Commonhold and Leasehold Reform Act 2002

2002 CHAPTER 15

PART 2

LEASEHOLD REFORM

CHAPTER 5

OTHER PROVISIONS ABOUT LEASES

Service charges, administration charges etc.

150 Extending meaning of service charge and management etc

Schedule 9 (which amends certain provisions about management of, and service charges in respect of, leasehold properties and confers power further to amend certain of those provisions) has effect.

151 Consultation about service charges

For section 20 of the 1985 Act (limitation of service charges: estimates and consultation) substitute—

"**20 Limitation of service charges: consultation requirements**

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—

(a) complied with in relation to the works or agreement, or

(b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.

(2) In this section "relevant contribution", in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.

(3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.

(4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—

(a) if relevant costs incurred under the agreement exceed an appropriate amount, or

(b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

(5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—

(a) an amount prescribed by, or determined in accordance with, the regulations, and

(b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.

(6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

(7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

20ZA Consultation requirements: supplementary

(1) Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

(2) In section 20 and this section—

"qualifying works" means works on a building or any other premises, and

"qualifying long term agreement" means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

(3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—

(a) if it is an agreement of a description prescribed by the regulations, or

(b) in any circumstances so prescribed.

(4) In section 20 and this section "the consultation requirements" means requirements prescribed by regulations made by the Secretary of State.

(5) Regulations under subsection (4) may in particular include provision requiring the landlord—

(a) to provide details of proposed works or agreements to tenants or the recognised tenants' association representing them,

(b) to obtain estimates for proposed works or agreements,

(c) to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,

(d) to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and

(e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.

(6) Regulations under section 20 or this section—

(a) may make provision generally or only in relation to specific cases, and

(b) may make different provision for different purposes.

(7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament."

152 Statements of account

For section 21 of the 1985 Act (request for summary of relevant costs) substitute—

"**21 Regular statements of account**

(1) The landlord must supply to each tenant by whom service charges are payable, in relation to each accounting period, a written statement of account dealing with—

(a) service charges of the tenant and the tenants of dwellings associated with his dwelling,

(b) relevant costs relating to those service charges,

(c) the aggregate amount standing to the credit of the tenant and the tenants of those dwellings—

(i) at the beginning of the accounting period, and

(ii) at the end of the accounting period, and

(d) related matters.

(2) The statement of account in relation to an accounting period must be supplied to each such tenant not later than six months after the end of the accounting period.

(3) Where the landlord supplies a statement of account to a tenant he must also supply to him—

(a) a certificate of a qualified accountant that, in the accountant's opinion, the statement of account deals fairly with the matters with which it is required to deal and is sufficiently supported by accounts, receipts and other documents which have been produced to him, and

(b) a summary of the rights and obligations of tenants of dwellings in relation to service charges.

(4) The Secretary of State may make regulations prescribing requirements as to the form and content of—

(a) statements of account,

(b) accountants' certificates, and

(c) summaries of rights and obligations,

required to be supplied under this section.

(5) The Secretary of State may make regulations prescribing exceptions from the requirement to supply an accountant's certificate.

(6) If the landlord has been notified by a tenant of an address in England and Wales at which he wishes to have supplied to him documents required to be so supplied under this section, the landlord must supply them to him at that address.

(7) And the landlord is to be taken to have been so notified if notification has been given to—

(a) an agent of the landlord named as such in the rent book or similar document, or

(b) the person who receives the rent on behalf of the landlord;

and where notification is given to such an agent or person he must forward it as soon as may be to the landlord.

(8) For the purposes of this section a dwelling is associated with another dwelling if the obligations of the tenants of the dwellings under the terms of their leases as regards contributing to relevant costs relate to the same costs.

(9) In this section "accounting period" means such period—

(a) beginning with the relevant date, and

(b) ending with such date, not later than twelve months after the relevant date,

as the landlord determines.

(10) In the case of the first accounting period in relation to any dwellings, the relevant date is the later of—

(a) the date on which service charges are first payable under a lease of any of them, and

(b) the date on which section 152 of the Commonhold and Leasehold Reform Act 2002 comes into force,

and, in the case of subsequent accounting periods, it is the date immediately following the end of the previous accounting period.

(11) Regulations under subsection (4) may make different provision for different purposes.

