

SCHEDULES

SCHEDULE 1

Section 2

APPLICATION FOR REGISTRATION: DOCUMENTS

Introduction

- 1 This Schedule lists the documents which are required by section 2 to accompany an application for the registration of a freehold estate as a freehold estate in commonhold land.

Commonhold association documents

- 2 The commonhold association's certificate of incorporation under section 13 of the Companies Act 1985 (c. 6).
- 3 Any altered certificate of incorporation issued under section 28 of that Act.
- 4 The memorandum and articles of association of the commonhold association.

Commonhold community statement

- 5 The commonhold community statement.

Consent

- 6 (1) Where consent is required under or by virtue of section 3—
- (a) the consent,
 - (b) an order of a court by virtue of section 3(2)(f) dispensing with the requirement for consent, or
 - (c) evidence of deemed consent by virtue of section 3(2)(e).
- (2) In the case of a conditional order under section 3(2)(f), the order must be accompanied by evidence that the condition has been complied with.

Certificate

- 7 A certificate given by the directors of the commonhold association that—
- (a) the memorandum and articles of association submitted with the application comply with regulations under paragraph 2(1) of Schedule 3,
 - (b) the commonhold community statement submitted with the application satisfies the requirements of this Part,
 - (c) the application satisfies Schedule 2,
 - (d) the commonhold association has not traded, and
 - (e) the commonhold association has not incurred any liability which has not been discharged.

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SCHEDULE 2

Section 4

LAND WHICH MAY NOT BE COMMONHOLD LAND

“Flying freehold”

- 1 (1) Subject to sub-paragraph (2), an application may not be made under section 2 wholly or partly in relation to land above ground level (“raised land”) unless all the land between the ground and the raised land is the subject of the same application.
- (2) An application for the addition of land to a commonhold in accordance with section 41 may be made wholly or partly in relation to raised land if all the land between the ground and the raised land forms part of the commonhold to which the raised land is to be added.

Agricultural land

- 2 An application may not be made under section 2 wholly or partly in relation to land if—
- (a) it is agricultural land within the meaning of the Agriculture Act 1947 (c. 48),
 - (b) it is comprised in a tenancy of an agricultural holding within the meaning of the Agricultural Holdings Act 1986 (c. 5), or
 - (c) it is comprised in a farm business tenancy for the purposes of the Agricultural Tenancies Act 1995 (c. 8).

Contingent title

- 3 (1) An application may not be made under section 2 if an estate in the whole or part of the land to which the application relates is a contingent estate.
- (2) An estate is contingent for the purposes of this paragraph if (and only if)—
- (a) it is liable to revert to or vest in a person other than the present registered proprietor on the occurrence or non-occurrence of a particular event, and
 - (b) the reverter or vesting would occur by operation of law as a result of an enactment listed in sub-paragraph (3).
- (3) The enactments are—
- (a) the School Sites Act 1841 (c. 38) (conveyance for use as school),
 - (b) the Lands Clauses Acts (compulsory purchase),
 - (c) the Literary and Scientific Institutions Act 1854 (c. 112) (sites for institutions), and
 - (d) the Places of Worship Sites Act 1873 (c. 50) (sites for places of worship).
- (4) Regulations may amend sub-paragraph (3) so as to—
- (a) add an enactment to the list, or
 - (b) remove an enactment from the list.

SCHEDULE 3

Section 34

COMMONHOLD ASSOCIATION

PART 1

MEMORANDUM AND ARTICLES OF ASSOCIATION

Introduction

- 1 In this Schedule—
- (a) “memorandum” means the memorandum of association of a commonhold association, and
 - (b) “articles” means the articles of association of a commonhold association.

Form and content

- 2 (1) Regulations shall make provision about the form and content of the memorandum and articles.
- (2) A commonhold association may adopt provisions of the regulations for its memorandum or articles.
- (3) The regulations may include provision which is to have effect for a commonhold association whether or not it is adopted under sub-paragraph (2).
- (4) A provision of the memorandum or articles shall have no effect to the extent that it is inconsistent with the regulations.
- (5) Regulations under this paragraph shall have effect in relation to a memorandum or articles—
- (a) irrespective of the date of the memorandum or articles, but
 - (b) subject to any transitional provision of the regulations.

Alteration

- 3 (1) An alteration of the memorandum or articles of association shall have no effect until the altered version is registered in accordance with this paragraph.
- (2) If the commonhold association makes an application under this sub-paragraph the Registrar shall arrange for an altered memorandum or altered articles to be kept in his custody, and referred to in the register, in place of the unaltered version.
- (3) An application under sub-paragraph (2) must be accompanied by a certificate given by the directors of the commonhold association that the altered memorandum or articles comply with regulations under paragraph 2(1).
- (4) Where the Registrar amends the register on an application under sub-paragraph (2) he shall make any consequential amendments to the register which he thinks appropriate.

Disapplication of Companies Act 1985

- 4 (1) The following provisions of the Companies Act 1985 (c. 6) shall not apply to a commonhold association—
- (a) sections 2(7) and 3 (memorandum), and
 - (b) section 8 (articles of association).
- (2) No application may be made under paragraph 3(2) for the registration of a memorandum altered by special resolution in accordance with section 4(1) of the Companies Act 1985 (objects) unless—
- (a) the period during which an application for cancellation of the alteration may be made under section 5(1) of that Act has expired without an application being made,
 - (b) any application made under that section has been withdrawn, or
 - (c) the alteration has been confirmed by the court under that section.

PART 2

MEMBERSHIP

Pre-commonhold period

- 5 During the period beginning with incorporation of a commonhold association and ending when land specified in its memorandum becomes commonhold land, the subscribers (or subscriber) to the memorandum shall be the sole members (or member) of the association.

Transitional period

- 6 (1) This paragraph applies to a commonhold association during a transitional period.
- (2) The subscribers (or subscriber) to the memorandum shall continue to be members (or the member) of the association.
- (3) A person who for the time being is the developer in respect of all or part of the commonhold is entitled to be entered in the register of members of the association.

Unit-holders

- 7 A person is entitled to be entered in the register of members of a commonhold association if he becomes the unit-holder of a commonhold unit in relation to which the association exercises functions—
- (a) on the unit becoming commonhold land by registration with unit-holders under section 9, or
 - (b) on the transfer of the unit.

