

[2022 No. xxx]

BUILDING AND BUILDINGS, ENGLAND

**The Building (Higher-Risk Buildings) (England) Regulations
[2022]**

Made - - - - - ***
Laid before Parliament ***
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SCHEDULE 1 — Building control approval applications: accompanying documents

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The Secretary of State has consulted the regulator and such other persons as the Secretary of State considers appropriate in accordance with section 120B(3) of the Building Act 1984(a) and section 7 of the Building Safety [Act 2022](b).

The Secretary of State, in exercise of the powers conferred by sections 1, 30A, 32(6) and 35(3) of, and paragraphs 1A to 1I, 5B and 10 of Schedule 1 to, the Building Act 1984 and sections 19(2) and 24(1) to (3) and (7) of the Building Safety [Act 2022], makes the following Regulations.

PART 1

Preliminary

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Building (Higher-Risk Buildings) (England) Regulations [2022] and come into force on [date].

(2) These Regulations extend to England and Wales.

(3) These Regulations apply in relation to higher-risk buildings(c) in England only.

Interpretation

2.—(1) In these Regulations—

“the 1984 Act” means the Building Act 1984;

“the [2022] Act” means the Building Safety [Act 2022];

“the Dutyholder Regulations” means the [Building (Appointment of Persons, Industry Competence and Dutyholders) (England) Regulations 2022(d)];

“agreed document” means—

(a) a plan or document in relation to HRB work that was approved by virtue of regulation [7(8) or (10)] (building control approval applications: decisions); or

(b) where such a plan or document is revised—

(i) in relation to a major change, the plan or document that was approved in accordance with regulation [17(8) or (10)];

(ii) in relation to a controlled change other than a major change, the version of the plan or document that was revised in accordance with regulation [11(2)(b)].

“building control approval application” has the meaning given in regulation [3] (building control approval);

(a) 1984 c.55. Section [120B] is inserted by paragraph [77] of Schedule [5] to the Building Safety [Act 2022 (c.xx)].

(b) [2022 c. (xx)].

(c) See the definition in section [120D] of the Building Act 1984, and the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations [2022] made under that section.

(d) A copy of the draft Dutyholder Regulations has been published in draft and can be found at this address: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/997755/Competence_and_Dutyholder_draft_regulations.pdf

“change control application” has the meaning given in regulation [11] (change control);

“commencement notice” means a notice required by regulation [9] (commencement notice);

“completion certificate application” has the meaning given in regulation [31] (completion certificate applications);

“competence declaration” means a statement in accordance with paragraph [1] of Schedule [1];

“compliance explanation” has the meaning given in regulation [12(1)(g)] (change control: record-keeping);

“construction control plan” means a document in accordance with paragraph [2] of Schedule [1];

“construction phase” means the period of time beginning when HRB work starts and ending when all HRB work is completed;

“controlled change” has the meaning given in regulation [11] (change control);

“design and build approach document” means a document in accordance with paragraph [3] of Schedule [1];

“dwelling” includes a dwelling-house or a flat (but not the building containing the flat);

“fire and emergency file” means a document in accordance with paragraph [4] of Schedule [1];

“flat” means separate and self-contained premises constructed or adapted for use for residential purposes and forming part of a building from some other part of which it is divided horizontally;

“golden thread information” has the meaning given in regulation [21] (golden thread information);

“HRB work” means—

- (c) the construction of a higher-risk building^(a);
- (d) work to an existing building that causes it to become a higher-risk building;
- (e) such work, if any, which is necessary to ensure a building that undergoes a material change of use to become a higher-risk building complies with the applicable requirements listed in regulation 6 of the Building Regulations 2010 (requirements relating to change of use HRBs)^(b);

“key building information” has the meaning given in regulation [22] (key building information);

“major change” has the meaning given in regulation [11] (change control);

“mandatory occurrence reporting system” means a system required under regulation [23] (mandatory occurrence reporting system);

“material change of use” has the meaning given in regulation 5 of the Building Regulations 2010;

“notifiable change” has the meaning given in regulation [11] (change control);

“partial completion certificate application” has the meaning given in regulation [36] (partial completion certificates);

“partial completion strategy” means a document in accordance with paragraph [5] of Schedule [1];

“planning permission” has the meaning given in section 336 of the Town and Country Planning Act 1990^(c);

(a) See the definition in section [120D] of the Building Act 1984, and the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations [2022] made under that section.

(b) S.I. 2010/2214.

(c) 1990 c. 8.

“planning statement” means a statement in accordance with paragraph [6] of Schedule [1];
“relevant person” has the meaning given in regulation [30] (golden thread information and key building information to be provided);
“reporting person” has the meaning given in regulation [26] (mandatory occurrence reporting: definitions);
“sole contractor” means a person fulfilling the duties of the principal contractor by virtue of regulation 6(6) of the Dutyholder Regulations;
“sole or lead designer” means a person fulfilling the duties of the principal designer by virtue of regulation 6(7) of the Dutyholder Regulations;
“staged work statement” has the meaning given in regulation [4(1)(f)];
“working day” means any day excluding Saturday, Sunday, Christmas Day, Good Friday or a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971(a).

(2) “Client”, “contractor”, “designer”, “principal contractor”, “principal designer” and “project” have the meanings given in the Dutyholder Regulations.

(3) In these Regulations a reference to appointment as a principal contractor or principal designer is to appointment under regulation 6 (principal designer and principal contractor) of the Dutyholder Regulations, and that reference includes an appointment which is certified under regulation 6(2) of those Regulations.

PART 2

Building regulations and functional requirements

[See the Building Regulations 2010 for the functional requirements which apply to building work. The following provisions replace, for higher-risk building work, the procedural provisions of regulation 12 to 18 of those Regulations. Higher-risk building work must be carried out so that the design and the execution of the building work achieve compliance with the functional requirements. Higher-risk building work including design work must be carried out in a workmanlike / professional manner.]

PART 3

Building control procedures for HRB work

Building control approval

3. Before any person commences HRB work the client in relation to that work, or someone on behalf of the client (in this Part “the applicant”) must—

- (a) submit an application for building control approval in relation to the work (in this Part, a “building control approval application”) to the regulator(b) in accordance with regulation [4] (building control approval applications) and be granted building control approval for the work,
- (b) fulfil those requirements, if any, which in accordance with the building control approval must be fulfilled before commencement of the work, and
- (c) submit a notice of commencement of the work to the regulator in accordance with regulation [9] (commencement notice).

(a) 1971 c. 80.

(b) See the definition in s126 of the Building Act 1984, which was inserted by paragraph [81] of Schedule [5] to the Building Safety [Act 2022].

Building control approval applications

4.—(1) A building control approval application must be made in writing, signed by the applicant, and must include—

- (a) the name, address, telephone number and (if available) an email address of the client;
- (b) the name, address, telephone number and (if available) an email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);
- (c) a statement that the application is made under this regulation;
- (d) where the HRB work consists of work to an existing building, a description of the existing building including—
 - (i) details of the current use, including the current use of each storey;
 - (ii) the height measured from the mean level of the ground adjoining the outside of the external walls of the building to the level of half the vertical height of the roof of the building, or to the top of the walls or of the parapet, if any, whichever is the higher;
 - (iii) the height as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations [2022](a);
 - (iv) the number of storeys as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations [2022];
- (e) a description of the proposed HRB work, including—
 - (i) details of the intended use of the higher-risk building, including the intended use of each storey;
 - (ii) the height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations [2022];
 - (iii) the number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations [2022];
 - (iv) the provision to be made for the drainage of the higher-risk building;
 - (v) where paragraph H4 of Schedule 1 to the Building Regulations 2010 imposes a requirement, the precautions to be taken in the building over a drain, sewer or disposal main to comply with the requirements of that paragraph; and
 - (vi) the steps to be taken to comply with any local enactment that applies;
- (f) where the applicant proposes that the higher-risk building is built in stages, a statement (“staged work statement”) setting out a detailed description of the proposed stages of the work (including an estimate of the time when each stage of the work will commence).