(12) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

21A Withholding of service charges

(1) A tenant may withhold payment of a service charge if—

(a) the landlord has not supplied a document to him by the time by which he is required to supply it under section 21, or

(b) the form or content of a document which the landlord has supplied to him under that section (at any time) does not conform exactly or substantially with the requirements prescribed by regulations under subsection (4) of that section.

(2) The maximum amount which the tenant may withhold is an amount equal to the aggregate of—

(a) the service charges paid by him in the accounting period to which the document concerned would or does relate, and

(b) so much of the aggregate amount required to be dealt with in the statement of account for that accounting period by section 21(1)(c)(i) as stood to his credit.

(3) An amount may not be withheld under this section—

(a) in a case within paragraph (a) of subsection (1), after the document concerned has been supplied to the tenant by the landlord, or

(b) in a case within paragraph (b) of that subsection, after a document conforming exactly or substantially with the requirements prescribed by regulations under section 21(4) has been supplied to the tenant by the landlord by way of replacement of the one previously supplied.

(4) If, on an application made by the landlord to a leasehold valuation tribunal, the tribunal determines that the landlord has a reasonable excuse for a failure giving rise to the right of a tenant to withhold an amount under this section, the tenant may not withhold the amount after the determination is made.

(5) Where a tenant withholds a service charge under this section, any provisions of the tenancy relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it."

153 Notice to accompany demands for service charges

After section 21A of the 1985 Act (inserted by section 152) insert—

"**21B Notice to accompany demands for service charges**

(1) A demand for the payment of a service charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to service charges.

(2) The Secretary of State may make regulations prescribing requirements as to the form and content of such summaries of rights and obligations.

(3) A tenant may withhold payment of a service charge which has been demanded from him if subsection (1) is not complied with in relation to the demand.

(4) Where a tenant withholds a service charge under this section, any provisions of the lease relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it.

(5) Regulations under subsection (2) may make different provision for different purposes.

(6) Regulations under subsection (2) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament."

154 Inspection etc. of documents

For section 22 of the 1985 Act (request to inspect documents supporting summary of relevant costs) substitute—

"**22 Inspection etc. of documents**

(1) A tenant may by notice in writing require the landlord—

(a) to afford him reasonable facilities for inspecting accounts, receipts or other documents relevant to the matters which must be dealt with in a statement of account required to be supplied to him under section 21 and for taking copies of or extracts from them, or

(b) to take copies of or extracts from any such accounts, receipts or other documents and either send them to him or afford him reasonable facilities for collecting them (as he specifies).

(2) If the tenant is represented by a recognised tenants' association and he consents, the notice may be served by the secretary of the association instead of by the tenant (and in that case any requirement imposed by it is to afford reasonable facilities, or to send copies or extracts, to the secretary).

(3) A notice under this section may not be served after the end of the period of six months beginning with the date by which the tenant is required to be supplied with the statement of account under section 21.

(4) But if—

(a) the statement of account is not supplied to the tenant on or before that date, or

(b) the statement of account so supplied does not conform exactly or substantially with the requirements prescribed by regulations under section 21(4),

the six month period mentioned in subsection (3) does not begin until any later date on which the statement of account (conforming exactly or substantially with those requirements) is supplied to him.

(5) A notice under this section is duly served on the landlord if it is served on—

(a) an agent of the landlord named as such in the rent book or similar document, or

(b) the person who receives the rent on behalf of the landlord;

and a person on whom such a notice is so served must forward it as soon as may be to the landlord.

(6) The landlord must comply with a requirement imposed by a notice under this section within the period of twenty-one days beginning with the day on which he receives the notice.

(7) To the extent that a notice under this section requires the landlord to afford facilities for inspecting documents—

(a) he must do so free of charge, but

(b) he may treat as part of his costs of management any costs incurred by him in doing so.

(8) The landlord may make a reasonable charge for doing anything else in compliance with a requirement imposed by a notice under this section."

155 Liability to pay service charges: jurisdiction

(1) After section 27 of the 1985 Act insert—

"**27A Liability to pay service charges: jurisdiction**

(1) An application may be made to a leasehold valuation tribunal for a determination whether a service charge is payable and, if it is, as to—

(a) the person by whom it is payable,

(b) the person to whom it is payable,

(c) the amount which is payable,

(d) the date at or by which it is payable, and

(e) the manner in which it is payable.

(2) Subsection (1) applies whether or not any payment has been made.