Joint unit-holders

- 8 (1) This paragraph applies where two or more persons become joint unit-holders of a commonhold unit—
- (a) on the unit becoming commonhold land by registration with unit-holders under section 9, or

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- (b) on the transfer of the unit.
- (2) If the joint unit-holders nominate one of themselves for the purpose of this sub-paragraph, he is entitled to be entered in the register of members of the commonhold association which exercises functions in relation to the unit.
- (3) A nomination under sub-paragraph (2) must—
 - (a) be made in writing to the commonhold association, and
 - (b) be received by the association before the end of the prescribed period.
- (4) If no nomination is received by the association before the end of the prescribed period the person whose name appears first in the proprietorship register is on the expiry of that period entitled to be entered in the register of members of the association.
- (5) On the application of a joint unit-holder the court may order that a joint unit-holder is entitled to be entered in the register of members of a commonhold association in place of a person who is or would be entitled to be registered by virtue of sub-paragraph (4).
- (6) If joint unit-holders nominate one of themselves for the purpose of this sub-paragraph, the nominated person is entitled to be entered in the register of members of the commonhold association in place of the person entered by virtue of—
 - (a) sub-paragraph (2),
 - (b) sub-paragraph (5), or
 - (c) this sub-paragraph.

Self-membership

- 9 A commonhold association may not be a member of itself.

No other members

- 10 A person may not become a member of a commonhold association otherwise than by virtue of a provision of this Schedule.

Effect of registration

- 11 A person who is entitled to be entered in the register of members of a commonhold association becomes a member when the company registers him in pursuance of its duty under section 352 of the Companies Act 1985 (c. 6) (duty to maintain register of members).

Termination of membership

- 12 Where a member of a commonhold association ceases to be a unit-holder or joint unit-holder of a commonhold unit in relation to which the association exercises functions—
 - (a) he shall cease to be a member of the commonhold association, but
 - (b) paragraph (a) does not affect any right or liability already acquired or incurred in respect of a matter relating to a time when he was a unit-holder or joint unit-holder.

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- 13 A member of a commonhold association may resign by notice in writing to the association if (and only if) he is a member by virtue of paragraph 5 or 6 of this Schedule (and not also by virtue of any other paragraph).

Register of members

- 14 (1) Regulations may make provision about the performance by a commonhold association of its duty under section 352 of the Companies Act 1985 (c. 6) (duty to maintain register of members) where a person—
- (a) becomes entitled to be entered in the register by virtue of paragraphs 5 to 8, or
 - (b) ceases to be a member by virtue of paragraph 12 or on resignation.
- (2) The regulations may in particular require entries in the register to be made within a specified period.
- (3) A period specified under sub-paragraph (2) may be expressed to begin from—
- (a) the date of a notification under section 15(3),
 - (b) the date on which the directors of the commonhold association first become aware of a specified matter, or
 - (c) some other time.
- (4) A requirement by virtue of this paragraph shall be treated as a requirement of section 352 for the purposes of section 352(5) (fines).

Companies Act 1985

- 15 (1) Section 22(1) of the Companies Act 1985 (initial members) shall apply to a commonhold association subject to this Schedule.
- (2) Sections 22(2) and 23 of that Act (members: new members and holding company) shall not apply to a commonhold association.

PART 3

MISCELLANEOUS

Name

- 16 Regulations may provide—
- (a) that the name by which a commonhold association is registered under the Companies Act 1985 must satisfy specified requirements;
 - (b) that the name by which a company other than a commonhold association is registered may not include a specified word or expression.

Statutory declaration

- 17 For the purposes of section 12 of the Companies Act 1985 (registration: compliance with Act) as it applies to a commonhold association, a reference to the requirements of that Act shall be treated as including a reference to a provision of or made under this Schedule.

SCHEDULE 4

Section 58

DEVELOPMENT RIGHTS

Introductory

- 1 This Schedule sets out the matters which are development business for the purposes of section 58.

Works

- 2 The completion or execution of works on—
- (a) a commonhold,
 - (b) land which is or may be added to a commonhold, or
 - (c) land which has been removed from a commonhold.

Marketing

- 3 (1) Transactions in commonhold units.
- (2) Advertising and other activities designed to promote transactions in commonhold units.

Variation

- 4 The addition of land to a commonhold.
- 5 The removal of land from a commonhold.
- 6 Amendment of a commonhold community statement (including amendment to redefine the extent of a commonhold unit).

Commonhold association

- 7 Appointment and removal of directors of a commonhold association.

SCHEDULE 5

Section 68

COMMONHOLD: CONSEQUENTIAL AMENDMENTS

Law of Property Act 1922 (c. 16)

- 1 At the end of paragraph 5 of Schedule 15 to the Law of Property Act 1922 (perpetually renewable leases) (which becomes sub-paragraph (1)) there shall be added—
- “(2) Sub-paragraph (3) applies where a grant—
- (a) relates to commonhold land, and
 - (b) would take effect by virtue of sub-paragraph (1) as a demise for a term of two thousand years or a subdemise for a fixed term.

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- (3) The grant shall be treated as if it purported to be a grant of the term referred to in sub-paragraph (2)(b) (and sections 17 and 18 of the Commonhold and Leasehold Reform Act 2002 (residential and non-residential leases) shall apply accordingly).”

Law of Property Act 1925 (c. 20)

- 2 After section 101(1) of the Law of Property Act 1925 (mortgagee’s powers) there shall be added—

“(1A) Subsection (1)(i) is subject to section 21 of the Commonhold and Leasehold Reform Act 2002 (no disposition of part-units)”.

- 3 At the end of section 149 of that Act (90-year term in place of certain determinable terms) there shall be added—

“(7) Subsection (8) applies where a lease, underlease or contract—

- (a) relates to commonhold land, and
- (b) would take effect by virtue of subsection (6) as a lease, underlease or contract of the kind mentioned in that subsection.

- (8) The lease, underlease or contract shall be treated as if it purported to be a lease, underlease or contract of the kind referred to in subsection (7)(b) (and sections 17 and 18 of the Commonhold and Leasehold Reform Act 2002 (residential and non-residential leases) shall apply accordingly).”

Limitation Act 1980 (c. 58)

- 4 After section 19 of the Limitation Act 1980 (actions for rent) there shall be inserted—

“Commonhold

19A Actions for breach of commonhold duty

An action in respect of a right or duty of a kind referred to in section 37(1) of the Commonhold and Leasehold Reform Act 2002 (enforcement) shall not be brought after the expiration of six years from the date on which the cause of action accrued.”

Housing Act 1985 (c. 68)

- 5 At the end of section 118 of the Housing Act 1985 (the right to buy) there shall be added—

“(3) For the purposes of this Part, a dwelling-house which is a commonhold unit (within the meaning of the Commonhold and Leasehold Reform Act 2002) shall be treated as a house and not as a flat.”

