



# Commonhold and Leasehold Reform Act 2002

## 2002 CHAPTER 15

### PART 2

#### LEASEHOLD REFORM

#### CHAPTER 1

#### RIGHT TO MANAGE

#### *Qualifying rules*

#### **72 Premises to which Chapter applies**

- (1) This Chapter applies to premises if—
  - (a) they consist of a self-contained building or part of a building, with or without appurtenant property,
  - (b) they contain two or more flats held by qualifying tenants, and
  - (c) the total number of flats held by such tenants is not less than two-thirds of the total number of flats contained in the premises.
- (2) A building is a self-contained building if it is structurally detached.
- (3) A part of a building is a self-contained part of the building if—
  - (a) it constitutes a vertical division of the building,
  - (b) the structure of the building is such that it could be redeveloped independently of the rest of the building, and
  - (c) subsection (4) applies in relation to it.
- (4) This subsection applies in relation to a part of a building if the relevant services provided for occupiers of it—

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- (a) are provided independently of the relevant services provided for occupiers of the rest of the building, or
  - (b) could be so provided without involving the carrying out of works likely to result in a significant interruption in the provision of any relevant services for occupiers of the rest of the building.
- (5) Relevant services are services provided by means of pipes, cables or other fixed installations.
- (6) Schedule 6 (premises excepted from this Chapter) has effect.

#### Commencement Information

- II** S. 72 wholly in force at 30.3.2004; s. 72 not in force at Royal Assent see s. 181(1); s. 72 wholly in force at 30.9.2003 for E. by [S.I. 2003/1986](#), [art. 2\(a\)](#); s. 72 wholly in force at 30.3.2004 for W. by [S.I. 2004/669](#), [art. 2\(a\)](#)

### 73 RTM companies

- (1) This section specifies what is a RTM company.
- (2) A company is a RTM company in relation to premises if—
- (a) it is a private company limited by guarantee, and
  - (b) its [<sup>F1</sup>articles of association state] that its object, or one of its objects, is the acquisition and exercise of the right to manage the premises.
- (3) But a company is not a RTM company if it is a commonhold association (within the meaning of Part 1).
- (4) And a company is not a RTM company in relation to premises if another company is already a RTM company in relation to the premises or to any premises containing or contained in the premises.
- (5) If the freehold of any premises is conveyed or transferred to a company which is a RTM company in relation to the premises, or any premises containing or contained in the premises, it ceases to be a RTM company when the conveyance or transfer is executed.

#### Textual Amendments

- F1** Words in s. 73(2)(b) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), [Sch. 1 para. 194\(15\)](#) (with [art. 10](#))

#### Commencement Information

- I2** S. 73 wholly in force at 30.3.2004; s. 73 not in force at Royal Assent see s. 181(1); s. 73 wholly in force at 30.9.2003 for E. by [S.I. 2003/1986](#), [art. 2\(a\)](#); s. 73 wholly in force at 30.3.2004 for W. by [S.I. 2004/669](#), [art. 2\(a\)](#)

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## 74 RTM companies: membership and regulations

- (1) The persons who are entitled to be members of a company which is a RTM company in relation to premises are—
  - (a) qualifying tenants of flats contained in the premises, and
  - (b) from the date on which it acquires the right to manage (referred to in this Chapter as the “acquisition date”), landlords under leases of the whole or any part of the premises.
- (2) The appropriate national authority shall make regulations about the content and form of the [F2articles of association] of RTM companies.
- (3) A RTM company may adopt provisions of the regulations for its [F3articles].
- (4) The regulations may include provision which is to have effect for a RTM company whether or not it is adopted by the company.
- (5) A provision of the [F3articles] of a RTM company has no effect to the extent that it is inconsistent with the regulations.
- (6) The regulations have effect in relation to [F4articles]—
  - (a) irrespective of the date of the [F5articles], but
  - (b) subject to any transitional provisions of the regulations.
- [F6(7) Section 20 of the Companies Act 2006 (default application of model articles) does not apply to a RTM company.]

### Textual Amendments

- F2** Words in s. 74(2) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), **Sch. 1 para. 194(16)(a)** (with art. 10)
- F3** Words in s. 74(3)(5) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), **Sch. 1 para. 194(16)(b)** (with art. 10)
- F4** Words in s. 74(6) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), **Sch. 1 para. 194(16)(c)(i)** (with art. 10)
- F5** Words in s. 74(6)(a) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), **Sch. 1 para. 194(16)(c)(ii)** (with art. 10)
- F6** S. 74(7) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), **Sch. 1 para. 194(16)(d)** (with art. 10)

### Commencement Information

- I3** S. 74 wholly in force at 30.3.2004; s. 74 not in force at Royal Assent see s. 181(1); s. 74 in force for specified purposes at 26.7.2002 for E. by [S.I. 2002/1912](#), **art. 2(c)**; s. 74 in force for specified purposes at 1.1.2003 for W. by [S.I. 2002/3012](#), **art. 2(c)**; s. 74 in force so far as not already in force at 30.9.2003 for E. by [S.I. 2003/1986](#), **art. 2(b)**; s. 74 in force so far as not already in force at 30.3.2004 for W. by [S.I. 2004/669](#), **art. 2(b)**

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## 75 Qualifying tenants

- (1) This section specifies whether there is a qualifying tenant of a flat for the purposes of this Chapter and, if so, who it is.
- (2) Subject as follows, a person is the qualifying tenant of a flat if he is tenant of the flat under a long lease.
- (3) Subsection (2) does not apply where the lease is a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (c. 56) (business tenancies) applies.
- (4) Subsection (2) does not apply where—
  - (a) the lease was granted by sub-demise out of a superior lease other than a long lease,
  - (b) the grant was made in breach of the terms of the superior lease, and
  - (c) there has been no waiver of the breach by the superior landlord.
- (5) No flat has more than one qualifying tenant at any one time; and subsections (6) and (7) apply accordingly.
- (6) Where a flat is being let under two or more long leases, a tenant under any of those leases which is superior to that held by another is not the qualifying tenant of the flat.
- (7) Where a flat is being let to joint tenants under a long lease, the joint tenants shall (subject to subsection (6)) be regarded as jointly being the qualifying tenant of the flat.

