Building Safety Bill

THIRD

MARSHALLED

LIST OF AMENDMENTS

TO BE MOVED

IN GRAND COMMITTEE

The amendments have been marshalled in accordance with the Instruction of 7th February 2022, as follows –

Clause 2
Schedule 1
Clauses 3 to 21
Schedule 2
Clauses 22 to 26
Schedule 3
Clauses 27 to 42
Schedule 4
Clauses 43 to 54
Schedule 5
Clause 55
Schedule 6
Clauses 56 to 104
Schedule 7
Clauses 105 to 113
Schedule 8
Clauses 114 to 121
Schedules 9 and 10
Clauses 122 to 128
Schedule 11
Clauses 129 to 143
Clause 1
Title.

[*Amendments marked ★ are new or have been altered*]

Amendment No.

After Clause 72

LORD BEST
BARONESS NEVILLE-ROLFE

45 Insert the following new Clause –

"Appointment of third parties

(1) This section applies where –

(a) a RTM company within the meaning of section 113, Commonhold and Leasehold Reform Act 2002,

(b) a body corporate of whatever description where the majority of the shares are held by leaseholders of dwellings, or

(c) a body corporate of whatever description which is limited by guarantee and the members of that company are also leaseholders of dwellings,

is either the accountable person or principal accountable person.

After Clause 72 - *continued*

(2) Where this section applies, notwithstanding any provisions of the Memorandum or Articles of Association or any rule of law to the contrary, the company may appoint a third party to discharge all the functions of the accountable person or the principal accountable person who will assume all duties, powers, liabilities and penalties under this Act in place of the company, and this Act is to have effect as though references to the accountable person or principal accountable person were references to the third party appointed under this section.

(3) If such a person is appointed then the company is empowered to re-charge and apportion the costs charged by such a person as if they were a service charge under the leases of the dwellings.

(4) Such charges will, for all purposes, be deemed to be service charges within the meaning of section 18 of the Landlord and Tenant Act 1985, save that the provisions of sections 20 and 20ZA of the Landlord and Tenant Act 1985 do not apply.

(5) The Secretary of State may by regulations impose conditions which must be satisfied before an appointment can be made under subsection (2).

(6) Without prejudice to the generality of subsection (5), those regulations may include—

(a) provision for a minimum level of professional qualification to be held by the third party,

(b) provision for minimum levels of professional indemnity provision."

Member's explanatory statement
This provision would enable leaseholder-owned or controlled companies to appoint an external professional to discharge the functions of the Accountable Person or Principal Accountable Person and for the costs of the same to be recoverable (and regulated) as if they were a service charge under the lease.

Clause 93

LORD BLENCATHRA

46 Page 102, line 8, at end insert "after consulting the residents"

46A Page 102, line 14, at end insert—

"(1A) Where some or all of the residents of the building have formed a residents association, the strategy must be prepared in conjunction with, and agreed by, the association."

47 Page 102, line 37, leave out subsection (5)

48 Page 103, line 8, at end insert—

"(c) make provision to allow residents to appeal to the regulator about any aspect of the strategy, and

(d) make provision for penalties to be imposed on any accountable person who has failed to properly consult residents."

After Clause 94

LORD BLENCATHRA

49 Insert the following new Clause—

"Contravention of requests for further information

(1) This section applies where it appears to the resident that the accountable person has failed to provide the information requested under section 94 within a reasonable time.

(2) The resident may give the accountable person an information notice.

(3) An "information notice" is a notice that—

(a) specifies the information that has been requested under section 94, and

(b) specifies a reasonable time for the accountable person to provide that information.

(4) Where it appears to the resident that the accountable person has failed to provide the information within the time specified in the notice, the information notice may require the accountable person to pay a prescribed sum."

Clause 95

LORD BLENCATHRA

50 Page 104, line 14, at end insert—

"(d) providing penalties where a principal accountable person fails to set up a proper complaints procedure or fails to do so in a reasonable time."

After Clause 96

THE LORD BISHOP OF ST ALBANS
LORD BLENCATHRA
LORD YOUNG OF COOKHAM
BARONESS PINNOCK

50A Insert the following new Clause—

"Landlord's duty to consult residents on building safety

(1) This section applies to any landlord with—

(a) more than two qualifying tenants;

(b) more than two non-qualifying tenants; or

(c) any combination of more than two qualifying tenants and non-qualifying tenants.

(2) A landlord of the type prescribed by subsection (1) owes a duty to consult with qualifying and non-qualifying tenants in relation to each of the following matters—

(a) where the building is a higher-risk building, but not in any other case, any resident engagement strategy under section 93 of this Act;

(b) the landlord's planned long-term maintenance or improvement of any common parts under the same landlord so as to avoid any building safety risk; and

(c) any other matters relating to building safety and specified in guidance issued by the Secretary of State.

After Clause 96 - *continued*

(3) The landlord discharges its duty of consultation under subsection (2) as follows—

(a) where there is no recognised tenants' association in existence before the coming into force of this section, creating a recognised tenants' association and consulting with it about building safety;

(b) where there is a recognised tenants' association before the coming into force of this section, consulting with that association about building safety; and

(c) in either case, by complying with the building safety consultation requirements set out in guidance issued by the Secretary of State.

(4) Where the matters on which the landlord is obliged to consult under subsection (2) relate predominately to service charges, the landlord is obliged only to consider the views of qualifying tenants.

(5) The duties in subsections (2) and (3) apply to the landlord—

(a) whether or not the building is a higher-risk building;

(b) in addition to any duty under section 20 of the Landlord and Tenant Act 1985 (limitation of service charges: consultation requirements); and

(c) regardless of whether the landlord obtains dispensation from consultation under section 20ZA of the Landlord and Tenant Act 1985 (consultation requirements: supplementary).

(6) For the purposes of this section—

"building safety risk" has the same meaning as in section 59;

"landlord" has the same meaning as in section 30 of the Landlord and Tenant Act 1985 (meaning of "flat", "landlord" and "tenant");

"non-qualifying tenant" means a tenant who is not a qualifying tenant;

"qualifying tenant" means a tenant who, under the terms of the lease, is required to contribute to the same costs as another tenant by the payment of a service charge;

"recognised tenants' association" has the same meaning as in section 29 of the Landlord and Tenant Act 1985 (tenants' associations: power to request information about tenants);

"service charge" has the same meaning as in section 18 of the Landlord and Tenant Act 1985 (meaning of "service charge" and "relevant costs");

"tenant" has the same meaning as in section 30 of the Landlord and Tenant Act 1985 (meaning of "flat", "landlord" and "tenant").

(7) This section comes into force on 1 January 2023."

Member's explanatory statement

This amendment would make it compulsory for all buildings with 2 or more leaseholders or other tenants under the same landlord to have a recognised tenants' association and for the landlord to consult that association on building safety.

Clause 97

LORD BLENCATHRA

51 Page 105, line 31, leave out paragraphs (a) and (b) and insert "items as defined in regulations made by the Regulator or appropriate national authority."

Clause 98

LORD BLENCATHRA

52 Page 106, line 28, leave out "county court" and insert "regulator"

53 Page 106, line 32, at end insert—

"(7A) The regulator may, on an application made by a resident who has been given a contravention notice, give a final determination about the validity of the contravention notice and any sums payable."

Clause 99

LORD BLENCATHRA

54 Page 107, line 24, leave out "county court" and insert "regulator"

55 Page 107, line 32, leave out "county court" and insert "regulator"

Schedule 8

LORD YOUNG OF COOKHAM

56 Page 197, line 7, at end insert—

"(1A) Such a charge is for all purposes to be treated as a service charge within the meaning of section 18 of the Landlord and Tenant Act 1985."

Member's explanatory statement
This amendment, along with others to Schedule 8, preserves the existing Building Safety Charge but treats it as a service charge due under the lease to be demanded and regulated in the same manner as existing service charges. This is to ensure that there are not two parallel sets of demands, accounts etc, one for the normal service charge and one for the building safety charge.

57 Page 198, line 6, leave out from beginning to end of line 10 on page 198

58 Page 200, line 1, leave out from beginning to end of line 29 on page 202

LORD BLENCATHRA

59 Page 201, line 6, at end insert—

"(aa) only if they are below a maximum as specified in regulations made by the Secretary of State, and"

LORD YOUNG OF COOKHAM

60 Page 203, line 16, leave out from beginning to end of line 18 on page 208

Clause 116

LORD GREENHALGH

61 Page 123, line 39, leave out subsection (2)

Member's explanatory statement
This amendment removes the provision providing that Part 4 does not apply in relation to the Palace of Westminster.

Before Clause 117

LORD GREENHALGH

62 Insert the following new Clause—

"Remediation of certain defects

(1) Sections (*Meaning of "relevant building"*) to (*Meeting remediation costs of insolvent landlord*) and Schedule (*Remediation costs under qualifying leases*) make provision in connection with the remediation of relevant defects in relevant buildings.

(2) In those sections—

(a) sections (*Meaning of "relevant building"*) to (*Associated persons*) define "relevant building", "qualifying lease", "the qualifying time", "relevant defect" and "associate";

(b) section (*Remediation costs under qualifying leases*) and Schedule (*Remediation costs under qualifying leases*) contain protections for tenants under qualifying leases in respect of costs connected with relevant defects, and impose liabilities on certain landlords;

(c) section (*Remediation orders*) makes provision about remediation orders, under which a landlord in a relevant building is required to remedy certain relevant defects;

(d) section (*Remediation contribution orders*) makes provision about remediation contribution orders, under which an associate of a landlord in a relevant building is required to contribute towards the costs of remedying certain relevant defects;

(e) section (*Meeting remediation costs of insolvent landlord*) makes provision about cases where a company that is a landlord in a relevant building is being wound up, and confers on the court a power to require an associate of the company to contribute to its assets."

Member's explanatory statement
This new Clause introduces provisions about the remediation of certain defects arising out of works carried out before commencement.

63 Insert the following new Clause—

"Meaning of "relevant building"

(1) This section applies for the purposes of sections (*Meaning of "qualifying lease"*) to (*Meeting remediation costs of insolvent landlord*) and Schedule (*Remediation costs under qualifying leases*).

(2) "Relevant building" means a self-contained building, or self-contained part of a building, in England that contains at least two dwellings and—

Before Clause 117 - *continued*

(a) is at least 11 metres in height,
(b) has at least 5 storeys, or
(c) is of a description prescribed by regulations made by the Secretary of State.

This is subject to subsection (3).

(3) "Relevant building" does not include a self-contained building or self-contained part of a building—
(a) in relation to which the right to collective enfranchisement (within the meaning of Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993) has been exercised, or
(b) which is on commonhold land.

(4) For the purposes of this section a building is "self-contained" if it is structurally detached.

(5) For the purposes of this section a part of a building is "self-contained" if—
(a) the part constitutes a vertical division of the building,
(b) the structure of the building is such that the part could be redeveloped independently of the remainder of the building, and
(c) the relevant services provided for occupiers of that part—
(i) are provided independently of the relevant services provided for occupiers of the remainder of the building, or
(ii) could be so provided without involving the carrying out of any works likely to result in a significant interruption in the provision of any such services for occupiers of the remainder of the building.

(6) In subsection (5) "relevant services" means services provided by means of pipes, cables or other fixed installations.

(7) The Secretary of State may by regulations make provision supplementing this section, including in particular—
(a) provision defining "storey" for the purposes of this section;
(b) provision about how the height of a building is to be determined for those purposes."

Member's explanatory statement
This new Clause defines "relevant building" for the purposes of the provisions relating to the remediation of defects arising out of works carried out before commencement.

64 Insert the following new Clause—

"Meaning of "qualifying lease"

(1) This section applies for the purposes of sections (*Remediation costs under qualifying leases*) to (*Meeting remediation costs of insolvent landlord*) and Schedule (*Remediation costs under qualifying leases*).

(2) A lease is a "qualifying lease" if—
(a) it is a long lease of a single dwelling in a relevant building,
(b) the tenant under the lease is liable to pay a service charge,

Before Clause 117 - *continued*

(c) the lease was granted before 14 February 2022, and

(d) at the beginning of 14 February 2022 ("the qualifying time")—

(i) the dwelling was a relevant tenant's only or principal home,

(ii) a relevant tenant did not own any other dwelling in the United Kingdom, or

(iii) a relevant tenant owned only one dwelling in the United Kingdom apart from their interest under the lease.

(3) Where a dwelling was at the qualifying time let under two or more leases to which subsection (2)(a) and (b) apply, any of those leases which is superior to any of the other leases is not a "qualifying lease".

(4) For the purposes of this section—

(a) "long lease" means a lease granted for a term of years certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise;

(b) a person "owns" a dwelling if the person has a freehold interest in it or is a tenant under a long lease of it;

(c) "relevant tenant" means a person who, at the qualifying time, is the tenant, or any of the tenants, under the lease mentioned in subsection (2);

(d) "service charge" has the meaning given by section 18 of the Landlord and Tenant Act 1985."

Member's explanatory statement
This new Clause defines "qualifying lease" for the purposes of the provisions relating to the remediation of defects arising out of works carried out before commencement.

LORD NASEBY
As an amendment to Amendment 64

65 In subsection (2), leave out paragraph (d)

LORD GREENHALGH

66 Insert the following new Clause—

"Meaning of "relevant defect"

(1) This section applies for the purposes of sections (*Remediation costs under qualifying leases*) to (*Meeting remediation costs of insolvent landlord*) and Schedule (*Remediation costs under qualifying leases*).

(2) "Relevant defect" means a defect as regards a building that—

(a) arises as a result of anything done (or not done), including anything used (or not used), in connection with relevant works, and

(b) causes a building safety risk.

(3) In subsection (2) "relevant works" means works relating to the building (including its initial construction) that were carried out—

(a) before completion, if completion occurred in the period of 30 years ending with the coming into force of this section, or

Before Clause 117 - *continued*

(b) by or on behalf of a relevant landlord or management company, after completion and within that period.

(4) For the purposes of this section—

"building safety risk", in relation to a building, means a risk to the safety of people in or about the building arising from—

(a) the spread of fire, or

(b) the collapse of the building or any part of it;

"completion" and "management company" are defined by regulations made by the Secretary of State;

"relevant landlord" means a landlord under a lease of the building or any part of it."

Member's explanatory statement

This new Clause defines "relevant defect" for the purposes of the provisions relating to the remediation of defects arising out of works carried out before commencement.

LORD BLENCATHRA

As an amendment to Amendment 66

66A In subsection (2)(b), at end insert ", which may relate to but is not limited to—

(i) external cladding,

(ii) internal walls and the materials contained inside any walls;

(iii) fire doors;

(iv) balconies;

(v) a lack of sprinklers, fire detection and control systems;

(vi) inadequate escape routes."

LORD GREENHALGH

67 Insert the following new Clause—

"Associated persons

(1) For the purposes of sections (*Remediation costs under qualifying leases*) to (*Meeting remediation costs of insolvent landlord*) and Schedule (*Remediation costs under qualifying leases*), a person (A) is associated with another person (B) in the circumstances mentioned in subsections (2) and (3).

