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Report Stage: Wednesday 19 January 2022

Building Safety Bill, As Amended

(Amendment Paper)

This document lists all amendments tabled to the Building Safety Bill. Any withdrawn amendments are listed at the end of the document. The amendments are arranged in the order in which it is expected they will be decided.

This document should be read alongside the Speaker's provisional Selection and Grouping, which sets out the order in which the amendments will be debated.

*NEW CLAUSES, NEW SCHEDULES AND
AMENDMENTS RELATING TO PART 5*

Secretary Michael Gove

NC20

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To move the following Clause—

“Regulations under section 131

(1) The power to make regulations under section 131(6)(b) is exercisable by statutory instrument, in the case of regulations made by the Secretary of State or the Welsh Ministers.

(For regulations under section 131(6)(b) made by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).

(2) Regulations under section 131(6)(b)—

(a) may make different provision for different purposes;

(b) may contain consequential, supplementary, incidental, transitional or saving provision.

(3) Regulations under section 131(6)(b)—

(a) if made by the Secretary of State, may not be made unless a draft of the statutory instrument containing them has been laid before, and

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approved by a resolution of, each House of Parliament;

(b) if made by the Welsh Ministers, may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, Senedd Cymru;

(c) if made by the Scottish Ministers, are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).”

Member’s explanatory statement

This new clause provides for the parliamentary procedure and other matters connected to the power to make regulations under section 131(6)(b) and is needed as a consequence of conferring powers on the Welsh Ministers and the Scottish Ministers (see Amendments 54 and 55).

Secretary Michael Gove

NC21

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To move the following Clause—

“Amendment of the Government of Wales Act 2006

In Schedule 7B to the Government of Wales Act 2006 (general restrictions on legislative competence of Senedd Cymru), in paragraph 10(2), at the end insert—

“(o) the new homes ombudsman.””

Member’s explanatory statement

This new clause removes the need for consent to a provision of an Act of Senedd Cymru which removes or modifies any function of the new homes ombudsman or which confers power to do so. The new clause will be inserted after clause 134.

Secretary Michael Gove

NC22

To move the following Clause—

“Architects: Appeals Committee

(1) The Architects Act 1997 is amended as follows.

(2) In section 1 (the Board)—

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(a) after subsection (2) insert—

“(2A)There is to be an Appeals Committee of the Board.”;

(b) after subsection (4) insert—

“(4A)Part 2A of that Schedule makes provision about the Appeals Committee.”

(3) In section 4 (registration: general)—

(a) in subsection (4)(b) for “refer the application to the Board” substitute “refuse the application”;

(b) in subsection (6)—

(i) omit “(4) or”;

(ii) for the words from “direct” to the end substitute “—

(a) direct the Registrar to enter the person’s name in the Register if it is satisfied that the person is entitled to be registered, or

(b) direct the Registrar to refuse the application if it is not so satisfied.”

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(4) In section 6(4B) (notice of refusal of application) for the words from “in the case” to “section 4(2A)” substitute “of an application”.

(5) In section 9 (competence to practise) after subsection (2) insert—

“(2A)A notice under subsection (2) must state reasons for the decision.”

(6) In Part 5 (general and supplementary) before section 22 insert—

“21A Appeals to the Appeals Committee

(1) A person may appeal to the Appeals Committee against—

(a) a decision to refuse the person’s application for registration, or

(b) if the person is a person to whom paragraph (b) of section 9(1) applies, a decision to remove or not to re-enter the person’s name in the Register as a result of section 9(1).

(2) The Board may make rules about appeals to the Appeals Committee, including in particular rules about—

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- (a) the period within which any appeal must be made;
 - (b) the way in which an appeal is to be made or withdrawn;
 - (c) the fee that must be paid on the making of an appeal (including circumstances in which that fee may or must be refunded);
 - (d) the procedure to be followed by the Appeals Committee in relation to an appeal;
 - (e) the effect of the making of an appeal, pending its determination, on the decision appealed against.
- (3) On the determination of an appeal, the Appeal Committee may make any decision that could have been made by the person who made the decision appealed against.
- (4) The Appeals Committee must, within the prescribed period after determining a person's appeal, serve on the person written notice of the decision made on that determination."

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(7) In section 22 (appeals)—

(a) in subsection (1)—

(i) for paragraph (a) substitute—

“(a) a decision of the Appeals Committee under section 21A, on an appeal made by the person;”;

(ii) for paragraph (c) substitute—

“(c) the person’s name not being re-entered in the Register under section 18 as a result of section 9(1);”;

(b) in subsection (2) omit “Subject to subsection (3),”;

(c) omit subsection (3);

(d) in the heading at the end insert “to the court”.

(8) In section 24(2) (service of documents) for “or 15(3)” substitute “, 15(3) or 21A(4)”.

(9) In Schedule 1 (the Board and its committees) after Part 2 insert—

“PART 2A

The Appeals Committee

17B (1) The Board may make rules about—

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- (a) the composition of the Appeals Committee;
- (b) the selection and term of office of members of the Appeal Committee (including casual vacancies);
- (c) the meetings and procedure (including chairing and quorum) of the Appeal Committee;
- (d) votes of the Appeal Committee (including providing for a casting vote and the way in which it is to be exercised).

(2) Before making rules about the composition of the Appeals Committee, the Board must consult the Secretary of State."

(10) In Part 4 of that Schedule (general provisions), after "Professional Conduct Committee", in each place it occurs, insert ", the Appeals Committee"."

Member's explanatory statement

This new clause amends the Architects Act 1997 so as to require a committee called the Appeals Committee to be established. The committee is to determine certain appeals relating to

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registration. The new clause will be inserted into Part 5, after clause 137.

Keir Starmer

NC3

To move the following Clause—

“Remediation costs and Building Works Agency

(1) The remediation costs condition applies where a landlord has carried out any fire safety works to an applicable building in consequence of any provision, duty or guidance arising from—

(a) the Housing Act 2004;

(b) the Regulatory Reform (Fire Safety Order) 2005;

(c) the Building Safety Act 2021;

(d) any direction, recommendation or suggestion of any public authority or regulatory body;

(e) such other circumstances or enactment as the Secretary of State may prescribe by regulations or in

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accordance with subsection (9), below.

- (2) If the remediation costs condition is met, then the costs incurred by the landlord in connection with those matters may not be the subject of a demand for payment of service charges, administration charges or any other charge permitted or authorised by any provision of any long lease.
- (3) Any demand for payment which contravenes this section shall be of no force or effect and will have no validity in law.
- (4) Any covenant or agreement, whether contained in a lease or in an agreement collateral to such a lease, is void in so far as it purports to authorise any forfeiture or impose on the tenant any penalty, disability or obligation in the event of the tenant refusing, failing or declining to make a payment to which this section applies.
- (5) The remediation costs condition applies to demands for payment before the

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landlord incurs the costs in the same way as it applies to demands for payment made after the costs have been incurred.

- (6) The remediation costs condition does not apply where the landlord is a company in which the majority of the shares are held by leaseholders or where the landlord is an RTM company.
- (7) Within six months of the day on which this section comes into force, the Secretary of State must create an agency referred to as the Building Works Agency.
- (8) The purpose of the Building Works Agency shall be to administer a programme of cladding remediation and other building safety works, including—
 - (a) overseeing an audit of cladding, insulation and other building safety issues in buildings over two storeys;
 - (b) prioritising audited buildings for remediation based on risk;

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- (c) determining the granting or refusal of grant funding for cladding remediation work;
 - (d) monitoring progress of remediation work and enforce remediation work where appropriate;
 - (e) determining buildings to be safe once remediation work has been completed;
 - (f) seeking to recover costs of remediation where appropriate from responsible parties; and
 - (g) providing support, information and advice for owners of buildings during the remediation process.
- (9) The Building Works Agency shall also have power to recommend that the Secretary of State exercises his power under clause (1)(e) in such terms and to such extent that it sees fit. If such a recommendation is made, the Secretary of State must, within 28 days, either—

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- (a) accept it and exercise the power under clause 1(e) within 28 days of acceptance; or
- (b) reject it and, within 28 days of rejection, lay before Parliament a report setting out the reasons for rejection.

(10) In this section—

- (a) “fire safety works” means any work or service carried out for the purpose of eradicating or mitigating (whether permanently or temporarily) any risk associated with the spread of fire, the structural integrity of the building or the ability of people to evacuate the building;
- (b) “applicable building” means a building subject to one or more long leases on the day on which section comes into force;
- (c) “service charge” has the meaning given by s.18, Landlord and Tenant Act 1985;

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- (d) “administration charge” has the meaning given by Schedule 11, Commonhold and Leasehold Reform Act 2002;
- (e) “long lease” has the meaning given by sections 76 and 77 of the Commonhold and Leasehold Reform Act 2002;
- (f) “RTM company” has the meaning given by section 113 of the Commonhold and Leasehold Reform Act 2002.

(11) This section comes into force on the day on which this Act is passed.”

Stephen McPartland

NC4

To move the following Clause—

“Building Safety remediation and works: zero-rating for Value Added Tax purposes

(1) The Value Added Tax Act 1994 is amended as follows.

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(2) In section 35(1A)(b) at the end leave out “and”.

(3) In subsection 35(1A)(c) leave out the final full stop and insert “, and”.

(4) After subsection 35(1A)(c) insert—

“(d) building safety remediation or building safety works of the type described in item 4A of the table in paragraph 1 of Group 5 of Schedule 8 to this Act.”

(5) After subsection 35(2) insert—

“(2A) For the purposes of subsection (2), the Commissioners shall make regulations providing for a period of not less than 6 months to be open for claims for repayment of VAT in relation to supplies under subsection 35(1A)(d) where the date of supply is between 14 June 2017 and 31 July 2022.”

(6) In the table at paragraph 1 of Group 5 of Schedule 8, after existing item 4 insert new item 4A—

“The supply in the course of—

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- (a) remediation of any defect in any external wall of any building containing two or more residential dwellings; or
- (b) remediation of any defect in any attachment to any external wall of any building containing two or more residential dwellings; or
- (c) the installation of a new or upgraded communal fire alarm system, other than to replace a communal system which has reached the end of its working life, or a communal system which has broken down as a result of failure to make reasonable repairs over time; or
- (d) remediation of any internal or external defect other than a defect described in paragraphs (a), (b) or (c); or
- (e) any building safety works carried out by an accountable person under section 86 of the Building Safety Act 2021 of any services related to the remediation."

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(7) In the table at paragraph 1 of Group 5 of Schedule 8, in item 4 replace “item 2 or 3” with “item 2, 3 or 4A”.

(8) After note 24 insert a new note as follows—

“(25) For the purposes of item 4A in the table above—

“defect” means anything posing any risk to the spread of fire, the structural integrity of the building or the ability of people to evacuate the building, including but not limited to any risk identified in guidance issued under Article 50 of the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541) or any risk identified in regulations made under section 59 of the Building Safety Act 2021;

“external wall” has the same meaning as in Article 6 of the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541);

“remediation” means any step taken to eradicate or to mitigate a defect, including employment of any person temporarily or permanently to assist in

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evacuation of any part of a building, and whether or not the defect in question existed at the date any dwelling in the building was first occupied. Remediation does not include anything required in consequence of omitting to effect reasonable repairs or maintenance to all or any part of the building over time, or anything which is the responsibility of the occupant of a dwelling in the building.”

(9) This section comes into force on 1 August 2022.”

Member’s explanatory statement

This new clause allows recovery of VAT on building safety remedial works paid since 14 June 2017 and makes future supplies of materials, goods and services for building safety remediation projects zero-rated for Value Added Tax.

Stephen McPartland

NC5

To move the following Clause—

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“Fire safety defects and defective dwellings

(1) The Housing Act 1985 is amended as follows.

(2) In section 528(1)(a) leave out the final “, and” and insert “, or”.

