

COMMONHOLD AND LEASEHOLD REFORM ACT 2002

EXPLANATORY NOTES

COMMENTARY ON THE SECTIONS: PART 1

Claim to acquire right

Section 84: Counter-notices

147. *Section 84* specifies the procedures governing the serving of counter-notices.
148. *Subsection (1)* states that anyone who receives a claim notice may give a notice to the RTM company by the date specified in the claim notice. This is known as a ‘counter-notice’.
149. *Subsection (2)* specifies that a counter-notice may only either admit that the RTM company is entitled to acquire the right to manage or state that the company is not entitled to do so. To be effective, a counter-notice to the latter effect must state the grounds on which the company is considered not to comply with the eligibility criteria set out in the Act. The form of counter-notices may be prescribed by regulations.
150. *Subsections (3) and (4)* provide that where a RTM company receives a counter-notice disputing its entitlement to acquire the right to manage, it can apply to a LVT for a determination of its eligibility. Application to the LVT must be made within 2 months of the date of the counter-notice.
151. *Subsection (5)* provides that where a RTM company receives a counter-notice disputing its entitlement to acquire the right to manage, it cannot take over management of the premises unless on an application to a LVT it is finally determined that it is eligible to acquire the right or the parties who disputed the entitlement subsequently agree in writing that the company is entitled.
152. *Subsection (6)* provides that a final determination that a company was not entitled to acquire the right to manage causes the claim notice to cease to have effect.
153. *Subsections (7) and (8)* explain what is meant by a final determination.