(2) A building control approval application must be accompanied by—

- (a) a plan to a scale of not less than 1:1250 showing—
 - (i) the size and position of the building and its relationship to adjoining boundaries;
 - (ii) the boundaries of the curtilage of the building, and the size, position and use of every other building or proposed building within the curtilage;
 - (iii) the width and position of any street on or within the boundaries of the curtilage of the building;
- (b) subject to paragraph (3)—
 - (i) such other plans as necessary to show that the HRB work would comply with all applicable requirements of the building regulations;

(a) A draft of these Regulations has been published and can be found at this address: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/997754/Scope_draft_regulations.pdf

- (ii) a competence declaration;
- (iii) a construction control plan;
- (iv) a design and build approach document;
- (v) a fire and emergency file;
- (vi) where the applicant proposes occupation of part of the building before completion of the HRB work, a partial completion strategy;
- (vii) a statement describing the arrangements the client will put in place to maintain the golden thread information;
- (viii) a copy of the key building information for the proposed higher-risk building;
- (ix) a planning statement.

(3) Where the applicant has provided a staged work statement paragraph (2)(b) has effect with the following modifications—

- (a) the plans referred to in paragraph (2)(b)(i) need only show how the work up to the specified stage referred to in the proposed requirement set out in the staged work statement would comply with all applicable requirements of the building regulations, together with outline plans of the work beyond that specified stage;
- (b) the design and build approach document referred to in paragraph (2)(b)(iv) need only set out the design principles and building standards to be applied to the work up to that specified stage.

Building control approval applications: consultation

5.—(1) Before determining a building control approval application the regulator must consult—

- (a) the enforcing authority (within the meaning of article 25 of the Regulatory Reform (Fire Safety) Order 2005) for the proposed higher-risk building;
- (b) where paragraph H4 of Schedule 1 to the Building Regulations 2010 imposes requirements in relation to the work, the sewerage undertaker for the proposed higher-risk building.

(2) Where the regulator is required to consult a person under this regulation it—

- (a) must give the person sufficient plans to show whether the HRB work would, if carried out in accordance with those plans, comply with—
 - (i) in the case of the enforcing authority, the applicable requirements of Parts A (structure), B (fire safety) and M (access to and use of buildings) of Schedule 1 to the Building Regulations 2010; and
 - (ii) in the case of the sewerage undertaker, the requirements of paragraph H4 of Schedule 1 to the Building Regulations 2010;
- (b) must not determine the building control approval application until at least 15 days after the date on which the plans are given.

(3) Paragraph (2)(b) does not apply if before the end of the period referred to in that paragraph all persons who must be consulted in relation to the building control approval application have expressed their views to the regulator.

Building control approval applications: time limit

6. The regulator must determine a building control approval application within [12] weeks beginning with the date the application is received by the regulator or within such longer period as at any time the regulator and the applicant agree in writing.

Building control approval applications: decisions

7.—(1) The regulator must grant the building control approval sought in a building control approval application unless the application or any document that accompanied the application—

- (a) does not comply with the requirements of regulation [4] (building control approval applications) or any direction relating to the application or the document given by the regulator under regulation [46] (electronic submission and directions);
- (b) is not sufficiently detailed in any respect to allow the regulator to determine whether the HRB work would contravene any applicable requirement of the building regulations;
- (c) shows the HRB work would contravene any applicable requirement of the building regulations;
- (d) shows the strategies, policies and procedures in relation to the HRB work (including in relation to controlled changes, mandatory occurrence reporting, competence of persons or sharing of information and co-operation) would contravene, or would be likely to contravene, the requirements of—
 - (i) regulations [11 to 20] (changes to documents or persons);
 - (ii) regulations [21, 22 and 30] (golden thread information and key building information);
 - (iii) regulations [23 to 28] (mandatory occurrence reporting);
 - (iv) the Dutyholders Regulations.

(2) If one or more of the reasons in paragraph (1) applies, the regulator may—

- (a) reject the building control approval application, or
- (b) with the written consent of the applicant, grant the building control approval sought in the application subject to one or more requirements.

(3) The types of requirement that may be imposed under paragraph (2)(b) include—

- (a) a requirement to provide a specified plan or document, or a revised version of a specified plan or document, within a specified period;
- (b) a requirement that work does not proceed beyond a specified stage or point until a specified plan or other document, or a revised version of a specified plan or other document, has been given to, and approved by, the regulator.

(4) The regulator must notify the applicant of the outcome of the building control approval application within the period in regulation [6] (building control approval applications: time limit).

(5) A notice that the application has been rejected must give the reason for rejection.

(6) A notice that the building control approval sought in the application has been granted subject to a requirement must specify the requirement imposed.

(7) If requested by the applicant, the regulator must provide a paper copy of the notice of building control approval.

(8) Where a building control approval application is successful the effect is that from the date of the notice under paragraph (4)—

- (a) building control approval for the HRB work is granted;
- (b) subject to paragraphs (9) and (10)—
 - (i) the description of the proposed HRB work under regulation [4(1)(e)];
 - (ii) the plans of the HRB work that accompanied the application; and
 - (iii) each of the other documents that accompanied the application, are approved.

(9) Where building control approval has been granted subject to a requirement that a plan or document must be revised, the unrevised plan or document is not approved by paragraph (8)(b).

(10) Where—

- (a) building control approval has been granted subject to a requirement that any plan or document must be revised, and
- (b) the plan or document is revised in accordance with the requirement,

paragraph (8)(b) applies in relation to the revised plan or document.

(11) Where building control approval has been granted subject to a requirement of a type described in regulation [7(3)(a)], the client must ensure that work does not commence before the plan or document is provided.

(12) Where building control approval has been granted subject to a requirement of a type described in regulation [7(3)(b)], the client must ensure the work does not proceed beyond the specified stage or point until approval by the regulator to the plan or document has been received.

(13) Where building control approval has been granted subject to a requirement to notify the regulator when HRB work has reached a specified stage or point, the client must notify the regulator no later than five days after that stage or point is reached.

Regulator's power to require notifications etc

8. The regulator may, by notice in writing, require a client—
- (a) to notify the regulator when a specified stage or point of the HRB work has been reached;
 - (b) not to cover up specified work for a specified period.

Commencement notice

9.—(1) This regulation applies where building control approval for HRB work is granted.

(2) At least two working days before the day the HRB work commences, the client, or someone on behalf of the client, must give a notice to the regulator setting out their intention to commence the work.

PART 4

Changes before or during construction

Requirements: variation

10.—(1) A client in relation to HRB work may request, by notice in writing, the regulator varies a requirement imposed under regulation [7(2)(b)].

(2) Where a requirement is varied the regulator must send the client a notice setting out the requirement as varied.

(3) If requested by the client, the regulator must provide a paper copy of the notice.

Change control

11.—(1) This regulation applies where one or more of the following matters (“controlled changes”) is proposed—

- (a) to carry out work otherwise than in accordance with the current plans;
- (b) to depart from the strategies, policies and procedures described in the current construction control plan (including a change to the mandatory occurrence reporting system);
- (c) to change the arrangements to create and maintain the golden thread information from those described in the current statement under regulation [4(2)(b)(vii)].

(2) Before any controlled change can be carried out, the client must ensure—

- (a) a record is made of the controlled change in accordance with regulation [12] (change control: record-keeping), and

(b) a revised version of any agreed document affected by the controlled change is produced.

(3) Where the controlled change is a notifiable change, the client or someone on behalf of the client must notify the regulator in accordance with regulation [13] (change control: notification requirements).

(4) The notifiable change must not be carried out until the period specified in regulation [13(2)] has passed.

(5) Where the controlled change is a major change, the client or someone on behalf of the client must make an application for building control approval in respect of the change (a “change control application”) to the regulator in accordance with regulation [14] (change control: applications).

(6) The major change must not be carried out until the change control application is granted.

