

Building Safety Bill

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

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

After Clause 128

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 - (b) have been withdrawn or recalled by any person in accordance with safety legislation,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

After Clause 128 - continued

- (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

- 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.

After Schedule 11 - continued*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.
- 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

- 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

After Schedule 11 - continued

- (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.
- (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;

After Schedule 11 - continued

- (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;
- (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

After Schedule 11 - continued

- (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 –
 - (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;

After Schedule 11 - continued

- (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.
- (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.

After Schedule 11 - continued

- (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).

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.

After Schedule 11 - continued

- (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.

Clause 129

BARONESS FOX OF BUCKLEY

115A Page 133, line 23, at end insert –

“(2A) In article 6 (application to premises), in paragraph (1B)(b) after “balconies” insert “, but only insofar as any such balconies pose a material risk of the spread of fire, flame or smoke”.”

Member’s explanatory statement

Amends the Fire Safety Order to make clear that only balconies which pose a material risk of the spread of fire are included as part of the external wall. This would avoid balconies being remediated unnecessarily.

After Clause 129LORD 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)—
 - (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.

After Clause 129 - continued

- (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.”

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).

After Clause 133 - continued

- (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);

After Clause 133 - continued

- (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;
 - (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.

After Clause 133 - continued

- (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);

After Clause 133 - continued

“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”.
- (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.”

After Clause 133 - continued

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.”

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 –

After Clause 133 - continued

- (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
 - (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);

After Clause 133 - continued

- (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).
- (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—

After Clause 133 - continued

- (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);
 - (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;

After Clause 133 - continued

“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;

“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

After Clause 133 - continued

- (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;
 - “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,

After Clause 135 - continued

- (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.
- (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.

After Clause 1 - continued

- (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.
- (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;

After Clause 1 - continued

- (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

FOURTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

28 February 2022
