Landlord and Tenant Act 1987

1987 CHAPTER 31

An Act to confer on tenants of flats rights with respect to the acquisition by them of their landlord's reversion; to make provision for the appointment of a manager at the instance of such tenants and for the variation of long leases held by such tenants; to make further provision with respect to service charges payable by tenants of flats and other dwellings; to make other provision with respect to such tenants; to make further provision with respect to the permissible purposes and objects of registered housing associations as regards the management of leasehold property; and for connected purposes. [15th May 1987]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Modifications etc. (not altering text)
C1 Act: transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

PART I

TENANTS' RIGHTS OF FIRST REFUSAL

Preliminary

1 Qualifying tenants to have rights of first refusal on disposals by landlord.

(1) A landlord shall not make a relevant disposal affecting any premises to which at the time of the disposal this Part applies unless—

(a) he has in accordance with section 5 previously served a notice under that section with respect to the disposal on the qualifying tenants of the flats

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contained in those premises (being a notice by virtue of which rights of first refusal are conferred on those tenants); and

(b) the disposal is made in accordance with the requirements of sections 6 to 10.

(2) Subject to subsections (3) and (4), this Part applies to premises if—

(a) they consist of the whole or part of a building; and

(b) they contain two or more flats held by qualifying tenants; and

(c) the number of flats held by such tenants exceeds 50 per cent. of the total number of flats contained in the premises.

(3) This Part does not apply to premises falling within subsection (2) if—

(a) any part or parts of the premises is or are occupied or intended to be occupied otherwise than for residential purposes; and

(b) the internal floor area of that part or those parts (taken together) exceeds 50 per cent. of the internal floor area of the premises (taken as a whole);

and for the purposes of this subsection the internal floor area of any common parts shall be disregarded.

(4) This Part also does not apply to any such premises at a time when the interest of the landlord in the premises is held by an exempt landlord or a resident landlord.

(5) The Secretary of State may by order substitute for the percentage for the time being specified in subsection (3)(b) such other percentage as is specified in the order.

2 Landlords for the purposes of Part I.

(1) Subject to subsection (2) **[**[F1]and section 4(1A)**]**, a person is for the purposes of this Part the landlord in relation to any premises consisting of the whole or part of a building if he is—

(a) the immediate landlord of the qualifying tenants of the flats contained in those premises, or

(b) where any of those tenants is a statutory tenant, the person who, apart from the statutory tenancy, would be entitled to possession of the flat in question.

(2) Where the person who is, in accordance with subsection (1), the landlord in relation to any such premises for the purposes of this Part ("the immediate landlord") is himself a tenant of those premises under a tenancy which is either—

(a) a tenancy for a term of less than seven years, or

(b) a tenancy for a longer term but terminable within the first seven years at the option of the person who is the landlord under that tenancy ("the superior landlord"),

the superior landlord shall also be regarded as the landlord in relation to those premises for the purposes of this Part and, if the superior landlord is himself a tenant of those premises under a tenancy falling within paragraph (a) or (b) above, the person who is the landlord under that tenancy shall also be so regarded (and so on).

Textual Amendments

F1 Words inserted by Housing Act 1988 (c. 50, SIF 75:1), s. 119, **Sch. 13 para. 1**

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3 Qualifying tenants.

(1) Subject to the following provisions of this section, a person is for the purposes of this Part a qualifying tenant of a flat if he is the tenant of the flat under a tenancy other than—

(a) a protected shorthold tenancy as defined in section 52 of the [M1]Housing Act 1980;

(b) a tenancy to which Part II of the [M2]Landlord and Tenant Act 1954 (business tenancies) applies; . . . [F2]

(c) a tenancy terminable on the cessation of his employment **[**[F3]or

(d) an assured tenancy or assured agricultural occupancy within the meaning of Part I of the Housing Act 1988**]**.

(2) A person is not to be regarded as being a qualifying tenant of any flat contained in any particular premises consisting of the whole or part of a building if **[**[F4]by virtue of one or more tenancies none of which falls within paragraphs (a) to (d) of subsection (1), he is the tenant not only of the flat in question but also of at least two other flats contained in those premises**]**.

(3) For the purposes of subsection **[**[F5](2)**]** any tenant of a flat contained in the premises in question who is a body corporate shall be treated as the tenant of any other flat so contained and let to an associated company.

(4) A tenant of a flat whose landlord is a qualifying tenant of that flat is not to be regarded as being a qualifying tenant of that flat.

Textual Amendments

F2 Word repealed by Housing Act 1988 (c. 50, SIF 61, 75:1), ss. 119, 140, Sch. 13 para. 2(1), **Sch. 18**

F3 S. 3(1)(d) and the word "or" immediately preceding it added by Housing Act 1988 (c. 50, SIF 75:1), s. 119, **Sch. 13 para. 2(1)**

F4 Words substituted for paragraphs (a) and (b) by Housing Act 1988 (c. 50, SIF 75:1), s. 119, **Sch. 13 para. 2(2)**

F5 "(2)" substituted for "(2)(b)" by Housing Act 1988 (c. 50, SIF 75:1), s. 119, **Sch. 13 para. 2(2)**

Marginal Citations

M1 1980 c. 51.

M2 1954 c. 56.

4 Relevant disposals.

(1) In this Part references to a relevant disposal affecting any premises to which this Part applies are references to the disposal by the landlord of any estate or interest (whether legal or equitable) in any such premises, including the disposal of any such estate or interest in any common parts of any such premises but excluding—

(a) the grant of any tenancy under which the demised premises consist of a single flat (whether with or without any appurtenant premises); and

(b) any of the disposals falling within subsection (2).

[[F6](1A) Where an estate or interest of the landlord has been mortgaged, the reference in subsection (1) above to the disposal of an estate or interest by the landlord includes a reference to its disposal by the mortgagee in exercise of a power of sale or leasing,

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whether or not the disposal is made in the name of the landlord; and, in relation to such a proposed disposal by the mortgagee, any reference in the following provisions of this Part to the landlord shall be construed as a reference to the mortgagee.**]**

(2) The disposals referred to in subsection (1)(b) are—

(a) a disposal of—

(i) any interest of a beneficiary in settled land within the meaning of the [M3]Settled Land Act 1925, **[**[F7]or**]**

(ii) . . . . . [F7]

(iii) any incorporeal hereditament;

[[F7](aa) a disposal [F8]. . .by way of security for a loan**]**

(b) a disposal to a trustee in bankruptcy or to the liquidator of a company;

[[F9](c) a disposal in pursuance of an order made under—

(i) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),

(ii) section 24A of the Matrimonial Causes Act 1973 (orders for the sale of property in connection with matrimonial proceedings) where the order includes provision requiring the property concerned to be offered for sale to a person or class of persons specified in the order,

(iii) section 2 of the Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate),

(iv) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.),

(v) section 17(2) of the Matrimonial and Family Proceedings Act 1984 (orders for the sale of property after overseas divorce, &c.) where the order includes provision requiring the property concerned to be offered for sale to a person or class of persons specified in the order, or

(vi) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents);**]**

(d) a disposal in pursuance of a compulsory purchase order or in pursuance of an agreement entered into in circumstances where, but for the agreement, such an order would have been made or (as the case may be) carried into effect;

[[F10](da) a disposal of any freehold or leasehold interest in pursuance of Chapter I of Part I of the Leasehold Reform, Housing and Urban Development Act 1993;**]**

(e) a disposal by way of gift to a member of the landlord's family or to a charity;

(f) a disposal by one charity to another of an estate or interest in land which prior to the disposal is functional land of the first-mentioned charity and which is intended to be functional land of the other charity once the disposal is made;

(g) a disposal consisting of the transfer of an estate or interest held on trust for any person where the disposal is made in connection with the appointment of a new trustee or in connection with the discharge of any trustee;

(h) a disposal consisting of a transfer by two or more persons who are members of the same family either—

(i) to fewer of their number, or

(ii) to a different combination of members of the family (but one that includes at least one of the transferors);

[[F11](i) a disposal in pursuance of a contract, option or right of pre-emption binding on the landlord (except as provided by section 8D (application of sections 11 to 17 to disposal in pursuance of option or right of pre-emption));**]**

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(j) a disposal consisting of the surrender of a tenancy in pursuance of any covenant, condition or agreement contained in it;

(k) a disposal to the Crown; and

[[F12](l) a disposal by a body corporate to a company which has been an associated company of that body for at least two years.**]**

(3) In this Part "disposal" means a disposal whether by the creation or the transfer of an estate or interest and—

(a) includes the surrender of a tenancy and the grant of an option or right of pre-emption, but

(b) excludes a disposal under the terms of a will or under the law relating to intestacy;

and references in this Part to the transferee in connection with a disposal shall be construed accordingly.

(4) In this section "appurtenant premises", in relation to any flat, means any yard, garden, outhouse or appurtenance (not being a common part of the building containing the flat) which belongs to, or is usually enjoyed with, the flat.

(5) A person is a member of another's family for the purposes of this section if—

(a) that person is the spouse of that other person, or the two of them live together as husband and wife, or

(b) that person is that other person's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.

(6) For the purposes of subsection (5)(b)—

(a) a relationship by marriage shall be treated as a relationship by blood,

(b) a relationship of the half-blood shall be treated as a relationship of the whole blood,

(c) the stepchild of a person shall be treated as his child, and

(d) an illegitimate child shall be treated as the legitimate child of his mother and reputed father.

Textual Amendments

F6 S. 4(1A) inserted by Housing Act 1988 (c. 50, SIF 75:1), s. 119, **Sch. 13 para. 3(1)**

F7 Word "or" inserted, sub-paragraph (ii) omitted and paragraph (aa) inserted by Housing Act 1988 (c. 50, SIF 75:1), s. 119, **Sch. 13 para. 3(2)**

F8 Words in s. 4(2)(aa) repealed (1.10.1996) by 1996 c. 52, ss. 92(1), 227, Sch. 6 Pt. IV para. 1, **Sch. 19 Pt. III**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F9 S. 4(2)(c) substituted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. III para. 18**; S.I. 1996/2402, **art. 3**

F10 S. 4(2)(da) inserted (1.11.1993) by 1993 c. 28, **s. 187(1)**, SCh. 21 para. 26; S.I. 1993/2134, **arts. 2**, 5

F11 S. 4(2)(i) substituted (1.10.1996) by 1996 c. 52, **s. 89(2)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F12 S. 4(2)(l) substituted (1.10.1996 with effect as mentioned in s. 90(2) of the amending Act) by 1996 c. 52, **s. 90(1)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

Modifications etc. (not altering text)

C2 S. 4 excluded (coming into force in accordance with s. 3(2) of the excluding Act) by 1994 c. xiv, **s. 9(1)**
S. 4 excluded (coming into force in accordance with s. 5(2) of the excluding Act) by 1996 c. ii, **s. 11(1)**
S. 4 excluded (coming into force in accordance with s. 3 of the excluding Act) by 1998 c. v, **s. 13(1)(a)**

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S. 4 excluded (coming into force in accordance with s. 3 of the excluding Act) by 1999 c. iv, **s. 13(1)(a)**
S. 4 excluded (coming into force in accordance with s. 3 of the excluding Act) by 2000 c. iii, **s. 14(a)** (with s. 16)
S. 4 excluded (coming into force in accordance with s. 3 of the excluding Act) by 2001 c. i, **s. 11(a)** (with s. 13)
S. 4 excluded (coming into force in accordance with s. 3 of the excluding Act) by 2001 c. v, **s. 15(1)(a)**
S. 4 excluded by 2002 c. iii, **s. 14(1)(a)**
S. 4 excluded by 2002 c. iv, **s. 14(1)(a)**

Marginal Citations

M3 1925 c. 18.

[F13 4A Application of provisions to contracts.

(1) The provisions of this Part apply to a contract to create or transfer an estate or interest in land, whether conditional or unconditional and whether or not enforceable by specific performance, as they apply in relation to a disposal consisting of the creation or transfer of such an estate or interest.

As they so apply—

(a) references to a disposal of any description shall be construed as references to a contract to make such a disposal;

(b) references to making a disposal of any description shall be construed as references to entering into a contract to make such a disposal; and

(c) references to the transferee under the disposal shall be construed as references to the other party to the contract and include a reference to any other person to whom an estate or interest is to be granted or transferred in pursuance of the contract.

(2) The provisions of this Part apply to an assignment of rights under such a contract as is mentioned in subsection (1) as they apply in relation to a disposal consisting of the transfer of an estate or interest in land.

As they so apply—

(a) references to a disposal of any description shall be construed as references to an assignment of rights under a contract to make such a disposal;

(b) references to making a disposal of any description shall be construed as references to making an assignment of rights under a contract to make such a disposal;

(c) references to the landlord shall be construed as references to the assignor; and

(d) references to the transferee under the disposal shall be construed as references to the assignee of such rights.

(3) The provisions of this Part apply to a contract to make such an assignment as is mentioned in subsection (2) as they apply (in accordance with subsection (1)) to a contract to create or transfer an estate or interest in land.

(4) Nothing in this section affects the operation of the provisions of this Part relating to options or rights of pre-emption.**]**

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Textual Amendments

F13 S. 4A inserted (1.10.1996) by 1996 c. 52, **s. 89(1)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F14 Rights of first refusal]

Textual Amendments

F14 Ss. 5, 5A-5E, 6, 7, 8, 8A-8E, 9A, 9B, 10 and crossheading substituted for ss. 5-10 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. I**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F15 5 Landlord required to serve offer notice on tenants.

(1) Where the landlord proposes to make a relevant disposal affecting premises to which this Part applies, he shall serve a notice under this section (an "offer notice") on the qualifying tenants of the flats contained in the premises (the "constituent flats").

(2) An offer notice must comply with the requirements of whichever is applicable of the following sections—

section 5A (requirements in case of contract to be completed by conveyance, &c.),

section 5B (requirements in case of sale at auction),

section 5C (requirements in case of grant of option or right of pre-emption),

section 5D (requirements in case of conveyance not preceded by contract, &c.);

and in the case of a disposal to which section 5E applies (disposal for non-monetary consideration) shall also comply with the requirements of that section.

(3) Where a landlord proposes to effect a transaction involving the disposal of an estate or interest in more than one building (whether or not involving the same estate or interest), he shall, for the purpose of complying with this section, sever the transaction so as to deal with each building separately.

(4) If, as a result of the offer notice being served on different tenants on different dates, the period specified in the notice as the period for accepting the offer would end on different dates, the notice shall have effect in relation to all the qualifying tenants on whom it is served as if it provided for that period to end with the latest of those dates.

(5) A landlord who has not served an offer notice on all of the qualifying tenants on whom it was required to be served shall nevertheless be treated as having complied with this section—

(a) if he has served an offer notice on not less than 90% of the qualifying tenants on whom such a notice was required to be served, or

(b) where the qualifying tenants on whom it was required to be served number less than ten, if he has served such a notice on all but one of them.]

Textual Amendments

F15 Ss. 5, 5A-5E, 6, 7, 8, 8A-8E, 9A, 9B, 10 and crossheading substituted for ss. 5-10 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. I**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

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Modifications etc. (not altering text)

C3 S. 5 modified (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 7 para. 7**; S.I. 2003/1986, art. 2(a)

[F16 5A Offer notice: requirements in case of contract to be completed by conveyance, &c.

(1) The following requirements must be met in relation to an offer notice where the disposal consists of entering into a contract to create or transfer an estate or interest in land.

(2) The notice must contain particulars of the principal terms of the disposal proposed by the landlord, including in particular—

(a) the property, and the estate or interest in that property, to which the contract relates,

(b) the principal terms of the contract (including the deposit and consideration required).

(3) The notice must state that the notice constitutes an offer by the landlord to enter into a contract on those terms which may be accepted by the requisite majority of qualifying tenants of the constituent flats.

(4) The notice must specify a period within which that offer may be so accepted, being a period of not less than two months which is to begin with the date of service of the notice.

(5) The notice must specify a further period of not less than two months within which a person or persons may be nominated by the tenants under section 6.

(6) This section does not apply to the grant of an option or right of pre-emption (see section 5C).**]**

Textual Amendments

F16 Ss. 5, 5A-5E, 6, 7, 8, 8A-8E, 9A, 9B, 10 and crossheading substituted for ss. 5-10 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. I**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F17 5B Offer notice: requirements in case of sale by auction.

(1) The following requirements must be met in relation to an offer notice where the landlord proposes to make the disposal by means of a sale at a public auction held in England and Wales.

(2) The notice must contain particulars of the principal terms of the disposal proposed by the landlord, including in particular the property to which it relates and the estate or interest in that property proposed to be disposed of.

(3) The notice must state that the disposal is proposed to be made by means of a sale at a public auction.

(4) The notice must state that the notice constitutes an offer by the landlord, which may be accepted by the requisite majority of qualifying tenants of the constituent flats, for

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the contract (if any) entered into by the landlord at the auction to have effect as if a person or persons nominated by them, and not the purchaser, had entered into it.

(5) The notice must specify a period within which that offer may be so accepted, being a period of not less than two months beginning with the date of service of the notice.

(6) The notice must specify a further period of not less than 28 days within which a person or persons may be nominated by the tenants under section 6.

(7) The notice must be served not less than four months or more than six months before the date of the auction; and—

(a) the period specified in the notice as the period within which the offer may be accepted must end not less than two months before the date of the auction, and

(b) the period specified in the notice as the period within which a person may be nominated under section 6 must end not less than 28 days before the date of the auction.

(8) Unless the time and place of the auction and the name of the auctioneers are stated in the notice, the landlord shall, not less than 28 days before the date of the auction, serve on the requisite majority of qualifying tenants of the constituent flats a further notice stating those particulars.**]**

Textual Amendments

F17 Ss. 5, 5A-5E, 6, 7, 8, 8A-8E, 9A, 9B, 10 and crossheading substituted for ss. 5-10 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. I**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F18 5C Offer notice: requirements in case of grant or option or right of pre-emption.

(1) The following requirements must be met in relation to an offer notice where the disposal consists of the grant of an option or right of pre-emption.

(2) The notice must contain particulars of the principal terms of the disposal proposed by the landlord, including in particular—

(a) the property, and the estate or interest in that property, to which the option or right of pre-emption relates,

(b) the consideration required by the landlord for granting the option or right of pre-emption, and

(c) the principal terms on which the option or right of pre-emption would be exercisable, including the consideration payable on its exercise.

(3) The notice must state that the notice constitutes an offer by the landlord to grant an option or right of pre-emption on those terms which may be accepted by the requisite majority of qualifying tenants of the constituent flats.

(4) The notice must specify a period within which that offer may be so accepted, being a period of not less than two months which is to begin with the date of service of the notice.

(5) The notice must specify a further period of not less than two months within which a person or persons may be nominated by the tenants under section 6.**]**

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Textual Amendments

F18 Ss. 5, 5A-5E, 6, 7, 8, 8A-8E, 9A, 9B, 10 and crossheading substituted for ss. 5-10 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. I**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F19 5D Offer notice: requirements in case of conveyance not preceded by contract, &c.

(1) The following requirements must be met in relation to an offer notice where the disposal is not made in pursuance of a contract, option or right of pre-emption binding on the landlord.

(2) The notice must contain particulars of the principal terms of the disposal proposed by the landlord, including in particular—

(a) the property to which it relates and the estate or interest in that property proposed to be disposed of, and

(b) the consideration required by the landlord for making the disposal.

(3) The notice must state that the notice constitutes an offer by the landlord to dispose of the property on those terms which may be accepted by the requisite majority of qualifying tenants of the constituent flats.

(4) The notice must specify a period within which that offer may be so accepted, being a period of not less than two months which is to begin with the date of service of the notice.

(5) The notice must specify a further period of not less than two months within which a person or persons may be nominated by the tenants under section 6.**]**

Textual Amendments

F19 Ss. 5, 5A-5E, 6, 7, 8, 8A-8E, 9A, 9B, 10 and crossheading substituted for ss. 5-10 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. I**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F20 5E Offer notice: disposal for non-monetary consideration.

(1) This section applies where, in any case to which section 5 applies, the consideration required by the landlord for making the disposal does not consist, or does not wholly consist, of money.

(2) The offer notice, in addition to complying with whichever is applicable of sections 5A to 5D, must state—

(a) that an election may made under section 8C (explaining its effect), and

(b) that, accordingly, the notice also constitutes an offer by the landlord, which may be accepted by the requisite majority of qualifying tenants of the constituent flats, for a person or persons nominated by them to acquire the property in pursuance of sections 11 to 17.

(3) The notice must specify a period within which that offer may be so accepted, being a period of not less than two months which is to begin with the date of service of the notice.**]**

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Textual Amendments

F20 Ss. 5, 5A-5E, 6, 7, 8, 8A-8E, 9A, 9B, 10 and crossheading substituted for ss. 5-10 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. I**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F21 6 Acceptance of landlord's offer: general provisions.

(1) Where a landlord has served an offer notice, he shall not during—

(a) the period specified in the notice as the period during which the offer may be accepted, or

(b) such longer period as may be agreed between him and the requisite majority of the qualifying tenants of the constituent flats,

dispose of the protected interest except to a person or persons nominated by the tenants under this section.

(2) Where an acceptance notice is duly served on him, he shall not during the protected period (see subsection (4) below) dispose of the protected interest except to a person duly nominated for the purposes of this section by the requisite majority of qualifying tenants of the constituent flats (a "nominated person").

(3) An "acceptance notice" means a notice served on the landlord by the requisite majority of qualifying tenants of the constituent flats informing him that the persons by whom it is served accept the offer contained in his notice.

An acceptance notice is "duly served" if it is served within—

(a) the period specified in the offer notice as the period within which the offer may be accepted, or

(b) such longer period as may be agreed between the landlord and the requisite majority of qualifying tenants of the constituent flats.

(4) The "protected period" is the period beginning with the date of service of the acceptance notice and ending with—

(a) the end of the period specified in the offer notice as the period for nominating a person under this section, or

(b) such later date as may be agreed between the landlord and the requisite majority of qualifying tenants of constituent flats.

(5) A person is "duly nominated" for the purposes of this section if he is nominated at the same time as the acceptance notice is served or at any time after that notice is served and before the end of—

(a) the period specified in the offer notice as the period for nomination, or

(b) such longer period as may be agreed between the landlord and the requisite majority of qualifying tenants of the constituent flats.

(6) A person nominated for the purposes of this section by the requisite majority of qualifying tenants of the constituent flats may be replaced by another person so nominated if, and only if, he has (for any reason) ceased to be able to act as a nominated person.

(7) Where two or more persons have been nominated and any of them ceases to act without being replaced, the remaining person or persons so nominated may continue to act.]

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F21 Ss. 5, 5A-5E, 6, 7, 8, 8A-8E, 9A, 9B, 10 and crossheading substituted for ss. 5-10 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. I**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F22 7 Failure to accept landlord's offer or to make nomination.

(1) Where a landlord has served an offer notice on the qualifying tenants of the constituent flats and—

(a) no acceptance notice is duly served on the landlord, or

(b) no person is nominated for the purposes of section 6 during the protected period,

the landlord may, during the period of 12 months beginning with the end of that period, dispose of the protected interest to such person as he thinks fit, but subject to the following restrictions.

