



# LEASEHOLDER PROTECTIONS



## What does leaseholder protections mean?

Leaseholder protections refer to the legal safeguards implemented under the Building Safety Act 2022. These protections aim to shield leaseholders from incurring substantial fees associated with historical life safety issues that arose during the construction of a building. These protections are designed to alleviate the financial burden on eligible leaseholders by ensuring they are not solely responsible for covering the remediation costs related to these issues. The intention of the protections is that those who built defective buildings assume accountability for remedying them.

Qualifying leaseholders are also protected against all cladding remediation costs. For eligible leaseholders, costs associated with non-cladding safety defects and temporary solutions, such as waking watch, are capped and need to be spread out over a ten-year period.

## Why was this implemented?

Following the Grenfell tragedy, dangerous cladding was identified across multiple buildings across the UK. As with additional major works, many landlords and developers attempted to shift the cost of remediation onto the leaseholders.

Many homeowners were left distraught to learn their homes were unsafe and that they were expected to cover the costs for remediation.

## Do leaseholder protections apply to me?

For leaseholders to understand their rights and whether they qualify for the protections, the Government has produced a Leaseholder Protections Checker.

You can also find out more detailed information from our additional guidance document 'Do leaseholder protections apply to me?'

The information included in this document does not represent advice; rather, it is a summary of our understanding as at the time of publication.

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## Leaseholder Deed of Certificate

A Leaseholder Deed of Certificate confirms if leaseholder protections apply to a leasehold. You can complete a Deed of Certificate at any time, at the building owner / landlord's written request, if you are selling your leasehold or there is a relevant defect this is compulsory. You can complete a Deed of Certificate and submit it to your building owner within 8 weeks of receiving their request (unless they have stipulated an extended deadline in writing).



### *If you do not return the Deed of Certificate in time:*

- Your lease will be deemed as a non-qualifying lease
- Your building owner may assume that you own a 100% share, even if your lease is a shared ownership
- The qualifying lease may be considered to have a higher value

## Next steps

To get a Deed of Certificate, you can obtain a template which you can find on the .Gov website. Once you have this, please give the certificate to your building landlord, who will use this to identify whether you qualify and to calculate the cap that applies for non-cladding remediation costs. It is recommended that you keep copies of your Deed of Certificate.

## Building Safety Act 2022



### Is your property a relevant building?

- A minimum height of 11m or 5 storeys, whichever is reached first
- Has at least 2 dwellings
- Not a leaseholder owned building

**NO**

**No certificate needed.**

**YES**

### Is the leaseholder a qualifying leaseholder?

Relevant Building | Leaseholder | Up until 14th Feb 2022

- The property served as their primary home (where they primarily spent their time), or
- They owned no more than 3 UK homes (dwellings located outside of England are not covered by or count towards leaseholder protections)

If you purchased your property after February 14th 2022, and any of the two conditions mentioned above applied to the property on that day, you are a qualifying leaseholder.

**YES**

**The leaseholder's and the landlord's certificates are required**

#### Landlord's Certificate

- Signed by current landlord
- Based on the circumstances of the landlord on 14th Feb 2022
- Complies with the Building Safety (Leaseholder Protections) (England Regulations 2022)
- Remediation costs cannot be passed on to the leaseholder without a certificate from the building owner

The landlord's certificate must be submitted:

- Should the landlord wish to charge leaseholders for remedial costs through service charges
- Within 4 weeks after receiving a leaseholder notification that the leasehold interest will be sold
- Within 4 weeks of the building owner learning of a relevant defect that was not covered by a previous landlord's certificate

#### Leasehold Deed of Certificate

- To determine if the leaseholder is eligible for leaseholder protections under the Building Safety Act 2022
- Requires the building owner to determine the maximum cap or ceiling on past non-cladding safety remediation costs incurred

The purpose of the Deed of Certificate:

- Confirms a leaseholder's eligibility for leaseholder protections
- A leaseholder can submit a Deed of Certificate to the landlord at any time
- A leaseholder must submit a Deed of Certificate if the landlord requests it, due to the leaseholder selling or if the building has a related defect
- The leaseholder can produce it at any time
- The building owner can request it at any time