

Building Safety Bill

MARSHALLED LIST OF MOTIONS TO BE MOVED ON CONSIDERATION OF COMMONS AMENDMENTS

[The page and line references are to HL Bill 98, the bill as first printed for the Lords, or to the Lords Amendment]

MOTION A

Clause 5

LORDS AMENDMENT 6

6 Page 3, line 26, at end insert –

- “(2) The regulator must within two years of this section coming into force carry out and publish an assessment of the benefits and costs of measures on improving the safety of people in or about buildings relating to –
- (a) fire suppression systems;
 - (b) safety of stairways and ramps;
 - (c) certification of electrical equipment and systems;
 - (d) provision for people with disabilities.
- (3) The regulator’s assessment may –
- (a) make proposals in accordance with section 7(2) for regulations in respect of any of these matters, and
 - (b) identify and give notice of such other matters relating to safety of people in or about buildings that they determine require further examination.”

COMMONS DISAGREEMENT AND AMENDMENT IN LIEU

The Commons disagree to Lords Amendment 6 but propose Amendment 6A as an amendment in lieu –

6A Page 11, line 7, at end insert the following new Clause –

“Report on certain safety-related matters

- (1) Before the end of the period of three years beginning when this section comes into force, the regulator must –
 - (a) carry out a cost-benefit analysis of making regular inspections of, and testing and reporting on, the condition of electrical installations in relevant buildings;
 - (b) consider what further provision under the Building Act 1984, or in guidance under that Act, may be made about –
 - (i) stairs and ramps in relevant buildings,
 - (ii) emergency egress of disabled persons from relevant buildings, and
 - (iii) automatic water fire suppression systems in relevant buildings,with a view to improving the safety of persons in or about relevant buildings, and carry out a cost-benefit analysis of the making of that provision.
- (2) Before the end of that period, the regulator must –
 - (a) prepare one or more reports about the analysis mentioned in subsection (1) (which may also contain recommendations), and
 - (b) give them to the Secretary of State.
- (3) The Secretary of State must publish any report received under subsection (2).
- (4) In this section “cost-benefit analysis” means –
 - (a) an analysis of the costs together with an analysis of the benefits that will arise if the things mentioned in subsection (1)(a) are done or the provision mentioned in subsection (1)(b) is made, and
 - (b) an estimate of those costs and of those benefits (subject to subsection (5)).
- (5) If, in the opinion of the regulator –
 - (a) the costs or benefits cannot reasonably be estimated, or
 - (b) it is not reasonably practicable to produce an estimate,the cost-benefit analysis need not estimate them, but must include a statement of the regulator’s opinion and an explanation of it.
- (6) In this section –

“electrical installation” means fixed electrical cables or fixed electrical equipment located on the consumer’s side of the electricity supply meter;

“relevant building” means a residential building or any other kind of building that the regulator considers appropriate.”

A Lord Greenhalgh to move, That this House do not insist on its Amendment 6 and do agree with the Commons in their Amendment 6A in lieu.

MOTION B

Clause 114

LORDS AMENDMENT 78

- 78 Page 119, line 4, leave out “, an administration charge or a building safety charge” and insert “or an administration charge”

COMMONS AMENDMENT CONSEQUENTIAL TO THE LORDS AMENDMENT

The Commons propose the following amendment to the Bill consequential upon the Lords Amendment –

- 78A Page 119, leave out lines 14 and 15.

B Lord Greenhalgh to move, That this House do agree with the Commons in their Amendment 78A.

Before Clause 117

MOTION C

LORDS AMENDMENT 93

- 93 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.”

13

24

COMMONS AMENDMENTS

The Commons agree with the Lords in their Amendment 93 and propose Amendments 93A and 93B as amendments thereto –

- 93A** Line 13, leave out “under qualifying leases”
- 93B** Line 24, leave out from “court” to end of line 26 and insert “powers in respect of persons associated with the company.”
- C** **Lord Greenhalgh to move, That this House do agree with the Commons in their Amendments 93A and 93B.**

MOTION D

LORDS AMENDMENT 94

- 94** 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*).
- 7 (2) “Relevant building” means a self-contained building, or self-contained part of a building, in England that contains at least two dwellings.
- (3) For the purposes of this section a building is “self-contained” if it is structurally detached.
- (4) 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.
- (5) In subsection (4) “relevant services” means services provided by means of pipes, cables or other fixed installations.”