(2) Where the offer notice was one to which section 5B applied (sale by auction), the restrictions are—

(a) that the disposal is made by means of a sale at a public auction, and

(b) that the other terms correspond to those specified in the offer notice.

(3) In any other case the restrictions are—

(a) that the deposit and consideration required are not less than those specified in the offer notice, and

(b) that the other terms correspond to those specified in the offer notice.

(4) The entitlement of a landlord, by virtue of this section or any other corresponding provision of this Part, to dispose of the protected interest during a specified period of 12 months extends only to a disposal of that interest, and accordingly the requirements of section 1(1) must be satisfied with respect to any other disposal by him during that period of 12 months (unless the disposal is not a relevant disposal affecting any premises to which at the time of the disposal this Part applies).]

Textual Amendments

F22 Ss. 5, 5A-5E, 6, 7, 8, 8A-8E, 9A, 9B, 10 and crossheading substituted for ss. 5-10 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. I**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F23 8 Landlord's obligations in case of acceptance and nomination.

(1) This section applies where a landlord serves an offer notice on the qualifying tenants of the constituent flat and—

(a) an acceptance notice is duly served on him, and

(b) a person is duly nominated for the purposes of section 6,

by the requisite majority of qualifying tenants of the constituent flats.

(2) Subject to the following provisions of this Part, the landlord shall not dispose of the protected interest except to the nominated person.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The landlord shall, within the period of one month beginning with the date of service of notice of nomination, either—

(a) serve notice on the nominated person indicating an intention no longer to proceed with the disposal of the protected interest, or

(b) be obliged to proceed in accordance with the following provisions of this Part.

(4) A notice under subsection (3)(a) is a notice of withdrawal for the purposes of section 9B(2) to (4) (consequences of notice of withdrawal by landlord).

(5) Nothing in this section shall be taken as prejudicing the application of the provisions of this Part to any further offer notice served by the landlord on the qualifying tenants of the constituent flats.**]**

Textual Amendments

F23 Ss. 5, 5A-5E, 6, 7, 8, 8A-8E, 9A, 9B, 10 and crossheading substituted (1.110.1996) for ss. 5-10 by 1996 c. 52, s. 92(1), **Sch. 6 Pt. I**; S.I. 1996/2212, **art. 2(2)**(with Sch.)

[F24 8A Landlord's obligation: general provisions.

(1) This section applies where the landlord is obliged to proceed and the offer notice was not one to which section 5B applied (sale by auction).

(2) The landlord shall, within the period of one month beginning with the date of service of the notice of nomination, send to the nominated person a form of contract for the acquisition of the protected interest on the terms specified in the landlord's offer notice.

(3) If he fails to do so, the following provisions of this Part apply as if he had given notice under section 9B (notice of withdrawal by landlord) at the end of that period.

(4) If the landlord complies with subsection (2), the nominated person shall, within the period of two months beginning with the date on which it is sent or such longer period beginning with that date as may be agreed between the landlord and that person, either—

(a) serve notice on the landlord indicating an intention no longer to proceed with the acquisition of the protected interest, or

(b) offer an exchange of contracts, that is to say, sign the contract and send it to the landlord, together with the requisite deposit.

In this subsection "the requisite deposit" means a deposit of an amount determined by or under the contract or an amount equal to 10 per cent of the consideration, whichever is the less.

(5) If the nominated person—

(a) serves notice in pursuance of paragraph (a) of subsection (4), or

(b) fails to offer an exchange of contracts within the period specified in that subsection,

the following provisions of this Part apply as if he had given notice under section 9A (withdrawal by nominated person) at the same time as that notice or, as the case may be, at the end of that period.

(6) If the nominated person offers an exchange of contracts within the period specified in subsection (4), but the landlord fails to complete the exchange within the period

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Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

of seven days beginning with the day on which he received that person's contract, the following provisions of this Part apply as if the landlord had given notice under section 9B (withdrawal by landlord) at the end of that period.**]**

Textual Amendments

F24 Ss. 5, 5A-5E, 6, 7, 8, 8A-8E, 9A, 9B, 10 and crossheading substituted for ss. 5-10 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. I**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F25 8B Landlord's obligation: election in case of sale at auction.

(1) This section applies where the landlord is obliged to proceed and the offer notice was one to which section 5B applied (sale by auction).

(2) The nominated person may, by notice served on the landlord not less than 28 days before the date of the auction, elect that the provisions of this section shall apply.

(3) If a contract for the disposal is entered into at the auction, the landlord shall, within the period of seven days beginning with the date of the auction, send a copy of the contract to the nominated person.

(4) If, within the period of 28 days beginning with the date on which such a copy is so sent, the nominated person—

(a) serves notice on the landlord accepting the terms of the contract, and

(b) fulfils any conditions falling to be fulfilled by the purchaser on entering into the contract,

the contract shall have effect as if the nominated person, and not the purchaser, had entered into the contract.

(5) Unless otherwise agreed, any time limit in the contract as it has effect by virtue of subsection (4) shall start to run again on the service of notice under that subsection; and nothing in the contract as it has effect by virtue of a notice under this section shall require the nominated person to complete the purchase before the end of the period of 28 days beginning with the day on which he is deemed to have entered into the contract.

(6) If the nominated person—

(a) does not serve notice on the landlord under subsection (2) by the time mentioned in that subsection, or

(b) does not satisfy the requirements of subsection (4) within the period mentioned in that subsection,

the following provisions of this Part apply as if he had given notice under section 9A (withdrawal by nominated person) at the end of that period.**]**

Textual Amendments

F25 Ss. 5, 5A-5E, 6, 7, 8, 8A-8E, 9A, 9B, 10 and crossheading substituted for ss. 5-10 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. I**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F26 8C Election in case of disposal for non-monetary consideration.

(1) This section applies where an acceptance notice is duly served on the landlord indicating an intention to accept the offer referred to in section 5E (offer notice: disposal for non-monetary consideration).

(2) The requisite majority of qualifying tenants of the constituent flats may, by notice served on the landlord within—
  (a) the period specified in the offer notice for nominating a person or persons for the purposes of section 6, or
  (b) such longer period as may be agreed between the landlord and the requisite majority of qualifying tenants of the constituent flats,

  elect that the following provisions shall apply.

(3) Where such an election is made and the landlord disposes of the protected interest on terms corresponding to those specified in his offer notice in accordance with section 5A, 5B, 5C or 5D, sections 11 to 17 shall have effect as if—
  (a) no notice under section 5 had been served;
  (b) in section 11A(3) (period for serving notice requiring information, &c.), the reference to four months were a reference to 28 days; and
  (c) in section 12A(2) and 12B(3) (period for exercise of tenants' rights against purchaser) each reference to six months were a reference to two months.

(4) For the purposes of sections 11 to 17 as they have effect by virtue of subsection (3) so much of the consideration for the original disposal as did not consist of money shall be treated as such amount in money as was equivalent to its value in the hands of the landlord.

  The landlord or the nominated person may apply to have that amount determined by a leasehold valuation tribunal.]

Textual Amendments

F26 Ss. 5, 5A-5E, 6, 7, 8, 8A-8E, 9A, 9B, 10 and crossheading substituted for ss. 5-10 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. I**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F27 8D Disposal in pursuance of option or right of pre-emption.

(1) Where—
  (a) the original disposal was the grant of an option or right of pre-emption, and
  (b) in pursuance of the option or right, the landlord makes another disposal affecting the premises ("the later disposal") before the end of the period specified in subsection (2),

  sections 11 to 17 shall have effect as if the later disposal, and not the original disposal, were the relevant disposal.

(2) The period referred to in subsection (1)(b) is the period of four months beginning with the date by which—
  (a) notices under section 3A of the [M4]Landlord and Tenant Act 1985 (duty of new landlord to inform tenants of rights) relating to the original disposal, or
  (b) where that section does not apply, documents of any other description—
    (i) indicating that the original disposal has taken place, and

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(ii) alerting the tenants to the existence of their rights under this Part and the time within which any such rights must be exercised,

have been served on the requisite majority of qualifying tenants of the constituent flats.**]**

Textual Amendments

F27 Ss. 5, 5A-5E, 6, 7, 8, 8A-8E, 9A, 9B, 10 and crossheading substituted for ss. 5-10 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. I**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

Marginal Citations

M4 1985 c 70.

[F28 8E Covenant, &c affecting landlord's power to dispose.

(1) Where the landlord is obliged to proceed but is precluded by a covenant, condition or other obligation from disposing of the protected interest to the nominated person unless the consent of some other person is obtained—

(a) he shall use his best endeavours to secure that the consent of that person to that disposal is given, and

(b) if it appears to him that that person is obliged not to withhold his consent unreasonably but has nevertheless so withheld it, he shall institute proceedings for a declaration to that effect.

(2) Subsection (1) ceases to apply if a notice of withdrawal is served under section 9A or 9B (withdrawal of either party from transaction) or if notice is served under section 10 (lapse of landlord's offer: premises ceasing to be premises to which this Part applies).

(3) Where the landlord has discharged any duty imposed on him by subsection (1) but any such consent as is there mentioned has been withheld, and no such declaration as is there mentioned has been made, the landlord may serve a notice on the nominated person stating that to be the case.

When such a notice has been served, the landlord may, during the period of 12 months beginning with the date of service of the notice, dispose of the protected interest to such person as he thinks fit, but subject to the following restrictions.

(4) Where the offer notice was one to which section 5B applied (sale by auction), the restrictions are—

(a) that the disposal is made by means of a sale at a public auction, and

(b) that the other terms correspond to those specified in the offer notice.

(5) In any other case the restrictions are—

(a) that the deposit and consideration required are not less than those specified in the offer notice or, if higher, those agreed between the landlord and the nominated person (subject to contract), and

(b) that the other terms correspond to those specified in the offer notice.

(6) Where notice is given under subsection (3), the landlord may recover from the nominated party and the qualifying tenants who served the acceptance notice any costs reasonably incurred by him in connection with the disposal between the end of the first four weeks of the nomination period and the time when that notice is served by him.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Any such liability of the nominated person and those tenants is a joint and several liability.**]**

Textual Amendments

F28 Ss. 5, 5A-5E, 6, 7, 8, 8A-8E, 9A, 9B, 10 and crossheading substituted for ss. 5-10 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. I**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F29 9A Notice of withdrawal by nominated person.

(1) Where the landlord is obliged to proceed, the nominated person may serve notice on the landlord (a "notice of withdrawal") indicating his intention no longer to proceed with the acquisition of the protected interest.

(2) If at any time the nominated person becomes aware that the number of the qualifying tenants of the constituent flats desiring to proceed with the acquisition of the protected interest is less than the requisite majority of qualifying tenants of those flats, he shall forthwith serve a notice of withdrawal.

(3) Where notice of withdrawal is given by the nominated person under this section, the landlord may, during the period of 12 months beginning with the date of service of the notice, dispose of the protected interest to such person as he thinks fit, but subject to the following restrictions.

(4) Where the offer notice was one to which section 5B applied (sale by auction), the restrictions are—
   (a) that the disposal is made by means of a sale at a public auction, and
   (b) that the other terms correspond to those specified in the offer notice.

(5) In any other case the restrictions are—
   (a) that the deposit and consideration required are not less than those specified in the offer notice or, if higher, those agreed between the landlord and the nominated person (subject to contract), and
   (b) that the other terms correspond to those specified in the offer notice.

(6) If notice of withdrawal is served under this section before the end of the first four weeks of the nomination period specified in the offer notice, the nominated person and the qualifying tenants who served the acceptance notice are not liable for any costs incurred by the landlord in connection with the disposal.

(7) If notice of withdrawal is served under this section after the end of those four weeks, the landlord may recover from the nominated person and the qualifying tenants who served the acceptance notice any costs reasonably incurred by him in connection with the disposal between the end of those four weeks and the time when the notice of withdrawal was served on him.

   Any such liability of the nominated person and those tenants is a joint and several liability.

(8) This section does not apply after a binding contract for the disposal of the protected interest—
   (a) has been entered into by the landlord and the nominated person, or

(b) has otherwise come into existence between the landlord and the nominated person by virtue of any provision of this Part.**]**

Textual Amendments

F29 Ss. 5, 5A-5E, 6, 7, 8, 8A-8E, 9A, 9B, 10 and crossheading substituted for ss. 5-10 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. I**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F30 9B Notice of withdrawal by landlord.

(1) Where the landlord is obliged to proceed, he may serve notice on the nominated person (a "notice of withdrawal") indicating his intention no longer to proceed with the disposal of the protected interest.

(2) Where a notice of withdrawal is given by the landlord, he is not entitled to dispose of the protected interest during the period of 12 months beginning with the date of service of the notice.

(3) If a notice of withdrawal is served before the end of the first four weeks of the nomination period specified in the offer notice, the landlord is not liable for any costs incurred in connection with the disposal by the nominated person and the qualifying tenants who served the acceptance notice.

(4) If a notice of withdrawal is served after the end of those four weeks, the nominated person and the qualifying tenants who served the acceptance notice may recover from the landlord any costs reasonably incurred by them in connection with the disposal between the end of those four weeks and the time when the notice of withdrawal was served.

(5) This section does not apply after a binding contract for the disposal of the protected interest—

(a) has been entered into by the landlord and the nominated person, or

(b) has otherwise come into existence between the landlord and the nominated person by virtue of any provision of this Part.**]**

Textual Amendments

F30 Ss. 5, 5A-5E, 6, 7, 8, 8A-8E, 9A, 9B, 10 and crossheading substituted for ss. 5-10 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. I**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F31 10 Lapse of landlord's offer.

(1) If after a landlord has served an offer notice the premises concerned cease to be premises to which this Part applies, the landlord may serve a notice on the qualifying tenants of the constituent flats stating—

(a) that the premises have ceased to be premises to which this Part applies, and

(b) that the offer notice, and anything done in pursuance of it, is to be treated as not having been served or done;

and on the service of such a notice the provisions of this Part cease to have effect in relation to that disposal.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) A landlord who has not served such a notice on all of the qualifying tenants of the constituent flats shall nevertheless be treated as having duly served a notice under subsection (1)—
  (a) if he has served such a notice on not less than 90% of those tenants, or
  (b) where those qualifying tenants number less than ten, if he has served such a notice on all but one of them.

(3) Where the landlord is entitled to serve a notice under subsection (1) but does not do so, this Part shall continue to have effect in relation to the disposal in question as if the premises in question were still premises to which this Part applies.

(4) The above provisions of this section do not apply after a binding contract for the disposal of the protected interest—
  (a) has been entered into by the landlord and the nominated person, or
  (b) has otherwise come into existence between the landlord and the nominated person by virtue of any provision of this Part.

(5) Where a binding contract for the disposal of the protected interest has been entered into between the landlord and the nominated person but it has been lawfully rescinded by the landlord, the landlord may, during the period of 12 months beginning with the date of the rescission of the contract, dispose of that interest to such person (and on such terms) as he thinks fit.**]**

Textual Amendments

F31 Ss. 5, 5A-5E, 6, 7, 8, 8A-8E, 9A, 9B, 10 and crossheading substituted for ss. 5-10 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. I**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F32 10A Offence of failure to comply with requirements of Part I.

(1) A landlord commits an offence if, without reasonable excuse, he makes a relevant disposal affecting premises to which this Part applies—
  (a) without having first complied with the requirements of section 5 as regards the service of notices on the qualifying tenants of flats contained in the premises, or
  (b) in contravention of any prohibition or restriction imposed by sections 6 to 10.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Where an offence under this section committed by a body corporate is proved—
  (a) to have been committed with the consent or connivance of a director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in such a capacity, or
  (b) to be due to any neglect on the part of such an officer or person,

he, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

Where the affairs of a body corporate are managed by its members, the above provision applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Proceedings for an offence under this section may be brought by a local housing authority (within the meaning of section 1 of the [M5]Housing Act 1985).

(5) Nothing in this section affects the validity of the disposal.**]**

Textual Amendments

F32 S. 10A inserted (1.10.1996) by 1996 c. 52, **s. 91**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

Marginal Citations

M5 1985 c. 68.

[[F33] Enforcement by tenants of rights against purchaser]

Textual Amendments

F33 Ss. 11, 11A, 12A-12D, 13, 14 and crossheading substituted for ss. 11-15 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. II**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

11 [[F34] Circumstances in which tenants' rights enforceable against purchaser]

(1) The following provisions of this Part apply where a landlord has made a relevant disposal affecting premises to which at the time of the disposal this Part applied ("the original disposal"), and either—

(a) no notice was served by the landlord under section 5 with respect to that disposal, or

(b) the disposal was made in contravention of any provision of sections 6 to 10,

and the premises are still premises to which this Part applies.

(2) In those circumstances the requisite majority of the qualifying tenants of the flats contained in the premises affected by the relevant disposal (the "constituent flats") have the rights conferred by the following provisions—

section 11A (right to information as to terms of disposal, &c.),

section 12A (right of qualifying tenants to take benefit of contract),

section 12B (right of qualifying tenants to compel sale, &c. by purchaser), and

section 12C (right of qualifying tenants to compel grant of new tenancy by superior landlord).

(3) In those sections the transferee under the original disposal (or, in the case of the surrender of a tenancy, the superior landlord) is referred to as "the purchaser".

This shall not be read as restricting the operation of those provisions to disposals for consideration.

Textual Amendments

F34 Ss. 11, 11A, 12A-12D, 13, 14 and crossheading substituted for ss. 11-15 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. II**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F35 11A Right to information as to terms of disposal, &c.

(1) The requisite majority of qualifying tenants of the constituent flats may serve a notice on the purchaser requiring him—

(a) to give particulars of the terms on which the original disposal was made (including the deposit and consideration required) and the date on which it was made, and

(b) where the disposal consisted of entering into a contract, to provide a copy of the contract.

(2) The notice must specify the name and address of the person to whom (on behalf of the tenants) the particulars are to be given, or the copy of the contract provided.

(3) Any notice under this section must be served before the end of the period of four months beginning with the date by which—

(a) notices under section 3A of the M6 Landlord and Tenant Act 1985 (duty of new landlord to inform tenants of rights) relating to the original disposal, or

(b) where that section does not apply, documents of any other description—

(i) indicating that the original disposal has taken place, and

(ii) alerting the tenants to the existence of their rights under this Part and the time within which any such rights must be exercised,

have been served on the requisite majority of qualifying tenants of the constituent flats.

(4) A person served with a notice under this section shall comply with it within the period of one month beginning with the date on which it is served on him.]

Textual Amendments

F35 Ss. 11, 11A, 12A-12D, 13, 14 and crossheading substituted for ss. 11-15 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. II**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

Marginal Citations

M6 1985 c 70.

[F36 12A Right of qualifying tenants to take benefit of contract.

(1) Where the original disposal consisted of entering into a contract, the requisite majority of qualifying tenants of the constituent flats may by notice to the landlord elect that the contract shall have effect as if entered into not with the purchaser but with a person or persons nominated for the purposes of this section by the requisite majority of qualifying tenants of the constituent flats.

(2) Any such notice must be served before the end of the period of six months beginning—

(a) if a notice was served on the purchaser under section 11A (right to information as to terms of disposal, &c.), with the date on which the purchaser complied with that notice;

(b) in any other case, with the date by which documents of any description—

(i) indicating that the original disposal has taken place, and

(ii) alerting the tenants to the existence of their rights under this Part and the time within which any such rights must be exercised,

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

have been served on the requisite majority of qualifying tenants of the constituent flats.

(3) The notice shall not have effect as mentioned in subsection (1) unless the nominated person—

(a) fulfils any requirements as to the deposit required on entering into the contract, and

(b) fulfils any other conditions required to be fulfilled by the purchaser on entering into the contract.

(4) Unless otherwise agreed, any time limit in the contract as it has effect by virtue of a notice under this section shall start to run again on the service of that notice; and nothing in the contract as it has effect by virtue of a notice under this section shall require the nominated person to complete the purchase before the end of the period of 28 days beginning with the day on which he is deemed to have entered into the contract.

(5) Where the original disposal related to other property in addition to premises to which this Part applied at the time of the disposal—

(a) a notice under this section has effect only in relation to the premises to which this Part applied at the time of the original disposal, and

(b) the terms of the contract shall have effect with any necessary modifications.

In such a case the notice under this section may specify the subject-matter of the disposal, and the terms on which the disposal is to be made (whether doing so expressly or by reference to the original disposal), or may provide for that estate or interest, or any such terms, to be determined by a leasehold valuation tribunal.**]**

Textual Amendments

F36 Ss. 11, 11A, 12A-12D, 13, 14 and crossheading substituted for ss. 11-15 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. II**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F37 12B Right of qualifying tenants to compel sale, &c. by purchaser.

(1) This section applies where—

(a) the original disposal consisted of entering into a contract and no notice has been served under section 12A (right of qualifying tenants to take benefit of contract), or

(b) the original disposal did not consist of entering into a contract.

(2) The requisite majority of qualifying tenants of the constituent flats may serve a notice (a "purchase notice") on the purchaser requiring him to dispose of the estate or interest that was the subject-matter of the original disposal, on the terms on which it was made (including those relating to the consideration payable), to a person or persons nominated for the purposes of this section by any such majority of qualifying tenants of those flats.

(3) Any such notice must be served before the end of the period of six months beginning—

(a) if a notice was served on the purchaser under section 11A (right to information as to terms of disposal, &c.), with the date on which the purchaser complied with that notice;

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) in any other case, with the date by which—

(i) notices under section 3A of the [M7]Landlord and Tenant Act 1985 (duty of new landlord to inform tenants of rights) relating to the original disposal, or

(ii) where that section does not apply, documents of any other description indicating that the original disposal has taken place, and alerting the tenants to the existence of their rights under this Part and the time within which any such rights must be exercised,

have been served on the requisite majority of qualifying tenants of the constituent flats.

(4) A purchase notice shall where the original disposal related to other property in addition to premises to which this Part applied at the time of the disposal—

(a) require the purchaser only to make a disposal relating to those premises, and

(b) require him to do so on the terms referred to in subsection (2) with any necessary modifications.

In such a case the purchase notice may specify the subject-matter of the disposal, and the terms on which the disposal is to be made (whether doing so expressly or by reference to the original disposal), or may provide for those matters to be determined by a leasehold valuation tribunal.

(5) Where the property which the purchaser is required to dispose of in pursuance of the purchase notice has since the original disposal become subject to any charge or other incumbrance, then, unless the court by order directs otherwise—

(a) in the case of a charge to secure the payment of money or the performance of any other obligation by the purchaser or any other person, the instrument by virtue of which the property is disposed of by the purchaser to the person or persons nominated for the purposes of this section shall (subject to the provisions of Part I of Schedule 1) operate to discharge the property from that charge; and

(b) in the case of any other incumbrance, the property shall be so disposed of subject to the incumbrance but with a reduction in the consideration payable to the purchaser corresponding to the amount by which the existence of the incumbrance reduces the value of the property.

(6) Subsection (5)(a) and Part I of Schedule 1 apply, with any necessary modifications, to mortgages and liens as they apply to charges; but nothing in those provisions applies to a rentcharge.