(7) In this regulation—

“current construction control plan” means the construction control plan that is an agreed document at the time the controlled change is proposed;

“current plans” means the plans that are an agreed document at the time the controlled change is proposed;

“current statement under regulation [4(2)(b)(vii)] means the statement under regulation [4(2)(b)(vii)] that is an agreed document at the time the controlled change is proposed;

“major change” means a controlled change—

(i) listed in [*to be decided*]; or

(ii) specified under regulation [18(2)] (change control: regulator power to specify major changes);

“notifiable change” means a controlled change (other than a major change)—

(iii) listed in [*to be decided*], or

(iv) specified under regulation [18(1)] (change control: regulator power to specify notifiable changes);

Change control: record-keeping

12.—(1) A controlled change must be recorded by entering the following information in the change control log—

(a) the name of the individual recording the change;

(b) a description of the proposed change,

(c) an explanation of the reason why the change has been proposed,

(d) whether the change is a notifiable change or a major change,

(e) a list of the name and occupation of each person, if any, whose advice was sought in relation to the proposed change and a brief summary of any advice provided,

(f) an assessment of which agreed document is affected by the proposed change and confirmation that a revised version has been produced in accordance with regulation [11(2)(b)] (change control), and

(g) an explanation, in relation to the proposed change, of how—

(i) the HRB work will, after the proposed change is carried out, meet all applicable building regulations, and

(ii) the strategies, policies and procedures in relation to the HRB work (including in relation to controlled changes, mandatory occurrence reporting, competence of persons or sharing of information and co-operation) will, after the proposed change is carried out, meet the requirements of—

(aa) regulations [11 to 20] (changes to documents or persons);

(bb) regulations [21, 22 and 30] (golden thread information and key building information);

- (cc) regulations [23 to 28] (mandatory occurrence reporting);
- (dd) the Dutyholders Regulations.

(a “compliance explanation”).

(2) In this regulation, “change control log” means a document created and maintained by the principal contractor (or sole contractor) for the purposes of recording information under this regulation.

Change control: notification requirements

13.—(1) A notice under regulation [11(3)] (change control) must be in writing, signed by the person giving the notification, and must include—

- (a) a description of the proposed controlled change,
- (b) an explanation of the reason why the change has been proposed,
- (c) a list of the name and occupation of each person, if any, whose advice was sought in relation to the proposed change and a brief summary of any advice provided,
- (d) an assessment of which agreed document is affected by the proposed change, and
- (e) a compliance explanation in relation to the proposed change,

and the notice must be accompanied by the revised version of the agreed document produced in accordance with regulation [11(2)(b)] (change control).

(2) The period during which the controlled change must not be carried out is [14] days beginning with the day after the notice was given to the regulator.

Change control applications

14.—(1) A change control application must be in writing, signed by the person making the application, and must include—

- (a) the name, address, telephone number and (if available) an email address of the client;
- (b) the name, address, telephone number and (if available) an email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);
- (c) a statement that the application is made under this regulation, and
- (d) a description of the proposed controlled change.

(2) The application must be accompanied by—

- (a) an explanation of the reason why the change has been proposed,
- (b) a list of the name and occupation of each person, if any, whose advice was sought in relation to the proposed change and a brief summary of any advice provided,
- (c) an assessment of which agreed document is affected by the proposed change,
- (d) a compliance explanation in relation to the proposed change, and
- (e) the revised version of the agreed document produced in accordance with regulation [11(2)(b)] (change control).

Change control applications: consultation

15.—(1) Before determining a change control application relating to a controlled change of a kind described in regulation [11(1)(a)] (change control), the regulator must consult—

- (a) where Parts A (structure), B (fire safety) or M (access to and use of buildings) of Schedule 1 to the Building Regulations 2010 impose a requirement in relation to the work that is proposed to be changed, the enforcing authority (within the meaning of article 25 of the Regulatory Reform (Fire Safety) Order 2005) for the proposed higher-risk building;

- (b) where paragraph H4 of Schedule 1 to the Building Regulations 2010 imposes requirements in relation to the work that is proposed to be changed, the sewerage undertaker for the proposed higher-risk building.
- (2) Where the regulator is required to consult a person under this regulation it—
- (a) must give the person sufficient plans to show whether the work would, if carried out in accordance with those plans, comply with—
 - (i) in the case of the enforcing authority, the applicable requirements of Parts A (structure), B (fire safety) and M (access to and use of buildings) of Schedule 1 to the Building Regulations 2010; and
 - (ii) in the case of the sewerage undertaker, the requirements of paragraph H4 of Schedule 1 to the Building Regulations 2010;
 - (b) must not determine the change control application until at least [7] days after the date on which the plans are given.
- (3) Paragraph (2)(b) does not apply if before the end of the period referred to in that paragraph all persons who must be consulted in relation to the change control application have expressed their views to the regulator.

Change control applications: time limit

- 16.—(1) The regulator must determine a change control application within [four] weeks beginning with the day after a valid change control application was received by the regulator, or within such longer period as at any time the regulator and the applicant agree in writing.
- (2) For the purposes of this regulation a change control application is valid where it complies with the requirements of regulation [14] (change control applications).

Change control applications: decisions

- 17.—(1) The regulator must grant the building control approval sought in a change control application unless the application or any document that accompanied the application—
- (a) does not comply with the requirements of regulation [14] (change control applications) or any direction relating to the application or the document given by the regulator under regulation [46] (electronic submission and directions);
 - (b) is not sufficiently detailed in any respect to allow the regulator to determine whether the HRB work would contravene any applicable requirement of the building regulations;
 - (c) shows the HRB work would contravene any applicable requirement of the building regulations;
 - (d) shows the strategies, policies and procedures in relation to the HRB work (including in relation to controlled changes, mandatory occurrence reporting, competence of persons or sharing of information and co-operation) would contravene, or would be likely to contravene, the requirements of—
 - (i) regulations [11 to 20] (changes to documents or persons);
 - (ii) regulations [21, 22 and 30] (golden thread information and key building information);
 - (iii) regulations [23 to 28] (mandatory occurrence reporting);
 - (iv) the Dutyholders Regulations.
- (2) If one or more of the reasons in paragraph (1) applies, the regulator may—
- (a) reject the change control application, or
 - (b) with the written consent of the applicant, grant the building control approval sought in the application subject to one or more requirements.
- (3) The types of requirement that may be imposed under paragraph (2)(b) include—

- (a) a requirement to provide a specified plan or document, or a revised version of a specified plan or document, within a specified period;
 - (b) a requirement that work does not proceed beyond a specified stage or point until a specified plan or other document, or a revised version of a specified plan or other document, has been given to, and approved by, the regulator.
- (4) The regulator must notify the applicant of the outcome of the change control application within the period in regulation [16] (change control applications: time limit).
- (5) A notice that the application has been rejected must give the reason for rejection.
- (6) A notice that the building control approval sought in the change control application has been granted subject to a requirement must specify the requirement imposed.
- (7) If requested by the applicant, the regulator must provide a paper copy of the notice of building control approval.
- (8) Where a change control application is successful the effect is that from the date of the notice under paragraph (4)—
- (a) building control approval for the HRB work is granted;
 - (b) subject to paragraphs (9) and (10)—
 - (i) the description of the proposed controlled change; and
 - (ii) the revised version of the agreed document that accompanied the application, are approved.
- (9) Where building control approval has been granted subject to a requirement that a plan or document must be revised, the unrevised plan or document is not approved by paragraph (8)(b).
- (10) Where—
- (a) building control approval has been granted subject to a requirement that a plan or document must be revised, and
 - (b) the plan or document is revised in accordance with the requirement,
- paragraph (8)(b) applies in relation to the revised plan or document.
- (11) Where building control approval has been granted subject to a requirement of a type described in regulation [7(3)(b)] (building control approval applications: decisions), the client must ensure the work does not proceed beyond the specified stage or point until approval by the regulator to the plan or document has been received.

Change control: regulator power to specify notifiable changes and major changes

18.—(1) The regulator may specify that a particular type of controlled change is a notifiable change, in relation to specified work, by giving notice in writing to that effect to the client, the principal contractor (or sole contractor) and the principal designer (or person fulfilling the duties of the principal designer by virtue of regulation 6(7) of those Regulations).

(2) The regulator may specify that a particular type of controlled change is a major change, in relation to specified work, by giving notice in writing to that effect to the client, principal contractor (or sole contractor) and the principal designer (or sole or lead designer).

New client: notification

19.—(1) If, at any time after building control approval for HRB work is granted, a person ceases to be the client in relation to the work they must, no later than [28] days after the date they cease to be the client—

- (a) provide the new client with—
 - (i) a copy of the golden thread information;
 - (ii) information (including plans, drawings and other documents) which is sufficient to detail the work comprised in the project;

- (iii) a document explaining the arrangements made under regulation 3 (suitable arrangements) of the Dutyholder Regulations;
 - (b) notify the regulator of the date they ceased to be the client and the name, address, telephone number and (if available) an email address of the new client and the date that person became the client.
- (2) Where the client dies, becomes insolvent or is incapacitated, the requirements in paragraph (1) apply to the administrator.
- (3) In this regulation “administrator” means—
- (a) in the case of death of the client, the person who administers the estate of the client;
 - (b) in the case of insolvency, the administrator in the insolvency;
 - (c) in the case of incapacity of the client, the person with enduring power of attorney in relation to the client or a person authorised by a court in relation to the higher-risk building.