(2) If A is an individual, A is associated with any body corporate of which A was a director at any time in the period of 5 years ending at the qualifying time.

(3) If A is a body corporate, it is associated with another body corporate (B) if—

(a) at any time in the period of 5 years ending at the qualifying time, a person who was a director of A was also a director of B, or

(b) at the qualifying time, one of them controlled the other or a third body corporate controlled both of them.

Subsections (4) to (6) set out the cases in which a body corporate is regarded as controlling another body corporate.

(4) A body corporate (X) controls a company (Y) if X possesses or is entitled to acquire—

(a) at least half of the issued share capital of Y,

Before Clause 117 - *continued*

(b) such rights as would entitle X to exercise at least half of the votes exercisable in general meetings of Y,

(c) such part of the issued share capital of Y as would entitle X to at least half of the amount distributed, if the whole of the income of Y were in fact distributed among the shareholders, or

(d) such rights as would, in the event of the winding up of Y or in any other circumstances, entitle it to receive at least half of the assets of Y which would then be available for distribution among the shareholders.

(5) A body corporate (X) controls a limited liability partnership (Y) if X—

(a) holds a majority of the voting rights in Y,

(b) is a member of Y and has a right to appoint or remove a majority of other members, or

(c) is a member of Y and controls alone, or pursuant to an agreement with other members, a majority of the voting rights in Y.

(6) A body corporate (X) controls another body corporate (Y) if X has the power, directly or indirectly, to secure that the affairs of Y are conducted in accordance with X's wishes.

(7) In subsection (5) a reference to "voting rights" is to the rights conferred on members in respect of their interest in a limited liability partnership to vote on those matters which are to be decided on by a vote of the members of the limited liability partnership.

(8) In determining whether one body corporate (X) controls another, X is treated as possessing—

(a) any rights and powers possessed by a person as nominee for it, and

(b) any rights and powers possessed by a body corporate which it controls (including rights and powers which such a body corporate would be taken to possess by virtue of this paragraph)."

Member's explanatory statement
This new Clause defines "associated person" for the purposes of the provisions relating to the remediation of defects arising out of works carried out before commencement.

68 Insert the following new Clause—

"Remediation costs under qualifying leases

Schedule (*Remediation costs under qualifying leases*)—

(a) provides that certain service charge amounts relating to relevant defects in a relevant building are not payable, and

(b) makes provision for the recovery of those amounts from persons who are landlords under leases of the building (or any part of it)."

Member's explanatory statement
This new Clause introduces a new Schedule, containing protections for certain leaseholders and others, relating to certain remediation costs, and imposing corresponding liabilities on certain landlords.

69 Insert the following new Clause—

"Remediation orders

(1) The Secretary of State may by regulations make provision for and in connection with remediation orders.

(2) A "remediation order" is an order, made by the First-tier Tribunal, requiring a relevant landlord to remedy specified relevant defects in a specified relevant building by a specified time.

(3) In this section "relevant landlord", in relation to a relevant defect in a relevant building, means a landlord under a lease of the building or any part of it who is required, under the lease or by virtue of an enactment, to repair or maintain anything relating to the relevant defect.

(4) The following persons may apply for a remediation order—

(a) the regulator (as defined by section 2);

(b) a local authority (as defined by section 29) for the area in which the relevant building is situated;

(c) a fire and rescue authority (as defined by section 29) for the area in which the relevant building is situated;

(d) any other person prescribed by the regulations.

(5) In this section "specified" means specified in the order."

Member's explanatory statement
This new Clause confers a power to make provision about remediation orders, which are orders requiring a landlord to remedy relevant defects.

70 Insert the following new Clause—

"Remediation contribution orders

(1) The First-tier Tribunal may, on the application of an interested person, make a remediation contribution order in relation to a relevant building if it considers it just and equitable to do so.

(2) "Remediation contribution order", in relation to a relevant building, means an order requiring a specified body corporate to make payments to a specified person, for the purpose of meeting costs incurred or to be incurred in remedying relevant defects (or specified relevant defects) relating to the relevant building.

(3) A body corporate may be specified only if it is associated with a landlord under a lease of the relevant building or any part of it.

(4) An order may—

(a) require the making of payments of a specified amount, or payments of a reasonable amount in respect of the remediation of specified relevant defects (or in respect of specified things done or to be done for the purpose of remedying relevant defects);

(b) require a payment to be made at a specified time, or to be made on demand following the occurrence of a specified event.

(5) In this section—

"associated": see section (*Associated persons*);

Before Clause 117 - *continued*

"interested person", in relation to a relevant building, means—

(a) the regulator (as defined by section 2),

(b) a local authority (as defined by section 29) for the area in which the relevant building is situated,

(c) a fire and rescue authority (as defined by section 29) for the area in which the relevant building is situated, or

(d) a person with a legal or equitable interest in the relevant building or any part of it;

"relevant building": see section (*Meaning of "relevant building"*);

"relevant defect": see section (*Meaning of "relevant defect"*);

"specified" means specified in the order."

Member's explanatory statement

This new Clause confers power on the First-tier Tribunal to make an order requiring a person associated with certain landlords to contribute towards the costs of remedying certain defects in relevant buildings.

71 Insert the following new Clause—

"Meeting remediation costs of insolvent landlord

(1) This section applies if, in the course of the winding up of a company which is a landlord under a lease of a relevant building or any part of it, it appears—

(a) that there are relevant defects relating to the building, and

(b) that the company is under an obligation (howsoever imposed) to remedy any of the relevant defects or is liable to make a payment relating to any costs incurred or to be incurred in remedying any of the relevant defects.

(2) The court may, on the application of the liquidator, by order require a body corporate associated with the company to make such contributions to the company's assets as the court considers to be just and equitable.

(3) An order may be made where proceedings for the winding up of the company were commenced before (as well as after) the coming into force of this section.

(4) In this section—

"associated": see section (*Associated persons*);

"the court" means a court having jurisdiction to wind up the company;

"relevant building": see section (*Meaning of "relevant building"*);

"relevant defect": see section (*Meaning of "relevant defect"*)."

Member's explanatory statement

This new Clause confers power on a court winding up a company to require a body corporate associated with the company to contribute to the assets of the company.

72 Insert the following new Clause—

"Building industry schemes

(1) The Secretary of State may by regulations—

(a) establish a scheme, and

Before Clause 117 - *continued*

(b) make provision about the scheme.

(2) Regulations that establish a scheme must prescribe the descriptions of persons in the building industry who may be members of the scheme ("eligible persons").

(3) Where a scheme is established, the Secretary of State must set and publish the criteria that an eligible person must meet in order to become, and remain, a member of the scheme ("membership criteria").

(4) Membership criteria may be set for any purpose connected with—

(a) securing the safety of people in or about buildings in relation to risks arising from buildings, or

(b) improving the standard of buildings.

(5) The Secretary of State must ensure that a list of members of a scheme is kept and published (and may publish a list of persons who are eligible persons but are not members of a scheme)."

Member's explanatory statement
This new Clause confers power on the Secretary of State to establish one or more building industry schemes.

73 Insert the following new Clause—

"Building industry schemes: supplementary

(1) This section supplements section (*Building industry schemes*).

(2) Regulations may provide that a scheme is to be maintained by—

(a) the Secretary of State, or

(b) a person designated by the Secretary of State (a "designated person"), acting on behalf of the Secretary of State.

(3) Regulations may provide for the charging of fees, in connection with—

(a) an application for membership;

(b) renewal of membership;

(c) a review;

(d) any other prescribed matter.

(4) The Secretary of State may publish a document setting out the procedure relating to any of the following—

(a) applications for membership of a scheme;

(b) the periodic renewal of membership;

(c) termination of a person's membership;

(d) the review of any decision relating to a person's membership;

(e) the suspension of a person from membership.

(5) Membership criteria may be framed by reference to—

(a) standards, or a document, from time to time published by any person;

(b) the opinion of the Secretary of State, or a designated person, in relation to any matter.

(6) Different membership criteria may be set for different purposes.

Before Clause 117 - *continued*

(7) In section (*Building industry schemes*) and this section—

"building" means a building in England;

"building industry": a reference to persons in the building industry is to persons carrying on, for business purposes, activities connected with the design, construction, management or maintenance of buildings, including persons carrying on activities in relation to construction products (within the meaning of paragraph 24 of Schedule 11) in England;

"prescribed" means prescribed by the regulations;

"regulations" means regulations under section (*Building industry schemes*);

"scheme" means a scheme established under section (*Building industry schemes*);

"standard"(except in subsection (5) of this section) is to be read in accordance with section 29."

Member's explanatory statement
This new Clause makes supplementary provision about building industry schemes.

74 Insert the following new Clause—

"Prohibition on development for prescribed persons

(1) The Secretary of State may by regulations prohibit a person of a prescribed description from carrying out development of land in England (or a prescribed description of such development).

(2) A prohibition may be imposed for any purpose connected with—

(a) securing the safety of people in or about buildings in relation to risks arising from buildings, or

(b) improving the standard of buildings.

(3) A prohibition under the regulations applies despite planning permission (or any prescribed description of planning permission) having been granted.

(4) The regulations may provide that, in prescribed cases, no prescribed certificate under the 1990 Act may be granted (and any purported grant is of no effect).

(5) The regulations may require a person of a prescribed description to give a notification relating to the proposed beginning of development (and may make provision about the content and form of a notification and the way in which it is to be given).

(6) The regulations may contain exceptions.

(7) The regulations may make provision about enforcement, including in particular provision applying (with or without modifications), in relation to a breach of the regulations, any provision of Part 7 of the 1990 Act (enforcement).

(8) For the purposes of this section—

(a) "the 1990 Act" means the Town and Country Planning Act 1990;

Before Clause 117 - *continued*

(b) a reference to the "beginning" of development is to be read in accordance with section 56(2) of the 1990 Act;
(c) "building" means a building in England;
(d) "development" has the meaning given by section 55 of the 1990 Act;
(e) "planning permission" has the meaning given by section 336 of the 1990 Act;
(f) "prescribed" means prescribed by regulations under this section;
(g) "standard" is to be read in accordance with section 29."

Member's explanatory statement
This new Clause confers power on the Secretary of State to prohibit a prescribed person from carrying out development (or certain development).

75 Insert the following new Clause—

"Building control prohibitions

(1) The Secretary of State may by regulations impose a building control prohibition, as regards buildings or proposed buildings, in relation to persons of a prescribed description.

(2) A prohibition may be imposed for any purpose connected with—
(a) securing the safety of people in or about buildings in relation to risks arising from buildings, or
(b) improving the standard of buildings.

(3) A "building control prohibition", in relation to a person, prohibits—
(a) the person from applying for building control approval or from depositing plans,
(b) the person from giving an initial notice (whether or not jointly with anyone else) or a public body's notice, public body's plans certificate or public body's final certificate,
(c) the granting of building control approval to the person,
(d) the passing of plans deposited by the person,
(e) the acceptance of an initial notice given by the person (whether or not jointly with anyone else) or a public body's notice, public body's plans certificate or public body's final certificate given by the person,
(f) the giving of a final certificate in relation to works carried out by the person,
(g) the person from giving a prescribed document,
(h) the giving of a prescribed document to the person or in respect of works carried out by the person, or
(i) the acceptance of any prescribed document given by the person or in respect of works carried out by the person.

(4) A building control prohibition applies despite any provision made by or under the Building Act 1984.

(5) The regulations may contain exceptions.

Before Clause 117 - *continued*

(6) The regulations may provide that anything done in contravention of the regulations is of no effect.

(7) Any reference in this section to a building or proposed building is to a building or proposed building in England.

(8) In this section—

"building" and "building control approval", and references to the deposit and passing of plans, are to be read in accordance with Part 1 of the Building Act 1984;

"initial notice", "final certificate", "public body's notice", "public body's plans certificate" and "public body's final certificate" have the same meaning as in Part 2 of that Act;

"prescribed" means prescribed by regulations under this section;

"standard" is to be read in accordance with section 29."

Member's explanatory statement
This new Clause confers power on the Secretary of State to impose building control prohibitions on prescribed persons.

76 Insert the following new Clause—

"Building liability orders

(1) The High Court may make a building liability order if it considers it just and equitable to do so.

(2) A "building liability order" is an order providing that any relevant liability (or any relevant liability of a specified description) of a body corporate ("the original body") relating to a specified building is also—

(a) a liability of a specified body corporate, or

(b) a joint and several liability of two or more specified bodies corporate.

(3) In this section "relevant liability" means a liability (whether arising before or after commencement) that relates to a building in England and is incurred—

(a) under the Defective Premises Act 1972 or section 38 of the Building Act 1984, or

(b) as a result of a building safety risk.

(4) A body corporate may be specified only if it is, or has at any time in the relevant period been, an associate of the original body.

(5) A building liability order—

(a) may be made in respect of a liability of a body corporate that has been dissolved (including where dissolution occurred before commencement);

(b) continues to have effect even if the body corporate is dissolved after the making of the order.

(6) In this section—

"associate": see section (*Building liability orders: associates*);

Before Clause 117 - *continued*

"building safety risk", in relation to a building, means a risk to the safety of people in or about the building arising from the spread of fire or structural failure;

"commencement" means the time this section comes into force;

"the relevant period" means the period—

(a) beginning with the beginning of the carrying out of the works in relation to which the relevant liability was incurred, and

(b) ending with the making of the order;

"specified" means specified in the building liability order."

Member's explanatory statement

This new Clause confers power on the court to make an order under which certain liabilities relating to buildings in England are imposed on a person associated with the person who is primarily liable.

77 Insert the following new Clause—

"Building liability orders: associates

(1) For the purposes of section (*Building liability orders*), a body corporate (A) is associated with another body corporate (B) if—

(a) one of them controls the other, or

(b) a third body corporate controls both of them.

Subsections (2) to (4) set out the cases in which a body corporate is regarded as controlling another body corporate.

(2) A body corporate (X) controls a company (Y) if X possesses or is entitled to acquire—

(a) at least half of the issued share capital of Y,

(b) such rights as would entitle X to exercise at least half of the votes exercisable in general meetings of Y,

(c) such part of the issued share capital of Y as would entitle X to at least half of the amount distributed, if the whole of the income of Y were in fact distributed among the shareholders, or

(d) such rights as would, in the event of the winding up of Y or in any other circumstances, entitle it to receive at least half of the assets of Y which would then be available for distribution among the shareholders.

(3) A body corporate (X) controls a limited liability partnership (Y) if X—

(a) holds a majority of the voting rights in Y,

(b) is a member of Y and has a right to appoint or remove a majority of other members, or

(c) is a member of Y and controls alone, or pursuant to an agreement with other members, a majority of the voting rights in Y.

(4) A body corporate (X) controls another body corporate (Y) if X has the power, directly or indirectly, to secure that the affairs of Y are conducted in accordance with X's wishes.