(7) Where the property which the purchaser is required to dispose of in pursuance of the purchase notice has since the original disposal increased in monetary value owing to any change in circumstances (other than a change in the value of money), the amount of the consideration payable to the purchaser for the disposal by him of the property in pursuance of the purchase notice shall be the amount that might reasonably have been obtained on a corresponding disposal made on the open market at the time of the original disposal if the change in circumstances had already taken place.**]**

Textual Amendments

F37 Ss. 11, 11A, 12A-12D, 13, 14 and crossheading substituted for ss. 11-15 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. II**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Marginal Citations

M7 1985 c 70.

[[F38]12C Right of qualifying tenants to compel grant of new tenancy by superior landlord

(1) This section applies where the original disposal consisted of the surrender by the landlord of a tenancy held by him ("the relevant tenancy").

(2) The requisite majority of qualifying tenants of the constituent flats may serve a notice on the purchaser requiring him to grant a new tenancy of the premises which were subject to the relevant tenancy, on the same terms as those of the relevant tenancy and so as to expire on the same date as that tenancy would have expired, to a person or persons nominated for the purposes of this section by any such majority of qualifying tenants of those flats.

(3) Any such notice must be served before the end of the period of six months beginning—

(a) if a notice was served on the purchaser under section 11A (right to information as to terms of disposal, &c.), with the date on which the purchaser complied with that notice;

(b) in any other case, with the date by which documents of any description—

(i) indicating that the original disposal has taken place, and

(ii) alerting the tenants to the existence of their rights under this Part and the time within which any such rights must be exercised,

have been served on the requisite majority of qualifying tenants of the constituent flats.

(4) If the purchaser paid any amount to the landlord as consideration for the surrender by him of that tenancy, the nominated person shall pay that amount to the purchaser.

(5) Where the premises subject to the relevant tenancy included premises other than premises to which this Part applied at the time of the disposal, a notice under this section shall—

(a) require the purchaser only to grant a new tenancy relating to the premises to which this Part then applied, and

(b) require him to do so on the terms referred to in subsection (2) subject to any necessary modifications.

(6) The purchase notice may specify the subject-matter of the disposal, and the terms on which the disposal is to be made (whether doing so expressly or by reference to the original disposal), or may provide for those matters to be determined by a leasehold valuation tribunal.**]**

Textual Amendments

F38 Ss. 11, 11A, 12A-12D, 13, 14 and crossheading substituted for ss. 11-15 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. II**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[[F39]12D Nominated persons: supplementary provisions.

(1) The person or persons initially nominated for the purposes of section 12A, 12B or 12C shall be nominated in the notice under that section.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) A person nominated for those purposes by the requisite majority of qualifying tenants of the constituent flats may be replaced by another person so nominated if, and only if, he has (for any reason) ceased to be able to act as a nominated person.

(3) Where two or more persons have been nominated and any of them ceases to act without being replaced, the remaining person or persons so nominated may continue to act.

(4) Where, in the exercise of its power to award costs, the court or the Lands Tribunal makes, in connection with any proceedings arising under or by virtue of this Part, an award of costs against the person or persons so nominated, the liability for those costs is a joint and several liability of that person or those persons together with the qualifying tenants by whom the relevant notice was served.**]**

Textual Amendments

F39 Ss. 11, 11A, 12A-12D, 13, 14 and crossheading substituted for ss. 11-15 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. II**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F40 13 Determination of questions by leasehold valuation tribunal.

(1) A leasehold valuation tribunal has jurisdiction to hear and determine—

(a) any question arising in relation to any matters specified in a notice under section 12A, 12B or 12C, and

(b) any question arising for determination as mentioned in section 8C(4), 12A(5) or 12B(4) (matters left for determination by tribunal).

(2) On an application under this section the interests of the persons by whom the notice was served under section 12A, 12B or 12C shall be represented by the nominated person; and accordingly the parties to any such application shall not include those persons.**]**

Textual Amendments

F40 Ss. 11, 11A, 12A-12D, 13, 14 and crossheading substituted for ss. 11-15 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. II**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F41 14 Withdrawal of nominated person from transaction under s.12B or 12C.

(1) Where notice has been duly served on the landlord under—

section 12B (right of qualifying tenants to compel sale, &c by purchaser), or

section 12C (right of qualifying tenants to compel grant of new tenancy by superior landlord),

the nominated person may at any time before a binding contract is entered into in pursuance of the notice, serve notice under this section on the purchaser (a " notice of withdrawal") indicating an intention no longer to proceed with the disposal.

(2) If at any such time the nominated person becomes aware that the number of qualifying tenants of the constituent flats desiring to proceed with the disposal is less than the requisite majority of those tenants, he shall forthwith serve a notice of withdrawal.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) If a notice of withdrawal is served under this section the purchaser may recover from the nominated person any costs reasonably incurred by him in connection with the disposal down to the time when the notice is served on him.

(4) If a notice of withdrawal is served at a time when proceedings arising under or by virtue of this Part are pending before the court or the Lands Tribunal, the liability of the nominated person for any costs incurred by the purchaser as mentioned in subsection (3) shall be such as may be determined by the court or (as the case may be) by the Tribunal.

(5) The costs that may be recovered by the purchaser under this section do not include any costs incurred by him in connection with an application to a leasehold valuation tribunal.**]**

Textual Amendments

F41 Ss. 11, 11A, 12A-12D, 13, 14 and crossheading substituted for ss. 11-15 (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. II**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F42 Enforcement by tenants of rights against subsequent purchasers]

Textual Amendments

F42 Ss. 16, 17 and crossheadings substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. III**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

16 [F43 Rights of qualifying tenants against subsequent purchaser.]

(1) This section applies where, at the time when a notice is served on the purchaser under section 11A, 12A, 12B or 12C, he no longer holds the estate or interest that was the subject-matter of the original disposal.

(2) In the case of a notice under section 11A (right to information as to terms of disposal, &c.) the purchaser shall, within the period for complying with that notice—

(a) serve notice on the person specified in the notice as the person to whom particulars are to be provided of the name and address of the person to whom he has disposed of that estate or interest ("the subsequent purchaser"), and

(b) serve on the subsequent purchaser a copy of the notice under section 11A and of the particulars given by him in response to it.

(3) In the case of a notice under section 12A, 12B or 12C the purchaser shall forthwith—

(a) forward the notice to the subsequent purchaser, and

(b) serve on the nominated person notice of the name and address of the subsequent purchaser.

(4) Once the purchaser serves a notice in accordance with subsection (2)(a) or (3)(b), sections 12A to 14 shall, instead of applying to the purchaser, apply to the subsequent purchaser as if he were the transferee under the original disposal.

Status: *Point in time view as at 13/10/2003.*
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(5) Subsections (1) to (4) have effect, with any necessary modifications, in a case where, instead of disposing of the whole of the estate or interest referred to in subsection (1) to another person, the purchaser has disposed of it in part or in parts to one or more other persons.

In such a case, sections 12A to 14—

(a) apply to the purchaser in relation to any part of that estate or interest retained by him, and

(b) in relation to any part of that estate or interest disposed of to any other person, apply to that other person instead as if he were (as respects that part) the transferee under the original disposal.

Textual Amendments

F43 S. 16 and crossheading substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. III**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

[F44 Termination of rights against purchasers or subsequent purchasers]

Textual Amendments

F44 S. 17 and crossheading substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. III**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

17 [F45 Termination of rights against purchaser or subsequent purchaser.]

(1) If, at any time after a notice has been served under section 11A, 12A, 12B or 12C, the premises affected by the original disposal cease to be premises to which this Part applies, the purchaser may serve a notice on the qualifying tenants of the constituent flats stating—

(a) that the premises have ceased to be premises to which this Part applies, and

(b) that any such notice served on him, and anything done in pursuance of it, is to be treated as not having been served or done.

(2) A landlord who has not served such a notice on all of the qualifying tenants of the constituent flats shall nevertheless be treated as having duly served a notice under subsection (1)—

(a) if he has served such a notice on not less than 90% of those tenants, or

(b) where those qualifying tenants number less than ten, if he has served such a notice on all but one of them.

(3) Where a period of three months beginning with the date of service of a notice under section 12A, 12B or 12C on the purchaser has expired—

(a) without any binding contract having been entered into between the purchaser and the nominated person, and

(b) without there having been made any application in connection with the notice to the court or to a leasehold valuation tribunal,

the purchaser may serve on the nominated person a notice stating that the notice, and anything done in pursuance of it, is to be treated as not having been served or done.

Status: *Point in time view as at 13/10/2003.*
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(4) Where any such application as is mentioned in subsection (3)(b) was made within the period of three months referred to in that subsection, but—

(a) a period of two months beginning with the date of the determination of that application has expired,

(b) no binding contract has been entered into between the purchaser and the nominated person, and

(c) no other such application as is mentioned in subsection (3)(b) is pending,

the purchaser may serve on the nominated person a notice stating that any notice served on him under section 12A, 12B or 12C, and anything done in pursuance of any such notice, is to be treated as not having been served or done.

(5) Where the purchaser serves a notice in accordance with subsection (1), (3) or (4), this Part shall cease to have effect in relation to him in connection with the original disposal.

(6) Where a purchaser is entitled to serve a notice under subsection (1) but does not do so, this Part shall continue to have effect in relation to him in connection with the original disposal as if the premises in question were still premises to which this Part applies.

(7) References in this section to the purchaser include a subsequent purchaser to whom sections 12A to 14 apply by virtue of section 16(4) or (5).

Textual Amendments

F45 Ss. 16, 17 and crossheadings substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. III**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

Notices served by prospective purchasers

18 Notices served by prospective purchasers to ensure that rights of first refusal do not arise.

(1) Where—

(a) any disposal of an estate or interest in any premises consisting of the whole or part of a building is proposed to be made by a landlord, and

(b) it appears to the person who would be the transferee under that disposal ("the purchaser") that any such disposal would, or might, be a relevant disposal affecting premises to which this Part applies,

the purchaser may serve notices under this subsection on the tenants of the flats contained in the premises referred to in paragraph (a) ("the flats affected").

(2) Any notice under subsection (1) shall—

(a) inform the person on whom it is served of the general nature of the principal terms of the proposed disposal, including in particular—

(i) the property to which it would relate and the estate or interest in that property proposed to be disposed of by the landlord, and

(ii) the consideration required by him for making the disposal;

(b) invite that person to serve a notice on the purchaser stating—

(i) whether the landlord has served on him, or on any predecessor in title of his, a notice under section 5 with respect to the disposal, and

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(ii) if the landlord has not so served any such notice, whether he is aware of any reason why he is not entitled to be served with any such notice by the landlord, and

(iii) if he is not so aware, whether he would wish to avail himself of the right of first refusal conferred by any such notice if it were served; and

(c) inform that person of the effect of the following provisions of this section.

(3) Where the purchaser has served notices under subsection (1) on at least 80 per cent. of the tenants of the flats affected and—

(a) not more than 50 per cent. of the tenants on whom those notices have been served by the purchaser have served notices on him in pursuance of subsection (2)(b) by the end of the period of **[**[F46]two months**]** beginning with the date on which the last of them was served by him with a notice under this section, or

(b) more than 50 per cent. of the tenants on whom those notices have been served by the purchaser have served notices on him in pursuance of subsection (2)(b) but the notices in each case indicate that the tenant serving it either—

(i) does not regard himself as being entitled to be served by the landlord with a notice under section 5 with respect to the disposal, or

(ii) would not wish to avail himself of the right of first refusal conferred by such a notice if it were served,

the premises affected by the disposal shall, in relation to the disposal, be treated for the purposes of this Part as premises to which this Part does not apply.

(4) For the purposes of subsection (3) each of the flats affected shall be regarded as having one tenant, who shall count towards any of the percentages specified in that subsection whether he is a qualifying tenant of the flat or not.

Textual Amendments

F46 Words in s. 18(3)(a) substituted (3.10.1996) by S.I. 1996/2371, **reg. 2**

Supplementary

[[F47]18A The requisite majority of qualifying tenants.

(1) In this Part "the requisite majority of qualifying tenants of the constituent flats" means qualifying tenants of constituent flats with more than 50 per cent. of the available votes.

(2) The total number of available votes shall be determined as follows—

(a) where an offer notice has been served under section 5, that number is equal to the total number of constituent flats let to qualifying tenants on the date when the period specified in that notice as the period for accepting the offer expires;

(b) where a notice is served under section 11A without a notice having been previously served under section 5, that number is equal to the total number of constituent flats let to qualifying tenants on the date of service of the notice under section 11A;

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(c) where a notice is served under section 12A, 12B or 12C without a notice having been previously served under section 5 or section 11A, that number is equal to the total number of constituent flats let to qualifying tenants on the date of service of the notice under section 12A, 12B or 12C, as the case may be.

(3) There is one available vote in respect of each of the flats so let on the date referred to in the relevant paragraph of subsection (2), which shall be attributed to the qualifying tenant to whom it is let.

(4) The persons constituting the requisite majority of qualifying tenants for one purpose may be different from the persons constituting such a majority for another purpose.**]**

Textual Amendments

F47 S. 18A inserted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 2**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

19 Enforcement of obligations under Part I.

(1) The court may, on the application of any person interested, make an order requiring any person who has made default in complying with any duty imposed on him by any provision of this Part to make good the default within such time as is specified in the order.

(2) An application shall not be made under subsection (1) unless—

(a) a notice has been previously served on the person in question requiring him to make good the default, and

(b) more than 14 days have elapsed since the date of service of that notice without his having done so.

(3) The restriction imposed by section 1(1) may be enforced by an injunction granted by the court.

20 Construction of Part I and power of Secretary of State to prescribe modifications.

(1) In this Part—

[[F48]"acceptance notice" has the meaning given by section 6(3);**]**

"associated company", in relation to a body corporate, means another body corporate which is (within the meaning of section 736 of the [M8]Companies Act 1985) that body's holding company, a subsidiary of that body or another subsidiary of that body's holding company;

[[F49]"constituent flat" shall be construed in accordance with section 5(1) or 11(2), as the case may require;**]**

"disposal" **[**[F50]shall be construed in accordance with section 4(3) and section 4A (application of provisions to contracts)**]**, and references to the acquisition of an estate or interest shall be construed accordingly;

"landlord", in relation to any premises, shall be construed in accordance with section 2;

[F51] . . .

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[[F52]"the nominated person" means the person or persons for the time being nominated by the requisite majority of the qualifying tenants of the constituent flats for the purposes of section 6, 12A, 12B or 12C, as the case may require;**]**

"offer notice" means a notice served by a landlord under section 5;

"the original disposal" means the relevant disposal referred to in section 11(1);

[[F53]"the protected interest" means the estate, interest or other subject-matter of an offer notice;**]**

[[F54]"the protected period" has the meaning given by section 6(4);**]**

[[F55]"purchase notice" has the meaning given by section 12B(2);**]**

[[F56]"purchaser" has the meaning given by section 11(3);**]**

"qualifying tenant", in relation to a flat, shall be construed in accordance with section 3;

"relevant disposal" shall be construed in accordance with section 4;

"the requisite majority", in relation to qualifying tenants, shall be construed in accordance with **[**[F57]section 18A**]**;

"transferee", in relation to a disposal, shall be construed in accordance with section 4(3).

(2) In this Part—

(a) any reference to an offer [F58]. . . is a reference to an offer [F58]. . . made subject to contract, and

(b) any reference to the acceptance of an offer [F58]. . . is a reference to its acceptance subject to contract.

(3) Any reference in this Part to a tenant of a particular description shall be construed, in relation to any time when the interest under his tenancy has ceased to be vested in him, as a reference to the person who is for the time being the successor in title to that interest.

(4) The Secretary of State may by regulations make such modifications of any of the provisions of sections 5 to 18 as he considers appropriate, and any such regulations may contain such incidental, supplemental or transitional provisions as he considers appropriate in connection with the regulations.

(5) In subsection (4) "modifications" includes additions, omissions and alterations.

Textual Amendments

F48 Definition of "acceptance notice" in s. 20(1) substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 3(2)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F49 Definition of "constituent flat" in s. 20(1) substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 3(3)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F50 Words in definition of "disposal" in s. 20(1) substituted (1.10.1996) by 1996 c. 52, **s. 89(3)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F51 Definition of "the new landlord" in s. 20(1) repealed (1.10.1996) by 1996 c. 52, ss. 92(1), 227, Sch. 6 Pt. IV para. 3(4), **Sch. 19 Pt. III**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F52 Definition of "the nominated person" in s. 20(1) inserted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 3(5)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F53 Definition of "the protected interest" substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 3(6)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F54 Definition of "the protected period" in s. 20(1) inserted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 3(7)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

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F55 Definition of "purchase notice" in s. 20(1) substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 3(8)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F56 Definition of "purchaser" in s. 20(1) inserted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 3(9)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F57 Words in definition of "the requisite majority" in s. 20(1) substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 3(10)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F58 Words in s. 20(2) repealed (1.10.1996) by 1996 c. 52, ss. 92(1), 227, Sch. 6 para. 4, **Sch. 19 Pt. III**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

Marginal Citations

M8 1985 c. 6.

PART II

APPOINTMENT OF MANAGERS BY [F59A LEASEHOLD VALUATION TRIBUNAL]

Textual Amendments

F59 Words in Part II heading substituted (1.9.1997) by virtue of 1996 c. 52, **ss. 86(2)**

Modifications etc. (not altering text)

C4 Pt. II modified (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 7 para. 8**; S.I. 2003/1986, art. 2(a)

C5 Pt. II extended to Crown Land (30.9.2003 for E. for specified purposes) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 172**, 181(1); S.I. 2003/1986, art. 2(c)(ii) (with Sch. 2)

21 Tenant's right to apply to court for appointment of manager.

(1) The tenant of a flat contained in any premises to which this Part applies may, subject to the following provisions of this Part, apply to **[**F60a leasehold valuation tribunal**]** for an order under section 24 appointing a manager to act in relation to those premises.

(2) Subject to subsection (3), this Part applies to premises consisting of the whole or part of a building if the building or part contains two or more flats.

(3) This Part does not apply to any such premises at a time when—

(a) the interest of the landlord in the premises is held by an exempt landlord or a resident landlord, or

(b) the premises are included within the functional land of any charity.

[F61(3A) But this Part is not prevented from applying to any premises because the interest of the landlord in the premises is held by a resident landlord if at least one-half of the flats contained in the premises are held on long leases which are not tenancies to which Part 2 of the Landlord and Tenant Act 1954 (c. 56) applies.**]**

(4) An application for an order under section 24 may be made—

(a) jointly by tenants of two or more flats if they are each entitled to make such an application by virtue of this section, and

(b) in respect of two or more premises to which this Part applies;

and, in relation to any such joint application as is mentioned in paragraph (a), references in this Part to a single tenant shall be construed accordingly.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) Where the tenancy of a flat contained in any such premises is held by joint tenants, an application for an order under section 24 in respect of those premises may be made by any one or more of those tenants.

(6) An application to the court for it to exercise in relation to any premises **[**[F62]any jurisdiction**]** to appoint a receiver or manager shall not be made by a tenant (in his capacity as such) in any circumstances in which an application could be made by him for an order under section 24 appointing a manager to act in relation to those premises.

(7) References in this Part to a tenant do not include references to a tenant under a tenancy to which Part II of the [M9]Landlord and Tenant Act 1954 applies.

Textual Amendments

F60 Words in s. 21(1) substituted (1.9.1997) by 1996 c. 52, **s. 86(2)**; S.I. 1997/1851, **art. 2(b)** (subject to Sch. para. 2)

F61 S. 21(3A) inserted (26.7.2002 for E. and 1.1.2003 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 161**; S.I. 2002/1912, **art. 2(b)(i)** (subject to Sch. 2); S.I. 2002/3012, **art. 2(b)(i)** (subject to Sch. 2)

F62 Words in s. 21(6) substituted (1.9.1997) by 1996 c. 52, **s. 86(3)**; S.I. 1997/1851, **art. 2(b)** (subject to Sch. para. 2)

Marginal Citations

M9 1954 c. 56.

22 Preliminary notice by tenant.

(1) Before an application for an order under section 24 is made in respect of any premises to which this Part applies by a tenant of a flat contained in those premises, a notice under this section must (subject to subsection (3)) be served **[**[F63] by the tenant on—

(i) the landlord, and

(ii) any person (other than the landlord) by whom obligations relating to the management of the premises or any part of them are owed to the tenant under his tenancy**]** .

(2) A notice under this section must—

(a) specify the tenant's name, the address of his flat and an address in England and Wales (which may be the address of his flat) at which **[**[F64]any person on whom the notice is served**]** may serve notices, including notices in proceedings, on him in connection with this Part;

(b) state that the tenant intends to make an application for an order under section 24 to be made by **[**[F65]a leasehold valuation tribunal**]** in respect of such premises to which this Part applies as are specified in the notice, but (if paragraph (d) is applicable) that he will not do so if the **[**[F66]requirement specified in pursuance of that paragraph is complied with**]** ;

(c) specify the grounds on which **[**[F65]the tribunal**]** would be asked to make such an order and the matters that would be relied on by the tenant for the purpose of establishing those grounds;

(d) where those matters are capable of being remedied by **[**[F67]any person on whom the notice is served, require him**]** , within such reasonable period as is specified

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in the notice, to take such steps for the purpose of remedying them as are so specified; and

(e) contain such information (if any) as the Secretary of State may by regulations prescribe.

(3) **[**[F65]A leashold valuation tribunal**]** may (whether on the hearing of an application for an order under section 24 or not) by order dispense with the requirement to serve a notice under this section **[**[F68]on a person**]** in a case where it is satisfied that it would not be reasonably practicable to serve such a notice on the **[**[F69]person**]**, but **[**[F65]the tribunal**]** may, when doing so, direct that such other notices are served, or such other steps are taken, as it thinks fit.

(4) In a case where—

(a) a notice under this section has been served on the landlord, and

(b) his interest in the premises specified in pursuance of subsection (2)(b) is subject to a mortgage,

the landlord shall, as soon as is reasonably practicable after receiving the notice, serve on the mortgagee a copy of the notice.

Textual Amendments

F63 Words in s. 22(1) substituted (26.7.2002 for E. and 1.1.2003 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 160(2)(a)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to Sch. 2); S.I. 2002/3012, **art. 2(b)(i)** (subject to Sch. 2)

F64 Words in s. 22(2)(a) substituted (26.7.2002 for E. and 1.1.2003 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 160(2)(b)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to Sch. 2); S.I. 2002/3012, **art. 2(b)(i)** (subject to Sch. 2)

F65 Words in s. 22(2)(b)(c)(3) substituted (1.9.1997) by 1996 c. 52, **s. 86(2)**; S.I. 1997/1851, **art. 2(b)** (subject to Sch. para. 2)

F66 Words in s. 22(2)(b) substituted (E.W.) (26.7.2002 for E. and 1.1.2003 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 160(2)(c)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to Sch. 2); S.I. 2002/3012, **art. 2(b)(i)** (subject to Sch. 2)

F67 Words in s. 22(2)(d) substituted (26.7.2002 for E. and 1.1.2003 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15) {s. 160(2)(d)}; S.I. 2002/1912, **art. 2(b)(i)** (subject to Sch. 2); S.I. 2002/3012, **art. 2(b)(i)** (subject to Sch. 2)

F68 Words in s. 22(3) inserted (26.7.2002 for E. and 1.1.2003 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 160(2)(e)(i)**; S.I. 2002/1912. {art. 2(b)(i)} (subject to Sch. 2); S.I. 2002/3012, **art. 2(b)(i)** (subject to Sch. 2)

F69 Words in s. 22(3) substituted (26.7.2002 for E. and 1.1.2003 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 160(2)(e)(ii)**; S.I. 2002/1912, {art, 2(b)(i)} (subject to Sch. 2); S.I. 2002/3012, **art. 2(b)(i)** (subject to Sch. 2)

23 Application to court for appointment of manager.

(1) No application for an order under section 24 shall be made to **[**[F70]a leasehold valuation tribunal**]** unless—

(a) in a case where a notice has been served under section 22, either—

(i) the period specified in pursuance of paragraph (d) of subsection (2) of that section has expired without the **[**[F71]person required to take steps in pursuance of that paragraph having taken them**]**, or

(ii) that paragraph was not applicable in the circumstances of the case; or

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(b) in a case where the requirement to serve such a notice has been dispensed with by an order under subsection (3) of that section, either—

(i) any notices required to be served, and any other steps required to be taken, by virtue of the order have been served or (as the case may be) taken, or

(ii) no direction was given by **[**[F70]the tribunal**]** when making the order.

