



Commonhold and Leasehold Reform Act 2002

2002 CHAPTER 15

PART 2

LEASEHOLD REFORM

CHAPTER 1

RIGHT TO MANAGE

Claim to acquire right

78 Notice inviting participation

- (1) Before making a claim to acquire the right to manage any premises, a RTM company must give notice to each person who at the time when the notice is given—
 - (a) is the qualifying tenant of a flat contained in the premises, but
 - (b) neither is nor has agreed to become a member of the RTM company.
- (2) A notice given under this section (referred to in this Chapter as a “notice of invitation to participate”) must—
 - (a) state that the RTM company intends to acquire the right to manage the premises,
 - (b) state the names of the members of the RTM company,
 - (c) invite the recipients of the notice to become members of the company, and
 - (d) contain such other particulars (if any) as may be required to be contained in notices of invitation to participate by regulations made by the appropriate national authority.

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- (3) A notice of invitation to participate must also comply with such requirements (if any) about the form of notices of invitation to participate as may be prescribed by regulations so made.
- (4) A notice of invitation to participate must either—
 - (a) be accompanied by a copy of the memorandum of association and articles of association of the RTM company, or
 - (b) include a statement about inspection and copying of the memorandum of association and articles of association of the RTM company.
- (5) A statement under subsection (4)(b) must—
 - (a) specify a place (in England or Wales) at which the memorandum of association and articles of association may be inspected,
 - (b) specify as the times at which they may be inspected periods of at least two hours on each of at least three days (including a Saturday or Sunday or both) within the seven days beginning with the day following that on which the notice is given,
 - (c) specify a place (in England or Wales) at which, at any time within those seven days, a copy of the memorandum of association and articles of association may be ordered, and
 - (d) specify a fee for the provision of an ordered copy, not exceeding the reasonable cost of providing it.
- (6) Where a notice given to a person includes a statement under subsection (4)(b), the notice is to be treated as not having been given to him if he is not allowed to undertake an inspection, or is not provided with a copy, in accordance with the statement.
- (7) A notice of invitation to participate is not invalidated by any inaccuracy in any of the particulars required by or by virtue of this section.

79 Notice of claim to acquire right

- (1) A claim to acquire the right to manage any premises is made by giving notice of the claim (referred to in this Chapter as a “claim notice”); and in this Chapter the “relevant date”, in relation to any claim to acquire the right to manage, means the date on which notice of the claim is given.
- (2) The claim notice may not be given unless each person required to be given a notice of invitation to participate has been given such a notice at least 14 days before.
- (3) The claim notice must be given by a RTM company which complies with subsection (4) or (5).
- (4) If on the relevant date there are only two qualifying tenants of flats contained in the premises, both must be members of the RTM company.
- (5) In any other case, the membership of the RTM company must on the relevant date include a number of qualifying tenants of flats contained in the premises which is not less than one-half of the total number of flats so contained.
- (6) The claim notice must be given to each person who on the relevant date is—
 - (a) landlord under a lease of the whole or any part of the premises,
 - (b) party to such a lease otherwise than as landlord or tenant, or

- (c) a manager appointed under Part 2 of the Landlord and Tenant Act 1987 (c. 31) (referred to in this Part as “the 1987 Act”) to act in relation to the premises, or any premises containing or contained in the premises.
- (7) Subsection (6) does not require the claim notice to be given to a person who cannot be found or whose identity cannot be ascertained; but if this subsection means that the claim notice is not required to be given to anyone at all, section 85 applies.
- (8) A copy of the claim notice must be given to each person who on the relevant date is the qualifying tenant of a flat contained in the premises.
- (9) Where a manager has been appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises, a copy of the claim notice must also be given to the leasehold valuation tribunal or court by which he was appointed.

