
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations supplement Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002 (“the 2002 Act”). That Chapter makes provision for the acquisition and exercise of rights in relation to the management of premises to which the Chapter applies by a company which may acquire and exercise those rights (known as a Right to Manage company or “RTM company”).

It was decided to revoke and replace rather than amend the existing Regulations, the Right to Manage (Prescribed Particulars and Forms) (Wales) Regulations 2004 (S.I. 2004/678). This was due to the fact that the Welsh Ministers recognised that these Regulations are likely to be used by people who do not have access to professional advice. The Welsh Ministers consider that it would be confusing for applicants to access two sets of regulations in order to set up their RTM company.

Before a RTM company can acquire the right to manage premises, it must give notice (“notice of invitation to participate”) to those tenants of flats contained in the premises who are “qualifying tenants” (see section 75 of the 2002 Act) of its intention to acquire the right. The notice must invite its recipients to become members of the RTM company. Regulation 3, to which Schedule 1 is also relevant, prescribes requirements, in addition to those specified in section 78 of the 2002 Act, as regards the contents of the notice.

Once the RTM company has given notice of invitation to participate, it may make a claim to acquire the right to manage. The claim is required to be made by notice (“claim notice”), which is to be given to each person who is—

- (a) a landlord under a lease of the whole or any part of the premises to which the notice relates;
- (b) party to such a lease otherwise than as landlord or tenant; or
- (c) a manager appointed under Part 2 of the Landlord and Tenant Act 1987 to act in relation to the premises, or any premises containing or contained in the premises.

Regulation 4, to which Schedule 2 to these Regulations is also relevant, prescribes requirements as regards the contents of the claim notice in addition to those specified in section 80 of the 2002 Act.

A person who receives a claim notice may respond by giving the RTM company a counter-notice, in which the RTM company’s claim is either admitted or opposed. Regulation 5, to which Schedule 3 to these Regulations is also relevant, prescribes requirements as regards the contents of the counter notice. These are in addition to those specified in section 84 of the 2002 Act.

If a person who is entitled to receive a claim notice is also party to a contract under which the other party to the contract agrees to provide services, or do other things, in connection with any matter relating to a function that will be the function of the RTM company once it acquires the right to manage the premises, that person must give notice to the other party to the contract (“contractor notice”) and to the RTM company (“contract notice”). Regulations 6 and 7, to which Schedules 4 and 5 apply respectively, prescribe requirements, in addition to those specified in section 92 of the Act, as regards contractor notices and contract notices.

Regulation 8 introduces the Schedules which provide template forms for the invitation to participate, claim notice, counter-notice, contractor notice and contract notices. Regulation 8 allows forms to the like effect to be used, provided they contain the relevant prescribed particulars.