



Housing Act 1985

1985 CHAPTER 68

PART II

PROVISION OF HOUSING ACCOMMODATION

Restriction on service charges

[^{F1} 45 Disposals in relation to which ss. 46 to 51 apply, etc. payable after disposal of house

(1) The following provisions of this Part down to section 51 (restrictions on, and provision of information about, services charges) apply where—

- [^{F2}(a) the freehold of a house has been conveyed by a public sector authority; and
- (b) the conveyance enabled the vendor to recover from the purchaser a service charge.]

(2) In subsection (1)(a)—

^{F3}
^{F3}

“ public sector authority ” means—

- a local authority,
- [^{F4}a National Park authority]
- a [^{F5}development] corporation,
- an urban development corporation,
- [^{F6}a Mayoral development corporation,]
- [^{F7}the Homes and Communities Agency,]
- [^{F8}the Greater London Authority so far as exercising its housing or regeneration functions or its new towns and urban development functions,]
- [^{F7}the Welsh Ministers so far as exercising functions in relation to anything transferred (or to be transferred) to them as mentioned in section 36(1)(a) (i) to (iii) of the New Towns Act 1981,

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[^{F9}a housing action trust]
^{F10}
^{F11}[^{F12}Regulator of Social Housing] or Scottish Homes]
^{F13}a non-profit registered provider of social housing,]
a [^{F14}registered social landlord].

^{F15}[In subsection (1)(a) “ public sector authority ” also includes the [^{F16} Welsh Ministers (2A) if the freehold has been conveyed by them (or by the Assembly constituted by the Government for Wales Act 1998, the Secretary of State] or Housing for Wales) under section 90 of the ^{M1} Housing Associations Act 1985.]

[In subsection (1)(a) “public sector authority” also includes a profit-making registered ^{F17}(2B) provider of social housing in respect of any house which, before the conveyance, was social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008.]

- (3) The following provisions—
 section 170 (power of Secretary of State to give assistance in connection with legal proceedings), and
 section 181 (jurisdiction of county court),
apply to proceedings and questions arising under this section and sections 46 to 51 as they apply to proceedings and questions arising under Part V (the right to buy).]]

Textual Amendments

- F1** Ss. 45, 47, 48, 50, 51 repealed in relation to dwellings let on long leases by [Landlord and Tenant Act 1987 \(c. 31, SIF 75:1\)](#), s. **41(2)**
- F2** S. 45(1)(a)(b) substituted for s. 45(1)(a)–(c) by [Landlord and Tenant Act 1987 \(c. 31, SIF 75:1\)](#), s. 61(1), **Sch. 4 para. 4(a)**
- F3** Words repealed by [Landlord and Tenant Act 1987 \(c. 31, SIF 75:1\)](#), s. 61(1)(2), Sch. 4 para. 4(b), **Sch. 5**
- F4** Words in s. 45(2)(b) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 24(2)**, (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**
- F5** Words in s. 45(2) substituted (1.12.2008) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2008 \(S.I. 2008/3002\)](#), art. 4, **Sch. 1 para. 6(2)(a)** (with Sch. 2); S.I. 2008/3068, arts. 1(2), **2(1)(b)** (with arts. 6-13)
- F6** Words in s. 45(2) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(1)(l), **Sch. 22 para. 10**
- F7** Words in s. 45(2) inserted (1.12.2008) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2008 \(S.I. 2008/3002\)](#), art. 4, **Sch. 1 para. 6(2)(b)** (with Sch. 2); S.I. 2008/3068, arts. 1(2), **2(1)(b)** (with arts. 6-13)
- F8** Words in s. 45(2) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 19 para. 12**; S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)
- F9** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. **79(11)**
- F10** Words in s. 45(2) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**
- F11** Words in s. 45(2) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 8(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**
- F12** Words in s. 45(2) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 1(2), **Sch. 2 para. 18(a)(i)** (with art. 6, Sch. 3)
- F13** Words in s. 45(2) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 1(2), **Sch. 2 para. 18(a)(ii)** (with art. 6, Sch. 3)
- F14** Words in s. 45(2) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 14(4)**

