

[2022] No.

BUILDING AND BUILDINGS, ENGLAND

The Building Safety (Fees and Charges) Regulations [2022]

Made - - - - ***

Laid before Parliament ***

Coming into force - - ***

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 15(4) and 28 of the Building Safety Act 2022(a) and section 105B of the Building Act 1984(b).

The Secretary of State makes these Regulations to give effect without modification to proposals submitted by the regulator under—

- (a) section 7(2) of the Building Safety Act 2022 after consulting in accordance with section 7(3) of that Act; and
- (b) section 120B(1) of the Building Act 1984 after consulting in accordance with section 120B(2) of that Act.

Citation, extent, application and commencement

1.—(1) These Regulations may be cited as the Building Safety (Fees and Charges) Regulations [2022].

- (2) These Regulations extend to England and Wales.
- (3) Subject to paragraph 4, these Regulations apply in England.
- (4) Regulation 3(2)(m) applies in England and Wales.
- (5) These Regulations come into force on [date].

Interpretation

2. In these Regulations—

“chargeable function” means a function set out in regulation 3(2); and

“charging scheme” means a scheme in which the regulator sets out the fees and charges to be recovered for and in connection with the performance of the chargeable functions.

(a) 2022 c. 30.

(b) 1984 c. 55. Sections 105B and 120B were inserted by section 56 of and paragraph 77 of Schedule 5 to, the Building Safety Act 2022.

Fees and charges for chargeable functions

3.—(1) The regulator may charge fees and recover charges for or in connection with the performance of a chargeable function.

- (2) Each of the following functions is a chargeable function—
- (a) the determination of a building control approval application;
 - (b) any action taken by the regulator under subsections (2), (3) or (5)(a) of section 19 of the Building Act 1984;
 - (c) the exercise by the regulator of its powers under—
 - (i) subsections (1) and (2) of section 33 of the Building Act 1984;
 - (ii) subsection (4) of section 33 of the Building Act 1984; or
 - (iii) any regulations made under paragraph 1G of Schedule 1 to the Building Act 1984;
 - (d) any action taken by the regulator under subsections (1) or (3) of section 22 of the Building Act 1984;
 - (e) the determination of:
 - (i) the status of a controlled change; or
 - (ii) a change control application;
 - (f) any action taken by the regulator under section 25(3) of the Building Act 1984;
 - (g) the determination of a completion certificate application;
 - (h) the registration of a higher-risk building under section 78 of the Building Safety Act 2022;
 - (i) the determination of an application for a building assessment certificate under section 79 of the Building Safety Act 2022;
 - (j) the review of a safety case report prepared by the principal accountable person under section 85 of the Building Safety Act 2022;
 - (k) the registration of a person as a building inspector and maintenance of the register under section 58C of the Building Act 1984;
 - (l) the registration of a person as a building control approver and maintenance of the register under section 58O of the Building Act 1984;
 - (m) the exercise by an authorised officer(a) of the powers conferred by virtue of Schedule 2 to the Building Safety Act 2022;
 - (n) any action taken by the regulator with a view to or in connection with—
 - (i) securing compliance with a building enactment(b) or a requirement imposed by virtue of such an enactment; or
 - (ii) the imposition of a sanction in respect of a contravention of a building enactment or requirement imposed by virtue of such an enactment;
 - (o) the review, under section 25 of the Building Safety Act 2022, of a prescribed decision of the regulator;
 - (p) the conduct of an appeal against decisions or actions of a local authority(c) or registered building control approver under section 20(5), 39 or 50(2) of the Building Act 1984; and
 - (q) the inspection by the regulator of a local authority or a registered building control approver under section 58Z8 of the Building Act 1984.

(a) See definition of authorised officer in section 22 of the Building Safety Act 2022.

(b) See definition of building enactment in section 24(2) of the Building Safety Act 2022.

(c) See definition of local authority in section 30 of the Building Safety Act 2022.

(3) In this regulation “building control approval application”, “change control application” and “completion certificate application” have the meanings given in the [proposed regulations to amend the Building Regulations].

Charging scheme for fees and charges

4.—(1) The regulator must set out the fees and charges to be recovered for or in connection with the performance of the chargeable functions in a charging scheme.

(2) The regulator must ensure that, taking one year with another, the fees and charges payable under the charging scheme as far as possible equate to the costs incurred by the regulator in performing the chargeable functions.

(3) Any fee or charge payable under these Regulations must be calculated in accordance with the charging scheme.

(4) The regulator may amend the charging scheme from time to time.

(5) The regulator must publish the charging scheme or any amendment to the scheme on its website at least 7 days before the date on which the scheme or the amendment is to come into effect.

Fees and charges to be paid by the client

5.—(1) The client must pay the fees and charges for the chargeable functions under sub-paragraphs (a), (b), (c)(i) and (iii), (d), (e), (f) and (g) of regulation 3(2), which are performed in relation to the client’s project.

