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STATUTORY INSTRUMENTS

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**1997 No. 1854**

**LANDLORD AND TENANT,  
ENGLAND AND WALES**

**The Rent Assessment Committee (England and Wales)  
(Leasehold Valuation Tribunal) (Amendment) Regulations 1997**

*Made* - - - - 28th July 1997  
*Laid before Parliament* 30th July 1997  
*Coming into force* - - 1st September 1997

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred by section 74(1)(b) of the Rent Act 1977(1) (as extended by section 31A(2) and 31A(3) of the Landlord and Tenant Act 1985(2) and section 24A(2) and (3) of the Landlord and Tenant Act 1987(3)), section 23(2) of the Landlord and Tenant Act 1987(4), section 119 of the Housing Act 1996 and of all other powers enabling them in that behalf, and after consultation with the Council on Tribunals(5), hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Rent Assessment Committee (England and Wales) (Leasehold Valuation Tribunal) (Amendment) Regulations 1997 and shall come into force on 1st September 1997.

**Amendment of the Regulations 1993**

2. The Rent Assessment Committee (England and Wales) (Leasehold Valuation Tribunal) Regulations 1993(6) are amended in accordance with regulations 3 to 8 of these Regulations.

**Interpretation**

3. In regulation 2(7) (interpretation)—  
(a) for “In these Regulations—” substitute

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(1) 1977 c. 42. Section 74(1)(b) was amended by paragraph 7 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28).  
(2) 1985 c. 70. Section 31A was inserted by the Housing Act 1996 (c. 52), section 83(3).  
(3) 1987 c. 31. Section 24A was inserted by the Housing Act 1996, section 86(5).  
(4) Section 23(2) was amended by section 86(4) of the Housing Act 1996.  
(5) See section 8 of the Tribunals and Inquiries Act 1992 (c. 53).  
(6) S.I.1993/2408; amended by S.I. 1996/2305.  
(7) Regulation 2 was amended by S.I. 1996/2305.

“In these Regulations—

“applicant” means—

- (i) the person making an application to a tribunal, or
- (ii) the plaintiff in proceedings before a court where the court has ordered the transfer to the tribunal of so much of the proceedings as relate to the determination of a question falling within the jurisdiction of the tribunal;”;

(b) for the definition of “application” substitute—

““application” means an application to a tribunal under—

section 21(1) of the Leasehold Reform Act 1967<sup>(8)</sup> (jurisdiction of leasehold valuation tribunals);

section 19 of the Landlord and Tenant Act 1985<sup>(9)</sup> (determination of reasonableness of service charges;

section 20C of that Act<sup>(10)</sup> (limitation of service charges: costs of proceedings);

paragraph 8 of the Schedule to that Act (right to challenge landlord’s choice of insurers)<sup>(11)</sup>;

section 13 of the Landlord and Tenant Act 1987 (determination of questions by leasehold valuation tribunal)<sup>(12)</sup>;

Part II of that Act (appointment of manager by leasehold valuation tribunal)<sup>(13)</sup>;

section 31 of that Act (determination by leasehold valuation tribunal of terms where acquisition order);

Part I of the 1993 Act (collective enfranchisement and grant of new lease) and includes, except where the contrary is indicated, a scheme application; or a transferred application;

“Part II application” means an application for an order under section 22(3), section 24(1) or section 24(9) of the Landlord and Tenant Act 1987 (appointment of manager)<sup>(14)</sup>;”;

(c) after the definition of “person making representations” insert—

““representative application” has the meaning given in regulation 4C(1);

“respondent” means the person against whom the applicant seeks an order or determination and in a case which is transferred to the tribunal from a court it means the defendant or respondent in the court application;”;

(d) for the definition of “scheme application” substitute—

““scheme application” means an application under—

- (a) section 19 of the Leasehold Reform Act 1967 (retention of management powers for general benefit of neighbourhood) as it has effect by virtue of section 75 of the 1993 Act (variation of existing schemes), or

<sup>(8)</sup> 1967 c. 88; section 21 was amended by section 142 and section 152 of, and paragraph 8 of Part II of Schedule 22 to the Housing Act 1980 (c. 51); by section 148 of the County Courts Act 1984 (c. 28); by section 187(1) of, and paragraph 4 of Schedule 21 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28); and section 115 of the Housing Act 1996 (c. 52).

<sup>(9)</sup> Section 19 was amended by paragraph 2 of Schedule 2 to the Landlord and Tenant Act 1987 (c. 31) and by section 83(1) of the Housing Act 1996.

