Commonhold and Leasehold Reform Act 2002

2002 CHAPTER 15

PART 2

LEASEHOLD REFORM

CHAPTER 1

RIGHT TO MANAGE

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).

Commencement Information

I1 S. 95 wholly in force at 30.3.2004; s. 95 not in force at Royal Assent see s. 181(1); s. 95 wholly in force at 30.9.2003 for E. by S.I. 2003/1986, **art. 2(a)**; s. 95 wholly in force at 30.3.2004 for W. by S.I. 2004/669, **art. 2(a)**

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.

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(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.

Commencement Information

I2 S. 96 wholly in force at 30.3.2004; s. 96 not in force at Royal Assent see s. 181(1); s. 96 wholly in force at 30.9.2003 for E. by S.I. 2003/1986, **art. 2(a)**; s. 96 wholly in force at 30.3.2004 for W. by S.I. 2004/669, **art. 2(a)**

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.

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(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.

Commencement Information

I3 S. 97 wholly in force at 30.3.2004; s. 97 not in force at Royal Assent see s. 181(1); s. 97 wholly in force at 30.9.2003 for E. by S.I. 2003/1986, **art. 2(a)**; s. 97 wholly in force at 30.3.2004 for W. by S.I. 2004/669, **art. 2(a)**

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

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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.

Commencement Information

I4 S. 98 wholly in force at 30.3.2004; s. 98 not in force at Royal Assent see s. 181(1); s. 98 wholly in force at 30.9.2003 for E. by S.I. 2003/1986, **art. 2(a)**; s. 98 wholly in force at 30.3.2004 for W. by S.I. 2004/669, **art. 2(a)**

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) **[**[F1]the appropriate 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 **[**[F2]the appropriate 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.

Textual Amendments

F1 Words in s. 99(1)(b) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 137** (with Sch. 3)

F2 Words in s. 99(5) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 137** (with Sch. 3)

Commencement Information

I5 S. 99 wholly in force at 30.3.2004; s. 99 not in force at Royal Assent see s. 181(1); s. 99 wholly in force at 30.9.2003 for E. by S.I. 2003/1986, **art. 2(a)**; s. 99 wholly in force at 30.3.2004 for W. by S.I. 2004/669, **art. 2(a)**

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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).

Commencement Information

I6 S. 100 wholly in force at 30.3.2004; s. 100 not in force at Royal Assent see s. 181(1); s. 100 wholly in force at 30.9.2003 for E. by S.I. 2003/1986, **art. 2(a)**; s. 100 wholly in force at 30.3.2004 for W. by S.I. 2004/669, **art. 2(a)**

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.

Commencement Information

I7 S. 101 wholly in force at 30.3.2004; s. 101 not in force at Royal Assent see s. 181(1); s. 101 wholly in force at 30.9.2003 for E. by S.I. 2003/1986, **art. 2(a)**; s. 101 wholly in force at 30.3.2004 for W. by S.I. 2004/669, **art. 2(a)**

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.

Commencement Information

I8 S. 102 wholly in force at 30.3.2004; s. 102 not in force at Royal Assent see s. 181(1); s. 102 wholly in force at 30.9.2003 for E. by S.I. 2003/1986, **art. 2(a)**; s. 102 wholly in force at 30.3.2004 for W. by S.I. 2004/669, **art. 2(a)**

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

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(c) if it is not subject to any lease, is the freeholder.

Commencement Information

I9 S. 103 wholly in force at 30.3.2004; s. 103 not in force at Royal Assent see s. 181(1); s. 103 wholly in force at 30.9.2003 for E. by S.I. 2003/1986, **art. 2(a)**; s. 103 wholly in force at 30.3.2004 for W. by S.I. 2004/669, **art. 2(a)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 82(4)(5) inserted by 2024 c. 22 s. 50(2)(b)
- s. 87A87B inserted by 2024 c. 22 s. 50(3)
- s. 107(3)(4) inserted by 2024 c. 22 s. 51(3)
- s. 172(1)(i) and word inserted by 2024 c. 22 s. 62(5)(b)
- Sch. 11 para. 5B applied by 1985 c. 70, s. 30J(4) (as inserted) by 2024 c. 22 s. 63
- Sch. 11 para. 4A4B and cross-heading inserted by 2024 c. 22 s. 61(b)
- Sch. 11 para. 5B5C and cross-heading inserted by 2024 c. 22 s. 62(7)(b)