COMMONS AMENDMENT

The Commons agree with the Lords in their Amendment 94 and propose Amendment 94A as an amendment thereto –

- 94A** Line 7, at end insert “and –
- (a) is at least 11 metres high, or
 - (b) has at least 5 storeys.
- This is subject to subsection (2A).

“Relevant building” does not include a self-contained building or self-contained part of a building—

- (a) in relation to which a right under Part 1 of the Landlord and Tenant Act 1987 (tenants’ right of first refusal) or Part 3 of that Act (compulsory acquisition by tenants of landlord’s interest) has been exercised,
- (b) 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,
- (c) if the freehold estate in the building or part of the building is leaseholder owned (within the meaning of regulations made by the Secretary of State), or
- (d) which is on commonhold land.”

D Lord Greenhalgh to move, That this House do agree with the Commons in their Amendment 94A.

D1 Baroness Pincock to move, as an amendment to Motion D, leave out “agree” and insert “disagree”

MOTION E

LORDS AMENDMENT 98

98 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 partnership or body corporate is associated with another person in the circumstances mentioned in subsections (2) to (4).
- (2) A partnership is associated with any person who was a partner in the partnership, other than a limited partner, at any time in the period of 5 years ending at the qualifying time (“the relevant period”).
- (3) A body corporate is associated with any person who was a director of the body corporate at any time in the relevant period.
- (4) A body corporate is associated with another body corporate if—
 - (a) at any time in the relevant period a person was a director of both of them, or
 - (b) at the qualifying time, one of them controlled the other or a third body corporate controlled both of them.

Subsections (5) to (7) set out the cases in which a body corporate is regarded as controlling another body corporate.

- (5) 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.
- (6) 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.
- (7) 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.
- (8) In subsection (6) 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.
- (9) 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).
- (10) In this section “partnership” means—
- (a) a partnership within the meaning of the Partnership Act 1890, or
 - (b) a limited partnership registered under the Limited Partnerships Act 1907,
- or a firm or entity of a similar character formed under the law of a country or territory outside the United Kingdom (and the reference to “limited partner” is to be read accordingly).
- (11) The Secretary of State may by regulations provide that, in relation to a prescribed reference in a provision mentioned in subsection (1) to anyone associated with another person, subsections (2) to (4) have effect with prescribed modifications.”

COMMONS AMENDMENTS

The Commons agree with the Lords in their Amendment 98 and propose Amendments 98A, 98B and 98C as amendments thereto –

98A

Line 6, leave out “(2)” and insert “(1A)”

- 98B** Line 7, at end insert –
- “(1A) Where a person’s interest in a relevant building was held on trust at the qualifying time, any partnership or body corporate which was a beneficiary of the trust at that time is to be regarded, for the purposes of the provisions mentioned in subsection (1) as they apply in relation to the relevant building, as associated with the person.”
- 98C** Line 60, leave out “(2)” and insert “(1A)”
- E** **Lord Greenhalgh to move, That this House do agree with the Commons in their Amendments 98A, 98B and 98C.**

MOTION F

LORDS AMENDMENTS 107, 108 AND 109

- 107** 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 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*);
- “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.”

COMMONS AMENDMENT

The Commons agree with the Lords in their Amendment 107 and propose Amendment 107A as an amendment thereto –

107A Line 17, leave out “an associate of” and insert “associated with”

108 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.
- (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).”

COMMONS AMENDMENT

The Commons agree with the Lords in their Amendment 108 and propose Amendment 108A as an amendment thereto –

108A Line 39, at end insert –

“(7) For the purposes of section (*Building liability orders*) as it applies in relation to a building, where a person’s interest in the building is held on trust, a body corporate which is a beneficiary of the trust is to be regarded as associated with the person.”

109 Insert the following new Clause –

“Order for information in connection with building liability order

(1) A person of a prescribed description may apply to the High Court for an information order.