Insolvency Act 1986 (c. 45)

- 6 At the end of section 84 of the Insolvency Act 1986 (voluntary winding-up) there shall be added—

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“(4) This section has effect subject to section 43 of the Commonhold and Leasehold Reform Act 2002.”

Law of Property (Miscellaneous Provisions) Act 1994 (c. 36)

- 7 (1) Section 5 of the Law of Property (Miscellaneous Provisions) Act 1994 (discharge of obligations) shall be amended as follows.
- (2) In subsection (1) for the words “or of leasehold land” substitute “of leasehold land or of a commonhold unit”.
- (3) After subsection (3) insert—
- “(3A) If the property is a commonhold unit, there shall be implied a covenant that the mortgagor will fully and promptly observe and perform all the obligations under the commonhold community statement that are for the time being imposed on him in his capacity as a unit-holder or as a joint unit-holder.”
- (4) For subsection (4) substitute—
- “(4) In this section—
- (a) “commonhold community statement”, “commonhold unit”, “joint unit-holder” and “unit-holder” have the same meanings as in the Commonhold and Leasehold Reform Act 2002, and
- (b) “mortgage” includes charge, and “mortgagor” shall be construed accordingly.”

Trusts of Land and Appointment of Trustees Act 1996 (c. 47)

- 8 At the end of section 7 of the Trusts of Land and Appointment of Trustees Act 1996 (partition by trustees) there shall be added—
- “(6) Subsection (1) is subject to sections 21 (part-unit: interests) and 22 (part-unit: charging) of the Commonhold and Leasehold Reform Act 2002.”

SCHEDULE 6

Section 72

PREMISES EXCLUDED FROM RIGHT TO MANAGE

Buildings with substantial non-residential parts

- 1 (1) This Chapter does not apply to premises falling within section 72(1) if the internal floor area—
- (a) of any non-residential part, or
- (b) (where there is more than one such part) of those parts (taken together), exceeds 25 per cent. of the internal floor area of the premises (taken as a whole).
- (2) A part of premises is a non-residential part if it is neither—
- (a) occupied, or intended to be occupied, for residential purposes, nor
- (b) comprised in any common parts of the premises.

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- (3) Where in the case of any such premises any part of the premises (such as, for example, a garage, parking space or storage area) is used, or intended for use, in conjunction with a particular dwelling contained in the premises (and accordingly is not comprised in any common parts of the premises), it shall be taken to be occupied, or intended to be occupied, for residential purposes.
- (4) For the purpose of determining the internal floor area of a building or of any part of a building, the floor or floors of the building or part shall be taken to extend (without interruption) throughout the whole of the interior of the building or part, except that the area of any common parts of the building or part shall be disregarded.

Buildings with self-contained parts in different ownership

- 2 Where different persons own the freehold of different parts of premises falling within section 72(1), this Chapter does not apply to the premises if any of those parts is a self-contained part of a building.

Premises with resident landlord and no more than four units

- 3 (1) This Chapter does not apply to premises falling within section 72(1) if the premises—
 - (a) have a resident landlord, and
 - (b) do not contain more than four units.
- (2) Premises have a resident landlord if—
 - (a) the premises are not, and do not form part of, a purpose-built block of flats (that is, a building which, as constructed, contained two or more flats),
 - (b) a relevant freeholder, or an adult member of a relevant freeholder’s family, occupies a qualifying flat as his only or principal home, and
 - (c) sub-paragraph (4) or (5) is satisfied.
- (3) A person is a relevant freeholder, in relation to any premises, if he owns the freehold of the whole or any part of the premises.
- (4) This sub-paragraph is satisfied if—
 - (a) the relevant freeholder, or
 - (b) the adult member of his family,
 has throughout the last twelve months occupied the flat as his only or principal home.
- (5) This sub-paragraph is satisfied if—
 - (a) immediately before the date when the relevant freeholder acquired his interest in the premises, the premises were premises with a resident landlord, and
 - (b) he, or an adult member of his family, entered into occupation of the flat during the period of 28 days beginning with that date and has occupied the flat as his only or principal home ever since.
- (6) “Qualifying flat”, in relation to any premises and a relevant freeholder or an adult member of his family, means a flat or other unit used as a dwelling—
 - (a) which is contained in the premises, and
 - (b) the freehold of the whole of which is owned by the relevant freeholder.

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- (7) Where the interest of a relevant freeholder in any premises is held on trust, the references in sub-paragraphs (2), (4) and (5)(b) to a relevant freeholder are to a person having an interest under the trust (whether or not also a trustee).
- (8) A person is an adult member of another’s family if he is—
- (a) the other’s spouse,
 - (b) a son, daughter, son-in-law or daughter-in-law of the other, or of the other’s spouse, who has attained the age of 18, or
 - (c) the father or mother of the other or of the other’s spouse;
- and “son” and “daughter” include stepson and stepdaughter (“son-in-law” and “daughter-in-law” being construed accordingly).

Premises owned by local housing authority

- 4 (1) This Chapter does not apply to premises falling within section 72(1) if a local housing authority is the immediate landlord of any of the qualifying tenants of flats contained in the premises.
- (2) “Local housing authority” has the meaning given by section 1 of the Housing Act 1985 (c. 68).

Premises in relation to which rights previously exercised

- 5 (1) This Chapter does not apply to premises falling within section 72(1) at any time if—
- (a) the right to manage the premises is at that time exercisable by a RTM company, or
 - (b) that right has been so exercisable but has ceased to be so exercisable less than four years before that time.
- (2) Sub-paragraph (1)(b) does not apply where the right to manage the premises ceased to be exercisable by virtue of section 73(5).
- (3) A leasehold valuation tribunal may, on an application made by a RTM company, determine that sub-paragraph (1)(b) is not to apply in any case if it considers that it would be unreasonable for it to apply in the circumstances of the case.

SCHEDULE 7

Section 102

RIGHT TO MANAGE: STATUTORY PROVISIONS

Covenants not to assign etc.

- 1 (1) Section 19 of the Landlord and Tenant Act 1927 (c. 36) (covenants not to assign without approval etc.) has effect with the modifications provided by this paragraph.
- (2) Subsection (1) applies as if—
- (a) the reference to the landlord, and
 - (b) the final reference to the lessor,
- were to the RTM company.

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- (3) Subsection (2) applies as if the reference to the payment of a reasonable sum in respect of any damage to or diminution in the value of the premises or neighbouring premises belonging to the landlord were omitted.
- (4) Subsection (3) applies as if—
 - (a) the first and final references to the landlord were to the RTM company, and
 - (b) the reference to the right of the landlord to require payment of a reasonable sum in respect of any damage to or diminution in the value of the premises or neighbouring premises belonging to him were omitted.

