



Commonhold and Leasehold Reform Act 2002

2002 CHAPTER 15

PART 2

LEASEHOLD REFORM

CHAPTER 1

RIGHT TO MANAGE

Introductory

71 The right to manage

- (1) This Chapter makes provision for the acquisition and exercise of rights in relation to the management of premises to which this Chapter applies by a company which, in accordance with this Chapter, may acquire and exercise those rights (referred to in this Chapter as a RTM company).
- (2) The rights are to be acquired and exercised subject to and in accordance with this Chapter and are referred to in this Chapter as the right to manage.

Qualifying rules

72 Premises to which Chapter applies

- (1) This Chapter applies to premises if—
 - (a) they consist of a self-contained building or part of a building, with or without appurtenant property,
 - (b) they contain two or more flats held by qualifying tenants, and

- (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.
- (2) A building is a self-contained building if it is structurally detached.
- (3) A part of a building is a self-contained part of the building if—
 - (a) it constitutes a vertical division of the building,
 - (b) the structure of the building is such that it could be redeveloped independently of the rest of the building, and
 - (c) subsection (4) applies in relation to it.
- (4) This subsection applies in relation to a part of a building if the relevant services provided for occupiers of it—
 - (a) are provided independently of the relevant services provided for occupiers of the rest of the building, or
 - (b) could be so provided without involving the carrying out of works likely to result in a significant interruption in the provision of any relevant services for occupiers of the rest of the building.
- (5) Relevant services are services provided by means of pipes, cables or other fixed installations.
- (6) Schedule 6 (premises excepted from this Chapter) has effect.

73 RTM companies

- (1) This section specifies what is a RTM company.
- (2) A company is a RTM company in relation to premises if—
 - (a) it is a private company limited by guarantee, and
 - (b) its memorandum of association states that its object, or one of its objects, is the acquisition and exercise of the right to manage the premises.
- (3) But a company is not a RTM company if it is a commonhold association (within the meaning of Part 1).
- (4) And a company is not a RTM company in relation to premises if another company is already a RTM company in relation to the premises or to any premises containing or contained in the premises.
- (5) If the freehold of any premises is conveyed or transferred to a company which is a RTM company in relation to the premises, or any premises containing or contained in the premises, it ceases to be a RTM company when the conveyance or transfer is executed.

74 RTM companies: membership and regulations

- (1) The persons who are entitled to be members of a company which is a RTM company in relation to premises are—
 - (a) qualifying tenants of flats contained in the premises, and
 - (b) from the date on which it acquires the right to manage (referred to in this Chapter as the “acquisition date”), landlords under leases of the whole or any part of the premises.

- (2) The appropriate national authority shall make regulations about the content and form of the memorandum of association and articles of association of RTM companies.
- (3) A RTM company may adopt provisions of the regulations for its memorandum or articles.
- (4) The regulations may include provision which is to have effect for a RTM company whether or not it is adopted by the company.
- (5) A provision of the memorandum or articles of a RTM company has no effect to the extent that it is inconsistent with the regulations.
- (6) The regulations have effect in relation to a memorandum or articles—
 - (a) irrespective of the date of the memorandum or articles, but
 - (b) subject to any transitional provisions of the regulations.
- (7) The following provisions of the Companies Act 1985 (c. 6) do not apply to a RTM company—
 - (a) sections 2(7) and 3 (memorandum), and
 - (b) section 8 (articles).

75 Qualifying tenants

- (1) This section specifies whether there is a qualifying tenant of a flat for the purposes of this Chapter and, if so, who it is.
- (2) Subject as follows, a person is the qualifying tenant of a flat if he is tenant of the flat under a long lease.
- (3) Subsection (2) does not apply where the lease is a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (c. 56) (business tenancies) applies.
- (4) Subsection (2) does not apply where—
 - (a) the lease was granted by sub-demise out of a superior lease other than a long lease,
 - (b) the grant was made in breach of the terms of the superior lease, and
 - (c) there has been no waiver of the breach by the superior landlord.
- (5) No flat has more than one qualifying tenant at any one time; and subsections (6) and (7) apply accordingly.
- (6) Where a flat is being let under two or more long leases, a tenant under any of those leases which is superior to that held by another is not the qualifying tenant of the flat.
- (7) Where a flat is being let to joint tenants under a long lease, the joint tenants shall (subject to subsection (6)) be regarded as jointly being the qualifying tenant of the flat.

76 Long leases

- (1) This section and section 77 specify what is a long lease for the purposes of this Chapter.
- (2) Subject to section 77, a lease is a long lease if—

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

- (a) it is granted for a term of years certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by or to the tenant, by re-entry or forfeiture or otherwise,
 - (b) it is for a term fixed by law under a grant with a covenant or obligation for perpetual renewal (but is not a lease by sub-demise from one which is not a long lease),
 - (c) it takes effect under section 149(6) of the Law of Property Act 1925 (c. 20) (leases terminable after a death or marriage),
 - (d) it was granted in pursuance of the right to buy conferred by Part 5 of the Housing Act 1985 (c. 68) or in pursuance of the right to acquire on rent to mortgage terms conferred by that Part of that Act,
 - (e) it is a shared ownership lease, whether granted in pursuance of that Part of that Act or otherwise, where the tenant's total share is 100 per cent., or
 - (f) it was granted in pursuance of that Part of that Act as it has effect by virtue of section 17 of the Housing Act 1996 (c. 52) (the right to acquire).
- (3) “Shared ownership lease” means a lease—
- (a) granted on payment of a premium calculated by reference to a percentage of the value of the demised premises or the cost of providing them, or
 - (b) under which the tenant (or his personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of those premises.
- (4) “Total share”, in relation to the interest of a tenant under a shared ownership lease, means his initial share plus any additional share or shares in the demised premises which he has acquired.