7 (2) An “information order” is an order requiring a specified body corporate to give, by a specified time, specified information or documents relating to persons who are or have at any time in a specified period been, associates of the body corporate.

(3) An information order may be made only if it appears to the court –

(a) that the body corporate is subject to a relevant liability (within the meaning of section (*Building liability orders*)), and

(b) that it is appropriate to require the information or documents to be provided for the purpose of enabling the applicant (or the applicant and others) to make, or consider whether to make, an application for a building liability order.

(4) In this section –

17 “associate” has the meaning given by section (*Building liability orders:*
18 *associates*);

“building liability order”: see section (*Building liability orders*);

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

“specified” means specified in the information order.”

COMMONS AMENDMENTS

The Commons agree with the Lords in their Amendment 109 and propose Amendments 109A and 109B as amendments thereto –

109A Line 7, leave out “associates of” and insert “associated with”

109B Line 17, leave out from ““associate”” to end of line 18 and insert “: section (*Building liability orders: associates*) applies for the purposes of this section as it applies for the purposes of section (*Building liability orders*);”

F **Lord Greenhalgh to move, That this House do agree with the Commons in their Amendments 107A, 108A, 109A and 109B.**

MOTION G

Clause 140

LORDS AMENDMENT 145

- 145** Page 144, line 21, at end insert “or paragraph 3(5), 4, 12 or 13 of Schedule (Remediation costs under qualifying leases),”

COMMONS AMENDMENT

The Commons agree with the Lords in their Amendment 145 and propose Amendment 145A as an amendment thereto –

- 145A** Line 1, leave out “4,”

G Lord Greenhalgh to move, That this House do agree with the Commons in their Amendment 145A.

MOTION H

Before Schedule 9

LORDS AMENDMENT 184

- 184** Insert the following new Schedule –

“SCHEDULE

REMEDICATION COSTS UNDER QUALIFYING LEASES

Interpretation

- 1 (1) In this Schedule –

“associated”: see section (*Associated persons*);

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

“joint venture” includes a partnership (as defined by section (*Associated persons*));

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

“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”*);

“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.
- (2) The definition of “service charge” applies in relation to a lease of premises that do not include a dwelling as it applies in relation to a lease of a dwelling.

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

- 2 (1) This paragraph applies in relation to a lease of any premises in a relevant building.
- (2) No service charge is payable under the 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 associated with a person responsible for a relevant defect.
- (3) 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, or was in a joint venture with, the developer or undertook or commissioned works relating to the defect;
 - (b) in any other case, the person undertook or commissioned works relating to the defect.
- (4) In this paragraph –
 - “developer” means a person who undertook or commissioned the construction or conversion of the building (or part of the building) with a view to granting or disposing of interests in the building or parts of it;
 - “initial defect” means a defect which is a relevant defect by virtue of section (*Meaning of “relevant defect”*)(3)(a);
 - “relevant landlord” means the landlord under the lease or any superior landlord.

No service charge payable if landlord meets contribution condition

- 3 (1) No service charge is payable under a qualifying lease in respect of a relevant measure relating to any relevant defect if the landlord under the lease at the qualifying time (“the relevant landlord”) met the contribution condition.
- (2) The contribution condition is that the landlord group’s net worth at the qualifying time was more than $N \times \text{£}2,000,000$, where N is the number of relevant buildings within sub-paragraph (3).
- (3) A relevant building is within this sub-paragraph if a member of the landlord group was, at the qualifying time, a landlord under a lease of the relevant building or any part of it.
- (4) For the purposes of this paragraph –
 - (a) “the landlord group” means the relevant landlord and any person associated with the relevant landlord;

- (b) the net worth of the landlord group at the qualifying time is to be determined in accordance with regulations made by the Secretary of State.
- (5) The Secretary of State may by regulations amend the amount for the time being specified in sub-paragraph (2).
- (6) This paragraph does not apply if, at the qualifying time, the relevant landlord was –
 - (a) a private registered provider of social housing (as to which see section 80 of the Housing and Regeneration Act 2008),
 - (b) a local authority (as defined by section 29), or
 - (c) a prescribed person.