[[F72](2) **[**[F73]Procedure regulations**]** shall make provision—

(a) for requiring notice of an application for an order under section 24 in respect of any premises to be served on such descriptions of persons as may be specified in the **[**[F74]regulations**]**; and

(b) for enabling persons served with any such notice to be joined as parties to the proceedings.**]**

Textual Amendments

F70 Words in s. 23(1) substituted (1.9.1997) by 1996 c. 52, **s. 86(2)**; S.I. 1997/1851, **art. 2(b)** (subject to Sch. para. 2)

F71 Words in s. 23(1) substituted (26.7.2002 for E. and 1.1.2003 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 160(3)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to Sch. 2); S.I. 2002/3012, **art. 2(b)(i)** (subject to Sch. 2)

F72 S. 23(2) repealed (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 14**; S.I. 2003/1986, art. 2(c)(iv), Sch. 1 Pt. 1 (with Sch. 2)

F73 Words in s. 23(2) substituted (23.8.1996 for specified purposes and otherwise 1.9.1996) by 1996 c. 52, **s. 86(4)(a)**; S.I. 1996/2212, **art. 2(1)** (with Sch.); S.I. 1997/1851, **art. 2(b)** (subject to Sch. para. 2)

F74 Word in s. 23(2)(a) substituted (23.8.1996 for specified purposes and otherwise 1.9.1996) by 1996 c. 52, **s. 86(4)(b)**; S.I. 1996/2212, **art. 2(1)** (with Sch.); S.I. 1997/1851, **art. 2(b)** (subject to Sch. para. 2)

24 Appointment of manager by **[**[F75]a leasehold valuation tribunal**]**.

(1) **[**[F75]A leasehold valuation tribunal**]** may, on an application for an order under this section, by order (whether interlocutory or final) appoint a manager to carry out in relation to any premises to which this Part applies—

(a) such functions in connection with the management of the premises, or

(b) such functions of a receiver,

or both, as **[**[F75]the tribunal**]** thinks fit.

(2) **[**[F75]A leasehold valuation tribunal**]** may only make an order under this section in the following circumstances, namely—

(a) where **[**[F75]the tribunal**]** is satisfied—

(i) that **[**[F76]any relevant person**]** either is in breach of any obligation owed by him to the tenant under his tenancy and relating to the management of the premises in question or any part of them or (in the case of an obligation dependent on notice) would be in breach of any such obligation but for the fact that it has not been reasonably practicable for the tenant to give him the appropriate notice, and

[F77](ii) . . . . . .

(iii) that it is just and convenient to make the order in all the circumstances of the case;

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[[F78](ab) where **[**[F75]the tribunal**]** is satisfied—

(i) that unreasonable service charges have been made, or are proposed or likely to be made, and

(ii) that it is just and convenient to make the order in all the circumstances of the case;

[[F79](aba) where the tribunal is satisfied—

(i) that unreasonable variable administration charges have been made, or are proposed or likely to be made, and

(ii) that it is just and convenient to make the order in all the circumstances of the case;**]**

(ac) where **[**[F75]the tribunal**]** is satisfied—

(i) that **[**[F76]any relevant person**]** has failed to comply with any relevant provision of a code of practice approved by the Secretary of State under section 87 of the [M10]Leasehold Reform, Housing and Urban Development Act 1993 (codes of management practice), and

(ii) that it is just and convenient to make the order in all the circumstances of the case; or**]**

(b) where **[**[F75]the tribunal**]** is satisfied that other circumstances exist which make it just and convenient for the order to be made.

[[F80](2ZA) In this section "relevant person" means a person—

(a) on whom a notice has been served under section 22, or

(b) in the case of whom the requirement to serve a notice under that section has been dispensed with by an order under subsection (3) of that section.**]**

[[F81](2A) For the purposes of subsection (2)(ab) a service charge shall be taken to be unreasonable—

(a) if the amount is unreasonable having regard to the items for which it is payable,

(b) if the items for which it is payable are of an unnecessarily high standard, or

(c) if the items for which it is payable are of an insufficient standard with the result that additional service charges are or may be incurred.

In that provision and this subsection "service charge" means a service charge within the meaning of section 18(1) of the [M11]Landlord and Tenant Act 1985, other than one excluded from that section by section 27 of that Act (rent of dwelling registered and not entered as variable).**]**

[[F82](2B) In subsection (2)(aba) "variable administration charge" has the meaning given by paragraph 1 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.**]**

(3) The premises in respect of which an order is made under this section may, if **[**[F75]the tribunal**]** thinks fit, be either more or less extensive than the premises specified in the application on which the order is made.

(4) An order under this section may make provision with respect to—

(a) such matters relating to the exercise by the manager of his functions under the order, and

(b) such incidental or ancillary matters,

as **[**[F75]the tribunal**]** thinks fit; and, on any subsequent application made for the purpose by the manager, **[**[F75]the tribunal**]** may give him directions with respect to any such matters.

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(5) Without prejudice to the generality of subsection (4), an order under this section may provide—

(a) for rights and liabilities arising under contracts to which the manager is not a party to become rights and liabilities of the manager;

(b) for the manager to be entitled to prosecute claims in respect of causes of action (whether contractual or tortious) accruing before or after the date of his appointment;

(c) for remuneration to be paid to the manager by **[**[F83]any relevant person**]** , or by the tenants of the premises in respect of which the order is made or by all or any of those persons;

(d) for the manager's functions to be exercisable by him (subject to subsection (9)) either during a specified period or without limit of time.

(6) Any such order may be granted subject to such conditions as **[**[F75]the tribunal**]** thinks fit, and in particular its operation may be suspended on terms fixed by **[**[F75]the tribunal**]**.

(7) In a case where an application for an order under this section was preceded by the service of a notice under section 22, **[**[F75]the tribunal**]** may, if it thinks fit, make such an order notwithstanding—

(a) that any period specified in the notice in pursuance of subsection (2)(d) of that section was not a reasonable period, or

(b) that the notice failed in any other respect to comply with any requirement contained in subsection (2) of that section or in any regulations applying to the notice under section 54(3).

(8) The [M12]Land Charges Act 1972 and the **[**[F84]Land Registration Act 2002**]** shall apply in relation to an order made under this section as they apply in relation to an order appointing a receiver or sequestrator of land.

(9) **[**[F75]A leasehold valuation tribunal**]** may, on the application of any person interested, vary or discharge (whether conditionally or unconditionally) an order made under this section; and if the order has been protected by an entry registered under the [M13]Land Charges Act 1972 or the **[**[F84]Land Registration Act 2002**]**, **[**[F75]the tribunal**]** may by order direct that the entry shall be cancelled.

[[F85](9A) the **[**[F86]court**]****[**[F86]tribunal**]** shall not vary or discharge an order under subsection (9) on **[**[F87]the application of any relevant person**]** unless it is satisfied—

(a) that the variation or discharge of the order will not result in a recurrence of the circumstances which led to the order being made, and

(b) that it is just and convenient in all the circumstances of the case to vary or discharge the order.**]**

(10) An order made under this section shall not be discharged by **[**[F75]a leasehold valuation tribunal**]** by reason only that, by virtue of section 21(3), the premises in respect of which the order was made have ceased to be premises to which this Part applies.

(11) References in this **[**[F88]Part**]** to the management of any premises include references to the repair, maintenance **[**[F89], improvement**]** or insurance of those premises.

Textual Amendments

F75 Words in s. 24 substituted (1.9.1997) by 1996 c. 52, **s. 86(2)**; S.I. 1997/1851, **art. 2(b)** (subject to Sch. para. 2)

Status: *Point in time view as at 13/10/2003.*
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F76 Words in s. 24(2) substituted (26.7.2002 for E. and 1.1.2003 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 160(4)(a)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to Sch. 2); S.I. 2002/3012, **art. 2(b)(i)** (subject to Sch. 2)

F77 S. 24(2)(a)(ii) omitted (24.9.1996) by virtue of 1996 c. 52, **ss. 85(2)(5)**, 232(2) and expressed to be repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. III**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F78 S. 24(2)(ab)(ac) inserted (24.9.1996) by 1996 c. 52, **ss. 85(3)(5)**, 232(2)

F79 S. 24(2)(aba) inserted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 11 para. 8(2)**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2)

F80 S. 24(2ZA) inserted (26.7.2002 for E. and 1.1.2003 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 160(4)(b)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to Sch. 2); S.I. 2002/3012, **art. 2(b)(i)** (subject to Sch. 2)

F81 S. 24(2A) inserted (24.9.1996) by 1996 c. 52, **ss. 85(4)(5)**, 232(2)

F82 S. 24(2B) inserted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 11 para. 8(3)**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2)

F83 Words in s. 24(5) substituted (26.7.2002 for E. and 1.1.2003 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 160(4)(c)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to Sch. 2); S.I. 2002/3012, **art. 2(b)(i)** (subject to Sch. 2)

F84 Words in s. 24(8)(9) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 20** (with s. 129); S.I. 2003/1725, art. 2(1)

F85 S. 24(9A) inserted (24.9.1996) by 1996 c. 52, **ss. 85(6)**, 232(2)

F86 Word in s. 24(9A) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 13 para. 9**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2)

F87 Words in s. 24(9A) substituted (26.7.2002 for E. and 1.1.2003 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 160(4)(d)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to Sch. 2); S.I. 2002/3012, **art. 2(b)(i)** (subject to Sch. 2)

F88 Word in s. 24(11) substituted (26.7.2002 for E. and 1.1.2003 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 160(4)(e)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to Sch. 2); S.I. 2002/3012, **art. 2(b)(i)** (subject to Sch. 2)

F89 Word in s. 24(11) inserted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 9 para. 8**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2)

Marginal Citations

M10 1993 c. 28.

M11 1985 c. 70.

M12 1972 c. 61.

M13 1972 c. 61.

[F90[F91]24. Jurisdiction of leasehold valuation tribunal.

(1) The jurisdiction conferred by this Part on a leasehold valuation tribunal is exercisable by a rent assessment committee constituted in accordance with Schedule 10 to the [M14]Rent Act 1977 which when so constituted for the purposes of exercising any such jurisdiction shall be known as a leasehold valuation tribunal.

(2) The power to make regulations under section 74(1)(b) of the Rent Act 1977 (procedure of rent assessment committees) extends to prescribing the procedure to be followed in connection with any proceedings before a leasehold valuation tribunal under this Part.

Such regulations are referred to in this Part as "procedure regulations".

(3) Procedure regulations may, in particular, make provision—

(a) for securing consistency where numerous applications under this Part are or may be brought in respect of the same or substantially the same matters; and

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(b) empowering a leasehold valuation tribunal to dismiss an application, in whole or in part, on the ground that it is frivolous or vexatious or otherwise an abuse of the process of the tribunal.

(4) Any order made by a leasehold valuation tribunal under this Part may, with the leave of the court, be enforced in the same way as an order of the county court.

(5) No costs incurred by a party in connection with proceedings under this Part before a leasehold valuation tribunal shall be recoverable by order of any court.

(6) Paragraphs 2, 3 and 7 of Schedule 22 to the [M15]Housing Act 1980 (supplementary provisions relating to leasehold valuation tribunals: appeals and provision of information) apply to a leasehold valuation tribunal constituted for the purposes of this section.

(7) No appeal shall lie to the Lands Tribunal from a decision of a leasehold valuation tribunal under this Part without the leave of the leasehold valuation tribunal concerned or the Lands Tribunal.

(8) On an appeal to the Lands Tribunal from a decision of a leasehold valuation tribunal under this Part—

(a) the Lands Tribunal may exercise any power available to the leasehold valuation tribunal in relation to the original matter, and

(b) an order of the Lands Tribunal may be enforced in the same way as an order of the leasehold valuation tribunal.**]]**

Textual Amendments

F90 S. 24A inserted (23.8.1996 for specified purposes and otherwise 1.9.1997) by 1996 c. 52, **s. 86(5)**; S.I. 1996/2212, **art. 2(1)** (with Sch.); S.I. 1997/1851, **art. 2(b)** (subject to Sch. para. 2)

F91 S. 24A repealed (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 14**; S.I. 2003/1986, art. 2(c)(iv), Sch. 1 Pt. 1 (with Sch. 2)

Marginal Citations

M14 1977 c. 42.

M15 1980 c. 51.

[[F92][F93]24Beasehold valuation tribunal: applications and fees.

(1) The Secretary of State may make provision by order as to the form of, or the particulars to be contained in, an application made to a leasehold valuation tribunal under this Part.

(2) The Secretary of State may make provision by order—

(a) requiring the payment of fees in respect of any such application, or in respect of any proceedings before, a leasehold valuation tribunal under this Part; and

(b) empowering a leasehold valuation tribunal to require a party to proceedings before it to reimburse any other party the whole or part of any fees paid by him.

(3) The fees payable shall be such as may be specified in or determined in accordance with the order subject to this limit, that the fees payable in respect of any one application or reference by the court together with any proceedings before the tribunal arising out

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of that application or reference shall not exceed £500 or such other amount as may be specified by order of the Secretary of State.

(4) An order under this section may make different provision for different cases or classes of case or for different areas.

(5) An order may, in particular, provide for the reduction or waiver of fees by reference to the financial resources of the party by whom they are to be paid or met.

Any such order may apply, subject to such modifications as may be specified in the order, any other statutory means-testing regime as it has effect from time to time.

(6) An order under this section shall be made by statutory instrument.

(7) No order altering the limit under subsection (3) shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

(8) Any other order under this section, unless it contains only such provision as is mentioned in subsection (1), shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]]**

Textual Amendments

F92 S. 24B inserted (23.8.1996 for specified purposes and otherwise 1.9.1997) by 1996 c. 52, **s. 86(5)**; S.I. 1996/2212, **art. 2(1)** (with Sch.); S.I. 1997/1851, **art. 2(b)** (subject to Sch. para. 2)

F93 S. 24B repealed (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 14**; S.I. 2003/1986, art. 2(c)(iv), Sch. 1 Pt. 1 (with Sch. 2)

PART III

COMPULSORY ACQUISITION BY TENANTS OF THEIR LANDLORD'S INTEREST

Modifications etc. (not altering text)

C6 Pt. III excluded (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 7 para. 9**; S.I. 2003/1986, art. 2(a); S.I. 2004/669, art. 2(a)

25 Compulsory acquisition of landlord's interest by qualifying tenants.

(1) This Part has effect for the purpose of enabling qualifying tenants of flats contained in any premises to which this Part applies to make an application to the court for an order providing for a person nominated by them to acquire their landlord's interest in the premises without his consent; and any such order is referred to in this Part as "an acquisition order".

(2) Subject to subsections (4) and (5), this Part applies to premises if—

(a) they consist of the whole or part of a building; and

(b) they contain two or more flats held by tenants of the landlord who are qualifying tenants; and

[[F94](c) the total number of flats held by such tenants is not less than two-thirds of the total number of flats contained in the premises.**]**

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[F95](3) . . . . . .

(4) This Part does not apply to premises falling within subsection (2) if—

(a) any part or parts of the premises is or are occupied or intended to be occupied otherwise than for residential purposes; and

(b) the internal floor area of that part or those parts (taken together) exceeds 50 per cent. of the internal floor area of the premises (taken as a whole);

and for the purposes of this subsection the internal floor area of any common parts shall be disregarded.

(5) This Part also does not apply to any such premises at a time when—

(a) the interest of the landlord in the premises is held by an exempt landlord or a resident landlord, or

(b) the premises are included within the functional land of any charity.

(6) The Secretary of State may by order substitute for the percentage for the time being specified in subsection (4)(b) such other percentage as is specified in the order.

Textual Amendments

F94 S. 25(2)(c) substituted (1.11.1993) by 1993 c. 28, **s. 85(2)(a)**; S.I. 1993/2134, **arts. 2**,5(subject to savings in Sch. 1 para. 2)

F95 S. 25(3) repealed (1.11.1993) by 1993 c. 28, ss. 85(2)(b), 187(2), **Sch. 22**; S. I 1993/2134, arts. 2, 5(subject to savings in Sch. 1 para. 2)

26 Qualifying tenants.

(1) Subject to subsections (2) and (3), a person is a qualifying tenant of a flat for the purposes of this Part if he is the tenant of the flat under a long lease other than one constituting a tenancy to which Part II of the [M16]Landlord and Tenant Act 1954 applies.

(2) A person is not to be regarded as being a qualifying tenant of a flat contained in any particular premises consisting of the whole or part of a building if **[**[F96]by virtue of one or more long leases none of which constitutes a tenancy to which Part II of the Landlord and Tenant Act 1954 applies, he is the tenant not only of the flat in question but also of at least two other flats contained in those premises**]**.

(3) A tenant of a flat under a long lease whose landlord is a qualifying tenant of that flat is not to be regarded as being a qualifying tenant of that flat.

[[F97](4) For the purposes of subsection (2) any tenant of a flat contained in the premises in question who is a body corporate shall be treated as the tenant of any other flat so contained and let to an associated company, as defined in section 20(1).**]**

Textual Amendments

F96 Words substituted by Housing Act 1988 (c. 50, SIF 75:1), s. 119, **Sch. 13 para. 4(1)**

F97 S. 26(4) added by Housing Act 1988 (c. 50, SIF 75:1), s. 119, **Sch. 13 para. 4(2)**

Marginal Citations

M16 1954 c. 56.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

27 Preliminary notice by tenants.

(1) Before an application for an acquisition order is made in respect of any premises to which this Part applies, a notice under this section must (subject to subsection (3)) be served on the landlord by qualifying tenants of the flats contained in the premises who, at the date when it is served, constitute the requisite majority of such tenants.

(2) A notice under this section must—

(a) specify the names of the qualifying tenants by whom it is served, the addresses of their flats and the name and the address in England and Wales of a person on whom the landlord may serve notices (including notices in proceedings) in connection with this Part instead of serving them on those tenants;

(b) state that those tenants intend to make an application for an acquisition order to be made by the court in respect of such premises to which this Part applies as are specified in the notice, but (if paragraph (d) is applicable) that they will not do so if the landlord complies with the requirement specified in pursuance of that paragraph;

(c) specify the grounds on which the court would be asked to make such an order and the matters that would be relied on by the tenants for the purpose of establishing those grounds;

(d) where those matters are capable of being remedied by the landlord, require the landlord, within such reasonable period as is specified in the notice, to take such steps for the purpose of remedying them as are so specified; and

(e) contain such information (if any) as the Secretary of State may by regulations prescribe.

(3) The court may by order dispense with the requirement to serve a notice under this section in a case where it is satisfied that it would not be reasonably practicable to serve such a notice on the landlord, but the court may, when doing so, direct that such other notices are served, or such other steps are taken, as it thinks fit.

(4) Any reference in this Part to the requisite majority of qualifying tenants of the flats contained in any premises is a reference to qualifying tenants of the flats so contained with **[**[F98]not less than two-thirds**]** of the available votes; and for the purposes of this subsection—

(a) the total number of available votes shall correspond to the total number of those flats for the time being let to qualifying tenants; and

(b) there shall be one available vote in respect of each of the flats so let which shall be attributed to the qualifying tenant to whom it is let.

(5) Nothing in this Part shall be construed as requiring the persons constituting any such majority in any one context to be the same as the persons constituting any such majority in any other context.

Textual Amendments

F98 Words in s. 27(4) substituted (1.11.1993) by 1993 c. 28, **s. 85(3)**; S.I. 1993/2134,arts. 2,5(subject to savings in Sch. 1 para. 2)

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

28 Applications for acquisition orders.

(1) An application for an acquisition order in respect of any premises to which this Part applies must be made by qualifying tenants of the flats contained in the premises who, at the date when it is made, constitute the requisite majority of such tenants.

(2) No such application shall be made to the court unless—

(a) in a case where a notice has been served under section 27, either—

(i) the period specified in pursuance of paragraph (d) of subsection (2) of that section has expired without the landlord having taken the steps that he was required to take in pursuance of that provision, or

(ii) that paragraph was not applicable in the circumstances of the case; or

(b) in a case where the requirement to serve such a notice has been dispensed with by an order under subsection (3) of that section, either—

(i) any notices required to be served, and any other steps required to be taken, by virtue of the order have been served or (as the case may be) taken, or

(ii) no direction was given by the court when making the order.

(3) An application for an acquisition order may, subject to the preceding provisions of this Part, be made in respect of two or more premises to which this Part applies.

(4) Rules of court shall make provision—

(a) for requiring notice of an application for an acquisition order in respect of any premises to be served on such descriptions of persons as may be specified in the rules; and

(b) for enabling persons served with any such notice to be joined as parties to the proceedings.

(5) The [M17]Land Charges Act 1972 and the **[**[F99]Land Registration Act 2002**]** shall apply in relation to an application for an acquisition order as they apply in relation to other pending land actions.

[F100](6) . . . . . .

Textual Amendments

F99 Words in s. 28(5) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 20** (with s. 129); S.I. 2003/1725, art. 2(1)

F100 S. 28(6) repealed (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 13** (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2(1)

Marginal Citations

M17 1972 c. 61.

29 Conditions for making acquisition orders.

(1) The court may, on an application for an acquisition order, make such an order in respect of any premises if—

(a) the court is satisfied—

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(i) that those premises were, at the date of service on the landlord of the notice (if any) under section 27 and on the date when the application was made, premises to which this Part applies, and

(ii) that they have not ceased to be such premises since the date when the application was made, and

(b) either of the conditions specified in subsections (2) and (3) is fulfilled with respect to those premises, and

(c) the court considers it appropriate to make the order in the circumstances of the case.

(2) The first of the conditions referred to in subsection (1)(b) is that the court is satisfied—

(a) that the landlord either is in breach of any obligation owed by him to the applicants under their leases and relating to the **[**[F101]repair, maintenance, insurance or**]** management of the premises in question, or any part of them, or (in the case of an obligation dependent on notice) would be in breach of any such obligation but for the fact that it has not been reasonably practicable for the tenant to give him the appropriate notice, and

(b) that the circumstances by virtue of which he is (or would be) in breach of any such obligation are likely to continue, [F102]. . .

[F102](c) . . . . . .

