



# Commonhold and Leasehold Reform Act 2002

## 2002 CHAPTER 15

### PART 2

#### LEASEHOLD REFORM

### CHAPTER 5

#### OTHER PROVISIONS ABOUT LEASES

*Service charges, administration charges etc.*

#### **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.

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*Status: This is the original version (as it was originally enacted).*

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- (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).