(3) After section 528(1)(a) insert—

“(aa) buildings in the proposed class are defective as a result of their external walls or any attachment to the external walls, whether as a result of the design or construction of the external walls or the attachment in question; or

(ab) buildings in the proposed class are defective as a result of anything which in the opinion of the Secretary of State poses a building safety risk or the ability of anyone to evacuate the building, whether or not the building is a higher-risk building, and”

(4) In section 528(1)(b) for “paragraph (a)” substitute “paragraphs (a), (aa) or (ab)”.

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(5) In section 528(1)(b) at the end insert “, or in the opinion of the Secretary of State is materially difficult to mortgage, insure or sell compared to non-defective dwellings.”

(6) After section 528(4) insert—

“(4A) A designation may identify any part of a building or class of buildings, any design feature, any material used in the construction of that building, any error in workmanship or installation or anything missing from that building, whether or not it should have been included when the building was constructed.

(4B) A designation may be made if the defect requires the employment of any person, whether on a permanent or temporary basis, specifically to assist with the evacuation of that building or part of that building.”

(7) After section 528(6) insert—

“(7) In this section—

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“building safety risk” has the same meaning as in section 59 of the Building Safety Act 2021.

“external wall” has the same meaning as in Article 6 of the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541).

“higher-risk building” has the same meaning as in section 62 of the Building Safety Act 2021.”

(8) In section 559(1)(a) omit the final “, and” and replace it with “, or”.

(9) After section 559(1)(a) insert—

“(aa) buildings in the proposed class are defective as a result of their external walls or any attachment to the external walls, whether as a result of the design or construction of the external walls or the attachment in question; or

(ab) buildings in the proposed class are defective as a result of anything which in the opinion of the local housing authority poses a building safety risk or the ability of anyone to

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evacuate the building, whether or not the building is a higher-risk building, and”

(10) In section 559(1)(b) for “paragraph (a)” substitute “paragraphs (a), (aa) or (ab)”.

(11) In section 559(1)(b) at end insert—

“or in the opinion of the local housing authority materially difficult to mortgage, insure or sell compared to non-defective dwellings.”

(12) After section 559(4) insert—

“(4A) A designation may identify any part of a building or class of buildings, any design feature, any material used in the construction of that building, any error in workmanship or installation or anything missing from that building, whether or not it should have been included when the building was constructed.

(4B) A designation may be made if the defect requires the employment of any person, whether on a permanent or temporary basis, specifically to assist with the

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evacuation of that building or part of that building.”

(13) After section 559(6) insert—

“(7) In this section—

“building safety risk” has the same meaning as in section 59 of the Building Safety Act 2021;

“external wall” has the same meaning as in Article 6 of the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541);

“higher-risk building” has the same meaning as in section 62 of the Building Safety Act 2021.”

(14) This section comes into force on the day this Act is passed.”

Member’s explanatory statement

This new clause is suggested before clause 126. This new clause amends Part XVI of the Housing Act 1985 (originally enacted as the Housing Defects Act 1984) to empower the government and local authorities to designate dwellings with cladding and fire safety defects as defective and to provide grant support for remediation.

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Stephen McPartland

NC6

To move the following Clause—

“Duty on the Secretary of State to report on designations under Part XVI of the Housing Act 1985

- (1) Within the period of six months beginning with the day on which this section comes into force, the Secretary of State must—
- (a) consider the financial impact on leaseholders in England and Wales of building safety advice given by his department since 14 June 2017; and
 - (b) in conjunction with the Treasury and the Prudential Regulation Authority, consider the impact of building safety advice given by his department since 14 June 2017 on the supply of mortgage finance for leasehold flats in England and Wales; and
 - (c) publish a report setting out his determination, in light of the factors

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identified in paragraphs (a) and (b), as to whether designations under section 528 or section 559 of the Housing Act 1985 would improve conditions for leaseholders, or would improve the supply of mortgage finance for leasehold flats in England and Wales.

- (2) If the Secretary of State's report under subsection (1) concludes that designations under section 528 or section 559 of the Housing Act 1985 would improve financial conditions for leaseholders in England and Wales, or would improve the supply of mortgage finance for leasehold flats in England and Wales, then at the same time as publishing his report he must—
- (a) make arrangements to provide all necessary funding;
 - (b) make the appropriate designations under section 528 of the Housing Act 1985; and
 - (c) advise local housing authorities to make appropriate designations

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under section 559 of the Housing Act 1985.

- (3) Before making any regulations bringing into force any section in Part 4 of this Act, the Secretary of State must make arrangements for—
 - (a) a motion to the effect that the House of Commons has approved the report prepared under subsection (1), to be moved in the House of Commons by a minister of the Crown; and
 - (b) a motion to the effect that the House of Lords to take note of the report prepared under subsection (1), to be moved in the House of Lords by a minister of the Crown.
- (4) The motions required under subsections (3)(a) and (3)(b) must be moved in the relevant House by a Minister of the Crown within the period of five calendar days beginning with the end of the day on which the report under subsection (1) is published.

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- (5) If the motion tabled in the House of Commons is rejected or amended, the Secretary of State must, within 30 calendar days, publish a further report under subsection (1) and make arrangements for further approval equivalent to those under subsection (2).
- (6) The Secretary of State shall make a further report under subsection (1) at least every 90 calendar days beginning with the day of any rejection or amendment by the House of Commons under subsection (5) until otherwise indicated by a resolution of the House of Commons.
- (7) In this section—
 - “leaseholder” means the registered legal owner of a long lease; and
 - “leasehold flat” means a flat owned by a leaseholder; and
 - “long lease” has the same meaning as in section 76 of the Commonhold and Leasehold Reform Act 2002.

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(8) This section comes into force on the day this Act is passed.”

Member’s explanatory statement

This new clause is suggested before clause 126. It places a time-limited duty on the Secretary of State to consider making designations under Part XVI of the Housing Act 1985 to provide funding for cladding and fire safety remediation and for Parliament to approve the plans for doing so.

Stephen McPartland

NC7

To move the following Clause—

“Building Safety Indemnity Scheme

- (1) There shall be a body called the “Building Safety Indemnity Scheme” (referred to in this Act as “the Scheme”).
- (2) The purpose of the Scheme shall be to collect money from levies and to disburse the money raised from those levies in the form of grants to leaseholders to pay all or any part of the following types of costs—

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- (a) remediation of any defect in any external wall of any building containing two or more residential units; or
 - (b) remediation of any defect in any attachment to any external wall of any building containing two or more residential units; or
 - (c) remediation of any internal or external defect other than a defect described in paragraphs (a) or (b); or
 - (d) any building safety works carried out by an accountable person under section 86; or
 - (e) any other cost of a type specified by the Secretary of State in regulations made under this section.
- (3) The Scheme may disburse money for the benefit of leaseholders in any type of building, whether or not a higher-risk building and whether or not the building was first occupied before the coming into force of this Act.

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- (4) The levy imposed by the Scheme shall be determined by reference to each of the following—
 - (a) the Scheme's best estimate of the reasonably likely total cost of grants to cover any type of cost described in subsection (2);
 - (b) the Scheme's best estimate of the costs of raising and administering the levy; and
 - (c) the Scheme's best estimate of the costs of processing applications for grants to leaseholders and disbursing funds to leaseholders from monies raised by the levy.
- (5) Members of the Scheme subject to levies shall include the following—
 - (a) any person seeking building control approval;
 - (b) any prescribed insurer providing buildings insurance to buildings containing two or more residential units, whether or not the buildings are higher-risk buildings;

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- (c) any prescribed supplier of construction products subject to regulations made under Schedule 9 to this Act;
 - (d) any prescribed lender providing mortgage finance in the United Kingdom, whether or not secured over residential units in higher-risk buildings; and
 - (e) any other person whom the Secretary of State considers appropriate.
- (6) The Scheme is to consult with levy paying members before determining the amount and duration of any levy.
- (7) The Scheme must provide a process by which leaseholders, or persons acting on behalf of leaseholders, can apply for grants for the types of costs specified in subsection (2).
- (8) The Scheme must provide an appeals process for the Scheme's decisions regarding—
- (a) the determination of the amount of any levy; or
 - (b) the determination of any grant application.

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- (9) A building control authority may not give building control approval to anyone unless—
- (a) the person seeking building control approval is a registered member of the Scheme, or that person becomes a registered member of the Scheme before the building control approval is given; and
 - (b) the person seeking building control approval pays all levies made on that person by the Scheme before the building control approval is given.
- (10) The Secretary of State must provide that any regulations made under Schedule 9 to this Act provide, as a condition of approval of any regulated construction product, that any prescribed supplier of such a product—
- (a) is a registered member of the Scheme, or that prescribed supplier becomes a registered member of the Scheme; and
 - (b) that the prescribed supplier pays all levies made on that person by the Scheme.
- (11) Any liability to pay a levy under this section does not affect the liability of the same

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person to pay an additional levy under section 57 of this Act.

(12) Within a period of 12 months beginning with the coming into force of this section, the Secretary of State must make regulations providing for—

- (a) the appointment of a board to oversee the Scheme;
- (b) the staffing of the Scheme;
- (c) the creation and maintenance of a public register of members of the Scheme;
- (d) the preparation of the best estimates described in subsection (4);
- (e) the amount, manner and timing of payment of the levies on members of the Scheme under this section;
- (f) the process of joining the Scheme;
- (g) the process of leaseholders applying to the Scheme for grants towards any of the types of costs specified in subsection (2);
- (h) the process for handling any appeals against decisions of the Scheme on any levy or any grant;

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(i) the Scheme to make an annual report to Parliament; and

(j) any other matters consequential to the Scheme's operation.

(13) Regulations made under this section are to be made by statutory instrument.

(14) A statutory instrument under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(15) In this section—

“building” has the same meaning as in section 29;

“building control approval” has the same meaning as in paragraph (1B)(2) of Schedule 1 to the Building Act 1984;

“building control authority” has the same meaning as in section 121A of the Building Act 1984;

“defect” means anything posing any risk to the spread of fire, the structural integrity of the building or the ability of people to evacuate

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the building, including but not limited to any risk identified in guidance issued under Article 50 of the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541) or any risk identified in regulations made under section 59;

“external wall” has the same meaning as in Article 6 of the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541);

“higher-risk building” has the same meaning as in section 59;

“prescribed” means prescribed by regulations made by the Secretary of State;

“remediation” means any step taken to eradicate or to mitigate a defect, including employment of any person to temporarily assist in evacuation of any part of a building, and whether or not the defect in question existed at the date any residential unit in the building was first occupied. Remediation does not include anything required in consequence of omitting to effect reasonable repairs or maintenance to all or any part of the building over time, or anything which is the responsibility of an

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occupant of a residential unit within the building;

“residential unit” has the same meaning as in section 29.

(16) This section shall come into force on the day this Act is passed.”

Member’s explanatory statement

This new clause is suggested after clause 126, requiring the government to establish a comprehensive fund, equivalent to the Motor Insurers’ Bureau, to provide grants to remediate cladding and fire safety defects of all descriptions, paid for by levies on developers, building insurers and mortgage lenders.

Stephen McPartland

NC8

To move the following Clause—

“Implied terms in residential building and residential renovation contracts

(1) Every residential building contract is to be taken to contain terms that—

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- (a) the residential unit is fit for the purpose of ordinary residential occupation and is likely to remain so for a reasonable period if kept in appropriate repair;
- (b) the residential unit in question is constructed in all material respects as described or stated on the approved plans;
- (c) the residential unit is not subject to any building safety risk;
- (d) the materials incorporated in the residential unit are as described in any approved plans;
- (e) the materials incorporated in the residential unit are of satisfactory quality;
- (f) the design of the residential unit is of a reasonable standard;
- (g) the design of the residential unit is prepared with reasonable care and skill;
- (h) all works in connection with the construction of the residential unit

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are executed with reasonable care and skill; and

(i) the residential unit complies in all material respects with all applicable statutory requirements and with all applicable building regulations in force as at the date of completion.

