

# COMMONHOLD AND LEASEHOLD REFORM ACT 2002

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## EXPLANATORY NOTES

### SCHEDULES

#### *Schedule 8: Enfranchisement by company: Amendments (Section 124)*

336. *Schedule 8* includes a large number of amendments to, principally, the 1993 Act, consequential on sections 121, 122 and 123. They provide for the collective enfranchisement procedure to be carried out by the RTE company rather than, as now, initially by a group of qualifying tenants and subsequently by a nominee purchaser appointed by them. Rights and obligations currently applied to qualifying tenants, participating tenants and the nominee purchaser are generally transferred to members of the RTE company, participating members of the RTE company and the RTE company respectively.
337. *Paragraph 1* amends the Land Compensation Act 1973, which provides rights to compensation to tenants participating in collective enfranchisement in the event of compulsory purchase, to transfer those rights to the RTE company.
338. *Paragraph 3* amends section 1 of the 1993 Act to provide that the right to collective enfranchisement is exercisable by a RTE company.
339. *Paragraph 4* amends section 2(1) of the 1993 Act, which provides for the acquisition of certain leasehold interests, to provide that these interests are acquired by the RTE company.
340. *Paragraph 5* amends section 11(4) of the 1993 Act, which provides a right for qualifying tenants to obtain information about superior landlords, so that the tenants have the right to obtain such information in connection with a claim being made by a RTE company.
341. *Paragraph 6* amends section 13 of the 1993 Act to provide that the initial notice only needs to provide the names of those qualifying tenants who are participating members of the RTE company and that it should give the registered address of the RTE company (rather than the identity of the nominee purchaser). It introduces a new requirement that a copy of the initial notice must be given to all qualifying tenants in the premises.
342. *Paragraph 7* amends section 17 of the 1993 Act, which provides a right of access for valuation purposes, so that the RTE company (or its representative) have the right.
343. *Paragraph 8* amends section 18 of the 1993 Act, which requires the disclosure of agreements affecting premises, so that the disclosure obligations apply to the RTE company.
344. *Paragraph 9* amends section 20 of the 1993 Act so that the reversioner may serve a notice on the RTE company requiring it to deduce the title of any qualifying tenant who is a participating member of the company.

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345. *Paragraph 10* makes consequential amendments to section 21 of the 1993 Act, which sets out requirements for the reversioner's counter notice.
346. *Paragraph 11* amends section 22 of the 1993 Act, to enable the RTE company to apply to the court for a declaration that an initial notice is valid.
347. *Paragraph 12* makes consequential amendments to section 23 of the 1993 Act, which enables an enfranchisement claim to be defeated where the landlord intends to redevelop the premises.
348. *Paragraph 13* amends section 24 of the 1993 Act to enable the RTE company (as well as the reversioner) to apply to a LVT for a determination of matters in dispute.
349. *Paragraph 14* amends section 25 of the 1993 Act to enable the RTE company to apply to the court for an order transferring the freehold to the company on the terms set out in the initial notice where the reversioner has failed to give a counter-notice.
350. *Paragraph 15* amends section 26 of the 1993 Act to enable the RTE company to apply for a vesting order where the landlord cannot be found.
351. *Paragraph 16* makes consequential amendments to section 27 of the 1993 Act (supplementary provisions relating to vesting orders).
352. *Paragraph 17* amends section 28 of the 1993 Act, which provides for the withdrawal of the initial notice. It provides that the RTE company must serve notice of withdrawal on the reversioner, any other relevant landlord and all of the qualifying tenants in the premises. It also provides that in the event of withdrawal, the RTE company and any person who is or has been a participating member of the company shall be liable for the reversioner's and any other relevant landlord's costs. But this liability shall not apply if the lease has been assigned (or acquired by personal representatives, a mortgagee or trustee in bankruptcy) and the assignee has become a member of the RTE company.
353. *Paragraph 18* amends section 29 of the 1993 Act to provide that the initial notice shall be deemed to be withdrawn in the event of the insolvency, winding up or striking off of the RTE company.
354. *Paragraph 19* makes consequential amendments to section 30 of the 1993 Act which provides that an initial notice is of no effect if notice of compulsory purchase proceedings has been given.
355. *Paragraph 20* makes consequential amendments to section 31 of the 1993 Act which provides that an initial notice is of no effect if the property has been designated under the Inheritance Tax Act 1984.
356. *Paragraph 21* makes consequential amendments to section 32 of the 1993 Act which makes provision for the determination of the price payable for enfranchisement.
357. *Paragraph 22* makes consequential amendments to section 33 of the 1993 Act which sets out the landlord's costs in relation to the enfranchisement which are recoverable.
358. *Paragraph 23* makes consequential amendments to section 34 of the 1993 Act which provides for conveyance of the freehold.
359. *Paragraph 24* makes consequential amendments to section 35 of the 1993 Act which provides for the discharge of existing mortgages on conveyance of the freehold.
360. *Paragraph 25* makes consequential amendments to section 36 of the 1993 Act to require the RTE company to grant a leaseback to the former freeholder in certain circumstances.
361. *Paragraph 26* amends section 37A of the 1993 Act, which provides for compensation to be payable to the freeholder if termination of a lease is postponed by an ineffective claim for enfranchisement, to provide that compensation is payable by any person who

