

2003 No. 1986 (C.82)

LANDLORD AND TENANT, ENGLAND

**The Commonhold and Leasehold Reform Act 2002
(Commencement No. 2 and Savings) (England) Order 2003**

Made - - - -

4th August 2003

The Secretary of State, in exercise of the powers conferred upon him by section 181 of the Commonhold and Leasehold Reform Act 2002(a), hereby makes the following Order:

Citation, interpretation and application

1.—(1) This Order may be cited as the Commonhold and Leasehold Reform Act 2002 (Commencement No. 2 and Savings) (England) Order 2003.

(2) In this Order—

“LVT” means a leasehold valuation tribunal;

“the 1967 Act” means the Leasehold Reform Act 1967(b);

“the 1985 Act” means the Landlord and Tenant Act 1985(c);

“the 1987 Act” means the Landlord and Tenant Act 1987(d);

“the 1993 Act” means the Leasehold Reform, Housing and Urban Development Act 1993(e);

“the 1996 Act” means the Housing Act 1996(f);

“the first commencement date” means 30 September 2003;

“the second commencement date” means 31 October 2003;

references to sections and Schedules are, unless otherwise stated, references to sections of, and Schedules to, the Commonhold and Leasehold Reform Act 2002; and

any reference to a repeal is to a repeal made by section 180 and Schedule 14.

(3) This Order applies to England only.

Provisions coming into force on the first commencement date

2. The following provisions shall come into force on the first commencement date —

(a) sections 71 to 73, 75 to 77, 79, 81 to 83, 85 to 91, 93 to 103, 105 to 109, 111 to 113, 159, 163, 173, Schedules 6 and 7;

(a) 2002.c.15. The Secretary of State can exercise the power under this section only in relation to England - *see* section 181(4)(b) of the Commonhold and Leasehold Reform Act 2002.

(b) 1967 c.88.

(c) 1985 c.70.

(d) 1987 c.31.

(e) 1993 c.28.

(f) 1996 c.52.

- (b) sections 74, 78, 80, 84, 92, 110, 174 and Schedule 12 to the extent that they are not already in force;
- (c) subject to the savings in Schedule 2 to this Order—
 - (i) sections 148, 149, 150, 155, 157, 158, 175, 176, Schedule 9, paragraphs 8 to 13 of Schedule 10, Schedule 11 and paragraphs 1 to 15 of Schedule 13;
 - (ii) subsections (1) to (5) of section 172 except in so far as they relate to the application to the Crown of sections 152 to 154, 164 to 171, paragraphs 1 to 7 of Schedule 10 and paragraph 16 of Schedule 13;
 - (iii) subsection (6) of section 172 except in so far as the substitutions made by that subsection relate to sections 42A and 42B of the 1987 Act;
 - (iv) to the extent that it is not already in force, section 180 in so far as it relates to the repeals in Schedule 14 which are set out in Schedule 1 to this Order.

Provisions coming into force on the second commencement date

3.—(1) Subject to paragraphs (2) to (7), section 151, to the extent that it is not already in force, shall come into force on the second commencement date.

(2) In relation to any case to which paragraph (3), (4), (5) or (7) applies, the amendment made by section 151 shall have no effect and the Service Charge (Estimates and Consultation) Order 1988(a) shall continue to apply.

(3) This paragraph applies where qualifying works are begun before the second commencement date.

(4) This paragraph applies where, in relation to qualifying works, the landlord has given or displayed the notice required under section 20 of the 1985 Act before the second commencement date.

(5) This paragraph applies where, in relation to qualifying works to which paragraph (6) applies, the landlord has given notice in the Official Journal of the European Union in accordance with the Public Works Contracts Regulations 1991(b), the Public Services Contracts Regulations 1993(c) or the Public Supply Contracts Regulations 1995(d) before the second commencement date.

(6) This paragraph applies to qualifying works which are carried out under a contract which —

(a) is to be entered into on or after the second commencement date; and

(b) is for a period of twelve months or less.

(7) This paragraph applies where, under an agreement entered into, by or on behalf of the landlord or a superior landlord, before the second commencement date, qualifying works are carried out at any time in the period starting with the second commencement date and ending two months after that date.

Signed by authority of the First Secretary of State

4th August 2003

Keith Hill
Minister of State
Office of the Deputy Prime Minister

(a) S.I. 1988/1285.

(b) S.I. 1991/2680, to which there are amendments not relevant to this Order.

(c) S.I. 1993/3228, to which there are amendments not relevant to this Order.

(d) S.I. 1995/201 to which there are amendments not relevant to this Order.

SCHEDULE 1

Article 2(c)(iv)

REPEALS

PART 1

LEASEHOLD VALUATION TRIBUNALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Leasehold Reform Act 1967 (c. 88)	Section 21(1A) and (3) to (4A).
Housing Act 1980 (c. 51)	In section 142— subsubsection (2), and in subsubsection (3), the words from the beginning to “and”. In Schedule 22— Part 1, and in Part 2, paragraph 8(4) to (6).
Landlord and Tenant Act 1985 (c. 70)	Sections 31A to 31C. In the Schedule, paragraph 8(5).
Landlord and Tenant Act 1987 (c.31)	Section 23(2). Sections 24A and 24B. In section 38, in the sidenote, the words “by the court”. Section 52A In section 53(2), the words “under section 52A(3) or”.
Tribunals and Inquiries Act 1992 (c. 53)	In Schedule 3, paragraph 13.
Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)	Section 75(4) and (5). In section 88— in subsubsection (2)(b), the words “constituted for the purposes of that Part of that Act”, and subsubsections (3) to (5) and (7). In section 91— in subsubsection (1), the words from the beginning to “this section; and”, subsubsections (3) to (8), subsubsection (10), and in subsubsection (11), the words from “and the reference” to the end.
Leasehold Reform, Housing and Urban Development Act 1993 <i>Cont’d</i>	In section 94, in subsubsection (10), the words from “and references in this subsubsection” to the end. In section 101(1), the definition of “rent assessment committee”.
Housing Act 1996 (c. 52)	Section 83(3). Section 86(4) and (5).

