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What Trends are Emerging from the Latest Property Tribunal Decisions and Appeals under the Building Safety Act 2022?

NICHOLAS TROMPETER KC

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NOTICES

The Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022/859

Reg.3(1)

This regulation applies where, in relation to a lease of premises in a relevant building, a landlord (L) has paid or is liable to pay the cost of a relevant measure relating to a relevant defect ("the remediation amount") which, but for paragraph 2 of Schedule 8 to the Act, would have been payable as a service charge by a tenant under the lease

Reg.3(6)

The grounds of appeal are—

- (a) that the remediation amount does not represent the cost of the relevant measure; or
- (b) that the person sent the notice is not a responsible landlord.

Time Limits ...

Reg.3(5)

A person who is notified by L of a requirement to pay all or part of the remediation amount referred to in paragraph (2) may appeal to the First-tier Tribunal within 30 days of the notification, specifying the grounds of appeal.

Reg.3(5A)

A person who has received a notice under paragraph (3) may apply to the First-tier Tribunal to extend the time limit for lodging an appeal under paragraph (5).

Reg.3(5B)

An application under paragraph (5A) must be made within 30 days of the notification under paragraph (3).



THE “RELEVANT BUILDING”

Identifying the “Relevant Building”

S.117(2)

"Relevant building" means a self-contained building, or self-contained part of a building, in England that contains at least two dwellings and—
(a) is at least 11 metres high, or
(b) has at least 5 storeys ...

“Structural Detachment” / “Self-Containment”

S.117(4)

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

S.117(5)

For the purposes of this section a part of a building is "self-contained" if—

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

A photograph of a multi-story building under construction. The building has a mix of grey concrete panels, yellow insulation, and pink insulation. A blue diagonal graphic overlay is on the right side of the image. The text "DECISION MAKING" is written across the center in a bold, blue, sans-serif font.

DECISION MAKING

The “Costs Incurred” in Remedying Relevant Defects

S.124(1)

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

S.124(2)

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



CONTRIBUTION

Building Liability Orders

S.130(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.

S.130(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



SELBORNE CHAMBERS

Thank you

www.selbornechambers.co.uk

10 Essex Street, London, WC2R 3AA

Tel: 020 7420 9500

Fax: 020 7420 955