No service charge payable where lease below certain value

- 4 (1) No service charge is payable under a qualifying lease in respect of a relevant measure relating to any relevant defect if the value of the qualifying lease at the qualifying time was less than –
 - (a) £325,000, if the premises demised by the qualifying lease are in Greater London;
 - (b) £175,000, in any other case.
- (2) For the purposes of this paragraph the value of a qualifying lease at the qualifying time is its value determined in accordance with paragraph 6 and regulations made under it.

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 zero.
- (3) Where the qualifying lease is a shared ownership lease and the tenant’s total share was less than 100% at the qualifying time –
- (a) the value of the qualifying lease at that time is to be determined as if the tenant’s total share at that time was 100%;
 - (b) the permitted maximum is the tenant’s total share (as at that time) of what would otherwise be the permitted maximum.
- (4) 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.
- (5) The regulations may in particular provide that, except in prescribed cases, the value of a qualifying lease at the qualifying time is to be determined by –
- (a) ascertaining the consideration given on the latest disposal of the qualifying lease on the open market to have been made before that time, and
 - (b) if that disposal occurred before 2022, uprating the consideration in accordance with the regulations.
- (6) 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) A relevant service charge which would otherwise be payable under a qualifying lease 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 in the period of 12 months ending with the day on which the service charge fell due,
- does not exceed one tenth 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;
 - “relevant service charge” means a service charge under a qualifying lease in respect of a relevant measure relating to any relevant defect.

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.
- (2) In this paragraph “cladding remediation” means the removal or replacement of any part of a cladding system that –
- (a) forms the outer wall of an external wall system, and
 - (b) is unsafe.

No service charge payable for legal or professional services relating to liability for relevant defects

- 9 (1) No service charge is payable under a qualifying lease in respect of legal or other professional services relating to the liability (or potential liability) of any person incurred as a result of a relevant defect.
- (2) In this paragraph the reference to services includes services provided in connection with—
- (a) obtaining legal advice,
 - (b) any proceedings before a court or tribunal,
 - (c) arbitration, or
 - (d) mediation.

Paragraphs 2 to 4, 8 and 9: supplementary

- 10 (1) This paragraph supplements paragraphs 2 to 4, 8 and 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;
 - (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 lease and others, or
 - (c) any other fund comprising payments made by the tenant under the 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).
- (4) The Secretary of State may by regulations modify the application of this paragraph as it applies in relation to a lease of premises that do not include a dwelling.

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

Presumption: qualifying lease

- 13 (1) This paragraph applies in relation to a lease that meets the conditions in paragraphs (a) to (c) of section (*Meaning of “qualifying lease” and “the qualifying time”*)(2).
- (2) The lease is to be treated for the purposes of this Schedule as a qualifying lease unless—
- (a) the landlord under the lease has taken all reasonable steps (and any prescribed steps) to obtain a qualifying lease certificate from a tenant under the lease, and
 - (b) no such certificate has been provided to the landlord.
- (3) In this paragraph “qualifying lease certificate” means a certificate, complying with any prescribed requirements, that the condition in section (*Meaning of “qualifying lease” and “the qualifying time”*)(2)(d) was met in relation to the lease at the qualifying time.
- (4) The requirements that may be prescribed include requirements as to—
- (a) the information to be provided in the certificate,
 - (b) the form of the certificate, and
 - (c) the execution of the certificate.

Presumptions relating to landlord under qualifying lease

- 14 (1) The person who was the landlord under a qualifying lease at the qualifying time (“the relevant landlord”) is to be treated for the purposes of this Schedule as having met the contribution condition (as defined by paragraph 3) unless the landlord under the lease provides to the tenant under the lease a certificate, complying with any prescribed requirements, that the relevant landlord did not meet that condition.

- (2) The Secretary of State may by regulations provide that (in some or all cases) the condition in paragraph 2(2) is to be treated for the purposes of this Schedule as met in relation to a lease to which paragraph 2 applies unless the landlord under the lease provides to the tenant under the lease a certificate that complies with any prescribed requirements.
- (3) The requirements that may be prescribed include requirements as to—
 - (a) the information to be provided in the certificate,
 - (b) the form of the certificate, and
 - (c) the execution of the certificate.