[[F103](2A) The reference in subsection (2) to the management of any premises includes a reference to the repair, maintenance, improvement or insurance of those premises.**]**

(3) The second of those conditions is that, both at the date when the application was made and throughout the period of **[**[F104]two years**]** immediately preceding that date, there was in force an appointment under Part II of a person to act as manager in relation to the premises in question **[**[F105]which was made by reason of an act or omission on the part of the landlord.**]**

(4) An acquisition order may, if the court thinks fit—

(a) include any yard, garden, outhouse or appurtenance belonging to, or usually enjoyed with, the premises specified in the application on which the order is made;

(b) exclude any part of the premises so specified.

(5) Where—

(a) the premises in respect of which an application for an acquisition order is made consist of part only of more extensive premises in which the landlord has an interest, and

(b) it appears to the court that the landlord's interest in the latter premises is not reasonably capable of being severed, either in the manner contemplated by the application or in any manner authorised by virtue of subsection (4)(b),

then, notwithstanding that paragraphs (a) and (b) of subsection (1) apply, the court shall not make an acquisition order on the application.

(6) In a case where an application for an acquisition order was preceded by the service of a notice under section 27, the court may, if it thinks fit, make such an order notwithstanding—

(a) that any period specified in the notice in pursuance of subsection (2)(d) of that section was not a reasonable period, or

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(b) that the notice failed in any other respect to comply with any requirement contained in subsection (2) of that section or in any regulations applying to the notice under section 54(3).

(7) Where any premises are premises to which this Part applies at the time when an application for an acquisition order is made in respect of them, then, for the purposes of this section and the following provisions of this Part, they shall not cease to be such premises by reason only that—

(a) the interest of the landlord in them subsequently becomes held by an exempt landlord or a resident landlord, or

(b) they subsequently become included within the functional land of any charity.

Textual Amendments

F101 Words in s. 29(2)(a) repealed (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), Sch. 9 para. 9(2), **Sch. 14**; S.I. 2003/1986, art. 2(c)(i)(iv), Sch. 1 Pt. 2 (with Sch. 2); S.I. 2004/669, art. 2(c)(i)(iv), Sch. 1 Pt. 2 (with Sch. 2)

F102 Words from "and (c)" onwards in s. 29(2) repealed (1.11.1993) by 1993 c. 28, ss. 85(4), 187(2), **Sch. 22**;S.I. 1993/2134, **arts. 2**, 5 (subject to savings in Sch. 1 para. 2)

F103 S. 29(2A) inserted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 9 para. 9(3)**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)

F104 Words in s. 29(3) substituted (1.10.1996) by 1996 c. 52, **s. 88**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F105 Words in s. 29(3) inserted (26.7.2002 for E. and 1.1.2003 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 160(5)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to Sch. 2); S.I. 2002/3012, **art. 2(b)(i)** (subject to Sch. 2)

30 Content of acquisition orders.

(1) Where an acquisition order is made by the court, the order shall (except in a case falling within section 33(1)) provide for the nominated person to be entitled to acquire the landlord's interest in the premises specified in the order on such terms as may be determined—

(a) by agreement between the landlord and the qualifying tenants in whose favour the order is made, or

(b) in default of agreement, by a rent assessment committee under section 31.

(2) An acquisition order may be granted subject to such conditions as the court thinks fit, and in particular its operation may be suspended on terms fixed by the court.

(3) References in this Part, in relation to an acquisition order, to the nominated person are references to such person or persons as may be nominated for the purposes of this Part by the persons applying for the order.

(4) Those persons must secure that the nominated person is joined as a party to the application, and no further nomination of a person for the purposes of this Part shall be made by them after the order is made (whether in addition to, or in substitution for, the existing nominated person) except with the approval of the court.

(5) Where the landlord is, by virtue of any covenant, condition or other obligation, precluded from disposing of his interest in the premises in respect of which an acquisition order has been made unless the consent of some other person is obtained—

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(a) he shall use his best endeavours to secure that the consent of that person to that disposal is obtained and, if it appears to him that that person is obliged not to withhold his consent unreasonably but has nevertheless so withheld it, shall institute proceedings for a declaration to that effect; but

(b) if—

(i) the landlord has discharged any duty imposed on him by paragraph (a), and

(ii) the consent of that person has been withheld, and

(iii) no such declaration has been made,

the order shall cease to have effect.

(6) The [M18]Land Charges Act 1972 and the **[**[F106]Land Registration Act 2002**]** shall apply in relation to an acquisition order as they apply in relation to an order affecting land made by the court for the purpose of enforcing a judgment or recognisance.

Textual Amendments

F106 Words in s. 30(6) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 20** (with s. 129); S.I. 2003/1725, art. 2(1)

Marginal Citations

M18 1972 c. 61.

31 Determination of terms by [[F107]leasehold valuation tribunal].

(1) A **[**[F107]leasehold valuation tribunal**]** shall have jurisdiction to determine the terms on which the landlord's interest in the premises specified in an acquisition order may be acquired by the nominated person to the extent that those terms have not been determined by agreement between the landlord and either—

(a) the qualifying tenants in whose favour the order was made, or

(b) the nominated person;

and (subject to subsection (2)) **[**[F108]the tribunal**]** shall determine any such terms on the basis of what appears to them to be fair and reasonable.

(2) Where an application is made under this section for **[**[F108]the tribunal**]** to determine the consideration payable for the acquisition of a landlord's interest in any premises, **[**[F108]the tribunal**]** shall do so by determining an amount equal to the amount which, in their opinion, that interest might be expected to realise if sold on the open market by a willing seller on the appropriate terms and on the assumption that none of the tenants of the landlord of any premises comprised in those premises was buying or seeking to buy that interest.

(3) In subsection (2) "the appropriate terms" means all of the terms to which the acquisition of the landlord's interest in pursuance of the order is to be subject (whether determined by agreement as mentioned in subsection (1) or on an application under this section) apart from those relating to the consideration payable.

(4) On any application under this section the interests of the qualifying tenants in whose favour the acquisition order was made shall be represented by the nominated person, and accordingly the parties to any such application shall not include those tenants.

[F109](5) . . . . . .

Status: *Point in time view as at 13/10/2003.*
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(6) Nothing in this section shall be construed as authorising a **[**[F107]leasehold valuation tribunal**]** to determine any terms dealing with matters in relation to which provision is made by section 32 or 33.

Textual Amendments

F107 Words in s. 31(1)(6) and title substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 5(a)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F108 Words in s. 31(1)(2) substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 5(b)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F109 S. 31(5) repealed (1.10.1996) by 1996 c. 52, ss. 92(1), 227, **Sch. 6 Pt. IV para. 5(c)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

32 Discharge of existing mortgages.

(1) Where the landlord's interest in any premises is acquired in pursuance of an acquisition order, the instrument by virtue of which it is so acquired shall (subject to subsection (2) and Part II of Schedule 1) operate to discharge the premises from any charge on that interest to secure the payment of money or the performance of any other obligation by the landlord or any other person.

(2) Subsection (1) does not apply to any such charge if—

(a) it has been agreed between the landlord and either—

(i) the qualifying tenants in whose favour the order was made, or

(ii) the nominated person,

that the landlord's interest should be acquired subject to the charge, or

(b) the court is satisfied, whether on the application for the order or on an application made by the person entitled to the benefit of the charge, that in the exceptional circumstances of the case it would be fair and reasonable that the landlord's interest should be so acquired, and orders accordingly.

(3) This section and Part II of Schedule 1 shall apply, with any necessary modifications, to mortgages and liens as they apply to charges; but nothing in those provisions shall apply to a rentcharge.

33 Acquisition order where landlord cannot be found.

(1) Where an acquisition order is made by the court in a case where the landlord cannot be found, or his identity cannot be ascertained, the order shall provide for the landlord's interest in the premises specified in the order to vest in the nominated person on the following terms, namely—

(a) such terms as to payment as are specified in subsection (2), and

(b) such other terms as the court thinks fit, being terms which, in the opinion of the court, correspond so far as possible to those on which the interest might be expected to be transferred if it were being transferred by the landlord.

(2) The terms as to payment referred to in subsection (1)(a) are terms requiring the payment into court of—

(a) such amount as a surveyor selected by the President of the Lands Tribunal may certify to be in his opinion the amount which the landlord's interest might be expected to realise if sold as mentioned in section 31(2); and

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(b) any amounts or estimated amounts remaining due to the landlord from any tenants of his of any premises comprised in the premises in respect of which the order is made, being amounts or estimated amounts determined by the court as being due from those persons under the terms of their leases.

(3) Where any amount or amounts required by virtue of subsection (2) to be paid into court are so paid, the landlord's interest shall, by virtue of this section, vest in the nominated person in accordance with the order.

34 Discharge of acquisition order and withdrawal by tenants.

(1) If, on an application by a landlord in respect of whose interest an acquisition order has been made, the court is satisfied—

(a) that the nominated person has had a reasonable time within which to effect the acquisition of that interest in pursuance of the order but has not done so, or

(b) that the number of qualifying tenants of flats contained in the premises in question who desire to proceed with the acquisition of the landlord's interest is less than the requisite majority of qualifying tenants of the flats contained in those premises, or

(c) that the premises in question have ceased to be premises to which this Part applies,

the court may discharge the order.

(2) Where—

(a) a notice is served on the landlord by the qualifying tenants by whom a notice has been served under section 27 or (as the case may be) by whom an application has been made for an acquisition order, or by the person nominated for the purposes of this Part by any such tenants, and

(b) the notice indicates an intention no longer to proceed with the acquisition of the landlord's interest in the premises in question,

the landlord may (except in a case where subsection (4) applies) recover under this subsection any costs reasonably incurred by him in connection with the disposal by him of that interest down to the time when the notice is served ; and, if the notice is served after the making of an acquisition order, that order shall cease to have effect.

(3) If (whether before or after the making of an acquisition order) the nominated person becomes aware—

(a) that the number of qualifying tenants of flats contained in the premises in question who desire to proceed with the acquisition of the landlord's interest is less than the requisite majority of qualifying tenants of the flats contained in those premises, or

(b) that those premises have ceased to be premises to which this Part applies,

he shall forthwith serve on the landlord a notice indicating an intention no longer to proceed with the acquisition of that interest, and subsection (2) shall apply accordingly.

(4) If, at any time when any proceedings taken under or by virtue of this Part are pending before the court or the Lands Tribunal—

(a) such a notice as is mentioned in subsection (2) or (3) is served on the landlord, or

(b) the nominated person indicates that he is no longer willing to act in the matter and nobody is nominated for the purposes of this Part in his place, or

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(c) the number of qualifying tenants of flats contained in the premises in question who desire to proceed with the acquisition of the landlord's interest falls below the requisite majority of qualifying tenants of the flats contained in those premises, or

(d) those premises cease to be premises to which this Part applies,

or if the court discharges an acquisition order under subsection (1), the landlord may recover such costs incurred by him in connection with the disposal by him of his interest in those premises as the court or (as the case may be) the Tribunal may determine.

(5) The costs that may be recovered by the landlord under subsection (2) or (4) include costs incurred by him in connection with any proceedings under this Part (other than proceedings before a rent assessment committee).

(6) Any liability for costs arising under this section shall be the joint and several liability of the following persons, namely—

(a) where the liability arises before the making of an application for an acquisition order, the tenants by whom a notice was served under section 27, or

(b) where the liability arises after the making of such an application, the tenants by whom the application was made,

together with (in either case) any person nominated by those tenants for the purposes of this Part.

(7) In relation to any time when a tenant falling within paragraph (a) or (b) of subsection (6) has ceased to have vested in him the interest under his lease, that paragraph shall be construed as applying instead to the person who is for the time being the successor in title to that interest.

(8) Nothing in this section shall be construed as authorising the court to discharge an acquisition order where the landlord's interest has already been acquired in pursuance of the order.

(9) If—

(a) an acquisition order is discharged, or ceases to have effect, by virtue of any provision of this Part, and

(b) the order has been protected by an entry registered under the [M19]Land Charges Act 1972 or the **[**[F110]Land Registration Act 2002**]**,

the court may by order direct that that entry shall be cancelled.

Textual Amendments

F110 Words in s. 34(9) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 20** (with s. 129); S.I. 2003/1725, art. 2(1)

Marginal Citations

M19 1972 c. 61.

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PART IV

VARIATION OF LEASES

Modifications etc. (not altering text)

C7 Pt. IV extended to Crown Land (30.9.2003 for E. for specified purposes) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 172**, 181(1); S.I. 2003/1986, art. 2(c)(ii) (with Sch. 2)

Applications relating to flats

35 Application by party to lease for variation of lease.

(1) Any party to a long lease of a flat may make an application to **[**[F111]the court**][**[F111]a leasehold valuation tribunal**]** for an order varying the lease in such manner as is specified in the application.

(2) The grounds on which any such application may be made are that the lease fails to make satisfactory provision with respect to one or more of the following matters, namely—

(a) the repair or maintenance of—

(i) the flat in question, or

(ii) the building containing the flat, or

(iii) any land or building which is let to the tenant under the lease or in respect of which rights are conferred on him under it;

[[F112](b) the insurance of the building containing the flat or of any such land or building as is mentioned in paragraph (a)(iii);**]**

(c) the repair or maintenance of any installations (whether they are in the same building as the flat or not) which are reasonably necessary to ensure that occupiers of the flat enjoy a reasonable standard of accommodation;

(d) the provision or maintenance of any services which are reasonably necessary to ensure that occupiers of the flat enjoy a reasonable standard of accommodation (whether they are services connected with any such installations or not, and whether they are services provided for the benefit of those occupiers or services provided for the benefit of the occupiers of a number of flats including that flat);

(e) the recovery by one party to the lease from another party to it of expenditure incurred or to be incurred by him, or on his behalf, for the benefit of that other party or of a number of persons who include that other party;

(f) the computation of a service charge payable under the lease.

[[F113](g) such other matters as may be prescribed by regulations made by the Secretary of State.**]**

(3) For the purposes of subsection (2)(c) and (d) the factors for determining, in relation to the occupiers of a flat, what is a reasonable standard of accommodation may include—

(a) factors relating to the safety and security of the flat and its occupiers and of any common parts of the building containing the flat; and

(b) other factors relating to the condition of any such common parts.

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[[F114](3A) For the purposes of subsection (2)(e) the factors for determining, in relation to a service charge payable under a lease, whether the lease makes satisfactory provision include whether it makes provision for an amount to be payable (by way of interest or otherwise) in respect of a failure to pay the service charge by the due date.**]**

(4) For the purposes of subsection (2)(f) a lease fails to make satisfactory provision with respect to the computation of a service charge payable under it if—

(a) it provides for any such charge to be a proportion of expenditure incurred, or to be incurred, by or on behalf of the landlord or a superior landlord; and

(b) other tenants of the landlord are also liable under their leases to pay by way of service charges proportions of any such expenditure; and

(c) the aggregate of the amounts that would, in any particular case, be payable by reference to the proportions referred to in paragraphs (a) and (b) would **[**[F115]either exceed or be less than**]** the whole of any such expenditure.

(5) **[**[F116]Rules of court**][**[F116]Procedure regulations under Schedule 12 to the Commonhold and Leasehold Reform Act 2002**]** shall make provision—

(a) for requiring notice of any application under this Part to be served by the person making the application, and by any respondent to the application, on any person who the applicant, or (as the case may be) the respondent, knows or has reason to believe is likely to be affected by any variation specified in the application, and

(b) for enabling persons served with any such notice to be joined as parties to the proceedings.

[[F117](6) For the purposes of this Part a long lease shall not be regarded as a long lease of a flat if—

(a) the demised premises consist of or include three or more flats contained in the same building; or

(b) the lease constitutes a tenancy to which Part II of the Landlord and Tenant Act 1954 applies.**]**

(8) In this section "service charge" has the meaning given by section 18(1) of the 1985 Act.

Textual Amendments

F111 Words in s. 35(1) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 163(2)(a)**, 181(1); S.I. 2003/1986, art. 2(a)

F112 S. 35(2)(b) substituted (26.7.2002 for E. and 1.1.2003 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 162(2)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to Sch. 2); S.I. 2002/3012, **art. 2(b)(i)** (subject to Sch. 2)

F113 S. 35(2)(g) inserted (26.7.2002 for E. and 1.1.2003 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 162(3)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to Sch. 2); S.I. 2002/3012, **art. 2(b)(i)** (subject to Sch. 2)

F114 S. 35(3A) inserted (26.7.2002 for E. and 1.1.2003 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 162(4)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to Sch. 2) S.I. 2002/3012, **art. 2(b)(i)** (subject to Sch. 2)

F115 Words in s. 35(4) substituted (1.11.1993) by 1993 c. 28, **s.86**; S.I. 1993/2134, **arts. 2**, 5(subject to savings in Sch. 1 para. 3)

F116 Words in s. 35(5) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 163(2)(b)**, 181(1); S.I. 2003/1986, art. 2(a)

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F117 S. 35(6) substituted for subsections (6) and (7) by Housing Act 1988 (c. 50, SIF 75:1), s. 119, **Sch. 13 para. 5**

Modifications etc. (not altering text)

C8 Ss. 35, 36 modified (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 7 para. 10**; S.I. 2003/1986, art. 2(a)

36 Application by respondent for variation of other leases.

(1) Where an application ("the original application") is made under section 35 by any party to a lease, any other party to the lease may make an application to the **[**[F118]court**][**[F118]tribunal**]** asking it, in the event of its deciding to make an order effecting any variation of the lease in pursuance of the original application, to make an order which effects a corresponding variation of each of such one or more other leases as are specified in the application.

(2) Any lease so specified—

(a) must be a long lease of a flat under which the landlord is the same person as the landlord under the lease specified in the original application; but

(b) need not be a lease of a flat which is in the same building as the flat let under that lease, nor a lease drafted in terms identical to those of that lease.

(3) The grounds on which an application may be made under this section are—

(a) that each of the leases specified in the application fails to make satisfactory provision with respect to the matter or matters specified in the original application; and

(b) that, if any variation is effected in pursuance of the original application, it would be in the interests of the person making the application under this section, or in the interests of the other persons who are parties to the leases specified in that application, to have all of the leases in question (that is to say, the ones specified in that application together with the one specified in the original application) varied to the same effect.

Textual Amendments

F118 Word in s. 36(1) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 163(3)**, 181(1); S.I. 2003/1986, art. 2(a)

Modifications etc. (not altering text)

C8 Ss. 35, 36 modified (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 7 para. 10**; S.I. 2003/1986, art. 2(a)

37 Application by majority of parties for variation of leases.

(1) Subject to the following provisions of this section, an application may be made to **[**[F119]the court**][**[F119]a leasehold valuation tribunal**]** in respect of two or more leases for an order varying each of those leases in such manner as is specified in the application.

(2) Those leases must be long leases of flats under which the landlord is the same person, but they need not be leases of flats which are in the same building, nor leases which are drafted in identical terms.

Status: *Point in time view as at 13/10/2003.*
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(3) The grounds on which an application may be made under this section are that the object to be achieved by the variation cannot be satisfactorily achieved unless all the leases are varied to the same effect.

(4) An application under this section in respect of any leases may be made by the landlord or any of the tenants under the leases.

(5) Any such application shall only be made if—

(a) in a case where the application is in respect of less than nine leases, all, or all but one, of the parties concerned consent to it; or

(b) in a case where the application is in respect of more than eight leases, it is not opposed for any reason by more than 10 per cent. of the total number of the parties concerned and at least 75 per cent. of that number consent to it.

(6) For the purposes of subsection (5)—

(a) in the case of each lease in respect of which the application is made, the tenant under the lease shall constitute one of the parties concerned (so that in determining the total number of the parties concerned a person who is the tenant under a number of such leases shall be regarded as constituting a corresponding number of the parties concerned); and

(b) the landlord shall also constitute one of the parties concerned.

Textual Amendments

F119 Words in s. 37(1) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 163(4)**, 181(1); S.I. 2003/1986, art. 2(a)

Orders varying leases

38 Orders [F120by the court] varying leases.

(1) If, on an application under section 35, the grounds on which the application was made are established to the satisfaction of the **[**F121court**][**F121tribunal**]**, the **[**F121court**][**F121tribunal**]** may (subject to subsections (6) and (7)) make an order varying the lease specified in the application in such manner as is specified in the order.

(2) If—

(a) an application under section 36 was made in connection with that application, and

(b) the grounds set out in subsection (3) of that section are established to the satisfaction of the **[**F121court**][**F121tribunal**]** with respect to the leases specified in the application under section 36,

the **[**F121court**][**F121tribunal**]** may (subject to subsections (6) and (7)) also make an order varying each of those leases in such manner as is specified in the order.

(3) If, on an application under section 37, the grounds set out in subsection (3) of that section are established to the satisfaction of the **[**F121court**][**F121tribunal**]** with respect to the leases specified in the application, the **[**F121court**][**F121tribunal**]** may (subject to subsections (6) and (7)) make an order varying each of those leases in such manner as is specified in the order.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) The variation specified in an order under subsection (1) or (2) may be either the variation specified in the relevant application under section 35 or 36 or such other variation as the **[**[F121]court**][**[F121]tribunal**]** thinks fit.

(5) If the grounds referred to in subsection (2) or (3) (as the case may be) are established to the satisfaction of the **[**[F121]court**][**[F121]tribunal**]** with respect to some but not all of the leases specified in the application, the power to make an order under that subsection shall extend to those leases only.

(6) **[**[F122]The court**][**[F122]A tribunal**]** shall not make an order under this section effecting any variation of a lease if it appears to **[**[F123]the court**][**[F123]the tribunal**]** —

(a) that the variation would be likely substantially to prejudice—

(i) any respondent to the application, or

(ii) any person who is not a party to the application,

and that an award under subsection (10) would not afford him adequate compensation, or

(b) that for any other reason it would not be reasonable in the circumstances for the variation to be effected.

(7) **[**[F124]The court**][**[F124]A tribunal**]** shall not, on an application relating to the provision to be made by a lease with respect to insurance, make an order under this section effecting any variation of the lease—

(a) which terminates any existing right of the landlord under its terms to nominate an insurer for insurance purposes; or

(b) which requires the landlord to nominate a number of insurers from which the tenant would be entitled to select an insurer for those purposes; or

(c) which, in a case where the lease requires the tenant to effect insurance with a specified insurer, requires the tenant to effect insurance otherwise than with another specified insurer.

(8) **[**[F124]The court**][**[F124]A tribunal**]** may, instead of making an order varying a lease in such manner as is specified in the order, make an order directing the parties to the lease to vary it in such manner as is so specified; and accordingly any reference in this Part (however expressed) to an order which effects any variation of a lease or to any variation effected by an order shall include a reference to an order which directs the parties to a lease to effect a variation of it or (as the case may be) a reference to any variation effected in pursuance of such an order.

(9) **[**[F124]The court**][**[F124]A tribunal**]** may by order direct that a memorandum of any variation of a lease effected by an order under this section shall be endorsed on such documents as are specified in the order.

