(b) he has not, and since the date of the service on him of a demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,

his liability is limited to the total amount of the money that he has or has had in his hands as aforesaid, but a [<sup>F480</sup>local authority][<sup>F480</sup>relevant authority] who are, or would be, debarred by the foregoing provisions of this section from recovering the whole or any such expenses from an agent or trustee may recover the whole or any unpaid balance thereof from the person on whose behalf the agent or trustee receives the rent.

[<sup>F481</sup>(2) In this section “relevant authority” means a local authority or the regulator.]

#### Textual Amendments

- F479** S. 110 renumbered as s. 110(1) (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 70\(2\)](#); S.I. 2023/993, reg. 2(n)(xxvi) (with reg. 4)
- F480** Words in s. 110 substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 70\(2\)](#); S.I. 2023/993, reg. 2(n)(xxvi) (with reg. 4)
- F481** S. 110(2) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 70\(3\)](#); S.I. 2023/993, reg. 2(n)(xxvi) (with reg. 4)

#### Modifications etc. (not altering text)

- C88** Ss. 107-110 applied (with modifications) (13.7.2004) by [London Local Authorities Act 2004 \(c. i\)](#), ss. 1(1), [s. 10\(3\)-\(5\)](#)

## 111 Arbitration.

In an arbitration under this Act, the reference shall be to a single arbitrator appointed by agreement between the parties, or in default of agreement by the [<sup>F482</sup>appropriate national authority].

#### Textual Amendments

- F482** Words in s. 111 substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 71](#); S.I. 2022/561, reg. 3(f), [Sch. para. 34](#); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 25](#)

## Obstruction

## 112 Obstruction

[<sup>F483</sup>(1)] A person who wilfully obstructs a person acting in the execution of this Act, or of building regulations, or of an order or warrant made or issued under this Act, is in a case for which no other provision is made by this Act, liable on summary conviction to a fine not exceeding [<sup>F484</sup>level 1][<sup>F484</sup>level 3] on the standard scale.

[<sup>F485</sup>(2) Subsection (1) does not apply where the person obstructed is an authorised officer (within the meaning of section 22 of the Building Safety Act 2022).]

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#### Textual Amendments

- F483** S. 112 renumbered as s. 112(1) (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 72\(2\)](#); S.I. 2023/993, reg. 2(n)(xxvii)
- F484** Words in s. 112(1) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 72\(3\)](#); S.I. 2023/993, reg. 2(n)(xxvii)
- F485** S. 112(2) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 72\(4\)](#); S.I. 2023/993, reg. 2(n)(xxvii) (with reg. 4)

### Prosecutions

#### [<sup>F486</sup>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.]

#### Textual Amendments

- F486** S. 112A inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), [ss. 40](#), 170(4)(b)(c); S.I. 2023/993, reg. 2(j)

### 113 Prosecution of offences.

Proceedings in respect of an offence created by or under this Act shall not, without the written consent of the Attorney General, be taken by any person other than—

- (a) a party aggrieved, or
- (b) a local authority [<sup>F487</sup>, the regulator, the Welsh Ministers, the Counsel General to the Welsh Government] or a body whose function it is to enforce the provision in question.

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**Textual Amendments**

**F487** Words in s. 113(b) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 73](#); S.I. 2023/993, reg. 2(n)(xxvii)

**114 Continuing offences.**

Where provision is made by or under this Act for the imposition of a daily penalty in respect of a continuing offence—

- (a) the court by which a person is convicted of the original offence may fix a reasonable period from the date of conviction for the defendant to comply with any directions given by the court, and
- (b) where the court has fixed such a period, the daily penalty is not recoverable in respect of any day before the period expires.

*Protection of members etc. of authorities*

**115 Protection of members etc. of authorities.**

- (1) Nothing done, and no contract entered into by a local authority, port health authority or joint board, and nothing done by a member or officer of, or person acting under the direction of, such an authority or board, shall subject them or him personally to any action, liability, claim or demand whatsoever, if it is done or entered into bona fide for the purpose of executing this Act.
- (2) Any expense incurred by such an authority, board member, officer or other person acting bona fide for the purpose aforesaid shall be borne and repaid out of the fund or rate applicable by the authority or board for the general purposes of this Act.

<sup>F488</sup>(3) .....

**Textual Amendments**

**F488** S. 115(3) omitted (1.4.2015) by virtue of [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 12 para. 11](#); S.I. 2015/841, art. 3(x)

*Default powers*

**116 Default powers of Secretary of State.**

- (1) If the Secretary of State is satisfied that a local authority or joint board have failed to discharge their functions under this Act in a case in which they ought to have discharged them, he may make an order declaring them to be in default and directing them for the purpose of removing the default to discharge such of their functions, in such manner and within such time or times, as may be specified in the order.
- (2) If a local authority or joint board with respect to whom an order has been made under subsection (1) above fail to comply with a requirement of the order within the time limited by the order for compliance with that requirement, the Secretary of State, in

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lieu of enforcing the order by mandamus or otherwise, may make an order transferring to himself such of the functions of the body in default as may be specified in his order.

