

SCHEDULE 4

Regulation 7(4)

CONSULTATION REQUIREMENTS FOR QUALIFYING WORKS
OTHER THAN WORKS UNDER QUALIFYING LONG TERM
OR AGREEMENTS TO WHICH REGULATION 7(3) APPLIES

PART 1

CONSULTATION REQUIREMENTS FOR QUALIFYING
WORKS FOR WHICH PUBLIC NOTICE IS REQUIRED

Notice of intention

- 1.—(1) The landlord shall give notice in writing of his intention to carry out qualifying works—
- (a) to each tenant; and
 - (b) where a recognised tenants' association represents some or all of the tenants, to the association.
- (2) The notice shall—
- (a) describe, in general terms, the works proposed to be carried out or specify the place and hours at which a description of the proposed works may be inspected;
 - (b) state the landlord's reasons for considering it necessary to carry out the proposed works;
 - (c) state that the reason why the landlord is not inviting recipients of the notice to nominate persons from whom he should try to obtain an estimate for carrying out the works is that public notice of the works is to be given;
 - (d) invite the making, in writing, of observations in relation to the proposed works; and
 - (e) specify—
 - (i) the address to which such observations may be sent;
 - (ii) that they must be delivered within the relevant period; and
 - (iii) the date on which the relevant period ends.

Inspection of description of proposed works

- 2.—(1) Where a notice under paragraph 1 specifies a place and hours for inspection—
- (a) the place and hours so specified must be reasonable; and
 - (b) a description of the proposed works must be available for inspection, free of charge, at that place and during those hours.
- (2) If facilities to enable copies to be taken are not made available at the times at which the description may be inspected, the landlord shall provide to any tenant, on request and free of charge, a copy of the description.

Duty to have regard to observations in relation to proposed works

3. Where, within the relevant period, observations are made in relation to the proposed works by any tenant or the recognised tenants' association, the landlord shall have regard to those observations.

Preparation of landlord's contract statement

4.—(1) The landlord shall prepare, in accordance with the following provisions of this paragraph, a statement in respect of the proposed contract under which the proposed works are to be carried out.

(2) The statement shall set out—

- (a) the name and address of the person with whom the landlord proposes to contract; and
- (b) particulars of any connection between them (apart from the proposed contract).

(3) For the purpose of sub-paragraph (2)(b) it shall be assumed that there is a connection between a person and the landlord—

- (a) where the landlord is a company, if the person, or is to be, a director or manager of the company or is a close relative of any such director or manager;
- (b) where the landlord is a company, and the person is a partner in a partnership, if any partner in that partnership is, or is to be, a director or manager of the company or is a close relative of any such director or manager;
- (c) where both the landlord and the person are companies, if any director or manager of one company is, or is to be, a director or manager of the other company;
- (d) where the person is a company, if the landlord is a director or manager of the company or is a close relative of any such director or manager; or
- (e) where the person is a company and the landlord is a partner in a partnership, if any partner in that partnership is a director or manager of the company or is a close relative of any such director or manager.

(4) Where, as regards each tenant's unit of occupation, it is reasonably practicable for the landlord to estimate the amount of the relevant contribution to be incurred by the tenant attributable to the works to which the proposed contract relates, that estimated amount shall be specified in the statement.

(5) Where—

- (a) it is not reasonably practicable for the landlord to make the estimate mentioned in sub-paragraph (4); and
- (b) it is reasonably practicable for the landlord to estimate, as regards the building or other premises to which the proposed contract relates, the total amount of his expenditure under the proposed contract,

that estimated amount shall be specified in the statement.

(6) Where—

- (a) it is not reasonably practicable for the landlord to make the estimate mentioned in sub-paragraph (4) or (5)(b); and
- (b) it is reasonably practicable for the landlord to ascertain the current unit cost or hourly or daily rate applicable to the works to which the proposed contract relates,

that cost or rate shall be specified in the statement.

(7) Where it is not reasonably practicable for the landlord to make the estimate mentioned in sub-paragraph (6)(b), the reasons why he cannot comply and the date by which he expects to be able to provide an estimated amount, cost or rate shall be specified in the statement.

