



Commonhold and Leasehold Reform Act 2002

2002 CHAPTER 15

PART 2

LEASEHOLD REFORM

CHAPTER 1

RIGHT TO MANAGE

Supplementary

104 Registration

- (1) In section 49(1) of the Land Registration Act 1925 (c. 21) (rules to provide for rights, interests and claims to be protected by notice), insert at the end—
 - “(1) the right to manage being exercisable by a RTM company under Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002.”
- (2) In section 64 of that Act (production of certificates for noting on certain dealings etc.), insert at the end—
 - “(8) Subsection (1) above shall also not require the production of the land certificate or of any charge certificate when a person applies for the registration of a notice in respect of the right to manage being exercisable by a RTM company under Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002.”
- (3) After section 111 of that Act insert—

“111A Caution relating to right to manage

A caution may be lodged under section 53 of this Act in respect of the right to manage being exercisable by a RTM company under Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002.”

105 Cessation of management

- (1) This section makes provision about the circumstances in which, after a RTM company has acquired the right to manage any premises, that right ceases to be exercisable by it.
- (2) Provision may be made by an agreement made between—
 - (a) the RTM company, and
 - (b) each person who is landlord under a lease of the whole or any part of the premises,
 for the right to manage the premises to cease to be exercisable by the RTM company.
- (3) The right to manage the premises ceases to be exercisable by the RTM company if—
 - (a) a winding-up order or an administration order is made, or a resolution for voluntary winding-up is passed, with respect to the RTM company,
 - (b) a receiver or a manager of the RTM company’s undertaking is duly appointed, or possession is taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the RTM company comprised in or subject to the charge,
 - (c) a voluntary arrangement proposed in the case of the RTM company for the purposes of Part 1 of the Insolvency Act 1986 (c. 45) is approved under that Part of that Act, or
 - (d) the RTM company’s name is struck off the register under section 652 or 652A of the Companies Act 1985 (c. 6).
- (4) The right to manage the premises ceases to be exercisable by the RTM company if a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises, begins so to act or an order under that Part of that Act that the right to manage the premises is to cease to be exercisable by the RTM company takes effect.
- (5) The right to manage the premises ceases to be exercisable by the RTM company if it ceases to be a RTM company in relation to the premises.

106 Agreements excluding or modifying right

Any agreement relating to a lease (whether contained in the instrument creating the lease or not and whether made before the creation of the lease or not) is void in so far as it—

- (a) purports to exclude or modify the right of any person to be, or do any thing as, a member of a RTM company,
- (b) provides for the termination or surrender of the lease if the tenant becomes, or does any thing as, a member of a RTM company or if a RTM company does any thing, or

- (c) provides for the imposition of any penalty or disability if the tenant becomes, or does any thing as, a member of a RTM company or if a RTM company does any thing.

107 Enforcement of obligations

- (1) A county court may, on the application of any person interested, make an order requiring a person who has failed to comply with a requirement imposed on him by, under or by virtue of any provision of this Chapter to make good the default within such time as is specified in the order.
- (2) An application shall not be made under subsection (1) unless—
 - (a) a notice has been previously given to the person in question requiring him to make good the default, and
 - (b) more than 14 days have elapsed since the date of the giving of that notice without his having done so.

108 Application to Crown

- (1) This Chapter applies in relation to premises in which there is a Crown interest.
- (2) There is a Crown interest in premises if there is in the premises an interest or estate—
 - (a) which is comprised in the Crown Estate,
 - (b) which belongs to Her Majesty in right of the Duchy of Lancaster,
 - (c) which belongs to the Duchy of Cornwall, or
 - (d) which belongs to a government department or is held on behalf of Her Majesty for the purposes of a government department.
- (3) Any sum payable under this Chapter to a RTM company by the Chancellor of the Duchy of Lancaster may be raised and paid under section 25 of the Duchy of Lancaster Act 1817 (c. 97) as an expense incurred in improvement of land belonging to Her Majesty in right of the Duchy.
- (4) Any sum payable under this Chapter to a RTM company by the Duke of Cornwall (or any other possessor for the time being of the Duchy of Cornwall) may be raised and paid under section 8 of the Duchy of Cornwall Management Act 1863 (c. 49) as an expense incurred in permanently improving the possessions of the Duchy.

109 Powers of trustees in relation to right

- (1) Where trustees are the qualifying tenant of a flat contained in any premises, their powers under the instrument regulating the trusts include power to be a member of a RTM company for the purpose of the acquisition and exercise of the right to manage the premises.
- (2) But subsection (1) does not apply where the instrument regulating the trusts contains an explicit direction to the contrary.
- (3) The power conferred by subsection (1) is exercisable with the same consent or on the same direction (if any) as may be required for the exercise of the trustees' powers (or ordinary powers) of investment.
- (4) The purposes—

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

- (a) authorised for the application of capital money by section 73 of the Settled Land Act 1925 (c. 18), and
- (b) authorised by section 71 of that Act as purposes for which moneys may be raised by mortgage,

include the payment of any expenses incurred by a tenant for life or statutory owner as a member of a RTM company.

110 Power to prescribe procedure

- (1) Where a claim to acquire the right to manage any premises is made by the giving of a claim notice, except as otherwise provided by this Chapter—
 - (a) the procedure for giving effect to the claim notice, and
 - (b) the rights and obligations of all parties in any matter arising in giving effect to the claim notice,
 shall be such as may be prescribed by regulations made by the appropriate national authority.
- (2) Regulations under this section may, in particular, make provision for a person to be discharged from performing any obligations arising out of a claim notice by reason of the default or delay of some other person.

111 Notices

- (1) Any notice under this Chapter—
 - (a) must be in writing, and
 - (b) may be sent by post.
- (2) A company which is a RTM company in relation to premises may give a notice under this Chapter to a person who is landlord under a lease of the whole or any part of the premises at the address specified in subsection (3) (but subject to subsection (4)).
- (3) That address is—
 - (a) the address last furnished to a member of the RTM company as the landlord's address for service in accordance with section 48 of the 1987 Act (notification of address for service of notices on landlord), or
 - (b) if no such address has been so furnished, the address last furnished to such a member as the landlord's address in accordance with section 47 of the 1987 Act (landlord's name and address to be contained in demands for rent).
- (4) But the RTM company may not give a notice under this Chapter to a person at the address specified in subsection (3) if it has been notified by him of a different address in England and Wales at which he wishes to be given any such notice.
- (5) A company which is a RTM company in relation to premises may give a notice under this Chapter to a person who is the qualifying tenant of a flat contained in the premises at the flat unless it has been notified by the qualifying tenant of a different address in England and Wales at which he wishes to be given any such notice.