



# Commonhold and Leasehold Reform Act 2002

## 2002 CHAPTER 15

### PART 2

#### LEASEHOLD REFORM

#### CHAPTER 2

##### COLLECTIVE ENFRANCHISEMENT BY TENANTS OF FLATS

##### *Exercise of right*

#### 122 RTE companies

After section 4 of the 1993 Act insert—

##### **“4A RTE companies**

- (1) A company is a RTE 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 exercise of the right to collective enfranchisement with respect to the premises.
- (2) But a company is not a RTE company if it is a commonhold association (within the meaning of Part 1 of the Commonhold and Leasehold Reform Act 2002).
- (3) And a company is not a RTE company in relation to premises if another company which is a RTE company in relation to—
  - (a) the premises, or
  - (b) any premises containing or contained in the premises,

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has given a notice under section 13 with respect to the premises, or any premises containing or contained in the premises, and the notice continues in force in accordance with subsection (11) of that section.

#### **4B RTE companies: membership**

- (1) Before the execution of a relevant conveyance to a company which is a RTE company in relation to any premises the following persons are entitled to be members of the company—
  - (a) qualifying tenants of flats contained in the premises, and
  - (b) if the company is also a RTM company which has acquired the right to manage the premises, landlords under leases of the whole or any part of the premises.
- (2) In this section—

“relevant conveyance” means a conveyance of the freehold of the premises or of any premises containing or contained in the premises; and

“RTM company” has the same meaning as in Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002.
- (3) On the execution of a relevant conveyance to the RTE company, any member of the company who is not a participating member ceases to be a member.
- (4) In this Chapter “participating member”, in relation to a RTE company, means a person who is a member by virtue of subsection (1)(a) of this section and who—
  - (a) has given a participation notice to the company before the date when the company gives a notice under section 13 or during the participation period, or
  - (b) is a participating member by virtue of either of the following two subsections.
- (5) A member who is the assignee of a lease by virtue of which a participating member was a qualifying tenant of his flat is a participating member if he has given a participation notice to the company within the period beginning with the date of the assignment and ending 28 days later (or, if earlier, on the execution of a relevant conveyance to the company).
- (6) And if the personal representatives of a participating member are a member, they are a participating member if they have given a participation notice to the company at any time (before the execution of a relevant conveyance to the company).
- (7) In this section “participation notice”, in relation to a member of the company, means a notice stating that he wishes to be a participating member.
- (8) For the purposes of this section a participation notice given to the company during the period—
  - (a) beginning with the date when the company gives a notice under section 13, and
  - (b) ending immediately before a binding contract is entered into in pursuance of the notice under section 13,

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is of no effect unless a copy of the participation notice has been given during that period to the person who (in accordance with section 9) is the reversioner in respect of the premises.

- (9) For the purposes of this section “the participation period” is the period beginning with the date when the company gives a notice under section 13 and ending—
- (a) six months, or such other time as the Secretary of State may by order specify, after that date, or
  - (b) immediately before a binding contract is entered into in pursuance of the notice under section 13,
- whichever is the earlier.
- (10) In this section references to assignment include an assent by personal representatives, and 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); and references to an assignee shall be construed accordingly.

#### **4C RTE companies: regulations**

- (1) The Secretary of State shall by regulations make provision about the content and form of the memorandum of association and articles of association of RTE companies.
- (2) A RTE company may adopt provisions of the regulations for its memorandum or articles.
- (3) The regulations may include provision which is to have effect for a RTE company whether or not it is adopted by the company.
- (4) A provision of the memorandum or articles of a RTE company has no effect to the extent that it is inconsistent with the regulations.
- (5) 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.
- (6) The following provisions of the Companies Act 1985 (c. 6) do not apply to a RTE company—
- (a) sections 2(7) and 3 (memorandum), and
  - (b) section 8 (articles).”

#### **Commencement Information**

- II** S. 122 partly in force; s. 122 not in force at Royal Assent, see s. 181(1); s. 122 in force for specified purposes at 26.7.2002 for E. by [S.I. 2002/1912](#), [art. 2\(c\)](#); s. 122 in force for specified purposes at 1.1.2003 for W. by [S.I. 2002/3012](#), [art. 2\(c\)](#)

**Changes to legislation:**

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