(8) Where the landlord has received observations to which (in accordance with paragraph 3) he is required to have regard, the statement shall summarise the observations and set out his response to them.

Notification of proposed contract

5.—(1) The landlord shall give notice in writing of his intention to enter into the proposed contract—

- (a) to each tenant; and
- (b) where a recognised tenants' association represents some or all of the tenants, to the association.

(2) The notice shall—

- (a) comprise, or be accompanied by, the statement prepared in accordance with paragraph 4 (“the paragraph 4 statement”) or specify the place and hours at which that statement may be inspected;
- (b) invite the making, in writing, of observations in relation to any matter mentioned in the paragraph 4 statement;
- (c) specify—
 - (i) the address to which such observations may be sent;
 - (ii) that they must be delivered within the relevant period; and
 - (iii) the date on which the relevant period ends.

(3) Where the paragraph 4 statement is made available for inspection, paragraph 2 shall apply in relation to that statement as it applies in relation to a description of proposed works made available for inspection under that paragraph.

Landlord's response to observations

6. Where, within the relevant period, the landlord receives observations in response to the invitation in the notice under paragraph 5, he shall, within 21 days of their receipt, by notice in writing to the person by whom the observations were made, state his response to the observations.

Supplementary information

7. Where a statement prepared under paragraph 4 sets out the landlord's reasons for being unable to comply with sub-paragraph (6) of that paragraph, the landlord shall, within 21 days of receiving sufficient information to enable him to estimate the amount, cost or rate referred to in sub-paragraph (4), (5) or (6) of that paragraph, give notice in writing of the estimated amount, cost or rate (as the case may be)—

- (a) to each tenant; and
- (b) where a recognised tenants' association represents some or all of the tenants, to the association.

PART 2

CONSULTATION REQUIREMENTS FOR QUALIFYING WORKS FOR WHICH PUBLIC NOTICE IS NOT REQUIRED

Notice of intention

1.—(1) The landlord shall give notice in writing of his intention to carry out qualifying works—

- (a) to each tenant; and

Changes to legislation: There are currently no known outstanding effects for the The Service Charges (Consultation Requirements) (England) Regulations 2003, SCHEDULE 4. (See end of Document for details)

- (b) where a recognised tenants' association represents some or all of the tenants, to the association.
- (2) The notice shall—
- (a) describe, in general terms, the works proposed to be carried out or specify the place and hours at which a description of the proposed works may be inspected;
 - (b) state the landlord's reasons for considering it necessary to carry out the proposed works;
 - (c) invite the making, in writing, of observations in relation to the proposed works; and
 - (d) specify—
 - (i) the address to which such observations may be sent;
 - (ii) that they must be delivered within the relevant period; and
 - (iii) the date on which the relevant period ends.
- (3) The notice shall also invite each tenant and the association (if any) to propose, within the relevant period, the name of a person from whom the landlord should try to obtain an estimate for the carrying out of the proposed works.

Inspection of description of proposed works

- 2.—(1) Where a notice under paragraph 1 specifies a place and hours for inspection—
- (a) the place and hours so specified must be reasonable; and
 - (b) a description of the proposed works must be available for inspection, free of charge, at that place and during those hours.
- (2) If facilities to enable copies to be taken are not made available at the times at which the description may be inspected, the landlord shall provide to any tenant, on request and free of charge, a copy of the description.

Duty to have regard to observations in relation to proposed works

3. Where, within the relevant period, observations are made, in relation to the proposed works by any tenant or recognised tenants' association, the landlord shall have regard to those observations.