(3) An application may also be made to a leasehold valuation tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to—

(a) the person by whom it would be payable,

(b) the person to whom it would be payable,

(c) the amount which would be payable,

(d) the date at or by which it would be payable, and

(e) the manner in which it would be payable.

(4) No application under subsection (1) or (3) may be made in respect of a matter which—

(a) has been agreed or admitted by the tenant,

(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,

(c) has been the subject of determination by a court, or

(d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

(6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—

(a) in a particular manner, or

(b) on particular evidence,

of any question which may be the subject of an application under subsection (1) or (3).

(7) The jurisdiction conferred on a leasehold valuation tribunal in respect of any matter by virtue of this section is in addition to any jurisdiction of a court in respect of the matter."

(2) In section 38 of the 1985 Act (definitions), at the end of the definitions of "arbitration agreement", "arbitration agreement" and "arbitral tribunal", insert "and post-dispute arbitration agreement", in relation to any matter, means an arbitration agreement made after a dispute about the matter has arisen;".

(3) In section 39 of the 1985 Act (index of defined expressions), in the first column, in the entry "arbitration agreement, arbitration agreement and arbitral tribunal", for "and arbitral tribunal" substitute ", arbitral tribunal and post-dispute arbitration agreement".

156 Service charge contributions to be held in separate account

(1) After section 42 of the 1987 Act insert—

"**42A Service charge contributions to be held in designated account**

(1) The payee must hold any sums standing to the credit of any trust fund in a designated account at a relevant financial institution.

(2) An account is a designated account in relation to sums standing to the credit of a trust fund if—

(a) the relevant financial institution has been notified in writing that sums standing to the credit of the trust fund are to be (or are) held in it, and

(b) no other funds are held in the account,

and the account is an account of a description specified in regulations made by the Secretary of State.

(3) Any of the contributing tenants, or the sole contributing tenant, may by notice in writing require the payee—

(a) to afford him reasonable facilities for inspecting documents evidencing that subsection (1) is complied with and for taking copies of or extracts from them, or

(b) to take copies of or extracts from any such documents and either send them to him or afford him reasonable facilities for collecting them (as he specifies).

(4) If the tenant is represented by a recognised tenants' association and he consents, the notice may be served by the secretary of the association instead of by the tenant (and in that case any requirement imposed by it is to afford reasonable facilities, or to send copies or extracts, to the secretary).

(5) A notice under this section is duly served on the payee if it is served on—

(a) an agent of the payee named as such in the rent book or similar document, or

(b) the person who receives the rent on behalf of the payee;

and a person on whom such a notice is so served must forward it as soon as may be to the payee.

(6) The payee must comply with a requirement imposed by a notice under this section within the period of twenty-one days beginning with the day on which he receives the notice.

(7) To the extent that a notice under this section requires the payee to afford facilities for inspecting documents—

(a) he must do so free of charge, but

(b) he may treat as part of his costs of management any costs incurred by him in doing so.

(8) The payee may make a reasonable charge for doing anything else in compliance with a requirement imposed by a notice under this section.

(9) Any of the contributing tenants, or the sole contributing tenant, may withhold payment of a service charge if he has reasonable grounds for believing that the payee has failed to comply with the duty imposed on him by subsection (1); and any provisions of his tenancy relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it.

(10) Nothing in this section applies to the payee if the circumstances are such as are specified in regulations made by the Secretary of State.

(11) In this section—

"recognised tenants' association" has the same meaning as in the 1985 Act, and

"relevant financial institution" has the meaning given by regulations made by the Secretary of State;

and expressions used both in section 42 and this section have the same meaning as in that section.

42B Failure to comply with section 42A

(1) If a person fails, without reasonable excuse, to comply with a duty imposed on him by or by virtue of section 42A he commits an offence.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) Where an offence under this section committed by a body corporate is proved—

(a) to have been committed with the consent or connivance of a director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in such a capacity, or

(b) to be due to any neglect on the part of such an officer or person,

he, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

(4) Where the affairs of a body corporate are managed by its members, subsection (3) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(5) Proceedings for an offence under this section may be brought by a local housing authority (within the meaning of section 1 of the Housing Act 1985 (c. 68)).”

(2) In section 53(2)(b) of the 1987 Act (regulations subject to negative procedure), insert at the end “or 42A”.

157 Service charges: minor and consequential amendments

Schedule 10 (minor and consequential amendments about service charges) has effect.

158 Administration charges

Schedule 11 (which makes provision about administration charges payable by tenants of dwellings) has effect.