Defective premises

- 2 (1) Section 4 of the Defective Premises Act 1972 (c. 35) (landlord’s duty of care by virtue of obligation or right to repair demised premises) has effect with the modifications provided by this paragraph.
- (2) References to the landlord (apart from the first reference in subsections (1) and (4)) are to the RTM company.
- (3) The reference to the material time is to the acquisition date.

Repairing obligations

- 3 (1) The obligations imposed on a lessor by virtue of section 11 (repairing obligations in short leases) of the Landlord and Tenant Act 1985 (c. 70) (referred to in this Part as “the 1985 Act”) are, so far as relating to any lease of any flat or other unit contained in the premises, instead obligations of the RTM company.
- (2) The RTM company owes to any person who is in occupation of a flat or other unit contained in the premises otherwise than under a lease the same obligations as would be imposed on it by virtue of section 11 if that person were a lessee under a lease of the flat or other unit.
- (3) But sub-paragraphs (1) and (2) do not apply to an obligation to the extent that it relates to a matter concerning only the flat or other unit concerned.
- (4) The obligations imposed on the RTM company by virtue of sub-paragraph (1) in relation to any lease are owed to the lessor (as well as to the lessee).
- (5) Subsections (3A) to (5) of section 11 have effect with the modifications that are appropriate in consequence of sub-paragraphs (1) to (3).
- (6) The references in subsection (6) of section 11 to the lessor include the RTM company; and a person who is in occupation of a flat or other unit contained in the premises otherwise than under a lease has, in relation to the flat or other unit, the same obligation as that imposed on a lessee by virtue of that subsection.
- (7) The reference to the lessor in section 12(1)(a) of the 1985 Act (restriction on contracting out of section 11) includes the RTM company.

Service charges

- 4 (1) Sections 18 to 30 of the 1985 Act (service charges) have effect with the modifications provided by this paragraph.

- (2) References to the landlord are to the RTM company.
- (3) References to a tenant of a dwelling include a person who is landlord under a lease of the whole or any part of the premises (so that sums paid by him in pursuance of section 103 of this Act are service charges).
- (4) Section 22(5) applies as if paragraph (a) were omitted and the person referred to in paragraph (b) were a person who receives service charges on behalf of the RTM company.
- (5) Section 26 does not apply.

Right to request information on insurance

- 5 (1) Section 30A of, and the Schedule to, the 1985 Act (rights of tenants with respect to insurance) have effect with the modifications provided by this paragraph.
 - (2) References to the landlord are to the RTM company.
 - (3) References to a tenant include a person who is landlord under a lease of the whole or any part of the premises and has to make payments under section 103 of this Act.
 - (4) Paragraphs 2(3) and 3(3) of the Schedule apply as if paragraph (a) were omitted and the person referred to in paragraph (b) were a person who receives service charges on behalf of the RTM company.

Managing agents

- 6 Section 30B of the 1985 Act (recognised tenants' associations to be consulted about landlord's managing agents) has effect as if references to the landlord were to the RTM company (and as if subsection (6) were omitted).

Right of first refusal

- 7 Where section 5 of the 1987 Act (right of first refusal: requirement that landlord serve offer notice on tenant) requires the landlord to serve an offer notice on the qualifying tenants of the flats contained in the premises, he must serve a copy of the offer notice on the RTM company.

Appointment of manager

- 8 (1) Part 2 of the 1987 Act (appointment of manager by leasehold valuation tribunal) has effect with the modifications provided by this paragraph.
 - (2) References to the landlord are to the RTM company.
 - (3) References to a tenant of a flat contained in the premises include a person who is landlord under a lease of the whole or any part of the premises.
 - (4) Section 21(3) (exception for premises where landlord is exempt or resident or where premises are functional land of a charity) does not apply.
 - (5) The references in paragraph (a)(i) of subsection (2) of section 24 to any obligation owed by the RTM company to the tenant under his tenancy include any obligations of the RTM company under this Act.

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- (6) And the circumstances in which a leasehold valuation tribunal may make an order under paragraph (b) of that subsection include any in which the RTM company no longer wishes the right to manage the premises to be exercisable by it.
- (7) The power in section 24 to make an order appointing a manager to carry out functions includes a power (in the circumstances specified in subsection (2) of that section) to make an order that the right to manage the premises is to cease to be exercisable by the RTM company.
- (8) And such an order may include provision with respect to incidental and ancillary matters (including, in particular, provision about contracts to which the RTM company is a party and the prosecution of claims in respect of causes of action, whether tortious or contractual, accruing before or after the right to manage ceases to be exercisable).

Right to acquire landlord's interest

- 9 Part 3 of the 1987 Act (compulsory acquisition by tenants of landlord's interest) does not apply.

Variation of leases

- 10 Sections 35, 36, 38 and 39 of the 1987 Act (variation of long leases relating to flats) have effect as if references to a party to a long lease (apart from those in section 38(8)) included the RTM company.

Service charges to be held in trust

- 11 (1) Sections 42 to 42B of the 1987 Act (service charge contributions to be held in trust and in designated account) have effect with the modifications provided by this paragraph.
- (2) References to the payee are to the RTM company.
 - (3) The definition of "tenant" in section 42(1) does not apply.
 - (4) References to a tenant of a dwelling include a person who is landlord under a lease of the whole or any part of the premises.
 - (5) The reference in section 42(2) to sums paid to the payee by the contributing tenants by way of relevant service charges includes payments made to the RTM company under section 94 or 103 of this Act.
 - (6) Section 42A(5) applies as if paragraph (a) were omitted and the person referred to in paragraph (b) were a person who receives service charges on behalf of the RTM company.

Information to be furnished to tenants

- 12 (1) Sections 46 to 48 of the 1987 Act (information to be furnished to tenants) have effect with the modifications provided by this paragraph.
- (2) References to the landlord include the RTM company.

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- (3) References to a tenant include a person who is landlord under a lease of the whole or any part of the premises; and in relation to such a person the reference in section 47(4) to sums payable to the landlord under the terms of the tenancy are to sums paid by him under section 103 of this Act.

Statutory duties relating to certain covenants

- 13 (1) The Landlord and Tenant Act 1988 (c. 26) (statutory duties in connection with covenants against assigning etc.) has effect with the modifications provided by this paragraph.
- (2) The reference in section 1(2)(b) to the covenant is to the covenant as it has effect subject to section 98 of this Act.
- (3) References in section 3(2), (4) and (5) to the landlord are to the RTM company.