(2) Every residential renovation contract is to be taken to contain terms that any renovation works—

(a) do not render the unit unfit for the purpose of ordinary residential occupation;

(b) do not create any building safety risk;

(c) do not involve the incorporation of materials in the residential unit which are not as described in any approved plans;

(d) do not involve the incorporation of materials in the residential unit which are not of satisfactory quality;

(e) are executed with reasonable care and skill; and

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- (f) do not render the residential unit materially non-compliant with any applicable statutory requirement or with any applicable requirement of building regulations in force as at the date of completion.
- (3) For the purposes of subsections (1) and (2), where the residential unit forms part of a building consisting of two or more residential units, the internal and external common parts of that building necessary for the reasonable occupation of any of the residential units are also to be taken to be subject to the same terms.
- (4) A residential unit is fit for the ordinary purpose of residential occupation if it would be regarded as such by a reasonable person and taking into account—
 - (a) the ordinary costs of repair and maintenance of that residential unit by reference to that unit's location and specific characteristics;

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- (b) any marketing materials provided before the sale of the residential unit in question; and
- (c) whether that unit was marketed, designed or intended to be occupied by any particular class of persons, whether by age, by gender or by physical or mental disability.

(5) For the purposes of this section—

- (a) a matter is material if it would be considered material if known or discovered by a reasonable purchaser of that residential unit before completing a purchase of that residential unit on ordinary commercial terms;
- (b) a design is of a reasonable standard if a designer of average competence would have produced the same or a similar design;
- (c) a material is of satisfactory quality if it would meet the requirements for satisfactory quality of goods under

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section 9 of the Consumer Rights Act 2015; and

- (d) a material is as described if it would meet the requirements for description of goods under section 11 of the Consumer Rights Act 2015.
- (6) The terms taken to be included in any residential building contract or residential renovation contract are enforceable by any owner of the residential unit provided or renovated under the contract in question.
- (7) A term of a residential building contract or a residential renovation contract is not binding on the owner of a residential unit provided or renovated pursuant to that contract if it would exclude or restrict any liability in relation to the terms implied by this section.
- (8) The reference in subsection (7) to excluding or restricting a liability also includes preventing an obligation or duty arising or limiting its extent.

All line references relate to the large font accessible version of the Bill

(9) An agreement in writing to submit present or future differences to arbitration is not to be regarded as excluding or restricting any liability for the purposes of this section.

(10) In this section—

“approved plans” means any document submitted as part of obtaining building control approval;

“building control approval” has the same meaning as in paragraph (1B) of Schedule 1 to the Building Act 1984;

“building safety risk” has the same meaning as in section 59, whether or not the residential unit is in a higher-risk building;

“higher-risk building” has the same meaning as in section 62;

“owner” means the registered legal owner of the residential unit from time to time, including any trustee holding a beneficial interest on behalf of a third party and any transferee or assignee of the original owner;

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“residential unit” has the same meaning as in section 29;

“residential building contract” means a contract made in the course of business involving work on or in connection with the construction of a

residential unit (whether the dwelling is provided by the erection or by the conversion or enlargement of an existing building);

“residential renovation contract” means a contract made in the course of business involving work on an existing residential unit, except where it is expected that, on completion of the work, it will have ceased to be a residential unit or will otherwise have ceased to exist.”

Member’s explanatory statement

This new clause, proposed to be inserted after clause 128 strengthens consumer rights for future buyers by implying terms that houses and flats are built, and are renovated, to reasonable standards of quality and compliant in all material respects with the law and with building regulations.

All line references relate to the large font accessible version of the Bill

Stephen McPartland

NC9

To move the following Clause—

“Implied terms: limitation

(1) The Limitation Act 1980 is amended as follows.

(2) After section 5 insert—

“5A Time limit for actions related to breach of implied terms in residential building contracts and residential renovation contracts

An action in respect of the breach of the term implied into a residential building contract or a residential renovation contract by section (Implied terms in residential building and residential renovation contracts) of the Building Safety Act 2021 may not be brought after the expiration of 25 years from the date on which the cause of action accrued.””

Member’s explanatory statement

All line references relate to the large font accessible version of the Bill

This new clause provides for a 25 year limitation period for breaches of the terms implied by the amendment proposed above.

Stephen McPartland

NC10

To move the following Clause—

“Implied terms: mandatory insurance

- (1) No member of the new homes ombudsman scheme created by this Act may offer for sale or sell any residential unit unless —
 - (a) every potential purchaser is provided on request with an accurate written summary of the terms of a prescribed policy applying to the residential unit when completed; and
 - (b) in accordance with any relevant regulation made under this section, or under section 131, or under section 132, the person offering for sale or the seller of the residential unit arranges a valid prescribed policy and provides a copy of a valid

All line references relate to the large font accessible version of the Bill

prescribed policy given to the purchaser of the residential unit on the day of the transfer to the purchaser of legal title in the residential unit.

- (2) Any person in the course of business providing a residential unit under a residential building contract or renovations to a residential unit under a residential renovation contract must obtain a valid prescribed policy.
- (3) No term of any residential building contract or residential renovation contract is enforceable unless a valid prescribed policy is in force in respect of such a contract.
- (4) Within a period of six months beginning on the day this section comes into force, the Secretary of State must make regulations prescribing insurance terms for the purposes for this section, including—
 - (a) the creditworthiness of any insurer or warranty scheme under this section;

All line references relate to the large font accessible version of the Bill

- (b) the name of any warranty scheme which in the opinion of the Secretary of State achieves the purposes of this section;
 - (c) the minimum terms of any insurance or warranty under this section;
 - (d) that any policy or warranty scheme also provides reasonably adequate cover for any claim under sections 1 and 2A of the Defective Premises Act 1972 and section 38 of the Building Act 1984;
 - (e) a policy term or a warranty term of not less than the limitation period for making claims under any term implied into a residential building contract or residential renovation contract by this Act; and
 - (f) to bring into force section [Implied terms in residential building and residential renovation contracts] and section [Implied terms: limitation].
- (5) Regulations made under this section are to be made by statutory instrument.

All line references relate to the large font accessible version of the Bill

(6) A statutory instrument under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(7) In this section—

“new homes ombudsman scheme” means the scheme established under section 129;

“prescribed” means prescribed in regulations made by the Secretary of State, whether under this section, or under section 131, or under section 132;

“residential building contract” has the same meaning as in section [Implied terms in residential building and residential renovation contracts];

“residential renovation contract” has the same meaning as in section [Implied terms in residential building and residential renovation contracts]; and

“residential unit” has the same meaning as in section 29.

All line references relate to the large font accessible version of the Bill

(8) This section shall come into force on the day this Act is passed.”

Member’s explanatory statement

This new clause provides that members of the New Homes Ombudsman Scheme may not sell any new flat or house unless they provide insurance for 25-years to cover breach of implied terms as to quality.

Stephen McPartland

NC11

To move the following Clause—

“Limitation Period for claims under section 38 of the Building Act 1984

(1) Section 38 of the Building Act 1984 is amended as follows.

(2) In section 38(4) after “includes” insert “economic loss,”.

(3) After section 38(4) insert—

“(5) No right of action for damages for economic loss under this section shall accrue until any person to whom the

All line references relate to the large font accessible version of the Bill

duty is owed has actual knowledge of breach that duty.

- (6) Notwithstanding anything in subsection (5) or any regulations made under this section, an action for damages for economic loss under this section shall not be brought after the expiration of twenty-five years from the date the breach of duty occurred.
- (7) For the purposes of subsection (6), where there is more than one actionable breach of duty causing economic loss and the breaches in question occurred on different dates, then time runs only from the date of the last such breach.
- (8) Any right of action under this section other than a right of action for damages for economic loss shall be subject to section 11 and section 14A of the Limitation Act 1980."
- (4) This section shall come into force at the end of the period of two months beginning on the day on which this Act is passed."

All line references relate to the large font accessible version of the Bill

Member's explanatory statement

This new clause proposed for the Building Act 1984 enables claims for recovery of monetary damages (economic loss) and provides that the time limit for claims start when a resident becomes aware of a breach, subject to a 25-year longstop date.

Stephen McPartland

NC12

To move the following Clause—

“Abolition of the rule preventing recovery of economic loss in certain actions relating to damage or defects in buildings

- (1) In any prescribed statutory action for damages, there is no bar to recovering economic loss.
- (2) In any action for damages for negligence in relation to the construction or renovation of any residential unit, other than an action for damages to which section 11 or section 14A of the

All line references relate to the large font accessible version of the Bill

Limitation Act 1980 applies, there is no bar to recovering economic loss.

(3) This section shall apply to any right of action accruing on or after the day this section comes into force.

(4) For the purposes of this section —

“prescribed statutory action for damages” means any action for damages for breach of section 1 or section 2A of the Defective Premises Act 1972.

“residential unit” means any dwelling or other unit of residential accommodation, including any internal or external common parts of any building necessary for the occupation of that residential unit.

(5) This section shall come into force at the end of the period of two months beginning on the day on which this Act is passed.”

Member’s explanatory statement

This new clause abolishes the rule preventing the recovery of economic loss from developers and

All line references relate to the large font accessible version of the Bill

other professionals in claims for negligence and in claims under the Defective Premises Act 1972.

Stephen McPartland

NC13

To move the following Clause—

“Leaseholder Costs Protection

(1) This section applies to a relevant building where a landlord has carried out any fire safety works to a building in consequence of any provision, duty or guidance arising from—

(a) the Housing Act 2004;

(b) the Regulatory Reform (Fire Safety Order) 2005;

(c) this Act;

(d) any direction, recommendation or suggestion of any public authority or regulatory body; and

(e) such other circumstances or enactment as the Secretary of State may prescribe by regulations.

All line references relate to the large font accessible version of the Bill

- (2) If any of the conditions in subsection (1) are met, then the costs incurred by the landlord in connection with those matters may not be the subject of a demand for payment of service charges, administration charges or any other charge permitted or authorised by any provision of any long lease.
- (3) Any demand for payment which contravenes this section shall be of no force or effect and will have no validity in law.
- (4) Any covenant or agreement, whether contained in a lease or in an agreement collateral to such a lease, is void insofar as it purports to authorise any forfeiture or impose on the tenant any penalty, disability or obligation in the event of the tenant refusing, failing or declining to make a payment to which this section applies.
- (5) This section applies to demands for payment before the landlord incurs the costs in the same way as it applies to

All line references relate to the large font accessible version of the Bill

demands for payment made after the costs have been incurred.

(6) This section does not apply where the landlord is a company in which the majority of the shares are held by leaseholders or where the landlord is an RTM company.

(7) For the purposes of this section, a relevant building is any building containing one or more residential dwellings let on a long lease.

(8) In this section—

“administration charge” has the meaning given by Schedule 11 to the Commonhold and Leasehold Reform Act 2002;

“fire safety works” means any work or service carried out for the purpose of eradicating or mitigating (whether permanently or temporarily) any risk associated with the spread of fire, the structural integrity of the building or the ability of people to evacuate the building;

All line references relate to the large font accessible version of the Bill

“long lease” has the meaning given by sections 76 and 77 of the Commonhold and Leasehold Reform Act 2002;

“residential dwelling” means any dwelling or other unit of residential accommodation, including any internal or external common parts of any building necessary for the occupation of that residential unit;

“service charge” has the meaning given by section 18 of the Landlord and Tenant Act 1985;

“RTM company” has the meaning given by section 113 of the Commonhold and Leasehold Reform Act 2002.

(9) This section comes into force on the day on which this Act is passed.”

Member’s explanatory statement

This new clause prevents the costs of any fire safety or building safety remedial works being passed on to leaseholders.

All line references relate to the large font accessible version of the Bill

Stephen McPartland

2

Clause 126, page 392, line 16, at end insert—

“(d) In respect of remediation works completed before the coming into force of this section, apply for any refund of VAT due under section 35(1A)(d) of the Value Added Tax Act 1994 and credit the whole amount of any such refund received to leaseholders pro-rata in accordance with the terms of the lease.”

