

LEASEHOLDER PROTECTIONS

BUILDING SAFETY ACT

BUILDING SAFETY ACT 2022

Are You Protected?

We have illustrated below examples of how leaseholders are protected under the Building Safety Act 2022 (BSA22).



Example 1

- You own a long lease which has been granted before 14 February 2022 within a relevant building (*) in England.
- This is your only or main home.
- You qualify for the leaseholder protections under the BSA22.

Example 2

- You own 4 flats in England within relevant buildings.
- You do not own any other property. You live (and lived on 14 February 2022) in one of these flats.
- Only the flat lease you live in qualifies for the leaseholder protections under the BSA22.
- The other flat leases do not qualify as you own more than three properties in the United Kingdom.



Example 3

- You own 2 flats within relevant buildings in England and 2 houses in Wales. You live (and lived on 14 February 2022) in one of the flats.
- Only the flat lease you live in qualifies for the leaseholder protections under the BSA22.
- The other flat lease does not qualify for the leaseholder protections as you own more than three properties in the United Kingdom.

Example 4

- You own 2 flats within relevant buildings in England and 2 houses in Wales.
- You live in one of the houses in Wales.
- Neither flat lease qualifies for the leaseholder protections under the BSA22, as you own more than 3 properties in the United Kingdom in total, and neither of the flats was your main home on 14 February 2022.



Example 5

- You own 2 flats within relevant buildings in England and 1 flat in Scotland.
- You live in a flat in France.
- Both flat leases in England qualify for the leaseholder protections under the BSA22 as you do not own more than three properties in the United Kingdom.

Example 6

- You own a flat within a relevant building which was your main home on 14 February 2022.
- Your flat lease qualifies for the leaseholder protections under the BSA22.
- You sell your flat to a new owner. The leaseholder protections automatically transfer to the future buyer.
- It does not matter whether the new buyer lives in the property or how many other properties they own, as the lease's status was determined on 14 February 2022.



Example 7

- You own a flat within a relevant building which was not your main home on 14 February 2022, and you own more than 2 properties in total.
- Your lease does not qualify for the leaseholder protections under the BSA22.
- You sell your flat.
- Although the future buyer is intending for the flat to be their only and main home, the lease remains non-qualifying as the lease's qualifying status was determined on 14 February 2022.

Example 8

- You jointly own (and owned on 14 February 2022) 3 flats in England within relevant buildings. You do not own any other property.
- You are considered to own 3 properties for the purpose of the protections.
- All three flat leases qualify for the leaseholder protections under the BSA22.



Example 9

- You own (and owned on 14 February 2022) 3 flats in England within relevant buildings, one of which is a furnished holiday rental.
- You also own one commercial premise.
- You are considered to own 3 properties for the purpose of the protections.
- All 3 flat leases qualify for the leaseholder

(*) Definition of a relevant building. For a building to be defined as a “relevant building”, it must meet all of the following criteria:

- 1.** it is at least 11 metres in height or has at least five storeys (whichever is reached first)
- 2.** it contains at least two dwellings
- 3.** it is not a leaseholder owned building

A relevant building can be either a self-contained building or a self-contained part of a building. A self-contained building is a detached building. A self-contained part of a building means that the part could be redeveloped independently of the rest of the building.

Commonhold buildings are not relevant buildings because each unit-holder is entitled to be a member of the commonhold association (which owns the freehold to the structure and common parts of the building). There is no separate building owner to whom costs can be passed to.

Leaseholder-owned buildings are also not relevant buildings as there is no separate building owner to whom costs can be passed. Leaseholder-owned buildings could include:

- 1.** collectively enfranchised buildings – where some, or all, of the qualifying leaseholders have bought the building’s freehold.
- 2.** any building where leaseholders directly own the freehold, including through a company, where there is no separate freeholder.
- 3.** other circumstances where the freehold is owned 100% by one or more leaseholder.

For more information or if you should have any queries relating to the Building Safety Act please contact Shaun Harris shaun@harrisassociatesuk.com or call 0203 195 0851.



For more details please contact
Shaun Harris or Tamer Duman

shaun@harrisassociatesuk.com

tamer@harrisassociatesuk.com

0203 195 0851