77 Long leases: further provisions

- (1) A lease terminable by notice after a death or marriage is not a long lease if—
- (a) the notice is capable of being given at any time after the death or marriage of the tenant,
 - (b) the length of the notice is not more than three months, and
 - (c) the terms of the lease preclude both its assignment otherwise than by virtue of section 92 of the Housing Act 1985 (assignments by way of exchange) and the sub-letting of the whole of the demised premises.
- (2) Where the tenant of any property under a long lease, on the coming to an end of the lease, becomes or has become tenant of the property or part of it under any subsequent tenancy (whether by express grant or by implication of law), that tenancy is a long lease irrespective of its terms.
- (3) A lease—
- (a) granted for a term of years certain not exceeding 21 years, but with a covenant or obligation for renewal without payment of a premium (but not for perpetual renewal), and
 - (b) renewed on one or more occasions so as to bring to more than 21 years the total of the terms granted (including any interval between the end of a lease and the grant of a renewal),
- is to be treated as if the term originally granted had been one exceeding 21 years.
- (4) Where a long lease—

- (a) is or was continued for any period under Part 1 of the Landlord and Tenant Act 1954 (c. 56) or under Schedule 10 to the Local Government and Housing Act 1989 (c. 42), or
 - (b) was continued for any period under the Leasehold Property (Temporary Provisions) Act 1951 (c. 38),
- it remains a long lease during that period.
- (5) Where in the case of a flat there are at any time two or more separate leases, with the same landlord and the same tenant, and—
- (a) the property comprised in one of those leases consists of either the flat or a part of it (in either case with or without appurtenant property), and
 - (b) the property comprised in every other lease consists of either a part of the flat (with or without appurtenant property) or appurtenant property only,
- there shall be taken to be a single long lease of the property comprised in such of those leases as are long leases.

Claim to acquire right

78 Notice inviting participation

- (1) Before making a claim to acquire the right to manage any premises, a RTM company must give notice to each person who at the time when the notice is given—
 - (a) is the qualifying tenant of a flat contained in the premises, but
 - (b) neither is nor has agreed to become a member of the RTM company.
- (2) A notice given under this section (referred to in this Chapter as a “notice of invitation to participate”) must—
 - (a) state that the RTM company intends to acquire the right to manage the premises,
 - (b) state the names of the members of the RTM company,
 - (c) invite the recipients of the notice to become members of the company, and
 - (d) contain such other particulars (if any) as may be required to be contained in notices of invitation to participate by regulations made by the appropriate national authority.
- (3) A notice of invitation to participate must also comply with such requirements (if any) about the form of notices of invitation to participate as may be prescribed by regulations so made.
- (4) A notice of invitation to participate must either—
 - (a) be accompanied by a copy of the memorandum of association and articles of association of the RTM company, or
 - (b) include a statement about inspection and copying of the memorandum of association and articles of association of the RTM company.
- (5) A statement under subsection (4)(b) must—
 - (a) specify a place (in England or Wales) at which the memorandum of association and articles of association may be inspected,
 - (b) specify as the times at which they may be inspected periods of at least two hours on each of at least three days (including a Saturday or Sunday or both)

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

within the seven days beginning with the day following that on which the notice is given,

- (c) specify a place (in England or Wales) at which, at any time within those seven days, a copy of the memorandum of association and articles of association may be ordered, and
 - (d) specify a fee for the provision of an ordered copy, not exceeding the reasonable cost of providing it.
- (6) Where a notice given to a person includes a statement under subsection (4)(b), the notice is to be treated as not having been given to him if he is not allowed to undertake an inspection, or is not provided with a copy, in accordance with the statement.
- (7) A notice of invitation to participate is not invalidated by any inaccuracy in any of the particulars required by or by virtue of this section.

79 Notice of claim to acquire right

- (1) A claim to acquire the right to manage any premises is made by giving notice of the claim (referred to in this Chapter as a “claim notice”); and in this Chapter the “relevant date”, in relation to any claim to acquire the right to manage, means the date on which notice of the claim is given.
- (2) The claim notice may not be given unless each person required to be given a notice of invitation to participate has been given such a notice at least 14 days before.
- (3) The claim notice must be given by a RTM company which complies with subsection (4) or (5).
- (4) If on the relevant date there are only two qualifying tenants of flats contained in the premises, both must be members of the RTM company.
- (5) In any other case, the membership of the RTM company must on the relevant date include a number of qualifying tenants of flats contained in the premises which is not less than one-half of the total number of flats so contained.
- (6) The claim notice must be given to each person who on the relevant date is—
 - (a) landlord under a lease of the whole or any part of the premises,
 - (b) party to such a lease otherwise than as landlord or tenant, or
 - (c) a manager appointed under Part 2 of the Landlord and Tenant Act 1987 (c. 31) (referred to in this Part as “the 1987 Act”) to act in relation to the premises, or any premises containing or contained in the premises.
- (7) Subsection (6) does not require the claim notice to be given to a person who cannot be found or whose identity cannot be ascertained; but if this subsection means that the claim notice is not required to be given to anyone at all, section 85 applies.
- (8) A copy of the claim notice must be given to each person who on the relevant date is the qualifying tenant of a flat contained in the premises.
- (9) Where a manager has been appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises, a copy of the claim notice must also be given to the leasehold valuation tribunal or court by which he was appointed.

80 Contents of claim notice

- (1) The claim notice must comply with the following requirements.
- (2) It must specify the premises and contain a statement of the grounds on which it is claimed that they are premises to which this Chapter applies.
- (3) It must state the full name of each person who is both—
 - (a) the qualifying tenant of a flat contained in the premises, and
 - (b) a member of the RTM company,and the address of his flat.
- (4) And it must contain, in relation to each such person, such particulars of his lease as are sufficient to identify it, including—
 - (a) the date on which it was entered into,
 - (b) the term for which it was granted, and
 - (c) the date of the commencement of the term.
- (5) It must state the name and registered office of the RTM company.
- (6) It must specify a date, not earlier than one month after the relevant date, by which each person who was given the notice under section 79(6) may respond to it by giving a counter-notice under section 84.
- (7) It must specify a date, at least three months after that specified under subsection (6), on which the RTM company intends to acquire the right to manage the premises.
- (8) It must also contain such other particulars (if any) as may be required to be contained in claim notices by regulations made by the appropriate national authority.
- (9) And it must comply with such requirements (if any) about the form of claim notices as may be prescribed by regulations so made.