80 Contents of claim notice

- (1) The claim notice must comply with the following requirements.
- (2) It must specify the premises and contain a statement of the grounds on which it is claimed that they are premises to which this Chapter applies.
- (3) It must state the full name of each person who is both—
 - (a) the qualifying tenant of a flat contained in the premises, and
 - (b) a member of the RTM company,and the address of his flat.
- (4) And it must contain, in relation to each such person, such particulars of his lease as are sufficient to identify it, including—
 - (a) the date on which it was entered into,
 - (b) the term for which it was granted, and
 - (c) the date of the commencement of the term.
- (5) It must state the name and registered office of the RTM company.
- (6) It must specify a date, not earlier than one month after the relevant date, by which each person who was given the notice under section 79(6) may respond to it by giving a counter-notice under section 84.
- (7) It must specify a date, at least three months after that specified under subsection (6), on which the RTM company intends to acquire the right to manage the premises.
- (8) It must also contain such other particulars (if any) as may be required to be contained in claim notices by regulations made by the appropriate national authority.
- (9) And it must comply with such requirements (if any) about the form of claim notices as may be prescribed by regulations so made.

81 Claim notice: supplementary

- (1) A claim notice is not invalidated by any inaccuracy in any of the particulars required by or by virtue of section 80.

- (2) Where any of the members of the RTM company whose names are stated in the claim notice was not the qualifying tenant of a flat contained in the premises on the relevant date, the claim notice is not invalidated on that account, so long as a sufficient number of qualifying tenants of flats contained in the premises were members of the company on that date; and for this purpose a “sufficient number” is a number (greater than one) which is not less than one-half of the total number of flats contained in the premises on that date.
- (3) Where any premises have been specified in a claim notice, no subsequent claim notice which specifies—
 - (a) the premises, or
 - (b) any premises containing or contained in the premises,may be given so long as the earlier claim notice continues in force.
- (4) Where a claim notice is given by a RTM company it continues in force from the relevant date until the right to manage is acquired by the company unless it has previously—
 - (a) been withdrawn or deemed to be withdrawn by virtue of any provision of this Chapter, or
 - (b) ceased to have effect by reason of any other provision of this Chapter.

82 Right to obtain information

- (1) A company which is a RTM company in relation to any premises may give to any person a notice requiring him to provide the company with any information—
 - (a) which is in his possession or control, and
 - (b) which the company reasonably requires for ascertaining the particulars required by or by virtue of section 80 to be included in a claim notice for claiming to acquire the right to manage the premises.
- (2) Where the information is recorded in a document in the person’s possession or control, the RTM company may give him a notice requiring him—
 - (a) to permit any person authorised to act on behalf of the company at any reasonable time to inspect the document (or, if the information is recorded in the document in a form in which it is not readily intelligible, to give any such person access to it in a readily intelligible form), and
 - (b) to supply the company with a copy of the document containing the information in a readily intelligible form on payment of a reasonable fee.
- (3) A person to whom a notice is given must comply with it within the period of 28 days beginning with the day on which it is given.

83 Right of access

- (1) Where a RTM company has given a claim notice in relation to any premises, each of the persons specified in subsection (2) has a right of access to any part of the premises if that is reasonable in connection with any matter arising out of the claim to acquire the right to manage.
- (2) The persons referred to in subsection (1) are—
 - (a) any person authorised to act on behalf of the RTM company,

- (b) any person who is landlord under a lease of the whole or any part of the premises and any person authorised to act on behalf of any such person,
 - (c) any person who is party to such a lease otherwise than as landlord or tenant and any person authorised to act on behalf of any such person, and
 - (d) any manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises, and any person authorised to act on behalf of any such manager.
- (3) The right conferred by this section is exercisable, at any reasonable time, on giving not less than ten days' notice—
- (a) to the occupier of any premises to which access is sought, or
 - (b) if those premises are unoccupied, to the person entitled to occupy them.