Before Clause 117 - *continued*

(5) In subsection (3) a reference to "voting rights" is to the rights conferred on members in respect of their interest in a limited liability partnership to vote on those matters which are to be decided on by a vote of the members of the limited liability partnership.

(6) In determining under any of subsections (2) to (4) whether one body corporate (X) controls another, X is treated as possessing—

(a) any rights and powers possessed by a person as nominee for it, and

(b) any rights and powers possessed by a body corporate which it controls (including rights and powers which such a body corporate would be taken to possess by virtue of this paragraph)."

Member's explanatory statement
This new Clause sets out who is an associated person for the purposes of the preceding new Clause.

LORD BLENCATHRA

78 Insert the following new Clause—

"Fire hazard remediation objectives

(1) In implementing the provisions of this Act, the regulator and Secretary of State must have regard to the following objectives—

(a) the perpetrator pays objective;

(b) the strict liability objective;

(c) the joint and several liability objective;

(d) the holding company pays objective;

(e) the subcontractor pays objective;

(f) the taxpayer as interim remedial works funder objective;

(g) the taxpayer as last resort objective;

(h) the no retention objective;

(i) the mandatory information objective;

(j) the managing agent cost control objective;

(k) the regulator assistance to leaseholders objective.

(2) The perpetrator pays objective means that those who have built as the main contractor or a sub-contractor or supplied materials for the construction of any building which is now assessed as being not fit or safe for purpose because of a fire or other risk should be responsible for all aspects of the remedial works.

(3) The strict liability objective means that responsibility for serious defects in the original construction or refurbishment of buildings should rest with those who designed, specified, constructed, or supervised the works or made false claims for construction products and they should be liable without any requirement for an individual assessment of their relative culpability.

(4) The joint and several liability objective means that all and any companies or businesses involved in the flawed construction should each be liable for the full costs of remediation works and it should then be up to each company to seek redress from their co-constructors, contractors or suppliers.

Before Clause 117 - *continued*

(5) The holding company pays objective means that any company which set up a subsidiary or special purpose vehicle in order to construct buildings should be liable for remedial works even if that subsidiary or special purpose vehicle has been wound up and irrespective of whether the holding corporation or special purpose vehicle is based in the United Kingdom or not.

(6) The subcontractor pays objective means that a subcontractor should not be able to escape liability, as also referenced by subsection (4) merely because that company was not the main developer, and the construction contract was not in its name.

(7) The taxpayer as interim remedial works funder objective means that in order to get remedial works underway as quickly as possible the government should, where desirable, provide funding for those works and recover it from those who are liable for the remediation later.

(8) The taxpayer as last resort objective means that when it has not been possible to find or collect payments from construction companies, their sub-contractors and suppliers, and if there is no other source of funding, the government should be responsible for the remediation costs.

(9) The no retention objective means that in situations where remediation is involved main contractors should not be able to hold back payments to their subcontractors or suppliers until such time as those subcontractors or suppliers undertake more work for the principal contractor.

(10) The mandatory information objective means that if any freeholder, landlord, or managing agent of a property conducts any safety study whether fire or otherwise on the whole or any part of the property then it should be a requirement that that study is shared with all those with an interest in the property including leaseholders.

(11) The managing agent cost control objective means that those who manage properties on behalf of freeholders or landlords should be prohibited from charging excessive fees for undertaking fire safety studies or applying for fire remedial work funding.

(12) The regulator assistance to leaseholders objective means that the regulator should, where desirable, take up cases on behalf of leaseholders either individually or collectively who are in dispute with freeholders and landlords over the nature, extent and costs of any remedial works."

79 Insert the following new Clause—

"**Fire Risk Assessment Authorities**

(1) The relevant authority must establish a fire risk assessment authority ("FRAA") for its area.

(2) The Secretary of State may establish an FRAA for the whole of the United Kingdom if all the relevant authorities agree.

(3) The purpose of the FRAA is to determine whether a building, parts of a building or any of the components present a serious fire risk.

(4) Regulations may set out the full purposes of the FRAA.

Before Clause 117 - *continued*

(5) A serious fire risk is one where lives may be endangered or lost.

(6) The Secretary of State must ensure that the FRAA is sufficiently resourced to perform all its functions and in particular—

(a) that members doing assessments are properly qualified;

(b) that sufficient numbers are recruited to undertake all necessary assessments within a reasonable period of time;

(c) that the FRAA has access to legal and administrative support;

(d) that the FRAA is able to enter into contracts with any organisation or company in the furtherance of its aims;

(e) that the FRAA may form sub-committees to perform its functions.

(7) Regulations may set out the details of the requirements in subsection (6).

(8) The Secretary of State may issue instructions to the FRAA in the performance of its duties but may not involve himself or herself in individual determinations of any risk in any building, part of a building or components of it.

(9) The FRAA may create rules for its operation and dealings with all organisations with whom it deals.

(10) The FRAA must make arrangements for these rules to be laid before Parliament.

(11) The decision of the FRAA is binding except as provided for in section (*FRAA Appeal Board*).

(12) Regulations under this section are to be made by statutory instrument, and a statutory instrument containing such regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(12) In this Part, "relevant authority" means—

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

(b) in relation to Scotland, the Scottish Ministers;

(c) in relation to Wales, the Welsh Ministers;

(d) in relation to Northern Ireland, a Northern Ireland department."

80 Insert the following new Clause—

"FRAA Appeal Board

(1) The relevant authority must create an Appeal Board whose function is to hear appeals from the decisions of the FRAA on any matter.

(2) Members are to be appointed by the Secretary of State and must be independent of any person represented on the FRAA.

(3) Appeals may be permitted only where the appellant alleges that the FRAA was in error on a technical matter.

(4) Appeals may not be permitted where the appellant does not dispute a technical finding but merely the decision on what action must be taken to remedy it.

Before Clause 117 - *continued*

(5) The decision of the Appeal Board is final and no appeal to any other body is permissible.

(6) Regulations may make further provision to supplement subsections (1) to (5).

(7) Regulations under subsection (6) are subject to the affirmative procedure."

81 Insert the following new Clause—

"FRAA notices

(1) Where the FRAA has made a determination under section (*Fire Risk Assessment Authorities*)(3) that a building, parts of a building or components of it are a serious fire risk and have safety defects then it may serve a notice (an "FRAA notice") on all those it considers responsible for the defect to remedy them forthwith.

(2) The parties considered responsible may include, without prejudice to others—

(a) the principal developer, contractor or constructor;

(b) any subsidiary or special purpose vehicle created by the person or company mentioned in paragraph (a), even if it has since been dissolved;

(c) any architects or designers of the buildings;

(d) any subcontractors employed by those described in paragraphs (a) to (c);

(e) any suppliers of material or components of the building deemed defective by the FRAA.

(3) The liability under subsection (2) is joint and several no matter what the extent of the involvement of the contractor or sub-contractor.

(4) The liability under subsection (2) applies to any business including those not registered in the United Kingdom.

(5) An FRAA notice may require the recipient to undertake remedial work which may include—

(a) demolition of the building or part of the building and rebuilding it to standards set by the FRAA or the building regulations currently in force;

(b) removal and replacement of the defective parts to standards set by the FRAA or the building regulations currently in force;

(c) alterations necessary to comply with current building regulations.

(6) Fire risks and safety defects under subsection (1) may relate to but are not limited to—

(a) external cladding;

(b) internal walls and the materials inside any walls;

(c) fire doors;

(d) balconies;

(e) a lack of sprinklers, fire detection and control systems;

(f) inadequate escape routes.

Before Clause 117 - *continued*

(7) A notice under subsection (5) may include a requirement for those described in subsection (2) to supply copies of all relevant plans, documents, correspondence or other information.

(8) A notice under subsection (1) must include a completion date by which those described in subsection (2) must have completed the works to the defined standard.

(9) A notice given under subsection (1) may include conditions to reduce, control or eliminate the risk of noise, cold, damp and other hazards whilst the work is being carried out.

(10) Where a notice has been given under subsection (1) the persons or organisations mentioned in subsection (2)—

(a) are liable for the costs of mitigation or safety measures and reimbursement of, or compensation for, increases in insurance premiums as determined by the FRAA, and

(b) must reimburse qualifying tenants and leaseholders for any such costs that they have been required to pay, the amounts of which are to be determined by the FRAA.

(11) The costs qualifying for reimbursement under subsection (10) must have been incurred since 14 June 2017.

(12) Regulations may specify the details of all aspects of the provision in this section.

(13) Regulations made under this section may amend any Act of Parliament.

(14) Regulations under this section are to be made by statutory instrument, and a statutory instrument containing such regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

82 Insert the following new Clause—

"Failure to comply with a Fire Regulation Assessment Authority notice

(1) Where a recipient of an FRAA notice fails to undertake the remedial work in the timeframe specified in that notice, the FRAA may—

(a) order the person or organisations listed in the notice to pay to the FRAA the expenses reasonably incurred to perform the work specified in the notice, and

(b) require the person or organisation to pay a penalty as determined by the FRAA.

(2) A penalty notice must be in writing and specify a date by which payment for the works which were not undertaken and the penalty should be paid.

(3) The maximum amount of expenses which may be levied by the FRAA for remedial work not undertaken by those identified in the FRAA notice may not exceed £500 million for any single building.

(4) The maximum amount of any fine which may be levied by the FRAA for remedial work not undertaken by those identified in the FRAA notice may not exceed £100 million for any one building.

Before Clause 117 - *continued*

(5) Those identified in the FRAA notice are jointly and severally liable for payment of expenses under subsection (3) and penalties under subsection (4).

(6) A notice to pay for remedial work or penalties under subsection (1)(a) or (b) is appealable to the Appeal Board."

83 Insert the following new Clause—

"Government to provide interim relief

(1) Regulations may specify the circumstances, terms and conditions under which the Secretary of State may advance monies to undertake the remedial works described in any FRAA notice.

(2) The Secretary of State may make a determination on whether to advance monies following an application by the FRAA which must supply the Secretary of State with all relevant information to permit the Secretary of State to make a decision.

(3) In deciding whether to advance monies under this section the Secretary of State must consider the desirability of completing the remedial work in a shorter period of time than if the Secretary of State were not to make the determination.

(4) In making a determination the Secretary of State may attach conditions to the original FRAA notice but may not offer a lower sum of monies than the FRAA determined was required to undertake the remedial work.

(5) Conditions under subsection (4) may include but are not limited to an instruction to the FRAA to pursue anyone mentioned in section (*FRAA notices*)(2) for the full costs of the work specified in the FRAA notice.

(6) Those persons and organisations described in section (*FRAA notices*)(2) remain jointly and severally liable for the full costs and penalties as determined in the FRAA notice irrespective of the sum of monies the Secretary of State has advanced.

(7) The decision of the Secretary of State is final and cannot be appealed against.

(8) Regulations may make further provision on how this section is to operate.

(9) Regulations under this section are to be made by statutory instrument, and a statutory instrument containing such regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

84 Insert the following new Clause—

"Government to be payer of last resort

(1) Where the Secretary of State has concluded, on information from the FRAA or any other sources, that it will not be possible to make those described in section (*FRAA notices*)(2) pay all or part of the expenses specified in the FRAA notice, the Secretary of State may make a determination to provide the full amount of the monies required to undertake the remedial works.

Before Clause 117 - *continued*

(2) In making such a determination the Secretary of State may attach conditions to the original FRAA notice but may not offer a lower sum of monies than the FRAA determined was required to undertake the remedial work.

(3) Those persons and organisations described in section (*FRAA notices*)(2) remain jointly and severally liable for the full costs and penalties as determined in the FRAA notice irrespective of the sum of monies the Secretary of State has advanced.

(4) The decision of the Secretary of State is final and cannot be appealed against.

(5) The Secretary of State may pursue those described in section (*FRAA notices*)(2) for full reimbursement with no time limit on bringing proceedings.

(6) Regulations may make further provision on how this section is to operate.

(7) Regulations under this section are to be made by statutory instrument, and a statutory instrument containing such regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

85 Insert the following new Clause—

"Provision of information

(1) Regulations may provide for any information or survey relating to fire risk or any other safety matter on a premises, obtained by a freeholder, landlord, managing agent or other person or organisation with an interest in the property, to be shared with leaseholders or others with an interest in that same property.

(2) The regulations may define—

(a) the types of risks covered;

(b) who is to be regarded as having an interest in the property;

(c) any charges which may be levied on those to whom the information is shared and who did not pay for the collection of the information or survey.

(3) In all cases any information or survey details shall be available to any organisation as specified by the Secretary of State in regulations.

(4) Regulations may provide for penalties on any organisation or person who was under an obligation to share information in subsection (1) but who failed to do so.

(5) Regulations under this section are to be made by statutory instrument, and a statutory instrument containing such regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

86 Insert the following new Clause—

"Limitation on managing agent charges

(1) Regulations may set limits on the charges managing agents of properties may impose on leaseholders for undertaking fire risk assessments and applications for assistance.

Before Clause 117 - *continued*

(2) In particular the regulations may include, but are not limited exclusively to—

(a) setting limits on the charges managing agents may impose for fire risk assessments carried out by assessors appointed by the agents, freeholders or landlords;

(b) setting limits on the charges managing agents may impose for making applications to the Building Safety Fund or any other source of funding for fire risk remedial works;

(c) setting limits on the charges managing agents may impose for inviting tenders for fire risk remedial works;

(d) preventing service charges being inflated by fire risk remedial works.

(3) Any regulations made under this section may not seek to determine the level of service charges except in so far as to limit fire risk remedial works being improperly added to service charges.

(4) Regulations may prohibit or set limits on managing agents from imposing a charge on leaseholders for their costs for them or lawyers employed by them in defending any action against them by leaseholders.

(5) In particular, regulations under subsection (4) may set out—

(a) that any costs imposed on leaseholders can be set only by a court;

(b) that no charges can be imposed on leaseholders where the managing agents have lost a case or withdrawn it;

(c) that where leaseholders or others accuse a managing agent or their staff of a criminal offence then no charges may be imposed on the leaseholders for the defence of the managing company or their staff, irrespective of the criminal verdict.

(6) A managing agent who breaches the regulations made under subsection (4) is guilty of an offence and liable to a minimum fine of twice the annual service charge for the whole property and a maximum of five times the fine for the whole property.

(7) Regulations under this section are to be made by statutory instrument, and a statutory instrument containing such regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

87 Insert the following new Clause—

"Assistance to leaseholders

(1) Regulations may provide for the regulator, the Ombudsman or another organisation as specified by the Secretary of State to act on behalf of a leaseholder or group of leaseholders in taking action against a developer, contractor, landlord or freeholder in relation to complaints about fire hazard remediation.

(2) The regulations may provide for the costs incurred by the organisation to be recovered from those of a description specified in regulations by the Secretary of State.

(3) The forms of action mentioned in subsection (1) may include, but are not limited to—

Before Clause 117 - *continued*

(a) legal action against any party with an interest or former interest in the property;
(b) negotiations with any party with an interest in the building;
(c) pursuing remedial works with developers or contractors;
(d) reporting developers and contractors for failure to carry out remedial works.