81 Claim notice: supplementary

- (1) A claim notice is not invalidated by any inaccuracy in any of the particulars required by or by virtue of section 80.
- (2) Where any of the members of the RTM company whose names are stated in the claim notice was not the qualifying tenant of a flat contained in the premises on the relevant date, the claim notice is not invalidated on that account, so long as a sufficient number of qualifying tenants of flats contained in the premises were members of the company on that date; and for this purpose a “sufficient number” is a number (greater than one) which is not less than one-half of the total number of flats contained in the premises on that date.
- (3) Where any premises have been specified in a claim notice, no subsequent claim notice which specifies—
 - (a) the premises, or
 - (b) any premises containing or contained in the premises,may be given so long as the earlier claim notice continues in force.
- (4) Where a claim notice is given by a RTM company it continues in force from the relevant date until the right to manage is acquired by the company unless it has previously—

- (a) been withdrawn or deemed to be withdrawn by virtue of any provision of this Chapter, or
- (b) ceased to have effect by reason of any other provision of this Chapter.

82 Right to obtain information

- (1) A company which is a RTM company in relation to any premises may give to any person a notice requiring him to provide the company with any information—
 - (a) which is in his possession or control, and
 - (b) which the company reasonably requires for ascertaining the particulars required by or by virtue of section 80 to be included in a claim notice for claiming to acquire the right to manage the premises.
- (2) Where the information is recorded in a document in the person's possession or control, the RTM company may give him a notice requiring him—
 - (a) to permit any person authorised to act on behalf of the company at any reasonable time to inspect the document (or, if the information is recorded in the document in a form in which it is not readily intelligible, to give any such person access to it in a readily intelligible form), and
 - (b) to supply the company with a copy of the document containing the information in a readily intelligible form on payment of a reasonable fee.
- (3) A person to whom a notice is given must comply with it within the period of 28 days beginning with the day on which it is given.

83 Right of access

- (1) Where a RTM company has given a claim notice in relation to any premises, each of the persons specified in subsection (2) has a right of access to any part of the premises if that is reasonable in connection with any matter arising out of the claim to acquire the right to manage.
- (2) The persons referred to in subsection (1) are—
 - (a) any person authorised to act on behalf of the RTM company,
 - (b) any person who is landlord under a lease of the whole or any part of the premises and any person authorised to act on behalf of any such person,
 - (c) any person who is party to such a lease otherwise than as landlord or tenant and any person authorised to act on behalf of any such person, and
 - (d) any manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises, and any person authorised to act on behalf of any such manager.
- (3) The right conferred by this section is exercisable, at any reasonable time, on giving not less than ten days' notice—
 - (a) to the occupier of any premises to which access is sought, or
 - (b) if those premises are unoccupied, to the person entitled to occupy them.

84 Counter-notices

- (1) A person who is given a claim notice by a RTM company under section 79(6) may give a notice (referred to in this Chapter as a “counter-notice”) to the company no later than the date specified in the claim notice under section 80(6).

- (2) A counter-notice is a notice containing a statement either—
- (a) admitting that the RTM company was on the relevant date entitled to acquire the right to manage the premises specified in the claim notice, or
 - (b) alleging that, by reason of a specified provision of this Chapter, the RTM company was on that date not so entitled,
- and containing such other particulars (if any) as may be required to be contained in counter-notices, and complying with such requirements (if any) about the form of counter-notices, as may be prescribed by regulations made by the appropriate national authority.
- (3) Where the RTM company has been given one or more counter-notices containing a statement such as is mentioned in subsection (2)(b), the company may apply to a leasehold valuation tribunal for a determination that it was on the relevant date entitled to acquire the right to manage the premises.
- (4) An application under subsection (3) must be made not later than the end of the period of two months beginning with the day on which the counter-notice (or, where more than one, the last of the counter-notices) was given.
- (5) Where the RTM company has been given one or more counter-notices containing a statement such as is mentioned in subsection (2)(b), the RTM company does not acquire the right to manage the premises unless—
- (a) on an application under subsection (3) it is finally determined that the company was on the relevant date entitled to acquire the right to manage the premises, or
 - (b) the person by whom the counter-notice was given agrees, or the persons by whom the counter-notices were given agree, in writing that the company was so entitled.
- (6) If on an application under subsection (3) it is finally determined that the company was not on the relevant date entitled to acquire the right to manage the premises, the claim notice ceases to have effect.
- (7) A determination on an application under subsection (3) becomes final—
- (a) if not appealed against, at the end of the period for bringing an appeal, or
 - (b) if appealed against, at the time when the appeal (or any further appeal) is disposed of.
- (8) An appeal is disposed of—
- (a) if it is determined and the period for bringing any further appeal has ended, or
 - (b) if it is abandoned or otherwise ceases to have effect.

85 Landlords etc. not traceable

- (1) This section applies where a RTM company wishing to acquire the right to manage premises—
- (a) complies with subsection (4) or (5) of section 79, and
 - (b) would not have been precluded from giving a valid notice under that section with respect to the premises,
- but cannot find, or ascertain the identity of, any of the persons to whom the claim notice would be required to be given by subsection (6) of that section.

- (2) The RTM company may apply to a leasehold valuation tribunal for an order that the company is to acquire the right to manage the premises.
- (3) Such an order may be made only if the company has given notice of the application to each person who is the qualifying tenant of a flat contained in the premises.
- (4) Before an order is made the company may be required to take such further steps by way of advertisement or otherwise as is determined proper for the purpose of tracing the persons who are—
 - (a) landlords under leases of the whole or any part of the premises, or
 - (b) parties to such leases otherwise than as landlord or tenant.
- (5) If any of those persons is traced—
 - (a) after an application for an order is made, but
 - (b) before the making of an order,
 no further proceedings shall be taken with a view to the making of an order.
- (6) Where that happens—
 - (a) the rights and obligations of all persons concerned shall be determined as if the company had, at the date of the application, duly given notice under section 79 of its claim to acquire the right to manage the premises, and
 - (b) the leasehold valuation tribunal may give such directions as it thinks fit as to the steps to be taken for giving effect to their rights and obligations, including directions modifying or dispensing with any of the requirements imposed by or by virtue of this Chapter.
- (7) An application for an order may be withdrawn at any time before an order is made and, after it is withdrawn, subsection (6)(a) does not apply.
- (8) But where any step is taken for the purpose of giving effect to subsection (6)(a) in the case of any application, the application shall not afterwards be withdrawn except—
 - (a) with the consent of the person or persons traced, or
 - (b) by permission of the leasehold valuation tribunal.
- (9) And permission shall be given only where it appears just that it should be given by reason of matters coming to the knowledge of the RTM company in consequence of the tracing of the person or persons traced.

