



Landlord and Tenant Act 1987

1987 CHAPTER 31

PART V

MANAGEMENT OF LEASEHOLD PROPERTY

Service charges

41 Amendments relating to service charges

- (1) Sections 18 to 30 of the 1985 Act (regulation of service charges payable by tenants) shall have effect subject to the amendments specified in Schedule 2 (which include amendments—
 - (a) extending the provisions of those sections to dwellings other than flats, and
 - (b) introducing certain additional limitations on service charges).
- (2) Sections 45 to 51 of the Housing Act 1985 (which are, so far as relating to dwellings let on long leases, superseded by sections 18 to 30 of the 1985 Act as amended by Schedule 2) shall cease to have effect in relation to dwellings so let.

42 Service charge contributions to be held in trust

- (1) This section applies where the tenants of two or more dwellings may be required under the terms of their leases to contribute to the same costs by the payment of service charges; and in this section—
 - "the contributing tenants" means those tenants;
 - "the payee" means the landlord or other person to whom any such charges are payable by those tenants under the terms of their leases;
 - "relevant service charges" means any such charges;
 - "service charge" has the meaning given by section 18(1) of the 1985 Act, except that it does not include a service charge payable by the tenant of a dwelling the rent of which is registered under Part IV of the Rent Act 1977, unless the amount registered is, in pursuance of section 71(4) of that Act, entered as a variable amount;

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"tenant" does not include a tenant of an exempt landlord; and

"trust fund" means the fund, or (as the case may be) any of the funds, mentioned in subsection (2) below.

- (2) Any sums paid to the payee by the contributing tenants by way of relevant service charges, and any investments representing those sums, shall (together with any income accruing thereon) be held by the payee either as a single fund or, if he thinks fit, in two or more separate funds.
- (3) The payee shall hold any trust fund—
 - (a) on trust to defray costs incurred in connection with the matters for which the relevant service charges were payable (whether incurred by himself or by any other person), and
 - (b) subject to that, on trust for the persons who are the contributing tenants for the time being.
- (4) Subject to subsections (6) to (8), the contributing tenants shall be treated as entitled by virtue of subsection (3)(b) to such shares in the residue of any such fund as are proportionate to their respective liabilities to pay relevant service charges.
- (5) If the Secretary of State by order so provides, any sums standing to the credit of any trust fund may, instead of being invested in any other manner authorised by law, be invested in such manner as may be specified in the order; and any such order may contain such incidental, supplemental or transitional provisions as the Secretary of State considers appropriate in connection with the order.
- (6) On the termination of the lease of a contributing tenant the tenant shall not be entitled to any part of any trust fund, and (except where subsection (7) applies) any part of any such fund which is attributable to relevant service charges paid under the lease shall accordingly continue to be held on the trusts referred to in subsection (3).
- (7) If after the termination of any such lease there are no longer any contributing tenants, any trust fund shall be dissolved as at the date of the termination of the lease, and any assets comprised in the fund immediately before its dissolution shall—
 - (a) if the payee is the landlord, be retained by him for his own use and benefit, and
 - (b) in any other case, be transferred to the landlord by the payee.
- (8) Subsections (4), (6) and (7) shall have effect in relation to a contributing tenant subject to any express terms of his lease which relate to the distribution, either before or (as the case may be) at the termination of the lease, of amounts attributable to relevant service charges paid under its terms (whether the lease was granted before or after the commencement of this section).
- (9) Subject to subsection (8), the provisions of this section shall prevail over the terms of any express or implied trust created by a lease so far as inconsistent with those provisions, other than an express trust so created before the commencement of this section.

Insurance

43 Rights of tenants with respect to insurance

- (1) The following section shall be inserted after section 30 of the 1985 Act—

Status: This is the original version (as it was originally enacted).

“30A Insurance Rights of tenants with respect to insurance.

The Schedule to this Act (which confers on tenants certain rights with respect to the insurance of their dwellings) shall have effect.”

- (2) Schedule 3 to this Act shall be added to the 1985 Act as the Schedule to that Act.

Managing agents

44 Recognised tenants' associations to be consulted about managing agents

The following section shall be inserted in the 1985 Act after the section 30A inserted by section 43—

“30B Managing agents Recognised tenants' associations to be consulted about managing agents.