(4) Regulations may provide that any decision by the regulator, Ombudsman or another organisation specified by the Secretary of State not to act on behalf of a leaseholder or group of leaseholders is final.

(5) Regulations under this section are to be made by statutory instrument, and a statutory instrument containing such regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

After Clause 117

BARONESS HAYMAN OF ULLOCK

88 Insert the following new Clause—

"Remediation costs and Building Works Agency

(1) The remediation costs condition is met when a landlord has carried out any fire safety works to an applicable building in consequence of any provision, duty or guidance arising from one or more of the following—
(a) the Housing Act 2004;
(b) the Regulatory Reform (Fire Safety Order) 2005;
(c) this Act;
(d) any direction of any public authority or regulatory body;
(e) such other circumstances or enactment as the Secretary of State may prescribe by regulations or in accordance with subsection (9).

(2) Where the remediation costs condition applies, the costs incurred or anticipated 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 is of no effect and has 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 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.

(6) 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.

After Clause 117 - *continued*

(7) The purpose of the Building Works Agency is 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;

(c) determining the granting or refusal of grant funding for cladding remediation work;

(d) monitoring progress of remediation work and enforcing 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.

(8) The Building Works Agency may recommend that the Secretary of State exercises the power under subsection (1)(e) in such terms and to such extent that it sees fit, and if such a recommendation is made, the Secretary of State must, within 28 days, either—

(a) accept it and exercise the power under subsection (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.

(9) 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 section 18 of the Landlord and Tenant Act 1985;

(d) "administration charge" has the meaning given by Schedule 11 to the 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.

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

After Clause 119

BARONESS HAYMAN OF ULLOCK

89 Insert the following new Clause—

"Review of remediation work paid for by leaseholders

The Secretary of State must, before the end of the period of 12 months beginning on the day this Act is passed, publish an estimate of the total sum that leaseholders have spent on building safety remediation work each year for the past 10 years."

Clause 120

LORD GREENHALGH

90 Page 129, line 4, at end insert—

"(c) the relevant Northern Ireland department."

Member's explanatory statement
This amendment places the Secretary of State under a duty to consult the relevant department in Northern Ireland before making arrangements to establish the new homes ombudsman scheme.

91 Page 129, line 4, at end insert—

"(5) In this section, "the relevant Northern Ireland department" means—

(a) the Northern Ireland department designated for the purposes of this section by the First Minister and deputy First Minister acting jointly, or

(b) failing such a designation, the Executive Office in Northern Ireland."

Member's explanatory statement
This amendment explains which department in Northern Ireland is the relevant Northern Ireland department.

Before Schedule 9

LORD GREENHALGH

92 Insert the following new Schedule—

"SCHEDULE

REMEDIATION COSTS UNDER QUALIFYING LEASES

Interpretation

1 In this Schedule—

"associated": see section (*Associated persons*);

"building safety risk" has the meaning given by section (*Meaning of "relevant defect"*);

"qualifying lease": see section (*Meaning of "qualifying lease"*);

"the qualifying time" has the same meaning as in section (*Meaning of "qualifying lease"*);

"relevant building": see section (*Meaning of "relevant building"*);

"relevant defect": see section (*Meaning of "relevant defect"*);

Before Schedule 9 - *continued*

"relevant measure", in relation to a relevant defect, means a measure taken—

(a) to remedy the relevant defect, or

(b) for the purpose of—

(i) preventing a relevant risk from materialising, or

(ii) reducing the severity of any incident resulting from a relevant risk materialising;

"relevant risk" here means a building safety risk that arises as a result of the relevant defect;

"service charge" has the meaning given by section 18 of the Landlord and Tenant Act 1985.

No service charge payable for defect for which landlord or associate responsible

2 (1) No service charge is payable under a qualifying lease in respect of a relevant measure relating to a relevant defect if a relevant landlord—

(a) is responsible for the relevant defect, or

(b) is or has at any time been associated with a person responsible for a relevant defect.

(2) For the purposes of this paragraph a person is "responsible for" a relevant defect if—

(a) in the case of an initial defect, the person was the developer or carried out works relating to the defect;

(b) in any other case, the person carried out works relating to the defect.

(3) In this paragraph—

"developer" means a person who undertakes or commissions the construction or conversion of a building (or part of a building) with a view to granting or disposing of interests in the building or parts of it;

"initial defect" means a relevant defect arising in connection with works carried out before completion (within the meaning of section (*Meaning of "relevant defect"*));

"relevant landlord", in relation to a qualifying lease, means the landlord under the lease or any superior landlord.

Paragraph 2: extension of protection to superior leases

3 (1) This paragraph applies if, as a result of paragraph 2, an amount of service charge (an "unrecoverable amount") that would otherwise be payable under a qualifying lease in respect of a relevant measure is not payable.

(2) Any superior lease has effect as if any liability of the tenant under the superior lease to pay an amount in respect of the relevant measure ("the relevant amount") were a liability to pay an amount equal to—

(a) the relevant amount, minus

(b) the unrecoverable amount.

(3) In this paragraph "superior lease" means any lease which is superior to the qualifying lease.

No service charge payable if prescribed conditions are met

Before Schedule 9 - *continued*

4 (1) No service charge is payable under a qualifying lease in respect of a relevant measure relating to any relevant defect if any prescribed conditions, relating to a relevant landlord or the value of the qualifying lease, are met.

(2) In this paragraph—

"prescribed" means prescribed by regulations made by the Secretary of State;

"relevant landlord" has the same meaning as in paragraph 2.

Limit on service charge in other cases

5 (1) A service charge which would otherwise be payable under a qualifying lease in respect of a relevant measure relating to any relevant defect is payable only if (and so far as) the sum of—

(a) the amount of the service charge, and

(b) the total amount of relevant service charges which fell due before the service charge fell due,

does not exceed the permitted maximum.

(2) In this paragraph "relevant service charge" means a service charge under the lease in respect of a relevant measure relating to any relevant defect that—

(a) fell due in the pre-commencement period, or

(b) falls due after commencement.

(3) In sub-paragraph (2) "the pre-commencement period" means the period—

(a) beginning 5 years before commencement or, if later, on the day the relevant person became the tenant under the qualifying lease, and

(b) ending with commencement.

"The relevant person" means the person who was the tenant under the qualifying lease at commencement.

(4) In this paragraph—

"commencement" means the time this paragraph comes into force;

"the permitted maximum": see paragraph 6.

Paragraph 5: the permitted maximum

6 (1) In paragraph 5 "the permitted maximum", in relation to a qualifying lease, has the following meaning.

(2) The permitted maximum is (subject to sub-paragraphs (3) to (5))—

(a) if the premises demised by the qualifying lease are in Greater London, £15,000;

(b) otherwise, £10,000.

(3) Where the qualifying lease is a shared ownership lease and the tenant's total share was less than 100% at the qualifying time, the permitted maximum is the tenant's total share (as at that time) of what would otherwise be the permitted maximum.

(4) Where the value of the qualifying lease at the qualifying time is at least £1,000,000 but does not exceed £2,000,000, the permitted maximum is £50,000.

Before Schedule 9 - *continued*

(5) Where the value of the qualifying lease at the qualifying time exceeds £2,000,000, the permitted maximum is £100,000.

(6) The Secretary of State may by regulations make provision about the determination of the value of a qualifying lease for the purposes of paragraph 4 and this paragraph.

(7) In this paragraph "shared ownership lease" and "total share" have the meaning given by section 7 of the Leasehold Reform, Housing and Urban Development Act 1993.

Annual limit on service charges

7 (1) The Secretary of State may by regulations make provision limiting the total amount of service charges payable in any period of 12 months under a qualifying lease in respect of relevant measures relating to any relevant defect to one fifth of the permitted maximum.

(2) In this paragraph "the permitted maximum" means the permitted maximum as defined by paragraph 6 in relation to the lease.

No service charge payable for cladding remediation where tenant was resident

8 (1) No service charge is payable under a qualifying lease in respect of cladding remediation if the condition in section (*Meaning of "qualifying lease"*)(2)(d)(i) (resident tenant) was met at the qualifying time.

(2) In this paragraph "cladding remediation" has the meaning given by regulations made by the Secretary of State.

No service charge payable for legal expenses relating to relevant defects

9 (1) No service charge is payable under a qualifying lease in respect of legal expenses relating to the liability (or potential liability) of any person incurred as a result of a relevant defect.

(2) In this paragraph "legal expenses" means any costs incurred, or to be incurred, in connection with—

(a) obtaining legal advice,

(b) any proceedings before a court or tribunal,

(c) arbitration, or

(d) mediation.

Paragraphs 2 to 9: supplementary

10 (1) This paragraph supplements paragraphs 2 to 9 (the "relevant paragraphs").

(2) Where a relevant paragraph provides that no service charge is payable under a lease in respect of a thing—

(a) no costs incurred or to be incurred in respect of that thing (or in respect of that thing and anything else)—

(i) are to be regarded for the purposes of the relevant provisions as relevant costs to be taken into account in determining the amount of a service charge payable under the lease, or

(ii) are to be met from a relevant reserve fund;

Before Schedule 9 - *continued*

(b) any amount payable under the lease, or met from a relevant reserve fund, is limited accordingly (and any necessary adjustment must be made by repayment, reduction of subsequent charges or otherwise).

(3) In this paragraph—

"the relevant provisions" means sections 18 to 30 of the Landlord and Tenant Act 1985 (service charges) and section 42 of the Landlord and Tenant Act 1987 (service charge contributions to be held on trust);

"relevant reserve fund" means—

(a) a trust fund within the meaning of section 42 of the Landlord and Tenant Act 1987,

(b) an express trust of a kind mentioned in subsection (9) of that section, comprising payments made by the tenant under the qualifying lease and others, or

(c) any other fund comprising payments made by the tenant under the qualifying lease and others, and held for the purposes of meeting costs incurred or to be incurred in respect of the relevant building in question or any part of it (or in respect of that building or part and anything else).

No increase in service charge for other tenants

11 Where—

(a) an amount ("the original amount") would, apart from this Schedule, be payable by a tenant under a lease of premises in a relevant building, and

(b) a greater amount would (apart from this paragraph) be payable under the lease as a result of this Schedule,

the lease has effect as if the amount payable were the original amount.

Recovery of service charge amounts from landlords

12 (1) The Secretary of State may by regulations make provision for and in connection with the recovery, from a prescribed relevant landlord, of any amount that is not recoverable under a lease as a result of this Schedule.

(2) In this paragraph—

"prescribed" means prescribed by regulations under this paragraph;

"relevant landlord", in relation to a lease, means the landlord under the lease or any superior landlord.

Information

13 (1) The Secretary of State may by regulations make provision requiring a tenant under a qualifying lease to give prescribed information or documents to the landlord under the lease or any superior landlord.

(2) The regulations may provide that the information or documents are to be given in a prescribed way.

(3) In this paragraph "prescribed" means prescribed by the regulations.

Anti-avoidance

14 A covenant or agreement (whenever made) is void insofar as it purports to exclude or limit any provision made under this Schedule."

Member's explanatory statement
This new Schedule contains protections for certain leaseholders and others, relating to certain remediation costs, and imposes corresponding liabilities on certain landlords.

BARONESS PINNOCK
As an amendment to Amendment 92

93 In paragraph 6(2), leave out from "is" to the end of the sub-paragraph and insert "one peppercorn"

Member's explanatory statement
This amendment would reduce the maximum amount leaseholders could be liable to pay for fire remediation work to a peppercorn, which is effectively zero.

As an amendment to Amendment 92

94 In paragraph 6, leave out sub-paragraphs (4) to (6)

Member's explanatory statement
This amendment is consequential on the other amendment to the Government amendment in the name of Baroness Pinnock.

LORD LEIGH OF HURLEY
As an amendment to Amendment 92

94ZA★ In paragraph 8, after sub-paragraph (1) insert—

"(1A) Any service charge paid in the pre-commencement period by a resident tenant under a qualifying lease in respect of cladding remediation which meets the condition in section (*Meaning of "qualifying lease"*) (2)(d)(i) (resident tenant) must be reimbursed by the relevant landlord within three months of the commencement date.

(1B) In sub-paragraph (1A) "pre-commencement period" has the meaning given in paragraph 5(3).

(1C) In sub-paragraph (1A) "relevant landlord" means the landlord under the lease or any superior landlord."

Member's explanatory statement
This is to enable resident tenants to recoup monies already paid in service charges for cladding remediation from a relevant landlord.

Schedule 9

LORD BEST

94A Page 211, line 8, after "recommendations" insert "and improvement requirements"

Member's explanatory statement
These amendments would enable the ombudsman to require changes by members of the scheme where the ombudsman identifies widespread or regular unacceptable standards of conduct or standards of quality of work.

94B Page 211, line 14, at end insert—

"(3) "Improvement requirements" are requirements about changes members must make in order to improve standards of conduct or standards of quality of work."

Member's explanatory statement
These amendments would enable the ombudsman to require changes by members of the scheme where the ombudsman identifies widespread or regular unacceptable standards of conduct or standards of quality of work.

LORD GREENHALGH

95 Page 211, line 38, leave out "and the Scottish Ministers" and insert ", the Scottish Ministers and the relevant Northern Ireland department"

Member's explanatory statement
This amendment is to ensure that the new homes ombudsman scheme includes provision about provision of information to the relevant department in Northern Ireland.

96 Page 211, line 38, at end insert—

"(2) In this paragraph, "the relevant Northern Ireland department" means the Northern Ireland department designated for the purposes of this paragraph by the First Minister and deputy First Minister acting jointly."

Member's explanatory statement
This amendment explains which department in Northern Ireland is the relevant Northern Ireland department.

Clause 122

LORD GREENHALGH

97 Page 130, line 4, after "Scotland" insert "or Northern Ireland"

Member's explanatory statement
This amendment glosses the meaning of "occupation condition" for homes in Northern Ireland.

LORD BEST

97A Page 130, line 15, leave out "two" and insert "six"

Member's explanatory statement
This amendment would enable a relevant owner to have a complaint investigated and determined by the ombudsman within six years, not two years, of the first purchase of a new build home (where the complaint cannot be dealt with under another redress scheme).

LORD GREENHALGH

98 Page 130, line 23, at end insert—

"(c) in relation to land in Northern Ireland, a legal estate which is—

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

Clause 122 - *continued*

(ii) an estate in fee simple in possession subject to a rent payable under a fee farm grant, or
(iii) a term of years absolute granted for a term of more than 21 years from the date of the grant."

Member's explanatory statement
This amendment provides the meaning of "relevant interest" for land in Northern Ireland.

99 Page 130, line 43, at end insert—

"(d) in relation to homes in Northern Ireland, the Northern Ireland department designated for the purposes of this section by the First Minister and deputy First Minister acting jointly."

Member's explanatory statement
This amendment confers power on a Northern Ireland department to make regulations about who is a "developer".

