

COMMONHOLD AND LEASEHOLD REFORM ACT 2002

EXPLANATORY NOTES

COMMENTARY ON THE SECTIONS: PART 1

Absent Landlords

Chapter 5: Other provisions about leases

Service charges, administration charges etc.

Section 152: Statements of account

250. *Section 152* substitutes a new section for section 21 of the 1985 Act (which gives tenants the right to request a summary of the costs on which their service charge is based).
251. The new section 21 will instead require landlords to provide annual accounting statements. The statements will include information about monies paid into a service charge fund, or standing to the credit of the service charge fund, as well as costs incurred by the landlord. Statements will have to be certified by a qualified accountant, except where exempted by regulations. This is similar to the existing requirement to have summaries certified, except where they relate to a service charge paid by the tenants of four or fewer dwellings. Landlords will also have to provide leaseholders with a summary of their rights and obligations in relation to service charges.
252. The form and content of statements, accountants' certificates and summaries of rights and obligations will be prescribed by regulations. Different provision could be made for different cases - for example, special provision could be made for landlords of smaller properties. The regulations will be subject to annulment by either House.
253. Statements of account will have to be provided no later than six months after the end of an accounting period. The first accounting period will begin on the day on which the new section 152 comes into force or, if later, on the first day on which service charges become payable by a tenant under a lease of any of the dwellings. The landlord will choose the last day of the accounting period, subject to the requirement that no accounting period should be more than 12 months long. Subsequent accounting periods will be consecutive.
254. This section also introduces a new section 21A. This will allow tenants to withhold payments where landlords fail to provide documents which exactly or substantially meet the relevant requirements. The sum that they will be able to withhold will be equal to the sum standing to their credit at the beginning of the accounting period in question, plus any charges that they had paid during that particular accounting period. However, the right to withhold will not apply where a LVT determines that the landlord has a reasonable excuse for his failure. The right to withhold ceases once satisfactory documents are provided, even if these are provided after the relevant deadline.

*These notes refer to the Commonhold and Leasehold Reform
Act 2002 (c.15) which received Royal Assent on 1st May 2002*

255. In interpreting the new sections 21 and 21A, it should be noted that section 30 of the 1985 Act defines a "landlord" as including any person who has a right to enforce payment of a service charge.