



# Landlord and Tenant Act 1985

## 1985 CHAPTER 70

### *Service charges*

#### **18 Meaning of “service charge” and “relevant costs”.**

- (1) In the following provisions of this Act “service charge” means an amount payable by a tenant of a flat as part of or in addition to the rent—
  - (a) which is payable, directly or indirectly, for services, repairs, maintenance or insurance or the landlord’s costs of management, and
  - (b) the whole or part of which varies or may vary according to the relevant costs.
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.
- (3) For this purpose—
  - (a) “costs” includes overheads, and
  - (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

#### **19 Limitation of service charges: reasonableness.**

- (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period—
  - (a) only to the extent that they are reasonably incurred, and
  - (b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard;and the amount payable shall be limited accordingly.
- (2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

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*Status: This is the original version (as it was originally enacted).*

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- (3) An agreement by the tenant of a flat (other than an arbitration agreement within the meaning of section 32 of the Arbitration Act 1950) is void in so far as it purports to provide for a determination in a particular manner, or on particular evidence, of any question—
- (a) whether costs incurred for services, repairs, maintenance, insurance or management were reasonably incurred,
  - (b) whether services or works for which costs were incurred are of a reasonable standard, or
  - (c) whether an amount payable before costs are incurred is reasonable.
- (4) A county court may make a declaration—
- (a) that any such costs were or were not reasonably incurred,
  - (b) that any such services or works are or are not of a reasonable standard, or
  - (c) that any such amount is or is not reasonable,
- notwithstanding that no other relief is sought in the proceedings.

## **20 Limitation of service charges: estimates and consultation.**

- (1) Where relevant costs incurred on the carrying out of works on a building exceed the limit specified in subsection (2), the excess shall not be taken into account in determining the amount of a service charge unless—
- (a) the requirements of subsection (3) as to estimates and consultation have been complied with, or
  - (b) those requirements have been dispensed with by the court in accordance with subsection (5);
- and the amount payable shall be limited accordingly.
- (2) The limit is whichever is the greater of—
- (a) £25, or such other amount as may be prescribed by order of the Secretary of State, multiplied by the number of flats in the building, or
  - (b) £500, or such other amount as may be so prescribed.
- (3) The requirements are:—
- (a) At least two estimates for the works shall be obtained, one of them from a person wholly unconnected with the landlord.
  - (b) A notice accompanied by a copy of the estimates shall be given to each of the tenants concerned or shall be displayed in the buildings so as to be likely to come to the notice of all those tenants; and if, there is a recognised tenants' association for the building, the notice and copy of the estimates shall also be given to the secretary of the association.
  - (c) The notice shall describe the works to be carried out and invite observations on them and on the estimates and shall state the name and address in the United Kingdom of the person to whom the observations may be sent and the date by which they are to be received.
  - (d) The date stated in the notice shall not be earlier than one month after the date on which the notice is given or displayed as required by paragraph (b).
  - (e) The landlord shall have regard to any observations received in pursuance of the notice; and unless the works are urgently required they shall not be begun earlier than the date specified in the notice.

- (4) For the purposes of subsection (3) the tenants concerned are all the landlord's tenants of flats in the building by whom a service charge is payable to which the costs of the proposed works are relevant.
- (5) In proceedings relating to a service charge the court may, if satisfied that the landlord acted reasonably, dispense with all or any of the requirements of subsection (3).
- (6) An order under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **21 Request for summary of relevant costs.**