New principal contractor or principal designer etc: notification

20.—(1) If, at any time after building control approval for HRB work is granted the client appoints a principal contractor (or sole contractor) or principal designer (or sole or lead designer), then the client must send to the regulator a notice containing—

- (a) the name, address, telephone number and (if available) an email address of the person appointed;
- (b) a statement that the client is satisfied—
 - (i) in the case of a principal contractor, that the person fulfils the requirements in regulations 8(1), 8(2) and 10(1) of the Dutyholder Regulations;
 - (ii) in the case of a principal designer, that the person fulfils the requirements in regulations 8(1), 8(2) and 9(1) of the Dutyholder Regulations;
 - (iii) in the case of a sole contractor, or sole or lead designer, that the person fulfils the requirements in regulations 8(1) and 8(2) of those Regulations;
- (c) in the case of a principal contractor or principal designer, a copy of the record, in respect of the person, that the client created under regulation 6(8) or as the case may be regulation 6(9), of the Dutyholder Regulations; and
- (d) a declaration as to the truth of the statement referred to in sub-paragraph (b) and of the record (if any) referred to in sub-paragraph (c).

(2) The notice required under paragraph (1) must be signed by the client or someone on behalf of the client.

(3) The client must ensure the notice is accompanied by a compliance declaration (which has the same meaning as in regulation [31] (completion certificate applications)) signed by the person who previously was the principal contractor (or sole contractor) or principal designer (or sole or lead designer), as the case may be, and where that person is unable to give a compliance declaration to the client, the notice under paragraph (1) must be accompanied by a statement explaining why a compliance declaration for that person has not been provided.

(4) The client must send the notice under paragraph (1) together with the compliance declaration (or, if applicable, a statement referred to in paragraph (3)) to the regulator within [28] days of the appointment.

PART 5

Golden thread, key building information, mandatory occurrence reporting, completion notices, information handover etc

Golden thread information

21.—(1) In relation to HRB work, the arrangements made by a client under regulation 3 of the Dutyholder Regulations must include—

- (a) arrangements for an electronic facility to be created and maintained by the client (or someone on their behalf) for the purpose of holding the golden thread information;
- (b) procedures for persons involved with the HRB work to maintain any golden thread information in the facility referred to in sub-paragraph (a).

(2) Within [x] days of the building control approval for HRB work being granted the client must ensure the facility referred to in paragraph (1)(a) includes—

- (a) a copy of any fire statement for the proposed higher-risk building (including any historic fire statements); and
- (b) a copy of the plans and each of the other documents for the proposed higher-risk building which are approved under regulation [7(8)(b)] (building control approval applications: decisions).

(3) Within [x] days of an agreed document being—

- (a) provided or approved under the terms of a requirement imposed on the grant of a building control approval under regulation [7] (building control approval applications: decisions) or [17] (change control applications: decisions); or
- (b) revised in accordance with regulation [11(2)(b)] (change control),

the client must ensure the facility referred to in paragraph (1)(a) is updated to include a copy of that agreed document.

(4) Within [x] days of a compliance declaration under regulation [20] (new principal contractor or principal designer etc: notification) or a statement by the client under that regulation instead of such a declaration being submitted, the client must ensure the facility referred to in paragraph (1)(a) is updated to include a copy of that declaration or statement.

(5) Within [x] days of a written report being submitted to the regulator under regulation [24] (mandatory occurrence reporting: reporting to the regulator), the client must ensure the facility referred to in paragraph (1)(a) is updated to include a copy of that report.

(6) The golden thread information must be kept in electronic format in accordance with [standard to be decided].

(7) In this regulation—

“fire statement” means any statement relating to the proposed higher-risk building submitted in accordance with article 9A of the Town and Country Planning (Development Management) (England) Order 2015(a);

“golden thread information” means the information required by this regulation to be included in the facility referred to in paragraph (1)(a) including historic versions of those documents.

Key building information

22.—(1) Within [x] days of the building control approval for HRB work being granted under regulation [7] (building control approval applications: decisions) or [17] (change control applications: decisions), the client must ensure the key building information is submitted to the regulator via the online portal provided for that purpose.

(a) S.I. 2015/595. Article 9A was inserted by S.I. 2021/746.

(2) Within [x] days of an agreed document being—

- (a) provided or approved under the terms of a requirement imposed on the grant of a building control approval under regulation [7] (building control approval applications: decisions) or [17] (change control applications: decisions); or
- (b) revised in accordance with regulation [11(2)(b)] (change control),

the client must identify whether the document or revisions to the document affects any of the information in the key building information and, if it does, the client must ensure the information is updated by submitting it to the regulator via the online portal provided for that purpose.

(3) Within [x] days of completing the HRB work the client must ensure the key building information is updated by submitting the additional information referred to in paragraph (5)(b) to the regulator via the online portal provided for that purpose.

(4) The client must keep a record of the up to date key building information required under this regulation in electronic format in accordance with [*standard to be decided*].

(5) In this regulation “key building information” means—

- (a) before the completion of the HRB work—
 - (i) name of the building;
 - (ii) postal address, or map reference where not yet a postal address;
 - (iii) the name, address, telephone number and (if available) an email address of the client;
 - (iv) proposed height of the completed building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations [2022];
 - (v) proposed number of storeys above ground level;
 - (vi) proposed number of storeys below ground level;
 - (vii) proposed uses of any below ground storeys;
 - (viii) proposed number of dwellings in the building;
 - (ix) proposed building use(s);
 - (x) if the proposed use of the building is residential and another use, details of the proposed other use of the building;
 - (xi) if the proposed use of the building is residential only, which is the proposed main building tenure;
 - (xii) number of staircases serving all storeys of the building;
 - (xiii) number of sprinkler heads in the building;
 - (xiv) date(s) planning permission was granted for the building;
 - (xv) proposed façade system(s) for the building, including details of the materials and the insulation;
 - (xvi) proposed percentage coverage of each façade system on the building;
 - (xvii) details of whether the façade of the building will use a large panel system;
 - (xviii) details of the proportion of the building’s outer surface to be windows;
 - (xix) details of any proposed wall attachments, including their type and materials;
 - (xx) details of the proposed roof sheeting, including materials;
 - (xxi) details of the proportion of cover provided by each roof sheeting;
 - (xxii) details of the largest proposed fire compartment in square metres;
 - (xxiii) details of proposed energy supply to the building;
 - (xxiv) details of the proposed building frame material(s);
 - (xxv) details of the ground on which the building is built;
 - (xxvi) details of any proposed external facilities, including car parks;

- (xxvii) proposed number of fire doors in the building;
- (xxviii) details of the proposed evacuation strategy for the building;
- (b) on completion of the HRB work the information listed in sub-paragraph (a) and additionally—
 - (i) name, address, telephone number and (if available) an email address of the principal accountable person^(a) (if known at this date);
 - (ii) date of completion of the work;
 - (iii) date building control approval was granted under regulation [7];
 - (iv) date any further building control approval was granted under regulation [17];
 - (v) fire door number, manufacturer and model (for each fire door);
 - (vi) details of the fire and smoke control provisions and equipment are in the buildings.

Mandatory occurrence reporting system

23.—(1) The principal dutyholders^(b) must—

- (a) before the construction phase begins, establish a system which enables as far as is reasonably practicable the prompt reporting of every safety occurrence to the principal dutyholders by reporting persons, and
- (b) maintain the system throughout the construction phase.

(2) The principal dutyholders must take reasonable steps to ensure each reporting person is provided with adequate instruction and information on the system established by virtue of paragraph (1) and the incidents or situations that should be reported by the reporting person through the system—

- (a) in the case of a designer or contractor, before starting any work;
- (b) in the case of any other person, as soon as reasonably practicable after first entering the site of the HRB work.