<sup>(10)</sup> Section 20C was substituted by section 83(4) of the Housing Act 1996.

<sup>(11)</sup> The Schedule to the Landlord and Tenant Act 1985 was inserted by section 43(2) of the Landlord and Tenant Act 1987 and paragraph 8 was substituted by section 83(2) of the Housing Act 1996.

<sup>(12)</sup> 1987 c. 31; section 13 was substituted by section 92(1) of, and Part II of Schedule 6 to the Housing Act 1996.

<sup>(13)</sup> Sections 21 to 24 and 52 of the Landlord and Tenant Act 1987 were amended by sections 85 and 86 of the Housing Act 1996.

<sup>(14)</sup> Part II of the Landlord and Tenant Act 1987 was amended by sections 85 and 86 of the Housing Act 1996.

- (b) Chapter IV of Part I of the 1993 Act, including that Chapter as it has effect by virtue of section 118(1) of the Housing Act 1996 (estate management schemes in connection with enfranchisement by virtue of section 106);
- “transferred application” means so much of proceedings before a court as relate to a question falling within the jurisdiction of the tribunal which have been transferred to the tribunal for determination by order of the court;
- “1985 Act application” means an application under section 19, section 20C of, or paragraph 8 of the Schedule to, the Landlord and Tenant Act 1985;”.

## **Applications**

4. In regulation 3 (applications), in paragraph (1) after the words “except a scheme application,” insert “a 1985 Act application and a Part II application,”.
5. After regulation 4 insert the following regulations—

### **“Notice of applications**

**4A.** In the case of any 1985 Act application, Part II application or transferred application where the tribunal is aware of the names and addresses of persons who may be affected by an application, or is aware that a recognised tenants' association exists for the property which is the subject of the application, the tribunal shall give notice of the application to such persons and the secretary of such association.

### **Dismissal of frivolous etc. applications**

**4B.—**(1) Subject to paragraph (2), where in respect of a 1985 Act application, a Part II application or a transferred application—

- (a) it appears to a tribunal that such an application is frivolous or vexatious or otherwise an abuse of the process of the tribunal, or
- (b) the respondent to an application applies to the tribunal to dismiss such an application as frivolous or vexatious or otherwise an abuse of the process of the tribunal,

the tribunal may (whether of its own motion or on the application of any respondent named in the application) dismiss such application, in whole or in part.

(2) Such application may not be dismissed unless—

- (a) the tribunal has given to the applicant notice in writing containing a statement—
- (i) that it is minded to dismiss the application;
- (ii) of the grounds on which it is so minded or, as the case may be, of the grounds mentioned in the respondent’s application;
- (iii) that the applicant may, within the period of 21 days starting on the date of issue of the notice (or such further period as the tribunal may allow), request to appear and be heard by the tribunal on the question whether his application should be dismissed; and
- (b) such request as is mentioned in paragraph (2)(a)(iii)—
- (i) is not made to the tribunal within the period specified in that paragraph (or such further period as the tribunal may allow); or
- (ii) such a request is made to the tribunal within that period (or such further period as the tribunal may allow) and the tribunal has heard the applicant

and the respondent, or such of them as attend the hearing, on the question of the dismissal of the application.

**Representative applications and other provisions for securing consistency**

**4C.—**(1) Where it appears to a tribunal that numerous 1985 Act applications, Part II applications or transferred applications—

- (a) have been made in respect of the same or substantially the same matters, or
- (b) include some matters which are the same or substantially the same,

the tribunal may give notice to all parties to such applications and any other person who is known to the tribunal and who may be affected by the application that the tribunal proposes to hear and determine only one of those applications (“the representative application”) as representative of all of the applications or matters which are the same or substantially the same.

(2) A notice under paragraph (1)—

- (a) shall specify the matters which, in the tribunal’s opinion, are common to all of the applications and the application which the tribunal proposes to hear as the representative application;
- (b) shall state that, if the tribunal determines the representative application, the decision made and recorded in respect of the matters specified in accordance with sub-paragraph (a) in relation to that application will be treated as also made and be recorded in respect of such matters in any application made by a person to whom notice of the tribunal’s intention to hear a representative application was sent whether or not such a person has, at the time of the notice, made an application including such matters;
- (c) shall invite objections in response to the tribunal’s proposal for the hearing and determination of a representative application;
- (d) shall specify the address to which objections may be sent and the date (being not less than 21 days later starting on the date of issue of the notice by the tribunal) by which such objections must be received by the tribunal; and
- (e) shall contain a statement that an appeal to the Lands Tribunal may only be made by a person who appeared before the tribunal in proceedings to which he was a party.