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	Section 119. In Schedule 6, in Part 4, paragraphs 7 and 8.

PART 2
OTHER REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Landlord and Tenant Act 1985 (c. 70)	Section 19(2A) to (3). In section 39, the entry relating to the expression “flat”. In the Schedule— in the heading before paragraph 2, the words “Request for”, in the heading before paragraph 4, the words “Request relating to”, in the heading before paragraph 5, the words “on request”.
Landlord and Tenant Act 1987 (c. 31)	In section 29(2)(a), the words “repair, maintenance, insurance or”. Section 56(2). In Schedule 2, paragraphs 3 and 7.
Housing Act 1996 (c.52)	Section 83(1). In Schedule 9, paragraph 2(3) and (7).

SCHEDULE 2

Article 2(c)

SAVINGS

Absent landlords – leasehold houses

1. The amendments made by sections 148 and 149 shall not have effect in relation to an application for enfranchisement made under section 27 of the 1967 Act before the first commencement date.

Definition of service charges

2. The amendment made by paragraph 7 of Schedule 9 shall not apply to costs incurred before the first commencement date in connection with matters for which a service charge is payable.

Meaning of “management” in section 24 of the 1987 Act

3. The amendment made by paragraph 8 of Schedule 9 shall not apply to an application made under section 24 of the 1987 Act before the first commencement date.

Right to acquire landlord’s interest

4. The amendment made by paragraph 9 of Schedule 9 and the repeal in section 29 of the 1987 Act shall not apply to an application made under section 29 of that Act before the first commencement date.

Tenant’s right to a management audit

5. The amendments made by paragraph 10 of Schedule 9 shall not apply to an application made under section 80 of the 1993 Act before the first commencement date.

Liability to pay service charges

6. The amendment made by section 155 and the repeals of section 19(2A) to (3) of the 1985 Act and of section 83(1) of the 1996 Act shall not have effect in relation to—

- (a) any application made to a LVT under section 19(2A) or (2B) of the 1985 Act; or
- (b) any proceedings relating to a service charge transferred to a LVT by a county court,

before the first commencement date.

Insurance

7. The amendments made by paragraphs 8 to 13 of Schedule 10 and the consequential repeals in the Schedule to the 1985 Act shall not apply to a request made under that Schedule before the first commencement date.

Administration charges: reasonableness, demands and liability to pay

8. Paragraphs 2 to 5 of Schedule 11 shall not apply to an administration charge that was payable before the first commencement date.

Administration charges: appointment of a manager

9. The amendments made by paragraph 8 of Schedule 11 shall not apply to an application made under section 24 of the 1987 Act before the first commencement date.

Charges under estate management schemes

10. Section 159 shall not apply to a charge under an estate management scheme that was payable before the first commencement date.

Variation of leases: transfer of jurisdiction

11. The amendments made by section 163 shall not have effect in relation to an application made to the court under Part 4 of the 1987 Act before the first commencement date.

Crown land: variation of leases

12. A variation of any tenancy effected by or in pursuance of an order made before the first commencement date under section 38 of the 1987 Act shall not be treated as binding on the Crown, as predecessor in title under the tenancy, by virtue of section 39(1) of that Act.

Leasehold valuation tribunals

13. Section 175, the amendments made by section 176 and Schedule 13 and the repeals in Part 1 of Schedule 1 to this Order shall not have effect in relation to—

- (a) any application made to a LVT; or
- (b) any proceedings transferred to a LVT by a county court,

before the first commencement date.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force various provisions of the Commonhold and Leasehold Reform Act 2002 (“the 2002 Act”) in relation to England.

Subject to the savings in Schedule 2 to the Order, the provisions mentioned in Article 2 will come into force on 30 September 2003. They include:

- (a) a new right for long leaseholders of flats to collectively manage their building subject to complying with certain qualifying rules (sections 71 to 113);
- (b) changes to the definition of service charges and rights to challenge these charges (sections 150 and 155);
- (c) changes to the provisions relating to requests for insurance information from the landlord (section 157);
- (d) the right to challenge other charges under leases and charges in relation to estate management schemes (sections 158 and 159);
- (e) the application of various landlord and tenant provisions to Crown land (section 172);
- (f) extension of the jurisdiction of leasehold valuation tribunals and consolidation of the provisions relating to their procedure (sections 163 and 173 to 176); and
- (g) consequential amendments and repeals made by the 2002 Act in other Acts.

Subject to the savings in article 3, section 151 of the 2002 Act will come into force on the 31 October 2003. This section provides for new consultation requirements in relation to service charges.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act were brought into force in England on 26th July 2002 by S.I. 2002/1912:

Provision

s.74 (partially)
s.78 (partially)
s.80 (partially)
s.84 (partially)
s.92 (partially)
s.110 (partially)
ss.114 to 120
s.122 (partially)
s.125
s.127 to 147
ss. 151 to 153 (partially)
s. 156 (partially)
s.160 to 162
s.164 (partially)
s. 166 (partially)
s.167 (partially)
s.171 (partially)
s. 174 (partially)

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The Commonhold and Leasehold Reform Act 2002
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£2.00

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under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E1165 8/2003 131165 19585

ISBN 0-11-047274-8



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