Tenants' right to management audit

- 14 (1) Chapter 5 of Part 1 (tenants' right to management audit by landlord) of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28) (referred to in this Part as “the 1993 Act”) has effect with the modifications provided by this paragraph.
- (2) References to the landlord (other than the references in section 76(1) and (2) to “the same landlord”) are to the RTM company.
- (3) References to a tenant include a person who is landlord under a lease of the whole or any part of the premises and has to make payments under section 103 of this Act.
- (4) Section 80(5) applies as if the reference to a person who receives rent were to a person who receives service charges.

Right to appoint surveyor

- 15 (1) Section 84 of the Housing Act 1996 (c. 52) and Schedule 4 to that Act (apart from paragraph 7) (right of recognised tenants' association to appoint surveyor to advise on matters relating to service charges) have effect as if references to the landlord were to the RTM company.
- (2) Section 84(5) and paragraph 4(5) of Schedule 4 apply as if the reference to a person who receives rent were to a person who receives service charges.

Administration charges

- 16 Schedule 11 to this Act has effect as if references to the landlord (or a party to a lease) included the RTM company.

Status: This is the original version (as it was originally enacted).

SCHEDULE 8

Section 124

ENFRANCHISEMENT BY COMPANY: AMENDMENTS

Land Compensation Act 1973 (c. 26)

- 1 (1) Section 12A of the Land Compensation Act 1973 (tenants participating in collective enfranchisement or entitled to individual lease extension) is amended as follows.
- (2) In subsection (2)(b)—
- (a) in sub-paragraph (i), for “participating tenant in relation to” substitute “participating member of a RTE company which is making”, and
 - (b) in sub-paragraph (ii), for the words from “one” to “made” substitute “a member of a RTE company which has made an acquisition”.
- (3) In subsection (4), for “nominee purchaser” substitute “RTE company”.
- (4) In subsection (9), for paragraph (b) substitute—
- “(b) “participating member” and “RTE company” have the same meanings as in Chapter 1 of Part 1 of that Act; and
 - (c) the reference to the making of an acquisition by a RTE company shall be construed in accordance with section 38(2) of that Act.”

Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)

- 2 The 1993 Act has effect subject to the following amendments.
- 3 (1) Section 1 (right to collective enfranchisement) is amended as follows.
- (2) In subsection (1), for the words from “on qualifying tenants” to the end of paragraph (b) substitute “the right to acquire the freehold of premises to which this Chapter applies on the relevant date, at a price determined in accordance with this Chapter, exercisable subject to and in accordance with this Chapter by a company (referred to in this Chapter as a RTE company) of which qualifying tenants of flats contained in the premises are members;”.
- (3) In subsection (2)(a), for the words from “the qualifying tenants” to “have acquired,” substitute “the RTE company by which the right to collective enfranchisement is exercised is entitled, subject to and in accordance with this Chapter, to acquire,”.
- (4) In subsection (5)—
- (a) for “qualifying tenants” substitute “a RTE company”, and
 - (b) for “those tenants are” substitute “the RTE company is”.
- 4 For section 2(1) (acquisition of leasehold interests) substitute—
- “(1) Where the right to collective enfranchisement is exercised by a RTE company in relation to any premises to which this Chapter applies (“the relevant premises”), then, subject to and in accordance with this Chapter—
- (a) there shall be acquired by the RTE company every interest to which this paragraph applies by virtue of subsection (2); and
 - (b) the RTE company shall be entitled to acquire any interest to which this paragraph applies by virtue of subsection (3);
- and any interest which the RTE company so acquires shall be acquired in the manner mentioned in section 1(1).”

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- 5 In section 11(4) (right of qualifying tenant to obtain information about superior interests), for “by the tenant in connection with the making” substitute “in connection with the making by a RTE company”.
- 6 (1) Section 13 (initial notice) is amended as follows.
- (2) In subsection (3)—
- (a) in paragraph (e), after “premises” insert “who are participating members of the RTE company”, and
- (b) for paragraph (f) substitute—
- “(f) state the name and registered office of the RTE company;”.
- (3) After subsection (5) insert—
- “(5A) A copy of a notice under this section must be given to each person who at the relevant date is the qualifying tenant of a flat contained in the premises specified under subsection (3)(a)(i).”
- (4) In subsection (11), for “nominee purchaser” substitute “RTE company”.
- (5) In subsection (13), for “contains restrictions on participating in the exercise of the right to collective enfranchisement” substitute “specifies circumstances in which the fact that a qualifying tenant is a member of a RTE company is to be disregarded when considering whether the requirement in subsection (2)(b) is satisfied”.
- 7 (1) Section 17 (access for valuation purposes) is amended as follows.
- (2) In subsection (1), for “nominee purchaser” substitute “RTE company”.
- (3) In subsection (2)—
- (a) for “nominee purchaser” (in both places) substitute “RTE company”, and
- (b) for “his” substitute “its”.
- 8 (1) Section 18 (duty to disclose existence of agreements affecting premises etc.) is amended as follows.
- (2) In subsection (1)—
- (a) for “nominee purchaser”, in the first and last place, substitute “RTE company”, and
- (b) for “tenant”, in the first place, substitute “member”.
- (3) In subsection (2)—
- (a) for “nominee purchaser” (in each place) substitute “RTE company”, and
- (b) for “tenants” substitute “members”.
- 9 (1) Section 20 (right of reversioner to require evidence of tenant’s right to participate) is amended as follows.
- (2) In subsection (1), for “nominee purchaser a notice requiring him, in the case of any person by whom the initial notice was given, to deduce the title of that person” substitute “RTE company a notice requiring it, in the case of any qualifying tenant of a flat contained in the specified premises who was a participating member of the company at the relevant time, to deduce the title of that qualifying tenant”.
- (3) In subsection (2), for “nominee purchaser” substitute “RTE company”.
- (4) In subsection (3)—