Estimates and response to observations

- 4.—(1) Where, within the relevant period, a nomination is made by a recognised tenants' association (whether or not a nomination is made by any tenant), the landlord shall try to obtain an estimate from the nominated person.
- (2) Where, within the relevant period, a nomination is made by only one of the tenants (whether or not a nomination is made by a recognised tenants' association), the landlord shall try to obtain an estimate from the nominated person.
- (3) Where, within the relevant period, a single nomination is made by more than one tenant (whether or not a nomination is made by a recognised tenants' association), the landlord shall try to obtain an estimate—
- (a) from the person who received the most nominations; or
 - (b) if there is no such person, but two (or more) persons received the same number of nominations, being a number in excess of the nominations received by any other person, from one of those two (or more) persons; or
 - (c) in any other case, from any nominated person.

(4) Where, within the relevant period, more than one nomination is made by any tenant and more than one nomination is made by a recognised tenants' association, the landlord shall try to obtain an estimate—

- (a) from at least one person nominated by a tenant; and
- (b) from at least one person nominated by the association, other than a person from whom an estimate is sought as mentioned in paragraph (a).

(5) The landlord shall, in accordance with this sub-paragraph and sub-paragraphs (6) to (9)—

- (a) obtain estimates for the carrying out of the proposed works;
- (b) supply, free of charge, a statement (“the paragraph (b) statement”) setting out—
 - (i) as regards at least two of the estimates, the amount specified in the estimate as the estimated cost of the proposed works; and
 - (ii) where the landlord has received observations to which (in accordance with paragraph 3) he is required to have regard, a summary of the observations and his response to them; and
- (c) make all of the estimates available for inspection.

(6) At least one of the estimates must be that of a person wholly unconnected with the landlord.

(7) For the purpose of paragraph (6), it shall be assumed that there is a connection between a person and the landlord—

- (a) where the landlord is a company, if the person is, or is to be, a director or manager of the company or is a close relative of any such director or manager;
- (b) where the landlord is a company, and the person is a partner in a partnership, if any partner in that partnership is, or is to be, a director or manager of the company or is a close relative of any such director or manager;
- (c) where both the landlord and the person are companies, if any director or manager of one company is, or is to be, a director or manager of the other company;
- (d) where the person is a company, if the landlord is a director or manager of the company or is a close relative of any such director or manager; or
- (e) where the person is a company and the landlord is a partner in a partnership, if any partner in that partnership is a director or manager of the company or is a close relative of any such director or manager.

(8) Where the landlord has obtained an estimate from a nominated person, that estimate must be one of those to which the paragraph (b) statement relates.

(9) The paragraph (b) statement shall be supplied to, and the estimates made available for inspection by—

- (a) each tenant; and
- (b) the secretary of the recognised tenants' association (if any).

(10) The landlord shall, by notice in writing to each tenant and the association (if any)—

- (a) specify the place and hours at which the estimates may be inspected;
- (b) invite the making, in writing, of observations in relation to those estimates;
- (c) specify—
 - (i) the address to which such observations may be sent;
 - (ii) that they must be delivered within the relevant period; and
 - (iii) the date on which the relevant period ends.

Changes to legislation: There are currently no known outstanding effects for the The Service Charges (Consultation Requirements) (England) Regulations 2003, SCHEDULE 4. (See end of Document for details)

(11) Paragraph 2 shall apply to estimates made available for inspection under this paragraph as it applies to a description of proposed works made available for inspection under that paragraph.

Duty to have regard to observations in relation to estimates

5. Where, within the relevant period, observations are made in relation to the estimates by a recognised tenants' association or, as the case may be, any tenant, the landlord shall have regard to those observations.

Duty on entering into contract

6.—(1) Subject to sub-paragraph (2), where the landlord enters into a contract for the carrying out of qualifying works, he shall, within 21 days of entering into the contract, by notice in writing to each tenant and the recognised tenants' association (if any)—

- (a) state his reasons for awarding the contract or specify the place and hours at which a statement of those reasons may be inspected; and
- (b) where he received observations to which (in accordance with paragraph 5) he was required to have regard, summarise the observations and set out his response to them.

(2) The requirements of sub-paragraph (1) do not apply where the person with whom the contract is made is a nominated person or submitted the lowest estimate.

(3) Paragraph 2 shall apply to a statement made available for inspection under this paragraph as it applies to a description of proposed works made available for inspection under that paragraph.

Changes to legislation:

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