### 117 Expenses of Secretary of State.

- (1) Where the Secretary of State has by order under section 116(2) above transferred functions to himself, any expenses incurred by him in discharging those functions shall be paid in the first instance out of moneys provided by Parliament, but the amount of those expenses as certified by the Secretary of State—
  - (a) shall be paid to him by the body in default on demand, and
  - (b) is recoverable by him from it as a debt due to the Crown,
 and that body has the like power of raising the money required as it has of raising money for defraying expenses incurred directly by it.
- (2) The payment of such expenses as aforesaid is, to such extent as may be sanctioned by the Secretary of State, a purpose for which a local authority or joint board may borrow money in accordance with the statutory provisions relating to borrowing by such an authority or board.

### 118 Variations or revocation of order transferring powers.

- (1) Where the Secretary of State has made an order under section 116(2) above, he may at any time by a subsequent order vary or revoke that order, but without prejudice to the validity of anything previously done.
- (2) Where an order is so revoked, the Secretary of State may, either by the revoking order or by a subsequent order, make such provision as appears to him to be desirable with respect to the transfer, vesting and discharge of any property or liabilities acquired or incurred by him in discharging functions to which the revoked order related.

#### *Local inquiries*

### 119 Local inquiries.

- (1) The [<sup>F489</sup>appropriate national authority or the regulator] may cause a local inquiry to be held in a case where [<sup>F490</sup>it] is authorised by this Act to determine a difference, to make an order, to give a consent or approval or otherwise to act under such a provision.
- [<sup>F491</sup>(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.]

#### **Textual Amendments**

**F489** Words in s. 119(1) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 74\(2\)\(a\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 36](#); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 26](#)

**F490** Word in s. 119(1) substituted (28.6.2022 for E., 5.9.2023 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 74\(2\)\(b\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 36](#); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 26](#)

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**F491** S. 119(2) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 74(3)**; S.I. 2023/993, reg. 2(n)(xxviii)

### Orders <sup>F492</sup>and regulations]

#### Textual Amendments

**F492** Words in s. 120 cross-heading inserted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 75**; S.I. 2022/561, reg. 3(f), Sch. para. 37; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 27

## 120 Orders.

- (1) The power to make an order under <sup>F493</sup>section 16(13), 30(3) or (4), 42(7), 69(6) or 134(1) above, or under paragraph 5(2) of Schedule 1 to this Act, <sup>F493</sup>is exercisable by statutory instrument, and different days may be appointed by such an order for different provisions or for different purposes.
- (2) An order under section <sup>F494</sup>... 134(1) (a), (b) or (c) below may contain such transitional provisions and savings as appear to the Secretary of State <sup>F495</sup>or Welsh Ministers] to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of those provisions as appear to <sup>F496</sup>the Secretary of State or Welsh Ministers] necessary or expedient in consequence of the partial operation of this Act (whether before or after the day appointed by the order).

#### Textual Amendments

**F493** Words in s. 120(1) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 76(2)**; S.I. 2023/993, reg. 2(n)(xxix)

**F494** Words in s. 120(2) omitted (28.6.2022 for E., 5.9.2023 for W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 76(3)(a)**; S.I. 2022/561, reg. 3(f), Sch. para. 39; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 28

**F495** Words in s. 120(2) inserted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 76(3)(b)**; S.I. 2022/561, reg. 3(f), Sch. para. 39; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 28

**F496** Words in s. 120(2) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 76(3)(c)**; S.I. 2022/561, reg. 3(f), Sch. para. 39; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 28

## <sup>F497</sup>120A Regulations

- (1) This section applies to regulations under section 54A, 55, 56A, 56B, 90A, 91A, 92, 105B, 105C, 120D, 120I or 125A.
- (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.

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- (3) Regulations may describe a building by reference to its height, size, design, use, purpose or any other characteristic.
- (4) Regulations under section 54A may make such consequential amendments of this Act as the appropriate national authority considers appropriate.
- (5) Regulations under section 90A may make such consequential amendments of this Act as the Secretary of State considers appropriate.
- (6) Regulations are to be made by statutory instrument.
- (7) A statutory instrument containing (whether alone or with other provision)—
  - (a) regulations under section 54A, 90A, 105C or 125A, or
  - (b) regulations under section 120D(2)(b) or (6), or regulations made by virtue of section 120D(4)(c),
 may not be made by the Secretary of State unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (8) Any other statutory instrument containing regulations made by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) A statutory instrument containing (whether alone or with other provision) regulations under section 54A, 120I(2) or 125A may not be made by the Welsh Ministers unless a draft of the instrument has been laid before and approved by a resolution of Senedd Cymru.
- (10) Any other statutory instrument containing regulations made by the Welsh Ministers is subject to annulment in pursuance of a resolution of Senedd Cymru.