Member’s explanatory statement

This amendment is consequential on NC4. Where works have already been carried out, this new subclause requires the landlord to obtain any retrospective VAT refund and to credit the whole amount of that VAT refund to leaseholders.

Stephen McPartland

5

Clause 127, page 399, line 20, leave out “at the time the work is completed” and insert “when

All line references relate to the large font accessible version of the Bill

any person to whom the duty under this section is owed has actual knowledge of breach of that duty.”

Member’s explanatory statement

This amendment provides that time to make a claim in respect of building renovations under section 2A of the Defective Premises Act 1972 only runs from the date a resident has knowledge of the breach, subject to a 25-year longstop.

Stephen McPartland

6

Clause 127, page 400, line 3, at end insert—

“(9) Notwithstanding anything in subsection (8), an action for damages for breach of the duty in this section, insofar as that action relates only to the original work in question, shall not be brought after the expiration of twenty-five years from the date the work in question is completed.”

Member’s explanatory statement

All line references relate to the large font accessible version of the Bill

This amendment provides that time to make a claim in respect of building renovations under section 2A of the Defective Premises Act 1972 only runs from the date a resident has knowledge of the breach, subject to a 25-year longstop.

Stephen McPartland

4

Clause 128, page 400, line 18, leave out "15 years" insert "25 years"

Member's explanatory statement

This amendment proposes a longer period for claims under the Defective Premises Act 1972 and the Building Act 1984 considering the recent history of cladding and fire safety related defects and retrospective guidance issued by the government.

Secretary Michael Gove

41

Clause 128, page 401, line 10, at end insert—

All line references relate to the large font accessible version of the Bill

“(4) Where by virtue of section 1 of the Defective Premises Act 1972 a person became entitled, before the commencement date, to bring an action against any other person, this section applies in relation to the action as if the reference in subsection (1) to 15 years were a reference to 30 years.

(5) In subsection (4) “the commencement date” means the day on which section 128 of the Building Safety Act 2022 came into force.””

Member’s explanatory statement

This amendment provides for a 30 year limitation period (rather than a 15 year period) for actions brought by virtue of section 1 of the Defective Premises Act 1972, where the right of action accrued before the commencement of the clause.

Stephen McPartland

7

Clause 128, page 401, line 15, at end insert—

All line references relate to the large font accessible version of the Bill

“(2A) In section 1(5) of the Defective Premises Act 1972 for “time when the dwelling was completed” substitute “time when any person to whom the duty under this section is owed has actual knowledge of breach of that duty”.

(2B) After section 1(5) of the Defective Premises Act 1972 insert—

“(6) Notwithstanding anything in subsection (5), an action for damages for breach of the duty in this section, insofar as that action relates only to the original construction of the building in question, shall not be brought after the expiration of twenty-five years from the time the dwelling is completed.””

Member’s explanatory statement

This amendment provides that time to bring a claim for damages under section 1 of the Defective Premises Act 1972 only runs from the date a resident has knowledge of a breach, subject to a 25-year longstop in relation to claims related to failures during the original construction.

All line references relate to the large font accessible version of the Bill

Secretary Michael Gove

42

Clause 128, page 401, line 20, leave out from “where” to end of line 16 and insert “—

(a) by virtue of section 1 of the Defective Premises Act 1972 a person became entitled, before the day on which this section came into force, to bring an action against any other person, and

(b) the period of 30 years from the date on which the right of action accrued expires in the initial period, section 4B of the Limitation Act 1980 (inserted by subsection (1))”

Member’s explanatory statement

This amendment provides that where the 30 year limitation period (see Amendment 41) would otherwise expire in the initial period, it expires at the end of the initial period.

Stephen McPartland

8

All line references relate to the large font accessible version of the Bill

Clause 128, page 402, line 5, leave out subsection (5)

Member's explanatory statement

The Human Rights Act 1998 already protects defendants' rights in relation to retrospectively extended limitation periods. Removing subsection (5) removes the material risk a court may construe clause 128 in a way that means it has no practical benefit and will lead to years of costly litigation for leaseholders.

Stephen McPartland

9

Clause 128, page 402, leave out line 18 and line 19

Member's explanatory statement

This amendment is consequential to Amendment 8 because the defined term "Convention Rights" is no longer required.

Secretary Michael Gove

43

Clause 128, page 402, line 21, leave out "90 days" and insert "one year"

All line references relate to the large font accessible version of the Bill

Member's explanatory statement

This amendment changes the initial period. Subsection (4) provides that where the time limit for bringing an action by virtue of section 1 of the Defective Premises Act 1972 would otherwise expire in the initial period, it expires at the end of that period.

Stephen McPartland

10

Clause 128, page 402, line 21, leave out "90 days" and insert "2 years"

Member's explanatory statement

This amendment allows a period of up to 2 years, instead of 90 days, to obtain the necessary expert evidence required to issue viable claims under the Defective Premises Act 1972.

Secretary Michael Gove

44

Clause 129, page 403, line 6, leave out "for England"

Member's explanatory statement

All line references relate to the large font accessible version of the Bill

This amendment (together with others) is to expand the scope of the new homes ombudsman scheme beyond England so it applies also to Wales and Scotland.

Secretary Michael Gove

45

Clause 129, page 404, line 12, at end insert—

“(4) Before making arrangements under subsection (1), the Secretary of State must consult—

(a) the Welsh Ministers, and

(b) the Scottish Ministers.”

Member’s explanatory statement

This amendment places the Secretary of State under a duty to consult the Welsh Ministers and the Scottish Ministers before making arrangements to establish the new homes ombudsman scheme.

Secretary Michael Gove

46

All line references relate to the large font accessible version of the Bill

Clause 130, page 405, line 5, leave out “in England”

Member’s explanatory statement

See explanatory statement for Amendment 44.

Secretary Michael Gove

47

Clause 130, page 406, line 3, leave out “against members of the scheme”

Member’s explanatory statement

This amendment expands the meaning of “redress scheme” so it is not limited to schemes which have members.

Secretary Michael Gove

48

Clause 130, page 406, line 7, at end insert—

“(8) Schedule (Amendments in connection with the new homes ombudsman scheme) contains amendments connected with the establishment of the new homes ombudsman scheme.”

Member’s explanatory statement

All line references relate to the large font accessible version of the Bill

This amendment introduces a Schedule containing amendments of other enactments (see NS2).

Secretary Michael Gove

49

Clause 131, page 407, line 5, at end insert—

“(3A)In relation to a home in Scotland, subsection (3) has effect as if in paragraph (b) the words “for a term not exceeding 21 years” were omitted.”

Member’s explanatory statement

This amendment glosses the meaning of the “occupation condition” for homes in Scotland.

Secretary Michael Gove

50

Clause 131, page 408, line 1, leave out subsection (5) and insert—

“(5) “Relevant interest” means—

(a) in relation to land in England or Wales, a legal estate which is—

All line references relate to the large font accessible version of the Bill

- (i) an estate in fee simple absolute in possession, or
 - (ii) a term of years absolute granted for a term of more than 21 years from the date of the grant;
- (b) in relation to land in Scotland, the interest of an owner of land."

Member's explanatory statement

This amendment provides the meaning of the "relevant interest" for Wales and Scotland (and is needed as a consequence of the new homes ombudsman scheme being expanded beyond England).

Secretary Michael Gove

51

Clause 131, page 408, line 11, leave out "in England"

Member's explanatory statement

See explanatory statement for Amendment 44.

Secretary Michael Gove

52

All line references relate to the large font accessible version of the Bill

Clause 131, page 408, line 14, leave out “in England”

Member’s explanatory statement

See explanatory statement for Amendment 44.

Secretary Michael Gove **53**

Clause 131, page 408, line 17, leave out “in England”

Member’s explanatory statement

See explanatory statement for Amendment 44.

Secretary Michael Gove **54**

Clause 131, page 409, line 5, leave out “Secretary of State” and insert “relevant national authority”

Member’s explanatory statement

This amendment, taken with Amendment 55, confers power on the Welsh Ministers and the Scottish Ministers (in addition to the Secretary of State) to adjust the meaning of “developer”.

Secretary Michael Gove **55**

All line references relate to the large font accessible version of the Bill

Clause 131, page 409, line 9, at end insert—

“(7A) In subsection (6)(b), “the relevant national authority” means—

(a) in relation to homes in England, the Secretary of State,

(b) in relation to homes in Wales, the Welsh Ministers, and

(c) in relation to homes in Scotland, the Scottish Ministers.

(7B) Before making regulations under subsection (6)(b), the relevant national authority must consult each other person who is the relevant national authority in relation to regulations under that subsection.”

Member’s explanatory statement

See explanatory statement for Amendment 54.

Stephen McPartland

3

Clause 132, page 410, line 16, at end insert—

All line references relate to the large font accessible version of the Bill

“(f) require members of the scheme under paragraph (a) to obtain policies of insurance that meet the requirements of section (Implied terms: mandatory insurance).”

Secretary Michael Gove

56

Clause 132, page 410, line 20, at end insert—

“(1A)Before making regulations under subsection (1), the Secretary of State must consult—

(a) the Welsh Ministers, and

(b) the Scottish Ministers.”

Member’s explanatory statement

This amendment places the Secretary of State under a duty to consult the Welsh Ministers and the Scottish Ministers before making regulations about the new homes ombudsman scheme.

Secretary Michael Gove

57

All line references relate to the large font accessible version of the Bill

Clause 134, page 413, line 11, at end insert—

“(4) The Secretary of State must consult the Welsh Ministers and the Scottish Ministers before—

(a) issuing, revising or replacing the code, or

(b) approving the code or a revision or replacement of it.”

Member’s explanatory statement

This amendment places the Secretary of State under a duty to consult the Welsh Ministers and the Scottish Ministers about the code of practice.

Secretary Michael Gove

58

Clause 138, page 429, line 22, at end insert—

“(2) In Schedule 1 to that Act (the Board and its committees), in paragraph 18(2)(b) (functions of the Board which may not be discharged by a committee) for “4(1) or (2)” substitute “4(2)”.

All line references relate to the large font accessible version of the Bill

(3) In consequence of the amendment made by subsection (2), in section 11(5) of the Professional Qualifications Act 2022 for the words from “after” to the end substitute “for “4(2)” substitute “4(1A) or (2)”.”

Member’s explanatory statement

This amendment amends paragraph 18(2) of Schedule 1 to the Architects Act 1997 so as to remove the current restriction on committees discharging a function of the Architects Registration Board under section 4(1) of that Act.

Secretary Michael Gove

NS2

To move the following Schedule—

“Amendments in connection with the new homes ombudsman scheme

1 The Local Government Act 1974 is amended in accordance with paragraphs 2 to 4.

All line references relate to the large font accessible version of the Bill

2 (1) Section 33 (consultation between Local Commissioner and other Commissioners and Ombudsmen) is amended as follows.

(2) In subsection (1)—

(a) after paragraph (bza) insert—

“(bzb) by the new homes ombudsman under the new homes ombudsman scheme (see section 129 of the Building Safety Act 2022),”;

(b) in the words after paragraph (c), after “1993” insert “, the Housing Act 1996, the new homes ombudsman scheme”.

(3) In subsection (2), after “housing ombudsman,” insert “the new homes ombudsman,”.

(4) After subsection (3A) insert—

“(3B)If at any stage in the course of conducting an investigation under the new homes ombudsman scheme, the new homes ombudsman forms the opinion that the complaint relates partly to a matter which could be the subject of an investigation under this Part of this

All line references relate to the large font accessible version of the Bill

Act, the new homes ombudsman must consult with the appropriate Local Commissioner about the complaint and, if the new homes ombudsman considers it necessary, inform the person initiating the complaint of the steps necessary to initiate a complaint under this Part of this Act.”

(5) In subsection (4)—

(a) for “or (3A)” substitute “, (3A) or (3B)”;

(b) for “or under the Housing Act 1996” substitute “, the Housing Act 1996 or the new homes ombudsman scheme”.