86 Withdrawal of claim notice

- (1) A RTM company which has given a claim notice in relation to any premises may, at any time before it acquires the right to manage the premises, withdraw the claim notice by giving a notice to that effect (referred to in this Chapter as a “notice of withdrawal”).
- (2) A notice of withdrawal must be given to each person who is—
 - (a) landlord under a lease of the whole or any part of the premises,
 - (b) party to such a lease otherwise than as landlord or tenant,
 - (c) a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises, or
 - (d) the qualifying tenant of a flat contained in the premises.

87 Deemed withdrawal

- (1) If a RTM company has been given one or more counter-notices containing a statement such as is mentioned in subsection (2)(b) of section 84 but either—
 - (a) no application for a determination under subsection (3) of that section is made within the period specified in subsection (4) of that section, or
 - (b) such an application is so made but is subsequently withdrawn,the claim notice is deemed to be withdrawn.
- (2) The withdrawal shall be taken to occur—
 - (a) if paragraph (a) of subsection (1) applies, at the end of the period specified in that paragraph, and
 - (b) if paragraph (b) of that subsection applies, on the date of the withdrawal of the application.
- (3) Subsection (1) does not apply if the person by whom the counter-notice was given has, or the persons by whom the counter-notices were given have, (before the time when the withdrawal would be taken to occur) agreed in writing that the RTM company was on the relevant date entitled to acquire the right to manage the premises.
- (4) The claim notice is deemed to be withdrawn if—
 - (a) a winding-up order or an administration order is made, or a resolution for voluntary winding-up is passed, with respect to the RTM company,
 - (b) a receiver or a manager of the RTM company's undertaking is duly appointed, or possession is taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the RTM company comprised in or subject to the charge,
 - (c) a voluntary arrangement proposed in the case of the RTM company for the purposes of Part 1 of the Insolvency Act 1986 (c. 45) is approved under that Part of that Act, or
 - (d) the RTM company's name is struck off the register under section 652 or 652A of the Companies Act 1985 (c. 6).

88 Costs: general

- (1) A RTM company is liable for reasonable costs incurred by a person who is—
 - (a) landlord under a lease of the whole or any part of any premises,
 - (b) party to such a lease otherwise than as landlord or tenant, or
 - (c) a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises,in consequence of a claim notice given by the company in relation to the premises.
- (2) Any costs incurred by such a person in respect of professional services rendered to him by another are to be regarded as reasonable only if and to the extent that costs in respect of such services might reasonably be expected to have been incurred by him if the circumstances had been such that he was personally liable for all such costs.
- (3) A RTM company is liable for any costs which such a person incurs as party to any proceedings under this Chapter before a leasehold valuation tribunal only if the tribunal dismisses an application by the company for a determination that it is entitled to acquire the right to manage the premises.

- (4) Any question arising in relation to the amount of any costs payable by a RTM company shall, in default of agreement, be determined by a leasehold valuation tribunal.

89 Costs where claim ceases

- (1) This section applies where a claim notice given by a RTM company—
- (a) is at any time withdrawn or deemed to be withdrawn by virtue of any provision of this Chapter, or
 - (b) at any time ceases to have effect by reason of any other provision of this Chapter.
- (2) The liability of the RTM company under section 88 for costs incurred by any person is a liability for costs incurred by him down to that time.
- (3) Each person who is or has been a member of the RTM company is also liable for those costs (jointly and severally with the RTM company and each other person who is so liable).
- (4) But subsection (3) does not make a person liable if—
- (a) the lease by virtue of which he was a qualifying tenant has been assigned to another person, and
 - (b) that other person has become a member of the RTM company.
- (5) The reference in subsection (4) to an assignment includes—
- (a) an assent by personal representatives, and
 - (b) assignment by operation of law where the assignment is to a trustee in bankruptcy or to a mortgagee under section 89(2) of the Law of Property Act 1925 (c. 20) (foreclosure of leasehold mortgage).

Acquisition of right

90 The acquisition date

- (1) This section makes provision about the date which is the acquisition date where a RTM company acquires the right to manage any premises.
- (2) Where there is no dispute about entitlement, the acquisition date is the date specified in the claim notice under section 80(7).
- (3) For the purposes of this Chapter there is no dispute about entitlement if—
- (a) no counter-notice is given under section 84, or
 - (b) the counter-notice given under that section, or (where more than one is so given) each of them, contains a statement such as is mentioned in subsection (2)(a) of that section.
- (4) Where the right to manage the premises is acquired by the company by virtue of a determination under section 84(5)(a), the acquisition date is the date three months after the determination becomes final.
- (5) Where the right to manage the premises is acquired by the company by virtue of subsection (5)(b) of section 84, the acquisition date is the date three months after the day on which the person (or the last person) by whom a counter-notice containing a statement such as is mentioned in subsection (2)(b) of that section was given agrees

in writing that the company was on the relevant date entitled to acquire the right to manage the premises.

- (6) Where an order is made under section 85, the acquisition date is (subject to any appeal) the date specified in the order.