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- F15** S. 45(2A) inserted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 8(3)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**
- F16** Words in s. 45(2A) substituted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), art. 4, **Sch. 1 para. 6(3)** (with Sch. 2); S.I. 2008/3068, arts. 1(2), **2(1)(b)** (with arts. 6-13)
- F17** S. 45(2B) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866), art. 1(2), **Sch. 2 para. 18(b)** (with art. 6, Sch. 3)

Modifications etc. (not altering text)

- C1** Ss. 45-51 extended (5.7.1994) by 1994 c. 19, s. 39, **Sch. 13 para. 21(b)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))
- C2** Ss. 43, 44, 45 amended by Local Government Act 1985 (c. 51, SIF 81:1), s. 57(7), **Sch. 13 paras. 22 and 23** as substituted by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 5(1), **Sch. 3 para. 5(3)**
- C3** Ss. 45-51 modified (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 8(b)**
- C4** S. 45(2) (previously 45(2)(b)) explained by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 5(1), **Sch. 3 para. 5(3)**
- C5** S. 45(2) modified (1.12.2008) by The Transfer of Housing Corporation Functions (Modifications and Transitional Provisions) Order 2008 (S.I. 2008/2839), art. 3, **Sch. para. 2(1)** (with art. 6); S.I. 2008/3068, arts. 1(2), **2(1)(b)** (with arts. 6-13)

Marginal Citations

- M1** 1985 c. 69.

F18 46

Textual Amendments

- F18** S. 46 repealed by Housing and Planning Act 1986 (c. 63, SIF 61), s. 24(2)(3), Sch. 5 Pt. II para. 24, **Sch. 12 Pt. I**, and by Landlord and Tenant Act 1987 (c. 31, SIF 75:1), s. **41(2)**

[^{F19}47] **Limitation of service charges.**

- (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period—
 - (a) only to the extent that they are reasonably incurred, and
 - (b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard;and the amount payable shall be limited accordingly.
- (2) Where the service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction of subsequent charges or otherwise.
- (3) An agreement by the payer (other than an arbitration agreement within the meaning of [^{F20}Part I of the Arbitration Act 1996]) is void in so far as it purports to provide for a determination in a particular manner or on particular evidence of any question—
 - (a) whether an amount payable before costs for services, repairs, maintenance, insurance or management are incurred is reasonable,

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- (b) whether such costs were reasonably incurred, or
- (c) whether services or works for which costs were incurred are of a reasonable standard.

[Where relevant costs are incurred or to be incurred on the carrying out of works ^{F21}(4) in respect of which a grant has been or is to be paid under [^{F22}section 523 of the Housing Act 1985 (assistance for provision of separate service pipe for water supply) or any provision of Part I of the Housing Grants, Construction and Regeneration Act 1996 (grants, &c. for renewal of private sector housing) or any corresponding earlier enactment], the amount of the grant shall be deducted from the costs and the amount of the service charge payable shall be reduced accordingly.]]

Textual Amendments

- F19** Ss. 45, 47, 48, 50, 51 repealed in relation to dwellings let on long leases by [Landlord and Tenant Act 1987 \(c. 31, SIF 75:1\)](#), [s. 41\(2\)](#)
- F20** Words in s. 47(3) substituted (31.1.1997) by 1996 c. 23, s. 107(1), [Sch. 3 para. 42](#) (with s. 81(2)); S.I. 1996/3146, [arts. 2, 4](#) (with transitional provisions in [Sch. 2](#))
- F21** S. 47(4) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), [Sch. 5 Pt. 1 para. 9\(3\)](#)
- F22** Words in s. 47(4) substituted (17.12.1996) by 1996 c. 53, s. 103, [Sch. 1 para. 2](#); S.I. 1996/2842, [art. 3](#)

Modifications etc. (not altering text)

- C6** S. 47, 48, 50, 51, Pt. IV(ss. 79–117) amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 57(7), [Sch. 13 paras. 22](#) and 23 as substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, [Sch. 2 para. 61](#)
- C7** Ss. 45-51 extended (5.7.1994) by 1994 c. 19, s. 39, [Sch. 13 para. 21\(b\)](#) (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#))
- C8** Ss. 45-51 modified (1.4.1995) by S.I. 1995/401, art. 18, [Sch. para. 8\(b\)](#)

[^{F23}48 Information as to relevant costs.