(3) The principal contractor (or sole contractor) must ensure an appropriate frequency of inspections of HRB work for safety occurrences throughout the construction phase.

(4) The principal designer (or sole or lead designer) must ensure an appropriate frequency of inspections of HRB design work for safety occurrences throughout the construction phase.

Mandatory occurrence reporting: reporting to the regulator

24.—(1) Where there is a safety occurrence during the construction phase, a principal dutyholder must follow the reporting procedure on becoming aware of the occurrence.

(2) For the purposes of this regulation, “reporting procedure” means —

- (i) notifying the regulator of the safety occurrence by the quickest practicable means without undue delay; and
- (ii) providing the regulator with a written report of the occurrence containing the required information (as set out in paragraph (3)) to the regulator within [10] days of becoming aware of the safety occurrence.

(3) The required information referred to in paragraph (2) is—

- (a) the date and time of the safety occurrence;
- (b) the address of the site at which the occurrence happened;
- (c) name and contact details of the principal dutyholder making the report;
- (d) the type and details of the occurrence (including the nature of the risk).

(a) Accountable person and principal accountable person are defined in sections [69 and 70] of the Building Safety [Act 2022].

(b) HRB design work, principal dutyholder, relevant person and safety occurrence are defined in regulation [26].

(4) Information provided by a person under the reporting procedure is not admissible in evidence against that person in criminal proceedings except—

- (a) in proceedings for an offence under section 35 of the 1984 Act (offence of contravening building regulations etc) relating to breach of the duty in paragraph (1),
- (b) in proceedings for an offence under section [23] of the [2022] Act (provision of false or misleading information to regulator),
- (c) in proceedings for an offence of perverting the course of justice, or
- (d) if in the proceedings—
 - (i) in giving evidence the person makes a statement inconsistent with the information, and
 - (ii) evidence as to the information that was provided is adduced, or a question relating to it is asked, by or on behalf of the person.

Mandatory occurrence reporting: defences

25. Where a principal dutyholder has committed an offence under section 35 of the 1984 Act of contravening these Regulations by failing to follow the reporting procedure in relation to a safety occurrence as required by regulation [24] (mandatory occurrence reporting: reporting to the regulator), it is a defence for the principal dutyholder if it reasonably believed that the other principal dutyholder had—

- (a) already notified the regulator under regulation [24] of the safety occurrence; and
- (b) already provided the regulator with a written report under regulation [24] of the safety occurrence.

Mandatory occurrence reporting: definitions

26. In regulations [23 to 25]—

“HRB design work” means design of any HRB work;

“reporting person” means—

- (a) any designer (including the principal designer),
- (b) any contractor (including the principal contractor), and
- (c) any other person who is a periodic visitor on the site of HRB work;

“the principal dutyholder” means the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

“safety occurrence” means—

- (a) in relation to a design, an aspect of the design relating to the structural integrity or fire safety of a higher-risk building that would, if built, meet the risk condition;
- (b) otherwise, an incident or situation relating to the structural integrity or fire safety of a higher-risk building that meets the risk condition.

(2) In the definition of “safety occurrence”, the “risk condition” is that use of the building in question without the incident or situation being remedied would be likely to present a risk of a significant number of deaths, or serious injury to a significant number of people.

Mandatory occurrence reporting: regulator’s annual report

27. Regulation [24(1)] (mandatory occurrence reporting: reporting to the regulator) is prescribed^(a) for the purposes of section 19(2)(b) of the 2022 Act.

(a) See section [29] of the Building Safety [Act 2022] for the meaning of prescribed.

Mandatory occurrence reporting: client duty on appointment of principal dutyholder

28. Where, in relation to HRB work, the client appoints a principal contractor (or sole contractor) or principal designer (or sole or lead designer), then the client must take all reasonable steps to satisfy itself that the person appointed is able to fulfil the requirements in regulations [23] (mandatory occurrence reporting system) and [24] (mandatory occurrence reporting: reporting to the regulator).

Completion notice

29. After the HRB work is completed, and before or at the same time as the completion certificate application for the work is submitted, the client, or someone on behalf of the client must notify the regulator in writing that the HRB work has been completed.

Golden thread information and key building information to be provided

30.—(1) No later than the date of completion of the HRB work the client must give a copy of—

- (a) the specified golden thread information, and
- (b) the key building information,

for the higher-risk building to the relevant person.

(2) The golden thread information and key building information given under paragraph (1) must be provided—

- (a) in the same format as it was kept;
- (b) in such a way as to retain the filing structure in which it was kept, including each index, key or other information logically associated with it.

(3) In this regulation—

“relevant person” means—

- (a) where the higher-risk building is a building of a description listed in regulation 4 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations [2022](a), the responsible person for the building;
- (b) for any other higher-risk building, the principal accountable person(b) and the responsible person (if any) for the building;

“responsible person” has the meaning given in article 3 of the Regulatory Reform (Fire Safety) Order 2005(c);

“specified golden thread information” means—

- (a) where the relevant person is a responsible person, [to be decided];
- (b) where the relevant person is a principal accountable person, all of the golden thread information.

(a) The list includes care homes, hospitals etc. A draft of the Regulations has been published and can be found here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/997754/Scope_draft_regulations.pdf

(b) Accountable person and principal accountable person are defined in sections [69 and 70] of the Building Safety [Act 2022].

(c) S.I. 2005/1541.

PART 6

Completion certificates

Completion certificate applications

31.—(1) After completing HRB work an application for a completion certificate in relation to the work (“a completion certificate application”) must be made in writing, signed by the client or someone on behalf of the client (in this Part “the applicant”), and must include—

- (a) the name, address, telephone number and (if available) an email address of the client;
- (b) the name, address, telephone number and (if available) an email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);
- (c) a statement that the application is made under this regulation;
- (d) a description of the HRB work, as built, including—
 - (i) the location of the higher-risk building created by the HRB work;
 - (ii) details of the intended use of the higher-risk building, including the intended use of each storey;
 - (iii) the height of the building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations [2022];
 - (iv) the number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations [2022];
 - (v) the provision made for the drainage of the higher-risk building;
 - (vi) where paragraph H4 of Schedule 1 to the Building Regulations 2010 imposes a requirement, the precautions taken in building over a drain, sewer or disposal main to comply with the requirements of that paragraph; and
 - (vii) the steps taken to comply with any local enactment that applies.
- (e) a statement, signed by the client or someone on behalf of the client, confirming that to the best of the client’s knowledge the higher-risk building, as built, complies with all applicable requirements of the building regulations;
- (f) a statement, signed by both the client (or someone on behalf of the client) and the relevant person, confirming that a copy of the golden thread information and the key building information was provided to the relevant person in accordance with regulation [30] (golden thread information and key building information to be provided) and the relevant person has received them.

(2) A completion certificate application must be accompanied by—

- (a) a plan to a scale of not less than 1:1250 showing—
 - (i) the size and position of the higher-risk building, as built, and its relationship to adjoining boundaries;
 - (ii) the boundaries of the curtilage of the building, and the size, position and use of every other building within the curtilage;
 - (iii) the width and position of any street on or within the boundaries of the curtilage of the building;
- (b) such other plans that are necessary to show that the HRB work complied with all applicable requirements of the building regulations;
- (c) the following agreed documents—
 - (i) the construction control plan;
 - (ii) the design and build approach document;
 - (iii) a fire and emergency file;

- (d) subject to paragraph (3), a compliance declaration signed by—
 - (i) each principal contractor (or sole contractor) for the HRB work, and
 - (ii) each principal designer (or sole or lead designer) for the HRB work,
 if such a declaration was not already provided to the regulator, in relation to that part of the work, under regulation [20] (new principal contractor or principal designer etc: notification);
- (e) a list of all the written reports submitted to the regulator in accordance with regulation [24] (mandatory occurrence reporting: reporting to the regulator);
- (f) a copy of the key building information for the higher-risk building, as built.

(3) Where a principal contractor (or sole contractor) or a principal designer (or sole or lead designer) is unable to make a compliance declaration, the completion certificate application must be accompanied by a statement explaining why a compliance declaration for that person has not been provided.