100 Page 131, line 3, at end insert—

"(10A) If no Northern Ireland department has been designated for the purposes of this section then, for the purposes of subsection (10), "the relevant national authority" in relation to homes in Northern Ireland is the Executive Office in Northern Ireland."

Member's explanatory statement
This amendment is to ensure that the Secretary of State, Welsh Ministers and Scottish Ministers will still be able to make regulations for their own jurisdictions even if there is no Northern Ireland department designated for the purposes of making regulations for homes in Northern Ireland.

Clause 123

LORD GREENHALGH

101 Page 131, line 8, leave out from "exercisable" to end of line 10 and insert "—

(a) in the case of regulations made by the Secretary of State or the Welsh Ministers, by statutory instrument, and
(b) in the case of regulations made by a Northern Ireland department, by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12))."

Member's explanatory statement
This amendment provides for procedural matters connected to the power conferred on a Northern Ireland department to make regulations.

102 Page 131, line 27, at end insert—

"(d) if made by a Northern Ireland department, may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly."

Member's explanatory statement
This amendment provides for the parliamentary procedure for regulations made by a Northern Ireland department.

Clause 124

LORD GREENHALGH

103 Page 132, line 8, at end insert—

"(c) the relevant Northern Ireland department."

Member's explanatory statement
This amendment places the Secretary of State under a duty to consult the relevant department in Northern Ireland before making regulations about the new homes ombudsman scheme.

104 Page 132, line 31, at end insert—

"(8) In this section, "the relevant Northern Ireland department" means—

(a) the Northern Ireland department designated for the purposes of this section by the First Minister and deputy First Minister acting jointly, or

(b) failing such a designation, the Executive Office in Northern Ireland."

Member's explanatory statement
This amendment explains which department in Northern Ireland is the relevant Northern Ireland department.

Clause 126

LORD GREENHALGH

105 Page 133, line 5, leave out "and the Scottish Ministers" and insert ", the Scottish Ministers and the relevant Northern Ireland department"

Member's explanatory statement
This amendment places the Secretary of State under a duty to consult the relevant department in Northern Ireland about the code of practice.

106 Page 133, line 8, at end insert—

"(5) In this section, "the relevant Northern Ireland department" means—

(a) the Northern Ireland department designated for the purposes of this section by the First Minister and deputy First Minister acting jointly, or

(b) failing such a designation, the Executive Office in Northern Ireland."

Member's explanatory statement
This amendment explains which department in Northern Ireland is the relevant Northern Ireland department.

After Clause 128

LORD GREENHALGH

107 Insert the following new Clause—

"Liability for failure to comply with construction product requirements

(1) This section applies where Conditions A to D are met.

(2) Condition A is that, at any time after the coming into force of this section, a person ("the defaulter") fails to comply, in relation to a construction product, with a construction product requirement applicable to that person at that time.

(3) Condition B is that, after Condition A is met, the construction product is installed in, or applied or attached to, a relevant building in the course of works carried out in relation to the building.

In this section "relevant building" means—

(a) a building which consists of a dwelling, or

(b) a building which contains one or more dwellings.

(4) Condition C is that, in the course of those works or at any time after their completion—

(a) in a case where the relevant building consists of a dwelling, the building becomes unfit for habitation, or

(b) in a case where the relevant building contains one or more dwellings, a dwelling contained in the building becomes unfit for habitation.

(5) Condition D is that the failure to comply referred to in subsection (2) was the cause, or one of the causes, of the building or dwelling becoming unfit for habitation.

(6) The defaulter is liable to pay damages to a person with a relevant interest for personal injury, damage to property or economic loss suffered by that person as a result of the facts referred to in subsection (4)(a) or (b).

(7) For the purposes of section 10B of the Limitation Act 1980, the right of action that a person has by virtue of this section is to be regarded as having accrued—

(a) in a case where the works referred to in subsection (3) are carried out in the construction of the relevant building, when the construction is completed, and

(b) in any other case, when the works are completed.

(8) In this section—

"construction product" has the same meaning as in construction product regulations;

"construction product regulations" means regulations under paragraph 1 of Schedule 11;

"construction product requirement" means a requirement under—

(a) construction product regulations;

(b) Regulation (EU) No. 305/2011 (regulation laying down harmonised conditions for the marketing of construction products);

(c) the Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465);

After Clause 128 - *continued*

"relevant building" has the meaning given by subsection (3);

"relevant interest" means—

(a) in relation to a building which consists of a dwelling, a legal or equitable interest in the building, and

(b) in relation to a building which contains one or more dwellings, a legal or equitable interest in the building or any dwelling contained in it;

"requirement" includes a prohibition or restriction."

Member's explanatory statement

This new Clause makes provision for a new right of action where breach of regulations relating to construction products causes, or is a factor in, a building or dwelling becoming unfit for habitation.

LORD STUNELL

As an amendment to Amendment 107

107A In subsection (3), after "means" insert "a building that is a "higher-risk building" as defined by section 62, and either"

Member's explanatory statement

This amendment seeks to probe whether the retrospective liability provisions only apply to "higher-risk" buildings.

LORD GREENHALGH

108 Insert the following new Clause—

"Liability relating to cladding products

(1) This section applies where Conditions A to D are met.

(2) Condition A is that, at any time before the coming into force of this section—

(a) a person fails to comply, in relation to any cladding product, with a cladding product requirement applicable to that person at that time,

(b) a person who markets or supplies a cladding product makes a misleading statement in relation to it, or

(c) a person manufactures a cladding product that is inherently defective.

(3) Condition B is that, after Condition A has been met, the cladding product is attached to, or included in, the external wall of a relevant building in the course of works carried out in relation to the building.

In this section "relevant building" means—

(a) a building which consists of a dwelling, or

(b) a building which contains one or more dwellings.

(4) Condition C is that, in the course of those works or at any time after their completion—

(a) in a case where the relevant building consists of a dwelling, the building becomes unfit for habitation, or

(b) in a case where the relevant building contains one or more dwellings, a dwelling contained in the building becomes unfit for habitation.

After Clause 128 - *continued*

(5) Condition D is that the facts referred to in subsection (2)(a), (b) or (c) were the cause, or one of the causes, of the building or dwelling becoming unfit for habitation.

(6) The person referred to in subsection (2)(a), (b) or (c) is liable to pay damages to a person with a relevant interest for personal injury, damage to property or economic loss suffered by that person as a result of the facts referred to subsection (4)(a) or (b).

(7) For the purposes of section 10B of the Limitation Act 1980, the right of action that a person has by virtue of this section is to be regarded as having accrued—

(a) in a case where the works referred to in subsection (3) are carried out in the construction of the relevant building, when the construction is completed, and

(b) in any other case, when the works are completed.

(8) In subsection (2)(a) "cladding product requirement" means a requirement relating to a cladding product under—

(a) in relation to a time before IP completion day, the 1988 Directive or the 2011 Regulation as it had effect in EU law at that time, or

(b) in relation to a time after IP completion day—

(i) the 2011 Regulation as it had effect in the law of England and Wales at that time, or

(ii) the 2019 Regulations.

(9) In this section—

"the 1988 Directive" means Council Directive of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products (89/106/EEC);

"the 2011 Regulation" means Regulation (EU) No. 305/2011 (regulation laying down harmonised conditions for the marketing of construction products);

"the 2019 Regulations" means the Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465);

"cladding product" means a cladding system or any component of a cladding system;

"external wall", in relation to a building, includes any part of a roof pitched at an angle of more than 70 degrees to the horizontal if that part of the roof adjoins a space within the building to which persons have access otherwise than for the purpose of carrying out repairs or maintenance;

to "make a misleading statement", in relation to a cladding product, has such meaning as the Secretary of State may by regulations prescribe;

"relevant building" has the meaning given by subsection (3);

"relevant interest" means—

(a) in relation to a building which consists of a dwelling, a legal or equitable interest in the building, and

(b) in relation to a building which contains one or more dwellings, a legal or equitable interest in the building or any dwelling contained in it;

After Clause 128 - *continued*

"requirement" includes a prohibition or restriction."

Member's explanatory statement
This new Clause provides for a right of action where historic defaults relating to cladding cause, or are a factor in, a building or dwelling becoming unfit for habitation.

109 Insert the following new Clause—

"Liability for failures relating to construction products: limitation

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

(2) After section 10A insert—

"10B Special time limit for actions relating to construction products

(1) Where by virtue of section (*Liability for failure to comply with construction product requirements)* of the Building Safety Act 2022 a person becomes entitled to bring an action against any person, the action shall not be brought after the expiration of 15 years from the date on which the right of action accrued.

(2) Where by virtue of section (*Liability relating to cladding products)* of the Building Safety Act 2022 a person becomes entitled to bring an action against another person, the action shall not be brought after—

(a) if the right of action accrued before the commencement date, the expiration of the period of 30 years from the date on which it accrued, and

(b) if the right of action accrued on or after the commencement date, the expiration of the period of 15 years beginning with the date on which it accrued.

(3) In a case where—

(a) by virtue of section (*Liability relating to cladding products)* of the Building Safety Act 2022 a person is entitled to bring an action against another person,

(b) the right of action accrued before the commencement date, and

(c) the expiration of the period of 30 years beginning with the date on which the right of action accrued falls in the year beginning with the commencement date,

subsection (2)(a) has effect as if it referred to the expiration of that year.

(4) In subsections (2) and (3) "the commencement date" is the day on which section (*Liability relating to cladding products)* of the Building Safety Act 2022 came into force.

(5) No other period of limitation prescribed by Part 1 of this Act applies in relation to an action referred to in subsection (1) and (2).

(6) Sections 28, 32 and 35 of this Act apply in relation to an action referred to subsection (1) and (2), but otherwise Parts 2 and 3 of this Act (except sections 37 and 38), do not apply for the purposes of this section.""

Member's explanatory statement
This amendment provides for the limitation periods for the rights of action created by the previous two new Clauses.

110 Insert the following new Clause—

"Costs contribution notices

(1) The Secretary of State may by regulations confer a power on the Secretary of State to impose a costs contribution requirement on a person ("the defaulter") in a case where Conditions A to D are met.

(2) Condition A is that the defaulter has been convicted of a relevant offence under construction product regulations.

A "relevant offence" is an offence consisting of a failure to comply, in relation to a construction product, with a construction product requirement applicable to that person.

(3) Condition B is that, after the failure to comply referred to in subsection (2), the construction product is installed in, or applied or attached to, a relevant building in the course of works carried out in relation to the building.

In this section "relevant building" means—

(a) a building which consists of a dwelling, or

(b) a building which contains one or more dwellings.

(4) Condition C is that, in the course of those works or at any time after their completion—

(a) in a case where the relevant building consists of a dwelling, the building becomes unfit for habitation, or

(b) in a case where the relevant building contains one or more dwellings, a dwelling contained in the building becomes unfit for habitation.

(5) Condition D is that the failure to comply referred to in subsection (2) was the cause, or one of the causes, of the building or dwelling becoming unfit for habitation.

(6) The regulations may specify other conditions which must be met before the Secretary of State may impose a costs contribution requirement on a person.

(7) A "costs contribution requirement" requires the defaulter to pay to a person with a relevant interest such amount as the Secretary of State considers just and equitable in respect of the costs that the person has reasonably incurred, or in the view of the Secretary of State is likely to reasonably incur, in respect of works to make the building or dwelling fit for habitation.

(8) The regulations must provide for a costs contribution requirement to be imposed by means of a notice (a "costs contribution notice").

(9) For more about the provision that may be made by regulations under this section, see Schedule (*Costs contributions notices*).

(10) In this section—

"construction product" has the same meaning as in construction product regulations;

"construction product regulations" means regulations under paragraph 1 of Schedule 11;

"construction product requirement" means a requirement under—

(a) construction product regulations;

(b) Regulation (EU) No. 305/2011 (regulation laying down harmonised conditions for the marketing of construction products);

After Clause 128 - *continued*

(c) the Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465);

"relevant building" has the meaning given in subsection (3);

"relevant interest" means—

(a) in a case where the building consists of a dwelling, a legal or equitable interest in the building, and

(b) in a case where the building contains one or more dwellings, a legal or equitable interest in—

(i) the building, or

(ii) any dwelling contained in the building;

"relevant offence" has the meaning given in subsection (2);

"requirement" includes a prohibition or restriction."

Member's explanatory statement

This new Clause confers a regulation-making power authorising the Secretary of State by notice to require persons convicted of certain offences relating to breaches of construction product regulations to contribute to the costs of making a dwelling or building fit for habitation.

LORD FOSTER OF BATH
BARONESS BRINTON

111 Insert the following new Clause—

"Sale of goods online for use in buildings

(1) The Secretary of State must, within one year of the passing of this Act, make regulations placing requirements on operators of online marketplaces to take reasonable steps to identify and remove from the online marketplace items which—

(a) do not comply with safety legislation, or

(b) have been withdrawn or recalled by any person in accordance with safety legislation,

and that are of such a kind that are, or may be reasonably assumed to be, for use in buildings.

(2) Regulations made pursuant to subsection (1)—

(a) must specify what in the opinion of the Secretary of State constitutes "reasonable steps",

(b) may specify which items this section applies to, and

(c) may specify penalties for failure to comply with the regulations."

Member's explanatory statement

The purpose of this Clause is to improve the safety of buildings by preventing the sale of faulty electrical goods that can cause fires. This is particularly important in high-rise buildings in which fires can, and in the past have, spread causing fatalities.

BARONESS PINNOCK

112 Insert the following new Clause—

"Construction products regulations

(1) Within six months of the day on which this Act is passed the Secretary of State must lay before Parliament regulations on the testing and certification of construction products and materials.

(2) The regulations must make provision for—

(a) a public register of construction products and materials with information about the testing record of and any safety concerns relating to those products,

(b) the mandatory retesting of products that are critical to the safety of buildings,

(c) a consistent labelling and traceability system for construction products and materials, and

(d) any other measures the Secretary of State deems appropriate to implement recommendations made in Chapter 7 of the report of the Independent Review of Building Regulations and Fire Safety carried out by Dame Judith Hackitt.

(3) The regulations required by this section are to be made under paragraph 1 of Schedule 11 to this Act."

Member's explanatory statement
This amendment would require the Secretary of State to make regulations on the testing and certification of construction products and materials.

Schedule 11

LORD GREENHALGH

113 Page 222, line 23, leave out "sub-paragraph (2) does" and insert "the requirements specified in sub-paragraph (2) do"

Member's explanatory statement
This amendment is to ensure a statutory instrument may contain both construction product regulations and regulations under the new Clause relating to cost contributions notices provided that the instrument is made subject to the draft affirmative procedure.

After Schedule 11

LORD GREENHALGH

114 Insert the following new Schedule—

"SCHEDULE

COSTS CONTRIBUTION NOTICES

Introduction

1 This Schedule is about further provision that may be made by regulations under section (*Costs contribution notices*) ("the regulations").

Applications

After Schedule 11 - *continued*

2 (1) The regulations may make provision for the Secretary of State to impose a costs contribution requirement—

(a) on application, or

(b) otherwise than on application.