159 Charges under estate management schemes

(1) This section applies where a scheme under—

(a) section 19 of the 1967 Act (estate management schemes in connection with enfranchisement under that Act),

(b) Chapter 4 of Part 1 of the 1993 Act (estate management schemes in connection with enfranchisement under the 1967 Act or Chapter 1 of Part 1 of the 1993 Act), or

(c) section 94(6) of the 1993 Act (corresponding schemes in relation to areas occupied under leases from Crown),

includes provision imposing on persons occupying or interested in property an obligation to make payments (“estate charges”).

(2) A variable estate charge is payable only to the extent that the amount of the charge is reasonable; and “variable estate charge” means an estate charge which is neither—

(a) specified in the scheme, nor

(b) calculated in accordance with a formula specified in the scheme.

(3) Any person on whom an obligation to pay an estate charge is imposed by the scheme may apply to a leasehold valuation tribunal for an order varying the scheme in such manner as is specified in the application on the grounds that—

(a) any estate charge specified in the scheme is unreasonable, or

(b) any formula specified in the scheme in accordance with which any estate charge is calculated is unreasonable.

(4) If the grounds on which the application was made are established to the satisfaction of the tribunal, it may make an order varying the scheme in such manner as is specified in the order.

(5) The variation specified in the order may be—

(a) the variation specified in the application, or

(b) such other variation as the tribunal thinks fit.

(6) An application may be made to a leasehold valuation tribunal for a determination whether an estate charge is payable by a person and, if it is, as to—

(a) the person by whom it is payable,

(b) the person to whom it is payable,

(c) the amount which is payable,

(d) the date at or by which it is payable, and

(e) the manner in which it is payable.

(7) Subsection (6) applies whether or not any payment has been made.

(8) The jurisdiction conferred on a leasehold valuation tribunal in respect of any matter by virtue of subsection (6) is in addition to any jurisdiction of a court in respect of the matter.

(9) No application under subsection (6) may be made in respect of a matter which—

(a) has been agreed or admitted by the person concerned,

(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which that person is a party,

(c) has been the subject of determination by a court, or

(d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(10) But the person is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

(11) An agreement (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—

(a) in a particular manner, or

(b) on particular evidence,

of any question which may be the subject matter of an application under subsection (6).

(12) In this section—

"post-dispute arbitration agreement", in relation to any matter, means an arbitration agreement made after a dispute about the matter has arisen, and

"arbitration agreement" and "arbitral tribunal" have the same meanings as in Part 1 of the Arbitration Act 1996 (c. 23).

Managers appointed by leasehold valuation tribunal

160 Third parties with management responsibilities

(1) The 1987 Act has effect subject to the following amendments.

(2) In section 22 (notice by tenant before application for appointment of manager is made)—

(a) in subsection (1), for "on the landlord by the tenant" substitute "by the tenant on—

(i) the landlord, and

(ii) any person (other than the landlord) by whom obligations relating to the management of the premises or any part of them are owed to the tenant under his tenancy",

(b) in subsection (2)(a), for "the landlord" substitute "any person on whom the notice is served",

(c) in subsection (2)(b), for "landlord complies with the requirement specified in pursuance of that paragraph" substitute "requirement specified in pursuance of that paragraph is complied with",

(d) in subsection (2)(d), for "the landlord, require the landlord" substitute "any person on whom the notice is served, require him", and

(e) in subsection (3)—

(i) after "this section" insert "on a person", and

(ii) for "landlord" substitute "person".

(3) In section 23(1) (application to tribunal for appointment of manager), for "landlord having taken the steps that he was required to take in pursuance of that provision" substitute "person required to take steps in pursuance of that paragraph having taken them".

(4) In section 24 (appointment of manager by tribunal)—

(a) in subsection (2), for "the landlord" (in both places) substitute "any relevant person",

(b) after that subsection insert—

"(2ZA) In this section "relevant person" means a person—

(a) on whom a notice has been served under section 22, or

(b) in the case of whom the requirement to serve a notice under that section has been dispensed with by an order under subsection (3) of that section.",

(c) in subsection (5), for "the landlord" substitute "any relevant person",

(d) in subsection (9A), for "a landlord's application" substitute "the application of any relevant person", and

(e) in subsection (11), for "section" substitute "Part".

(5) In section 29(3), insert at the end "which was made by reason of an act or omission on the part of the landlord."