91 Notices relating to management contracts

- (1) Section 92 applies where—
- (a) the right to manage premises is to be acquired by a RTM company (otherwise than by virtue of an order under section 85), and
 - (b) there are one or more existing management contracts relating to the premises.
- (2) A management contract is a contract between—
- (a) an existing manager of the premises (referred to in this Chapter as the “manager party”), and
 - (b) another person (so referred to as the “contractor party”),
- under which the contractor party agrees to provide services, or do any other thing, in connection with any matter relating to a function which will be a function of the RTM company once it acquires the right to manage.
- (3) And in this Chapter “existing management contract” means a management contract which—
- (a) is subsisting immediately before the determination date, or
 - (b) is entered into during the period beginning with the determination date and ending with the acquisition date.
- (4) An existing manager of the premises is any person who is—
- (a) landlord under a lease relating to the whole or any part of the premises,
 - (b) party to such a lease otherwise than as landlord or tenant, or
 - (c) a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises.
- (5) In this Chapter “determination date” means—
- (a) where there is no dispute about entitlement, the date specified in the claim notice under section 80(6),
 - (b) where the right to manage the premises is acquired by the company by virtue of a determination under section 84(5)(a), the date when the determination becomes final, and
 - (c) where the right to manage the premises is acquired by the company by virtue of subsection (5)(b) of section 84, the day on which the person (or the last person) by whom a counter-notice containing a statement such as is mentioned in subsection (2)(b) of that section was given agrees in writing that the company was on the relevant date entitled to acquire the right to manage the premises.

92 Duties to give notice of contracts

- (1) The person who is the manager party in relation to an existing management contract must give a notice in relation to the contract—
- (a) to the person who is the contractor party in relation to the contract (a “contractor notice”), and

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

- (b) to the RTM company (a “contract notice”).
- (2) A contractor notice and a contract notice must be given—
- (a) in the case of a contract subsisting immediately before the determination date, on that date or as soon after that date as is reasonably practicable, and
 - (b) in the case of a contract entered into during the period beginning with the determination date and ending with the acquisition date, on the date on which it is entered into or as soon after that date as is reasonably practicable.
- (3) A contractor notice must—
- (a) give details sufficient to identify the contract in relation to which it is given,
 - (b) state that the right to manage the premises is to be acquired by a RTM company,
 - (c) state the name and registered office of the RTM company,
 - (d) specify the acquisition date, and
 - (e) contain such other particulars (if any) as may be required to be contained in contractor notices by regulations made by the appropriate national authority,
- and must also comply with such requirements (if any) about the form of contractor notices as may be prescribed by regulations so made.
- (4) Where a person who receives a contractor notice (including one who receives a copy by virtue of this subsection) is party to an existing management sub-contract with another person (the “sub-contractor party”), the person who received the notice must—
- (a) send a copy of the contractor notice to the sub-contractor party, and
 - (b) give to the RTM company a contract notice in relation to the existing management sub-contract.
- (5) An existing management sub-contract is a contract under which the sub-contractor party agrees to provide services, or do any other thing, in connection with any matter relating to a function which will be a function of the RTM company once it acquires the right to manage and which—
- (a) is subsisting immediately before the determination date, or
 - (b) is entered into during the period beginning with the determination date and ending with the acquisition date.
- (6) Subsection (4) must be complied with—
- (a) in the case of a contract entered into before the contractor notice is received, on the date on which it is received or as soon after that date as is reasonably practicable, and
 - (b) in the case of a contract entered into after the contractor notice is received, on the date on which it is entered into or as soon after that date as is reasonably practicable.
- (7) A contract notice must—
- (a) give particulars of the contract in relation to which it is given and of the person who is the contractor party, or sub-contractor party, in relation to that contract, and
 - (b) contain such other particulars (if any) as may be required to be contained in contract notices by regulations made by the appropriate national authority,
- and must also comply with such requirements (if any) about the form of contract notices as may be prescribed by such regulations so made.

93 Duty to provide information

- (1) Where the right to manage premises is to be acquired by a RTM company, the company may give notice to a person who is—
 - (a) landlord under a lease of the whole or any part of the premises,
 - (b) party to such a lease otherwise than as landlord or tenant, or
 - (c) a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises,requiring him to provide the company with any information which is in his possession or control and which the company reasonably requires in connection with the exercise of the right to manage.
- (2) Where the information is recorded in a document in his possession or control the notice may require him—
 - (a) to permit any person authorised to act on behalf of the company at any reasonable time to inspect the document (or, if the information is recorded in the document in a form in which it is not readily intelligible, to give any such person access to it in a readily intelligible form), and
 - (b) to supply the company with a copy of the document containing the information in a readily intelligible form.
- (3) A notice may not require a person to do anything under this section before the acquisition date.
- (4) But, subject to that, a person who is required by a notice to do anything under this section must do it within the period of 28 days beginning with the day on which the notice is given.

94 Duty to pay accrued uncommitted service charges

- (1) Where the right to manage premises is to be acquired by a RTM company, a person who is—
 - (a) landlord under a lease of the whole or any part of the premises,
 - (b) party to such a lease otherwise than as landlord or tenant, or
 - (c) a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises,must make to the company a payment equal to the amount of any accrued uncommitted service charges held by him on the acquisition date.
- (2) The amount of any accrued uncommitted service charges is the aggregate of—
 - (a) any sums which have been paid to the person by way of service charges in respect of the premises, and
 - (b) any investments which represent such sums (and any income which has accrued on them),less so much (if any) of that amount as is required to meet the costs incurred before the acquisition date in connection with the matters for which the service charges were payable.
- (3) He or the RTM company may make an application to a leasehold valuation tribunal to determine the amount of any payment which falls to be made under this section.
- (4) The duty imposed by this section must be complied with on the acquisition date or as soon after that date as is reasonably practicable.

*Exercising right***95 Introductory**

Sections 96 to 103 apply where the right to manage premises has been acquired by a RTM company (and has not ceased to be exercisable by it).