#### Textual Amendments

**F497** Ss. 120A-120C inserted (28.6.2022 for E. for specified purposes, 9.12.2022 for W. for specified purposes, 1.4.2023 in so far as not already in force) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4), [Sch. 5 para. 77](#); S.I. 2022/561, reg. 3(f), Sch. para. 40, 41; S.I. 2022/1287, reg. 2(c)(ii); S.I. 2023/362, reg. 2(2)(b) (with reg. 5(1))

#### **120B Proposals and consultation relating to regulations made by the Secretary of State**

- (1) The regulator may at any time make proposals to the Secretary of State for the making of regulations under this Act.
- (2) Before making a proposal, the regulator must consult such persons as it considers appropriate.
- (3) Before making any regulations under this Act, 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.
- (4) This section does not apply in relation to regulations under [section 120D](#).



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### Textual Amendments

**F497** Ss. 120A-120C inserted (28.6.2022 for E. for specified purposes, 9.12.2022 for W. for specified purposes, 1.4.2023 in so far as not already in force) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4), [Sch. 5 para. 77](#); S.I. 2022/561, reg. 3(f), Sch. para. 40, 41; S.I. 2022/1287, reg. 2(c)(ii); S.I. 2023/362, reg. 2(2)(b) (with reg. 5(1))

## 120C Consultation relating to regulations made by the Welsh Ministers

- (1) Before making any regulations under this Act except building regulations or regulations under [section 120I](#), the Welsh Ministers must consult such persons as they consider appropriate.
- (2) Before making any regulations under [section 120I](#), the Welsh Ministers must consult—
  - (a) the Building Regulations Advisory Committee for Wales, and
  - (b) any other person that the Welsh Ministers consider appropriate.
- (3) See also section 14 (consultation requirements for building regulations).]

### Textual Amendments

**F497** Ss. 120A-120C inserted (28.6.2022 for E. for specified purposes, 9.12.2022 for W. for specified purposes, 1.4.2023 in so far as not already in force) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4), [Sch. 5 para. 77](#); S.I. 2022/561, reg. 3(f), Sch. para. 40, 41; S.I. 2022/1287, reg. 2(c)(ii); S.I. 2023/362, reg. 2(2)(b) (with reg. 5(1))

*[<sup>F498</sup>Higher-risk buildings etc*

### Textual Amendments

**F498** Ss. 120D-120I and cross-heading inserted (28.6.2022 so far as it relates to ss. 120D-120H, 9.12.2022 so far as it relates to s. 120I) by [Building Safety Act 2022 \(c. 30\)](#), [ss. 31](#), 170(4)(a)(c); S.I. 2022/561, [reg. 3\(d\)](#); S.I. 2022/1287, [reg. 2\(a\)](#)

## 120D Meaning of “higher-risk building”: England

- (1) This section applies for the purposes of this Act as it applies in relation to England.
- (2) “Higher-risk building” means a building in England that—
  - (a) is at least 18 metres in height or has at least 7 storeys, and
  - (b) is of a description specified in regulations made by the Secretary of State.
- (3) The Secretary of State may by regulations make provision supplementing this section.
- (4) The regulations may in particular—
  - (a) define “building” or “storey” for the purposes of this section;
  - (b) make provision about how the height of a building is to be determined for those purposes;
  - (c) provide that “higher-risk building” does not include a building of a specified description.

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- (5) Regulations made by virtue of [subsection \(4\)\(a\)](#) may in particular define “building” so as to provide that it includes—
  - (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 specified.
- (6) The Secretary of State may by regulations amend this section (other than [subsection \(1\)](#) or [\(3\)](#) or this subsection).
- (7) For the meaning of “higher-risk building work” see section [91ZA](#).

#### **120E Regulations under [section 120D](#): procedure**

- (1) Before making regulations under [section 120D](#), the Secretary of State must consult—
  - (a) the regulator, and
  - (b) such other persons as the Secretary of State considers appropriate.
- (2) But the regulator need not be consulted if—
  - (a) the regulations give effect to a recommendation made by the regulator under [section 120G](#), or
  - (b) the Secretary of State has under [section 120H](#) asked the regulator for advice about the description of building in question.