(3) Where in response to a notice under paragraph (1) no objections are received on or before the date specified in the notice (or such further time as the tribunal may allow)—

- (a) the tribunal need not comply with regulation 5 in respect of any application or part of an application, other than the representative application, which concerns the same or substantially the same matters as specified in the notice given under paragraph (1) made by a person to whom the notice specified in paragraph (1) was sent;
- (b) the tribunal shall hear and determine the representative application in accordance with these Regulations; and
- (c) the decision of the tribunal in respect of that application shall also be recorded as the decision of the tribunal in respect of all of the matters specified in the notice under paragraph (1) which are common to any other application made by a person to whom notice under paragraph (1) was sent.

(4) Where, on or before the date specified in the notice (or such further period as the tribunal may allow), objections are received in response to a notice under paragraph (1)—

- (a) sub-paragraphs (a) to (c) of paragraph (3) shall apply, with the necessary modifications, in relation to those applications in respect of which no objections were made, and
- (b) the applications in respect of which objections were made may be heard together with the representative application.

#### **Subsequent applications where notice of the representative application given**

**4D.**—(1) If, after the decision on a representative application has been recorded, a Part II application or a 1985 Act application is made which has the same or substantially the same matters in common with the representative application, and the applicant is a person to whom notice under regulation 4C(1) was sent, the tribunal shall give notice to the applicant, the respondent and any other person known to the tribunal who may be affected by the application of—

- (a) the matters which, in the opinion of the tribunal, are common to such application and the representative application,
- (b) the decision recorded in respect of such matters in the representative application,
- (c) the date on which notice under regulation 4C(1) was sent to the applicant,
- (d) the tribunal's proposal to record the tribunal's decision on such matters in the application in identical terms to the decision in the representative application, and
- (e) the address to which objections to the tribunal's proposal may be sent and the date (being not less than 21 days later starting on the date of issue of the notice by the tribunal) by which such objections must be received by the tribunal.

(2) A notice under paragraph (1) shall contain a statement that an appeal to the Lands Tribunal may only be made by a person who appeared before the tribunal in proceedings to which he was a party.

(3) Where, in response to a notice under paragraph (1) no objections are received by the tribunal on or before the date specified in the notice (or such further period as the tribunal may allow), the tribunal need not determine those matters specified in the notice as common to the application and the representative application and the decision of the tribunal in respect of such matters in the representative application shall be recorded as the decision of the tribunal in respect of such matters in the application.

(4) Without prejudice to regulation 4B, where in response to a notice under paragraph (1)

- (a) the applicant,
- (b) the respondent, or
- (c) any other person who applies to be made a party to the application and who is made a party,

objects to the tribunal's proposal to record a decision as specified in the notice such person shall, on or before the date specified in the notice (or such further period as the tribunal may allow), notify the tribunal of their objection stating the grounds for their objection and, in particular, whether it is alleged that they did not receive the notice specified in regulation 4C.

(5) The tribunal shall determine any objection under paragraph (3) in accordance with regulation 5 and, if the tribunal consider that the person making such objection did receive the notice specified under regulation 4C, and there is no other valid objection, the tribunal may record the decision specified in the notice under paragraph (1) as the decision of the tribunal in the application.

### **Subsequent applications where notice of representative application not given**

**4E.—(1)** If, after the decision on a representative application has been recorded, the tribunal receives a Part II application or a 1985 Act application which has the same or substantially the same matters in common with the representative application and the applicant is not a person to whom a notice under regulation 4C(1) was sent, the tribunal shall give notice to the applicant, the respondent and any other person known to the tribunal who may be affected by the application of—

- (a) the matters which, in the opinion of the tribunal, are common to such application and the representative application, and
- (b) the decision recorded in respect of such matters in the representative application.
- (c) the tribunal's proposal to record its decision on such matters in the application in identical terms to the decision in the representative application, and
- (d) the address to which objections to the tribunal's proposal may be sent and the date (being not less than 21 days later starting on the date of the issue of the notice by the tribunal) by which such objections must be received by the tribunal.

(2) A notice under paragraph (1) shall contain a statement that an appeal to the Lands Tribunal may only be made by a person who appeared before the tribunal in proceedings to which he was a party.

