



# Building Act 1984

## 1984 CHAPTER 55

### PART I

#### BUILDING REGULATIONS

##### *Appeals in certain cases*

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

[<sup>F1</sup>(A1) Where the Secretary of State gives a decision on an application for a direction under section 8, any of the following may appeal to the High Court against the decision on a point of law—

- (a) the applicant;
- (b) the local authority;
- (c) the registered building control approver.]

(1) Where the [<sup>F2</sup>Secretary of State gives][<sup>F2</sup>Welsh Ministers give] a decision in proceedings—

- (a) on an appeal under section 20 or 39 above,
- (b) [<sup>F3</sup>on an appeal under section 50,] or
- (c) on an application for a direction under section 8 above where the power of giving the direction is not exercisable by the [<sup>F4</sup>local authority][<sup>F4</sup>building control authority],

the relevant person or the [<sup>F4</sup>local authority][<sup>F4</sup>building control authority] or, as the case may be, the approved inspector may appeal to the High Court against the decision on a point of law.

(2) In subsection (1) above, “the relevant person” means—

- (a) as regards an appeal under the said section 20 or 39, the appellant,
- (b) [<sup>F5</sup>as regards an appeal under section 50, the person on whose application the appeal was made,]

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- (c) as regards such an application as is mentioned in subsection (1)(c) above, the applicant.
- (3) At any stage of the proceedings on such an appeal<sup>F6</sup>, reference] or application as is mentioned in subsection [F7(A1) or] (1) above—
- (a) the [F8Secretary of State][F8appropriate national authority] may state a question of law arising in the course of the proceedings in the form of a special case for the decision of the High Court, and
  - (b) a decision of the High Court on a case so stated is deemed to be a judgment of the court within the meaning of section 16 of the <sup>M1</sup>[F9Senior Courts Act 1981] (appeals from the High Court to the Court of Appeal).
- (4) In relation to proceedings in the High Court or the Court of Appeal brought by virtue of this section, the power to make rules of court includes power to make rules—
- (a) prescribing the powers of the High Court or the Court of Appeal with respect to the remitting of the matter with the opinion or direction of the court for re-hearing and determination by the [F10Secretary of State][F10appropriate national authority], and
  - (b) providing for the [F10Secretary of State][F10appropriate national authority], either generally or in such circumstances as may be prescribed by the rules, to be treated as a party to any such proceedings and to be entitled to appear and to be heard accordingly.
- (5) No appeal to the Court of Appeal shall be brought by virtue of this section except with the leave of the High Court or the Court of Appeal.
- (6) In this section, “decision” includes a direction, and references to the giving of a decision shall be construed accordingly.
- (7) [F11Until such day as the Secretary of State may by order appoint, subsections (1) and (2) above have effect as if—
- (a) in subsection (1)(b), for “section 16 above or 50 below” there were substituted “section 30 above”,
  - (b) in subsection (1), the words “or, as the case may be, the approved inspector” were omitted, and
  - (c) in subsection (2)(b), for “section 16 or 50” there were substituted “section 30” and the words “(jointly with the local authority)” were inserted after  
“application”.]

#### Textual Amendments

- F1** S. 42(A1) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 5\(2\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F2** Words in s. 42(1) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 5\(3\)\(a\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F3** S. 42(1)(b) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 5\(3\)\(b\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F4** Words in s. 42(1) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 37](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 4)
- F5** S. 42(2)(b) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 5\(4\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

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- F6** Word in s. 42(3) omitted (1.10.2023 except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 5(5)(a)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F7** Words in s. 42(3) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 5(5)(b)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F8** Words in s. 42(3)(a) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 5(5)(c)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F9** Words in s. 42(3)(b) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, art. 2(d)
- F10** Words in s. 42(4) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 5(6)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F11** S. 42(7) omitted (1.10.2023 except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 5(7)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

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#### Commencement Information

- I1** S. 42(4)-(6) in force at 1.12.1984 for specified purposes, see s. 134(1)(a)

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#### Marginal Citations

- M1** 1981 c. 54.

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**Changes and effects yet to be applied to :**

- s. 42(1) words substituted by [2022 c. 30 Sch. 4 para. 2](#)

**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\(4\)](#)