- (1) A tenant may require the landlord in writing to supply him with a written summary of the costs incurred—
  - (a) if the relevant accounts are made up for periods of twelve months, in the last such period ending not later than the date of the request, or
  - (b) if the accounts are not so made up, in the period of twelve months ending with the date of the request,and which are relevant costs in relation to the service charges payable or demanded as payable in that or any other period.
- (2) If there is a recognised tenants' association for the building and the tenant consents, the request may be made by the secretary of the association instead of by the tenant and may then be for the supply of the summary to the secretary.
- (3) A request is duly served on the landlord if it is served on—
  - (a) an agent of the landlord named as such in the rent book or similar document, or
  - (b) the person who receives the rent on behalf of the landlord;and a person on whom a request is so served shall forward it as soon as may be to the landlord.
- (4) The landlord shall comply with the request within one month of the request or within six months of the end of the period referred to in subsection (1)(a) or (b) whichever is the later.
- (5) The summary shall set out the costs in a way showing how they are or will be reflected in demands for services charges.
- (6) If there are more than four flats in the building or the costs also relate to another building, the summary shall be certified by a qualified accountant as—
  - (a) in his opinion a fair summary complying with the requirement of subsection (5), and
  - (b) being sufficiently supported by accounts, receipts and other documents which have been produced to him.

**22 Request to inspect supporting accounts &c.**

- (1) This section applies where a tenant, or the secretary of a recognised tenants' association, has obtained such a summary as is referred to in section 21(1) (summary of relevant costs), whether in pursuance of that section or otherwise.
- (2) The tenant, or the secretary with the consent of the tenant, may within six months of obtaining the summary require the landlord in writing to afford him reasonable facilities—
  - (a) for inspecting the accounts, receipts and other documents supporting the summary, and
  - (b) for taking copies or extracts from them.
- (3) A request under this section is duly served on the landlord if it is served on—
  - (a) an agent of the landlord named as such in the rent book or similar document, or
  - (b) the person who receives the rent of behalf of the landlord;and a person on whom a request is so served shall forward it as soon as may be to the landlord.
- (4) The landlord shall make such facilities available to the tenant or secretary for a period of two months beginning not later than one month after the request is made.

**23 Request relating to information held by superior landlord.**

- (1) If a request under section 21 (request for summary of relevant costs) relates in whole or in part to relevant costs incurred by or on behalf of a superior landlord, and the landlord to whom the request is made is not in possession of the relevant information—
  - (a) he shall in turn make a written request for the relevant information to the person who is his landlord (and so on, if that person is not himself the superior landlord),
  - (b) the superior landlord shall comply with that request within a reasonable time, and
  - (c) the immediate landlord shall then comply with the tenant's or secretary's request, or that part of it which relates to the relevant costs incurred by or on behalf of the superior landlord, within the time allowed by section 21 or such further time, if any, as is reasonable in the circumstances.
- (2) If a request under section 22 (request for facilities to inspect supporting accounts, &c.) relates to a summary of costs incurred by or on behalf of a superior landlord—
  - (a) the landlord to whom the request is made shall forthwith inform the tenant or secretary of that fact and of the name and address of the superior landlord, and
  - (b) section 22 shall then apply to the superior landlord as it applies to the immediate landlord.

**24 Effect of assignment on request.**

The assignment of a tenancy does not affect the validity of a request made under section 21, 22 or 23 before the assignment; but a person is not obliged to provide a summary or make facilities available more than once for the same flat and for the same period.

**25 Failure to comply with s. 21, 22 or 23 an offence.**

- (1) It is a summary offence for a person to fail, without reasonable excuse, to perform a duty imposed on him by section 21, 22 or 23.
- (2) A person committing such an offence is liable on conviction to a fine not exceeding level 4 on the standard scale.

**26 Exception: tenants of certain public authorities.**

- (1) Sections 18 to 25 (limitation on service charges and requests for information about costs) do not apply to a service charge payable by a tenant of—
  - a local authority,
  - a new town corporation, or
  - the Developmental Board for Rural Wales,unless the tenancy is a long tenancy, in which case sections 18 to 24 apply but section 25 (offence of failure to comply) does not.
- (2) The following are long tenancies for the purposes of subsection (1), subject to subsection (3)—
  - (a) a tenancy granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture;
  - (b) a tenancy for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, other than a tenancy by sub-demise from one which is not a long tenancy;
  - (c) any tenancy granted in pursuance of Part V of the Housing Act 1985 (the right to buy).
- (3) A tenancy granted so as to become terminable by notice after a death is not a long tenancy for the purposes of subsection (1), unless—
  - (a) it is granted by a housing association which at the time of the grant is registered,
  - (b) it is granted at a premium calculated by reference to a percentage of the value of the dwelling-house or the cost of providing it, and
  - (c) at the time it is granted it complies with the requirements of the regulations then in force under section 140(4)(b) of the Housing Act 1980 (conditions for exclusion of shared ownership leases from Part I of Leasehold Reform Act 1967) or, in the case of a tenancy granted before any such regulations were brought into force, with the first such regulations to be in force.