(3) Where, in response to a notice under paragraph (1) no objections are received on or before the date specified in the notice (or such further time as the tribunal may allow), the tribunal need not determine those matters specified in the notice as common to the application and the representative application and the tribunal's decision in respect of such matters in the representative application shall be recorded as the tribunal's decision on such matters in the application.

(4) Without prejudice to regulation 4B where, on or before the date specified in the notice (or such further period as the tribunal may allow), any objection is received in response to a notice under paragraph (1) from—

- (a) the applicant,
- (b) the respondent, or
- (c) a person who applies to be joined as a party to the application and who is joined as a party,

the tribunal shall hear and determine the application in accordance with the following provisions of these Regulations.

### **Joining of Parties**

**4F.—(1)** Any person who has received notice of an application under regulation 4A or who may be affected by an application or a transferred application may apply to the tribunal to be made a party to the application.

(2) Any application to be joined as a party to an application may be made ex parte.

(3) Nothing in this regulation shall be construed as requiring the tribunal to make such a person a party to the application and if it appears to the tribunal that any person, though he is affected by the application, is not sufficiently affected for it to be necessary for him to be made a party the tribunal may refuse to make him a party.

### **Pre-trial review**

**4G.**—(1) The tribunal may, whether of their own motion or on an application by a party, order a pre-trial review to be held in respect of an application.

(2) At the pre-trial review the tribunal shall—

- (a) give any direction that appears to the tribunal necessary or desirable for securing the just, expeditious and economical disposal of proceedings,
- (b) endeavour to secure that the parties make all such admissions and agreements as ought reasonably to be made by them in relation to the proceedings, and
- (c) may record in the order made on the pre-trial review any such admission or agreement or any refusal to make such admission or agreement.

(3) Where a party seeks a specific direction he shall, so far as is practicable, apply for such a direction at the pre-trial review and shall give the tribunal not less than 7 days notice (or such shorter period as the tribunal may allow) of his intention to do so.

(4) Where the tribunal has received notice of any specific direction which a party intends to seek at the pre-trial review the tribunal shall give every other party notice of the requested direction.

(5) The functions of the tribunal in relation to, or at, a pre-trial review may be exercised by any single member of the panel provided for in Schedule 10 to the Rent Act 1977<sup>(15)</sup> who was appointed to that panel by the Lord Chancellor.

### **Non payment of fees**

**4H.** In any case where a fee which is payable for an application, a transferred application or a hearing is not paid, the tribunal shall not proceed further until the fee is paid and where a fee is unpaid for a period of six months from the date of the request for payment issued by the tribunal the application shall be treated as withdrawn.”.

### **Hearings**

6. In regulation 5(1) (hearings) insert at the start “Subject to regulations 4C(3), 4D(3) and 4E(3),”.

7. After regulation 11 (decisions) insert—

#### **“Reimbursement of fees**

**11A.** Where the tribunal is considering requiring any party to the proceedings to reimburse any other party to the proceedings the whole or part of any fees paid by him to the tribunal in respect of the proceedings, the tribunal shall not make any such requirement unless the tribunal has—

- (a) given notice to the parties that the tribunal is considering making such a requirement,
- (b) given notice to the parties of the appointed date, time and place at which the tribunal will consider the representations of the parties in respect of the making of such a requirement which shall be not less than 21 (or such shorter period as the parties may agree) days before the appointed date, and
- (c) has considered the representations of the parties.

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<sup>(15)</sup> 1977 (c. 42); Schedule 10 was amended by sections 71, 148 and 152 of, and paragraph 56 of Schedule 26 to, the Housing Act 1980 (c. 51); section 26 of, and paragraph 56 of Schedule 6 to, the Judicial Pensions and Retirement Act 1993 (c. 8); and by Part XIII of Schedule 19 to the Housing Act 1996 (c. 52).

### Leave to appeal

**11B.** Where a party makes an application to a tribunal for leave to appeal to the Lands Tribunal—

- (a) the application for leave shall be made to the tribunal within the period of 21 days starting on the date on which the determination which is the subject of the application was sent to that party by the tribunal (or such further period as the tribunal may allow), and
- (b) an application for leave to appeal shall be served by the tribunal on every other party to the hearing.”.