161 Restriction of resident landlord exception

In section 21 of the 1987 Act (tenant's right to apply to tribunal for appointment of manager), after subsection (3) insert—

"(3A) But this Part is not prevented from applying to any premises because the interest of the landlord in the premises is held by a resident landlord if at least one-half of the flats contained in the premises are held on long leases which are not tenancies to which Part 2 of the Landlord and Tenant Act 1954 (c. 56) applies."

Variation of leases

162 Grounds for application by party to lease

(1) Section 35 of the 1987 Act (application by party to lease for variation of lease) is amended as follows.

(2) In subsection (2) (grounds for application), for paragraph (b) substitute—

"(b) the insurance of the building containing the flat or of any such land or building as is mentioned in paragraph (a)(iii);".

(3) After paragraph (f) of that subsection insert—

"(g) such other matters as may be prescribed by regulations made by the Secretary of State."

(4) After subsection (3) insert—

"(3A) For the purposes of subsection (2)(e) the factors for determining, in relation to a service charge payable under a lease, whether the lease makes satisfactory provision include whether it makes provision for an amount to be payable (by way of interest or otherwise) in respect of a failure to pay the service charge by the due date."

(5) In section 53(2)(b) of the 1987 Act (regulations subject to negative Parliamentary procedure), after "section 20(4)" insert "or 35(2)(g)".

163 Transfer of jurisdiction of court to tribunal

(1) Part 4 of the 1987 Act (variation of leases) is amended as follows.

(2) In section 35 (application by party to lease for variation of lease)—

(a) in subsection (1), for "the court" substitute "a leasehold valuation tribunal", and

(b) in subsection (5), for "Rules of court" substitute "Procedure regulations under Schedule 12 to the Commonhold and Leasehold Reform Act 2002".

(3) In section 36(1) (application by respondent for variation of other leases), for "court" substitute "tribunal".

(4) In section 37(1) (application by majority of parties for variation of leases), for "the court" substitute "a leasehold valuation tribunal".

(5) In section 38 (orders varying leases)—

(a) in subsections (1) to (5), for "court" (in each place) substitute "tribunal",

(b) in subsection (6)—

(i) for "The court" substitute "A tribunal", and

(ii) for "the court" substitute "the tribunal",

(c) in subsections (7) to (9), for "The court" substitute "A tribunal", and

(d) in subsection (10)—

(i) for "the court", in the first place, substitute "a tribunal", and

(ii) for "the court", in the other two places, substitute "the tribunal".

(6) In section 39 (applications by third parties for orders varying leases)—

(a) in subsection (3)(b), for "the court" substitute "a leasehold valuation tribunal",

(b) in subsection (4), for "The court" substitute "A tribunal", and
(c) in subsection (5)(b), for "court" substitute "tribunal".

(7) In section 40(1) (variation of insurance provisions of dwelling other than flat), for "the court" substitute "a leasehold valuation tribunal".

(8) In consequence of the preceding provisions, in section 52(2)(a) of the 1987 Act (jurisdiction of county courts), for ", 3 and 4" substitute "and 3".

Insurance

164 Insurance otherwise than with landlord's insurer

(1) This section applies where a long lease of a house requires the tenant to insure the house with an insurer nominated or approved by the landlord ("the landlord's insurer").

(2) The tenant is not required to effect the insurance with the landlord's insurer if—
(a) the house is insured under a policy of insurance issued by an authorised insurer,
(b) the policy covers the interests of both the landlord and the tenant,
(c) the policy covers all the risks which the lease requires be covered by insurance provided by the landlord's insurer,
(d) the amount of the cover is not less than that which the lease requires to be provided by such insurance, and
(e) the tenant satisfies subsection (3).

(3) To satisfy this subsection the tenant—
(a) must have given a notice of cover to the landlord before the end of the period of fourteen days beginning with the relevant date, and
(b) if (after that date) he has been requested to do so by a new landlord, must have given a notice of cover to him within the period of fourteen days beginning with the day on which the request was given.

(4) For the purposes of subsection (3)—
(a) if the policy has not been renewed the relevant date is the day on which it took effect and if it has been renewed it is the day from which it was last renewed, and
(b) a person is a new landlord on any day if he acquired the interest of the previous landlord under the lease on a disposal made by him during the period of one month ending with that day.

(5) A notice of cover is a notice specifying—
(a) the name of the insurer,
(b) the risks covered by the policy,
(c) the amount and period of the cover, and
(d) such further information as may be prescribed.

