



# Building Safety Act 2022

## 2022 CHAPTER 30

### PART 3

#### BUILDING ACT 1984

##### *Building control approvers and building inspectors*

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

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

“(1) This section applies where—

  - (a) it is proposed that the work to which an initial notice relates should be varied, and
  - (b) the work as varied is not higher-risk building work.”
- (3) After section 52 of the Building Act 1984 insert—

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

- (1) If, at a time when an initial notice is in force, it appears to the registered building control approver that some or all of the work has become higher-risk building work, the registered building control approver must, as soon as is reasonably practicable, cancel the relevant part of the initial notice by notice in the prescribed form given to—
  - (a) the local authority concerned, and

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

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

- (1) This section applies where an initial notice ceases to be in force, whether in whole or in part, by virtue of section 47(4)(b)(ia) (higher-risk building work).
- (2) If, before the day on which the relevant part of the initial notice ceased to be in force, a final certificate—

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- (a) was given in respect of part of the work to which the relevant part of the initial notice relates, and
  - (b) was accepted by the local authority,

the fact that the relevant part of the initial notice has ceased to be in force does not affect the continuing operation of section 51(3) in relation to that part of the work.
- (3) The building control authority in relation to any of the uncertified work is—
  - (a) in England, the regulator, and
  - (b) in Wales, the relevant local authority (within the meaning of section 121A(2)).
- (4) In subsection (3), the “uncertified work” means any of the work—
  - (a) to which the relevant part of the initial notice relates, and
  - (b) in respect of which no final certificate has been accepted by the local authority as mentioned in subsection (2).
- (5) Sections 91(3) (duties of the regulator) and 121A(1) (meaning of “building control authority”) apply as if, in each case, the reference to section 91ZA or 91ZB were a reference to section 52B, 91ZA or 91ZB.
- (6) In any case where this section applies, the reference in subsection (4) of section 36 to the date of the completion of the work in question has effect, in relation to a notice under subsection (1) of that section, as if it were a reference to the date on which the relevant part of the initial notice ceased to be in force.
- (7) In this section “the relevant part of the initial notice” means so much of the initial notice as was cancelled by a notice under section 52A (cancellation of initial notice when work becomes higher-risk building work).”
- (4) In section 47 of the Building Act 1984 (giving and acceptance of initial notice), in subsection (4)(b)—
  - (a) omit the “or” after sub-paragraph (i);
  - (b) after sub-paragraph (i) insert—
    - “(ia) it is cancelled, in whole or in part, by a notice under section 52A,”.
- (5) In section 55 of the Building Act 1984 (appeals), after subsection (2) insert—
  - “(2A) Where a local authority cancels an initial notice, in whole or in part, by giving a notice (a “cancellation notice”) under section 52A(4)—
    - (a) the person shown in the initial notice as the person intending to carry out the work, or
    - (b) the registered building control approver,may appeal to the appropriate court or tribunal.
  - (2B) On an appeal under subsection (2A), the court or tribunal must determine whether the relevant part of the initial notice was properly cancelled.
  - (2C) In a case where the court or tribunal determines that the relevant part of the initial notice was not properly cancelled—
    - (a) the determination does not have the effect of reinstating the relevant part of the initial notice;

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- (b) section 52B(2) and (6) continue to apply in relation to the relevant part of the initial notice;
- (c) a new initial notice relating to any of the work to which the relevant part of the original initial notice related (the “original work”) may be given only if the new initial notice—
  - (i) is given before the end of the period of seven days beginning with the day on which the appeal is determined or such other period as may be prescribed, and
  - (ii) relates to all of the original work, except for any work in respect of which a final certificate has been accepted by the local authority;
- (d) the court or tribunal may give such directions as it considers appropriate in consequence of the determination (which may include giving directions to the regulator).

(2D) Where—

- (a) a plans certificate has been given in respect of any of the original work,
- (b) the conditions in paragraphs (a) and (b) of section 53(2) are fulfilled with respect to that certificate, and
- (c) a new initial notice as referred to in subsection (2C)(c) is accepted, section 50(1C) does not apply in relation to so much of the work to which the new initial notice relates as is work specified in the plans certificate.

(2E) Where—

- (a) a new initial notice is given in accordance with subsection (2C)(c), and
- (b) the registered building control approver shown in the new initial notice is different to the registered building control approver shown in the original initial notice,

sections 53B to 53E apply as if any reference in those sections to a new initial notice given in accordance with section 53(7)(a) were a reference to a new initial notice given in accordance with section 55(2C)(c).

(2F) In this section the “relevant part of the initial notice” means so much of the initial notice as was subject to the cancellation notice.”

#### Commencement Information

- I1** S. 46 not in force at Royal Assent, see s. 170(4)(b)(vi)(c)
- I2** S. 46 in force at 6.4.2023 for specified purposes except in relation to W. by S.I. 2023/362, reg. 3(1)(u)
- I3** S. 46 in force at 5.9.2023 for specified purposes for W. by S.I. 2023/914, reg. 2(b)(x)
- I4** S. 46 in force at 1.10.2023 in so far as not already in force except in relation to W. by S.I. 2023/993, reg. 2(1) (with regs. 4, 8)
- I5** S. 46 in force at 6.4.2024 for W. in so far as not already in force by S.I. 2024/207, reg. 2(d)(v) (with regs. 3-5, 8-12)

**Changes to legislation:**

There are currently no known outstanding effects for the Building Safety Act 2022, Section 46.