#### **120F Regulations under [section 120D](#): additional procedure in certain cases**

- (1) This section applies if the Secretary of State proposes to make regulations under [section 120D](#) that would result in a description of building (including anything within [subsection \(5\)](#) of that section) becoming a higher-risk building for the purposes of this Act as it applies in relation to England.
- (2) The Secretary of State must ask the regulator under [section 120H\(1\)](#) for advice about the description of building, except where the regulations would give effect to a recommendation under [section 120G\(2\)](#).
- (3) The Secretary of State must carry out a cost-benefit analysis and publish it.
- (4) In this section “cost-benefit analysis” means—
  - (a) an analysis of the costs together with an analysis of the benefits that will arise if the regulations are made, and
  - (b) an estimate of those costs and of those benefits (subject to [subsection \(5\)](#)).
- (5) If, in the opinion of the Secretary of State—
  - (a) the costs or benefits cannot reasonably be estimated, or
  - (b) it is not reasonably practicable to produce an estimate,the cost-benefit analysis need not estimate them, but must include a statement of the Secretary of State’s opinion and an explanation for it.

#### **120G Recommendations about regulations under [section 120D](#)**

- (1) [Subsection \(2\)](#) applies if, in respect of any description of building that is not a higher-risk building, the regulator considers—

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- (a) that a building safety risk is greater for that description of buildings than it is for buildings that are not of that description,
  - (b) that if the risk materialised as regards a building of that description it would have the potential to cause a major incident, and
  - (c) that buildings of that description should be higher-risk buildings for the purposes of this Act as it applies in relation to England.
- (2) The regulator must—
  - (a) recommend to the Secretary of State that buildings of that description should be higher-risk buildings for the purposes of this Act, and
  - (b) give the Secretary of State a statement of its assessment of the issues it considered when deciding to make the recommendation.
- (3) If, following a recommendation, the Secretary of State decides not to make regulations under [section 120D](#) giving effect to the recommendation, 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.
- (4) If the regulator considers that a particular description of higher-risk building should cease to be a higher-risk building for the purposes of this Act as it applies in relation to England, it must make a recommendation to the Secretary of State to that effect.
- (5) In this section—

“building safety risk” means a risk to the safety of people in or about a building arising from any of the following occurring as regards the building—

  - (a) the spread of fire;
  - (b) structural failure;
  - (c) any other matter prescribed by regulations under section 62 of the Building Safety Act 2022 in relation to all buildings, or in relation to a description of building that includes the building;

“major incident” means an incident resulting in—

  - (a) a significant number of deaths, or
  - (b) serious injury to a significant number of people.

## **120H Advice about regulations under [section 120D](#)**

- (1) [Subsections \(2\) to \(5\)](#) apply if the Secretary of State asks the regulator for advice as to whether a specified description of building should be a higher-risk building for the purposes of this Act as it applies in relation to England.
- (2) The regulator must consider whether the following conditions are met—
  - (a) the first condition is that a building safety risk is greater for that description of buildings than it is for buildings that are not of that description;
  - (b) the second condition is that, if the risk materialised as regards a building of that description, it would have the potential to cause a major incident;
  - (c) the third condition is that buildings of that description should be higher-risk buildings for the purposes of this Act as it applies in relation to England.
- (3) The regulator must—

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- (a) if the conditions mentioned in [subsection \(2\)](#) are met, recommend to the Secretary of State that buildings of that description should be higher-risk buildings for the purposes of this Act as it applies in relation to England;
  - (b) otherwise, recommend to the Secretary of State that buildings of that description should not be higher-risk buildings for those purposes.
- (4) The regulator must give the Secretary of State a statement of its assessment of the issues it considered in relation to the recommendation under [subsection \(3\)](#).
- (5) If, following a recommendation under [subsection \(3\)\(a\)](#), the Secretary of State decides not to make regulations under [section 120D](#) giving effect to the recommendation, 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) If requested, the regulator must provide advice to the Secretary of State as to whether a specified description of building should cease to be a higher-risk building for the purposes of this Act as it applies in relation to England.
- (7) In this section—
- “building safety risk” has the meaning given by [section 120G](#);
  - “major incident” has the meaning given by that section;
  - “specified” means specified in the request.

## **120I Higher-risk buildings and higher-risk building work: Wales**

- (1) This section applies for the purposes of this Act as it applies in relation to Wales.
- (2) “Higher-risk building” means a building of a description specified in regulations made by the Welsh Ministers.
- (3) “Higher-risk building work” means any work relating to a higher-risk building or a proposed higher-risk building, including—
- (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.
- (4) The Welsh Ministers may by regulations define “building” for the purposes of this section.
- (5) The regulations may in particular provide that “building” includes—
- (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 specified.]

### *Interpretation*

## **121 Meaning of “building”.**

- (1) The word “building”, for the purposes of—

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- (a) Part I of this Act, and
- (b) any other enactment (whether or not contained in this Act) that relates to building regulations, or that mentions “buildings” or “a building” in a context from which it appears that those expressions are there intended to have the same meaning as in Part I of this Act,

means any permanent or temporary building, and, unless the context otherwise requires, it includes any other structure or erection of whatever kind or nature (whether permanent or temporary).