(6) A notice of cover—
(a) must be in the prescribed form, and
(b) may be sent by post.

(7) If a notice of cover is sent by post, it may be addressed to the landlord at the address specified in subsection (8).

(8) That address is—

(a) the address last furnished to the tenant 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 the tenant 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).

(9) But the tenant may not give a notice of cover to the landlord at the address specified in subsection (8) if he has been notified by the landlord of a different address in England and Wales at which he wishes to be given any such notice.

(10) In this section—

"authorised insurer", in relation to a policy of insurance, means a person who may carry on in the United Kingdom the business of effecting or carrying out contracts of insurance of the sort provided under the policy without contravening the prohibition imposed by section 19 of the Financial Services and Markets Act 2000 (c. 8),

"house" has the same meaning as for the purposes of Part 1 of the 1967 Act,

"landlord" and "tenant" have the same meanings as in Chapter 1 of this Part,

"long lease" has the meaning given by sections 76 and 77 of this Act, and

"prescribed" means prescribed by regulations made by the appropriate national authority.

165 Extension of right to challenge landlord's choice of insurer

(1) Paragraph 8 of the Schedule to the 1985 Act (right to challenge landlord's nomination of insurer) is amended as follows.

(2) In sub-paragraphs (1) and (2), after "nominated" insert "or approved".

(3) In sub-paragraph (4), after "nominate" (in both places) insert "or approve".

Ground rent

166 Requirement to notify long leaseholders that rent is due

(1) A tenant under a long lease of a dwelling is not liable to make a payment of rent under the lease unless the landlord has given him a notice relating to the payment; and the date on which he is liable to make the payment is that specified in the notice.

(2) The notice must specify—

(a) the amount of the payment,

(b) the date on which the tenant is liable to make it, and

(c) if different from that date, the date on which he would have been liable to make it in accordance with the lease,

and shall contain any such further information as may be prescribed.

(3) The date on which the tenant is liable to make the payment must not be—

(a) either less than 30 days or more than 60 days after the day on which the notice is given, or

(b) before that on which he would have been liable to make it in accordance with the lease.

(4) If the date on which the tenant is liable to make the payment is after that on which he would have been liable to make it in accordance with the lease, any provisions of the lease relating to non-payment or late payment of rent have effect accordingly.

(5) The notice—

(a) must be in the prescribed form, and

(b) may be sent by post.

(6) If the notice is sent by post, it must be addressed to a tenant at the dwelling unless he has notified the landlord in writing of a different address in England and Wales at which he wishes to be given notices under this section (in which case it must be addressed to him there).

(7) In this section "rent" does not include—

(a) a service charge (within the meaning of section 18(1) of the 1985 Act), or

(b) an administration charge (within the meaning of Part 1 of Schedule 11 to this Act).

(8) In this section "long lease of a dwelling" does not include—

(a) a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (c. 56) (business tenancies) applies,

(b) a tenancy of an agricultural holding within the meaning of the Agricultural Holdings Act 1986 (c. 5) in relation to which that Act applies, or

(c) a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995 (c. 8).

(9) In this section—

"dwelling" has the same meaning as in the 1985 Act,

"landlord" and "tenant" have the same meanings as in Chapter 1 of this Part,

"long lease" has the meaning given by sections 76 and 77 of this Act, and

"prescribed" means prescribed by regulations made by the appropriate national authority.

Forfeiture of leases of dwellings

167 Failure to pay small amount for short period

(1) A landlord under a long lease of a dwelling may not exercise a right of re-entry or forfeiture for failure by a tenant to pay an amount consisting of rent, service charges or administration charges (or a combination of them) ("the unpaid amount") unless the unpaid amount—

(a) exceeds the prescribed sum, or

(b) consists of or includes an amount which has been payable for more than a prescribed period.

(2) The sum prescribed under subsection (1)(a) must not exceed £500.

(3) If the unpaid amount includes a default charge, it is to be treated for the purposes of subsection (1)(a) as reduced by the amount of the charge; and for this purpose "default charge" means an administration charge payable in respect of the tenant's failure to pay any part of the unpaid amount.

(4) In this section "long lease of a dwelling" does not include—

(a) a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (c. 56) (business tenancies) applies,

(b) a tenancy of an agricultural holding within the meaning of the Agricultural Holdings Act 1986 (c. 5) in relation to which that Act applies, or

(c) a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995 (c. 8).

