

2007 No. 1257

LANDLORD AND TENANT, ENGLAND

**The Service Charges (Summary of Rights and Obligations, and
Transitional Provision) (England) Regulations 2007**

<i>Made</i> - - - -	<i>16th April 2007</i>
<i>Laid before Parliament</i>	<i>24th April 2007</i>
<i>Coming into force</i> - -	<i>1st October 2007</i>

The Secretary of State for Communities and Local Government, in exercise of the powers conferred by section 21B of the Landlord and Tenant Act 1985(a) and section 178 of the Commonhold and Leasehold Reform Act 2002(b), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Service Charges (Summary of Rights and Obligations, and Transitional Provision) (England) Regulations 2007 and shall come into force on the 1st October 2007.

Application

2.—(1) Subject to regulation 4, these Regulations apply where, on or after 1st October 2007, a demand for payment of a service charge(c) is served in relation to a dwelling(d).

(2) Subject to paragraph (3) these Regulations apply to dwellings in England which are subject to a lease(e).

(3) These Regulations do not apply where—

- (a) the lease is not a long lease within section 26 of the Landlord and Tenant Act 1985; and
- (b) the landlord is a local authority, a National Park Authority or a new town corporation.

Form and content of summary of rights and obligations

3. Where these Regulations apply the summary of rights and obligations which must accompany a demand for the payment of a service charge must be legible in a typewritten or printed form of at least 10 point, and must contain—

- (a) the title “Service Charges – Summary of tenants’ rights and obligations”; and
- (b) the following statement —

(a) 1985 c.70. Section 21B was inserted by section 153 of the Commonhold and Leasehold Reform Act 2002 (c.15).

(b) 2002 c.15.

(c) For the meaning of “service charge”, see section 18 of the Landlord and Tenant Act 1985 (c.70). Section 18 was amended by section 41 of the Landlord and Tenant Act 1987 (c.31) and section 150 of the Commonhold and Leasehold Reform Act 2002.

(d) For the meaning of “dwelling”, see, section 38 of the Landlord and Tenant Act 1985.

(e) For the meaning of “lease”, see section 36 of the Landlord and Tenant Act 1985.

“(1) This summary, which briefly sets out your rights and obligations in relation to variable service charges, must by law accompany a demand for service charges. Unless a summary is sent to you with a demand, you may withhold the service charge. The summary does not give a full interpretation of the law and if you are in any doubt about your rights and obligations you should seek independent advice.

(2) Your lease sets out your obligations to pay service charges to your landlord in addition to your rent. Service charges are amounts payable for services, repairs, maintenance, improvements, insurance or the landlord’s costs of management, to the extent that the costs have been reasonably incurred.

(3) You have the right to ask a leasehold valuation tribunal to determine whether you are liable to pay service charges for services, repairs, maintenance, improvements, insurance or management. You may make a request before or after you have paid the service charge. If the tribunal determines that the service charge is payable, the tribunal may also determine—

- who should pay the service charge and who it should be paid to;
- the amount;
- the date it should be paid by; and
- how it should be paid.

However, you do not have these rights where—

- a matter has been agreed or admitted by you;
- a matter has already been, or is to be, referred to arbitration or has been determined by arbitration and you agreed to go to arbitration after the disagreement about the service charge or costs arose; or
- a matter has been decided by a court.

(4) If your lease allows your landlord to recover costs incurred or that may be incurred in legal proceedings as service charges, you may ask the court or tribunal, before which those proceedings were brought, to rule that your landlord may not do so.

(5) Where you seek a determination from a leasehold valuation tribunal, you will have to pay an application fee and, where the matter proceeds to a hearing, a hearing fee, unless you qualify for a waiver or reduction. The total fees payable will not exceed £500, but making an application may incur additional costs, such as professional fees, which you may also have to pay.

(6) A leasehold valuation tribunal has the power to award costs, not exceeding £500, against a party to any proceedings where—

- it dismisses a matter because it is frivolous, vexatious or an abuse of process; or
- it considers a party has acted frivolously, vexatiously, abusively, disruptively or unreasonably.

The Lands Tribunal has similar powers when hearing an appeal against a decision of a leasehold valuation tribunal.

(7) If your landlord—

- proposes works on a building or any other premises that will cost you or any other tenant more than £250, or
 - proposes to enter into an agreement for works or services which will last for more than 12 months and will cost you or any other tenant more than £100 in any 12 month accounting period,
- your contribution will be limited to these amounts unless your landlord has properly consulted on the proposed works or agreement or a leasehold valuation tribunal has agreed that consultation is not required.

(8) You have the right to apply to a leasehold valuation tribunal to ask it to determine whether your lease should be varied on the grounds that it does not make satisfactory provision in respect of the calculation of a service charge payable under the lease.

(9) You have the right to write to your landlord to request a written summary of the costs which make up the service charges. The summary must—

cover the last 12 month period used for making up the accounts relating to the service charge ending no later than the date of your request, where the accounts are made up for 12 month periods; or

cover the 12 month period ending with the date of your request, where the accounts are not made up for 12 month periods.

The summary must be given to you within 1 month of your request or 6 months of the end of the period to which the summary relates whichever is the later.

(10) You have the right, within 6 months of receiving a written summary of costs, to require the landlord to provide you with reasonable facilities to inspect the accounts, receipts and other documents supporting the summary and for taking copies or extracts from them.

(11) You have the right to ask an accountant or surveyor to carry out an audit of the financial management of the premises containing your dwelling, to establish the obligations of your landlord and the extent to which the service charges you pay are being used efficiently. It will depend on your circumstances whether you can exercise this right alone or only with the support of others living in the premises. You are strongly advised to seek independent advice before exercising this right.

(12) Your lease may give your landlord a right of re-entry or forfeiture where you have failed to pay charges which are properly due under the lease. However, to exercise this right, the landlord must meet all the legal requirements and obtain a court order. A court order will only be granted if you have admitted you are liable to pay the amount or it is finally determined by a court, tribunal or by arbitration that the amount is due. The court has a wide discretion in granting such an order and it will take into account all the circumstances of the case.”.

Transitional provision

4. The following provisions apply where a demand (“the first demand”) for the payment of service charges was served prior to 1st October 2007—

- (a) the requirements of section 21B(3) and (4) of the Landlord and Tenant Act 1985(a), as inserted by section 153 of the Act, shall not apply to a further demand for the payment of service charges where the first demand was served before 1st October 2007 in respect of service charges due for payment before 1st October 2007; and
- (b) section 21B of the Landlord and Tenant Act 1985 shall apply to a further demand for the payment of service charges where the first demand was served before 1st October 2007 in respect of service charges due for payment on or after 1st October 2007.

Signed by authority of the Secretary of State for Communities and Local Government

16th April 2007

Kay Andrews
Parliamentary Under Secretary of State
Department for Communities and Local Government

(a) 1985 c.70.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the content of the summary of tenants' rights and obligations relating to service charges, which must accompany any demand for such charges made by a landlord, under section 21B of the Landlord and Tenant Act 1985. The Regulations also make provision for minor matters in respect of the form of the summary.

Regulation 4 provides a transitional provisions relating to demands for service charges sent to tenants prior to 1st October 2007.

A Regulatory Impact Assessment has been prepared in relation to these Regulations. It has been placed in the Library of each House of Parliament and copies may be obtained from the Leasehold and Park Homes Branch of the Department for Communities and Local Government, Zone 2/H10, Eland House, Bressenden Place, London SW1E 5DU (Telephone 020 7944 3463).

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