Information from tenants

- 15 (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.

Information from landlords

- 16 (1) The Secretary of State may by regulations make provision requiring a relevant landlord to give prescribed information or documents to a relevant tenant or other prescribed person.
- (2) Information or documents may be prescribed if they relate to any matter with which this Schedule is concerned.
- (3) The regulations may require the information or documents to be given in a prescribed way.
- (4) The regulations may provide that where a relevant landlord fails to comply with the regulations, prescribed costs—
 - (a) are not to be regarded as relevant costs to be taken into account in determining the amount of a service charge payable under a relevant lease, and
 - (b) must not be met from a relevant reserve fund.
- (5) The regulations may make provision for and in connection with an application to the First-tier Tribunal for an order—
 - (a) determining whether a relevant landlord has failed to comply with the regulations, and
 - (b) if so, requiring the relevant landlord to provide specified information or documents to a specified person by a specified time.

“Specified” here means specified in the order.
- (6) Nothing in sub-paragraph (5) limits the effect of regulations made by virtue of sub-paragraph (4).
- (7) Information or documents may be specified in an order under sub-paragraph (5) only if the regulations require them to be provided to the specified person.

- (8) In this paragraph—
- “relevant costs” has the meaning given by section 18 of the Landlord and Tenant Act 1985 (and this applies in relation to a lease of premises that does not include a dwelling as it applies in relation to a lease of a dwelling);
 - “relevant landlord” means a landlord under a relevant lease;
 - “relevant lease” means a lease of premises in a relevant building;
 - “relevant reserve fund” has the meaning given by paragraph 10;
 - “relevant tenant” means a tenant under a relevant lease.

- 17 In section 21 of the Landlord and Tenant Act 1985 (service charge information), in subsection (6A) (inserted by section 113), after “2022” insert “or relevant buildings (as defined by section (*Meaning of “relevant building”*) of that Act)”.

Anti-avoidance

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

COMMONS AMENDMENTS

The Commons agree with the Lords in their Amendment 184 and propose Amendments 184A, 184B, 184C and 184D as amendments thereto –

- 184A** In paragraph 2(4) of that Schedule, in the definition of “relevant landlord” after “lease” insert “at the qualifying time”
- 184B** In paragraph 2(4) of that Schedule, in the definition of “relevant landlord”, at end insert “at that time”
- 184C** In paragraph 6 of that Schedule, in sub-paragraph (2) leave out “zero” and insert “(subject to sub-paragraphs (2A) to (3))—
- (a) if the premises demised by the qualifying lease are in Greater London, £15,000;
 - (b) otherwise, £10,000.
- (2A) Where the value of the qualifying lease at the qualifying time exceeded £1,000,000 but did not exceed £2,000,000, the permitted maximum is £50,000.
- (2B) Where the value of the qualifying lease at the qualifying time exceeded £2,000,000, the permitted maximum is £100,000.”
- 184D** In paragraph 6(4) of that Schedule, at end insert “and this paragraph.”
- H** **Lord Greenhalgh to move, That this House do agree with the Commons in their Amendments 184A, 184B, 184C and 184D.**
- H1** **Baroness Hayman of Ullock to move, as an amendment to Motion H, leave out from “House” to end and insert “do agree with the Commons in their Amendments 184A and 184B, do disagree with the Commons in their Amendments 184C and 184D and do propose Amendment 184E as an amendment to Amendment 184 in lieu –**
- 184E** In paragraph 6 of that Schedule, in sub-paragraph (2) leave out “zero” and insert “£250””

H2

Baroness Pinnock to move, as an amendment to Motion H, leave out from “House” to end and insert “do agree with the Commons in their Amendments 184A and 184B and do disagree with the Commons in their Amendments 184C and 184D”

Building Safety Bill

MARSHALLED LIST OF MOTIONS TO BE MOVED
ON CONSIDERATION OF COMMONS AMENDMENTS

25th April 2022

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