(5) In this section—

"administration charge" has the same meaning as in Part 1 of Schedule 11,

"dwelling" has the same meaning as in the 1985 Act,

"landlord" and "tenant" have the same meaning as in Chapter 1 of this Part,

"long lease" has the meaning given by sections 76 and 77 of this Act, except that a shared ownership lease is a long lease whatever the tenant's total share,

"prescribed" means prescribed by regulations made by the appropriate national authority, and

"service charge" has the meaning given by section 18(1) of the 1985 Act.

168 No forfeiture notice before determination of breach

(1) A landlord under a long lease of a dwelling may not serve a notice under section 146(1) of the Law of Property Act 1925 (c. 20) (restriction on forfeiture) in respect of a breach by a tenant of a covenant or condition in the lease unless subsection (2) is satisfied.

(2) This subsection is satisfied if—

(a) it has been finally determined on an application under subsection (4) that the breach has occurred,

(b) the tenant has admitted the breach, or

(c) a court in any proceedings, or an arbitral tribunal in proceedings pursuant to a post-dispute arbitration agreement, has finally determined that the breach has occurred.

(3) But a notice may not be served by virtue of subsection (2)(a) or (c) until after the end of the period of 14 days beginning with the day after that on which the final determination is made.

(4) A landlord under a long lease of a dwelling may make an application to a leasehold valuation tribunal for a determination that a breach of a covenant or condition in the lease has occurred.

(5) But a landlord may not make an application under subsection (4) in respect of a matter which—

(a) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,

(b) has been the subject of determination by a court, or

(c) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

169 Section 168: supplementary

(1) An agreement by a tenant under a long lease of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—

(a) in a particular manner, or

(b) on particular evidence,

of any question which may be the subject of an application under section 168(4).

(2) For the purposes of section 168 it is finally determined that a breach of a covenant or condition in a lease has occurred—

(a) if a decision that it has occurred is not appealed against or otherwise challenged, at the end of the period for bringing an appeal or other challenge, or

(b) if such a decision is appealed against or otherwise challenged and not set aside in consequence of the appeal or other challenge, at the time specified in subsection (3).

(3) The time referred to in subsection (2)(b) is the time when the appeal or other challenge is disposed of—

(a) by the determination of the appeal or other challenge and the expiry of the time for bringing a subsequent appeal (if any), or

(b) by its being abandoned or otherwise ceasing to have effect.

(4) In section 168 and this section "long lease of a dwelling" does not include—

(a) a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (c. 56) (business tenancies) applies,

(b) a tenancy of an agricultural holding within the meaning of the Agricultural Holdings Act 1986 (c. 5) in relation to which that Act applies, or

(c) a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995 (c. 8).

(5) In section 168 and this section—

"arbitration agreement" and "arbitral tribunal" have the same meaning as in Part 1 of the Arbitration Act 1996 (c. 23) and "post-dispute arbitration agreement", in relation to any breach (or alleged breach), means an arbitration agreement made after the breach has occurred (or is alleged to have occurred),

"dwelling" has the same meaning as in the 1985 Act,

"landlord" and "tenant" have the same meaning as in Chapter 1 of this Part, and

"long lease" has the meaning given by sections 76 and 77 of this Act, except that a shared ownership lease is a long lease whatever the tenant's total share.

(6) Section 146(7) of the Law of Property Act 1925 (c. 20) applies for the purposes of section 168 and this section.

(7) Nothing in section 168 affects the service of a notice under section 146(1) of the Law of Property Act 1925 in respect of a failure to pay—

(a) a service charge (within the meaning of section 18(1) of the 1985 Act), or

(b) an administration charge (within the meaning of Part 1 of Schedule 11 to this Act).

170 Forfeiture for failure to pay service charge etc

(1) Section 81 of the Housing Act 1996 (c. 52) (restriction on forfeiture for failure to pay service charge) is amended as follows.

(2) In subsection (1), for the words from "to pay" to the end substitute "by a tenant to pay a service charge or administration charge unless—

(a) it is finally determined by (or on appeal from) a leasehold valuation tribunal or by a court, or by an arbitral tribunal in proceedings pursuant to a post-dispute arbitration agreement, that the amount of the service charge or administration charge is payable by him, or

(b) the tenant has admitted that it is so payable."