- (2) In subsection (1) above, “structure or erection” includes a vehicle, vessel, hovercraft, aircraft or other movable object of any kind in such circumstances as may be prescribed (being circumstances that in the opinion of the [<sup>F499</sup>appropriate national authority] justify treating it for those purposes as a building).
- (3) For the purposes mentioned in subsection (1) above, unless the context otherwise requires—
  - (a) a reference to a building includes a reference to part of a building and
  - (b) a reference to the provision of services, fittings and equipment in or in connection with buildings, or to services, fittings and equipment so provided, includes a reference to the affixing of things to buildings or, as the case may be, to things so affixed.

[<sup>F500</sup>(4) Nothing in this section applies in relation to [section 120D](#) or [120I](#).]

#### Textual Amendments

**F499** Words in s. 121(2) substituted (28.6.2022 for E., 9.12.2022 for W.) by [Building Safety Act 2022](#) (c. 30), s. 170(4)(b)(c), [Sch. 5 para. 78\(2\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 42](#); S.I. 2022/1287, reg. 2(c)(iii)

**F500** S. 121(4) inserted (28.6.2022 for E., 9.12.2022 for W.) by [Building Safety Act 2022](#) (c. 30), s. 170(4)(b)(c), [Sch. 5 para. 78\(3\)](#); S.I. 2022/561, reg. 3(f), [Sch. para. 42](#); S.I. 2022/1287, reg. 2(c)(iii)

#### [<sup>F501</sup>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 local authority mentioned in [subsection \(2\)](#), in any other case.
- (2) That local authority is—
  - (a) if, by virtue of regulations made under [section 91ZD](#) (higher-risk buildings in Wales: local authority work), a designated local authority is the building control authority, that local authority;
  - (b) otherwise, the local authority for the area in which the building is situated or the proposed building is to be situated.]

#### Textual Amendments

**F501** S. 121A inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W., 1.10.2023 in so far as not already in force except in relation to W.) by [Building Safety Act 2022](#) (c. 30), [ss. 32\(4\)](#), [170\(4\)\(b\)\(c\)](#); S.I. 2023/362, [reg. 3\(1\)\(m\)](#); S.I. 2023/914, [reg. 2\(a\)](#); S.I. 2023/993, [reg. 2\(f\)](#) (with [reg. 4](#))

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## 122 Meaning of “building regulations”.

In this Act—

- (a) “building regulations” means, subject to paragraph (b) below, regulations made under section 1 above;
- (b) a reference to building regulations, in a particular case in relation to which a requirement of building regulations is for the time being dispensed with, waived, relaxed or modified by virtue of section 8 or 11 above or any other enactment, is a reference to building regulations as they apply in that case, unless the context otherwise requires.

## 123 Meaning of “construct” and “erect”.

(1) For the purposes of—

- (a) Part I of this Act, and
- (b) any other enactment (whether or not contained in this Act) that relates to building regulations, or that mentions “buildings” or “a building” in a context from which it appears that those expressions are there intended to have the same meaning as in the said Part I,

references to the construction or erection of a building include references to—

- (i) the carrying out of such operations (whether for the reconstruction of a building, the roofing over of an open space between walls or buildings, or otherwise) as may be designated in building regulations as operations falling to be treated for those purposes as the construction or erection of a building, and
- (ii) the conversion of a movable object into what is by virtue of section 121(1) and (2) above a building.

and “construct” and “erect” shall be construed accordingly.

(2) For the purposes of Part III of this Act, each of the following operations is deemed to be the erection of a building—

- (a) the re-erection of a building or part of a building when an outer wall of that building or, as the case may be, that part of a building has been pulled down, or burnt down, to within 10 feet of the surface of the ground adjoining the lowest storey of the building or of that part of the building,
- (b) the re-erection of a frame building or part of a frame building when that building or part of a building has been so far pulled down, or burnt down, as to leave only the framework of the lowest storey of the building or of that part of the building,
- (c) the roofing over of an open space between walls or buildings,

and “erect” shall be construed accordingly.

## 124 Meaning of deposit of plans

[<sup>F502</sup>In this Act, a reference to the deposit of plans in accordance with building regulations is a reference to the deposit of plans in accordance with building regulations for the purposes of section 16 above, unless the context otherwise requires.]