- (1) A recognised tenants' association may at any time serve a notice on the landlord requesting him to consult the association in accordance with this section on matters relating to the appointment or employment by him of a managing agent for any relevant premises.
- (2) Where, at the time when any such notice is served by a recognised tenants' association, the landlord does not employ any managing agent for any relevant premises, the landlord shall, before appointing such a managing agent, serve on the association a notice specifying—
 - (a) the name of the proposed managing agent;
 - (b) the landlord's obligations to the tenants represented by the association which it is proposed that the managing agent should be required to discharge on his behalf; and
 - (c) a period of not less than one month beginning with the date of service of the notice within which the association may make observations on the proposed appointment.
- (3) Where, at the time when a notice is served under subsection (1) by a recognised tenants' association, the landlord employs a managing agent for any relevant premises, the landlord shall, within the period of one month beginning with the date of service of that notice, serve on the association a notice specifying—
 - (a) the landlord's obligations to the tenants represented by the association which the managing agent is required to discharge on his behalf; and
 - (b) a reasonable period within which the association may make observations on the manner in which the managing agent has been discharging those obligations, and on the desirability of his continuing to discharge them.
- (4) Subject to subsection (5), a landlord who has been served with a notice by an association under subsection (1) shall, so long as he employs a managing agent for any relevant premises—
 - (a) serve on that association at least once in every five years a notice specifying—

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- (i) any change occurring since the date of the last notice served by him on the association under this section in the obligations which the managing agent has been required to discharge on his behalf; and
 - (ii) a reasonable period within which the association may make observations on the manner in which the managing agent has discharged those obligations since that date, and on the desirability of his continuing to discharge them;
 - (b) serve on that association, whenever he proposes to appoint any new managing agent for any relevant premises, a notice specifying the matters mentioned in paragraphs (a) to (c) of subsection (2).
- (5) A landlord shall not, by virtue of a notice served by an association under subsection (1), be required to serve on the association a notice under subsection (4)(a) or (b) if the association subsequently serves on the landlord a notice withdrawing its request under subsection (1) to be consulted by him.
- (6) Where—
- (a) a recognised tenants' association has served a notice under subsection (1) with respect to any relevant premises, and
 - (b) the interest of the landlord in those premises becomes vested in a new landlord,
- that notice shall cease to have effect with respect to those premises (without prejudice to the service by the association on the new landlord of a fresh notice under that subsection with respect to those premises).
- (7) Any notice served by a landlord under this section shall specify the name and the address in the United Kingdom of the person to whom any observations made in pursuance of the notice are to be sent; and the landlord shall have regard to any such observations that are received by that person within the period specified in the notice.
- (8) In this section—
- "landlord", in relation to a recognised tenants' association, means the immediate landlord of the tenants represented by the association or a person who has a right to enforce payment of service charges payable by any of those tenants;
 - "managing agent", in relation to any relevant premises, means an agent of the landlord appointed to discharge any of the landlord's obligations to the tenants represented by the recognised tenants' association in question which relate to the management by him of those premises; and
 - "tenant" includes a statutory tenant; and for the purposes of this section any premises (whether a building or not) are relevant premises in relation to a recognised tenants' association if any of the tenants represented by the association may be required under the terms of their leases to contribute by the payment of service charges to costs relating to those premises."

Management by registered housing associations

45 Extension of permissible objects of registered housing associations as regards the management of leasehold property

- (1) Section 4 of the Housing Associations Act 1985 (eligibility for registration) shall be amended as follows.
- (2) In subsection (3) (permissible additional purposes or objects), after the paragraph (dd) inserted by section 19 of the Housing and Planning Act 1986 there shall be inserted—
 - “(ddd) managing houses which are held on leases (not being houses falling within subsection (2)(a) or (b)) or blocks of flats;”.
- (3) After that subsection there shall be inserted—
 - “(4) In subsection (3)(ddd) "block of flats" means a building—
 - (a) containing two or more flats which are held on leases or other lettings; and
 - (b) occupied or intended to be occupied wholly or mainly for residential purposes.”
- (4) The amendments made by this section shall not extend to Scotland.