



Building Act 1984

1984 CHAPTER 55

PART IV **E+W**

GENERAL

Duties of local authorities [^{F1} etc]

Textual Amendments

- F1** 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 [^{F2} and the regulator]. **E+W**

- (1) It is the duty of local authorities to carry this Act into execution in their areas, subject to—
- [^{F3}(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 ^{M1}Public Health Act 1936 relating to united districts and joint boards,
 - (c) section 151 of the ^{M2}Local Government, Planning and Land Act 1980 (urban development areas), and
 - (d) section 1(3) of the ^{M3}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 [^{F4}sections 5(3), 48(1) and 53(2) above . . . ^{F5}.][^{F4}—
- (a) subsection (3) of this section,
 - (b) sections 5(3), 48(1) and 53(2), and
 - (c) regulations under section 91ZD.]

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- [^{F6}(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

- F2** 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)
- F3** 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)
- F4** 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)
- F5** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, Sch. 17
- F6** 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

- M1** 1936 c. 49.
M2 1980 c. 65.
M3 1984 c. 22.

[^{F7}91ZA The regulator: building control authority for higher-risk buildings in England **E+W**

- (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

- F7** 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 **E+W**

- (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

- F7** 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 **E+W**

- (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

F7 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 **E+W**

- (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

F7 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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[^{F8}91A Registers to be kept by local authorities [^{F9}and the regulator] **E+W**

- (1) A [^{F10}local authority][^{F10}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—
- documents that are given or issued to [^{F11}, or deposited with,] a [^{F12}local authority][^{F12}relevant authority] in accordance with provision made by or under this Act, or copies of such documents;
 - copies of documents that are given, made or issued by a [^{F12}local authority][^{F12}relevant authority] in accordance with provision so made;
 - information with respect to documents of the kind mentioned in paragraph (a) or (b);
 - 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 [^{F13}local authority][^{F13}relevant authority]—
- shall maintain the register required under subsection (1) above in the prescribed manner;
 - shall ensure that the register is available for inspection by members of the public during prescribed periods;
 - shall, in prescribed circumstances, provide to members of the public, on request, copies of information and documents kept in the register;
 - 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 [^{F14}appropriate national authority] under this section.
- [^{F15}“relevant authority” means a local authority or the regulator.]

^{F16}(6)

^{F16}(7)

^{F16}(8)]

Textual Amendments

- F8** 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\(b\)](#)
- F9** 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](#))
- F10** 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](#))
- F11** 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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- F12** 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)
- F13** 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)
- F14** 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
- F15** 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)
- F16** 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. **E+W**

- (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 [^{F17}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 [^{F17}or the regulator],
- shall be in writing.
- (2) The [^{F18}appropriate national authority] may, by regulations ^{F19}..., 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

- F17** 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)
- F18** 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
- F19** 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. **E+W**

- (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. **E+W**

- [^{F20}(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 [^{F21}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,
 - [^{F22}(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 [^{F23}other person][^{F23}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,
 - [^{F24}(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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[^{F25}(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.]

[^{F26}(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

- F20** 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)
- F21** 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)
- F22** 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)
- F23** 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)
- F24** 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)
- F25** 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)
- F26** 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)

[^{F27} **Electronic service of documents** **E+W**

94A [^{F28}(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

- F27** S. 94A inserted (1.10.2008) by [Building \(Electronic Communications\) Order 2008 \(S.I. 2008/2334\)](#), arts. 1, 2
- F28** 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)

- C1** 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)
- C2** 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)
- C3** 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))
- C4** 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. **E+W**

- (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.
- [^{F29}(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

F29 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. **E+W**

- (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. **E+W**

A local authority [^{F30}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

F30 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. **E+W**

If, on [^{F31}a complaint][^{F31}an application or (as the case may be) complaint] made by the owner of premises, it appears to [^{F32}a magistrates' court][^{F32}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 [^{F33}or tribunal] may order the occupier to permit the execution of the work.

Textual Amendments

F31 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)

F32 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)

F33 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. **E+W**

- (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 [^{F34}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

F34 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. **E+W**

- (1) A [^{F35}local authority][^{F35}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 [^{F35}local authority][^{F35}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 [^{F35}local authority][^{F35}relevant authority].

[^{F36}(4) In this section “relevant authority” means a local authority or the regulator.]

Textual Amendments

F35 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](#))

F36 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. **E+W**

- (1) For the purposes of any section of this Act that confers powers on [^{F37}local authorities][^{F37}any relevant authority] to construct, lay or maintain sewers, drains or pipes, [^{F38}[^{F39}section 158 of the Water Industry Act 1991] (street works) shall apply, with the necessary modifications, as [^{F40}it applies] for the purpose of conferring power on a water undertaker or sewerage undertaker to lay a relevant pipe, within the meaning of [^{F41}that section].]

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[^{F42}(2) [^{F43}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 [^{F44}local authority][^{F44}relevant authority].]