96 Management functions under leases

- (1) This section and section 97 apply in relation to management functions relating to the whole or any part of the premises.
- (2) Management functions which a person who is landlord under a lease of the whole or any part of the premises has under the lease are instead functions of the RTM company.
- (3) And where a person is party to a lease of the whole or any part of the premises otherwise than as landlord or tenant, management functions of his under the lease are also instead functions of the RTM company.
- (4) Accordingly, any provisions of the lease making provision about the relationship of—
 - (a) a person who is landlord under the lease, and
 - (b) a person who is party to the lease otherwise than as landlord or tenant,
 in relation to such functions do not have effect.
- (5) “Management functions” are functions with respect to services, repairs, maintenance, improvements, insurance and management.
- (6) But this section does not apply in relation to—
 - (a) functions with respect to a matter concerning only a part of the premises consisting of a flat or other unit not held under a lease by a qualifying tenant, or
 - (b) functions relating to re-entry or forfeiture.
- (7) An order amending subsection (5) or (6) may be made by the appropriate national authority.

97 Management functions: supplementary

- (1) Any obligation owed by the RTM company by virtue of section 96 to a tenant under a lease of the whole or any part of the premises is also owed to each person who is landlord under the lease.
- (2) A person who is—
 - (a) landlord under a lease of the whole or any part of the premises,
 - (b) party to such a lease otherwise than as landlord or tenant, or
 - (c) a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises,
 is not entitled to do anything which the RTM company is required or empowered to do under the lease by virtue of section 96, except in accordance with an agreement made by him and the RTM company.
- (3) But subsection (2) does not prevent any person from insuring the whole or any part of the premises at his own expense.

- (4) So far as any function of a tenant under a lease of the whole or any part of the premises—
- (a) relates to the exercise of any function under the lease which is a function of the RTM company by virtue of section 96, and
 - (b) is exercisable in relation to a person who is landlord under the lease or party to the lease otherwise than as landlord or tenant,
- it is instead exercisable in relation to the RTM company.
- (5) But subsection (4) does not require or permit the payment to the RTM company of so much of any service charges payable by a tenant under a lease of the whole or any part of the premises as is required to meet costs incurred before the right to manage was acquired by the RTM company in connection with matters for which the service charges are payable.

98 Functions relating to approvals

- (1) This section and section 99 apply in relation to the grant of approvals under long leases of the whole or any part of the premises; but nothing in this section or section 99 applies in relation to an approval concerning only a part of the premises consisting of a flat or other unit not held under a lease by a qualifying tenant.
- (2) Where a person who is—
- (a) landlord under a long lease of the whole or any part of the premises, or
 - (b) party to such a lease otherwise than as landlord or tenant,
- has functions in relation to the grant of approvals to a tenant under the lease, the functions are instead functions of the RTM company.
- (3) Accordingly, any provisions of the lease making provision about the relationship of—
- (a) a person who is landlord under the lease, and
 - (b) a person who is party to the lease otherwise than as landlord or tenant,
- in relation to such functions do not have effect.
- (4) The RTM company must not grant an approval by virtue of subsection (2) without having given—
- (a) in the case of an approval relating to assignment, underletting, charging, parting with possession, the making of structural alterations or improvements or alterations of use, 30 days' notice, or
 - (b) in any other case, 14 days' notice,
- to the person who is, or each of the persons who are, landlord under the lease.
- (5) Regulations increasing the period of notice to be given under subsection (4)(b) in the case of any description of approval may be made by the appropriate national authority.
- (6) So far as any function of a tenant under a long lease of the whole or any part of the premises—
- (a) relates to the exercise of any function which is a function of the RTM company by virtue of this section, and
 - (b) is exercisable in relation to a person who is landlord under the lease or party to the lease otherwise than as landlord or tenant,
- it is instead exercisable in relation to the RTM company.

- (7) In this Chapter “approval” includes consent or licence and “approving” is to be construed accordingly; and an approval required to be obtained by virtue of a restriction entered on the register of title kept by the Chief Land Registrar is, so far as relating to a long lease of the whole or any part of any premises, to be treated for the purposes of this Chapter as an approval under the lease.

99 Approvals: supplementary

- (1) If a person to whom notice is given under section 98(4) objects to the grant of the approval before the time when the RTM company would first be entitled to grant it, the RTM company may grant it only—
- (a) in accordance with the written agreement of the person who objected, or
 - (b) in accordance with a determination of (or on an appeal from) a leasehold valuation tribunal.
- (2) An objection to the grant of the approval may not be made by a person unless he could withhold the approval if the function of granting it were exercisable by him (and not by the RTM company).
- (3) And a person may not make an objection operating only if a condition or requirement is not satisfied unless he could grant the approval subject to the condition or requirement being satisfied if the function of granting it were so exercisable.
- (4) An objection to the grant of the approval is made by giving notice of the objection (and of any condition or requirement which must be satisfied if it is not to operate) to—
- (a) the RTM company, and
 - (b) the tenant,
- and, if the approval is to a tenant approving an act of a sub-tenant, to the sub-tenant.
- (5) An application to a leasehold valuation tribunal for a determination under subsection (1)(b) may be made by—
- (a) the RTM company,
 - (b) the tenant,
 - (c) if the approval is to a tenant approving an act of a sub-tenant, the sub-tenant, or
 - (d) any person who is landlord under the lease.

100 Enforcement of tenant covenants

- (1) This section applies in relation to the enforcement of untransferred tenant covenants of a lease of the whole or any part of the premises.
- (2) Untransferred tenant covenants are enforceable by the RTM company, as well as by any other person by whom they are enforceable apart from this section, in the same manner as they are enforceable by any other such person.
- (3) But the RTM company may not exercise any function of re-entry or forfeiture.
- (4) In this Chapter “tenant covenant”, in relation to a lease, means a covenant falling to be complied with by a tenant under the lease; and a tenant covenant is untransferred if, apart from this section, it would not be enforceable by the RTM company.
- (5) Any power under a lease of a person who is—
- (a) landlord under the lease, or

(b) party to the lease otherwise than as landlord or tenant,
to enter any part of the premises to determine whether a tenant is complying with any untransferred tenant covenant is exercisable by the RTM company (as well as by the landlord or party).

