

*These notes refer to the Commonhold and Leasehold Reform Act 2002 (c.15) which received Royal Assent on 1st May 2002*

# COMMONHOLD AND LEASEHOLD REFORM ACT 2002

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## EXPLANATORY NOTES

### COMMENTARY ON THE SECTIONS: PART 1

#### *Absent Landlords*

Chapter 5: Other provisions about leases

*Service charges, administration charges etc.*

#### *Section 156: Service charge contributions to be held in separate account*

263. *Section 156* amends the 1987 Act. It introduces a new section 42A which will require payees to hold service charge funds from separate groups of service charge payer in separate accounts. Payees are defined in section 42 of the 1987 Act as "the landlord or other person to whom any such charges are payable under the terms of their leases". Certain classes of landlord are exempt from section 42 – these exemptions also apply to new section 42A.
264. The new section 42A will also require payees to notify the relevant financial institution, in writing, that sums standing to the credit of a trust fund are to be (or are) held in it. Regulations under section 42A(2) and 42A(11) will prescribe the type of account in which service charge funds can be kept (for example, this might include an interest-bearing account) and the sort of financial institution that can be used (for example, these might include recognised banks and building societies). The regulations will be subject to annulment by either House. Section 42A(10) provides a power to make regulations exempting managers from the requirement to use separate bank accounts for separate groups of service charge payers.
265. Tenants will have the right to ask for proof that the relevant requirements have been complied with. Payees will have 21 days in which to provide such proof. In addition, tenants will be able to withhold service charges where they have reasonable grounds for believing that section 42A has not been complied with.
266. *Section 157* also inserts a new section 42B into the 1987 Act. This makes it an offence for any person to fail to comply with section 42A without reasonable excuse. On conviction, they would be liable to a fine not exceeding level 4 on the standard scale (currently £2,500).