(2) The client must pay the total amount of fees and charges, which are payable for the performance of the chargeable functions under sub-paragraphs (a), (e) or (g) of regulation 3(2) for its project, before the regulator notifies the client of the outcome of its determination or issues a certificate, as applicable.

(3) In this regulation “client” and “project” have the meanings given in the [proposed regulations to amend the Building Regulations].

Fees and charges to be paid by the principal accountable person

6. The principal accountable person^(a) for the building must pay the fees and charges for the chargeable functions under sub-paragraphs (c)(ii) and (iii) and (h) to (j) of regulation 3(2), which are performed in relation to their building.

Fees and charges for local authorities and the building control profession

7.—(1) The applicant must pay the fees and charges for the performance of the chargeable function under sub-paragraphs (k) or (l) of regulation 3(2), as applicable.

(2) If a registered building inspector applies for the cancellation of their registration under section 58E of the Building Act 1984, the regulator may refund part of the fee for registration as set out in the charging scheme.

(3) If a registered building control approver applies for cancellation of their registration under section 58Q of the Building Act 1984, the regulator may refund part of the fee for registration as set out in the charging scheme.

(4) A local authority or a registered building control approver, which is the subject of an inspection under section 58Z8 of the Building Act 1984, must pay the fees and charges arising from the performance of the chargeable function under sub-paragraph (q) of regulation 3(2).

(a) See section 73 of the Building Safety Act 2022 for the definition of principal accountable person.

Fees and charges for enforcement

8.—(1) Subject to paragraph (3), a person must pay the fees and charges arising from the performance of the chargeable functions under sub-paragraphs (m) to (n) of regulation 3(2) if the regulator has reasonable grounds to believe that the person may contravene, is contravening or has contravened a building enactment or a requirement imposed by virtue of a building enactment.

(2) Fees and charges for the performance of a chargeable function under sub-paragraphs (m) to (n) of regulation 3(2) must not include any costs connected with criminal investigation or prosecution incurred, in either case, from the date on which any information is laid by the regulator.

(3) Where fees and charges are payable under paragraph (1) by:

- (a) a person who was acting in their capacity as an employee, that person's employer must pay the fees and charges;
- (b) a resident or owner^(a) of a residential unit in an occupied higher-risk building, the principal accountable person for that building must pay the fees and charges.

Fees and charges for reviews and appeals

9.—(1) A person who requests a review under section 25 of the Building Safety Act 2022 must pay the fees and charges for the performance of the chargeable function under regulation 3(2)(o) unless the review results in a variation of the regulator's decision.

(2) An appellant must pay the fees and charges for the performance of the chargeable function under regulation 3(2)(p) to the extent that their appeal is unsuccessful.

Reimbursement of relevant authorities

10. The regulator may recover fees and charges, as determined in the charging scheme, for or in connection with its reimbursement of any expenditure incurred by a relevant authority^(b) as a result of any action taken by the relevant authority to comply with—

- (a) a request of the regulator under section 13(1) of the Building Safety Act 2022; or
- (b) a direction of the regulator under section 13(2) of the Building Safety Act 2022.

Payment of fees and charges

11.—(1) Subject to paragraph (3), a fee or charge is payable within 30 days from the date of the invoice that the regulator has given to the person who, under any provision of these Regulations, must pay that fee.

(2) An invoice must include—

- (a) a statement of the work done and the costs incurred by the regulator;
- (b) if applicable, a statement of any work done and the costs incurred by a relevant authority or other person on behalf of the regulator;
- (c) the period to which the statement relates; and
- (d) the provision of the charging scheme under which the fee or charge is payable.

(3) An application for registration on the register of building control approvers or the register of building inspectors must be accompanied by the fee payable under regulation 7(1).

(4) Fees and charges payable under these regulations are recoverable only as a civil debt.

(a) See definitions of owner and resident in section 115 of the Building Safety Act 2022.
(b) See section 13 of the Building Safety Act 2022 for the definition of relevant authority.

Review

- 12.—(1) The Secretary of State must from time to time—
- (a) carry out a review of the regulatory provision contained in these Regulations, and
 - (b) publish a report setting out the conclusions of the review.
- (2) The first report must be published before [date].
- (3) Subsequent reports must be published at intervals not exceeding [5] years.
- (4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(a) requires that a report published under this regulation must, in particular-
- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),
 - (b) assess the extent to which those objectives are achieved,
 - (c) assess whether those objectives remain appropriate, and
 - (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.
- (5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

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

Address
Date

Name
Secretary of State
Department

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out provisions in relation to fees and charges of the building safety regulator.

The chargeable functions are listed in regulation 3(2). The regulator must set out the level of the fee or charge, or how it is to be calculated, in a charging scheme, which it must publish on its website. A copy of the charging scheme may be inspected at [address].

(a) 2015 c.26