

SCHEDULES

SCHEDULE 7

Section 102

RIGHT TO MANAGE: STATUTORY PROVISIONS

Covenants not to assign etc.

- 1 (1) Section 19 of the Landlord and Tenant Act 1927 (c. 36) (covenants not to assign without approval etc.) has effect with the modifications provided by this paragraph.
- (2) Subsection (1) applies as if—
 - (a) the reference to the landlord, and
 - (b) the final reference to the lessor,were to the RTM company.
- (3) Subsection (2) applies as if the reference to the payment of a reasonable sum in respect of any damage to or diminution in the value of the premises or neighbouring premises belonging to the landlord were omitted.
- (4) Subsection (3) applies as if—
 - (a) the first and final references to the landlord were to the RTM company, and
 - (b) the reference to the right of the landlord to require payment of a reasonable sum in respect of any damage to or diminution in the value of the premises or neighbouring premises belonging to him were omitted.

Defective premises

- 2 (1) Section 4 of the Defective Premises Act 1972 (c. 35) (landlord's duty of care by virtue of obligation or right to repair demised premises) has effect with the modifications provided by this paragraph.
- (2) References to the landlord (apart from the first reference in subsections (1) and (4)) are to the RTM company.
- (3) The reference to the material time is to the acquisition date.

Repairing obligations

- 3 (1) The obligations imposed on a lessor by virtue of section 11 (repairing obligations in short leases) of the Landlord and Tenant Act 1985 (c. 70) (referred to in this Part as "the 1985 Act") are, so far as relating to any lease of any flat or other unit contained in the premises, instead obligations of the RTM company.
- (2) The RTM company owes to any person who is in occupation of a flat or other unit contained in the premises otherwise than under a lease the same obligations as would be imposed on it by virtue of section 11 if that person were a lessee under a lease of the flat or other unit.

Status: This is the original version (as it was originally enacted).

- (3) But sub-paragraphs (1) and (2) do not apply to an obligation to the extent that it relates to a matter concerning only the flat or other unit concerned.
- (4) The obligations imposed on the RTM company by virtue of sub-paragraph (1) in relation to any lease are owed to the lessor (as well as to the lessee).
- (5) Subsections (3A) to (5) of section 11 have effect with the modifications that are appropriate in consequence of sub-paragraphs (1) to (3).
- (6) The references in subsection (6) of section 11 to the lessor include the RTM company; and a person who is in occupation of a flat or other unit contained in the premises otherwise than under a lease has, in relation to the flat or other unit, the same obligation as that imposed on a lessee by virtue of that subsection.
- (7) The reference to the lessor in section 12(1)(a) of the 1985 Act (restriction on contracting out of section 11) includes the RTM company.

Service charges

- 4 (1) Sections 18 to 30 of the 1985 Act (service charges) have effect with the modifications provided by this paragraph.
- (2) References to the landlord are to the RTM company.
- (3) References to a tenant of a dwelling include a person who is landlord under a lease of the whole or any part of the premises (so that sums paid by him in pursuance of section 103 of this Act are service charges).
- (4) Section 22(5) applies as if paragraph (a) were omitted and the person referred to in paragraph (b) were a person who receives service charges on behalf of the RTM company.
- (5) Section 26 does not apply.

Right to request information on insurance

- 5 (1) Section 30A of, and the Schedule to, the 1985 Act (rights of tenants with respect to insurance) have effect with the modifications provided by this paragraph.
- (2) References to the landlord are to the RTM company.
- (3) References to a tenant include a person who is landlord under a lease of the whole or any part of the premises and has to make payments under section 103 of this Act.
- (4) Paragraphs 2(3) and 3(3) of the Schedule apply as if paragraph (a) were omitted and the person referred to in paragraph (b) were a person who receives service charges on behalf of the RTM company.

Managing agents

- 6 Section 30B of the 1985 Act (recognised tenants' associations to be consulted about landlord's managing agents) has effect as if references to the landlord were to the RTM company (and as if subsection (6) were omitted).

Right of first refusal

- 7 Where section 5 of the 1987 Act (right of first refusal: requirement that landlord serve offer notice on tenant) requires the landlord to serve an offer notice on the qualifying tenants of the flats contained in the premises, he must serve a copy of the offer notice on the RTM company.