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- (a) for “nominee purchaser” (in both places) substitute “RTE company”,
 - (b) for “person” (in each place) substitute “qualifying tenant”, and
 - (c) for “included among the persons who gave the notice” substitute “members of the RTE company”.
- 10 (1) Section 21 (reversioner’s counter notice) is amended as follows.
- (2) In subsection (1), for “nominee purchaser” substitute “RTE company”.
 - (3) In subsection (2), for “participating tenants were” (in both places) substitute “RTE company was”.
 - (4) In subsection (3), for “nominee purchaser” (in each place) substitute “RTE company”.
 - (5) In subsection (4)—
 - (a) for “nominee purchaser may be required to acquire on behalf of the participating tenants” substitute “RTE company may be required to acquire”, and
 - (b) for “by the nominee purchaser” substitute “by the RTE company”.
 - (6) In subsection (5)—
 - (a) for “nominee purchaser” (in both places) substitute “RTE company”,
 - (b) for “his” substitute “its”, and
 - (c) for “him” substitute “it”.
- 11 (1) Section 22 (proceedings relating to validity of initial notice) is amended as follows.
- (2) In subsection (1)—
 - (a) in paragraph (a), for “nominee purchaser” substitute “RTE company”, and
 - (b) in paragraph (b), for “nominee purchaser, that the participating tenants were” substitute “RTE company, that it was”.
 - (3) In subsections (2), (3) and (6), for “nominee purchaser” substitute “RTE company”.
- 12 In section 23 (claim liable to be defeated where landlord intends to redevelop), for “nominee purchaser” (in each place) substitute “RTE company”.
- 13 (1) Section 24 (applications where terms in dispute or failure to enter contract) is amended as follows.
- (2) In subsection (1), for “nominee purchaser” (in both places) substitute “RTE company”.
 - (3) In subsection (2), for “nominee purchaser” substitute “RTE company”.
 - (4) In subsection (3), for “nominee purchaser” (in both places) substitute “RTE company”.
 - (5) In subsection (4)—
 - (a) for “nominee purchaser” (in both places) substitute “RTE company”, and
 - (b) for “him” (in both places) substitute “it”.
 - (6) In subsections (7) and (8), for “nominee purchaser” substitute “RTE company”.
- 14 (1) Section 25 (application where reversioner fails to give counter-notice or further counter-notice) is amended as follows.

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- (2) In subsection (1), for—
 - (a) “nominee purchaser” (in each place), and
 - (b) “he”,substitute “RTE company”.
 - (3) In subsection (3), for “participating tenants were” substitute “RTE company was”.
 - (4) In subsections (4) and (5), for “nominee purchaser” substitute “RTE company”.
 - (5) In subsection (6)—
 - (a) for “nominee purchaser” (in both places) substitute “RTE company”, and
 - (b) for “him” (in both places) substitute “it”.
- 15 (1) Section 26 (applications where relevant landlord cannot be found) is amended as follows.
- (2) In subsection (1)—
 - (a) for the words from “not less” to “those premises” substitute “a RTE company which satisfies the requirement in section 13(2)(b) wishes to make a claim to exercise the right to collective enfranchisement”,
 - (b) for “qualifying tenants in question” substitute “RTE company”, and
 - (c) for “on behalf of those tenants” substitute “by the RTE company”.
 - (3) In subsection (2)—
 - (a) for the words from “not less” to “those premises” substitute “a RTE company which satisfies the requirement in section 13(2)(b) wishes to make a claim to exercise the right to collective enfranchisement”, and
 - (b) for “qualifying tenants in question” substitute “RTE company”.
 - (4) In subsection (3), for “those tenants” substitute “the RTE company”.
 - (5) In subsection (3A)—
 - (a) for the words from “not less” to “those premises” substitute “a RTE company which satisfies the requirement in section 13(2)(b) wishes to make a claim to exercise the right to collective enfranchisement”, and
 - (b) for “qualifying tenants in question” substitute “RTE company”.
 - (6) In subsection (4)—
 - (a) for “applicants” substitute “RTE company”, and
 - (b) insert at the end (but not as part of paragraph (b)) “and that the RTE company has given notice of the application to each person who is the qualifying tenant of a flat contained in those premises.”
 - (7) In subsection (5)—
 - (a) for “applicants” (in both places) substitute “RTE company”, and
 - (b) for “their” substitute “its”.
 - (8) In subsection (6), for “applicants” (in each place) substitute “RTE company”.
 - (9) In subsection (9), for “persons making the application on any person who the applicants know or have” substitute “RTE company on any person who it knows or has”.

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- 16 (1) Section 27 (supplementary provisions about vesting orders under section 26(1)) is amended as follows.
- (2) In subsection (1)—
- (a) for “such person or persons as may be appointed for the purpose by the applicants for the order” substitute “the RTE company”,
 - (b) for “that person or those persons” substitute “the RTE company”,
 - (c) for “applicants had” substitute “RTE company had”, and
 - (d) for “their” (in both places) substitute “its”.
- (3) In subsection (3)—
- (a) for “any person or persons” substitute “the RTE company”,
 - (b) for “his or their” substitute “its”, and
 - (c) for “person or persons to whom the conveyance is made” substitute “RTE company”.
- (4) In subsection (6)—
- (a) for “any person or persons” substitute “the RTE company”, and
 - (b) for “applicants for the vesting order under section 26(1), their personal representatives or assigns” substitute “RTE company”.
- (5) In subsection (7)—
- (a) for “any person or persons” substitute “the RTE company”, and
 - (b) for the words from “his or their” to the end substitute “its acquisition of that interest.”
- 17 (1) Section 28 (withdrawal from acquisition) is amended as follows.
- (2) In subsection (1), for “participating tenants” substitute “RTE company”.
- (3) For subsection (2) substitute—
- “(2) A notice of withdrawal must be given to—
- (a) each person who is the qualifying tenant of a flat contained in the specified premises;
 - (b) the reversioner in respect of the specified premises; and
 - (c) every other relevant landlord who has given to the RTE company a notice under paragraph 7(1) or (4) of Schedule 1.”
- (4) In subsection (4), for the words from “participating tenants” to the end of paragraph (b) substitute “RTE company under subsection (1)—
- (a) the company, and
 - (b) (subject to subsection (5)) every person who is, or has at any time been, a participating member of the company.”.
- (5) In subsection (5)—
- (a) in paragraph (a), for “participating” substitute “qualifying”,
 - (b) in paragraph (b), for “tenant in accordance with section 14(4)” substitute “member of the RTE company”, and
 - (c) for “shall be construed in accordance with section 14(10)” substitute “includes an assent by personal representatives, and assignment by operation of law where the assignment is to a trustee in bankruptcy or to a mortgagee