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### Textual Amendments

**F502** S. 124 omitted (1.10.2023 except in relation to W.) by virtue of [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 79](#); S.I. 2023/993, reg. 2(n)(xxx) (with reg. 3)

## 125 Construction and availability of sewers.

- (1) A reference in Part I of this Act to the construction of a sewer includes a reference to the extension of an existing sewer.
- (2) For the purposes of sections 64(2) and 66(1) above, a building or proposed building—
  - (a) is not deemed to have a sufficient water supply available unless—
    - (i) it has a sufficient supply of water laid on, or
    - (ii) such a supply can be laid on to it from a point within 100 feet of the site of the building or proposed building, and the intervening land is land through which the owner of the building or proposed building is, or will be, entitled to lay a communication pipe, and
  - (b) is not deemed to have a sewer available unless—
    - (i) there is within 100 feet of the site of the building or proposed building, and at a level that makes it reasonably practicable to construct a drain to communicate with it, a public sewer or other sewer that the owner of the building or proposed building is, or will be, entitled to use, and
    - (ii) the intervening land is land through which he is entitled to construct a drain.
- (3) The limit of 100 feet does not apply, for the purposes of subsection (2) above, if the local authority undertake to bear so much of the expenses reasonably incurred in—
  - (a) constructing, and maintaining and repairing, a drain to communicate with a sewer, or
  - (b) laying, and maintaining and repairing, a pipe for the purpose of obtaining a supply of water,as the case may be, as is attributable of the fact that the distance of the sewer, or of the point from which a supply of water can be laid on, exceeds 100 feet.

### [<sup>F503</sup>125A] Meaning of work

- (1) In the relevant provisions references to work include a material change of use as defined by building regulations.
- (2) The appropriate national authority may by regulations provide that in a specified relevant provision references to work include any specified matter.
- (3) “Relevant provision” means any provision of the following—
  - (a) Part 1 except sections 2(3) to (5), 20(9), 21(7), 22(2), 33(3A), 36, 37 and paragraph 1G of Schedule 1;
  - (b) Part 2;
  - (c) Part 2A;
  - (d) sections [91ZA](#) to [91ZD](#);
  - (e) section 101A;
  - (f) section 105C;

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(g) [section 120I\(3\)](#).

(4) In this section “specified” means specified by regulations under this section.]

#### Textual Amendments

**F503** [S. 125A](#) inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 80](#); S.I. 2023/362, reg. 3(1)(w)(v); S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 29; S.I. 2023/993, reg. 2(n)(xxxi)

## 126 General interpretation.

In this Act, unless the context otherwise requires—

“Act” includes an enactment contained in a local Act;

[<sup>F504</sup>“appropriate court or tribunal” means—

(a) in relation to England, the tribunal;

(b) in relation to Wales, a magistrates’ court;]

“approved inspector” has the meaning given by section 49(1) above;

“authorised officer”, in relation to a local authority, means—

(a) an officer of the local authority authorised by them in writing, either generally or specially, to act in matters of a specified kind or in a specified matter, or

(b) by virtue of his appointment and for the purpose of matters within his province, a proper officer of the local authority . . . <sup>F505</sup>;

“cesspool” includes a settlement tank or other tank for the reception or disposal of foul matter from buildings;

“closet” includes privy;

“contravention” includes failure to comply, and “contravene” has a corresponding meaning;

<sup>F506</sup>

“drain” means a drain used for the drainage of one building or of buildings or yards appurtenant to buildings within the same curtilage, and includes any manholes, ventilating shafts, pumps or other accessories belonging to the drain;

“earth-closet” means a closet having a movable receptacle for the reception of faecal matter and its deodorisation by the use of earth, ashes or chemicals, or by other methods;

“enactment” includes an enactment contained in a local Act;

“factory” has the meaning given by section 175 of the <sup>M22</sup>Factories Act 1961;

[<sup>F507</sup>“fire and rescue authority” in relation to any premises or proposed premises, means—

(a) where the Regulatory Reform (Fire Safety) Order 2005 applies to the premises or proposed premises, the enforcing authority within the meaning given by article 25 of that Order;

(b) in any other case, the fire and rescue authority under the Fire and Rescue Services Act 2004 for the area in which the premises are or are to be situated;]

“functions” includes powers and duties;

[<sup>F504</sup>“higher-risk building”—

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(a) in relation to England, has the meaning given by section 120D;

(b) in relation to Wales, has the meaning given by section 120I;]

“highway authority” means, in the case of a highway repairable by the inhabitants at large, the council in whom the highway is vested;

“house” means a dwelling-house, whether a private dwelling-house or not;

“inner London” means the area comprising the inner London boroughs, the City of London, the Inner Temple and the Middle Temple;

“joint board” has the meaning given by section 343(1) of the <sup>M23</sup>Public Health Act 1936;

F508

“local Act” includes a provisional order confirmed by Parliament, and the confirming Act so far as it relates to that order;