(10) Where **[**[F125]the court**][**[F125]a tribunal**]** makes an order under this section varying a lease **[**[F126]the court**][**[F126]the tribunal**]** may, if it thinks fit, make an order providing for any party to the lease to pay, to any other party to the lease or to any other person, compensation in respect of any loss or disadvantage that **[**[F126]the court**][**[F126]the tribunal**]** considers he is likely to suffer as a result of the variation.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F120 Words in s. 38 sidenote repealed (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 14**; S.I. 2003/1986, art. 2(c)(iv), Sch. 1 Pt. 1 (with Sch. 2); S.I. 2004/669, art. 2(c)(iv), Sch. 1 Pt. 1 (with Sch. 2)

F121 Word in s. 38(1)-(5) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 163(5)(a)**, 181(1); S.I. 2003/1986, art. 2(a); S.I. 2004/669, art. 2(a)

F122 Words in s. 38(6) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 163(5)(b)(i)**, 181(1); S.I. 2003/1986, art. 2(a); S.I. 2004/669, art. 2(a)

F123 Words in s. 38(6) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 163(5)(b)(ii)**, 181(1); S.I. 2003/1986, art. 2(a); S.I. 2004/669, art. 2(a)

F124 Words in s. 38(7)-(9) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 163(5)(c)**, 181(1); S.I. 2003/1986, art. 2(a); S.I. 2004/669, art. 2(a)

F125 Words in s. 38(10) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 163(5)(d)(i)**, 181(1); S.I. 2003/1986, art. 2(a); S.I. 2004/669, art. 2(a)

F126 Words in s. 38(10) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 163(5)(d)(ii)**, 181(1); S.I. 2003/1986, art. 2(a); S.I. 2004/669, art. 2(a)

Modifications etc. (not altering text)

C9 Ss. 38, 39 modified (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 7 para. 10**; S.I. 2003/1986, art. 2(a); S.I. 2004/669, art. 2(a)

39 Effect of orders varying leases: applications by third parties.

(1) Any variation effected by an order under section 38 shall be binding not only on the parties to the lease for the time being but also on other persons (including any predecessors in title of those parties), whether or not they were parties to the proceedings in which the order was made or were served with a notice by virtue of section 35(5).

(2) Without prejudice to the generality of subsection (1), any variation effected by any such order shall be binding on any surety who has guaranteed the performance of any obligation varied by the order; and the surety shall accordingly be taken to have guaranteed the performance of that obligation as so varied.

(3) Where any such order has been made and a person was, by virtue of section 35(5), required to be served with a notice relating to the proceedings in which it was made, but he was not so served, he may—

(a) bring an action for damages for breach of statutory duty against the person by whom any such notice was so required to be served in respect of that person's failure to serve it;

(b) apply to **[**[F127]the court**][**[F127]a leasehold valuation tribunal**]** for the cancellation or modification of the variation in question.

(4) **[**[F128]The court**][**[F128]A tribunal**]** may, on an application under subsection (3)(b) with respect to any variation of a lease—

(a) by order cancel that variation or modify it in such manner as is specified in the order, or

(b) make such an order as is mentioned in section 38(10) in favour of the person making the application,

as it thinks fit.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) Where a variation is cancelled or modified under paragraph (a) of subsection (4)—

(a) the cancellation or modification shall take effect as from the date of the making of the order under that paragraph or as from such later date as may be specified in the order, and

(b) the **[**[F129]court**][**[F129]tribunal**]** may by order direct that a memorandum of the cancellation or modification shall be endorsed on such documents as are specified in the order;

and, in a case where a variation is so modified, subsections (1) and (2) above shall, as from the date when the modification takes effect, apply to the variation as modified.

Textual Amendments

F127 Words in s. 39(3)(b) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 163(6)(a)**, 181(1); S.I. 2003/1986, art. 2(a)

F128 Words in s. 39(4) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 163(6)(b)**, 181(1); S.I. 2003/1986, art. 2(a)

F129 Word in s. 39(5)(b) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 163(6)(c)**, 181(1); S.I. 2003/1986, art. 2(a)

Modifications etc. (not altering text)

C9 Ss. 38, 39 modified (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 7 para. 10**; S.I. 2003/1986, art. 2(a); S.I. 2004/669, art. 2(a)

Applications relating to dwellings other than flats

40 Application for variation of insurance provisions of lease of dwelling other than a flat.

(1) Any party to a long lease of a dwelling may make an application to **[**[F130]the court**][**[F130]a leasehold valuation tribunal**]** for an order varying the lease, in such manner as is specified in the application, on the grounds that the lease fails to make satisfactory provision with respect to any matter relating to the insurance of the dwelling, including the recovery of the costs of such insurance.

(2) Sections 36 and 38 shall apply to an application under subsection (1) subject to the modifications specified in subsection (3).

(3) Those modifications are as follows—

(a) in section 36—

(i) in subsection (1), the reference to section 35 shall be read as a reference to subsection (1) above, and

(ii) in subsection (2), any reference to a flat shall be read as a reference to a dwelling; and

(b) in section 38—

(i) any reference to an application under section 35 shall be read as a reference to an application under subsection (1) above, and

(ii) any reference to an application under section 36 shall be read as a reference to an application under section 36 as applied by subsection (2) above.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[[F131](4) For the purpose of this section, a long lease shall not be regarded as a long lease of a dwelling if—

(a) the demised premises consist of three or more dwellings; or

(b) the lease constitutes a tenancy to which Part II of the Landlord and Tenant Act 1954 applies.

(4A) Without prejudice to subsection (4), an application under subsection (1) may not be made by a person who is a tenant under a long lease of a dwelling if, by virtue of that lease and one or more other long leases of dwellings, he is also a tenant from the same landlord of at least two other dwellings.

(4B) For the purposes of subsection (4A), any tenant of a dwelling who is a body corporate shall be treated as a tenant of any other dwelling held from the same landlord which is let under a long lease to an associated company, as defined in section 20(1).**]**

(5) In this section "dwelling" means a dwelling other than a flat.

Textual Amendments

F130 Words in s. 40(1) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 163(7)**, 181(1); S.I. 2003/1986, art. 2(a)

F131 S. 40(4)(4A)(4B) substituted for subsection (4) by Housing Act 1988 (c. 50, SIF 75:1), s. 119, **Sch. 13 para. 6**

PART V

MANAGEMENT OF LEASEHOLD PROPERTY

Service charges

41 Amendments relating to service charges.

(1) Sections 18 to 30 of the 1985 Act (regulation of service charges payable by tenants) shall have effect subject to the amendments specified in Schedule 2 (which include amendments—

(a) extending the provisions of those sections to dwellings other than flats, and

(b) introducing certain additional limitations on service charges).

(2) Sections 45 to 51 of the [M20]Housing Act 1985 (which are, so far as relating to dwellings let on long leases, superseded by sections 18 to 30 of the 1985 Act as amended by Schedule 2) shall cease to have effect in relation to dwellings so let.

Modifications etc. (not altering text)

C10 S. 41(2) excluded by S.I. 1988/1283, art. 2, **Sch. para. 8**

Marginal Citations

M20 1985 c. 68.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

42 Service charge contributions to be held in trust.

(1) This section applies where the tenants of two or more dwellings may be required under the terms of their leases to contribute to the same costs by the payment of service charges; and in this section—

"the contributing tenants" means those tenants;

"the payee" means the landlord or other person to whom any such charges are payable by those tenants under the terms of their leases;

"relevant service charges" means any such charges;

"service charge" has the meaning given by section 18(1) of the 1985 Act, except that it does not include a service charge payable by the tenant of a dwelling the rent of which is registered under Part IV of the [M21]Rent Act 1977, unless the amount registered is, in pursuance of section 71(4) of that Act, entered as a variable amount;

"tenant" does not include a tenant of an exempt landlord; and

"trust fund" means the fund, or (as the case may be) any of the funds, mentioned in subsection (2) below.

(2) Any sums paid to the payee by the contributing tenants by way of relevant service charges, and any investments representing those sums, shall (together with any income accruing thereon) be held by the payee either as a single fund or, if he thinks fit, in two or more separate funds.

(3) The payee shall hold any trust fund—

(a) on trust to defray costs incurred in connection with the matters for which the relevant service charges were payable (whether incurred by himself or by any other person), and

(b) subject to that, on trust for the persons who are the contributing tenants for the time being.

(4) Subject to subsections (6) to (8), the contributing tenants shall be treated as entitled by virtue of subsection (3)(b) to such shares in the residue of any such fund as are proportionate to their respective liabilities to pay relevant service charges.

(5) If the Secretary of State by order so provides, any sums standing to the credit of any trust fund may, instead of being invested in any other manner authorised by law, be invested in such manner as may be specified in the order; and any such order may contain such incidental, supplemental or transitional provisions as the Secretary of State considers appropriate in connection with the order.

(6) On the termination of the lease of a contributing tenant the tenant shall not be entitled to any part of any trust fund, and (except where subsection (7) applies) any part of any such fund which is attributable to relevant service charges paid under the lease shall accordingly continue to be held on the trusts referred to in subsection (3).

(7) If after the termination of any such lease there are no longer any contributing tenants, any trust fund shall be dissolved as at the date of the termination of the lease, and any assets comprised in the fund immediately before its dissolution shall—

(a) if the payee is the landlord, be retained by him for his own use and benefit, and

(b) in any other case, be transferred to the landlord by the payee.

(8) Subsections (4), (6) and (7) shall have effect in relation to a contributing tenant subject to any express terms of his lease which relate to the distribution, either before or (as the case may be) at the termination of the lease, of amounts attributable to relevant

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service charges paid under its terms (whether the lease was granted before or after the commencement of this section).

(9) Subject to subsection (8), the provisions of this section shall prevail over the terms of any express or implied trust created by a lease so far as inconsistent with those provisions, other than an express trust so created before the commencement of this section.

Modifications etc. (not altering text)

C11 Ss. 42-42B modified (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 7 para. 11**; S.I. 2003/1986, art. 2(a)

Marginal Citations

M21 1977 c. 42.

[F132 42A Service charge contributions to be held in designated account

(1) The payee must hold any sums standing to the credit of any trust fund in a designated account at a relevant financial institution.

(2) An account is a designated account in relation to sums standing to the credit of a trust fund if—

(a) the relevant financial institution has been notified in writing that sums standing to the credit of the trust fund are to be (or are) held in it, and

(b) no other funds are held in the account,

and the account is an account of a description specified in regulations made by the Secretary of State.

(3) Any of the contributing tenants, or the sole contributing tenant, may by notice in writing require the payee—

(a) to afford him reasonable facilities for inspecting documents evidencing that subsection (1) is complied with and for taking copies of or extracts from them, or

(b) to take copies of or extracts from any such documents and either send them to him or afford him reasonable facilities for collecting them (as he specifies).

(4) If the tenant is represented by a recognised tenants' association and he consents, the notice may be served by the secretary of the association instead of by the tenant (and in that case any requirement imposed by it is to afford reasonable facilities, or to send copies or extracts, to the secretary).

(5) A notice under this section is duly served on the payee if it is served on—

(a) an agent of the payee named as such in the rent book or similar document, or

(b) the person who receives the rent on behalf of the payee;

and a person on whom such a notice is so served must forward it as soon as may be to the payee.

(6) The payee must comply with a requirement imposed by a notice under this section within the period of twenty-one days beginning with the day on which he receives the notice.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7) To the extent that a notice under this section requires the payee to afford facilities for inspecting documents—

(a) he must do so free of charge, but

(b) he may treat as part of his costs of management any costs incurred by him in doing so.

(8) The payee may make a reasonable charge for doing anything else in compliance with a requirement imposed by a notice under this section.

(9) Any of the contributing tenants, or the sole contributing tenant, may withhold payment of a service charge if he has reasonable grounds for believing that the payee has failed to comply with the duty imposed on him by subsection (1); and any provisions of his tenancy relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it.

(10) Nothing in this section applies to the payee if the circumstances are such as are specified in regulations made by the Secretary of State.

(11) In this section—

"recognised tenants' association" has the same meaning as in the 1985 Act, and

"relevant financial institution" has the meaning given by regulations made by the Secretary of State;

and expressions used both in section 42 and this section have the same meaning as in that section.

Textual Amendments

F132 Ss. 42A, 42B inserted (26.7.2002 for E. for specified purposes, 1.1.2003 for W. for specified purposes and otherwise prosp.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 156(1)**; S.I. 2002/1912, **art. 2(c)** (subject to Sch. 2); S.I. 2002/3012, **art. 2(c)** (subject to Sch. 2)

Modifications etc. (not altering text)

C11 Ss. 42-42B modified (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 7 para. 11**; S.I. 2003/1986, art. 2(a)

42B Failure to comply with section 42A

(1) If a person fails, without reasonable excuse, to comply with a duty imposed on him by or by virtue of section 42A he commits an offence.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) Where an offence under this section committed by a body corporate is proved—

(a) to have been committed with the consent or connivance of a director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in such a capacity, or

(b) to be due to any neglect on the part of such an officer or person,

he, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Where the affairs of a body corporate are managed by its members, subsection (3) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(5) Proceedings for an offence under this section may be brought by a local housing authority (within the meaning of section 1 of the Housing Act 1985 (c. 68)).**]**

Textual Amendments

F132 Ss. 42A, 42B inserted (26.7.2002 for E. for specified purposes, 1.1.2003 for W. for specified purposes and otherwise prosp.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 156(1)**; S.I. 2002/1912, **art. 2(c)** (subject to Sch. 2); S.I. 2002/3012, **art. 2(c)** (subject to Sch. 2)

Modifications etc. (not altering text)

C11 Ss. 42-42B modified (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 7 para. 11**; S.I. 2003/1986, art. 2(a)

Insurance

43 Rights of tenants with respect to insurance.

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(1) The following section shall be inserted after section 30 of the 1985 Act—

" Insurance

30A Rights of tenants with respect to insurance.

The Schedule to this Act (which confers on tenants certain rights with respect to the insurance of their dwellings) shall have effect."

(2) Schedule 3 to this Act shall be added to the 1985 Act as the Schedule to that Act.

Managing agents

44 Recognised tenants' associations to be consulted about managing agents.

The following section shall be inserted in the 1985 Act after the section 30A inserted by section 43—

" Managing agents

30B Recognised tenants' associations to be consulted about managing agents.

(1) A recognised tenants' association may at any time serve a notice on the landlord requesting him to consult the association in accordance with this section on matters relating to the appointment or employment by him of a managing agent for any relevant premises.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Where, at the time when any such notice is served by a recognised tenants' association, the landlord does not employ any managing agent for any relevant premises, the landlord shall, before appointing such a managing agent, serve on the association a notice specifying—

(a) the name of the proposed managing agent;

(b) the landlord's obligations to the tenants represented by the association which it is proposed that the managing agent should be required to discharge on his behalf; and

(c) a period of not less than one month beginning with the date of service of the notice within which the association may make observations on the proposed appointment.

(3) Where, at the time when a notice is served under subsection (1) by a recognised tenants' association, the landlord employs a managing agent for any relevant premises, the landlord shall, within the period of one month beginning with the date of service of that notice, serve on the association a notice specifying—

(a) the landlord's obligations to the tenants represented by the association which the managing agent is required to discharge on his behalf; and

(b) a reasonable period within which the association may make observations on the manner in which the managing agent has been discharging those obligations, and on the desirability of his continuing to discharge them.

(4) Subject to subsection (5), a landlord who has been served with a notice by an association under subsection (1) shall, so long as he employs a managing agent for any relevant premises—

(a) serve on that association at least once in every five years a notice specifying—

(i) any change occurring since the date of the last notice served by him on the association under this section in the obligations which the managing agent has been required to discharge on his behalf; and

(ii) a reasonable period within which the association may make observations on the manner in which the managing agent has discharged those obligations since that date, and on the desirability of his continuing to discharge them;

(b) serve on that association, whenever he proposes to appoint any new managing agent for any relevant premises, a notice specifying the matters mentioned in paragraphs (a) to (c) of subsection (2).

(5) A landlord shall not, by virtue of a notice served by an association under subsection (1), be required to serve on the association a notice under subsection (4)(a) or (b) if the association subsequently serves on the landlord a notice withdrawing its request under subsection (1) to be consulted by him.

(6) Where—

(a) a recognised tenants' association has served a notice under subsection (1) with respect to any relevant premises, and

(b) the interest of the landlord in those premises becomes vested in a new landlord,

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

that notice shall cease to have effect with respect to those premises (without prejudice to the service by the association on the new landlord of a fresh notice under that subsection with respect to those premises).

(7) Any notice served by a landlord under this section shall specify the name and the address in the United Kingdom of the person to whom any observations made in pursuance of the notice are to be sent; and the landlord shall have regard to any such observations that are received by that person within the period specified in the notice.

(8) In this section—

"landlord", in relation to a recognised tenants' association, means the immediate landlord of the tenants represented by the association or a person who has a right to enforce payment of service charges payable by any of those tenants;

"managing agent", in relation to any relevant premises, means an agent of the landlord appointed to discharge any of the landlord's obligations to the tenants represented by the recognised tenants' association in question which relate to the management by him of those premises; and

"tenant" includes a statutory tenant;

and for the purposes of this section any premises (whether a building or not) are relevant premises in relation to a recognised tenants' association if any of the tenants represented by the association may be required under the terms of their leases to contribute by the payment of service charges to costs relating to those premises."

45 . . . . . [F133]

Textual Amendments

F133 S. 45 repealed by Housing Act 1988 (c. 50, SIF 61, 75:1), s. 140, **Sch. 18**

PART VI

INFORMATION TO BE FURNISHED TO TENANTS

46 Application of Part VI, etc.

(1) This Part applies to premises which consist of or include a dwelling and are not held under a tenancy to which Part II of the [M22]Landlord and Tenant Act 1954 applies.

(2) In this Part "service charge" has the meaning given by section 18(1) of the 1985 Act.

[[F134](3) In this Part "administration charge" has the meaning given by paragraph 1 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.**]**

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F134 S. 46(3) inserted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 11 para. 9**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2)

Modifications etc. (not altering text)

C12 Ss. 46-48 modified (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 7 para. 12**; S.I. 2003/1986, art. 2(a)

C13 Ss. 46-49 extended to Crown Land (30.9.2003 for E. for specified purposes) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 172**, 181(1); S.I. 2003/1986, art. 2(c)(ii) (with Sch. 2)

Marginal Citations

M22 1954 c.56.

47 Landlord's name and address to be contained in demands for rent etc.

(1) Where any written demand is given to a tenant of premises to which this Part applies, the demand must contain the following information, namely—

(a) the name and address of the landlord, and

(b) if that address is not in England and Wales, an address in England and Wales at which notices (including notices in proceedings) may be served on the landlord by the tenant.

(2) Where—

(a) a tenant of any such premises is given such a demand, but

(b) it does not contain any information required to be contained in it by virtue of subsection (1),

then (subject to subsection (3)) any part of the amount demanded which consists of a service charge **[**[F135]or an administration charge**]** ("the relevant amount") shall be treated for all purposes as not being due from the tenant to the landlord at any time before that information is furnished by the landlord by notice given to the tenant.

(3) The relevant amount shall not be so treated in relation to any time when, by virtue of an order of any court **[**[F136]or tribunal**]**, there is in force an appointment of a receiver or manager whose functions include the receiving of service charges **[**[F137]or (as the case may be) administration charges**]** from the tenant.

(4) In this section "demand" means a demand for rent or other sums payable to the landlord under the terms of the tenancy.

Textual Amendments

F135 Words in s. 47(2) inserted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 11 para. 10(2)**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2)

F136 Words in s. 47(3) inserted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 13 para. 10**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2)

F137 Words in s. 47(3) inserted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 11 para. 10(3)**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2)

Status: *Point in time view as at 13/10/2003.*
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Modifications etc. (not altering text)

C12 Ss. 46-48 modified (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 7 para. 12**; S.I. 2003/1986, art. 2(a)

C13 Ss. 46-49 extended to Crown Land (30.9.2003 for E. for specified purposes) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 172**, 181(1); S.I. 2003/1986, art. 2(c)(ii) (with Sch. 2)

48 Notification by landlord of address for service of notices.

(1) A landlord of premises to which this Part applies shall by notice furnish the tenant with an address in England and Wales at which notices (including notices in proceedings) may be served on him by the tenant.

(2) Where a landlord of any such premises fails to comply with subsection (1), any rent **[**[F138]or service charge**]**[F138]**[**, service charge or administration charge**]** otherwise due from the tenant to the landlord shall (subject to subsection (3)) be treated for all purposes as not being due from the tenant to the landlord at any time before the landlord does comply with that subsection.

(3) Any such rent **[**[F139]or service charge**]**[F139]**[**, service charge or administration charge**]** shall not be so treated in relation to any time when, by virtue of an order of any court **[**[F140]or tribunal**]** , there is in force an appointment of a receiver or manager whose functions include the receiving of rent **[**[F141]or (as the case may be) service charges**]**[F141]**[**, service charges or (as the case may be) administration charges**]** from the tenant.

Textual Amendments

F138 Words in s. 48(2) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 11 para. 11(2)**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2)

F139 Words in s. 48(3) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 11 para. 11(3)(a)**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2)

F140 Words in s. 48(3) inserted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 13 para. 11**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2)

F141 Words in s. 48(3) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 11 para. 11(3)(b)**; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2)

Modifications etc. (not altering text)

C12 Ss. 46-48 modified (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 7 para. 12**; S.I. 2003/1986, art. 2(a)

C13 Ss. 46-49 extended to Crown Land (30.9.2003 for E. for specified purposes) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 172**, 181(1); S.I. 2003/1986, art. 2(c)(ii) (with Sch. 2)

49 Extension of circumstances in which notices are sufficiently served.

In section 196 of the [M23]Law of Property Act 1925 (regulations respecting notices), any reference in subsection (3) or (4) to the last-known place of abode or business of the person to be served shall have effect, in its application to a notice to be served by a tenant on a landlord of premises to which this Part applies, as if that reference included a reference to—

(a) the address last furnished to the tenant by the landlord in accordance with section 48, or

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(b) if no address has been so furnished in accordance with section 48, the address last furnished to the tenant by the landlord in accordance with section 47.

Modifications etc. (not altering text)

C13 Ss. 46-49 extended to Crown Land (30.9.2003 for E. for specified purposes) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 172**, 181(1); S.I. 2003/1986, art. 2(c)(ii) (with Sch. 2)

Marginal Citations

M23 1925 c.20.

50 Continuation of former landlord's liability to tenant where no notice of assignment.

In section 3 of the 1985 Act (duty to inform tenant of assignment of landlord's interest) the following subsections shall be inserted after subsection (3)—

"(3A) The person who was the landlord under the tenancy immediately before the assignment ("the old landlord") shall be liable to the tenant in respect of any breach of any covenant, condition or agreement under the tenancy occurring before the end of the relevant period in like manner as if the interest assigned were still vested in him; and where the new landlord is also liable to the tenant in respect of any such breach occurring within that period, he and the old landlord shall be jointly and severally liable in respect of it.

(3B) In subsection (3A) "the relevant period" means the period beginning with the date of the assignment and ending with the date when—

(a) notice in writing of the assignment, and of the new landlord's name and address, is given to the tenant by the new landlord (whether in accordance with subsection (1) or not), or

(b) notice in writing of the assignment, and of the new landlord's name and last-known address, is given to the tenant by the old landlord,

whichever happens first."

[F142]51 . . . . . .