101 Tenant covenants: monitoring and reporting

- (1) This section applies in relation to failures to comply with tenant covenants of leases of the whole or any part of the premises.
- (2) The RTM company must—
 - (a) keep under review whether tenant covenants of leases of the whole or any part of the premises are being complied with, and
 - (b) report to any person who is landlord under such a lease any failure to comply with any tenant covenant of the lease.
- (3) The report must be made before the end of the period of three months beginning with the day on which the failure to comply comes to the attention of the RTM company.
- (4) But the RTM company need not report to a landlord a failure to comply with a tenant covenant if—
 - (a) the failure has been remedied,
 - (b) reasonable compensation has been paid in respect of the failure, or
 - (c) the landlord has notified the RTM company that it need not report to him failures of the description of the failure concerned.

102 Statutory functions

- (1) Schedule 7 (provision for the operation of certain enactments with modifications) has effect.
- (2) Other enactments relating to leases (including enactments contained in this Act or any Act passed after this Act) have effect with any such modifications as are prescribed by regulations made by the appropriate national authority.

103 Landlord contributions to service charges

- (1) This section applies where—
 - (a) the premises contain at least one flat or other unit not subject to a lease held by a qualifying tenant (an “excluded unit”),
 - (b) the service charges payable under leases of flats contained in the premises which are so subject fall to be calculated as a proportion of the relevant costs, and
 - (c) the proportions of the relevant costs so payable, when aggregated, amount to less than the whole of the relevant costs.
- (2) Where the premises contain only one excluded unit, the person who is the appropriate person in relation to the excluded unit must pay to the RTM company the difference between—
 - (a) the relevant costs, and
 - (b) the aggregate amount payable in respect of the relevant costs under leases of flats contained in the premises which are held by qualifying tenants.

- (3) Where the premises contain more than one excluded unit, each person who is the appropriate person in relation to an excluded unit must pay to the RTM company the appropriate proportion of that difference.
- (4) And the appropriate proportion in the case of each such person is the proportion of the internal floor area of all of the excluded units which is internal floor area of the excluded unit in relation to which he is the appropriate person.
- (5) The appropriate person in relation to an excluded unit—
 - (a) if it is subject to a lease, is the landlord under the lease,
 - (b) if it is subject to more than one lease, is the immediate landlord under whichever of the leases is inferior to all the others, and
 - (c) if it is not subject to any lease, is the freeholder.

Supplementary

104 Registration

- (1) In section 49(1) of the Land Registration Act 1925 (c. 21) (rules to provide for rights, interests and claims to be protected by notice), insert at the end—
 - “(1) the right to manage being exercisable by a RTM company under Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002.”
- (2) In section 64 of that Act (production of certificates for noting on certain dealings etc.), insert at the end—
 - “(8) Subsection (1) above shall also not require the production of the land certificate or of any charge certificate when a person applies for the registration of a notice in respect of the right to manage being exercisable by a RTM company under Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002.”
- (3) After section 111 of that Act insert—

“111A Caution relating to right to manage

A caution may be lodged under section 53 of this Act in respect of the right to manage being exercisable by a RTM company under Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002.”

105 Cessation of management

- (1) This section makes provision about the circumstances in which, after a RTM company has acquired the right to manage any premises, that right ceases to be exercisable by it.
- (2) Provision may be made by an agreement made between—
 - (a) the RTM company, and
 - (b) each person who is landlord under a lease of the whole or any part of the premises,
 for the right to manage the premises to cease to be exercisable by the RTM company.

- (3) The right to manage the premises ceases to be exercisable by the RTM company if—
- (a) a winding-up order or an administration order is made, or a resolution for voluntary winding-up is passed, with respect to the RTM company,
 - (b) a receiver or a manager of the RTM company's undertaking is duly appointed, or possession is taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the RTM company comprised in or subject to the charge,
 - (c) a voluntary arrangement proposed in the case of the RTM company for the purposes of Part 1 of the Insolvency Act 1986 (c. 45) is approved under that Part of that Act, or
 - (d) the RTM company's name is struck off the register under section 652 or 652A of the Companies Act 1985 (c. 6).
- (4) The right to manage the premises ceases to be exercisable by the RTM company if a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises, begins so to act or an order under that Part of that Act that the right to manage the premises is to cease to be exercisable by the RTM company takes effect.
- (5) The right to manage the premises ceases to be exercisable by the RTM company if it ceases to be a RTM company in relation to the premises.

106 Agreements excluding or modifying right

Any agreement relating to a lease (whether contained in the instrument creating the lease or not and whether made before the creation of the lease or not) is void in so far as it—

- (a) purports to exclude or modify the right of any person to be, or do any thing as, a member of a RTM company,
- (b) provides for the termination or surrender of the lease if the tenant becomes, or does any thing as, a member of a RTM company or if a RTM company does any thing, or
- (c) provides for the imposition of any penalty or disability if the tenant becomes, or does any thing as, a member of a RTM company or if a RTM company does any thing.

107 Enforcement of obligations

- (1) A county court may, on the application of any person interested, make an order requiring a person who has failed to comply with a requirement imposed on him by, under or by virtue of any provision of this Chapter 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 given to the person in question requiring him to make good the default, and
 - (b) more than 14 days have elapsed since the date of the giving of that notice without his having done so.

108 Application to Crown

- (1) This Chapter applies in relation to premises in which there is a Crown interest.
- (2) There is a Crown interest in premises if there is in the premises an interest or estate—
 - (a) which is comprised in the Crown Estate,
 - (b) which belongs to Her Majesty in right of the Duchy of Lancaster,
 - (c) which belongs to the Duchy of Cornwall, or
 - (d) which belongs to a government department or is held on behalf of Her Majesty for the purposes of a government department.
- (3) Any sum payable under this Chapter to a RTM company by the Chancellor of the Duchy of Lancaster may be raised and paid under section 25 of the Duchy of Lancaster Act 1817 (c. 97) as an expense incurred in improvement of land belonging to Her Majesty in right of the Duchy.
- (4) Any sum payable under this Chapter to a RTM company by the Duke of Cornwall (or any other possessor for the time being of the Duchy of Cornwall) may be raised and paid under section 8 of the Duchy of Cornwall Management Act 1863 (c. 49) as an expense incurred in permanently improving the possessions of the Duchy.