[<sup>F509</sup> “local authority” means the council of a district or London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple, the Under Treasurer of the Middle Temple or, for the purposes of Parts I and II above and of this Part so far as it relates to them, the Council of the Isles of Scilly [<sup>F510</sup> but, in relation to Wales, means the council of a county or county borough;];]

“modifications” includes additions, omissions and amendments, and related expressions shall be construed accordingly;

“officer” includes servant;

“owner” means the person for the time being receiving the rackrent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for another person, or who would so receive it if those premises were let at a rackrent;

“plans” includes drawings of any other description, and also specifications or other information in any form;

“prejudicial to health” means injurious, or likely to cause injury, to health;

“premises” includes buildings, land, easements and hereditaments of any tenure;

“prescribed” means prescribed by building regulations;

“private sewer” means a sewer that is not a public sewer;

“proper officer”, in relation to a purpose and to a local authority, means an officer appointed for that purpose by that authority;

[<sup>F511</sup> “public sewer” has the same meaning as in the [<sup>F512</sup> Water Industry Act 1991];]

“rackrent”, in relation to property, means a rent that is not less than two-thirds of the rent at which the property might reasonably be expected to let from year to year, free from all usual tenant’s rates and taxes, and deducting from it the probable average annual cost of the repairs, insurance and other expenses (if any) necessary to maintain the property in a state to command such rent;

“rating district” has the meaning given by section 115(1) of the <sup>M24</sup>General Rate Act 1967;

[<sup>F504</sup> “the regulator” means the Health and Safety Executive;]

[<sup>F513</sup> “relevant period” has the meaning given by section 16(12) or 81(4) above, as the case may require;]

“sanitary convenience” means closet or urinal;

“school” includes a Sunday school or a Sabbath school;

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“sewer” does not include a drain as defined in this section, but otherwise it includes all sewers and drains used for the drainage of buildings and yards appurtenant to buildings, and any manholes, ventilating shafts, pumps or other accessories belonging to the sewer;

F514  
...  
F514  
...

“statutory undertakers” means persons authorised by an enactment or statutory order to construct, work or carry on a railway, canal, inland navigation, dock, harbour, tramway, . . . F515 . . . F516 , . . . F517 or other public undertaking; [F518] but does not include a universal service provider [F519] (within the meaning of Part 3 of the Postal Services Act 2011) or a relevant company (within the meaning of Part 4 of the Postal Services Act 2000);]

F520  
.....

“street” includes a highway, including a highway over a bridge, and a road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

“substantive requirements”, in relation to building regulations, means the requirements of building regulations with respect to the [F521] matters mentioned in section 1(1A) above] (including requirements imposed by virtue of section 2(1) or (2)(a) or (b) above) [F522] and requirements that are of a kind mentioned in subsection (2)(a), (b) or (c) of section 2A above and are imposed by virtue of subsection (1) of that section], as distinct from procedural requirements;

“surface water” includes water from roofs;

“water-closet” means a closet that has a separate fixed receptacle connected to a drainage system and separate provision for flushing from a supply of clean water either by the operation of mechanism or by automatic action;

“workplace” does not include a factory, but otherwise it includes any place in which persons are employed otherwise than in domestic service.

### Textual Amendments

- F504** Words in s. 126 inserted (28.6.2022 for E. for specified purposes, 9.12.2022 for W. for specified purposes, 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 81\(2\)](#); S.I. 2022/561, reg. 3(f), Sch. para. 44; S.I. 2022/1287, reg. 2(c)(iv); S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 30; S.I. 2023/993, reg. 2(n)(xxxii)
- F505** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)
- F506** Definition of “district surveyor” repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)
- F507** Definition “fire and rescue authority” in s. 126 substituted (1.10.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), art. 1(3), [Sch. 2 para. 33\(8\)](#) (with art. 49) (as amended by [The Regulatory Reform \(Fire Safety\) Subordinate Provisions Order 2006 \(S.I. 2006/484\)](#), [arts. 1\(1\), 2](#))
- F508** Definition of “limits of supply” repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, [Sch. 27 Pt. I](#)
- F509** Definition of “local authority” substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 8 para. 14\(4\)\(a\)](#)
- F510** Words in s. 126 inserted (1.4.1996) by 1994 c. 19, s. 22(3), [Sch. 9 para. 15\(3\)](#) (with ss. 54(5)(7), 55(5) Sch. 17 paras. 22(1), 23(2); S.I. 1996/396, art. 3, [Sch. 1](#)

