

COMMONHOLD AND LEASEHOLD REFORM ACT 2002

EXPLANATORY NOTES

COMMENTARY ON THE SECTIONS: PART 1

Supplementary

Section 104: Registration

194. *Section 104* amends the Land Registration Act 1925 to make the right to manage a registrable interest in land. The Land Registration Act 2002 will, when it comes into force, replace the 1925 Act and as a result the Act makes provision for section 104 to be repealed.

Section 105: Cessation of management

195. *Section 105* specifies the circumstances in which the company ceases to be entitled to exercise the right to manage. This will occur:
- where the company wishes to cease exercising the right and all landlords agree;
 - because the company is wound up, enters receivership, becomes insolvent or is struck off;
 - where a manager appointed to replace the RTM company begins to act or where an order is made which withdraws the right to manage from the RTM company under Part 2 of the 1987 Act; or
 - where the company ceases to be a RTM company (which may happen, for example, because the company is used to purchase the freehold of the property).

Section 106: Agreements excluding or modifying right

196. *Section 106* provides that any agreement which has the effect of either restricting the ability of a tenant to participate in the right to manage or penalising the tenant as a result of an action of RTM company is void.

Section 107: Enforcement of obligations

197. *Section 107* provides that any interested party may apply to a county court to enforce any obligation imposed by virtue of this Chapter.

Section 108: Application to Crown

198. *Section 108* applies the right to manage to the holdings of the Crown Estate and the Duchies of Cornwall and of Lancaster and to Government properties. Leaseholders in such premises will therefore be eligible to acquire the right. It also enables the Duchies of Lancaster and of Cornwall to make any payments required of it as landlord under this Chapter out of either revenue or capital funds.

Section 109: Powers of trustees in relation to right

199. *Section 109* provides that trustees who are the qualifying tenant of a flat may become members of the RTM company, unless the instrument regulating the trust specifically provides otherwise.

Section 110: Power to prescribe procedure

200. *Section 110* provides that regulations may make further provisions governing the procedure for giving effect to a claim notice. (Such provisions may be required in the light of experience should it prove that circumstances may arise which it would be difficult to accommodate within the normal procedures for acquiring the right to manage.)

Section 111: Notices

201. *Section 111* sets out the procedures to be followed in serving any notice under this Chapter.

Chapter 2: Collective enfranchisement by tenants of flats

Section 114: Amendments of right to collective enfranchisement

202. *Section 114* provides that this Chapter amends the right to collective enfranchisement under the 1993 Act.