84 Counter-notices

- (1) A person who is given a claim notice by a RTM company under section 79(6) may give a notice (referred to in this Chapter as a “counter-notice”) to the company no later than the date specified in the claim notice under section 80(6).
- (2) A counter-notice is a notice containing a statement either—
- (a) admitting that the RTM company was on the relevant date entitled to acquire the right to manage the premises specified in the claim notice, or
 - (b) alleging that, by reason of a specified provision of this Chapter, the RTM company was on that date not so entitled,
- and containing such other particulars (if any) as may be required to be contained in counter-notices, and complying with such requirements (if any) about the form of counter-notices, as may be prescribed by regulations made by the appropriate national authority.
- (3) Where the RTM company has been given one or more counter-notices containing a statement such as is mentioned in subsection (2)(b), the company may apply to a leasehold valuation tribunal for a determination that it was on the relevant date entitled to acquire the right to manage the premises.
- (4) An application under subsection (3) must be made not later than the end of the period of two months beginning with the day on which the counter-notice (or, where more than one, the last of the counter-notices) was given.
- (5) Where the RTM company has been given one or more counter-notices containing a statement such as is mentioned in subsection (2)(b), the RTM company does not acquire the right to manage the premises unless—
- (a) on an application under subsection (3) it is finally determined that the company was on the relevant date entitled to acquire the right to manage the premises, or
 - (b) the person by whom the counter-notice was given agrees, or the persons by whom the counter-notices were given agree, in writing that the company was so entitled.
- (6) If on an application under subsection (3) it is finally determined that the company was not on the relevant date entitled to acquire the right to manage the premises, the claim notice ceases to have effect.
- (7) A determination on an application under subsection (3) becomes final—

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- (a) if not appealed against, at the end of the period for bringing an appeal, or
 - (b) if appealed against, at the time when the appeal (or any further appeal) is disposed of.
- (8) An appeal is disposed of—
- (a) if it is determined and the period for bringing any further appeal has ended, or
 - (b) if it is abandoned or otherwise ceases to have effect.

85 Landlords etc. not traceable

- (1) This section applies where a RTM company wishing to acquire the right to manage premises—
- (a) complies with subsection (4) or (5) of section 79, and
 - (b) would not have been precluded from giving a valid notice under that section with respect to the premises,
- but cannot find, or ascertain the identity of, any of the persons to whom the claim notice would be required to be given by subsection (6) of that section.
- (2) The RTM company may apply to a leasehold valuation tribunal for an order that the company is to acquire the right to manage the premises.
- (3) Such an order may be made only if the company has given notice of the application to each person who is the qualifying tenant of a flat contained in the premises.
- (4) Before an order is made the company may be required to take such further steps by way of advertisement or otherwise as is determined proper for the purpose of tracing the persons who are—
- (a) landlords under leases of the whole or any part of the premises, or
 - (b) parties to such leases otherwise than as landlord or tenant.
- (5) If any of those persons is traced—
- (a) after an application for an order is made, but
 - (b) before the making of an order,
- no further proceedings shall be taken with a view to the making of an order.
- (6) Where that happens—
- (a) the rights and obligations of all persons concerned shall be determined as if the company had, at the date of the application, duly given notice under section 79 of its claim to acquire the right to manage the premises, and
 - (b) the leasehold valuation tribunal may give such directions as it thinks fit as to the steps to be taken for giving effect to their rights and obligations, including directions modifying or dispensing with any of the requirements imposed by or by virtue of this Chapter.
- (7) An application for an order may be withdrawn at any time before an order is made and, after it is withdrawn, subsection (6)(a) does not apply.
- (8) But where any step is taken for the purpose of giving effect to subsection (6)(a) in the case of any application, the application shall not afterwards be withdrawn except—
- (a) with the consent of the person or persons traced, or
 - (b) by permission of the leasehold valuation tribunal.

- (9) And permission shall be given only where it appears just that it should be given by reason of matters coming to the knowledge of the RTM company in consequence of the tracing of the person or persons traced.