Appointment of manager

- 8 (1) Part 2 of the 1987 Act (appointment of manager by leasehold valuation tribunal) has effect with the modifications provided by this paragraph.
- (2) References to the landlord are to the RTM company.
- (3) References to a tenant of a flat contained in the premises include a person who is landlord under a lease of the whole or any part of the premises.
- (4) Section 21(3) (exception for premises where landlord is exempt or resident or where premises are functional land of a charity) does not apply.
- (5) The references in paragraph (a)(i) of subsection (2) of section 24 to any obligation owed by the RTM company to the tenant under his tenancy include any obligations of the RTM company under this Act.
- (6) And the circumstances in which a leasehold valuation tribunal may make an order under paragraph (b) of that subsection include any in which the RTM company no longer wishes the right to manage the premises to be exercisable by it.
- (7) The power in section 24 to make an order appointing a manager to carry out functions includes a power (in the circumstances specified in subsection (2) of that section) to make an order that the right to manage the premises is to cease to be exercisable by the RTM company.
- (8) And such an order may include provision with respect to incidental and ancillary matters (including, in particular, provision about contracts to which the RTM company is a party and the prosecution of claims in respect of causes of action, whether tortious or contractual, accruing before or after the right to manage ceases to be exercisable).

Right to acquire landlord's interest

- 9 Part 3 of the 1987 Act (compulsory acquisition by tenants of landlord's interest) does not apply.

Variation of leases

- 10 Sections 35, 36, 38 and 39 of the 1987 Act (variation of long leases relating to flats) have effect as if references to a party to a long lease (apart from those in section 38(8)) included the RTM company.

Service charges to be held in trust

- 11 (1) Sections 42 to 42B of the 1987 Act (service charge contributions to be held in trust and in designated account) have effect with the modifications provided by this paragraph.

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

- (2) References to the payee are to the RTM company.
- (3) The definition of “tenant” in section 42(1) does not apply.
- (4) References to a tenant of a dwelling include a person who is landlord under a lease of the whole or any part of the premises.
- (5) The reference in section 42(2) to sums paid to the payee by the contributing tenants by way of relevant service charges includes payments made to the RTM company under section 94 or 103 of this Act.
- (6) Section 42A(5) applies as if paragraph (a) were omitted and the person referred to in paragraph (b) were a person who receives service charges on behalf of the RTM company.

Information to be furnished to tenants

- 12 (1) Sections 46 to 48 of the 1987 Act (information to be furnished to tenants) have effect with the modifications provided by this paragraph.
- (2) References to the landlord include the RTM company.
- (3) References to a tenant include a person who is landlord under a lease of the whole or any part of the premises; and in relation to such a person the reference in section 47(4) to sums payable to the landlord under the terms of the tenancy are to sums paid by him under section 103 of this Act.

Statutory duties relating to certain covenants

- 13 (1) The Landlord and Tenant Act 1988 (c. 26) (statutory duties in connection with covenants against assigning etc.) has effect with the modifications provided by this paragraph.
- (2) The reference in section 1(2)(b) to the covenant is to the covenant as it has effect subject to section 98 of this Act.
- (3) References in section 3(2), (4) and (5) to the landlord are to the RTM company.

Tenants' right to management audit

- 14 (1) Chapter 5 of Part 1 (tenants' right to management audit by landlord) of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28) (referred to in this Part as “the 1993 Act”) has effect with the modifications provided by this paragraph.
- (2) References to the landlord (other than the references in section 76(1) and (2) to “the same landlord”) are to the RTM company.
- (3) References to a tenant include a person who is landlord under a lease of the whole or any part of the premises and has to make payments under section 103 of this Act.
- (4) Section 80(5) applies as if the reference to a person who receives rent were to a person who receives service charges.

Right to appoint surveyor

- 15 (1) Section 84 of the Housing Act 1996 (c. 52) and Schedule 4 to that Act (apart from paragraph 7) (right of recognised tenants' association to appoint surveyor to advise on matters relating to service charges) have effect as if references to the landlord were to the RTM company.
- (2) Section 84(5) and paragraph 4(5) of Schedule 4 apply as if the reference to a person who receives rent were to a person who receives service charges.

Administration charges

- 16 Schedule 11 to this Act has effect as if references to the landlord (or a party to a lease) included the RTM company.