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 151: Consultation about service charges

247.   Section 151 substitutes two new sections (20 and 20ZA) for section 20 of the 1985 Act (which requires landlords to consult tenants before carrying out works to which a tenant is obliged to contribute through a service charge, and restricts their right to recover the cost if they fail to do so).

248.   The new sections provide a power to prescribe, through regulations, the consultation requirements that landlords must comply with before carrying out any qualifying works or entering into a qualifying long term agreement. A qualifying long term agreement is an agreement entered into by or on behalf of the landlord or a superior landlord for a term of more than twelve months. The consultation requirements will apply where, in the case of works, the costs exceed a specified amount and, in the case of a long term agreement, the costs payable under the agreement as a whole or the costs incurred during a specified period exceed a specified amount. The specified amount, or period, will in each case, be set by regulations and may be set by reference to the amount which will be payable by any one or more tenants as service charges.

249.   If landlords do not comply with the consultation requirements the amount that they will be able to recover will be limited to an amount specified in regulations. Landlords will be able to apply to a LVT for a determination to dispense with all or any of the prescribed consultation requirements. Regulations may provide that agreements which would otherwise be qualifying long term agreements may be exempt from the consultation requirements in prescribed circumstances or if they are agreements of a particular description.