

COMMONHOLD AND LEASEHOLD REFORM ACT 2002

EXPLANATORY NOTES

SCHEDULES

Schedule 11: Administration charges (Section 158)

Part 1: Reasonableness of administration charges

Meaning of ‘administration charge’

397. *Paragraph 1(1)* defines ‘administration charge’ for the purposes of Part 1 of the Schedule. This covers charges payable for approvals required as a condition of a lease, for the provision of information to leaseholders or other parties (e.g. prospective purchasers), penalty charges for late payment of rent or other charges, or charges in connection with a breach (or alleged breach) of a covenant or condition of a lease. *Paragraph 1(5)* provides a power to amend this definition by order.
398. *Paragraph 1(3)* defines a ‘variable administration charge’. This is any administration charge where neither the sum nor a formula for calculating the sum is specified in the lease.

Reasonableness of administration charges

399. *Paragraph 2* provides a requirement that variable administration charges are only payable to the extent that they are reasonable.
400. *Paragraph 3* provides a right for any party to a lease to apply to a LVT for the variation of a fixed administration charge. Such an application can be made on the grounds that either a fixed sum specified in the lease or a formula specified in the lease is unreasonable. Where a tribunal agrees that a fixed administration charge is unreasonable, it can order the lease to be changed accordingly.

Notice in connection with demands for administration charges

401. *Paragraph 4* requires landlords to include with administration charge demands a summary of leaseholders’ rights and obligations in relation to administration charges. *Paragraph 2* provides a power to prescribe the form and content of such summaries by regulations. *Paragraphs 3 and 4* give leaseholders a specific right to withhold payment of administration charges if the required information is not provided.

Liability to pay administration charges

402. *Paragraph 5* provides that an application may be made to a LVT for a determination whether or not an administration charge is payable and if so, by whom it is payable, to whom it is payable, the amount which is payable, the date on which it is payable or the manner in which it is payable. The jurisdiction of the LVT in such matters is in addition to any jurisdiction of a court. No application may be made in respect of a matter

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

which has been agreed or admitted by a leaseholder or which has been determined by a court or arbitral tribunal. However, payment of all or part of a charge does not constitute admitting it or any other matter. Certain agreements providing for questions about administration charges to be determined in a particular manner are void. As with service charges arbitration agreements will be void unless they are entered into after a dispute has arisen.

Part 2: Amendments of 1987 Act

403. *Paragraph 8* amends section 24 of the 1987 Act to extend the grounds on which a LVT may order the appointment of a manager to include the making of unreasonable variable administration charges.
404. *Paragraph 9* amends section 46 of the 1987 Act, which interprets terms used in Part 6 of that Act, to include the definition of variable administration charge in paragraph 1.
405. *Paragraph 10* amends section 47 of the 1987 Act to provide that administration charges are not recoverable if the landlord has failed to provide his name and address in accordance with the requirements of that section.
406. *Paragraph 11* amends section 48 of the 1987 Act to provide that administration charges are not recoverable if the landlord has failed to provide an address for the service of notices.