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- under section 89(2) of the Law of Property Act 1925 (c. 20) (foreclosure of leasehold mortgage)”.
- (6) In subsections (6) and (7), for “nominee purchaser” substitute “RTE company”.
- (7) In the sidenote, for “participating tenants” substitute “RTE company”.
- 18 (1) Section 29 (deemed withdrawal of initial notice) is amended as follows.
- (2) After subsection (4) insert—
- “(4A) The initial notice shall be deemed to have been 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 RTE company,
- (b) a receiver or a manager of the RTE 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 RTE company comprised in or subject to the charge,
- (c) a voluntary arrangement proposed in the case of the RTE 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 RTE company’s name is struck off the register under section 652 or 652A of the Companies Act 1985 (c. 6).”
- (3) In subsection (8), for “nominee purchaser is, or would (apart from subsection (7)) be,” substitute “RTE company is”.
- 19 In section 30(5) (service of notice to treat before completion of acquisition), for “nominee purchaser” substitute “RTE company”.
- 20 (1) Section 31 (effect on initial notice of designation or application for designation for inheritance tax purposes) is amended as follows.
- (2) In subsection (5)—
- (a) in paragraph (a), for “nominee purchaser” substitute “RTE company”, and
- (b) in paragraph (b), for the words from “liable” to the end substitute “liable to the RTE company for all reasonable costs incurred in the preparation or giving of the notice or in pursuance of it.”
- (3) In subsection (6), for “nominee purchaser” (in both places) substitute “RTE company”.
- 21 (1) Section 32 (determination of price) is amended as follows.
- (2) In subsection (1)—
- (a) for “nominee purchaser” substitute “RTE company”, and
- (b) for “him” substitute “it”.
- (3) In subsection (5)—
- (a) for “nominee purchaser” substitute “RTE company”,
- (b) for “him” substitute “it”, and
- (c) for “he” substitute “it”.
- 22 (1) Section 33 (costs of enfranchisement) is amended as follows.

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- (2) In subsection (1), for “nominee purchaser” (in both places) substitute “RTE company”.
- (3) In subsection (3)—
- (a) for “nominee purchaser's” substitute “RTE company's”, and
 - (b) for “him” substitute “it”.
- (4) In subsections (4) and (5), for “nominee purchaser” substitute “RTE company”.
- 23 In section 34 (conveyance), for “nominee purchaser” (in each place, including the sidenote) substitute “RTE company”.
- 24 In section 35 (discharge of existing mortgages on transfer), for “nominee purchaser” (in each place, including the sidenote) substitute “RTE company”.
- 25 (1) Section 36 (requirement to grant leases back to former freeholder) is amended as follows.
- (2) In subsection (1)—
- (a) for “him” substitute “it”, and
 - (b) for “nominee purchaser” substitute “RTE company”.
- (3) In subsection (2), for “nominee purchaser” substitute “RTE company”.
- (4) In the sidenote, for “Nominee purchaser” substitute “RTE company”.
- 26 (1) Section 37A (compensation for postponement of termination in connection with ineffective claims) is amended as follows.
- (2) In subsection (1), for “tenants of flats contained in the premises” substitute “a RTE company”.
- (3) In subsection (2), for “person who is a participating tenant” substitute “qualifying tenant who is a participating member of the RTE company”.
- 27 (1) Section 38 (interpretation) is amended as follows.
- (2) In subsection (1), after the definition of “introductory tenancy” insert—
- ““participating member” has the meaning given by section 4B;
- “the notice of invitation to participate” means the notice given under section 12A;”.
- (3) In that subsection, after the definition of “the right to collective enfranchisement” insert—
- ““RTE company” shall be construed in accordance with sections 1(1) and 4A;”.
- (4) In subsection (2), for—
- (a) “the nominee purchaser”, in the first place, substitute “a RTE company”, and
 - (b) for “nominee purchaser, on behalf of the participating tenants,” substitute “RTE company”.
- 28 (1) Section 41 (right of qualifying tenant to obtain information in connection with right to acquire new lease) is amended as follows.

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- (2) In subsection (4), for the words from “address” to the end substitute “registered office of the RTE company by which it was given.”
- (3) In subsection (5), for “nominee purchaser” substitute “RTE company”.
- 29 (1) Section 54 (suspension of tenant’s notice during currency of claim under Chapter 1) is amended as follows.
- (2) In subsection (3), for the words from “address” to the end substitute “registered office of the RTE company by which it was given.”
- (3) In subsection (11), for “nominee purchaser” substitute “RTE company”.
- 30 (1) Section 74 (effect of scheme application on claim to acquire freehold) is amended as follows.
- (2) For “nominee purchaser” (in each place) substitute “RTE company”.
- (3) In subsection (3), for “him” substitute “it”.
- 31 (1) Section 91 (jurisdiction of leasehold valuation tribunals) is amended as follows.
- (2) In subsection (2), for “nominee purchaser” substitute “RTE company”.
- (3) In subsection (11), for ““the nominee purchaser” and “the participating tenants” have” substitute ““RTE company” has”.
- 32 (1) In section 93 (agreements excluding or modifying rights of tenant) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), for “participate in the making of a claim to exercise” substitute “be, or do any thing as, a member of a RTE company for the purpose of the exercise of”,
- (b) in paragraph (b), for “a participating tenant for the purposes of Chapter 1 or” substitute “, or doing any thing as, a member of a RTE company (within the meaning of Chapter 1) or of such a RTE company doing any thing or in the event of a tenant”, and
- (c) in paragraph (c), for “on the tenant in that event” substitute “in the event of a tenant becoming, or doing any thing as, a member of such a RTE company or of such a RTE company doing any thing”.
- (3) In subsection (4)(a), for “participate in the making of a claim to exercise” substitute “be, or do any thing as, a member of a RTE company for the purpose of the exercise of”.
- 33 (1) Section 93A (powers of trustees in relation to rights) is amended as follows.
- (2) In subsection (1), for “participate in” substitute “become a member (and participating member) of a RTE company for the purpose of”.
- (3) In subsection (4), for “participation in” substitute “becoming a member (or participating member) of a RTE company for the purpose of”.
- 34 In section 97(1) (registration)—
- (a) for “the tenant” substitute “a RTE company, tenant”, and
- (b) for “a tenant” substitute “a RTE company or tenant”.

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- 35 In section 98(2) (power to prescribe procedure), for “nominee purchaser” substitute “RTE company”.
- 36 (1) Schedule 1 (conduct of proceedings by reversioner on behalf of other landlords) is amended as follows.
- (2) For “nominee purchaser” (in each place) substitute “RTE company”.
- (3) In paragraph 6(3), for “participating tenants” substitute “RTE company”.
- 37 (1) Schedule 3 (restrictions on participation, effect of claim on other notices, forfeitures etc.) is amended as follows.
- (2) In paragraphs 1, 2(1), 3(1) and (2) and 4(1), for “not participate in the giving of” substitute “be disregarded when considering whether the requirement in section 13(2)(b) is satisfied in relation to”.
- (3) In paragraph 3(3), for “to participate in the giving of such a notice of claim” substitute “such a notice of claim to be given”.
- (4) In paragraph 4(2)—
- (a) in paragraph (b), for “participating” substitute “qualifying”, and
- (b) for the words from “entitled” to the end substitute “a member of the RTE company.”
- (5) In paragraphs 5 and 6(1), for “participating tenant” substitute “participating member of the RTE company”.
- (6) In paragraph 7—
- (a) in sub-paragraph (1), for “participating tenant” substitute “participating member of the RTE company”,
- (b) in that sub-paragraph, for “tenant is participating in the making of the claim” substitute “member is a participating member”, and
- (c) in sub-paragraph (2), for the words from “entitled” to the end substitute “a member of the RTE company.”
- (7) In sub-paragraph (1) of paragraph 12—
- (a) for “qualifying tenants” substitute “RTE company”, and
- (b) for “them” substitute “it”,
- and in the heading before that paragraph, for “Qualifying tenants” substitute “RTE company”.
- (8) In paragraph 12A(1)—
- (a) for “qualifying tenants” substitute “RTE company”, and
- (b) for “them” substitute “it”.
- (9) In paragraph 13(3), for “qualifying tenants by whom” substitute “RTE company by which”.
- (10) In paragraph 14—
- (a) in sub-paragraph (1), for “any of the qualifying tenants by whom” substitute “a qualifying tenant who was a member of the RTE company by which”, and
- (b) in sub-paragraph (2), for “qualifying tenants by whom” substitute “RTE company by which”.
- (11) In paragraph 15(1), after “required by” insert “or by virtue of”.