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is a participating member of the RTE company immediately before the claim ceases to have effect.

362. *Paragraph 27* extends subsection (1) of section 38 of the 1993 Act to define ‘participating member’, ‘the notice of invitation to participate’, and ‘RTE company’, and makes a consequential amendment to subsection (2).
363. *Paragraph 28* makes consequential amendments to subsections (4) and (5) of section 41 of the 1993 Act, which require the recipient of a notice served by a tenant seeking information from a landlord in connection with a possible claim to acquire a new lease to inform the tenant of any outstanding enfranchisement claim.
364. *Paragraph 29* makes consequential amendments to section 54 of the 1993 Act which provides for the suspension of a tenant’s claim to acquire a new lease while a claim for enfranchisement is outstanding.
365. *Paragraph 30* makes consequential amendments to section 74 of the 1993 Act which makes provisions covering the exercise of the right to enfranchise when a request for approval of an estate management scheme is outstanding.
366. *Paragraph 31* makes consequential amendments to section 91 of the 1993 Act which sets out the jurisdiction of LVTs.
367. *Paragraph 32* amends section 93 of the 1993 Act to prohibit agreements which restrict a leaseholder’s right to become a member of a RTE company or do anything as a member of such a company in the course of exercising the right to enfranchise.
368. *Paragraph 33* makes consequential amendments to section 93A of the 1993 Act which empowers trustees who are qualifying tenants to participate in enfranchisement.
369. *Paragraph 34* amends section 97(1) of the 1993 Act to enable a qualifying company to register an initial notice under the Land Charges Act 1972 or as a notice or caution under the Land Registration Act 1925.
370. *Paragraph 35* makes consequential amendments to section 98(2) of the 1993 Act which enables regulations to be made prescribing procedure.
371. *Paragraph 36* makes consequential amendments to Schedule 1 to the 1993 Act which enables the court to appoint the reversioner to conduct proceedings on behalf of all relevant landlords.
372. *Paragraph 37* makes consequential changes to Schedule 3 to the 1993 Act which prescribes procedures in relation to initial notices, places restrictions on participation where forfeiture proceedings have already been commenced and restricts the commencement of forfeiture proceedings against participants once an initial notice has been served. In particular, it provides that an initial notice shall not be invalid if a member of a RTE company is not entitled to be a member because he is not a qualifying tenant, provided that the number of members who are entitled to be members meets the minimum requirement for a RTE company.
373. *Paragraph 38* makes consequential changes to Schedule 4 to the 1993 Act which requires the reversioner to provide specified information with a counter notice and subsequently.
374. *Paragraph 39* makes consequential changes to Schedule 5 to the 1993 Act which prescribes procedures for vesting orders under sections 24 and 25 of the Act.
375. *Paragraph 40* makes consequential changes to Schedule 6 to the 1993 Act which prescribes rules for valuing the interests to be acquired.
376. *Paragraph 41* makes consequential changes to Schedule 7 to the 1993 Act which prescribes procedures for the conveyance of the freehold.

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377. *Paragraph 42* makes consequential changes to Schedule 8 to the 1993 Act which prescribes procedures for the discharge of mortgages on conveyance of the freehold.
378. *Paragraph 43* makes consequential changes to Schedule 9 to the 1993 Act which provides for the granting of leases back to the former freeholder.