- (1) The payer may require the payee in writing to supply him with a written summary of the costs incurred—
 - (a) if the relevant accounts are made up for periods of twelve months, in the last such period ending not later than the date of the request, or
 - (b) if the accounts are not so made up, in the period of twelve months ending with the date of the request,
 and which are relevant to the service charges payable or demanded as payable in that or any other period.
- (2) The payee shall comply with the request within one month of the request or within six months of the end of the period referred to in subsection (1)(a) or (b), whichever is the later.
- (3) The summary shall set out those costs in a way showing how they are or will be reflected in demands for service charges and must be certified by a qualified accountant as in his opinion a fair summary complying with this requirement and as being sufficiently supported by accounts, receipts and other documents which have been produced to him.

[The summary shall also state whether any of the costs relate to works in respect ^{F24}(3A) of which a grant has been or is to be paid under [^{F25}section 523 of the Housing

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Act 1985 (assistance for provision of separate service pipe for water supply) or any provision of Chapter I of Part I of the Housing Grants, Construction and Regeneration Act 1996 (grants for renewal of private sector housing) or any corresponding earlier enactment].]

- (4) Where the payer has obtained such a summary as is referred to in subsection (1) (whether in pursuance of this section or otherwise, he may within six months of obtaining it require the payee in writing to afford him reasonable facilities—
- (a) for inspecting the accounts, receipts and other documents supporting the summary, and
 - (b) for taking copies of extracts from them,
- and the payee shall then make such facilities available to the payer for a period of two months beginning not later than one month after the request is made.
- (5) A request under this section shall be deemed to be served on the payee if it is served on a person who receives the service charge on behalf of the payee; and a person on whom a request is so served shall forward it as soon as possible to the payee.
- (6) A disposal of the house by the payer does not affect the validity of a request made under this section before the disposal; but a person is not obliged to provide a summary or make the facilities available more than once for the same house and for the same period.]

Textual Amendments

- F23** Ss. 45, 47, 48, 50, 51 repealed in relation to dwellings let on long leases by [Landlord and Tenant Act 1987 \(c. 31, SIF 75:1\)](#), s. 41(2)
- F24** S. 48(3A) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), [Sch. 5 Pt. I para. 9\(4\)](#)
- F25** Words in s. 48(3A) substituted (17.12.1996) by 1996 c. 53, s. 103, [Sch. 1 para. 3](#); S.I. 1996/2842, [art. 3](#)

Modifications etc. (not altering text)

- C9** S. 47, 48, 50, 51, Pt. IV(ss. 79–117) amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 57(7), [Sch. 13 paras. 22](#) and 23 as substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, [Sch. 2 para. 61](#)
- C10** Ss. 45-51 extended (5.7.1994) by 1994 c. 19, s. 39, [Sch. 13 para. 21\(b\)](#) (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#))
- C11** Ss. 45-51 modified (1.4.1995) by S.I. 1995/401, [art. 18](#), [Sch. para. 8\(b\)](#)

F26⁴⁹

Textual Amendments

- F26** S. 49 repealed by [Landlord and Tenant Act 1987 \(c. 31, SIF 75:1\)](#), ss. 41(2), 61(1)(2), [Sch. 4 para. 5](#), [Sch. 5](#)

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[^{F27}50 Offences.

- (1) If a person fails without reasonable excuse to perform a duty imposed on him by section 48 . . . ^{F28} (provision of information, &c.), he commits a summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.
- (2) Subsection (1) does not apply where the payee is—
 - a local authority ^{F29} . . . ,
 - a [^{F30}development] corporation, ^{F31} . . .
 - [^{F32}or
 - the Welsh Ministers]]
 - ^{F31} . . .

Textual Amendments

- F27** Ss. 45, 47, 48, 50, 51 repealed in relation to dwellings let on long leases by Landlord and Tenant Act 1987 (c. 31, SIF 75:1), s. 41(2)
- F28** Words repealed by Landlord and Tenant Act 1987 (c. 31, SIF 75:1), s. 61(1)(2), Sch. 4 para. 6, **Sch. 5**
- F29** Word in s. 50(2) repealed (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), arts. 4, 6, Sch. 1 para. 7(a), **Sch. 3** (with Sch. 2); S.I. 2008/3068, arts. 1(2), **2(1)(b)** (with arts. 6-13)
- F30** Words in s. 50(2) substituted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), arts. 4, 6, **Sch. 1 para. 7(b)** (with Sch. 2); S.I. 2008/3068, arts. 1(2), **2(1)(b)** (with arts. 6-13)
- F31** Words in s. 50(2) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**
- F32** Words in s. 50(2) inserted (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), arts. 4, 6, **Sch. 1 para. 7(c)** (with Sch. 2); S.I. 2008/3068, arts. 1(2), **2(1)(b)** (with arts. 6-13)

