



# Landlord and Tenant Act 1987

## 1987 CHAPTER 31

### PART IV

#### VARIATION OF LEASES

##### *Applications relating to flats*

#### **35 Application by party to lease for variation of lease.**

- (1) Any party to a long lease of a flat may make an application to the court for an order varying the lease in such manner as is specified in the application.
- (2) The grounds on which any such application may be made are that the lease fails to make satisfactory provision with respect to one or more of the following matters, namely—
  - (a) the repair or maintenance of—
    - (i) the flat in question, or
    - (ii) the building containing the flat, or
    - (iii) any land or building which is let to the tenant under the lease or in respect of which rights are conferred on him under it;
  - (b) the insurance of the flat or of any such building or land as is mentioned in paragraph (a)(ii) or (iii);
  - (c) the repair or maintenance of any installations (whether they are in the same building as the flat or not) which are reasonably necessary to ensure that occupiers of the flat enjoy a reasonable standard of accommodation;
  - (d) the provision or maintenance of any services which are reasonably necessary to ensure that occupiers of the flat enjoy a reasonable standard of accommodation (whether they are services connected with any such installations or not, and whether they are services provided for the benefit of those occupiers or services provided for the benefit of the occupiers of a number of flats including that flat);

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- (e) the recovery by one party to the lease from another party to it of expenditure incurred or to be incurred by him, or on his behalf, for the benefit of that other party or of a number of persons who include that other party;
  - (f) the computation of a service charge payable under the lease.
- (3) For the purposes of subsection (2)(c) and (d) the factors for determining, in relation to the occupiers of a flat, what is a reasonable standard of accommodation may include—
- (a) factors relating to the safety and security of the flat and its occupiers and of any common parts of the building containing the flat; and
  - (b) other factors relating to the condition of any such common parts.
- (4) For the purposes of subsection (2)(f) a lease fails to make satisfactory provision with respect to the computation of a service charge payable under it if—
- (a) it provides for any such charge to be a proportion of expenditure incurred, or to be incurred, by or on behalf of the landlord or a superior landlord; and
  - (b) other tenants of the landlord are also liable under their leases to pay by way of service charges proportions of any such expenditure; and
  - (c) the aggregate of the amounts that would, in any particular case, be payable by reference to the proportions referred to in paragraphs (a) and (b) would [<sup>F1</sup>either exceed or be less than] the whole of any such expenditure.
- (5) Rules of court shall make provision—
- (a) for requiring notice of any application under this Part to be served by the person making the application, and by any respondent to the application, on any person who the applicant, or (as the case may be) the respondent, knows or has reason to believe is likely to be affected by any variation specified in the application, and
  - (b) for enabling persons served with any such notice to be joined as parties to the proceedings.
- [<sup>F2</sup>(6) For the purposes of this Part a long lease shall not be regarded as a long lease of a flat if—
- (a) the demised premises consist of or include three or more flats contained in the same building; or
  - (b) the lease constitutes a tenancy to which Part II of the Landlord and Tenant Act 1954 applies.]
- (8) In this section “service charge” has the meaning given by section 18(1) of the 1985 Act.

#### Textual Amendments

- F1** Words in s. 35(4) substituted (1.11.1993) by 1993 c. 28, s.86; S.I. 1993/2134, arts. 2, 5(subject to savings in Sch. 1 para. 3)
- F2** S. 35(6) substituted for subsections (6) and (7) by Housing Act 1988 (c. 50, SIF 75:1), s. 119, Sch. 13 para. 5

### 36 Application by respondent for variation of other leases.

- (1) Where an application (“the original application”) is made under section 35 by any party to a lease, any other party to the lease may make an application to the court asking it, in the event of its deciding to make an order effecting any variation of the lease in

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pursuance of the original application, to make an order which effects a corresponding variation of each of such one or more other leases as are specified in the application.

- (2) Any lease so specified—
  - (a) must be a long lease of a flat under which the landlord is the same person as the landlord under the lease specified in the original application; but
  - (b) need not be a lease of a flat which is in the same building as the flat let under that lease, nor a lease drafted in terms identical to those of that lease.
- (3) The grounds on which an application may be made under this section are—
  - (a) that each of the leases specified in the application fails to make satisfactory provision with respect to the matter or matters specified in the original application; and
  - (b) that, if any variation is effected in pursuance of the original application, it would be in the interests of the person making the application under this section, or in the interests of the other persons who are parties to the leases specified in that application, to have all of the leases in question (that is to say, the ones specified in that application together with the one specified in the original application) varied to the same effect.

### **37 Application by majority of parties for variation of leases.**

- (1) Subject to the following provisions of this section, an application may be made to the court in respect of two or more leases for an order varying each of those leases in such manner as is specified in the application.
- (2) Those leases must be long leases of flats under which the landlord is the same person, but they need not be leases of flats which are in the same building, nor leases which are drafted in identical terms.
- (3) The grounds on which an application may be made under this section are that the object to be achieved by the variation cannot be satisfactorily achieved unless all the leases are varied to the same effect.
- (4) An application under this section in respect of any leases may be made by the landlord or any of the tenants under the leases.
- (5) Any such application shall only be made if—
  - (a) in a case where the application is in respect of less than nine leases, all, or all but one, of the parties concerned consent to it; or
  - (b) in a case where the application is in respect of more than eight leases, it is not opposed for any reason by more than 10 per cent. of the total number of the parties concerned and at least 75 per cent. of that number consent to it.
- (6) For the purposes of subsection (5)—
  - (a) in the case of each lease in respect of which the application is made, the tenant under the lease shall constitute one of the parties concerned (so that in determining the total number of the parties concerned a person who is the tenant under a number of such leases shall be regarded as constituting a corresponding number of the parties concerned); and
  - (b) the landlord shall also constitute one of the parties concerned.

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