3 (1) Section 33ZA (collaborative working between Local Commissioners and others) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (b) omit the final “or”;

(b) at the end of paragraph (c) insert “or(d) the new homes ombudsman,”.

All line references relate to the large font accessible version of the Bill

(3) In subsection (1A) for “or (c)” substitute “, (c) or (d)”.

(4) In subsection (3)—

(a) in paragraph (b) omit the final “or”;

(b) at the end of paragraph (c) insert “or(d) the new homes ombudsman,”;

(c) in the words following paragraph (c) for “or (c)” substitute “, (c) or (d)”.

4 In section 33ZB (arrangements for provision of administrative and other services), in subsection (4)—

(a) in paragraph (c) omit the final “and”;

(b) at the end of paragraph (d) insert—

“(e) the new homes ombudsman, and (f) the person maintaining the new homes ombudsman scheme under arrangements made pursuant to section 129 of the Building Safety Act 2022.”

5 (1) Paragraph 10A of Schedule 2 to the Housing Act 1996 (housing complaints:

All line references relate to the large font accessible version of the Bill

collaborative working with Local Commissioners) is amended as follows.

(2) In sub-paragraph (1)—

(a) after “Local Commissioner” insert “or the new homes ombudsman”;

(b) for “the ombudsman” substitute “the housing ombudsman”;

(c) at the end insert “, the new homes ombudsman or both of them.”

(3) In sub-paragraph (3)—

(a) after “Local Commissioner” insert “or the new homes ombudsman”;

(b) for “the ombudsman”, in both places it occurs, substitute “the housing ombudsman”;

(c) at the end insert “, the new homes ombudsman or both of them.”

(4) In sub-paragraph (4)—

(a) after “Local Commissioner” insert “, the new homes ombudsman (or both)”;

(b) at the end insert “(or those persons)”.

All line references relate to the large font accessible version of the Bill

6 (1) The Public Services Ombudsman (Wales) Act 2019 (anaw 3) is amended as follows.

(2) In section 65(7) (consultation and co-operation with other ombudsmen)—

(a) in the Welsh language text, after paragraph (e) insert—

“(f) yr ombwdsmon cartrefi newydd o dan y cynllun ombwdsmon cartrefi newydd (gweler adran 129 o Ddeddf Diogelwch Adeiladau 2022).”;

(b) in the English language text, after paragraph (e) insert—

“(f) the new homes ombudsman under the new homes ombudsman scheme (see section 129 of the Building Safety Act 2022).”

Member’s explanatory statement

This new schedule contains amendments to other legislation needed as a result of the establishment of the new homes ombudsman scheme.

All line references relate to the large font accessible version of the Bill

Schedule 8, page 596, line 16, after “include” insert “provision about co-operation with persons who exercise functions under other redress schemes and, in particular,”

Member’s explanatory statement

This amendment makes it clear that the scheme may include provision about co-operation between the new homes ombudsman scheme and other redress schemes.

Secretary Michael Gove

72

Schedule 8, page 597, line 12, at end insert “, the Welsh Ministers and the Scottish Ministers.”

Member’s explanatory statement

This ensures that the new homes ombudsman scheme includes provision for the provision of information to the Welsh Ministers and the Scottish Ministers as well as to the Secretary of State.



REMAINING PROCEEDINGS ON CONSIDERATION

All line references relate to the large font accessible version of the Bill

Secretary Michael Gove

NC19

To move the following Clause—

“Special measures

Schedule (*Special measures*) provides for the appointment of a special measures manager, to undertake duties under this Part in place of an accountable person, and makes further provision in connection with that appointment.”

Member’s explanatory statement

This new clause introduces NS1 and is intended to be inserted before clause 104.

Debbie Abrahams

NC1

To move the following Clause—

“Review of payment practices and building safety

(1) The Secretary of State must, within 60 days of the day on which this Act is passed, establish a review of the effects of construction industry payment

All line references relate to the large font accessible version of the Bill

practices on building safety in general and on safety in high-risk buildings in particular.

(2) The review must, in particular, consider—

(a) the extent to the structure of the construction market incentivises procurement with building safety in mind,

(b) the extent to which contract terms and payment practices (for example, retentions) can drive poor behaviours, including the prioritisation of speed and low cost solutions and affect building safety by placing financial strain on supply chain,

(c) the effects on building safety of other matters raised in Chapter 9 (procurement and supply) of Building a Safer Future, the final report of the Independent Review of Building Regulations and Fire Safety, published in May 2018 (Cm 9607),

All line references relate to the large font accessible version of the Bill

- (d) the adequacy for the purposes of promoting building safety of the existing legislative, regulatory and policy regime governing payment practices in construction, including the provisions of Part II of the Housing Grants, Construction and Regeneration Act 1996, and
 - (e) recommendations for legislative, regulatory or policy change.
- (3) The Secretary of State must lay a report of the findings of the review before Parliament no later than one year after this Act comes into force.”

Member’s explanatory statement

This new clause would put an obligation on the Secretary of State to review the effects of construction industry payment on practices on building safety and to report the findings to Parliament.

Peter Aldous

NC2

To move the following Clause—

All line references relate to the large font accessible version of the Bill

“Building regulations: property protection

(1) The Building Act 1984 is amended as follows.

(2) In section 1 (Power to make building regulations), after subsection (1)(f), insert—

“(g) furthering the protection of property”.

(3) In Schedule 1 (Building Regulations), in paragraph 8(5A)—

(a) after “1(1)(a)” insert “(d), (e) and (g)”;

(b) after “flooding” insert “and fire”.

Member’s explanatory statement

This new clause would add “furthering the protection of property” to the list of purposes for which building regulations may be made under the Buildings Act 1984, and extends the purposes for which persons carrying out works on a building may be required to do things to improve building resilience.

All line references relate to the large font accessible version of the Bill

To move the following Clause—

“Duty of social landlords to undertake electrical safety inspections

- (1) A social landlord of a residential dwelling in a high-rise building must—
 - (a) hold a valid Electrical Installation Condition Report (EICR) for that dwelling;
 - (b) provide to the tenant of the dwelling, including any new such tenant—
 - (i) a copy of that EICR, and
 - (ii) a document explaining the provisions of this Act;
 - (c) handle any valid complaint about the safety of the electrical installations of the dwelling in accordance with subsection (5).
- (2) A person who fails to comply with a duty under subsection (1) commits an offence.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine.

All line references relate to the large font accessible version of the Bill

- (4) A complaint is valid if—
 - (a) it relates to the safety of the electrical installations of the dwelling;
 - (b) it is made in writing by, or on behalf of, the tenant of the dwelling; and
 - (c) it is not frivolous or vexatious.
- (5) The landlord must investigate any valid complaint within 28 days of receiving that complaint.
- (6) If such an investigation shows that the electrical installations are unsafe, the landlord must rectify the situation using a qualified and competent person within 28 days of the completion of the investigation.
- (7) If the landlord believes that a complaint is not valid they must write to the tenant within 28 days of receiving that complaint explaining why they do not think it is valid.
- (8) In this section—
 - a “valid Electrical Installation Condition Report”—

All line references relate to the large font accessible version of the Bill

- (a) is dated within the last five years;
- (b) covers the whole fixed electrical installation of the dwelling;
- (c) has a satisfactory outcome;
- (d) was completed by a qualified and competent person; and
- (e) is based on the model forms in BS 7671 or equivalent;

“social landlord” has the same meaning as in section 219 of the Housing Act 1996.”

Member’s explanatory statement

This new clause requires social landlords to ensure the safety of electrical installations in high rise buildings and is intended to reduce risk of spread of fires between flats.

Andy Slaughter

NC16

To move the following Clause—

“Duty of leaseholders to undertake electrical safety inspections

- (1) A leaseholder of a residential dwelling in a high-rise building must—

All line references relate to the large font accessible version of the Bill

- (a) hold a valid Electrical Installation Condition Report (EICR) for that dwelling; and
 - (b) provide a copy of that EICR to a person specified by the Secretary of State.
- (2) A person who fails to comply with subsection (1) shall—
 - (a) initially receive a written request from the specified person to provide the EICR; and
 - (b) if he or she fails to comply with such a written request, be liable to a civil penalty.
- (3) The Secretary of State shall, by regulations, nominate who the specified person shall be.
- (4) In this section a “valid Electrical Installation Condition Report”—
 - (a) is dated within the last five years;
 - (b) covers the whole fixed electrical installation of the dwelling;
 - (c) has a satisfactory outcome;

All line references relate to the large font accessible version of the Bill

(d) was completed by a qualified and competent person; and

(e) is based on the model forms in BS 7671 or equivalent.”

Member’s explanatory statement

This new clause requires leaseholders to ensure the safety of electrical installations in high rise buildings and is intended to reduce risk of spread of fires between flats.

Paul Maynard

NC17

To move the following Clause—

“Staircase standards

The Secretary of State must, within 6 months of the day on which this Act is passed, consult on regulations requiring staircases in all new build properties to comply with British Standard 5395-1”.

Emma Hardy

NC18

To move the following Clause—

“Property flood resilience

All line references relate to the large font accessible version of the Bill

- (1) The Secretary of State must, before the end of the period of six months beginning on the day this Act is passed, use the power under section 1 of the Building Act 1984 to make building regulations for the purpose in subsection (2).
- (2) That purpose is to set minimum standards for the safety of new build public and private properties in England for—
 - (a) property flood resilience,
 - (b) flood mitigation, and
 - (c) waste management in connection with flooding.
- (3) The Secretary of State must by regulations establish—
 - (a) a certification scheme for safety improvements to domestic and commercial properties in England made in full or in part for flood prevention or flood mitigation purposes, and
 - (b) an accreditation scheme for installers of such improvements.

All line references relate to the large font accessible version of the Bill

- (4) The scheme under subsection (3)(a) must—
 - (a) set minimum standards for the improvements, including that they are made by a person accredited under subsection (1)(b), and
 - (b) provide for the issuance of certificates for insurance and assurance purposes stating that improvements to properties have met those standards.
- (5) The scheme under subsection (3)(a) may make provision for the certification of improvements that were made before the establishment of the scheme provided those improvements meet the minimum standards in subsection (4)(a).
- (6) In setting minimum standards under subsection (4)(a) the Secretary of State must have regard to the minimum standards for new build properties under subsection (1).
- (7) The Secretary of State and local authorities in England must take all reasonable steps to make data about

All line references relate to the large font accessible version of the Bill

flood prevention and risk relevant to building safety publicly available.

- (8) The duty under subsection (1) extends to seeking to facilitate use of the data by—
- (a) insurers for the purpose of accurately assessing risks to buildings, and
 - (b) individual property owners for the purpose of assessing the need for property flood resilience measures.”

Member’s explanatory statement

This new clause would establish minimum standards for property flood resilience measures in new build properties and in improvements to existing building designed to increase safety protections for flood prevention and mitigation purposes, and require local and national government to make data available to support this.

Mr Clive Betts

NC23

To move the following Clause—

“Building control: independent appointment

All line references relate to the large font accessible version of the Bill

In section 47 of the Building Act 1984 (giving and acceptance of initial notice), in subsection (1)(a) after “approved inspector”, insert “who has been chosen by a system of independent appointment, prescribed by regulations made by the Secretary of State.””

Member’s explanatory statement

This new clause, along with Amendment 73, is intended to remove choice of building control body from those carrying out all building work.

Daisy Cooper

NC24

To move the following Clause—

“Building Safety and Local Authorities

- (1) The duties performed by the regulator under section 31 of this Act in respect of relevant buildings must be performed by the local authority that exercises building control functions in the area in which the building is located.
- (2) In this section “relevant building” means a building—
 - (a) under 18 metres in height, and

All line references relate to the large font accessible version of the Bill

(b) comprising more than one dwelling.”

Daisy Cooper

NC25

To move the following Clause—

“Building Safety Regulations for multi-occupancy dwellings

The Secretary of State must by regulations amend paragraph 1 of Schedule 1 to the Building Act 1984 to apply to all buildings that comprise more than one dwelling.”

