

SCHEDULE 1

Regulation 5(1)

CONSULTATION REQUIREMENTS FOR QUALIFYING LONG TERM AGREEMENTS OTHER THAN THOSE FOR WHICH PUBLIC NOTICE IS REQUIRED

Notice of intention

- 1.—(1) The landlord shall give notice in writing of his intention to enter into the agreement—
 - (a) to each tenant; and
 - (b) where a recognised tenants' association⁽¹⁾ represents some or all of the tenants, to the association.
- (2) The notice shall—
 - (a) describe, in general terms, the relevant matters or specify the place and hours at which a description of the relevant matters may be inspected;
 - (b) state the landlord's reasons for considering it necessary to enter into the agreement;
 - (c) where the relevant matters consist of or include qualifying works, state the landlord's reasons for considering it necessary to carry out those works;
 - (d) invite the making, in writing, of observations in relation to the proposed agreement; and
 - (e) specify—
 - (i) the address to which such observations may be sent;
 - (ii) that they must be delivered within the relevant period; and
 - (iii) the date on which the relevant period ends.
- (3) The notice shall also invite each tenant and the association (if any) to propose, within the relevant period, the name of a person from whom the landlord should try to obtain an estimate in respect of the relevant matters.

Inspection of description of relevant matters

- 2.—(1) Where a notice under paragraph 1 specifies a place and hours for inspection—
 - (a) the place and hours so specified must be reasonable; and
 - (b) a description of the relevant matters must be available for inspection, free of charge, at that place and during those hours.
- (2) If facilities to enable copies to be taken are not made available at the times at which the description may be inspected, the landlord shall provide to any tenant, on request and free of charge, a copy of the description.

Duty to have regard to observations in relation to proposed agreement

3. Where, within the relevant period, observations are made in relation to the proposed agreement by any tenant or recognised tenants' association, the landlord shall have regard to those observations.

(1) See section 29(1) of the Landlord and Tenant Act 1985, which was amended by the Landlord and Tenant Act 1987 (c. 31), Schedule 2, paragraph 10.

Estimates

4.—(1) Where, within the relevant period, a single nomination is made by a recognised tenants' association (whether or not a nomination is made by any tenant), the landlord shall try to obtain an estimate from the nominated person.

(2) Where, within the relevant period, a single nomination is made by only one of the tenants (whether or not a nomination is made by a recognised tenants' association), the landlord shall try to obtain an estimate from the nominated person.

(3) Where, within the relevant period, a single nomination is made by more than one tenant (whether or not a nomination is made by a recognised tenants' association), the landlord shall try to obtain an estimate—

- (a) from the person who received the most nominations; or
- (b) if there is no such person, but two (or more) persons received the same number of nominations, being a number in excess of the nominations received by any other person, from one of those two (or more) persons; or
- (c) in any other case, from any nominated person.

(4) Where, within the relevant period, more than one nomination is made by any tenant and more than one nomination is made by a recognised tenants' association, the landlord shall try to obtain an estimate—

- (a) from at least one person nominated by a tenant; and
- (b) from at least one person nominated by the association, other than a person from whom an estimate is sought as mentioned in paragraph (a).

Preparation of landlord's proposals

5.—(1) The landlord shall prepare, in accordance with the following provisions of this paragraph, at least two proposals in respect of the relevant matters.

(2) At least one of the proposals must propose that goods or services are provided, or works are carried out (as the case may be), by a person wholly unconnected with the landlord.

(3) Where an estimate has been obtained from a nominated person, the landlord must prepare a proposal based on that estimate.

(4) Each proposal shall contain a statement of the relevant matters.

(5) Each proposal shall contain a statement, as regards each party to the proposed agreement other than the landlord—

- (a) of the party's name and address; and
- (b) of any connection (apart from the proposed agreement) between the party and the landlord.