### Notices

**8.** After regulation 14 (notices) insert—

#### “Substituted Service

**14A.** If any person to whom any notice or other document is required to be given or sent under these regulations—

- (a) cannot be found after all diligent enquiries have been made,
- (b) has died and has no personal representative,
- (c) is out of the United Kingdom and there is no known address for service in England and Wales, or
- (d) for any other reason service upon him cannot readily be effected in accordance with these regulations,

the tribunal may dispense with service upon that person, or may give directions for substituted service in such other form (whether by advertisement in a newspaper or otherwise) as the tribunal may think fit.”.

### Amendment to 1971 Regulations

**9.** The Rent Assessment Committees (England and Wales) Regulations 1971(**16**) are amended by the substitution for the definition of “committee” in regulation 2 (interpretation) of the following definition—

““committee” means a rent assessment committee constituted under Schedule 10 to the Rent Act 1977(**17**), to which a reference is made, but does not include a rent assessment committee carrying out the functions conferred on it by—

- section 72 of the Housing Act 1980 (functions of rent tribunals),
- section 142 of the Housing Act 1980 (leasehold valuation tribunals),
- section 31A of the Landlord and Tenant Act 1985 (jurisdiction of leasehold valuation tribunal),
- section 13 of the Landlord and Tenant Act 1987 (determination of questions by leasehold valuation tribunal)(**18**),

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(16) S.I. 1971/1065 was amended by S.I. 1980/1699, S.I. 1987/2178, S.I. 1988/484 and 2200, S.I. 1990/427, S.I. 1993/653 and 2408, and S.I. 1996/2305.

(17) 1977 c. 42.

(18) Section 13 was amended by section 92 of, and Part II of Schedule 6 to, the Housing Act 1996 (c. 52).

- section 24A of the Landlord and Tenant Act 1987 (jurisdiction of leasehold valuation tribunal)(**19**),
- section 31 of the Landlord and Tenant Act 1987 (determination of terms by leasehold valuation tribunal)(**20**),
- section 75, 88 or 91 of the Leasehold Reform, Housing and Urban Development Act 1993 (jurisdiction of leasehold valuation tribunals);”.

Signed by authority of the Secretary of State

25th July 1997

*Hilary Armstrong*  
Minister of State,  
Department of the Environment, Transport and  
the Regions

28th July 1997

*R. Davies*  
Secretary of State for Wales

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(19) Section 24A was inserted by section 86 of the Housing Act 1996.

(20) Section 31 was amended by section 92 of, and Part IV of Schedule 6 to, the Housing Act 1996.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Rent Assessment Committee (England and Wales) (Leasehold Valuation Tribunal) Regulations 1993 which deal with the procedure of leasehold valuation tribunals. The amendments are in consequence of new jurisdiction conferred on leasehold valuation tribunals in amendments to the Landlord and Tenant Act 1985 and the Landlord and Tenant Act 1987 made by the Housing Act 1996. The Regulations also make consequential amendments to the Rent Assessment Committees (England and Wales) Regulations 1971. The new jurisdiction relates to determination of matters relating to:

- service charges under sections 19(2A) and (2B) and 20C of, and paragraph 8 of Schedule 8 to, the 1985 Act (including cases where the court transfers proceedings to a leasehold valuation tribunal); and
- appointment of managers under Part II of the Landlord and Tenant Act 1987.

The main amendments to the 1993 Regulations are the insertion of regulations 4A to 4H (by regulation 5) and regulations 11A and 11B (by regulation 7) which deal with the following matters:

- notice of applications to be given by a tribunal (regulation 4A);
- power for a tribunal to dismiss an application which the tribunal considers frivolous, vexatious or otherwise an abuse of process (regulation 4B);
- provision for a tribunal to hear and determine a representative application where numerous applications have been made to the tribunal concerning the same or substantially the same matters (regulation 4C);
- provisions for applications which are made after the determination of the representative application on the same or similar matter where the applicant was given notice of the proposal to determine a representative application (regulation 4D);
- provisions for applications which are made after the determination of the representative application on the same or similar matters where the applicant was not given notice of the proposal to determine a representative application (regulation 4E);
- joining parties to an application (regulation 4F);
- pre-trial reviews (regulation 4G);
- consequences of non-payment of a fee (regulation 4H);
- orders requiring a party to proceedings to reimburse fees paid by another party (regulation 11A);
- leave to appeal against a decision of a tribunal to the Lands Tribunal (regulation 11B).

Regulation 8 makes provision for service where the whereabouts of the person to be served is unknown.

The 1971 Regulations are amended to exclude from their operation the new jurisdiction conferred on leasehold valuation tribunals since the 1993 Regulations are to apply in such cases (regulation 9).