Peter Aldous

1

Clause 3, page 4, line 16, at end insert—

“(aa) furthering the protection of property, and”

Member’s explanatory statement

This amendment would require the building safety regulator to exercise its functions with a

All line references relate to the large font accessible version of the Bill

view to furthering the protection of property, which is intended promote longer term protections for occupant safety and reducing fire damage and cost.

Mr Clive Betts

74

Clause 30, page 50, line 10, at end insert—

“(3A) In making regulations under this section, the Secretary of State must have regard to the ability of residents to evacuate a building, taking into account the vulnerability of residents and the number of means of egress.”

Member’s explanatory statement

This amendment is intended to ensure the Secretary of State has regard to the ability of residents to evacuate a building when revising the definition of higher-risk building.

Mr Clive Betts

73

All line references relate to the large font accessible version of the Bill

Page 173, line 8, leave out Clause 45

Member's explanatory statement

This amendment, along with NC23, is intended to remove choice of building control body for those carrying out all building work.

Daisy Cooper

75

Clause 57, page 232, line 17, at end insert—

“(5) The regulations must exempt any relevant application made by or on behalf of a registered social landlord for the provision of social housing as defined under section 68 of the Housing and Regeneration Act 2008.

(6) A “relevant application” under subsection (5) means an application of a description specified in regulations made by the Secretary of State.”

Secretary Michael Gove

11

All line references relate to the large font accessible version of the Bill

Clause 58, page 237, line 12, leave out “sections 104 to 113” and insert “section (Special measures) and Schedule (Special measures)”

Member’s explanatory statement

This amendment is consequential on NC19 and NS1.

Secretary Michael Gove

12

Clause 58, page 237, line 15, at end insert “, and make further provision in connection with that appointment”

Member’s explanatory statement

This amendment is consequential on NC19 and NS1.

Secretary Michael Gove

13

Clause 73, page 263, line 5, leave out “statutory maximum” and insert “maximum summary term”

Member’s explanatory statement

All line references relate to the large font accessible version of the Bill

This amendment clarifies that a person guilty of an offence under clause 73 is liable on summary conviction to imprisonment for a term not exceeding the maximum summary term for either-way offences (as defined in clause 125).

Secretary Michael Gove

14

Clause 74, page 265, line 14, at end insert—

“(4) In this section “registered” means registered under section 75.”

Member’s explanatory statement

This amendment clarifies that “registered” means registered under clause 75.

Secretary Michael Gove

15

Clause 75, page 266, line 10, at end insert—

“(aa) the updating or other revision of information in the register;”

All line references relate to the large font accessible version of the Bill

Member's explanatory statement

This amendment provides that regulations under subsection (4) may make provision about the updating or other revision of the register.

Secretary Michael Gove

16

Clause 82, page 281, line 18, leave out "section 106(4)" and insert "paragraph 5(4) of Schedule (Special measures)"

Member's explanatory statement

This amendment is consequential on Amendment 19 and NS1.

Secretary Michael Gove

17

Page 322, line 10, leave out Clause 104

Member's explanatory statement

This amendment and Amendments 18 to 26 remove clauses 104 to 113 (special measures)

All line references relate to the large font
accessible version of the Bill

with a view to provision about special measures
appearing in NS1.

Secretary Michael Gove **18**

Page 327, line 8, leave out Clause 105

Member's explanatory statement

See the explanatory statement to Amendment
17.

Secretary Michael Gove **19**

Page 329, line 1, leave out Clause 106

Member's explanatory statement

See the explanatory statement to Amendment
17.

Secretary Michael Gove **20**

All line references relate to the large font
accessible version of the Bill

Page 330, line 1, leave out Clause 107

Member's explanatory statement

See the explanatory statement to Amendment
17.

Secretary Michael Gove **21**

Page 333, line 6, leave out Clause 108

Member's explanatory statement

See the explanatory statement to Amendment
17.

Secretary Michael Gove **22**

Page 337, line 16, leave out Clause 109

Member's explanatory statement

See the explanatory statement to Amendment
17.

Secretary Michael Gove **23**

All line references relate to the large font accessible version of the Bill

Page 339, line 8, leave out Clause 110

Member's explanatory statement

See the explanatory statement to Amendment 17.

Secretary Michael Gove **24**

Page 340, line 4, leave out Clause 111

Member's explanatory statement

See the explanatory statement to Amendment 17.

Secretary Michael Gove **25**

Page 344, line 8, leave out Clause 112

Member's explanatory statement

See the explanatory statement to Amendment 17.

Secretary Michael Gove **26**

All line references relate to the large font accessible version of the Bill

Page 346, line 7, leave out Clause 113

Member's explanatory statement

See the explanatory statement to Amendment 17.

Secretary Michael Gove

27

Clause 122, page 371, line 6, leave out "section 125 of" and insert "paragraph 1 of Schedule (Special measures) to"

Member's explanatory statement

This amendment is consequential on Amendment 39.

Secretary Michael Gove

28

Clause 122, page 371, line 10, leave out "section 125 of" and insert "paragraph 1 of Schedule (Special measures) to"

Member's explanatory statement

This amendment is consequential on Amendment 39.

All line references relate to the large font accessible version of the Bill

Secretary Michael Gove

29

Clause 122, page 372, line 20, at end insert—

“(6A)In section 81 of the Housing Act 1996 (restriction on termination of tenancy for failure to pay service charge) after subsection (4A) insert—

“(4B)References in this section (except subsection (5)) to a service charge include a building safety charge within the meaning of paragraph 1 of Schedule 2 to the Landlord and Tenant Act 1985.”

(6B) In section 167 of the Commonhold and Leasehold Reform Act 2002 (failure to pay small amount for short period) after subsection (4) insert—

“(4A)In subsection (1) the reference to service charges includes building safety charges within the meaning of paragraph 1 of Schedule 2 to the 1985 Act.””

Member’s explanatory statement

This amendment extends existing protections against forfeiture of a lease on the ground of

All line references relate to the large font accessible version of the Bill

non-payment of a service charge to non-payment of a building safety charge.

Secretary Michael Gove **30**

Clause 122, page 373, line 1, leave out “the Commonhold and Leasehold Reform Act 2002” and insert “that Act”

Member’s explanatory statement

This amendment is consequential on Amendment 29.

Secretary Michael Gove **31**

Clause 123, page 375, line 16, leave out “section 125 of” and insert “paragraph 1 of Schedule (Special measures) to”

Member’s explanatory statement

This amendment is consequential on Amendment 39.

Secretary Michael Gove **32**

All line references relate to the large font accessible version of the Bill

Clause 123, page 380, line 2, leave out “section 125 of” and insert “paragraph 1 of Schedule (Special measures) to”

Member’s explanatory statement

This amendment is consequential on Amendment 39.

Secretary Michael Gove

33

Clause 124, page 384, line 22, after “commonhold association” insert “or special measures manager for the higher-risk building”

Member’s explanatory statement

This amendment and Amendment 34 provide that the definition of “building safety expenses of the association” in relation to a commonhold association include the expenses incurred by a special measures manager for the building.

Secretary Michael Gove

34

All line references relate to the large font accessible version of the Bill

Clause 124, page 385, line 1, after “association” insert “or manager”

Member’s explanatory statement

This amendment and Amendment 33 provide that the definition of “building safety expenses of the association” in relation to a commonhold association include the expenses incurred by a special measures manager for the building.

Secretary Michael Gove

35

Clause 124, page 385, line 5, at end insert—

““special measures manager” means a person appointed under paragraph 4 of Schedule (Special measures) to the Building Safety Act 2022.””

Member’s explanatory statement

This amendment defines “special measures manager” for the purposes of inserted section 38A.

Secretary Michael Gove

36

All line references relate to the large font accessible version of the Bill

Clause 125, page 385, leave out lines 14 to 16

Member's explanatory statement

This amendment is consequential on Amendments 17, 24 and 26.

Secretary Michael Gove **37**

Clause 125, page 387, leave out lines 10 to 23

Member's explanatory statement

This amendment is consequential on Amendments 17, 24 and 26.

Secretary Michael Gove **38**

Clause 125, page 389, leave out lines 1 to 3

Member's explanatory statement

This amendment is consequential on amendments 17, 24 and 26.

Secretary Michael Gove **39**

Clause 125, page 389, line 20, leave out "means a person appointed under section 105" and

All line references relate to the large font accessible version of the Bill

insert “has the meaning given by paragraph 1 of Schedule (Special measures)”

Member’s explanatory statement

This amendment is consequential on Amendment 18.

Secretary Michael Gove **40**

Clause 125, page 390, line 1, leave out “has the same meaning as in section 105” and insert “has the meaning given by paragraph 1 of Schedule (Special measures)”

Member’s explanatory statement

This amendment is consequential on Amendment 18.

Secretary Michael Gove **59**

Clause 146, page 438, line 21, at end insert—

“(za) section 131(6)(b) (new homes ombudsman scheme: meaning of “developer”),”

All line references relate to the large font accessible version of the Bill

Member's explanatory statement

This amendment removes the regulation making power about the meaning of "developer" from the general provisions about powers as bespoke provision is made for this power (see NC20).

Secretary Michael Gove

60

Clause 146, page 440, line 6, after "69," insert "71,"

Member's explanatory statement

This amendment provides for regulations made under clause 71 to be subject to the affirmative resolution procedure.

Secretary Michael Gove

61

Clause 146, page 440, line 6, leave out "104(10), 111(10), 113,"

Member's explanatory statement

This amendment and Amendment 63 are consequential on Amendments 17, 24 and 26 and NS1.

All line references relate to the large font accessible version of the Bill

Secretary Michael Gove **62**

Clause 146, page 440, line 7, leave out "131(6)(b)"

Member's explanatory statement

See explanatory statement for Amendment 59.

Secretary Michael Gove **63**

Clause 146, page 440, line 8, at end insert "or paragraph 2(12), 13(10) or 15(5) of Schedule (Special measures)"

Member's explanatory statement

This amendment and Amendment 61 are consequential on Amendments 17, 24 and 26 and NS1.

Secretary Michael Gove **64**

Clause 147, page 441, line 16, at end insert—

All line references relate to the large font accessible version of the Bill

“(aa) paragraphs 87 and 88 of Schedule 5 (and section 54 so far as relating to those paragraphs);”

Member’s explanatory statement

This amendment provides that the consequential amendments, in Schedule 5 to the Bill, of the Parliamentary Commissioner Act 1967 and the Freedom of Information Act 2000 extend to (ie form part of the law of) England and Wales, Scotland and Northern Ireland.

Secretary Michael Gove

65

Clause 147, page 441, line 18, leave out “and” and insert “to”

Member’s explanatory statement

This amendment is consequential on NC22, and provides for the new clause to extend to England and Wales, Scotland and Northern Ireland.

Secretary Michael Gove

66

Clause 147, page 442, line 1, leave out subsection (3) and insert—

All line references relate to the large font accessible version of the Bill

- “(3) The following provisions extend to England and Wales and Scotland—
- (a) section 2(2) and Schedule 1 (amendments of Health and Safety at
 - (b) Work etc Act 1974);
 - (c) sections 129 to (Amendment of the Government of Wales Act 2006) and Schedule 8 (new homes ombudsman scheme).”

Member’s explanatory statement

This amendment adjusts the extent of the provisions about the new homes ombudsman scheme so they form part of the law of Scotland as well as England and Wales.

Secretary Michael Gove

67

Clause 147, page 442, line 3, at end insert—

- “(4) The amendments made by Schedule (Amendment in connection with the new homes ombudsman scheme) have the same extent as the provision amended.”

Member’s explanatory statement

All line references relate to the large font accessible version of the Bill

This amendment sets out the extent of the amendments made by the new Schedule included in the Bill by NS2.

Secretary Michael Gove **68**

Clause 148, page 443, line 7, at end insert—

“(za) section 127;”

Member’s explanatory statement

This amendment provides that clause 127 comes into force two months after Royal Assent.