Modifications etc. (not altering text)

- C12** S. 47, 48, 50, 51, Pt. IV(ss. 79–117) amended by Local Government Act 1985 (c. 51, SIF 81:1), s. 57(7), **Sch. 13 paras. 22** and 23 as substituted by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 4, **Sch. 2 para. 61**
- C13** Ss. 45-51 extended (5.7.1994) by 1994 c. 19, s. 39, **Sch. 13 para. 21(b)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))
- C14** Ss. 45-51 modified (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 8(b)**

[^{F33}51 Meaning of “qualified accountant”.

- (1) The reference to a “qualified accountant” in section 48(3) (certification of summary of information about relevant costs) is to a person who, in accordance with the following provisions, has the necessary qualification and is not disqualified from acting.
- [a person has the necessary qualification only if he is eligible for appointment as a ^{F34}(2) [^{F35}statutory auditor under Part 42 of the Companies Act 2006].]
- (4) The following are disqualified from acting—
 - [where the payee is a company, the payee or any associated company of the ^{F36}(a) payee;]

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- (b) an officer or employee of the payee or, where the payee is a company, of an associated company;
 - (c) a person who is a partner or employee of any such officer or employee.
- (5) For the purposes of [^{F37}subsection (4)(a) and (b).] a company is associated with the payee company if it is (within the meaning of [^{F38}section 1159 of the Companies Act 2006]) the payee's holding company or subsidiary or is a subsidiary of the payee's holding company.
- (6) Where the payee is a local authority [^{F39}or a [^{F40}development] corporation]—
- (a) the persons who have the necessary qualification include members of the Chartered Institute of Public Finance and Accountancy, and
 - (b) subsection (4)(b) (disqualification of officers and employees) does not apply.]

Textual Amendments

- F33** Ss. 45, 47, 48, 50, 51 repealed in relation to dwellings let on long leases by [Landlord and Tenant Act 1987 \(c. 31, SIF 75:1\)](#), s. 41(2)
- F34** S. 51(2) substituted (1.10.1991) for s. 51(2)(3) by S.I. 1991/1997, reg. 2, [Sch. para. 58\(a\)](#)
- F35** Words in s. 51(2) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 3(1), [Sch. 1 para. 1\(hh\)](#) (with arts. 6, 11, 12)
- F36** S. 51(4)(a) substituted (1.10.1991) by S.I. 1991/1997, reg. 2, [Sch. para. 58\(b\)](#)
- F37** Words in s. 51(5) substituted (1.10.1991) by S.I. 1991/1997, reg. 2, [Sch. para. 58\(c\)](#)
- F38** Words in s. 51(5) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order \(S.I. 2009/1941\)](#), art. 2(1), {Sch. 1 para. 62(4)} (with art. 10)
- F39** Words in s. 51(6) substituted (1.10.1998) by 1998 c. 38, s. 129, [Sch. 15 para. 9](#) (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, [art. 4](#)
- F40** Words in s. 51(6) substituted (1.12.2008) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2008 \(S.I. 2008/3002\)](#), art. 4, [Sch. 1 para. 8](#) (with Sch. 2); S.I. 2008/3068, arts. 1(2), [2\(1\)\(b\)](#) (with arts. 6-13)

Modifications etc. (not altering text)

- C15** Ss. 45-51 extended (5.7.1994) by 1994 c. 19, s. 39, [Sch. 13 para. 21\(b\)](#) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))
- C16** Ss. 45-51 modified (1.4.1995) by S.I. 1995/401, art. 18, [Sch. para. 8\(b\)](#)
- C17** S. 47, 48, 50, 51, Pt. IV(ss. 79-117) amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 57(7), [Sch. 13 paras. 22](#) and 23 as substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, [Sch. 2 para. 61](#)

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