(4) In this regulation, “compliance declaration” means a document, signed by the principal contractor (or sole contractor) and the principal designer (or sole or lead designer) to which the declaration relates, that includes—

- (a) the name, address, telephone number and (if available) an email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);
- (b) the dates of their appointment; and
- (c) a statement confirming—
 - (i) in the case of a principal contractor (or sole contractor), that they took all reasonable steps to fulfil their duties as a principal contractor under the Dutyholder Regulations;
 - (ii) in the case of a principal designer (or sole or lead designer), that they took all reasonable steps to fulfil their duties as a principal designer under the Dutyholder Regulations;

Completion certificate applications: consultation

32.—(1) Before determining a completion certificate application the regulator must consult—

- (a) the enforcing authority (within the meaning article 25 of the Regulatory Reform (Fire Safety) Order 2005) for the higher-risk building;
- (b) where paragraph H4 of Schedule 1 to Building Regulations 2010 imposes requirements in relation to the work, the sewerage undertaker for the higher-risk building.

(2) Where the regulator is required to consult a person under this regulation it—

- (a) must give the person sufficient plans to show whether the HRB work, as built, complies with—
 - (i) in the case of the enforcing authority, the applicable requirements of Parts A (structure), B (fire safety) and M (access to and use of buildings) of Schedule 1 to the Building Regulations 2010;
 - (ii) in the case of the sewerage undertaker, the requirements of paragraph H4 of Schedule 1 to the Building Regulations 2010;
- (b) must not determine the completion certificate application until at least [15] days after the date on which the plans are given.

(3) Paragraph (2)(b) does not apply if before the end of the period referred to in that paragraph all persons who must be consulted in relation to the completion certificate application have expressed their views to the regulator.

Completion certificate applications: inspection

33. Before determining a completion certificate application the regulator must arrange an inspection of the completed HRB work for the purpose of assessing whether the work complies with all applicable requirements of the building regulations.

Completion certificate applications: time limit

34. The regulator must determine a completion certificate application within [12] weeks beginning with the date the application is received by the regulator or within such longer period as at any time the regulator and the applicant agree in writing.

Completion certificate applications: decisions

35.—(1) The regulator must approve a completion certificate application and issue a completion certificate, if it is satisfied, after taking all reasonable steps, that—

- (a) the HRB work is completed and complies with all applicable requirements of the building regulations;
- (b) the documents and information listed in regulation [31(2)(a) to (d)] and submitted as part of the completion certificate application are complete and accurate;
- (c) the information required to be provided to the relevant person under regulation [30] (golden thread information and key building information to be provided) is complete and has been provided.

(2) If the regulator is not satisfied in accordance with paragraph (1) it must reject the completion certificate application.

(3) The regulator must notify the applicant of the outcome of the application within the period in regulation [34] (completion certificate applications: time limit).

(4) A notice that the application has been rejected must give the reason for rejection.

(5) If the application is approved the regulator must issue a completion certificate for the higher-risk building at the same time as giving the notice of its decision under paragraph (3).

(6) If requested by the applicant or the relevant person, the regulator must provide a paper copy of the completion certificate.

(7) A certificate issued under this regulation is evidence (but not conclusive evidence) that all applicable requirements of the building regulations have been complied with in relation to the HRB work.

(8) The certificate must include a statement describing its evidentiary effect, in terms substantially the same as paragraph (7).

Partial completion certificates

36.—(1) This regulation applies where part of a building, in relation to which HRB work is being carried out, is intended to be occupied before all HRB work is completed on that building.

(2) Where this regulation applies an application for a completion certificate in relation to part of the HRB work for a building (“partial completion certificate application”) must be made in writing, signed by the client or someone on behalf of the client (in this regulation “the applicant”), and subject to paragraph (5), must include—

- (a) the name, address, telephone number and (if available) an email address of the client;
- (b) the name, address, telephone number and (if available) an email address of the principal contractor (or sole contractor) and the principal designer (or sole or lead designer);
- (c) a statement that the application is made under this regulation;
- (d) the date when it is proposed occupation of the part of the building to which the application relates will begin (“the occupation date”);

- (e) a plan showing the part of the building that is to be occupied indicating the intended use of that part and the location of dwellings (if any) to be occupied;
 - (f) a description of the part of the HRB work that remains to be completed after the occupation date;
 - (g) a description of the HRB work completed as at the occupation date including—
 - (i) the location of the higher-risk building created by the HRB work;
 - (ii) details of the intended use of the higher-risk building, including the intended use of each storey;
 - (iii) the height of the higher-risk building as determined in accordance with regulation 5 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations [2022];
 - (iv) the number of storeys in the higher-risk building as determined in accordance with regulation 6 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations [2022];
 - (v) the provision made for the drainage of the higher-risk building;
 - (vi) where paragraph H4 of Schedule 1 to the Building Regulations 2010 imposes a requirement, the precautions taken in building over a drain, sewer or disposal main to comply with the requirements of that paragraph; and
 - (vii) the steps taken to comply with any local enactment that applies;
 - (h) a statement, signed by the client or someone on behalf of the client, confirming that to the best of the client's knowledge the part of the HRB work completed as at the occupation date complies with all applicable requirements of the building regulations;
 - (i) a statement, signed by both the client (or someone on behalf of the client) and the relevant person, confirming that a copy of the golden thread information and the key building information, as at the occupation date, was provided in accordance with regulation [30] (golden thread information and key building information to be provided) and the relevant person has received them.
 - (j) a statement (“partial occupation statement”) setting out a detailed description of the proposed stages of the work (including an estimate of the time when each stage of the work will commence).
- (3) A partial completion certificate application must be accompanied by—
- (a) a plan to a scale of not less than 1:1250 showing—
 - (i) the size and position of the proposed higher-risk building, together with the HRB works as completed at the occupation date, and the building's relationship to adjoining boundaries;
 - (ii) the boundaries of the curtilage of the building, and the size, position and use of every other building within the curtilage;
 - (iii) the width and position of any street on or within the boundaries of the curtilage of the building;
 - (b) such other plans that are necessary to show that the HRB work completed as at the occupation date complied with all applicable requirements of the building regulations;
 - (c) the following agreed documents—
 - (i) the construction control plan;
 - (ii) the design and build approach document;
 - (iii) a fire and emergency file;
 - (d) subject to paragraph (4), a compliance declaration signed by—
 - (i) each principal contractor (or sole contractor) for the HRB work, and
 - (ii) each principal designer (or sole or lead designer) for the HRB work,

if such a declaration was not already provided to the regulator, in relation to that part of the work, under regulation [20] (new principal contractor or principal designer etc: notification);

- (e) a list of all the written reports submitted to the regulator under regulation [24] (mandatory occurrence reporting: reporting to the regulator);
- (f) a copy of the key building information for the higher-risk building as at the occupation date;
- (g) a partial completion strategy.

(4) Where a principal contractor (or sole contractor) and a principal designer (or sole or lead designer) is unable to make a compliance declaration, the partial completion certificate application must be accompanied by a statement explaining why a compliance declaration for that person has not been provided.

(5) Before determining a partial completion certificate application the regulator must—

- (a) comply with regulation [32(1) to (3)] (completion certificates applications: consultation), as modified by paragraph (6);
- (b) comply with regulation [33(1)] (completion certificates applications: inspection) as modified by paragraph (6).

(6) Regulations [32] and [33] and Schedule [1] have effect with the following modifications—

- (a) any reference to as built is to be treated as a reference to as completed at the occupation date;
- (b) any reference to HRB work is to be treated as a reference to the part of HRB work completed as at the occupation date;
- (c) any reference to a higher-risk building is to be treated as a reference to the building to which HRB work is being carried out.

(7) The regulator must approve the partial completion certificate application and issue a partial completion certificate, if it is satisfied, after taking all reasonable steps, that—

- (a) the HRB work for those parts of the building that are to be occupied before completion of the HRB work comply with all applicable requirements of the building regulations;
- (b) the documents and information listed in paragraphs (2) and (3) and submitted as part of the application are complete and accurate;
- (c) copies of the golden thread information and the key building information for the higher-risk building, as at the occupation date, have been provided to the relevant person (which has the same meaning as in regulation [30] (golden thread information and key building information to be provided)).

(8) If the regulator is not satisfied in accordance with paragraph (7) it must reject the partial completion certificate application.

(9) The regulator must determine a partial completion certificate application within [6] weeks beginning with the date the application is received by the regulator or within such longer period as at any time the regulator and the applicant agree in writing.