Secretary Michael Gove **69**

Clause 148, page 443, line 10, leave out paragraphs (c) and (d) and insert—

“(c) sections 137 to 138.”

Member’s explanatory statement

This amendment is consequential on NC22, and provides for the new clause to commence two months after Royal Assent.

All line references relate to the large font accessible version of the Bill

Secretary Michael Gove

NS1

To move the following Schedule—

“Special measures

Introductory

1 In this Schedule—

“special measures manager” means a person appointed under paragraph 4;

“special measures order” means an order under paragraph 4.

Notification by regulator before applying for special measures order

2 (1) This paragraph applies where the regulator proposes to make an application under paragraph 4 for a special measures order in relation to an occupied higher-risk building.

(2) The regulator must give a notice (an “initial notice”) of the proposal to—

(a) each accountable person for the building,

All line references relate to the large font accessible version of the Bill

- (b) any building safety manager for the building,
- (c) each resident of the building who is aged 16 or over,
- (d) each owner of a residential unit in the building,
- (e) any managing agent for the building or any relevant part of the building,
- (f) any recognised tenants' association for the building or any part of the building,
- (g) any manager appointed under section 24 of the Landlord and Tenant Act 1987 in relation to the building or any part of the building,
- (h) the fire and rescue authority for the area in which the building is situated,
- (i) the local housing authority for the area in which the building is situated,
- (j) where any accountable person for the building is a registered provider of social housing, the Regulator of Social Housing, and

All line references relate to the large font accessible version of the Bill

(k) where any part of the building contains premises occupied for the purposes of a business, each responsible person (within the meaning of article 3 of the Regulatory Reform (Fire Safety) Order 2005) in relation to those premises.

(3) The initial notice must—

(a) state that the regulator proposes to make an application for a special measures order in relation to the building,

(b) specify the address of the building,

(c) specify the reasons for the proposed application,

(d) specify the terms of the order that the regulator proposes to invite the tribunal to make (including the name and address of the person the regulator proposes to be the special measures manager for the building),

All line references relate to the large font accessible version of the Bill

- (e) specify a period in which recipients of the notice may make representations in response to the notice, and
 - (f) state that any representations must be in writing to such postal or email address as is specified in the notice.
- (4) Where the terms specified by virtue of sub-paragraph (3)(d) include a term requiring an accountable person for the building to make payments to the special measures manager for the building, the regulator must give to the persons mentioned in sub-paragraph (2) a financial management proposal with the initial notice.
- (5) After the end of the period mentioned in sub-paragraph (3)(e) the regulator must—
- (a) decide whether to make the application, and
 - (b) give a notice (a “final notice”) of its decision to the persons mentioned in sub-paragraph (2).
- (6) The final notice must—

All line references relate to the large font accessible version of the Bill

- (a) state whether or not the regulator intends to make the application,
 - (b) specify the reasons for reaching that decision, and
 - (c) if the regulator intends to make the application, specify the terms of the order that the regulator intends to invite the tribunal to make (including the name and address of the person the regulator proposes to be the special measures manager for the building).
- (7) Where the terms specified by virtue of sub-paragraph (6)(c) include a term requiring an accountable person for the building to make payments to the special measures manager for the building, the regulator must give to the persons mentioned in sub-paragraph (2) a financial management proposal with the final notice.
- (8) The regulator must comply with sub-paragraphs (5) to (7) before making the application.

All line references relate to the large font accessible version of the Bill

(9) The duty under sub-paragraph (2), (4), (5)(b) or (7) does not apply in relation to a person mentioned in sub-paragraph (2) if the regulator—

(a) is not aware of the person, and

(b) has taken all reasonable steps to ascertain the identity of the persons mentioned in that sub-paragraph.

(10) In this paragraph—

“financial management proposal” has the meaning given by paragraph 3;

“relevant part”, in relation to a higher-risk building, means any part of the building except premises occupied for the purposes of a business.

(11) The Secretary of State may by regulations make provision in relation to notices under this paragraph, including in particular provision about—

(a) the form of the notice;

(b) the way in which the notice must be given.

All line references relate to the large font accessible version of the Bill

(12)The Secretary of State may by regulations amend the list in sub-paragraph (2).

Meaning of “financial management proposal”

3 (1) In this Schedule “financial management proposal”, in relation to a higherrisk building, means a document setting out—

- (a) an estimate of the relevant expenses the regulator expects a special measures manager for the building to incur (including a reasonable amount in respect of contingencies),
- (b) the measures to which the relevant expenses relate, and
- (c) if there is more than one accountable person for the building—
 - (i) the regulator's proposed apportionment of the relevant expenses between them, and
 - (ii) the reasons for that proposal (including any calculation giving rise to it).

(2) In this Schedule—

All line references relate to the large font accessible version of the Bill

“building safety charge” has the meaning given by Schedule 2 to the Landlord and Tenant Act 1985;

“relevant expenses” means expenses incurred by the special measures manager for a higher-risk building in connection with the exercise of their functions in relation to the building after deducting amounts received or receivable by the manager by way of building safety charges in respect of those expenses.

Special measures order

4 (1) The regulator may apply to the tribunal for an order under this paragraph in relation to an occupied higher-risk building (a “special measures order”).

(2) A special measures order is an order appointing a person to be the manager (a “special measures manager”) for the building to carry out the functions of all accountable persons for the building under, or under regulations made under, this Part (except the duty to appoint a

All line references relate to the large font accessible version of the Bill

building safety manager under section 80).

- (3) A special measures order may also appoint the manager to carry out any function as a receiver in relation to—
 - (a) building safety charges, or
 - (b) commonhold building safety assessments.
- (4) The tribunal may make a special measures order if satisfied that there has been a serious failure, or a failure on two or more occasions, by an accountable person for the building to comply with a duty imposed on that person under, or under regulations made under, this Part.
- (5) A special measures order may make provision with respect to—
 - (a) payments to be made by an accountable person for the building to the special measures manager in connection with relevant expenses incurred, or to be incurred, by the manager,

All line references relate to the large font accessible version of the Bill

- (b) any other matter relating to the exercise of the manager's functions, and
 - (c) any incidental or ancillary matter.
- (6) A special measures order may not make the provision mentioned in subparagraph (5)(a) in relation to a higher-risk building on commonhold land.
- (7) A special measures order continues in force until it is discharged.
- (8) In this Schedule "commonhold building safety assessment" means income raised from commonhold unit-holders by virtue of section 38A of the Commonhold and Leasehold Reform Act 2002.

Special measures order: supplementary

- 5 (1) This paragraph applies where a special measures order is made in relation to a higher-risk building.
- (2) While the order is in force any function of an accountable person for the building under, or under regulations made under, this Part is to be treated as a function of the special measures manager for the

All line references relate to the large font accessible version of the Bill

building, except any function relating to—

(a) the making of an application to the tribunal, or

(b) the making of an appeal to the tribunal.

(3) Any compliance notice given under section 101 relating to the building ceases to have effect (but this does not affect any liability incurred as a result of a contravention of a compliance notice occurring before the making of the order).

(4) The appointment of any building safety manager for the building under section 80 ceases to have effect.

Payments received by special measures manager to be held on trust

6 (1) This paragraph applies where a special measures order relating to a higher-risk building requires one or more accountable persons for the building to make payments to the special measures manager for the building.

All line references relate to the large font accessible version of the Bill

- (2) The manager must hold the payments (together with any income accruing on those payments) as either—
 - (a) a single trust fund, or
 - (b) in two or more separate trust funds.
- (3) The manager must hold any trust fund—
 - (a) on trust to defray relevant expenses, and
 - (b) subject to that, on trust for the accountable person or persons for the building for the time being.
- (4) The accountable person or persons for the building for the time being are to be treated as entitled by virtue of subparagraph (3)(b) to—
 - (a) if there is one accountable person for the building, the residue of the fund or funds;
 - (b) otherwise, to such shares in that residue as the accountable persons may agree in writing or (in default of agreement) as the tribunal may direct.

All line references relate to the large font accessible version of the Bill

- (5) An application for a direction under subparagraph (4)(b) may be made by—
- (a) the regulator,
 - (b) an accountable person for the building, or
 - (c) the manager.

Effect of special measures order on relevant contracts and legal proceedings

- 7 (1) Sub-paragraphs (2) and (4) apply while a special measures order relating to a higher-risk building is in force.
- (2) A relevant contract has effect as if the rights and liabilities of a relevant person arising under the contract were the rights and liabilities of the special measures manager for the building.
- (3) A contract is a “relevant contract” if—
- (a) it is effective on the date the special measures order is made,
 - (b) one of the parties to it is a relevant person,
 - (c) it relates to a relevant function of a relevant person,

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- (d) it is specified for the purposes of this sub-paragraph in the special measures order or falls within a description of contracts so specified, and
 - (e) the manager gives notices in writing to the parties to it stating that sub-paragraph (2) is to apply to it.
- (4) The special measures manager for the building may bring, continue or defend a relevant cause of action.
- (5) A cause of action is a “relevant cause of action” if—
- (a) it accrued to or against a relevant person before the date the special measures order was made,
 - (b) it relates to a relevant function of a relevant person,
 - (c) it is specified for the purposes of this sub-paragraph in the special measures order or falls within a description of causes of action so specified, and

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- (d) the manager gives notice in writing to any person the manager considers would have an interest in the cause of action that sub-paragraph (4) is to apply to it.
- (6) Where, by virtue of this paragraph, the special measures manager for the building is subject to a liability to pay damages in respect of anything done (or not done) before the date of their appointment by or on behalf of a relevant person, that person is liable to reimburse to the manager an amount equal to the amount of damages paid by the manager.
- (7) In this paragraph—
 - “relevant function” means—
 - (a) in relation to an accountable person for the building, a function of that person under, or under regulations made under, this Part in relation to the building;
 - (b) in relation to the building safety manager for the building, any BSM

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duty of that person (within the meaning of section 80) in relation to the building;

“relevant person” means—

- (a) an accountable person for the building in relation to which the special measures order is made;
- (b) the building safety manager for that building immediately before the special measures order was made.

Special measures orders and orders under section 24 of the Landlord and Tenant Act 1987

8 (1) Sub-paragraph (2) applies where—

- (a) the tribunal makes a special measures order in relation to a higher-risk building, and
 - (b) an order under section 24 of the Landlord and Tenant Act 1987 appointing a manager in relation to that building is in force (a “section 24 order”).
- (2) The tribunal may amend the section 24 order so as to ensure that the functions

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to be carried out by virtue of that order do not include any function that the special measures order provides is to be carried out by the special measures manager.

(3) In section 24 of the Landlord and Tenant Act 1987, after subsection (2B) insert—

“(2C)Where a special measures order relating to the building is in force, an order under this section may not provide for a manager to carry out a function which the special measures order provides is to be carried out by the special measures manager for the building.

(2D) In this section—

“special measures manager” means a person appointed under paragraph 4 of Schedule (Special measures) to the Building Safety Act 2022;

“special measures order” means an order under paragraph 4 of Schedule (Special measures) to the Building Safety Act 2022.”

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9 (1) The Landlord and Tenant Act 1987 is amended as follows.

(2) In section 21(2) after “subsection (3)” insert “and section 24ZA”.

(3) After section 24 insert—

“24ZA Application for appointment of manager by special measures manager

(1) A special measures manager for an occupied higher-risk building may apply to the appropriate tribunal for an order under section 24 (as modified by subsection (4)) appointing a manager to act in relation to premises to which this section applies.

(2) This section applies to premises consisting of the whole or part of the higher-risk building if the building or part contains two or more flats.