(3) For subsection (2) substitute—

"(2) The landlord may not exercise a right of re-entry or forfeiture by virtue of subsection (1)(a) until after the end of the period of 14 days beginning with the day after that on which the final determination is made."

(4) For subsection (3) substitute—

"(3) For the purposes of this section it is finally determined that the amount of a service charge or administration charge is payable—

(a) if a decision that it is payable is not appealed against or otherwise challenged, at the end of the time for bringing an appeal or other challenge, or

(b) if such a decision is appealed against or otherwise challenged and not set aside in consequence of the appeal or other challenge, at the time specified in subsection (3A).

(3A) The time referred to in subsection (3)(b) is the time when the appeal or other challenge is disposed of—

(a) by the determination of the appeal or other challenge and the expiry of the time for bringing a subsequent appeal (if any), or

(b) by its being abandoned or otherwise ceasing to have effect."

(5) After subsection (4) insert—

"(4A) References in this section to the exercise of a right of re-entry or forfeiture include the service of a notice under section 146(1) of the Law of Property Act 1925 (restriction on re-entry or forfeiture)."

(6) In subsection (5), after "this section" insert—

"(a) "administration charge" has the meaning given by Part 1 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002,

(b) "arbitration agreement" and "arbitral tribunal" have the same meaning as in Part 1 of the Arbitration Act 1996 (c. 23) and "post-dispute arbitration agreement", in relation to any matter, means an arbitration agreement made after a dispute about the matter has arisen,

(c) "dwelling" has the same meaning as in the Landlord and Tenant Act 1985 (c. 70), and

(d)".

171 Power to prescribe additional or different requirements

(1) The appropriate national authority may by regulations prescribe requirements which must be met before a right of re-entry or forfeiture may be exercised in relation to a breach of a covenant or condition in a long lease of an unmortgaged dwelling.

(2) The regulations may specify that the requirements are to be in addition to, or instead of, requirements imposed otherwise than by the regulations.

(3) In this section "long lease of a dwelling" does not include—

(a) a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (c. 56) (business tenancies) applies,

(b) a tenancy of an agricultural holding within the meaning of the Agricultural Holdings Act 1986 (c. 5) in relation to which that Act applies, or

(c) a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995 (c. 8).

(4) For the purposes of this section a dwelling is unmortgaged if it is not subject to a mortgage, charge or lien.

(5) In this section—

"dwelling" has the same meaning as in the 1985 Act, and

"long lease" has the meaning given by sections 76 and 77 of this Act, except that a shared ownership lease is a long lease whatever the tenant's total share.

Crown application

172 Application to Crown

(1) The following provisions apply in relation to Crown land (as in relation to other land)—

(a) sections 18 to 30B of (and the Schedule to) the 1985 Act (service charges, insurance and managing agents),

(b) Part 2 of the 1987 Act (appointment of manager by leasehold valuation tribunal),

(c) Part 4 of the 1987 Act (variation of leases),

(d) sections 46 to 49 of the 1987 Act (information to be furnished to tenants),

(e) Chapter 5 of Part 1 of the 1993 Act (management audit),

(f) section 81 of the Housing Act 1996 (c. 52) (restriction on termination of tenancy for failure to pay service charge etc.),

(g) section 84 of (and Schedule 4 to) that Act (right to appoint surveyor), and

(h) in this Chapter, the provisions relating to any of the provisions within paragraphs (a) to (g), Part 1 of Schedule 11 and sections 164 to 171.

(2) Land is Crown land if there is or has at any time been an interest or estate in the land—

(a) comprised in the Crown Estate,

(b) belonging to Her Majesty in right of the Duchy of Lancaster,

(c) belonging to the Duchy of Cornwall, or

(d) belonging to a government department or held on behalf of Her Majesty for the purposes of a government department.

(3) No failure by the Crown to perform a duty imposed by or by virtue of any of sections 21 to 23A of, or any of paragraphs 2 to 4A of the Schedule to, the 1985 Act makes the Crown criminally liable; but the High Court may declare any such failure without reasonable excuse to be unlawful.

(4) Any sum payable under any of the provisions mentioned in subsection (1) 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.

(5) Any sum payable under any such provision 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.

(6) In section 56 of the 1987 Act (Crown land)—

(a) in subsection (1), for "This Act" substitute "Parts 1 and 3 and sections 42 to 42B (and so much of this Part as relates to those provisions)", and

(b) in subsection (3), for "this Act" substitute "the provisions mentioned in subsection (1)".