Textual Amendments

F142 S. 51 repealed by Land Registration Act 1988 (c. 3, SIF 98:2), s. 2, **Sch.**

Status: *Point in time view as at 13/10/2003.*
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PART VII

GENERAL

52 Jurisdiction of county courts.

(1) A county court shall have jurisdiction to hear and determine any question arising under any provision to which this section applies (other than a question falling within the jurisdiction of a **[**[F143]leasehold valuation tribunal**]** by virtue of section 13(1) or 31(1)).

(2) This section applies to—

(a) any provision of **[**[F144]Parts I**[**[F145], III and IV**]**[F145]and 3**]]** ;

(b) any provision of section 42; and

(c) any provision of sections 46 to 48.

(3) Where any proceedings under any provision to which this section applies are being taken in a county court, the county court shall have jurisdiction to hear and determine any other proceedings joined with those proceedings, notwithstanding that the other proceedings would, apart from this subsection, be outside the court's jurisdiction.

(4) If a person takes any proceedings under any such provision in the High Court he shall not be entitled to recover any more costs of those proceedings than those to which he would have been entitled if the proceedings had been taken in a county court; and in any such case the taxing master shall have the same power of directing on what county court scale costs are to be allowed, and of allowing any item of costs, as the judge would have had if the proceedings had been taken in a county court.

(5) Subsection (4) shall not apply where the purpose of taking the proceedings in the High Court was to enable them to be joined with any proceedings already pending before that court (not being proceedings taken under any provision to which this section applies).

Textual Amendments

F143 Words in s. 52(1) substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 para. 6**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F144 Words in s. 52(2)(a) substituted (1.9.1997) by 1996 c. 52, **s. 86(6)**; S.I. 1997/1851, **art. 2(b)** (subject to Sch. para. 2)

F145 Words in s. 52(2)(a) substituted (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 163(8)**, 181(1); S.I. 2003/1986, art. 2(a); S.I. 2004/669, art. 2(a)

[[F146]**[**[F147]**52A** Jurisdiction of leasehold valuation tribunal under Part I or III.

(1) Any jurisdiction conferred by Part I or III of this Act on a leasehold valuation tribunal is exercisable by a rent assessment committee constituted in accordance with Schedule 10 to the [M24]Rent Act 1977 which when so constituted for the purposes of exercising any such jurisdiction shall be known as a leasehold valuation tribunal.

(2) The power to make regulations under section 74(1)(b) of the Rent Act 1977 (procedure of rent assessment committees) extends to prescribing the procedure to be followed in connection with any proceedings before a leasehold valuation tribunal under this Act.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) Any application under this Act to a leasehold valuation tribunal must be in such form, and contain such particulars, as the Secretary of State may by regulations prescribe.

(4) Any costs incurred by a party to any such application in connection with the application shall be borne by that party.

(5) Paragraphs 1, 2, 3 and 7 of Schedule 22 to the [M25]Housing Act 1980 (supplementary provisions relating to leasehold valuation tribunals: constitution, appeals and provision of information) apply to a leasehold valuation tribunal constituted for the purposes of this section.**]]**

Textual Amendments

F146 S. 52A inserted (23.8.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 7**; S.I. 1996/2212, **art. 2(1)** (with Sch.)

F147 S. 52A repealed (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 14**; S.I. 2003/1986, art. 2(c)(iv), Sch. 1 Pt. 1 (with Sch. 2)

Marginal Citations

M24 1977 c. 42.

M25 1980 c. 51.

53 Regulations and orders.

(1) Any power of the Secretary of State to make an order or regulations under this Act shall be exercisable by statutory instrument and may be exercised so as to make different provision for different cases, including different provision for different areas.

(2) A statutory instrument containing—

(a) an order made under section 1(5), 25(6)**[**[F148], 42(5)**]** or 55, or

(b) any regulations made **[**[F148]under **[**[F149]section 52A(3)**]** or**]** under section 20(4) **[**[F150]or 35(2)(g)**][**[F151]or 42A**]**,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F148 Words in s. 53(2) repealed (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 14**; S.I. 2003/1986, art. 2(c)(iv), Sch. 1 Pt. 1 (with Sch. 2)

F149 Words in s. 53(2)(b) substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 8**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F150 Words in s. 53(2)(b) inserted (26.7.2002 for E. and 1.1.2003 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 162(5)**; S.I. 2002/1912, **art. 2(b)(i)** (subject to Sch. 2); S.I. 2002/3012, **art. 2(b)(i)**

F151 Words in s. 53(2)(b) inserted (26.7.2002 for E. for specified purposes, 1.1.2003 for W. for specified purposes and otherwise prosp.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **s. 156(2)**; S.I. 2002/1912, **art. 2(c)** (subject to Sch. 2); S.I. 2002/3012, **art. 2(c)** (subject to Sch.2)

Status: *Point in time view as at 13/10/2003.*
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54 Notices.

(1) Any notice required or authorised to be served under this Act—
  (a) shall be in writing; and
  (b) may be sent by post.

(2) Any notice purporting to be a notice served under any provision of Part I or III by the requisite majority of any qualifying tenants (as defined for the purposes of that provision) shall specify the names of all of the persons by whom it is served and the addresses of the flats of which they are qualifying tenants.

(3) The Secretary of State may by regulations prescribe—
  (a) the form of any notices required or authorised to be served under or in pursuance of any provision of Parts I to III, and
  (b) the particulars which any such notices must contain (whether in addition to, or in substitution for, any particulars required by virtue of the provision in question).

(4) Subsection (3)(b) shall not be construed as authorising the Secretary of State to make regulations under subsection (3) varying **[**[F152]any of the periods specified in section 5A(4) or (5), 5B(5) or (6), 5C(4) or (5), 5D(4) or (5) or 5E(3)**]** (which accordingly can only be varied by regulations under section 20(4)).

Textual Amendments

F152 Words in s. 54(4) substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 para. 9**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

55 Application to Isles of Scilly.

This Act shall apply to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order direct.

56 Crown land.

(1) **[**[F153]This Act**][**[F153]Parts 1 and 3 and sections 42 to 42B (and so much of this Part as relates to those provisions)**]** shall apply to a tenancy from the Crown if there has ceased to be a Crown interest in the land subject to it.

(2) **[**[F154]A variation of any such tenancy effected by or in pursuance of an order under section 38 shall not, however, be treated as binding on the Crown, as a predecessor in title under the tenancy, by virtue of section 39(1).**]**

(3) Where there exists a Crown interest in any land subject to a tenancy from the Crown and the person holding that tenancy is himself the landlord under any other tenancy whose subject-matter comprises the whole or part of that land, **[**[F155]this Act**][**[F155]the provisions mentioned in subsection (1)**]** shall apply to that other tenancy, and to any derivative sub-tenancy, notwithstanding the existence of that interest.

(4) For the purposes of this section "tenancy from the Crown" means a tenancy of land in which there is, or has during the subsistence of the tenancy been, a Crown interest superior to the tenancy, and "Crown interest" means—
  (a) an interest comprised in the Crown Estate;

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(b) an interest belonging to Her Majesty in right of the Duchy of Lancaster;

(c) an interest belonging to the Duchy of Cornwall;

(d) any other interest belonging to a government department or held on behalf of Her Majesty for the purposes of a government department.

Textual Amendments

F153 Words in s. 56(1) substituted (30.9.2003 for E. for specified purposes) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 172(6)(a)**, 181(1); S.I. 2003/1986, art. 2(c)(iii) (with Sch. 2)

F154 S. 56(2) repealed (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 14**; S.I. 2003/1986, art. 2(c)(iv), Sch. 1 Pt. 2 (with Sch. 2)

F155 Words in s. 56(3) substituted (30.9.2003 for E. for specified purposes) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 172(6)(b)**, 181(1); S.I. 2003/1986, art. 2(c)(iii) (with Sch. 2)

57 Financial provision.

There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under any other Act.

58 Exempt landlords and resident landlords.

(1) In this Act "exempt landlord" means a landlord who is one of the following bodies, namely—

(a) a district, county **[**[F156], county borough**]** or London borough council, the Common Council of the City of London, **[**[F157]the London Fire and Emergency Planning Authority,**]** the Council of the Isles of Scilly, **[**[F158]a police authority established under **[**[F159]section 3 of the Police Act 1996**]]**[F160]. . . [F161]. . . , or a joint authority established by Part IV of the [M26]Local Government Act 1985;

(b) the Commission for the New Towns or a development corporation established by an order made (or having effect as if made) under the [M27]New Towns Act 1981;

(c) an urban development corporation within the meaning of Part XVI of the [M28]Local Government, Planning and Land Act 1980;

[[F162](ca) a housing action trust established under Part III of the Housing Act 1988.**]**

[F163](d) . . . . . .

[[F164](dd) the Broads Authority;**]**

[[F165](de) a National Park authority;**]**

(e) the Housing Corporation;

[F166](ea) . . . . . .

(f) a housing trust (as defined in section 6 of the [M29]Housing Act 1985) which is a charity;

[[F167](g) a registered social landlord, or a fully mutual housing association which is not a registered social landlord; or.**]**

(h) an authority established under section 10 of the [M30]Local Government Act 1985 (joint arrangements for waste disposal functions).

[[F168](1A) In subsection (1)(g)—

"fully mutual housing association" has the same meaning as in the Housing Associations Act 1985 (see section 1(1) and (2) of that Act); and

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"registered social landlord" has the same meaning as in the Housing Act 1985 (see section 5(4) and (5) of that Act).**]**

(2) For the purposes of this Act the landlord of any premises consisting of the whole or part of a building is a resident landlord of those premises at any time if—

(a) the premises are not, and do not form part of, a purpose-built block of flats; and

(b) at that time the landlord occupies a flat contained in the premises as his only or principal residence; and

(c) he has so occupied such a flat throughout a period of not less than 12 months ending with that time.

(3) In subsection (2) "purpose-built block of flats" means a building which contained as constructed, and contains, two or more flats.

Textual Amendments

F156 Words in s. 58(1)(a) inserted (1.4.1996) by 1994 c. 19, s. 22(2), **Sch. 8 para. 8** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch.**

F157 Words in s. 58(1)(a) inserted (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 Pt. I para. 48** (with Sch. 12 para. 9(1)); S.I. 2000/1094, **art. 4(h)**

F158 Words in s. 58(1) inserted (1.10.1994 for specified purposes and otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. II para. 61**; S.I. 1994/2025, **art. 6(1)(2)(e)** (subject to art. 6(3)-(6)); S.I. 1994/3262, art. 4(1), **Sch.** (subject to arts. 4(2)-(8), 5)

F159 Words in s. 58(1)(a) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 Pt. I para. 1(2)(z)**

F160 Words in s. 58(1) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, 138(2), Sch. 6 para. 70, **Sch. 7 Pt. 5(1)**; S.I. 2002/344, **art. 3(j)(k)(m)**

F161 Words repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**

F162 S. 58(1)(ca) inserted by Housing Act 1988 (c. 50, SIF 75:1), s. 119, **Sch. 13 para. 7**

F163 S. 58(1)(d) 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**

F164 S. 58(1)(dd) inserted by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 21, 23(2), **Sch. 6 para. 28**

F165 S. 58(1)(de) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 26** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F166 S. 58(1)(ea) repealed (1.11.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**

F167 S. 58(1)(g) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 17(2)**

F168 S. 58(1A) inserted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 17(3)**

Modifications etc. (not altering text)

C14 S. 58(1) extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 25(b)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))
S. 58(1) extended (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 11**

Marginal Citations

M26 1985 c. 51.

M27 1981 c. 64.

M28 1980 c. 65.

M29 1985 c. 68.

M30 1985 c. 51.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

59 Meaning of "lease", "long lease" and related expressions.

(l) ln this Act "lease" and "tenancy" have the same meaning; and both expressions include—

(a) a sub-lease or sub-tenancy, and

(b) an agreement for a lease or tenancy (or for a sub-lease or sub-tenancy).

(2) The expressions "landlord" and "tenant", and references to letting, to the grant of a lease or to covenants or the terms of a lease shall be construed accordingly.

(3) In this Act "long leas" means—

(a) a lease granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture;

(b) a lease for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, other than a lease by sub-demise from one which is not a long lease; or

(c) a lease granted in pursuance of Part V of the Housing Act 1985 (the right to buy) **[**[F169], including a lease granted in pursuance of that Part as it has effect by virtue of section 17 of the Housing Act 1996 (the right to acquire)**]**.

Textual Amendments

F169 Words in s. 59(3)(c) added (1.4.1997) by S.I. 1997/627, art. 2, **Sch. para. 5**

60 General interpretation.

(1) In this Act—

"the 1985 Act" means the [M31]Landlord and Tenant Act 1985;

"charity" means a charity within the meaning of **[**[F170]the Charities Act 1993**]**, and "charitable purposes", in relation to a charity, means charitable purposes whether of that charity or of that charity and other charities;

"common parts", in relation to any building or part of a building, includes the structure and exterior of that building or part and any common facilities within it;

"the court" means the High Court or a county court;

"dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;

"exempt landlord" has the meaning given by section 58(1);

"flat" means a separate set of premises, whether or not on the same floor, which—

(a) forms part of a building, and

(b) is divided horizontally from some other part of that building, and

(c) is constructed or adapted for use for the purposes of a dwelling;

"functional land", in relation to a charity, means land occupied by the charity or by trustees for it, and wholly or mainly used for charitable purposes;

"landlord" (except for the purposes of Part 1) means the immediate landlord or, in relation to a statutory tenant, the person who, apart from the statutory tenancy, would be entitled to possession of the premises subject to the tenancy;

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"lease" and related expressions shall be construed in accordance with section 59(1) and (2);

"long lease" has the meaning given by section 59(3);

"mortgage" includes any charge or lien, and references to a mortgagee shall be construed accordingly;

"notices in proceedings" means notices or other documents served in, or in connection with, any legal proceedings;

F171 . . .

"resident landlord" shall be construed in accordance with section 58(2);

"statutory tenancy" and "statutory tenant" mean a statutory tenancy or statutory tenant within the meaning of the Rent Act 1977 or the [M32]Rent (Agriculture) Act 1976;

"tenancy" includes a statutory tenancy.

(2) F172

Textual Amendments

F170 Words in s. 60(1) substituted (1.8.1993)by 1993 c. 10, ss. 98(1), 99(1), **Sch. 6 para. 30**

F171 S. 60(1): definition of "rent assessment committee" repealed (1.10.1996) by 1996 c. 52, ss. 92(1), 227, **Sch. 6 Pt. I**v para. 10, Sch. 19 Pt. III; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F172 S. 60(2) repealed by Housing Act 1988 (c. 50, SIF 61, 75:1), s. 140(2), **Sch. 18**

Marginal Citations

M31 1985 c. 70.

M32 1976 c. 80.

61 Consequential amendments and repeals.

(1) The enactments mentioned in Schedule 4 shall have effect subject to the amendments there specified (being amendments consequential on the preceding provisions of this Act).

(2) The enactments mentioned in Schedule 5 are hereby repealed to the extent specified in the third column of that Schedule.

Modifications etc. (not altering text)

C15 S. 61(1)(2) excluded by S.I. 1988/1283, art. 2, **Sch. para. 8**

62 Short title, commencement and extent.

(1) This Act may be cited as the Landlord and Tenant Act 1987.

(2) This Act shall come into force on such day as the Secretary of State may by order appoint.

(3) An order under subsection (2)—

(a) may appoint different days for different provisions or for different purposes; and

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(b) may make such transitional, incidental, supplemental or consequential provision or saving as the Secretary of State considers necessary or expedient in connection with the coming into force of any provision of this Act or the operation of any enactment which is repealed or amended by a provision of this Act during any period when the repeal or amendment is not wholly in force.

(4) This Act extends to England and Wales only.

Subordinate Legislation Made

P1 Power of appointment conferred by s. 62(2) fully exercised: S.I. 1987/2177, 1988/480, 1283

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SCHEDULES

SCHEDULE 1

Sections 12 and 32.

DISCHARGE OF MORTGAGES ETC.: SUPPLEMENTARY PROVISIONS

PART I

DISCHARGE IN PURSUANCE OF PURCHASE NOTICES

Construction

1 In this Part of this Schedule—

"the consideration payable" means the consideration payable to **[**[F173]the purchaser**]** for the disposal by him of the property referred to in **[**[F174]section 12B(7)**]**;

"**[**[F173]the purchaser**]**" has the same meaning as in section 12, and accordingly includes any person to whom that section applies by virtue of **[**[F175]section 16(4) or (5)**]**; and

"the nominated person" means the person or persons nominated as mentioned in **[**[F176]section 12B(2)**]**.

Textual Amendments

F173 Words in Sch. 1 para. 1 substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 11(1)(a)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F174 Words in definition of "consideration payable" in Sch. 1 para. 1 substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 11(1)(b)(i)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F175 Words in definition of "the purchaser" in Sch. 1 para. 1 substituted (1.10.1996) by virtue of 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 11(1)(b)(ii)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F176 Words in definition of "the nominated person" in Sch. 1 para. 1 substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 11(1)(c)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

Duty of nominated person to redeem mortgages

2 (1) Where in accordance with **[**[F177]section 12B(5)(a)**]** an instrument will operate to discharge any property from a charge to secure the payment of money, it shall be the duty of the nominated person to apply the consideration payable, in the first instance, in or towards the redemption of any such charge (and, if there are more than one, then according to their priorities).

(2) Where sub-paragraph (1) applies to any charge or charges, then if (and only if) the consideration payable is applied by the nominated person in accordance with that sub-paragraph or paid into court by him in accordance with paragraph 4, the instrument in question shall operate as mentioned in sub-paragraph (1)

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notwithstanding that the consideration payable is insufficient to enable the charge or charges to be redeemed in its or their entirety.

(3) Subject to sub-paragraph (4), sub-paragraph (1) shall not apply to a charge which is a debenture holders' charge, that is to say, a charge (whether a floating charge or not) in favour of the holders of a series of debentures issued by a company or other body of persons, or in favour of trustees for such debenture holders; and any such charge shall be disregarded in determining priorities for the purposes of sub-paragraph (1).

(4) Sub-paragraph (3) above shall not have effect in relation to a charge in favour of trustees for debenture holders which at the date of the instrument by virtue of which the property is disposed of by **[**[F178]the purchaser**]** is (as regards that property) a specific and not a floating charge.

Textual Amendments

F177 Words in Sch. 1 para. 2(1) substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 11(2)(a)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F178 Words in Sch.1 para. 1(4) substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 11(2)(b)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

Determination of amounts due in respect of mortgages

3 (1) For the purpose of determining the amount payable in respect of any charge under paragraph 2(1), a person entitled to the benefit of a charge to which that provision applies shall not be permitted to exercise any right to consolidate that charge with a separate charge on other property.

(2) For the purpose of discharging any property from a charge to which paragraph 2(1) applies, a person may be required to accept three months or any longer notice of the intention to pay the whole or part of the principal secured by the charge, together with interest to the date of payment, notwithstanding that the terms of the security make other provision or no provision as to the time and manner of payment; but he shall be entitled, if he so requires, to receive such additional payment as is reasonable in the circumstances in respect of the costs of re-investment or other incidental costs and expenses and in respect of any reduction in the rate of interest obtainable on re-investment.

Payments into court

4 (1) Where under **[**[F179]section 12B(5)(a)**]** any property is to be discharged from a charge and, in accordance with paragraph 2(1), a person is or may be entitled in respect of the charge to receive the whole or part of the consideration payable, then if—

(a) for any reason difficulty arises in ascertaining how much is payable in respect of the charge, or

(b) for any reason mentioned in sub-paragraph (2) below difficulty arises in making a payment in respect of the charge,

the nominated person may pay into court on account of the consideration payable the amount, if known, of the payment to be made in respect of the charge or, if that amount is not known, the whole of that consideration or such lesser amount as the nominated person thinks right in order to provide for that payment.

Status: *Point in time view as at 13/10/2003.*
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(2) Payment may be made into court in accordance with sub-paragraph (1)(b) where the difficulty arises for any of the following reasons, namely—

(a) because a person who is or may be entitled to receive payment cannot be found or ascertained;

(b) because any such person refuses or fails to make out a title, or to accept payment and give a proper discharge, or to take any steps reasonably required of him to enable the sum payable to be ascertained and paid; or

(c) because a tender of the sum payable cannot, by reason of complications in the title to it or the want of two or more trustees or for other reasons, be effected, or not without incurring or involving unreasonable cost or delay.

(3) Without prejudice to sub-paragraph (1)(a), the whole or part of the consideration payable shall be paid into court by the nominated person if, before execution of the instrument referred to in paragraph 2(1), notice is given to him—

(a) that **[**[F180]the purchaser**]** or a person entitled to the benefit of a charge on the property in question requires him to do so for the purpose of protecting the rights of persons so entitled, or for reasons related to the bankruptcy or winding up of **[**[F180]the purchaser**]**, or

(b) that steps have been taken to enforce any charge on **[**[F180]the purchaser's**]** interest in that property by the bringing of proceedings in any court, or by the appointment of a receiver or otherwise;

and where payment into court is to be made by reason only of a notice under this sub-paragraph, and the notice is given with reference to proceedings in a court specified in the notice other than a county court, payment shall be made into the court so specified.

Textual Amendments

F179 Words in Sch. 1 para. 4(1) substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 11(2)(a)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F180 Words in Sch. 1 para. 4(3) substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 11(2)(b)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

Savings

5 (1) Where any property is discharged by **[**[F181]section 12B(5)(a)**]** from a charge (without the obligations secured by the charge being satisfied by the receipt of the whole or part of the consideration payable), the discharge of that property from the charge shall not prejudice any right or remedy for the enforcement of those obligations against other property comprised in the same or any other security, nor prejudice any personal liability as principal or otherwise of **[**[F182]the purchaser**]** or any other person.

(2) Nothing in this Schedule shall be construed as preventing a person from joining in the instrument referred to in paragraph 2(1) for the purpose of discharging the property in question from any charge without payment or for a lesser payment than that to which he would otherwise be entitled; and, if he does so, the persons to whom the consideration payable ought to be paid shall be determined accordingly.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F181 Words in Sch. 1 para. 5(1) substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6 Pt. IV para. 11(2)(a)**; S.I. 1996/2212, **art. 2(2)** (with Sch.)

F182 Words in Sch.1 para. 5(1) substituted (1.10.1996) by 1996 c. 52, s. 92(1), **Sch. 6** PT. IV para. 11(2)(b); S.I. 1996/2212, **art. 2(2)** (with Sch.)

PART II

DISCHARGE IN PURSUANCE OF ACQUISITION ORDERS

Construction

6 In this Part of this Schedule—

"the consideration payable" means the consideration payable for the acquisition of the landlord's interest referred to in section 32(1); and

"the nominated person" means the person or persons nominated for the purposes of Part III by the persons who applied for the acquisition order in question.

Duty of nominated person to redeem mortgages

7 (1) Where in accordance with section 32(1) an instrument will operate to discharge any premises from a charge to secure the payment of money, it shall be the duty of the nominated person to apply the consideration payable, in the first instance, in or towards the redemption of any such charge (and, if there are more than one, then according to their priorities).