[^{F45}(3) In this section “relevant authority” means a local authority or the regulator.]

Textual Amendments

- F37** 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)
- F38** 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**
- F39** 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)**.
- F40** 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)**.
- F41** 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)**.
- F42** 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**
- F43** 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)**.
- F44** 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)
- F45** 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)

[^{F46}*Appeal against refusal to consider application etc*

Textual Amendments

- F46** 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 **E+W**

- (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. E+W

- (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 [F47a magistrates' court][F47the 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 [^{F48}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 [^{F49}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 [^{F50}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 [^{F51}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

- F47** 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)
- F48** 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)
- F49** 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)
- F50** 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)
- F51** 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 [^{F52}magistrates' court][^{F52}appropriate court or tribunal]. **E+W**

- (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.

^{F53}(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 ^{F54}local^{F54} 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 ^{F55}application or^{F55} 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 ^{F56}local^{F56} relevant authority's decision in the matter shall state the right of appeal to ^{F57}a magistrates' court^{F57} the appropriate court or tribunal^{F57} and the time within such an appeal may be brought.

^{F58}(4) In this section “relevant authority” means a local authority or the regulator.]

Textual Amendments

- F52** 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)
- F53** 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)
- F54** 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)
- F55** 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)
- F56** 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)
- F57** 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)
- F58** 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 ^{F59}or regulator^{F59} to give effect to appeal. **E+W**

Where upon an appeal under this Act a court ^{F60}or tribunal^{F60} varies or reverses a decision of a local authority ^{F61}or the regulator^{F61}, it is the duty of the local authority ^{F62}or regulator^{F62} to give effect to the order of the court ^{F60}or tribunal^{F60} 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

- F59** 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)
- F60** 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)
- F61** 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)
- F62** 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. **E+W**

A judge of a court [^{F63}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

- F63** 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)

[^{F64}105A Enforcement of decisions of the First-tier and Upper Tribunal **E+W**

- (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

- F64** 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)

[^{F65}Fees, charges and levies

Textual Amendments

- F65** 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 **E+W**

- (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. **E+W**

- (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) ^{F66}... Any dispute arising under this section as to the fact of damage, or as to the amount of compensation, shall be determined by arbitration.

^{F67}(3)

Textual Amendments

F66 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](#)

F67 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. **E+W**

- (1) Where a [^{F68}local authority][^{F68}relevant authority] 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 [^{F68}local authority][^{F68}relevant authority], for the purpose of enforcing a charge under subsection (1) above, have all the same powers and remedies under the ^{M4}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 [^{F68}local authority][^{F68}relevant authority] 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 [^{F68}local authority][^{F68}relevant authority] 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.

[^{F69}(6) In this section “relevant authority” means a local authority or the regulator.]

Textual Amendments

- F68** 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)
- F69** 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)

- C5** 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

- M4** 1925 c. 20.

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108 Payment by instalments. **E+W**

- (1) A [^{F70}local authority][^{F70}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 [^{F70}local authority][^{F70}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.

[^{F71}(5) In this section “relevant authority” means a local authority or the regulator.]

Textual Amendments

- F70** 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)
- F71** 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)

- C5** Ss. 107-110 applied (with modifications) (13.7.2004) by [London Local Authorities Act 2004 \(c. i\)](#), ss. 1(1), [s. 10\(3\)-\(5\)](#)

^{F72}109 **E+W**

Textual Amendments

- F72** 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. **E+W**

- [^{F73}(1)] Where a [^{F74}local authority][^{F74}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 [^{F74}local authority][^{F74}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.

[^{F75}(2) In this section “relevant authority” means a local authority or the regulator.]

Textual Amendments

- F73** 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)
- F74** 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)
- F75** 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)

- C5** 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. **E+W**

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 [^{F76}appropriate national authority].

Textual Amendments

- F76** 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 **E+W**

[^{F77}(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 [^{F78}level 1][^{F78}level 3] on the standard scale.

[^{F79}(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

- F77** 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)
- F78** 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)
- F79** 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

[^{F80} 112A Liability of officers of body corporate etc **E+W**

- (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

- F80** 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. **E+W**

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 [^{F81}, 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

F81 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. **E+W**

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. **E+W**

- (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.

^{F82}(3)

Textual Amendments

F82 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. **E+W**

- (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. **E+W**

- (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. **E+W**

- (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. **E+W**

- (1) The [^{F83}appropriate national authority or the regulator] may cause a local inquiry to be held in a case where [^{F84}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.
- [^{F85}(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

- F83** 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](#)
- F84** 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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F85 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 ^{F86}and regulations]

Textual Amendments

F86 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. **E+W**

- (1) The power to make an order under ^{F87}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, ^{F87}section 134(1) 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 ^{F88}... 134(1) (a), (b) or (c) below may contain such transitional provisions and savings as appear to the Secretary of State ^{F89}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 ^{F90}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

- F87** 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)
- F88** 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
- F89** 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
- F90** 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

^{F91}120A Regulations **E+W**

- (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

F91 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 **E+W**

- (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

F91 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 **E+W**

- (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

F91 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))

[^{F92}Higher-risk buildings etc

Textual Amendments

F92 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 **E+W**

- (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 E+W

- (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 E+W

- (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](#) E+W

- (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](#) **E+W**

- (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 E+W

- (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”. E+W

- (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 [^{F93}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.