**27 Exception: rent registered and not entered as variable.**

Sections 18 to 25 (limitation on service charges and requests for information about costs) do not apply to a service charge payable by the tenant of a flat the rent of which is registered under Part IV of the Rent Act 1977, unless the amount registered is, in pursuance of section 71(4) of that Act, entered as a variable amount.

**28 Meaning of “qualified accountant”.**

- (1) The reference to a “qualified accountant” in section 21(6) (certification of summary of information about relevant costs) is to a person who, in accordance with the following provisions, has the necessary qualification and is not disqualified from acting.
- (2) A person has the necessary qualification if he is a member of one of the following bodies—
  - the Institute of Chartered Accountants in England and Wales,
  - the Institute of Chartered Accountants in Scotland,
  - the Association of Certified Accountants,
  - the Institute of Chartered Accountants in Ireland, or
  - any other body of accountants established in the United Kingdom and recognised by the Secretary of State for the purposes of section 389(1)(a) of the Companies Act 1985,or if he is a person who is for the time being authorised by the Secretary of State under section 389(1)(b) of that Act (or the corresponding provision of the Companies Act 1948) as being a person with similar qualifications obtained outside the United Kingdom.
- (3) A Scottish firm has the necessary qualification if each of the partners in it has the necessary qualification.
- (4) The following are disqualified from acting—
  - (a) a body corporate, except a Scottish firm;
  - (b) an officer or employee of the landlord or, where the landlord is a company, of an associated company;
  - (c) a person who is a partner or employee of any such officer or employee.
- (5) For the purposes of subsection (4)(b) a company is associated with a landlord company if it is (within the meaning of section 736 of the Companies Act 1985) the landlord’s holding company, a subsidiary of the landlord or another subsidiary of the landlord’s holding company.
- (6) Where the landlord is a local authority, a new town corporation or the Development Board for Rural Wales—
  - (a) the persons who have the necessary qualification include members of the Chartered Institute of Public Finance and Accountancy, and
  - (b) subsection (4)(b) (disqualification of officers and employees of landlord) does not apply.

**29 Meaning of “recognised tenants' association”.**

- (1) A recognised tenants' association is an association of tenants of flats in a building which is recognised for purposes of the provisions of this Act relating to service charges either—
  - (a) by notice in writing given by the landlord to the secretary of the association, or
  - (b) by a certificate of a member of the local rent assessment committee panel.
- (2) A notice given under subsection (1)(a) may be withdrawn by the landlord by notice in writing given to the secretary of the association not less than six months before the date on which it is to be withdrawn.

- (3) A certificate given under subsection (1)(b) may be cancelled by any member of the local rent assessment committee panel.
- (4) In this section the “local rent assessment committee panel” means the persons appointed by the Lord Chancellor under the Rent Act 1977 to the panel of persons to act as members of a rent assessment committee for the registration area in which the building is situated.
- (5) The Secretary of State may by regulations specify the matters to which regard is to be had in giving or cancelling a certificate under subsection (1)(b).
- (6) Regulations under subsection (5)—
  - (a) may make different provisions with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **30 Meaning of “flat”, “landlord” and “tenant”.**

In the provisions of this Act relating to service charges—

“flat” means a separate set of premises, whether or not on the same floor, which—

- (a) forms part of a building,
- (b) is divided horizontally from some other part of the building, and
- (c) is constructed or adapted for use for the purposes of a dwelling and is occupied wholly or mainly as a private dwelling;

“landlord” includes any person who has a right to enforce payment of a service charge;

“tenant” includes

- (a) a statutory tenant, and
- (b) where the flat or part of it is sub-let, the sub-tenant.