(2) Where sub-paragraph (1) applies to any charge or charges, then if (and only if) the consideration payable is applied by the nominated person in accordance with that sub-paragraph or paid into court by him in accordance with paragraph 9, the instrument in question shall operate as mentioned in sub-paragraph (1) notwithstanding that the consideration payable is insufficient to enable the charge or charges to be redeemed in its or their entirety.

(3) Subject to sub-paragraph (4), sub-paragraph (1) shall not apply to a charge which is a debenture holders' charge within the meaning of paragraph 2(3) in Part I of this Schedule; and any such charge shall be disregarded in determining priorities for the purposes of sub-paragraph (1).

(4) Sub-paragraph (3) above shall not have effect in relation to a charge in favour of trustees for debenture holders which at the date of the instrument by virtue of which the landlord's interest in the premises in question is acquired is (as regards those premises) a specific and not a floating charge.

Determination of amounts due in respect of mortgages

8 (1) For the purpose of determining the amount payable in respect of any charge under paragraph 7(1), a person entitled to the benefit of a charge to which that provision applies shall not be permitted to exercise any right to consolidate that charge with a separate charge on other property.

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(2) For the purpose of discharging any premises from a charge to which paragraph 7(1) applies, a person may be required to accept three months or any longer notice of the intention to pay the whole or part of the principal secured by the charge, together with interest to the date of payment, notwithstanding that the terms of the security make other provision or no provision as to the time and manner of payment; but he shall be entitled, if he so requires, to receive such additional payment as is reasonable in the circumstances in respect of the costs of re-investment or other incidental costs and expenses and in respect of any reduction in the rate of interest obtainable on re-investment.

Payments into court

9 (1) Where under section 32 any premises are to be discharged from a charge and, in accordance with paragraph 7(1), a person is or may be entitled in respect of the charge to receive the whole or part of the consideration payable, then if—

(a) for any reason difficulty arises in ascertaining how much is payable in respect of the charge, or

(b) for any reason mentioned in sub-paragraph (2) below difficulty arises in making a payment in respect of the charge,

the nominated person may pay into court on account of the consideration payable the amount, if known, of the payment to be made in respect of the charge or, if that amount is not known, the whole of that consideration or such lesser amount as the nominated person thinks right in order to provide for that payment.

(2) Payment may be made into court in accordance with sub-paragraph (1)(b) where the difficulty arises for any of the following reasons, namely—

(a) because a person who is or may be entitled to receive payment cannot be found or ascertained;

(b) because any such person refuses or fails to make out a title, or to accept payment and give a proper discharge, or to take any steps reasonably required of him to enable the sum payable to be ascertained and paid; or

(c) because a tender of the sum payable cannot, by reason of complications in the title to it or the want of two or more trustees or for other reasons, be effected, or not without incurring or involving unreasonable cost or delay.

(3) Without prejudice to sub-paragraph (1)(a), the whole or part of the consideration payable shall be paid into court by the nominated person if, before execution of the instrument referred to in paragraph 7(1), notice is given to him—

(a) that the landlord or a person entitled to the benefit of a charge on the premises in question requires him to do so for the purpose of protecting the rights of persons so entitled, or for reasons related to the bankruptcy or winding up of the landlord, or

(b) that steps have been taken to enforce any charge on the landlord's interest in those premises by the bringing of proceedings in any court, or by the appointment of a receiver or otherwise;

and where payment into court is to be made by reason only of a notice under this sub-paragraph, and the notice is given with reference to proceedings in a court specified in the notice other than a county court, payment shall be made into the court so specified.

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Savings

10 (1) Where any premises are discharged by section 32 from a charge (without the obligations secured by the charge being satisfied by the receipt of the whole or part of the consideration payable), the discharge of those premises from the charge shall not prejudice any right or remedy for the enforcement of those obligations against other property comprised in the same or any other security, nor prejudice any personal liability as principal or otherwise of the landlord or any other person.

(2) Nothing in this Schedule shall be construed as preventing a person from joining in the instrument referred to in paragraph 7(1) for the purpose of discharging the premises in question from any charge without payment or for a lesser payment than that to which he would otherwise be entitled; and, if he does so, the persons to whom the consideration payable ought to be paid shall be determined accordingly.

SCHEDULE 2

Section 41.

AMENDMENTS RELATING TO SERVICE CHARGES

Meaning of "service charge" and "relevant costs"

1 In section 18(1) of the 1985 Act, for "flat" substitute " dwelling ".

Limitation of service charges: reasonableness

2 In section 19 of the 1985 Act—

(a) in subsection (3), for "flat" substitute " dwelling "; and

[[F183](b) after subsection (4) add—

"(5) If a person takes any proceedings in the High Court in pursuance of any of the provisions of this Act relating to service charges and he could have taken those proceedings in the county court, he shall not be entitled to recover any costs."**]**

Textual Amendments

F183 Sch. 2 para. 2(b) repealed (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 124(3), 125(7), **Sch. 20**

Limitation of service charges: estimates and consultation

3 **[**[F184]The following section shall be substituted for section 20 of the 1985 Act—

"**20** (1) Where relevant costs incurred on the carrying out of any qualifying works exceed the limit specified in subsection (3), the excess shall not be taken into account in determining the amount of a service charge unless the relevant requirements have been either—

(a) complied with, or

(b) dispensed with by the court in accordance with subsection (9);

and the amount payable shall be limited accordingly.

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(2) In subsection (1) "qualifying works", in relation to a service charge, means works (whether on a building or on any other premises) to the costs of which the tenant by whom the service charge is payable may be required under the terms of his lease to contribute by the payment of such a charge.

(3) The limit is whichever is the greater of—

(a) £25, or such other amount as may be prescribed by order of the Secretary of State, multiplied by the number of dwellings let to the tenants concerned; or

(b) £500, or such other amount as may be so prescribed.

(4) The relevant requirements in relation to such of the tenants concerned as are not represented by a recognised tenants' association are—

(a) At least two estimates for the works shall be obtained, one of them from a person wholly unconnected with the landlord.

(b) A notice accompanied by a copy of the estimates shall be given to each of those tenants or shall be displayed in one or more places where it is likely to come to the notice of all those tenants.

(c) The notice shall describe the works to be carried out and invite observations on them and on the estimates and shall state the name and the address in the United Kingdom of the person to whom the observations may be sent and the date by which they are to be received.

(d) The date stated in the notice shall not be earlier than one month after the date on which the notice is given or displayed as required by paragraph (b).

(e) The landlord shall have regard to any observations received in pursuance of the notice; and unless the works are urgently required they shall not be begun earlier than the date specified in the notice.

(5) The relevant requirements in relation to such of the tenants concerned as are represented by a recognised tenants' association are—

(a) The landlord shall give to the secretary of the association a notice containing a detailed specification of the works in question and specifying a reasonable period within which the association may propose to the landlord the names of one or more persons from whom estimates for the works should in its view be obtained by the landlord.

(b) At least two estimates for the works shall be obtained, one of them from a person wholly unconnected with the landlord.

(c) A copy of each of the estimates shall be given to the secretary of the association.

(d) A notice shall be given to each of the tenants concerned represented by the association, which shall—

(i) describe briefly the works to be carried out,

(ii) summarise the estimates,

(iii) inform the tenant that he has a right to inspect and take copies of a detailed specification of the works to be carried out and of the estimates,

(iv) invite observations on those works and on the estimates, and

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(v) specify the name and the address in the United Kingdom of the person to whom the observations may be sent and the date by which they are to be received.

(e) The date stated in the notice shall not be earlier than one month after the date on which the notice is given as required by paragraph (d).

(f) If any tenant to whom the notice is given so requests, the landlord shall afford him reasonable facilities for inspecting a detailed specification of the works to be carried out and the estimates, free of charge, and for taking copies of them on payment of such reasonable charge as the landlord may determine.

(g) The landlord shall have regard to any observations received in pursuance of the notice and, unless the works are urgently required, they shall not be begun earlier than the date specified in the notice.

(6) Paragraphs (d)(ii) and (iii) and (f) of subsection (5) shall not apply to any estimate of which a copy is enclosed with the notice given in pursuance of paragraph (d).

(7) The requirement imposed on the landlord by subsection (5)(f) to make any facilities available to a person free of charge shall not be construed as precluding the landlord from treating as part of his costs of management any costs incurred by him in connection with making those facilities so available.

(8) In this section "the tenants concerned" means all the landlord's tenants who may be required under the terms of their leases to contribute to the costs of the works in question by the payment of service charges.

(9) In proceedings relating to a service charge the court may, if satisfied that the landlord acted reasonably, dispense with all or any of the relevant requirements.

(10) An order under this section—

(a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament."**]**

Textual Amendments

F184 Sch. 2 para. 3 repealed (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 14**; S.I. 2003/1986, art. 2(c)(iv), Sch. 1 Pt. 2 (with Sch. 2)

Additional limitations on service charges

4 The following sections shall be inserted in the 1985 Act after the section 20A inserted by paragraph 9 of Schedule 5 to the [M33]Housing and Planning Act 1986—

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"**20B Limitation of service charges: time limit on making demands.**

(1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.

(2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

20C Limitation of service charges: costs of court proceedings.

(1) A tenant may make an application to the appropriate court for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with any proceedings are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application; and the court may make such order on the application as it considers just and equitable in the circumstances.

(2) In subsection (1) "the appropriate court" means—

(a) if the application is made in the course of the proceedings in question, the court before which the proceedings are taking place; and

(b) if the application is made after those proceedings are concluded, a county court."

Marginal Citations

M33 1986 c. 63.

Request for summary of relevant costs

5 (1) Section 21 of the 1985 Act shall be amended as follows.

(2) In subsection (2), for the words from "there is" to "and the tenant" substitute " the tenant is represented by a recognised tenants' association and he ".

(3) In subsection (5), for the words from "how they are or will be" onwards substitute "how they have been or will be reflected in demands for service charges and, in addition, shall summarise each of the following items, namely—

(a) any of the costs in respect of which no demand for payment was received by the landlord within the period referred to in subsection (1)(a) or (b),

(b) any of the costs in respect of which—

(i) a demand for payment was so received, but

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(ii) no payment was made by the landlord within that period, and

(c) any of the costs in respect of which—

(i) a demand for payment was so received, and

(ii) payment was made by the landlord within that period,

and specify the aggregate of any amounts received by the landlord down to the end of that period on account of service charges in respect of relevant dwellings and still standing to the credit of the tenants of those dwellings at the end of that period.

(5A) In subsection (5) "relevant dwelling" means a dwelling whose tenant is either—

(a) the person by or with the consent of whom the request was made, or

(b) a person whose obligations under the terms of his lease as regards contributing to relevant costs relate to the same costs as the corresponding obligations of the person mentioned in paragraph (a) above relate to."

(4) In subsection (6)—

(a) for the words from the beginning to "another building" substitute " If the service charges in relation to which the costs are relevant costs as mentioned in subsection (1) are payable by the tenants of more than four dwellings "; and

(b) for "requirement" substitute " requirements ".

Request to inspect supporting accounts etc.

6 In section 22 of the 1985 Act, after subsection (4) add—

"(5) The landlord shall—

(a) where such facilities are for the inspection of any documents, make them so available free of charge;

(b) where such facilities are for the taking of copies or extracts, be entitled to make them so available on payment of such reasonable charge as he may determine.

(6) The requirement imposed on the landlord by subsection (5)(a) to make any facilities available to a person free of charge shall not be construed as precluding the landlord from treating as part of his costs of management any costs incurred by him in connection with making those facilities so available."

Effect of assignment on request

[[F185]7 In section 24 of the 1985 Act, for "flat" substitute " dwelling ".**]**

Textual Amendments

F185 Sch. 2 para. 7 repealed (30.9.2003 for E.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 14**; S.I. 2003/1986, art. 2(c)(iv), Sch. 1 Pt. 2 (with Sch. 2)

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Exception where rent is registered and not entered as variable

8 In section 27 of the 1985 Act, for "flat" substitute " dwelling ".

Meaning of "qualified accountant"

9 (1) Section 28 of the 1985 Act shall be amended as follows.

(2) In subsection (4)—

(a) in paragraph (b), for "or employee" substitute " , employee or partner "; and

(b) after paragraph (c) add—

"(d) an agent of the landlord who is a managing agent for any premises to which any of the costs covered by the summary in question relate;

(e) an employee or partner of any such agent."

(3) After subsection (5) insert—

"(5A) For the purposes of subsection (4)(d) a person is a managing agent for any premises to which any costs relate if he has been appointed to discharge any of the landlord's obligations relating to the management by him of the premises and owed to the tenants who may be required under the terms of their leases to contribute to those costs by the payment of service charges."

Meaning of "recognised tenants' association"

10 (1) Section 29 of the 1985 Act shall be amended as follows.

(2) In subsection (1), for "tenants of flats in a building" substitute " qualifying tenants (whether with or without other tenants) ".

(3) In subsection (4), for "the building is situated" substitute " the dwellings let to the qualifying tenants are situated, and for the purposes of this section a number of tenants are qualifying tenants if each of them may be required under the terms of his lease to contribute to the same costs by the payment of a service charge. "

(4) For subsection (5) substitute—

"(5) The Secretary of State may by regulations specify—

(a) the procedure which is to be followed in connection with an application for, or for the cancellation of, a certificate under subsection (1)(b);

(b) the matters to which regard is to be had in giving or cancelling such a certificate;

(c) the duration of such a certificate; and

(d) any circumstances in which a certificate is not to be given under subsection (1)(b)."

Definitions

11 In section 30—

(a) omit the definition of "flat"; and

(b) in the definition of "tenant", for "flat" substitute " dwelling ".

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULE 3

Section 43(2).

RIGHTS OF TENANTS WITH RESPECT TO INSURANCE

Construction

1 In this Schedule—

"landlord", in relation to a tenant by whom a service charge is payable which includes an amount payable directly or indirectly for insurance, includes any person who has a right to enforce payment of that service charge;

"relevant policy", in relation to a dwelling, means any policy of insurance under which the dwelling is insured (being, in the case of a flat, a policy covering the building containing it); and

"tenant" includes a statutory tenant.

Request for summary of insurance cover

2 (1) Where a service charge is payable by the tenant of a dwelling which consists of or includes an amount payable directly or indirectly for insurance, the tenant may require the landlord in writing to supply him with a written summary of the insurance for the time being effected in relation to the dwelling.

(2) If the tenant is represented by a recognised tenants' association and he consents, the request may be made by the secretary of the association instead of by the tenant and may then be for the supply of the summary to the secretary.

(3) A request is duly served on the landlord if it is served on—

(a) an agent of the landlord named as such in the rent book or similar document, or

(b) the person who receives the rent on behalf of the landlord;

and a person on whom a request is so served shall forward it as soon as may be to the landlord.

(4) The landlord shall, within one month of the request, comply with it by supplying to the tenant or the secretary of the recognised tenants' association (as the case may require) such a summary as is mentioned in sub-paragraph (1), which shall include—

(a) the insured amount or amounts under any relevant policy, and

(b) the name of the insurer under any such policy, and

(c) the risks in respect of which the dwelling or (as the case may be) the building containing it is insured under any such policy.

(5) In sub-paragraph (4)(a) "the insured amount or amounts", in relation to a relevant policy, means—

(a) in the case of a dwelling other than a flat, the amount for which the dwelling is insured under the policy; and

(b) in the case of a flat, the amount for which the building containing it is insured under the policy and, if specified in the policy, the amount for which the flat is insured under it.

(6) The landlord shall be taken to have complied with the request if, within the period mentioned in sub-paragraph (4), he instead supplies to the tenant or the secretary (as the case may require) a copy of every relevant policy.

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7) In a case where two or more buildings are insured under any relevant policy, the summary or copy supplied under sub-paragraph (4) or (6) so far as relating to that policy need only be of such parts of the policy as relate—
  (a) to the dwelling, and
  (b) if the dwelling is a flat, to the building containing it.

Request to inspect insurance policy etc.

3 (1) This paragraph applies where a tenant, or the secretary of a recognised tenants' association, has obtained either—
  (a) such a summary as is referred to in paragraph 2(1), or
  (b) a copy of any relevant policy or of any such parts of any relevant policy as relate to the premises referred to in paragraph 2(7)(a) or (b),

  whether in pursuance of paragraph 2 or otherwise.

(2) The tenant, or the secretary with the consent of the tenant, may within six months of obtaining any such summary or copy as is mentioned in sub-paragraph (1)(a) or (b) require the landlord in writing to afford him reasonable facilities—
  (a) for inspecting any relevant policy,
  (b) for inspecting any accounts, receipts or other documents which provide evidence of payment of any premiums due under any such policy in respect of the period of insurance which is current when the request is made and the period of insurance immediately preceding that period, and
  (c) for taking copies of or extracts from any of the documents referred to in paragraphs (a) and (b).

(3) Any reference in this paragraph to a relevant policy includes a reference to a policy of insurance under which the dwelling in question was insured for the period of insurance immediately preceding that current when the request is made under this paragraph (being, in the case of a flat, a policy covering the building containing it).

(4) Subsections (3) to (6) of section 22 shall have effect in relation to a request made under this paragraph as they have effect in relation to a request made under that section.

Request relating to insurance effected by superior landlord

4 (1) If a request is made under paragraph 2 in a case where a superior landlord has effected, in whole or in part, the insurance of the dwelling in question and the landlord to whom the request is made is not in possession of the relevant information—
  (a) he shall in turn make a written request for the relevant information to the person who is his landlord (and so on, if that person is not himself the superior landlord),
  (b) the superior landlord shall comply with that request within a reasonable time, and
  (c) the immediate landlord shall then comply with the tenant's or secretary's request in the manner provided by sub-paragraphs (4) to (7) of paragraph 2 within the time allowed by that paragraph or such further time, if any, as is reasonable in the circumstances.

Status: *Point in time view as at 13/10/2003.*
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(2) If, in a case where a superior landlord has effected, in whole or in part, the insurance of the dwelling in question, a request under paragraph 3 relates to any policy of insurance effected by the superior landlord—

(a) the landlord to whom the request is made shall forthwith inform the tenant or secretary of that fact and of the name and address of the superior landlord, and

(b) that paragraph shall then apply to the superior landlord in relation to that policy as it applies to the immediate landlord.

Effect of assignment on request

5 The assignment of a tenancy does not affect the validity of a request made under paragraph 2, 3 or 4 before the assignment; but a person is not obliged to provide a summary or make facilities available more than once for the same dwelling and for the same period.

Failure to comply with paragraph 2, 3 or 4 an offence

6 (1) It is a summary offence for a person to fail, without reasonable excuse, to perform a duty imposed on him by or by virtue of paragraph 2, 3 or 4.

(2) A person committing such an offence is liable on conviction to a fine not exceeding level 4 on the standard scale.

Tenant's right to notify insurers of possible claim

7 (1) This paragraph applies to any dwelling in respect of which the tenant pays to the landlord a service charge consisting of or including an amount payable directly or indirectly for insurance.

(2) Where—

(a) it appears to the tenant of any such dwelling that damage has been caused—

(i) to the dwelling, or

(ii) if the dwelling is a flat, to the dwelling or to any other part of the building containing it,

in respect of which a claim could be made under the terms of a policy of insurance, and

(b) it is a term of that policy that the person insured under the policy should give notice of any claim under it to the insurer within a specified period,

the tenant may, within that specified period, serve on the insurer a notice in writing stating that it appears to him that damage has been caused as mentioned in paragraph (a) and describing briefly the nature of the damage.

(3) Where—

(a) any such notice is served on an insurer by a tenant in relation to any such damage, and

(b) the specified period referred to in sub-paragraph (2)(b) would expire earlier than the period of six months beginning with the date on which the notice is served,

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the policy in question shall have effect as regards any claim subsequently made in respect of that damage by the person insured under the policy as if for the specified period there were substituted that period of six months.

(4) Where the tenancy of a dwelling to which this paragraph applies is held by joint tenants, a single notice under this paragraph may be given by any one or more of those tenants.

(5) The Secretary of State may by regulations prescribe the form of notices under this paragraph and the particulars which such notices must contain.

(6) Any such regulations—

(a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and

(b) shall be made by statutory instrument.

Right to challenge landlord's choice of insurers

8 (1) This paragraph applies to a tenancy of a dwelling which requires the tenant to insure the dwelling with an insurer nominated by the landlord.

(2) Where, on an application made by the tenant under any such tenancy, the court is satisfied—

(a) that the insurance which is available from the nominated insurer for insuring the tenant's dwelling is unsatisfactory in any respect, or

(b) that the premiums payable in respect of any such insurance are excessive,

the court may make either an order requiring the landlord to nominate such other insurer as is specified in the order or an order requiring him to nominate another insurer who satisfies such requirements in relation to the insurance of the dwelling as are specified in the order.

(3) A county court shall have jurisdiction to hear and determine any application under this paragraph.

Exception for tenants of certain public authorities

9 (1) Paragraphs 2 to 8 do not apply to a tenant of—

a local authority,

a new town corporation, or

the Development Board for Rural Wales,

unless the tenancy is a long tenancy, in which case paragraphs 2 to 5 and 7 and 8 apply but paragraph 6 does not.

(2) Subsections (2) and (3) of section 26 shall apply for the purposes of sub-paragraph (1) as they apply for the purposes of subsection (1) of that section.

SCHEDULE 4

Section 61(1).

CONSEQUENTIAL AMENDMENTS

Land Registration Act 1925 (c.21)

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F186 1 . . . . . .

Textual Amendments

F186 Sch. 4 para. 1 repealed (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 13** (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2(1)

2 F187 . . . . . .

Local Government Act 1985 (c.51)

Textual Amendments

F187 Sch. 4 para. 2 repealed (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 13** (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2(1)

3 In Schedule 13 (provisions with respect to residuary bodies)—

(a) in paragraph 24—

(i) omit "and" in the second place where it occurs, and

(ii) at the end add " , andparagraph 9(1) of the Schedule. "; and

(b) at the end add—

"26 A residuary body shall be included among the bodies specified in section 58(1) of the Landlord and Tenant Act 1987."

Housing Act 1985 (c.68)

4 In section 45 (disposals in relation to which ss.46 to 51 apply, etc.)—

(a) in subsection (1), for paragraphs (a) to (c) substitute—

"(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."; and

(b) in subsection (2), omit the words from "(a) the" to "; and (b)".

5 Omit section 49 (information held by superior landlord).

6 In section 50(1) (offences), omit "or 49".

7 . . . . . F188

Textual Amendments

F188 Sch. 4 para. 7 repealed by Housing Act 1988 (c. 50, SIF 61, 75:1), s. 140(2), **Sch. 18**

SCHEDULE 5

Section 61(2).

REPEALS

Chapter	Short title	Extent of repeal

Status: *Point in time view as at 13/10/2003.*
Changes to legislation: *Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

1985 c.51.	Local Government Act 1985.	In paragraph 24 of Schedule 13, the word “and” in the second place where it occurs.
1985 c.68.	Housing Act 1985.	In section 45(2), the words from “(a) the” to “; and (b)”. Section 49. In section 50(1), the words “or 49”.
1985 c.70.	Landlord and Tenant Act 1985.	In section 30, the definition of “flat”.

Status:
Point in time view as at 13/10/2003.

Changes to legislation:
Landlord and Tenant Act 1987 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.