### Commencement Information

- I4** S. 75 wholly in force at 30.3.2004; s. 75 not in force at Royal Assent see s. 181(1); s. 75 wholly in force at 30.9.2003 for E. by [S.I. 2003/1986, art. 2\(a\)](#); s. 75 wholly in force at 30.3.2004 for W. by [S.I. 2004/669, art. 2\(a\)](#)

## 76 Long leases

- (1) This section and section 77 specify what is a long lease for the purposes of this Chapter.
- (2) Subject to section 77, a lease is a long lease if—
  - (a) it is granted for a term of years certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by or to the tenant, by re-entry or forfeiture or otherwise,
  - (b) it is for a term fixed by law under a grant with a covenant or obligation for perpetual renewal (but is not a lease by sub-demise from one which is not a long lease),
  - (c) it takes effect under section 149(6) of the Law of Property Act 1925 (c. 20) (leases terminable after a death or marriage [<sup>F7</sup> or the formation of a civil partnership]),
  - (d) it was granted in pursuance of the right to buy conferred by Part 5 of the Housing Act 1985 (c. 68) or in pursuance of the right to acquire on rent to mortgage terms conferred by that Part of that Act,
  - (e) it is a shared ownership lease, whether granted in pursuance of that Part of that Act or otherwise, where the tenant's total share is 100 per cent., or
  - (f) it was granted in pursuance of that Part of that Act as it has effect by virtue of section 17 of the Housing Act 1996 (c. 52) (the right to acquire).

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- (3) “Shared ownership lease” means a lease—
- (a) granted on payment of a premium calculated by reference to a percentage of the value of the demised premises or the cost of providing them, or
  - (b) under which the tenant (or his personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of those premises.
- (4) “Total share”, in relation to the interest of a tenant under a shared ownership lease, means his initial share plus any additional share or shares in the demised premises which he has acquired.

#### Textual Amendments

**F7** Words in s. 76(2)(c) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 81, 263(2), [Sch. 8 para. 64](#); [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

#### Commencement Information

**I5** S. 76 wholly in force at 30.3.2004; s. 76 not in force at Royal Assent see s. 181(1); s. 76 wholly in force at 30.9.2003 for E. by [S.I. 2003/1986](#), [art. 2\(a\)](#); s. 76 wholly in force at 30.3.2004 for W. by [S.I. 2004/669](#), [art. 2\(a\)](#)

## 77 Long leases: further provisions

- (1) A lease terminable by notice after [<sup>F8</sup>a death, a marriage or the formation of a civil partnership] is not a long lease if—
- (a) the notice is capable of being given at any time after the death or marriage of [<sup>F9</sup>, or the formation of a civil partnership by,] the tenant,
  - (b) the length of the notice is not more than three months, and
  - (c) the terms of the lease preclude both its assignment otherwise than by virtue of section 92 of the Housing Act 1985 (assignments by way of exchange) and the sub-letting of the whole of the demised premises.
- (2) Where the tenant of any property under a long lease, on the coming to an end of the lease, becomes or has become tenant of the property or part of it under any subsequent tenancy (whether by express grant or by implication of law), that tenancy is a long lease irrespective of its terms.
- (3) A lease—
- (a) granted for a term of years certain not exceeding 21 years, but with a covenant or obligation for renewal without payment of a premium (but not for perpetual renewal), and
  - (b) renewed on one or more occasions so as to bring to more than 21 years the total of the terms granted (including any interval between the end of a lease and the grant of a renewal),
- is to be treated as if the term originally granted had been one exceeding 21 years.
- (4) Where a long lease—
- (a) is or was continued for any period under Part 1 of the Landlord and Tenant Act 1954 (c. 56) or under Schedule 10 to the Local Government and Housing Act 1989 (c. 42), or

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- (b) was continued for any period under the Leasehold Property (Temporary Provisions) Act 1951 (c. 38),  
it remains a long lease during that period.
- (5) Where in the case of a flat there are at any time two or more separate leases, with the same landlord and the same tenant, and—
- (a) the property comprised in one of those leases consists of either the flat or a part of it (in either case with or without appurtenant property), and
  - (b) the property comprised in every other lease consists of either a part of the flat (with or without appurtenant property) or appurtenant property only,
- there shall be taken to be a single long lease of the property comprised in such of those leases as are long leases.

#### Textual Amendments

- F8** Words in s. 77(1) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 81, 263(2), [Sch. 8 para. 65\(a\)](#); [S.I. 2005/3175](#), [art. 2\(1\)](#), Sch. 1
- F9** Words in s. 77(1)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 81, 263(2), [Sch. 8 para. 65\(b\)](#); [S.I. 2005/3175](#), [art. 2\(1\)](#), Sch. 1

#### Commencement Information

- I6** S. 77 wholly in force at 30.3.2004; s. 77 not in force at Royal Assent see s. 181(1); s. 77 wholly in force at 30.9.2003 for E. by [S.I. 2003/1986](#), [art. 2\(a\)](#); s. 77 wholly in force at 30.3.2004 for W. by [S.I. 2004/669](#), [art. 2\(a\)](#)

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