(2) Regulations under sub-paragraph (1)(a) may in particular include provision as to—

(a) who may apply;

(b) the procedure for applications;

(c) time-limits on applications.

Assessments

3 (1) The regulations may make provision for the appointment by the Secretary of State of persons to assess—

(a) whether the conditions for the imposition of a costs contribution requirement are met;

(b) the works required to make a building or dwelling fit for habitation;

(c) the costs that any person with a relevant interest has reasonably incurred or is likely to reasonably incur in respect of such works;

(d) the amount that a person should be required to pay under a costs contribution requirement.

(2) Regulations under sub-paragraph (1) may include provision about the criteria to met by a person before they may be appointed as an assessor.

4 (1) The regulations may make provision about assessments, including provision conferring power on an assessor to require that persons provide such information as the assessor may reasonably require for the purposes of an assessment.

(2) Regulations under sub-paragraph (1) may include provision for criminal offences relating to a failure to provide information, or to the provision of false or misleading information.

(3) An offence under sub-paragraph (2) must be one that is punishable only on summary conviction with a fine (which, in Scotland and Northern Ireland, must not exceed level 5 on the standard scale).

5 The regulations may include provision for a costs contribution notice to require a person on whom it is imposed to pay an amount specified in the notice to the Secretary of State in respect of the costs of an assessment.

Decision to impose notice

6 The regulations may make provision as to the matters which may or must be taken into account by the Secretary of State in determining—

(a) whether to impose a costs contribution requirement;

(b) on whom, and in favour of whom, to impose a costs contribution requirement;

(c) the amount required to be paid by any person under a costs contribution requirement.

After Schedule 11 - *continued*

7 (1) The regulations may make provision about how a costs contribution requirement relates to other obligations.

(2) The regulations may in particular make provision to secure that, taking a costs contribution requirement together with other obligations—

(a) a person does not incur liability more than once in respect of the same costs;

(b) a person is not entitled to be reimbursed more than once for the same costs.

(3) That may in particular include making provision preventing a person to whom any amount is payable under a costs contribution requirement from pursuing any other legal remedy.

Form of notice and methods of service

8 The regulations may make provision requiring that a costs contribution notice—

(a) be given in a specified form;

(b) contain specified information.

9 The regulations may make provision about service of a costs contribution notice including—

(a) how a notice is to be served;

(b) when a notice is to be taken as having been served;

(c) the persons on whom a notice must be served.

Review and appeals

10 The regulations may make provision for persons to apply to the Secretary of State for a review of a costs contribution notice.

11 The regulations may make provision for appeals against—

(a) a refusal by the Secretary of State to review a costs contribution notice;

(b) the outcome of that review.

12 Regulations under paragraph 10 or 11 may in particular include provision suspending a requirement to pay an amount due under a costs contribution notice pending the determination or withdrawal of a review or appeal.

Enforcement

13 The regulations may make provision for the enforcement of a costs contribution notice by a person to whom any amount is payable under the notice."

Member's explanatory statement
This new Schedule sets out further provision which may be made by regulations made under the new Clause relating to cost contributions notices.

THE EARL OF LYTTON

115 Insert the following new Schedule—

"FIRE HAZARD REMEDIATION SCHEME

Duty to establish the scheme

After Schedule 11 - *continued*

1 (1) The Secretary of State must establish, or make arrangements for the establishment of, a Fire Hazard Remediation Scheme ("the FHRS").

(2) The purpose of the FHRS must be to ensure that residential blocks of flats with fire hazards are made safe—

(a) speedily, efficiently, effectively and proportionately,

(b) without recourse to lengthy and expensive legal proceedings,

(c) without cost to leaseholders or occupiers, and

(d) in accordance with the perpetrator pays principle.

(3) For the purposes of this Schedule "the perpetrator pays principle" is the principle that—

(a) so far as reasonably practicable, remediation costs for residential blocks of flats with fire hazards should be met by the persons responsible for the hazards, and

(b) where that is not reasonably practicable, costs should so far as reasonably practicable be met by the construction industry.

Scope of the scheme

2 (1) The FHRS must be framed so as to apply to residential blocks of flats which—

(a) were constructed, or subject to additional building work, on or after 1 June 1992, and

(b) present fire hazards as a result of defective construction or other building.

(2) For the purposes of sub-paragraph (1) "defective construction or other building" means construction or additional building work that—

(a) contravened building regulations or other enactments in force at the time of the construction or other building work; or

(b) satisfies any other criteria specified in the FHRS or in scheme supplementary regulations.

Operation of the scheme

3 (1) The FHRS must provide for persons (including freeholders and leaseholders) to apply—

(a) for a block to be recognised as falling within the scope of the scheme;

(b) for a block falling within the scope of the scheme to be recognised as eligible for grants in respect of the cost of remediation works.

(2) The FHRS must provide—

(a) for the appointment of persons ("FHRS assessors") with appropriate expertise to determine, on behalf of the Secretary of State, applications under sub-paragraph (1)(a) and (b); and

(b) for FHRS assessors to be required to exercise operational independence in making determinations under the scheme.

(3) For the purposes of sub-paragraph (2) the FHRS may provide for appointments to be made by the Secretary of State or by one or more persons designated for that purpose by the Secretary of State under the scheme.

After Schedule 11 - *continued*

(4) The FHRS must provide that determinations of FHRS assessors are final (but nothing in this sub-paragraph prevents the exercise by the High Court of its judicial review jurisdiction).

Scheme supplementary regulations

4 (1) The Secretary of State must make regulations ("scheme supplementary regulations") in respect of the FHRS.

(2) Scheme supplementary regulations, in particular—

(a) may make provision for determining what is to be, or not to be, treated as a residential block of flats for the purposes of the scheme;

(b) may make provision for determining the date on which buildings were constructed or subject to additional building work;

(c) may make provision for determining who is entitled to make an application under the scheme in respect of a block of flats;

(d) may specify criteria to be applied by FHRS assessors in determining whether a block presents fire hazards as a result of defective construction (and the criteria may, in particular, make provision wholly or partly by reference to building regulations or other enactments in force at the time of construction or by reference to specified classes of document);

(e) may make provision permitting or requiring FHRS assessors to conduct tests, and requiring owners and occupiers of buildings to cooperate with FHRS assessors in conducting tests;

(f) may make provision permitting FHRS assessors to require local authorities or other specified classes of person to provide information or documents, and requiring persons to comply with any requirements imposed;

(g) may make provision about the timing of applications and determinations;

(h) may make provision about evidence to be adduced in support of an application;

(i) may require or permit FHRS assessors to operate a rebuttable presumption of defective construction where specified classes of fact have been proved (for which purpose the regulations may make provision similar to, or applying with or without modification, any enactment);

(j) may make provision about the making, processing and determination of applications under the scheme;

(k) may make provision about the giving of notice to developers and others;

(l) may make provision about the payment of awards;

(m) may make provision about monitoring expenditure on remediation works;

(n) may set a threshold for the estimated or quoted cost of remediation works below which an application for recognition cannot be made;

After Schedule 11 - *continued*

(o) may make provision for determining, having regard in particular to the need for proportionality, the nature and extent of remediation costs which may be funded by the scheme (for which purpose "remediation costs" means any class of expenditure related to fire hazards, including, in particular, repair costs, the costs of interim mitigation or safety measures and reimbursement of or compensation for increases in insurance premiums);

(p) may make provision for account to be taken of grants provided in respect of remediation works by any other scheme established by enactment or by a public authority;

(q) may make provision for financial assistance provided by any other scheme established by enactment or by a public authority to be repaid out of grants under the remediation scheme;

(r) may permit or require the amalgamation of multiple applications in respect of one block, or of applications on behalf of the residents of one or more blocks;

(s) may permit or require representative applications on behalf of the residents of one or more blocks;

(t) may make provision about the qualifications, appointment, remuneration and conduct of FHRS assessors, and the regulations may, in particular—

(i) provide for assessors to be remunerated from FHRS funds;

(ii) provide for indemnities in respect of decisions taken by assessors (for which purpose the regulations may apply an enactment (with or without modification)); and

(u) must include provision requiring the maintenance and publication of records of applications and determinations under the scheme.

Scheme funding regulations

5 (1) The Secretary of State must make regulations about the funding of grants under the FHRS scheme ("scheme funding regulations").

(2) Scheme funding regulations must aim to apply the perpetrator pays principle so far as practicable.

(3) For that purpose, scheme funding regulations must aim to ensure that a grant awarded under the scheme is funded—

(a) so far as possible, by the developer of the building in respect of which the grant is awarded (or, where there is more than one developer, by the developers together, with the regulations imposing joint and several liability); and

(b) failing that (whether by reason of the dissolution of a development company, insolvency or otherwise), by money paid into a fund maintained through a levy on the construction industry in general, or specified parts of the construction industry.

(4) For the purposes of achieving the objective in sub-paragraph (3)(a)—

(a) the reference to the developer of a building includes a reference to any person who—

After Schedule 11 - *continued*

(i) undertakes or commissions the construction of a building,
(ii) undertakes or commissions building work on an existing building, or
(iii) arranges for the construction of a building and for the sale of units in it;

(b) scheme funding regulations must permit an FHRS assessor to provide for an award under the scheme to be paid by one or more persons specified by the assessor (and awards may, in particular, provide for joint and several liability);

(c) scheme funding regulations must confer a right to appeal to the First-tier Tribunal;

(d) scheme funding regulations may include provision permitting an FHRS to permit or require an award for payment by a specified person to be satisfied wholly or partly by a person connected to that person (within the meaning of the regulations, for which purpose the regulations may apply, with or without modification, section 1162 of the Companies Act 2006 (parent and subsidiary undertakings) and any enactment relating to joint ventures); and

(e) scheme funding regulations may include provision about enforcement of liability to satisfy awards, which may, in particular—
(i) provide for collection of awards as a statutory debt;
(ii) include provision for interest or penalties;
(iii) provide for liability to make payments pending appeal or review; and
(iv) create criminal offences in connection with evasion.

(5) For the purposes of achieving the objective in sub-paragraph (3)(b), scheme funding regulations—

(a) must establish one or more levies to be paid by specified businesses or classes of business;

(b) must make provision for determining liability to pay the levy;

(c) may confer functions on FHRS assessors or other specified persons (which may include the Secretary of State) in respect of determination of liability to pay the levy;

(d) must confer on a person determined to be liable to pay the levy the right to appeal to the First-tier Tribunal;

(e) may provide for different amounts of levy to be paid by different classes of person;

(f) may provide for the levy to be paid by way of once-off payments, periodic payments or both;

(g) may include provision about enforcement of liability to pay the levy (which may, in particular, provide for collection of the levy as a statutory debt, include provision for interest or penalties and create criminal offences in connection with evasion);

(h) must include provision about the administration of the levy by the Secretary of State, including provision as to the maintenance and publication of estimates, accounts and other records; and

(i) may include supplemental provision about the levy.

After Schedule 11 - *continued*

(6) In making regulations under sub-paragraph (5), and in particular in assessing the proportionality and other fairness of any levy imposed by regulations under sub-paragraph (5), the Secretary of State must—
  (a) have regard to any other levy or similar imposition that appears to have a similar purpose as a levy under the scheme funding regulations, and
  (b) must consult persons appearing to him to represent the interests of persons affected by other relevant levies and impositions.

(7) Scheme funding regulations may include provision about—
  (a) application of awards, levies and grants, including provision for holding (or return) of surplus funds;
  (b) the nature and extent of obligations imposed by awards (which may, in particular, provide for payments in money or services or money's worth);
  (c) processes and procedures to be applied in determining applications for grants and questions of liability to awards (which may, in particular, include provision for determination wholly, partly, absolutely or contingently by arbitration, mediation or any other kind of process or procedure the Secretary of State thinks appropriate);
  (d) terms and conditions of awards, levies and grants; and
  (e) appraisals, appeals and enforcement.

Apportionment

6 (1) Scheme funding regulations may make provision about apportionment of liability for defective construction.

(2) In particular, scheme funding regulations may provide that where a person is required to pay an award under the FHRS scheme, that person may bring proceedings to recover a contribution from one or more persons who share responsibility for the defects in respect of which the award is made.

(3) Provision made by virtue of this paragraph may—
  (a) confer jurisdiction on the First-tier Tribunal or on any other specified court or tribunal;
  (b) apply (with or without modifications) any enactment about third-party liability.

Interim payments

7 (1) The Secretary of State may make interim grants to persons whom the Secretary of State believes are likely to be entitled to benefit from the remediation scheme.

(2) Interim grants may be made on such terms and conditions (including as to repayment) as the Secretary of State may specify.

(3) Scheme supplementary regulations—
  (a) may include provision for account to be taken of interim grants under this sub-paragraph; and
  (b) may include other provision about interim grants under this paragraph (including provision about applications for grants, eligibility for grants and determination of applications for grants).

After Schedule 11 - *continued*

Interpretation

8 For the purposes of this Schedule—

"construction" includes any kind of building work (whether part of the original construction of a building or not) including works of improvement, repair and extension;

"class" includes description;

"FHRS funding regulations" has the meaning given by paragraph 5;

"FHRS scheme" has the meaning given by paragraph 1;

"FHRS assessor" has the meaning given by paragraph 2;

"grant" includes loans and any other form of financial assistance (for which purpose a reference to payment includes a reference to the provision of assistance);

"perpetrator pays principle" has the meaning given by paragraph 1;

"remediation costs" has the meaning given by paragraph 4; and

"scheme supplementary regulations" has the meaning given by paragraph 4.

Consultation

9 Before making the scheme, the scheme supplementary regulations and the scheme funding regulations, the Secretary of State must consult—

(a) persons appearing to represent the interests of leaseholders or occupiers of blocks of flats with fire hazards;
(b) persons appearing to represent the interests of the construction industry and related industries; and
(c) such other persons as the Secretary of State thinks appropriate.

Regulations

10 (1) Scheme supplementary regulations and scheme funding regulations—

(a) shall be made by statutory instrument;
(b) may make provision that applies generally or only for specified purposes;
(c) may make different provision for different purposes;
(d) may confer functions (including discretionary functions) on specified persons or classes of person, and may provide for the Secretary of State to appoint persons to exercise functions under the regulations or the remediation scheme (whether or not on behalf of the Secretary of State); and
(e) may include supplemental, consequential or transitional provision.

(2) Scheme funding regulations may not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.

(3) Scheme supplementary regulations are subject to annulment in pursuance of a resolution of either House of Parliament."

Member's explanatory statement

This new Schedule would implement a "polluter pays" principle (here described as "perpetrator pays") to ensure that buildings with fire risks due to defective construction are put right without cost to leaseholders.

After Clause 129

LORD STUNELL
BARONESS PINNOCK

116 Insert the following new Clause—

"Public register of fire risk assessors

(1) The Secretary of State must, by regulations, make provision for a register of individuals who are qualified to make fire risk assessments under article 9 of the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541) (risk assessment).

