Changes to legislation: *Commonhold and Leasehold Reform Act 2002, Section 156 is up to date with all changes known to be in force on or before 06 July 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*

Commonhold and Leasehold Reform Act 2002

2002 CHAPTER 15

PART 2

LEASEHOLD REFORM

CHAPTER 5

OTHER PROVISIONS ABOUT LEASES

Service charges, administration charges etc.

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—

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(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.

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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”.

Commencement Information

I1 S. 156 partly in force; s. 156 not in force at Royal Assent, see s. 181(1); s. 156 in force for specified purposes at 26.7.2002 for E. by S.I. 2002/1912, **art. 2(c)**; s. 156 in force for specified purposes at 1.1.2003 for W. by S.I. 2002/3012, **art. 2(c)**

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Changes and effects yet to be applied to :

– s. 156(2) repealed by 2008 c. 17 Sch. 16