86 Withdrawal of claim notice

- (1) A RTM company which has given a claim notice in relation to any premises may, at any time before it acquires the right to manage the premises, withdraw the claim notice by giving a notice to that effect (referred to in this Chapter as a “notice of withdrawal”).
- (2) A notice of withdrawal must be given to each person who is—
- (a) landlord under a lease of the whole or any part of the premises,
 - (b) party to such a lease otherwise than as landlord or tenant,
 - (c) a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises, or
 - (d) the qualifying tenant of a flat contained in the premises.

87 Deemed withdrawal

- (1) If a RTM company has been given one or more counter-notices containing a statement such as is mentioned in subsection (2)(b) of section 84 but either—
- (a) no application for a determination under subsection (3) of that section is made within the period specified in subsection (4) of that section, or
 - (b) such an application is so made but is subsequently withdrawn,
- the claim notice is deemed to be withdrawn.
- (2) The withdrawal shall be taken to occur—
- (a) if paragraph (a) of subsection (1) applies, at the end of the period specified in that paragraph, and
 - (b) if paragraph (b) of that subsection applies, on the date of the withdrawal of the application.
- (3) Subsection (1) does not apply if the person by whom the counter-notice was given has, or the persons by whom the counter-notices were given have, (before the time when the withdrawal would be taken to occur) agreed in writing that the RTM company was on the relevant date entitled to acquire the right to manage the premises.
- (4) The claim notice is deemed to be withdrawn if—
- (a) a winding-up order or an administration order is made, or a resolution for voluntary winding-up is passed, with respect to the RTM company,
 - (b) a receiver or a manager of the RTM company’s undertaking is duly appointed, or possession is taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the RTM company comprised in or subject to the charge,
 - (c) a voluntary arrangement proposed in the case of the RTM company for the purposes of Part 1 of the Insolvency Act 1986 (c. 45) is approved under that Part of that Act, or
 - (d) the RTM company’s name is struck off the register under section 652 or 652A of the Companies Act 1985 (c. 6).

88 Costs: general

- (1) A RTM company is liable for reasonable costs incurred by a person who is—
 - (a) landlord under a lease of the whole or any part of any premises,
 - (b) party to such a lease otherwise than as landlord or tenant, or
 - (c) a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises,in consequence of a claim notice given by the company in relation to the premises.
- (2) Any costs incurred by such a person in respect of professional services rendered to him by another are to be regarded as reasonable only if and to the extent that costs in respect of such services might reasonably be expected to have been incurred by him if the circumstances had been such that he was personally liable for all such costs.
- (3) A RTM company is liable for any costs which such a person incurs as party to any proceedings under this Chapter before a leasehold valuation tribunal only if the tribunal dismisses an application by the company for a determination that it is entitled to acquire the right to manage the premises.
- (4) Any question arising in relation to the amount of any costs payable by a RTM company shall, in default of agreement, be determined by a leasehold valuation tribunal.

89 Costs where claim ceases

- (1) This section applies where a claim notice given by a RTM company—
 - (a) is at any time withdrawn or deemed to be withdrawn by virtue of any provision of this Chapter, or
 - (b) at any time ceases to have effect by reason of any other provision of this Chapter.
- (2) The liability of the RTM company under section 88 for costs incurred by any person is a liability for costs incurred by him down to that time.
- (3) Each person who is or has been a member of the RTM company is also liable for those costs (jointly and severally with the RTM company and each other person who is so liable).
- (4) But subsection (3) does not make a person liable if—
 - (a) the lease by virtue of which he was a qualifying tenant has been assigned to another person, and
 - (b) that other person has become a member of the RTM company.
- (5) The reference in subsection (4) to an assignment includes—
 - (a) an assent by personal representatives, and
 - (b) assignment by operation of law where the assignment is to a trustee in bankruptcy or to a mortgagee under section 89(2) of the Law of Property Act 1925 (c. 20) (foreclosure of leasehold mortgage).