(3) Section 22 applies in relation to such an application as if—

(a) for subsection (1) there were substituted—

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“(1) Before an application for an order under section 24 is made in respect of any premises to which section 24ZA applies by a special measures manager for an occupied higher-risk building, a notice under this section must (subject to subsection (3)) be served by the special measures manager on—

(a) the landlord;

(b) any person (other than the landlord) by whom obligations relating to the management of the premises or any part of them are owed to tenants of flats contained in those premises under a tenancy;

(c) each accountable person for the higher-risk building.”;

(b) for subsection (2)(a) there were substituted—

“(a) specify the special measures manager’s name and an address in England and Wales at which any person on whom the notice is served may serve notices, including notices

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in proceedings, on the special measures manager in connection with this Part;”;

(c) in subsection (2)(b)—

(i) for “tenant” there were substituted “special measures manager”;

(ii) for “this Part” there were substituted “section 24ZA”;

(d) in subsection (2)(c) for “tenant” there were substituted “special measures manager”.

(4) Section 24 applies in relation to such an application as if—

(a) in subsection (1) for “this Part” there were substituted “section 24ZA”;

(b) for subsection (2) there were substituted—

“(2) The appropriate tribunal may only make an order under this section where it is satisfied—

(a) that—

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- (i) the relevant person is in breach of any obligation owed by the person to the special measures manager by virtue of a special measures order, and
 - (ii) it is just and convenient to make the order in all the circumstances of the case; or
 - (b) that other circumstances exist which make it just and convenient for the order to be made.”;
 - (c) subsections (2A), (2B) and (10) were omitted.
- (5) In this section “special measures manager” has the meaning given by section 24(2D).”

Provision of financial assistance by regulator

10 (1) The regulator may give financial assistance to the special measures manager for a higher-risk building by way of loans or grants.

(2) The Secretary of State may by regulations make provision in relation to financial

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assistance given under this paragraph, including in particular provision about—

- (a) the circumstances in which financial assistance may be given;
 - (b) the kind of financial assistance that may be given;
 - (c) conditions that may or must be attached to any financial assistance (including conditions as to repayment).
- (3) In this paragraph “special measures manager”, in relation to a higher-risk building, includes the person who was the special measures manager for that building immediately before the special measures order relating to the building was discharged.

Special measures order: further directions

11 (1) This paragraph applies while a special measures order relating to a higher-risk building is in force.

(2) On an application by a person mentioned in sub-paragraph (3) the tribunal may give directions to the special measures

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manager for the building or any other person with respect to—

(a) any matter relating to the exercise of the manager's functions, and

(b) any incidental or ancillary matter.

(3) The persons are—

(a) the regulator,

(b) an accountable person for the building, or

(c) the manager.

Regulator to keep certain matters under review

12 (1) This paragraph applies while a special measures order relating to a higherrisk building is in force.

(2) The regulator must, from time to time (and at least once every 12 months), review the following matters—

(a) the measures taken by the special measures manager in exercising the manager's functions;

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- (b) the expenses incurred by the manager in connection with taking those measures;
 - (c) any payments made by accountable persons for the building to the manager in respect of any of those expenses;
 - (d) any amounts received by the manager by way of building safety charges or commonhold building safety assessments in relation to the building.
- (3) If, on such a review, the regulator considers that any term of the order should be varied, it must make such application under paragraph 14 as it considers appropriate.

Notification by regulator before applying to vary special measures order

13 (1) This paragraph applies where the regulator proposes to make an application under paragraph 14 to vary a special measures order relating to a higher-risk building.

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- (2) The regulator must give a notice (an “initial notice”) of the proposal to—
 - (a) each accountable person for the building,
 - (b) each resident of the building who is aged 16 or over,
 - (c) each owner of a residential unit in the building,
 - (d) any managing agent for the building or any relevant part of the building,
 - (e) any recognised tenants’ association for the building or any part of the building,
 - (f) any manager appointed under section 24 of the Landlord and Tenant Act 1987 in relation to the building or any part of the building,
 - (g) the fire and rescue authority for the area in which the building is situated,
 - (h) the local housing authority for the area in which the building is situated,
 - (i) where any accountable person for the building is a registered provider of

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social housing, the Regulator of Social Housing, and

- (j) where any part of the building contains premises occupied for the purposes of a business, each responsible person (within the meaning of article 3 of the Regulatory Reform (Fire Safety) Order 2005) in relation to those premises.

(3) The initial notice must—

- (a) state that the regulator proposes to make an application to vary the special measures order specified in the notice,
- (b) specify the reasons for the proposed application,
- (c) specify the terms of the order that the regulator proposes to invite the tribunal to make,
- (d) specify a period in which recipients of the notice may make representations in response to the notice, and

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- (e) state that any representations must be in writing to such postal or email address as is specified in the notice.
- (4) After the end of the period mentioned in sub-paragraph (3)(d) the regulator must—
- (a) decide whether to make the application, and
 - (b) give a notice (a “final notice”) of its decision to the persons mentioned in sub-paragraph (2).
- (5) The final notice must—
- (a) state whether or not the regulator intends to make the application,
 - (b) specify the reasons for reaching that decision, and
 - (c) if the regulator intends to make the application, specify the terms of the order that the regulator intends to invite the tribunal to make.
- (6) The regulator must comply with sub-paragraphs (4) and (5) before making the application.

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(7) The duty under sub-paragraph (2) or (4)(b) does not apply in relation to a person mentioned in sub-paragraph (2) if the regulator—

(a) is not aware of the person, and

(b) has taken all reasonable steps to ascertain the identity of the persons mentioned in that sub-paragraph.

(8) In this paragraph “relevant part”, in relation to a higher-risk building, has the meaning given by paragraph 2(10).

(9) The Secretary of State may by regulations make provision in relation to notices under this paragraph, including in particular provision about—

(a) the form of the notice;

(b) the way in which the notice must be given.

(10) The Secretary of State may by regulations amend the list in sub-paragraph (2).

Variation or discharge of special measures order

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- 14 (1) The tribunal may vary or discharge a special measures order relating to a higher-risk building on an application by—
- (a) the regulator,
 - (b) an accountable person for the building, or
 - (c) the special measures manager for the building.
- (2) An application to vary a special measures order so as to change the identity of the manager may only be made by the regulator.
- (3) In considering whether to vary or discharge an order the tribunal must have regard to—
- (a) the likelihood of variation or discharge of the order resulting in a recurrence of the circumstances which led to the order being made, and
 - (b) whether it is just and convenient in all the circumstances to vary or discharge the order.

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- (4) Sub-paragraphs (2) and (3) do not apply on an application where each person mentioned in sub-paragraph (1) agrees to the application (and for this purpose where there is more than one accountable person each accountable person must agree).
- (5) Sub-paragraph (4) does not require the agreement of the special measures manager where that person lacks capacity to agree to the application.
- (6) Where the order is varied or discharged, the tribunal may give directions to any person with respect to—
 - (a) any matter relating to the variation or discharge, and
 - (b) any incidental or ancillary matter.
- (7) Where the order is discharged the tribunal must direct the special measures manager to—
 - (a) prepare a reconciliation account, and
 - (b) give a copy of the account to—
 - (i) the regulator, and

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(ii) each accountable person for the building.

(8) The tribunal may give a direction under sub-paragraph (6)(a) (at the time the order is discharged or after that time) for the making of a payment—

(a) by an accountable person for the building to the special measures manager, or

(b) by the special measures manager to an accountable person for the building.

(9) In this paragraph—

“reconciliation account” means a document—

(a) setting out, in relation to the period during which the special measures order was in force, a comparison between—

(i) the receipts and expenses of the manager in connection with the exercise of their functions in relation to the building, and

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(ii) the credits to, and debits from, all relevant accounts, and

(b) containing a statement explaining any differences;

“relevant account” means an account in which any of the following are (or have been) held—

(a) payments made by an accountable person for the building to the manager;

(b) amounts received by the manager by way of building safety charges or commonhold building safety assessments in relation to the building.

(10) In this paragraph “special measures manager”, in relation to a higher-risk building, includes the person who was the special measures manager for that building immediately before the special measures order relating to the building was discharged.

Notifications about special measures order

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- 15 (1) The regulator must take all reasonable steps to notify the persons mentioned in sub-paragraph (3) of the making of a special measures order in relation to a higher-risk building.
- (2) The regulator must take all reasonable steps to notify the persons mentioned in sub-paragraph (3) (other than the person mentioned in sub-paragraph (3)(b)) of the variation or discharge of a special measures order in relation to a higher-risk building.
- (3) The persons are—
- (a) each accountable person for the building,
 - (b) any building safety manager for the building immediately before the special measures order was made,
 - (c) each resident of the building who is aged 16 or over,
 - (d) each owner of a residential unit in the building,

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- (e) any managing agent for the building or any relevant part of the building,
- (f) any recognised tenants' association for the building or any part of the building,
- (g) any manager appointed under section 24 of the Landlord and Tenant Act 1987 in relation to the building or any part of the building,
- (h) the fire and rescue authority for the area in which the building is situated,
- (i) the local housing authority for the area in which the building is situated,
- (j) where any accountable person for the building is a registered provider of social housing, the Regulator of Social Housing, and
- (k) where any part of the building contains premises occupied for the purposes of a business, each responsible person (within the meaning of article 3 of the Regulatory Reform (Fire Safety)

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Order 2005) in relation to those premises.

(4) In this paragraph “relevant part”, in relation to a higher-risk building, has the meaning given by paragraph 2(10).

(5) The Secretary of State may by regulations amend the list in sub-paragraph (3).

Special measures order: change in accountable person etc

16 (1) Sub-paragraphs (2) and (3) apply where at any time (“the relevant time”) during which a special measures order relating to a higher-risk building is in force, an accountable person for the building (“the outgoing person”) ceases to be responsible for all or any part of the building (“the relevant part of the building”).

(2) From the relevant time the special measures order ceases to apply to the outgoing person in relation to the relevant part of the building.

(3) From the relevant time the special measures order applies to any person

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who, immediately after the relevant time—

(a) is an accountable person for the building, and

(b) is responsible for the relevant part of the building or any part of the relevant part, as it applied to the outgoing person in relation to the relevant part or part of the relevant part (as the case may be) immediately before the relevant time.

(4) But sub-paragraphs (2) and (3) do not affect any liability under the order to which the outgoing person became subject before the relevant time.

(5) Where an enactment requires interests, charges or other obligations affecting land to be registered, sub-paragraph (3) has effect whether or not the special measures order is registered.

(6) Nothing in this paragraph affects the powers of the tribunal under paragraph

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14 (power to vary special measures order etc).

Interpretation

17 In this Schedule—

“building safety charge” has the meaning given by paragraph 3;

“commonhold building safety assessment” has the meaning given by paragraph 4;

“local housing authority” has the meaning given by section 261 of the Housing Act 2004;

“managing agent”: for the purposes of this Schedule a person (A) is a managing agent for any part of a building if—

(a) A has been appointed to discharge the obligations of a person (B) relating to the management by B of that part of the building, and

(b) B has a legal estate in that part of the building which is—

(i) an estate in fee simple absolute in possession, or

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(ii) a term of years absolute granted for a term of more than 21 years from the date of the grant;

“recognised tenants’ association” has the meaning given by section 29 of the Landlord and Tenant Act 1985;

“relevant expenses” has the meaning given by paragraph 3;

“special measures manager” has the meaning given by paragraph 1;

“special measures order” has the meaning given by paragraph 1.”

Member’s explanatory statement

This new schedule makes provision for, and in connection with, the making of special measures orders in relation to higher-risk buildings. The new Schedule is intended to replace clauses 104 to 113 and be inserted after Schedule 6.

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Schedule 7, page 570, line 22, leave out “Part 4 of” and insert “Schedule (Special measures) to”

Member’s explanatory statement

This amendment is consequential on amendment NS1.

Order of the House

[21 July 2021]

That the following provisions shall apply to the Building Safety Bill:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Tuesday 26 October 2021.

3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on Consideration and Third Reading

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4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings on Consideration are commenced.

5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.

6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and Third Reading.

Other proceedings

7. Any other proceedings on the Bill may be programmed.

Notices Withdrawn

The following notices were withdrawn on 6 January 2022:

NC14