(2) Those regulations must provide that only persons on the register may make such assessments.

(3) Those regulations must provide that the register is—

(a) publicly available, and

(b) kept up-to-date.

(4) Regulations under this section are—

(a) to be made by statutory instrument; and

(b) subject to annulment in pursuance of a resolution of either House of Parliament."

Member's explanatory statement
This new Clause would enable building owners and accountable persons to verify the competencies of fire assessors before appointing them to conduct fire safety assessments required by this Bill, and would enable government and industry to assess the numbers of assessors to be trained.

BARONESS FINLAY OF LLANDAFF
LORD HUNT OF KINGS HEATH

117 Insert the following new Clause—

"Carbon monoxide detectors and alarms

(1) Where necessary (whether due to the features of the premises, the activity carried on there, any hazard present or any other relevant circumstances) in order to safeguard the safety of relevant persons, the responsible person in relation to any premises must ensure that the premises are, to the extent that it is appropriate, equipped with carbon monoxide detectors and alarms.

(2) "Relevant persons" means—

(a) any person (including the employer) who is or may be lawfully on the premises; and

(b) any person in the immediate vicinity of the premises who is at risk from a fire on the premises.

(3) "Responsible person" means—

(a) in relation to a workplace, the employer, if the workplace is to any extent under their control;

(b) in relation to any premises not falling within paragraph (a)—

After Clause 129 - *continued*

(i) the person who has control of the premises (as occupier or otherwise) in connection with the carrying on by them of a trade, business or other undertaking (for profit or not); or

(ii) the owner, where the person in control of the premises does not have control in connection with the carrying on by that person of a trade, business or other undertaking."

Member's explanatory statement

This would place a duty on the responsible person to ensure that CO detectors and alarms are provided where appropriate.

THE EARL OF LYTTON
LORD BLENCATHRA

118 Insert the following new Clause—

"Fire hazard remediation: perpetrator pays principle

(1) The Secretary of State must make arrangements as soon as reasonably practicable to ensure that residential blocks of flats with fire hazards are made safe—

(a) speedily, efficiently, effectively and proportionately,

(b) without recourse to lengthy and expensive legal proceedings,

(c) without cost to leaseholders or occupiers,

(d) in accordance with enforcement and implementation mechanisms that prevent delay and avoidance of responsibility, and

(e) in accordance with the perpetrator pays principle.

(2) In sub-paragraph (1) "the perpetrator pays principle" is the principle that—

(a) so far as reasonably practicable, remediation costs for residential blocks of flats with fire hazards should be met by the persons responsible for the hazards; and

(b) where that is not reasonably practicable, costs should so far as reasonably practicable be met by the construction industry.

(3) In subsection (1) the reference to residential blocks of flats with fire hazards is a reference to residential blocks of flats which—

(a) were constructed, or subject to additional building work, at any time on or after 1 June 1992; and

(b) present fire hazards as a result of construction or additional building work that contravened building regulations or other enactments in force at the time of the construction or other building work.

(4) Arrangements for the purposes of subsection (1)—

(a) may consist of or include making regulations under section 142(5) to bring into force one or more provisions of this Act; and

(b) may consist of any other arrangements that the Secretary of State considers sufficient for achieving the objectives in subsection (1)."

Member's explanatory statement
This new Clause would implement a "polluter pays" principle (here described as "perpetrator pays") to ensure that buildings with fire risks due to defective construction are put right without cost to leaseholders.

THE EARL OF LYTTON

119 Insert the following new Clause—

"**Fire Hazard Remediation Scheme**

Schedule (*Fire Hazard Remediation Scheme*) makes provision for the introduction of a fire hazard remediation scheme."

Member's explanatory statement
This new Clause introduces Schedule (Fire Hazard Remediation Scheme).

LORD STUNELL
BARONESS PINNOCK

119A Insert the following new Clause—

"Training and qualifications of fire risk assessors

(1) The Secretary of State must, by regulations, make provision for standard qualifications and compulsory and regular training for fire risk assessors.

(2) Regulations under this section are—

(a) to be made by statutory instrument; and

(b) subject to annulment in pursuance of a resolution of either House of Parliament."

Member's explanatory statement
This amendment makes provision for standard qualifications and compulsory and regular training for fire risk assessors.

After Clause 133

BARONESS JOLLY
BARONESS FINLAY OF LLANDAFF
LORD JORDAN
BARONESS YOUNG OF OLD SCONE

120 Insert the following new Clause—

"Consultation on staircase regulations

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."

After Clause 133 - *continued*

LORD FOSTER OF BATH
LORD STUNELL
LORD KENNEDY OF SOUTHWARK

121 Insert the following new Clause—

"Existing homes: standards

(1) This section applies to domestic properties that have been used as such since before this Act is passed.

(2) The Secretary of State must ensure that—

(a) all domestic properties achieve a minimum standard by 2035, and

(b) those domestic premises that, because of their standard, present a serious risk to the health, wellbeing or safety of people living in them, that the occupant is unable to rectify for financial or other reasons, achieve a minimum standard by 2030,

where practical, cost-effective and affordable.

(3) In this section a "minimum standard" is the achievement by the property of—

(a) Level C on an Energy Performance Certificate issued under section 43 of the Energy Act 2011 (domestic energy efficiency regulations) or any amendment to that section made by the Secretary of State by regulations; or

(b) an equivalent level on any new method of measuring the energy efficiency of properties that may be adopted by the Secretary of State by regulations.

(4) The duty in subsection (2) does not apply to a domestic property where the following exemptions apply—

(a) an occupant or anyone else whose permission is needed for works to be carried out has explicitly refused such permission; or

(b) it is not technically feasible to fulfil the duty; or

(c) the cost of carrying out works to fulfil the duty would exceed £20,000.

(5) The Secretary of State may by regulations add to or change the exemptions referred to in subsection (4).

(6) The Secretary of State may by regulations define the terms "practical", "cost-effective" and "affordable".

(7) In this section "wellbeing" includes the ability of an occupant to keep warm at reasonable cost."

Member's explanatory statement
This Clause requires that existing homes achieve a minimum standard in order to protect the safety, health and wellbeing of occupants.

LORD FOSTER OF BATH
BARONESS BRINTON
LORD KENNEDY OF SOUTHWARK
LORD WHITTY

122 Insert the following new Clause—

"Electrical safety: leasehold dwellings in high rise residential buildings

(1) From a date to be specified by the Secretary of State, all residential leasehold dwellings in high rise residential buildings must have a valid Electrical Installation Condition Report (EICR) for that dwelling.

(2) Within 12 months of the passing of this Act, the Secretary of State must make regulations specifying—

(a) the date referred to in subsection (1);

(b) who must pay for the EICR; and

(c) any other relevant matters that in the opinion of the Secretary of State are necessary to ensure the safety of such buildings.

(3) In this section a "valid Electrical Installation Condition Report" is one which—

(a) is dated within the previous 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."

Member's explanatory statement
This new Clause requires leaseholders to ensure the safety of electrical installations in high rise buildings and will reduce risk of spread of fires between flats.

123 Insert the following new Clause—

"Electrical safety: leasehold dwellings in mixed tenure high rise residential buildings

(1) From a date to be specified by the Secretary of State, all residential leasehold dwellings in mixed tenure high rise residential buildings must have a valid Electrical Installation Condition Report (EICR) for that dwelling.

(2) Within 12 months of the passing of this Act, the Secretary of State must make regulations specifying—

(a) the date referred to in subsection (1);

(b) who must pay for the EICR; and

(c) any other relevant matters that in the opinion of the Secretary of State are necessary to ensure the safety of such buildings.

(3) In this section the following terms have the following meanings—

"mixed tenure" means a high rise residential building in which there are, in addition to leaseholders, also social housing or private rented tenancies;

a "valid Electrical Installation Condition Report" is one which—

(a) is dated within the previous five years;

(b) covers the whole fixed electrical installation of the dwelling;

(c) has a satisfactory outcome;

After Clause 133 - *continued*

(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 in mixed tenure high rise residential buildings to ensure the safety of their electrical installations to reduce the risk of the spread of fires between flats.

124 Insert the following new 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 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.

(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" is one which—
(a) is dated within the previous 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 in order to reduce risk of the spread of fires between flats.

BARONESS HAYMAN OF ULLOCK

125 Insert the following new Clause—

"Fire safety defects and defective dwellings

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

(2) In section 528(1)(a), for "their design or construction, and" substitute—

"(i) their design or construction,

(ii) 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

(iii) anything which in the opinion of the Secretary of State poses a building safety risk or a risk to the ability of anyone to evacuate the building, whether or not the building is a higher-risk building, and".

(3) 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."

(4) In section 528, after subsection (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."

(5) In section 528, after subsection (6) insert—

"(7) In this section—

"building safety risk" has the same meaning as in section 59 of the Building Safety Act 2022;

"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 2022."

(6) In section 559(1)(a), for "their design or construction, and" substitute—

"(i) their design or construction,

(ii) 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

(iii) 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 a risk to the ability of anyone to evacuate the building, whether or not the building is a higher-risk building, and".

After Clause 133 - *continued*

(7) 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."

(8) In section 559, after subsection (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."

(9) In section 559, after subsection (6) insert—

"(7) In this section—

"building safety risk" has the same meaning as in section 59 of the Building Safety Act 2022;

"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 2022."

(10) This section comes into force on the day this Act is passed."

126 Insert the following new Clause—

"Fitness for human habitation

(1) The Secretary of State must, before the end of the period of 12 months beginning with the day this Act is passed, make a statement to Parliament which includes an assessment of the effectiveness of the Homes (Fitness for Human Habitation) Act 2018.

(2) The statement must include proposals to increase the number of homes which comply with the Homes (Fitness for Human Habitation) Act 2018."

127 Insert the following new Clause—

"Property flood resilience

The Secretary of State must, before the end of the period of 12 months beginning with the day this Act is passed, make regulations under section 1 of the Building Act 1984 for the purpose of property flood resilience insofar as it relates to building safety."

128 Insert the following new Clause—

"Property energy efficiency

The Secretary of State must, in making regulations under section 1 of the Building Act 1984 for the purpose of building safety, have consideration for the impact on energy efficiency."

After Clause 133 - *continued*

LORD FOSTER OF BATH
LORD STUNELL

129 Insert the following new Clause—

"Report on impact of climate change on building safety

In section 56 of the Climate Change Act 2008 (report on impact of climate change), after subsection (1) insert—

"(1A) A report published pursuant to subsection (1) must include an assessment by the Secretary of State of the number and location of buildings whose safety is threatened by—

(a) coastal erosion,
(b) soil erosion,
(c) flooding, and
(d) any other threat caused by climate change.""

LORD YOUNG OF COOKHAM
LORD BLENCATHRA

130 Insert the following new Clause—

"**Building Safety Indemnity Scheme**

(1) There shall be a body corporate called the "Building Safety Indemnity Scheme" (referred to in this Act as "the Scheme").

(2) The Scheme must hold, manage and apply, in accordance with this section—

(a) a fund to disburse grants to leaseholders, or persons acting for the benefit of leaseholders, to pay costs of the type specified in subsection (13); and

(b) a system of levies described in subsections (4) to (9) to raise contributions to the fund.

(3) The Scheme must create and maintain a public register of persons liable to make levy payments.

(4) The following persons are liable to pay contributions to the Scheme—

(a) any person seeking building control approval in respect of a higher-risk building;

(b) any prescribed supplier of construction products subject to regulations made under Schedule 9 to this Act;

(c) any person who is an architect registered under section 3 of the Architects Act 1997;

(d) any registered building control approver; or

(e) any other person specified in regulations made by the Secretary of State under this section.

(5) The Scheme is to determine the levy for successive periods of 12 months beginning on 1 September 2022 and in two stages—

(a) first it must determine the aggregate amount of levy required in accordance with subsection (6); and

After Clause 133 - *continued*

(b) second it must determine the amount of levy payable by each individual levy payer in accordance with subsection (8).

(6) In determining the aggregate amount of any levy for the purposes of subsection (5)(a) the Scheme must take into account—

(a) the estimated cost of administering the levy described in subsection (2);

(b) the estimated cost of holding funds raised by the levy described in subsection (2);

(c) the estimated cost of maintaining the register described in subsection (3); and

(d) the estimated amount of grants payable in respect of costs under subsection (13) in any 12 month period.

(7) In making any determination under subsection (6), the Scheme must—

(a) consult with persons liable to pay levies under subsection (4);

(b) take into account information from any source relevant to any estimate being made; and

(c) take into account guidance issued by the Secretary of State under this section.

(8) In determining the individual amount of levy payable by any individual levy payer under subsection (5)(b), the Scheme may make levies on up to the higher of any one or more of the following limits—

(a) a percentage of annual turnover not to exceed 15%;

(b) a percentage of pre-tax profits not to exceed 50%; or

(c) in respect of bodies corporate, a percentage of any distribution to members not to exceed 80% of the value of any distribution to members.

(9) In making any determinations under subsection (8), the Scheme may also—

(a) apply different measures under subsection (8) to different types or classes of levy payer under subsection (4);

(b) apply different rates of levy to different types or classes of levy payer under subsection (4);

(c) take into account the history of any matter specified in subsection (8) for a period of 10 years ending on the day the first levy is made under the Scheme.

(10) The Scheme must provide a review process for the Scheme's decisions regarding—

(a) any determination in respect of an individual levy payment under subsection (8); or

(b) the determination of any grant application made by or on behalf of leaseholders under subsection (13).

(11) Anyone aggrieved by a decision under the Scheme and who has exhausted the review process in subsection (10) may appeal to the First-tier Tribunal.

(12) The Scheme must provide a process by which leaseholders, or persons acting on behalf of leaseholders, can apply for grants from the fund maintained by the Scheme under subsection (2) to cover costs of the type specified by subsection (13).

After Clause 133 - *continued*

(13) The Scheme may make grants from the fund maintained under subsection (2) to leaseholders or persons acting for the benefit of leaseholders to pay all or any part of the following types of costs—

(a) remediation of any defect in any external wall of any building containing two or more residential units;

(b) remediation of any defect in any attachment to any external wall of any building containing two or more residential units;

(c) remediation of any internal or external defect other than a defect described in paragraphs (a) or (b);

(d) any works carried out by an accountable person under section 86;

(e) planning, design, tendering, project management or administrative costs incurred in relation to any type of cost described in paragraphs (a) to (d) above; or

(f) any other cost relating to building safety of a type specified by the Secretary of State in regulations made under this section.

(14) 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.

(15) The Scheme must not disburse money in respect of any building remediated under section 36A of the Building Act 1984.

(16) A building control authority must not give building control approval to any person required to be a member of the Scheme unless, on or before the day on which building control approval is given—

(a) that person is or becomes a registered levy payer to the Scheme; and

(b) the person seeking building control approval pays any levies made on that person by the Scheme.

(17) The Secretary of State must provide that any regulations made under Schedule 11 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 any levies made on that person by the Scheme.