(6) For the purposes of sub-paragraphs (2) and (5)(b), it shall be assumed that there is a connection between a party (as the case may be) and the landlord—

- (a) where the landlord is a company, if the party is, or is to be, a director or manager of the company or is a close relative of any such director or manager;
- (b) where the landlord is a company, and the party is a partner in a partnership, if any partner in that partnership is, or is to be, a director or manager of the company or is a close relative of any such director or manager;
- (c) where both the landlord and the party are companies, if any director or manager of one company is, or is to be, a director or manager of the other company;

- (d) where the party is a company, if the landlord is a director or manager of the company or is a close relative of any such director or manager; or
- (e) where the party is a company and the landlord is a partner in a partnership, if any partner in that partnership is a director or manager of the company or is a close relative of any such director or manager.

(7) Where, as regards each tenant's unit of occupation and the relevant matters, it is reasonably practicable for the landlord to estimate the relevant contribution attributable to the relevant matters to which the proposed agreement relates, each proposal shall contain a statement of that estimated contribution.

(8) Where—

- (a) it is not reasonably practicable for the landlord to make the estimate mentioned in subparagraph (7); and
- (b) it is reasonably practicable for the landlord to estimate, as regards the building or other premises to which the proposed agreement relates, the total amount of his expenditure under the proposed agreement,

each proposal shall contain a statement of that estimated expenditure.

(9) Where—

- (a) it is not reasonably practicable for the landlord to make the estimate mentioned in subparagraph (7) or (8)(b); and
- (b) it is reasonably practicable for the landlord to ascertain the current unit cost or hourly or daily rate applicable to the relevant matters,

each proposal shall contain a statement of that cost or rate.

(10) Where the relevant matters comprise or include the proposed appointment by the landlord of an agent to discharge any of the landlord's obligations to the tenants which relate to the management by him of premises to which the agreement relates, each proposal shall contain a statement—

- (a) that the person whose appointment is proposed—
 - (i) is or, as the case may be, is not, a member of a professional body or trade association; and
 - (ii) subscribes or, as the case may be, does not subscribe, to any code of practice or voluntary accreditation scheme relevant to the functions of managing agents; and
- (b) if the person is a member of a professional body trade association, of the name of the body or association.

(11) Each proposal shall contain a statement as to the provisions (if any) for variation of any amount specified in, or to be determined under, the proposed agreement.

(12) Each proposal shall contain a statement of the intended duration of the proposed agreement.

(13) Where the landlord has received observations to which (in accordance with paragraph 3) he is required to have regard, each proposal shall contain a statement summarising the observations and setting out the landlord's response to them.

Notification of landlord's proposals

6.—(1) The landlord shall give notice in writing of proposals prepared under paragraph 5—

- (a) to each tenant; and
- (b) where a recognised tenants' association represents some or all of the tenants, to the association.

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

- (2) The notice shall—
- (a) be accompanied by a copy of each proposal or specify the place and hours at which the proposals may be inspected;
 - (b) invite the making, in writing, of observations in relation to the proposals; and
 - (c) specify—
 - (i) the address to which such observations may be sent;
 - (ii) that they must be delivered within the relevant period; and
 - (iii) the date on which the relevant period ends.

(3) Paragraph 2 shall apply to proposals made available for inspection under this paragraph as it applies to a description of the relevant matters made available for inspection under that paragraph.

Duty to have regard to observations in relation to proposals

7. Where, within the relevant period, observations are made in relation to the landlord's proposals by any tenant or recognised tenants' association, the landlord shall have regard to those observations.

Duty on entering into agreement

8.—(1) Subject to sub-paragraph (2), where the landlord enters into an agreement relating to relevant matters, he shall, within 21 days of entering into the agreement, by notice in writing to each tenant and the recognised tenants' association (if any)—

- (a) state his reasons for making that agreement or specify the place and hours at which a statement of those reasons may be inspected; and
- (b) where he has received observations to which (in accordance with paragraph 7) he is required to have regard, summarise the observations and respond to them or specify the place and hours at which that summary and response may be inspected.

(2) The requirements of sub-paragraph (1) do not apply where the person with whom the agreement is made is a nominated person or submitted the lowest estimate.

(3) Paragraph 2 shall apply to a statement, summary and response made available for inspection under this paragraph as it applies to a description of the relevant matters made available for inspection under that paragraph.