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- F511** Definition of “public sewer” substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 70(4), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F512** Words in s. 126 substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 39(6)**.
- F513** Words in s. 126 omitted (1.10.2023 except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 81(3)**; S.I. 2023/993, reg. 2(n)(xxxii)
- F514** Definitions in s. 126 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Group 2.
- F515** Word repealed by Gas Act 1986 (c. 44, SIF 44:2), ss. 67(3)(4), Sch. 8 para. 17, **Sch. 9 Pt. I**
- F516** Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(4), **Sch. 18**
- F517** Word repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**
- F518** Words in s. 126 inserted (26.3.2001) by The Postal Services Act 2000 (Consequential Modifications No. 1) Order 2001 (S.I. 2001/1149), art. 3(1), **Sch. 1 para. 61**
- F519** Words in s. 126 substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 122**; S.I. 2011/2329, art. 3
- F520** Definition of “statutory water undertakers” repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**
- F521** Words in s. 126 substituted (16.11.2004) by Sustainable and Secure Buildings Act 2004 (c. 22), **ss. 1(4), 11(4)**
- F522** Words in s. 126 inserted (16.11.2004) by Sustainable and Secure Buildings Act 2004 (c. 22), **ss. 4(5), 11(4)**

#### Marginal Citations

- M22** 1961 c. 34.  
**M23** 1936 c. 49.  
**M24** 1967 c. 9.

## 127 Construction of certain references concerning Temples.

In relation to the Inner Temple and the Middle Temple, a reference in a provision of this Part of this Act to the proper officer or an officer or authorised officer of a local authority is a reference to an officer authorised by the Sub-Treasurer or the Under Treasurer, as the case may be, to act for the purposes of that provision.

### *Savings*

## 128 Protection for dock and railway undertakings.

Section 333 of the <sup>M25</sup>Public Health Act 1936 applies in relation to local authorities acting under this Act as it applies in relation to local authorities acting under that Act.

#### Marginal Citations

- M25** 1936 c. 49.

*Status: Point in time view as at 01/10/2023. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Building Act 1984. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

## **129 Saving for Local Land Charges Act 1975.**

Nothing in this Act about the recovery of expenses from owners of premises affects the <sup>M26</sup>Local Land Charges Act 1975.

### **Marginal Citations**

**M26** 1975 c. 76.

## **130 Saving for other laws.**

All powers and duties conferred or imposed by this Act are in addition to, and not in derogation of, any other powers and duties conferred or imposed by Act, law or custom, and subject to any express provision of this Act, all such other powers and duties may be exercised and shall be performed in the same manner as if this Act had not been passed.

## **131 Restriction of application of Part IV to Schedule 3.**

This Part has effect subject to paragraph 13 of Schedule 3 to this Act.

## **PART V**

### **SUPPLEMENTARY**

## **132 Transitional provisions.**

The transitional provisions contained in Schedule 5 to this Act have effect.

## **133 Consequential amendments and repeals.**

- (1) The enactments specified in Schedule 6 to this Act have effect subject to the amendments specified in that Schedule.
- (2) The enactments specified in Schedule 7 to this Act are repealed to the extent specified in the third column of that Schedule.

## **134 Commencement.**

- (1) The following provisions of this Act—
  - (a) sections 12, 13, 31, 38, 42(4) to (6) and 43(3), except so far as they enable regulations to be made,
  - (b) sections 20, 33, 42(1) to (3), 43(1) and (2), 44 and 45,
  - (c) section 133(2) and Schedule 7 so far as they relate to <sup>F523</sup> . . . the <sup>M27</sup> Atomic Energy Authority Act 1954, and
  - (d) section 50(2) and (3) and paragraph 9 of Schedule 1,
 come into force on such day as the Secretary of State may by order appoint.



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[<sup>F524</sup>(1A) Except so far as relating to the provisions listed in subsection (1B), the reference in subsection (1) to the Secretary of State is to be read, in relation to Wales, as a reference to the Welsh Ministers.

(1B) The provisions mentioned in subsection (1A) are sections 38, 44, 45 and 133(2) and Schedule 7.]

(2) Subject to—

- (a) subsection (1) above, and
- (b) sections <sup>F523</sup> . . . 42(7) above,

this Act comes into force on 1st December 1984.

#### Subordinate Legislation Made

**P1** Power of appointment conferred by s. 134(1) partly exercised: S.Is. 1985/1602, 1998/1836

#### Textual Amendments

**F523** Words in s. 134(1)(c)(2)(b) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.XIII** Group 1.

**F524** S. 134(1A)(1B) inserted (28.6.2022 for E., 5.9.2023 for W.) by **Building Safety Act 2022 (c. 30)**, s. 170(4)(b)(c), **Sch. 5 para. 82**; S.I. 2022/561, reg. 3(f), **Sch. para. 45**; S.I. 2023/914, reg. 2(b)(xiii), **Sch. para. 31**

#### Marginal Citations

**M27** 1954 c. 32.

### 135 Short title and extent.

- (1) This Act may be cited as the Building Act 1984.
- (2) This Act does not extend to Scotland or to Northern Ireland.

**Status:**

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**Changes to legislation:**

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