(18) Any liability to pay a levy under this section does not affect the liability of the same person to pay an additional levy under section 57 of this Act, but the Scheme may reduce pro-rata any levy made by reference to some or all of the payments made under section 57.

(19) Within a period of 1 month beginning with the passing of this Act, 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 levy payers to the Scheme under subsection (3);

(d) the preparation of the estimates described in subsection (6);

After Clause 133 - *continued*

(e) the amount, manner and timing of payment of the levies on members of the Scheme under this section;

(f) the method of identifying and calculating the limits specified in subsection (8);

(g) the method of pro-rating to be employed under subsection (18);

(h) the process of leaseholders applying to the Scheme for grants towards any of the types of costs specified in subsection (13);

(i) the process for handling any applications for review against decisions of the Scheme on any levy or any grant;

(j) the keeping of the Scheme's accounts;

(k) the Scheme to make an annual report to Parliament including its accounts;

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

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

(21) 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.

(22) In this section—

"building" has the same meaning as in section 29;

"building control approval" has the same meaning as in paragraph 1B 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 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 62;

"persons acting for the benefit of leaseholders" shall include the appropriate national authority or building control authority when acting under section 36A of the Building Act 1984;

"prescribed" means prescribed by regulations made by the Secretary of State;

"registered building control approver" has the same meaning as in section 42;

"regulated construction product" means any product subject to regulation from time to time under Schedule 11 to this Act;

After Clause 133 - *continued*

"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; but 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 occupant of a residential unit within the building;

"residential unit" has the same meaning as in section 29.

(23) This section comes into force on the day this Act is passed."

Member's explanatory statement
This probing amendment proposes that the government establishes a comprehensive prospective levy scheme on all developers of higher-risk buildings and all manufacturers and suppliers of regulated construction products. Money raised by the levy would go toward remediating defective buildings.

131 Insert the following new Clause—

"Inquiry into leaseholder remedial costs

(1) Within a period of 30 days beginning on the day this Act is passed, the Secretary of State must—

(a) commence a statutory public inquiry under section 1 of the Inquiries Act 2005, to be known as the "Cladding Inquiry", and

(b) provide terms of reference for the Cladding Inquiry in accordance with this section.

(2) The purpose of the Cladding Inquiry shall be to inquire into costs leaseholders have paid since 10 January 2022 and which are not recoverable by those leaseholders under this Act, any other enactment, or any public funding scheme relating to all or any of the following—

(a) remedial works of any kind to the external walls or internal common parts of any building containing two or more residential dwellings to eliminate a fire safety risk; and

(b) waking watch costs; and

(c) increased buildings insurance relative to the premium for the same or similar insurance payable on or before 14 June 2017.

(3) The Cladding Inquiry's terms of reference must also include—

(a) the obligation to make an interim report to the Secretary of State within 6 months of the setting-up date; and

(b) the obligation to make a final report within 18 months of the setting-up date.

(4) In this section—

"fire safety risk" means a risk regarding the spread of fire, flame or smoke insofar as that risk affects the ordinary residential occupation of the building, to evacuate the building, or which affects the structural integrity of the building;

After Clause 133 - *continued*

"setting-up date" has the same meaning as in section 4 of the Inquiries Act 2005.

(5) This section comes into force on the day this Act is passed."

Member's explanatory statement
This probing amendment proposes that the Secretary of State sets up a statutory public inquiry to make recommendations for the compensation of leaseholders who have paid fire safety remedial costs since the Commons First Reading of this Bill that they cannot otherwise recover.

BARONESS NEVILLE-ROLFE

132 Insert the following new Clause—

"Review of external wall fire assessments

Within 12 months of the passing of this Act, the Secretary of State must review the process used by chartered surveyors for assessing external walls of tall buildings for fire risks, in particular the EWS1 form produced by the Royal Institute of Chartered Surveyors, and must lay a report before Parliament."

BARONESS BENNETT OF MANOR CASTLE

132A Insert the following new Clause—

"Local authorities: impact of land contamination on building safety

Local authorities must assess, within their local areas, the risk posed by land contamination to building safety."

132B Insert the following new Clause—

"Review of the impact of land contamination on building safety

(1) Within 12 months of the passing of this Act, the Secretary of State must publish a review of the impact of land contamination on building safety.

(2) In conducting the review, the Secretary of State must consult with local authorities."

Clause 135

LORD GREENHALGH

133 Page 142, line 20, at end insert—

""building function" has the meaning given by section 3;"

Member's explanatory statement
This amendment defines "building function" for the purposes of Clause 135.

After Clause 135

BARONESS HAYMAN OF ULLOCK

134 Insert the following new Clause—

"Annual data and transparency report

(1) The Secretary of State must, before the end of the period of 12 months beginning on the day this Act is passed, and every 12 months thereafter, publish an annual report on data collected as part of the implementation and monitoring of this Act.

(2) The report must include details on steps taken by the Secretary of State to increase transparency as part of the implementation and monitoring of this Act."

LORD SHIPLEY

135 Insert the following new Clause—

"Permitted development

Nothing in the Town and Country Planning (General Permitted Development) (England) Order 2015 (S.I. 2015/596) permits development which would convert offices to residential accommodation if such development is contrary to the provisions of this Act."

BARONESS PINNOCK

136 Insert the following new Clause—

"Report on the built environment industry workforce

(1) The Secretary of State must, at least once every two years, lay a report before Parliament outlining the current state of the built environment industry workforce, in relation to its ability to uphold building safety.

(2) This report must include, but is not limited to—

(a) an independently verified assessment of fire risk assessor workforce numbers;

(b) a review of safety-related training available to and undertaken by—

(i) building safety managers,

(ii) accountable persons,

(iii) responsible persons;

(c) an update on the impact of the regime established by this Act on the built environment industry culture with reference to—

(i) the building safety regulator,

(ii) the duty holder structure,

(iii) the gateway points,

(iv) the 'golden thread', and

(v) accountable persons.

(3) The Secretary of State must consult the Health and Safety Executive, fire safety accreditors, local authorities, fire and rescue authorities, leasehold campaign groups, renters' unions, the built environment industry, and any other persons deemed necessary for the preparation of the report."

Member's explanatory statement
This amendment would require the Government to publish regular assessments of the current state of the built environment industry workforce, in relation to its ability to uphold building safety.

LORD ABERDARE
LORD BLENCATHRA

136A Insert the following new Clause—

"Review of safety impact of retention

(1) Within 12 months of the passing of this Act the Secretary of State must publish a review of the impact on building standards and safety of retention of payments due to sub-contractors by building contractors.

(2) Matters which the review may consider include, but are not limited to—

(a) cash flow difficulties sustained by sub-contractors as a result of retention,

(b) ability of sub-contractors, as a result of retention, to afford materials of a suitable quality for future contracts,

(c) ability of sub-contractors, as a result of retention, to recruit sufficiently qualified staff, and

(d) other factors which may cause sub-contractors to make savings on building standards and safety because of retention."

Clause 137

LORD GREENHALGH

137 Page 143, line 2, at end insert—

"(ba) sections (*Remediation of certain defects*) to (*Meeting remediation costs of insolvent landlord*) and Schedule (*Remediation costs under qualifying leases*) (remediation of certain defects);"

Member's explanatory statement
This amendment provides for the new clauses and Schedule relating to the remediation of certain defects to bind the Crown.

After Clause 137

LORD GREENHALGH

138 Insert the following new Clause—

"Application to Parliament

(1) The following provisions do not apply in relation to the Parliamentary Estate—

(a) sections 101, 102 and 105 (compliance notices under Part 4);

(b) paragraphs 1 to 3 of Schedule 2 (powers of entry of authorised officers).

(2) If the Palace of Westminster (or any part of it) is a higher-risk building within the meaning of Part 4, for the purposes of that Part the accountable persons for the building are the Corporate Officer of the House of Lords and the Corporate Officer of the House of Commons, acting jointly.

After Clause 137 - *continued*

(3) No contravention by a Corporate Officer of a provision made by or under Part 2 or 4 makes the Corporate Officer criminally liable.

(4) Subsection (3) does not affect the criminal liability of relevant members of the House of Lords staff or of the House of Commons staff (as defined by sections 194 and 195 of the Employment Rights Act 1996).

(5) In subsection (3) "Corporate Officer" means—

(a) the Corporate Officer of the House of Lords,

(b) the Corporate Officer of the House of Commons, or

(c) the Corporate Officers acting jointly.

(6) In this section "Parliamentary Estate" means any building or other premises occupied for the purposes of either House of Parliament."

Member's explanatory statement
This new Clause makes provision about the application of Parts 2 and 4 to Parliament.

Clause 140

LORD GREENHALGH

139 Page 144, line 19, after "71" insert ", (*Meaning of "relevant building"*)(2)(c), (*Remediation orders*)"

Member's explanatory statement
This amendment provides for the draft affirmative procedure to apply to certain regulations.

140 Page 144, line 21, at end insert "or paragraph 4, 12 or 13 of Schedule (*Remediation costs under qualifying leases*),"

Member's explanatory statement
This amendment provides for the draft affirmative procedure to apply to certain regulations.

141 Page 144, line 30, at end insert—

"(g) regulations under section (*Costs contribution notices*),".

Member's explanatory statement
This amendment makes provision for regulations under the new Clause relating to costs contribution notices to be subject to the draft affirmative procedure.

Clause 141

LORD GREENHALGH

142 Page 144, line 41, at end insert—

"(ba) sections 120 to 127 and Schedule 9 (new homes ombudsman scheme);"

Member's explanatory statement
This amendment provides for certain provisions about the new homes ombudsman scheme to form part of the law of England and Wales, Scotland and Northern Ireland.

143 Page 145, line 4, leave out subsection (3) and insert—

"(3) Section 2(2) and Schedule 1 (amendments of the Health and Safety at Work etc Act 1974) extend to England and Wales and Scotland."

Member's explanatory statement
This amendment is consequential on the amendment to page 144, line 41 that appears in the Minister's name, providing for the new homes provisions to form part of the law of England and Wales, Scotland and Northern Ireland.

Clause 142

LORD GREENHALGH

144 Page 145, line 32, at end insert—

"(ca) section (*Liability relating to cladding products)* and section (*Liability for failures relating to construction products: limitation)*;"

Member's explanatory statement
This amendment provides for the clauses mentioned to come into force two months after Royal Assent.

145 Page 145, line 32, at end insert—

"(cb) section (*Costs contribution notices*) and Schedule (*Costs contribution notices*) (costs contribution notices);"

Member's explanatory statement
This amendment provides for the new clause and Schedule relating to costs contribution notices to come into force two months after Royal Assent.

146 Page 146, line 18, leave out ", 39 and 86 to 88" and insert "and 87 to 89"

Member's explanatory statement
This amendment is consequential on the first amendment of Schedule 5 in the name of the Minister (and also corrects the numbering of the paragraphs referred to).

BARONESS NEVILLE-ROLFE

147 Page 146, line 32, at end insert—

"(5A) Regulations may not be made to appoint a day on which sections (*Remediation of certain defects*) to (*Building liability orders: associates*) come into force until the Secretary of State has published a detailed impact assessment on all the business likely to be affected by those provisions."

Clause 1

BARONESS GREY-THOMPSON
BARONESS BRINTON

147A Page 1, line 5, after "people" insert "including disabled people"

Member's explanatory statement
This amendment is intended to ensure the Secretary of State has particular regard to the needs of disabled people.

After Clause 1

LORD BLENCATHRA

148 Insert the following new Clause—

"Implementation of Act: the building safety objectives

(1) The Secretary of State must, in implementing the provisions of this Act, have regard to the building safety objectives.

(2) Any person on whom functions have been conferred under or by virtue of this Act must, in exercising those functions, have regard to the building safety objectives.

(3) The building safety objectives are as follows.

(4) The time objective is that high-rise buildings in England and Wales which are fitted with dangerous and unsafe cladding should be made safe with regard to that cladding as soon as is practicable.

(5) The accountability objective is that mechanisms should be in operation which enable persons in England and Wales who have manufactured products which have endangered the safety of high-rise buildings, and persons in the United Kingdom who have developed dangerous high-rise buildings, to be held accountable for those actions.

(6) The building assessment objective is that assessments of building safety should be proportionate.

(7) The leaseholder protection objective is that leaseholders should—

(a) not pay a disproportionate amount of the costs of remedying building safety defects with regard to their leasehold property,

(b) not suffer disadvantage from those failures with respect to being able to sub-let their properties, and

(c) be protected from forfeiture and eviction due to those costs.

(8) The building safety mitigation objective is that where a high-rise building can be made safe through the use of mitigations such as water sprinklers and fire alarms, these mitigations should be used in preference to remediation work where that remediation work would be more costly than the mitigations, and in preference to waking watches where those watches would be more costly than the mitigations.

(9) The developer responsibility objective is that where persons in England and Wales have developed dangerous high-rise buildings, they should be responsible, in financial and practical terms, for the mitigations or remediations required to make those buildings safe.

(10) The leaseholder information objective is that leaseholders who own leasehold property in dangerous high-rise buildings should have access to comprehensive information about their rights with regard to those buildings being made safe.

After Clause 1 - *continued*

(11) The building assessor indemnification objective is that building assessors who conduct external wall assessments should be audited and indemnified in such a way that they can exercise balanced professional judgement about external walls.

(12) The building industry responsibility objective is that persons in England and Wales who have manufactured products which have endangered the safety of high-rise buildings, and persons in England and Wales who have developed dangerous high-rise buildings, should as far as possible meet the costs arising from that endangerment and from making those high-rise buildings safe."

LORD STUNELL
BARONESS PINNOCK

149 Insert the following new Clause—

"Report on safety of people in or about buildings

(1) The Secretary of State must—

(a) for the period of two years beginning with the commencement of this section, and

(b) for each succeeding period of two years,

prepare a report on progress in England during the period in connection with the purposes set out in section 1(1).

(2) A report under this section must in particular deal with—

(a) building regulations made during the period for any of those purposes;

(b) proposals current at the end of the period to make building regulations for any of those purposes;

(c) effects or likely effects of regulations or proposals dealt with in the report under paragraphs (a) and (b);

(d) proposals submitted by the building safety regulator to the Secretary of State but not proceeded with during the period;

(e) overall changes during the period in—

(i) the building types and number of buildings deemed higher-risk by virtue of section 62;

(ii) the proportion of higher-risk buildings without a building assessment certificate displayed in accordance with section 79;

(iii) the efficacy of the building regulatory system for buildings other than higher-risk buildings in achieving the purposes set out in section 1(1);

(iv) the number of persons who are currently certified Fire Risk Assessors and Building Safety Managers.

(3) The Secretary of State must lay before Parliament a copy of each report prepared under this section."

Member's explanatory statement

This new Clause seeks to ensure transparency and accountability to Parliament of the enhanced building regulation regimes.

Building Safety Bill

THIRD

MARSHALLED

LIST OF AMENDMENTS

TO BE MOVED

IN GRAND COMMITTEE

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24 February 2022