(10) The regulator must notify the applicant of the outcome of the application within the period in paragraph (9).

(11) A notice that the application has been rejected must give the reason for rejection.

(12) If the application is approved the regulator must issue a partial completion certificate for the building at the same time as giving the notice of its decision under paragraph (10).

(13) If requested by the applicant or relevant person, the regulator must provide a paper copy of the partial completion certificate.

(14) A certificate issued under this regulation is evidence (but not conclusive evidence) that all applicable requirements have been complied with in relation to the part of the HRB work to which the certificate relates.

(15) The certificate must include a statement describing its evidentiary effect, in terms substantially the same as paragraph (14).

PART 7

Review of decisions, appeals and section 30A procedures

Review of regulator's decisions

37.—(1) The following decisions are prescribed^(a) for the purposes of section [24(1)] of the [2022 Act]—

- (a) a decision to refuse—
 - (i) a building control approval application;
 - (ii) a change control application;
 - (iii) a completion certificate application;
 - (iv) a partial completion certificate application;
- (b) a refusal by the regulator to vary a requirement under regulation [10] (requirements: variation).

(2) The following descriptions of person are prescribed for the purposes of section [24(2)] of the [2022 Act]—

- (a) in relation to the applications referred to in paragraph (1)(a), the person who made the original application;
- (b) in relation to the decision referred to in paragraph (1)(b), the person who submitted the request for variation to the regulator.

(3) A person requiring a review under section [24] of the [2022 Act] must apply on the [prescribed form].

(4) The regulator must notify the person who required a review of the outcome of the review within [x] weeks starting with the day after the day on which the person gives a notice under section [24(2)] of that Act.

(5) A notice that the review has upheld the decision must give the reason for that decision.

(6) If the review varies the decision the regulator must issue a new decision.

(7) If requested by the person requiring the review, the regulator must provide a paper copy of the decision of the review.

Appeal in relation to reviewed decisions

38.—(1) A person may appeal to the First-tier Tribunal against the decision of the regulator of a kind referred to in regulation [37(1)] (review of regulator's decisions) provided that the appeal is made within [x] weeks starting with the day after the day on which the regulator notifies the person under regulation [37(4)] (review of regulator's decisions)^(b).

(2) The Tribunal may allow an appeal under paragraph (1) only to the extent that it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law; or
- (c) that the decision was unreasonable.

(3) If the Tribunal allows an appeal it may quash or vary the decision.

^(a) See section [29] of the Building Safety [Act 2022] for the meaning of prescribed.

^(b) Section [25] of the Building Safety [Act 2022] provides that a review under section [24] must have concluded before an appeal is made.

Section 30A prescribed applications

39. The following applications are prescribed(a) for the purposes of section 30A(1) of the 1984 Act, and are accordingly applications that may be determined by the Secretary of State in the circumstances described in that section—

- (a) a building control approval application;
- (b) a change control application;
- (c) a completion certificate application;
- (d) a partial completion certificate application.

Section 30A applications: procedure

40.—(1) An application under section 30A of the 1984 Act (“section 30A application”) must be made in writing to the Secretary of State by the person who made the original application (in this Part “the applicant”), within the period specified in paragraph (2), on a form published by the Secretary of State, together with the documents specified in paragraph (3).

(2) The period mentioned in paragraph (1) is [6] weeks starting with the day after the expiry of the period for determining the application under—

- (a) regulation [6] (building control approval applications: time limit),
- (b) regulation [16] (change control: time limit),
- (c) regulation [34] (completion certificate applications: time limit),
- (d) regulation [36(9)] (partial completion certificate applications: time limit),

or such longer period as the Secretary of State agrees in writing with the applicant.

(3) The documents mentioned in paragraph (1) are—

- (a) a copy of the original application(b) given to the regulator (including all documentation that accompanied the application);
- (b) all information provided to the regulator in relation to the original application by the applicant;
- (c) all correspondence between the applicant and the regulator in relation to that application; and
- (d) a copy of the notice sent to the regulator under paragraph (4).

(4) At least two working days before submitting the application under paragraph (1) the applicant must give notice to the regulator of their intention to do so.

(5) A notice to the regulator under paragraph (4) may not be given before the expiry of the period set out in the regulations mentioned in paragraph (2).

Section 30A applications: electronic submissions

41.—(1) Where an applicant submits a section 30A application through electronic facilities provided by the Secretary of State for that purpose, they are taken to have consented to the use of electronic communications for all purposes relating to the section 30A application that are capable of being carried out electronically.

(2) The deemed consent in paragraph (1) may be revoked by the applicant giving the Secretary of State two weeks’ notice in writing specifying that the notice is given under this regulation.

Section 30A applications: determinations

42.—(1) A section 30A application is to be determined(a) by written representations.

(a) See section 126 of the Building Act 1984 for the meaning of prescribed.

(b) See section 30A of the Building Act 1984 (c. 55) for the definition of “the original application”.

(2) The Secretary of State must give the regulator the opportunity to make written representations in relation to a section 30A application.

(3) The Secretary of State may give any other person an opportunity to make written representations in relation to the application.

(4) The Secretary of State may, by notice in writing, require the regulator to provide specified information, or provide copies of specified documents, by the date specified in the notice (that date must be no fewer than [14] days after the date the notice is given).

(5) Before determining a section 30A application the Secretary of State may—

- (a) hold any meeting with the applicant, the regulator or any other person,
- (b) undertake any site visit, testing or inspection,

as the Secretary of State considers appropriate.

(6) The Secretary of State's decision in relation to a section 30A application must be given in writing to the applicant.

(7) A copy of the Secretary of State's decision must be sent to the regulator.

Section 30A applications: appointed persons

43.—(1) The Secretary of State may appoint a person to determine a section 30A application instead of the Secretary of State.

(2) At any time before a person appointed under this regulation has determined the application the Secretary of State may—

- (a) revoke that person's appointment;
- (b) appoint another person to determine the application instead.

(3) Where a new appointment is made the consideration of the application in question must be started afresh.

(4) Nothing in paragraph (3) requires any person to be given an opportunity to make fresh representations or modify or withdraw representations previously made.

(5) A person appointed under this regulation has the same powers and duties in relation to determination of a section 30A application as the Secretary of State and, in particular, regulation [42] (section 30A applications: determinations) applies as if references to the Secretary of State in that regulation were references to that person.

(6) Where an application is determined by a person appointed under this regulation their decision is to be treated as the decision of the Secretary of State.

Deemed refusal of applications

44.—(1) Where in relation to an application that is prescribed in regulation [39] (section 30A prescribed applications)—

- (a) the period for a person to make a section 30A application has expired without the person making a section 30A application in accordance with regulation [40] (section 30A applications: procedure), and
- (b) the regulator has not determined the original application (b) before the expiry of that period,

then the original application is treated as refused by the regulator.

(a) Section 30A(7) provides that for the purpose of determining a section 30A application the Building Act 1984 and the building regulations (including these Regulations) apply in relation to the Secretary of State as they apply to the regulator.
(b) See section 30A of the Building Act 1984 (c. 55) for the definition of "the original application".

PART 8

Miscellaneous

Commencement of work

45.—(1) For the purposes of section 32 of the 1984 Act (lapse of building control approval) work is to be regarded as commenced on the earliest date on which any material building operation in relation to the HRB work begins to be carried out.

(2) In this regulation “material building operation” means—

- (a) the excavation for foundations (including raft foundations or pad footings) or part of the foundations;
- (b) civil engineering work related to pilings;
- (c) the laying of any underground drainage of a building,

but excludes—

- (i) removal of vegetation or top soil;
- (ii) removal or treatment of contaminated soil;
- (iii) excavation for testing purposes;
- (iv) dynamic compaction;
- (v) any work of demolition of a building;
- (vi) the laying out of a service road.

Electronic submission and directions

46.—(1) The regulator must make a direction as to the way in which any of the following applications and documents are given (which may include specifying cases where they must be given electronically via a website address provided for that purpose by the regulator)—

- (i) building control approval application;
- (ii) change control application;
- (iii) completion certificate application;
- (iv) partial completion certification application, and
- (v) any documents that accompanied such an application.

(2) The direction must specify the date on which it comes into effect, that must not be earlier than [x] days after it is published in accordance with paragraph (3).