109 Powers of trustees in relation to right

- (1) Where trustees are the qualifying tenant of a flat contained in any premises, their powers under the instrument regulating the trusts include power to be a member of a RTM company for the purpose of the acquisition and exercise of the right to manage the premises.
- (2) But subsection (1) does not apply where the instrument regulating the trusts contains an explicit direction to the contrary.
- (3) The power conferred by subsection (1) is exercisable with the same consent or on the same direction (if any) as may be required for the exercise of the trustees' powers (or ordinary powers) of investment.
- (4) The purposes—
 - (a) authorised for the application of capital money by section 73 of the Settled Land Act 1925 (c. 18), and
 - (b) authorised by section 71 of that Act as purposes for which moneys may be raised by mortgage,
 include the payment of any expenses incurred by a tenant for life or statutory owner as a member of a RTM company.

110 Power to prescribe procedure

- (1) Where a claim to acquire the right to manage any premises is made by the giving of a claim notice, except as otherwise provided by this Chapter—
 - (a) the procedure for giving effect to the claim notice, and
 - (b) the rights and obligations of all parties in any matter arising in giving effect to the claim notice,
 shall be such as may be prescribed by regulations made by the appropriate national authority.

- (2) Regulations under this section may, in particular, make provision for a person to be discharged from performing any obligations arising out of a claim notice by reason of the default or delay of some other person.

111 Notices

- (1) Any notice under this Chapter—
- (a) must be in writing, and
 - (b) may be sent by post.
- (2) A company which is a RTM company in relation to premises may give a notice under this Chapter to a person who is landlord under a lease of the whole or any part of the premises at the address specified in subsection (3) (but subject to subsection (4)).
- (3) That address is—
- (a) the address last furnished to a member of the RTM company as the landlord's address for service in accordance with section 48 of the 1987 Act (notification of address for service of notices on landlord), or
 - (b) if no such address has been so furnished, the address last furnished to such a member as the landlord's address in accordance with section 47 of the 1987 Act (landlord's name and address to be contained in demands for rent).
- (4) But the RTM company may not give a notice under this Chapter to a person at the address specified in subsection (3) if it has been notified by him of a different address in England and Wales at which he wishes to be given any such notice.
- (5) A company which is a RTM company in relation to premises may give a notice under this Chapter to a person who is the qualifying tenant of a flat contained in the premises at the flat unless it has been notified by the qualifying tenant of a different address in England and Wales at which he wishes to be given any such notice.

Interpretation

112 Definitions

- (1) In this Chapter—
- “appurtenant property”, in relation to a building or part of a building or a flat, means any garage, outhouse, garden, yard or appurtenances belonging to, or usually enjoyed with, the building or part or flat,
 - “copy”, in relation to a document in which information is recorded, means anything onto which the information has been copied by whatever means and whether directly or indirectly,
 - “document” means anything in which information is recorded,
 - “dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling,
 - “flat” means a separate set of premises (whether or not on the same floor)—
 - (a) which forms part of a building,
 - (b) which is constructed or adapted for use for the purposes of a dwelling, and
 - (c) either the whole or a material part of which lies above or below some other part of the building,

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

“relevant costs” has the meaning given by section 18 of the 1985 Act,

“service charge” has the meaning given by that section, and

“unit” means—

- (a) a flat,
- (b) any other separate set of premises which is constructed or adapted for use for the purposes of a dwelling, or
- (c) a separate set of premises let, or intended for letting, on a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (c. 56) (business tenancies) applies.

(2) In this Chapter “lease” and “tenancy” have the same meaning and both expressions include (where the context permits)—

- (a) a sub-lease or sub-tenancy, and
- (b) an agreement for a lease or tenancy (or for a sub-lease or sub-tenancy),

but do not include a tenancy at will or at sufferance.

(3) 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.

(4) In this Chapter any reference (however expressed) to the lease held by the qualifying tenant of a flat is a reference to a lease held by him under which the demised premises consist of or include the flat (whether with or without one or more other flats).

(5) Where two or more persons jointly constitute either the landlord or the tenant or qualifying tenant in relation to a lease of a flat, any reference in this Chapter to the landlord or to the tenant or qualifying tenant is (unless the context otherwise requires) a reference to both or all of the persons who jointly constitute the landlord or the tenant or qualifying tenant, as the case may require.

(6) In the case of a lease which derives (in accordance with section 77(5)) from two or more separate leases, any reference in this Chapter to the date of the commencement of the term for which the lease was granted shall, if the terms of the separate leases commenced at different dates, have effect as references to the date of the commencement of the term of the lease with the earliest date of commencement.

113 Index of defined expressions

In this Chapter the expressions listed below are defined by the provisions specified.

<i>Expression</i>	<i>Interpretation provision</i>
Approval (and approving)	Section 98(7)
Appurtenant property	Section 112(1)
Acquisition date	Sections 74(1)(b) and 90
Claim notice	Section 79(1)
Contractor party	Section 91(2)(b)
Copy	Section 112(1)
Counter-notice	Section 84(1)

<i>Expression</i>	<i>Interpretation provision</i>
Date of the commencement of the term of a lease	Section 112(6)
Determination date	Section 91(5)
Document	Section 112(1)
Dwelling	Section 112(1)
Existing management contract	Section 91(3)
Flat	Section 112(1)
Landlord	Section 112(3) and (5)
Lease	Section 112(2) to (4)
Letting	Section 112(3)
Long lease	Sections 76 and 77
Manager party	Section 91(2)(a)
No dispute about entitlement	Section 90(3)
Notice of invitation to participate	Section 78
Notice of withdrawal	Section 86(1)
Premises to which this Chapter applies	Section 72 (and Schedule 6)
Qualifying tenant	Sections 75 and 112(4) and (5)
Relevant costs	Section 112(1)
Relevant date	Section 79(1)
Right to manage	Section 71(2)
RTM company	Sections 71(1) and 73
Service charge	Section 112(1)
Tenancy	Section 112(2)
Tenant	Section 112(3) and (5)
Tenant covenant	Section 100(4)
Unit	Section 112(1)