[^{F94}(4) Nothing in this section applies in relation to [section 120D](#) or [120I](#).]

Textual Amendments

- F93** 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)
- F94** 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)

[^{F95}121A Meaning of “building control authority” **E+W**

- (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

- F95** 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”. **E+W**

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”. **E+W**

(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 **E+W**

[^{F96}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

F96 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. **E+W**

- (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.

[^{F97} 125A Meaning of work **E+W**

- (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

F97 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)(xxxix)

126 General interpretation. **E+W**

In this Act, unless the context otherwise requires—

“Act” includes an enactment contained in a local Act;

[^{F98}“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 . . . ^{F99};

“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;

F100

“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 ^{M5}Factories Act 1961;

[^{F101}“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;

[^{F98}“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 ^{M6}Public Health Act 1936;

F102

“local Act” includes a provisional order confirmed by Parliament, and the confirming Act so far as it relates to that order;

[^{F103} “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 [^{F104} 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;

[^{F105} “public sewer” has the same meaning as in the [^{F106} 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 ^{M7}General Rate Act 1967;

[^{F98} “the regulator” means the Health and Safety Executive;]

[^{F107} “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;

F108

F108

“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, . . . F109 . . . F110 , . . . F111 or other public undertaking; [F112but does not include a universal service provider [F113(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)];]

F114

“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 [F115matters mentioned in section 1(1A) above] (including requirements imposed by virtue of section 2(1) or (2)(a) or (b) above) [F116and 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

- F98** 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)
- F99** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)
- F100** Definition of “district surveyor” repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)
- F101** 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](#))
- F102** 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](#)
- F103** Definition of “local authority” substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 8 para. 14\(4\)\(a\)](#)
- F104** 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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- F105** 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**
- F106** 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)**.
- F107** 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)
- F108** Definitions in s. 126 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Group 2.
- F109** Word repealed by Gas Act 1986 (c. 44, SIF 44:2), ss. 67(3)(4), Sch. 8 para. 17, **Sch. 9 Pt. I**
- F110** Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(4), **Sch. 18**
- F111** 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**
- F112** 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**
- F113** 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
- F114** 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**
- F115** Words in s. 126 substituted (16.11.2004) by Sustainable and Secure Buildings Act 2004 (c. 22), **ss. 1(4), 11(4)**
- F116** Words in s. 126 inserted (16.11.2004) by Sustainable and Secure Buildings Act 2004 (c. 22), **ss. 4(5), 11(4)**

Marginal Citations

- M5** 1961 c. 34.
M6 1936 c. 49.
M7 1967 c. 9.

127 Construction of certain references concerning Temples. **E+W**

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. **E+W**

Section 333 of the ^{M8}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

- M8** 1936 c. 49.

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129 Saving for Local Land Charges Act 1975. E+W

Nothing in this Act about the recovery of expenses from owners of premises affects the ^{M9}Local Land Charges Act 1975.

Marginal Citations

M9 1975 c. 76.

130 Saving for other laws. E+W

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. E+W

This Part has effect subject to paragraph 13 of Schedule 3 to this Act.

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Changes and effects yet to be applied to :

- s. 116 heading words substituted by [2022 c. 30 s. 45\(2\)\(a\)](#)
- s. 117 heading words substituted by [2022 c. 30 s. 45\(3\)\(a\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(1A)(d) inserted by [2015 c. 7 s. 37\(2\)](#)
- s. 44(11) inserted by [2004 c. 22 s. 3\(8\)](#)
- s. 79A inserted by [2023 asc 3 Sch. 13 para. 65](#)
- s. 91B inserted by [2022 c. 30 Sch. 5 para. 56](#)
- s. 95(5) inserted by [2022 c. 30 s. 60\(2\)](#)
- s. 105C inserted by [2022 c. 30 s. 58](#)
- s. 116(3)-(6) inserted by [2022 c. 30 s. 45\(2\)\(d\)](#)
- s. 117(A1)(A2) inserted by [2022 c. 30 s. 45\(3\)\(b\)](#)
- s. 118(1A) inserted by [2022 c. 30 s. 45\(4\)\(b\)](#)
- s. 131A inserted by [2022 c. 30 s. 59](#)
- s. 131B inserted by [2022 c. 30 s. 60\(3\)](#)
- Sch. 1 para. 7A inserted by [2015 c. 7 s. 37\(4\)](#)