(3) The regulator must publish a direction under this regulation on its website and make it available for inspection at its principal offices during normal office hours.

(4) Where the regulator has made and published a direction in accordance with this regulation, an application (or any document that accompanied the application) of the type mentioned in the direction must, from the date specified in the direction, be given in accordance with the direction.

(5) The regulator may, by a further direction, amend or revoke a direction made under this regulation.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

Date

Name
Parliamentary Under Secretary of State
Ministry of Housing, Communities and Local Government

Accompanying documents

Competence declaration

- 1.—(1) A competence declaration is a statement that contains a declaration in relation to—
 - (a) a principal contractor (or sole contractor) for HRB work, and
 - (b) a principal designer (or sole or lead designer) for HRB work.
- (2) In relation to a principal designer for HRB work, the competence declaration must—
 - (a) state that the client, having taken all reasonable steps, is satisfied that the person fulfils the requirements in regulations 8(1), 8(2) and 9(1) of the Dutyholder Regulations, and
 - (b) include a declaration as to the truth of that statement.
- (3) In relation to a principal contractor for HRB work, the competence declaration must—
 - (a) state that the client, having taken all reasonable steps, is satisfied that the person fulfils the requirements in regulations 8(1), 8(2) and 10(1) of the Dutyholder Regulations, and
 - (b) include a declaration as to the truth of that statement.
- (4) In relation to a sole contractor, or sole or lead designer, the competence declaration must—
 - (a) state that the client, having taken all reasonable steps, is satisfied that the person fulfils the requirements in regulations 8(1) and 8(2) of the Dutyholder Regulations, and
 - (b) include a declaration as to the truth of that statement.
- (5) The competence declaration must—
 - (a) be signed by the client or someone on behalf of the client, and
 - (b) where there is more than one contractor for the HRB work, include a copy of each record that the client created under regulation 6(8) or, as the case may be, 6(9) of the Dutyholder Regulations.

Construction control plan

2. A construction control plan must set out—
 - (a) the strategies, policies and procedures the client has adopted for managing the HRB work so as to ensure compliance with—
 - (i) the applicable requirements of the building regulations and to record evidence of that compliance;
 - (ii) the duties in Part 5 of the Dutyholder Regulations;
 - (b) the strategies, policies and procedures the client has adopted to ensure any controlled change takes place in accordance with regulation [11] (change control), and to log each controlled change in accordance with regulation [12] (change control: record-keeping) including explaining—
 - (i) how proposed changes will be identified and to whom they must be reported;
 - (ii) how the impacts of proposed changes are identified and considered;
 - (iii) in relation to proposed changes, the decision-making procedures adopted for agreeing a change including whose advice is to be sought;
 - (iv) how changes are recorded and by when;
 - (v) the procedure to identify which changes require notification to the regulator and which changes require a change control application;
 - (c) a statement describing the mandatory occurrence reporting system;

- (d) the strategies, policies and procedures the client has adopted to identify, assess and keep under review the competence of the persons carrying out the HRB work or involved in the design of the higher-risk building;
- (e) the strategies, policies and procedures the client has adopted to support co-operation between designers, contractors and any other persons involved in the HRB work, including the sharing of all necessary information;
- (f) a schedule giving the name of each person who at the date of the application was appointed by—
 - (i) the client,
 - (ii) the principal contractor (or sole contractor), and
 - (iii) the principal designer (or sole or lead designer),
 to work on the project and a summary of their responsibilities;
- (g) the policies the client has adopted to review the construction control plan.

Design and build approach document

3.—(1) A design and build approach document must set out the approach taken in designing the higher-risk building and the building standards to be applied in relation to the higher-risk building, in particular—

- (a) any assumptions made in the design of the building as to the intended occupiers of the building and their likely characteristics and behaviours, and the intended management or maintenance of the building, and justification for making those assumptions;
- (b) the approach taken in relation to each element of the building to ensure compliance with all applicable requirements of the building regulations;
- (c) where compliance is not intended to be achieved by following an approach specified in an approved document, the reasons for adopting an alternative approach to compliance together with an explanation of why the alternative approach is appropriate for the building and how it ensures compliance with all applicable requirements of the building regulations.

(2) In this paragraph “approved document” means a document approved under section 6 of the 1984 Act.

Fire and emergency file

4. A fire and emergency file must explain—

- (a) the matters that were considered when assessing how the building safety risks^(a) could impact the proposed building;
- (b) the proposals adopted in designing the proposed building to ensure compliance with the applicable requirements of the building regulations relating to the building safety risks;
- (c) the measures, strategies and policies it is proposed the building owner should adopt in order to manage and maintain the proposed building;
- (d) any assumptions made in those measures, strategies and proposals as to the intended occupiers of the building and their likely characteristics and behaviours, and the intended management or maintenance of the proposed building;
- (e) the approach taken in relation to the proposed building to ensure compliance with all applicable requirements of the building regulations relating to the building safety risks.

(a) Building safety risk is defined in section [59] of the Building Safety [Act 2022].

Partial completion strategy

5. A partial completion strategy must explain—
- (a) the proposals adopted in designing for occupation of each part of the proposed building to be completed to ensure compliance with the applicable requirements of the building regulations;
 - (b) the measures, strategies and policies it is proposed the building owner should adopt in order to manage and maintain each such part of the proposed building;
 - (c) any assumptions made in those measures, strategies and proposals as to the intended occupiers of each such part of the proposed building and their likely characteristics and behaviours, and the intended management or maintenance of each such part of the proposed building.

Planning statement

- 6.—(1) A planning statement is a statement that—
- (a) confirms that planning permission is not required,
 - (b) confirms that planning permission has been granted and specifies if any optional requirement applies to the work, and if so, which, or
 - (c) confirms that planning permission has not yet been granted, and that the information in paragraph (b) will be supplied before the end of the period of 28 days beginning with the day after the date on which planning permission is granted.

(2) Where a building control approval application is accompanied by a planning statement in accordance with sub-paragraph (1)(c), a supplementary statement in the terms required by sub-paragraph (1)(b) must be provided to the regulator before the end of the period of 28 days beginning with the day after the date on which planning permission is granted, and the statement must state that it is made under this paragraph and is supplementary to the planning statement.

(3) In this paragraph “optional requirement” has the meaning given in regulation 2 of the Building Regulations 2010(a).

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 91ZA of the Building Act 1984 provides for the regulator to be the building control authority in relation to any higher-risk building in England and any proposed higher-risk building.

These Regulations set out the building control procedures which apply to the construction of a new higher-risk building, works to an existing building such that it becomes a higher-risk building or material change of use of an existing building such that it becomes a higher-risk building.

The functional requirements in the Building Regulations 2010 will apply to higher-risk building work, but instead of the procedures in regulations 12 to 18 of those Regulations the provisions of Parts 3 to 8 apply.

Part 3 sets out the procedures for applying for building control approval for higher-risk buildings. Applications must be submitted to the regulator giving the information required and accompanied by the plans and documents required. Provision is made for the applicant to request a staged approach to building work. Fees relating to applications are set out in separate Regulations. Building control approval may, with the applicant’s consent, be subject to a requirement eg to not progress beyond a specified stage without consent of the regulator.

(a) S.I. 2010/2214.

Part 4 sets out the process to vary a requirement imposed on a building control approval, and also sets out the change control process where any work or document relating to the work is to be changed, and provision is made for change to the client, principal contractor or principal designer.

Part 5 sets out provisions in relation the golden thread, the key building information, mandatory occurrence reporting, commencement notices and completion notices.

Part 6 sets out the procedures for applying for a completion certificate for higher-risk buildings. Applications must be submitted to the regulator giving the information required and accompanied by the plans and documents required. Provision is made for partial completion certificates where it is proposed a building should be occupied before all of the higher-risk building work is completed. Fees relating to applications are set out in separate Regulations.

Part 7 sets out provision relating to review by the regulator of its decisions, appeals in relation to reviewed decisions and the procedure under section 30A of the Building Act 1984 (where a request can be made to the Secretary of State for determination of an application where the regulator has not made a decision within the time limit prescribed). Part 8 sets out the activities which will amount to commencement of work for the purposes of section 32 of the Building Act 1984, and gives the regulator the power by direction to require an application to be sent to it via a specified electronic means eg via an upload on a dedicated webpage.

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