



Landlord and Tenant Act 1987

1987 CHAPTER 31

PART V

MANAGEMENT OF LEASEHOLD PROPERTY

Service charges

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 [^{F1}, or the tenant of a dwelling may be required under the terms of his lease to contribute to costs to which no other tenant of a dwelling may be required to contribute,] by the payment of service charges; and in this section—

“the contributing tenants” means those tenants; [^{F2}and “the sole contributing tenant” means that tenant;]

“the payee” means the landlord or other person to whom any such charges are payable by those tenants [^{F3}, or that tenant, under the terms of their leases, or his lease];

“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 ^{M1}Rent Act 1977, unless the amount registered is, in pursuance of section 71(4) of that Act, entered as a variable amount;

“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 [^{F4}, or the sole contributing tenant,] 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.

Changes to legislation: Landlord and Tenant Act 1987, Section 42 is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (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 ^{F5}, or the person who is the sole contributing tenant 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 ^{F6} or the sole contributing tenant shall be treated as so entitled to the residue of any such fund.]
- (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 ^{F7}any of the contributing tenants] 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) ^{F8}On the termination of the lease of the last of the contributing tenants, or of the lease of the sole contributing tenant,] 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 ^{F9}any of the contributing tenants, or the sole contributing tenant,] subject to any express terms of his lease ^{F10}(whenever it was granted)] 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 ^{F11}, in the case of a lease of any of the contributing tenants,] before the commencement of this section ^{F12}or, in the case of the lease of the sole contributing tenant, before the commencement of paragraph 15 of Schedule 10 to the Commonhold and Leasehold Reform Act 2002.]

Textual Amendments

- F1** Words in s. 42(1) inserted (28.2.2005 for E., 31.5.2005 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 181(1), [Sch. 10 para. 15\(2\)\(a\)](#); S.I. 2004/3056, art. 3(b); S.I. 2005/1353, art. 2(b)
- F2** Words in s. 42(1) inserted (28.2.2005 for E., 31.5.2005 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 181(1), [Sch. 10 para. 15\(2\)\(b\)](#); S.I. 2004/3056, art. 3(b); S.I. 2005/1353, art. 2(b)

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- F3** Words in s. 42(1) substituted (28.2.2005 for E., 31.5.2005 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 10 para. 15(2)(c)**; S.I. 2004/3056, art. 3(b); S.I. 2005/1353, art. 2(b)
- F4** Words in s. 42(2) inserted (28.2.2005 for E., 31.5.2005 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 10 para. 15(3)**; S.I. 2004/3056, art. 3(b); S.I. 2005/1353, art. 2(b)
- F5** Words in s. 42(3) inserted (28.2.2005 for E., 31.5.2005 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 10 para. 15(4)**; S.I. 2004/3056, art. 3(b); S.I. 2005/1353, art. 2(b)
- F6** Words in s. 42(4) inserted (28.2.2005 for E., 31.5.2005 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 10 para. 15(5)**; S.I. 2004/3056, art. 3(b); S.I. 2005/1353, art. 2(b)
- F7** Words in s. 42(6) substituted (28.2.2005 for E., 31.5.2005 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 10 para. 15(6)**; S.I. 2004/3056, art. 3(b); S.I. 2005/1353, art. 2(b)
- F8** Words in s. 42(7) substituted (28.2.2005 for E., 31.5.2005 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 10 para. 15(7)**; S.I. 2004/3056, art. 3(b); S.I. 2005/1353, art. 2(b)
- F9** Words in s. 42(8) substituted (28.2.2005 for E., 31.5.2005 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 10 para. 15(8)(a)**; S.I. 2004/3056, art. 3(b); S.I. 2005/1353, art. 2(b)
- F10** Words in s. 42(8) inserted (28.2.2005 for E., 31.5.2005 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 10 para. 15(8)(b)**; S.I. 2004/3056, art. 3(b); S.I. 2005/1353, art. 2(b)
- F11** Words in s. 42(9) inserted (28.2.2005 for E., 31.5.2005 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 10 para. 15(9)(a)**; S.I. 2004/3056, art. 3(b); S.I. 2005/1353, art. 2(b)
- F12** Words in s. 42(9) inserted (28.2.2005 for E., 31.5.2005 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 10 para. 15(9)(b)**; S.I. 2004/3056, art. 3(b); S.I. 2005/1353, art. 2(b)

Modifications etc. (not altering text)

- C1** Ss. 42-42B modified (30.9.2003 for E., 30.3.2004 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 7 para. 11**; S.I. 2003/1986, art. 2(a); S.I. 2004/669, art. 2(a)

Marginal Citations

- M1** 1977 c. 42.

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 42(2) words repealed by [2002 c. 15 Sch. 14](#)
- s. 42(5) repealed by [2002 c. 15 Sch. 14](#)
- s. 42(8) words repealed by [2002 c. 15 Sch. 14](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 24(2)(abb) inserted by [2002 c. 15 Sch. 10 para. 14](#)