(12) For paragraph 16 (and the heading before it) substitute—

“Effect on initial notice of member’s lack of qualification

16 Where any of the members of the RTE company by which an initial notice is given was not the qualifying tenant of a flat contained in the premises at the relevant date even though his name was stated in the notice, the 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 at 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 at that date.”

38 In Schedule 4 (information to be furnished by reversioner about exercise of rights under Chapter 2), for “nominee purchaser” (in each place) substitute “RTE company”.

39 (1) Schedule 5 (vesting orders under sections 24 and 25) is amended as follows.

(2) For “nominee purchaser” (in each place) substitute “RTE company”.

(3) In paragraph 4, for “the participating tenants” substitute “its members”.

40 (1) Schedule 6 (purchase price) is amended as follows.

(2) For “nominee purchaser” (in each place, including the heading) substitute “RTE company”.

(3) For “participating tenant” (in each place) substitute “participating member of the RTE company”.

(4) In paragraph 3(1)(c), for “the tenant” substitute “the member”.

(5) In paragraph 4(2)—

(a) for “participating tenants, as” substitute “persons who are participating members of the RTE company immediately before a binding contract is entered into in pursuance of the initial notice, as”, and

(b) for “participating tenants, once” substitute “those participating members, once”.

(6) In paragraph 10(2), for “he” substitute “it”.

41 (1) Schedule 7 (conveyance to nominee purchaser on enfranchisement) is amended as follows.

(2) For “nominee purchaser” (in each place, including the heading) substitute “RTE company”.

(3) In paragraph 4, for “him” (in both places) substitute “it”.

42 (1) Schedule 8 (discharge of mortgages etc: supplementary provisions) is amended as follows.

(2) For “nominee purchaser” (in each place) substitute “RTE company”.

(3) In paragraph 3(1)—

(a) for “any participating tenant” substitute “any member of the RTE company”, and

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- (b) for “a participating tenant” substitute “any of its members”.
- (4) In paragraph 4(3), for “him” (in both places) substitute “it”.
- 43 In Schedule 9 (grants of lease back to former purchaser), for “nominee purchaser” (in each place) substitute “RTE company”.

SCHEDULE 9

Section 150

MEANING OF SERVICE CHARGE AND MANAGEMENT

Loans in respect of service charges

- 1 The Housing Act 1985 (c. 68) has effect subject to the following amendments.
- 2 (1) Section 450A (right to a loan in respect of service charges for repairs in certain cases after exercise of right to buy) is amended as follows.
- (2) In subsection (2), after “repairs” insert “or improvements”.
- (3) In subsection (5)(a), after “repairs” insert “or improvements”.
- 3 In section 450B(1)(b) (power to make loan in respect of service charges for repairs in other cases), after “repairs” insert “or improvements”.
- 4 In section 458(1) (minor definitions for purposes of Part 14 of the Act), insert at the end—
- ““service charge” has the meaning given by section 18(1) of the Landlord and Tenant Act 1985 (c. 70).”
- 5 In section 459 (index of defined expressions for Part 14 of the Act), in the entry relating to “service charge”, for “section 621A” substitute “section 458”.
- 6 In section 621A (meaning of service charge for purposes of the Act), insert at the end—
- “(5) But this section does not apply in relation to Part 14.”

Service charges

- 7 In section 18(1)(a) of the 1985 Act (meaning of service charge), after “maintenance” insert “, improvements”.

Appointment of manager

- 8 In section 24(11) of the 1987 Act (appointment of manager by leasehold valuation tribunal: meaning of management), after “maintenance” insert “, improvement”.

Right to acquire landlord’s interest

- 9 (1) Section 29 of that Act (conditions for making orders for compulsory acquisition by tenants of landlord’s interest) is amended as follows.
- (2) In subsection (2), in paragraph (a), omit “repair, maintenance, insurance or”.

(3) After that subsection insert—

“(2A) The reference in subsection (2) to the management of any premises includes a reference to the repair, maintenance, improvement or insurance of those premises.”

Tenants' right to management audit

10 In section 84 of the 1993 Act (interpretation of provisions concerning tenants' right to management audit), in the definition of “management functions”, after “maintenance” insert “, improvement”.

Codes of management practice

11 In section 87(8) of that Act (approval by Secretary of State of codes of management practice: meaning of management functions and service charge)—
(a) in paragraph (a), after “maintenance” insert “, improvement”, and
(b) in paragraph (c)(i), after “maintenance” insert “, improvements”.

Right to appoint surveyor

12 In paragraph 4(2) of Schedule 4 to the Housing Act 1996 (c. 52) (right of surveyor appointed by tenants' association to inspect premises: meaning of management functions), after “maintenance” insert “, improvement”.

Power to amend certain provisions

13 An order amending—
(a) any of the provisions amended by paragraphs 7 to 12, or
(b) section 27A(3) of the 1985 Act (as inserted by section 155),
may be made by the appropriate national authority for or in connection with altering the meaning of “service charge”, “management” or “management functions”.

SCHEDULE 10

Section 157

SERVICE CHARGES: MINOR AND CONSEQUENTIAL AMENDMENTS

Information held by superior landlord

1 For section 23 of the 1985 Act (information held by superior landlord) substitute—

“23 Information held by superior landlord

(1) If a statement of account which the landlord is required to supply under section 21 relates to matters concerning a superior landlord and the landlord is not in possession of the relevant information—

(a) he may by notice in writing require the person who is his landlord to give him the relevant information (and so on, if that person is not himself the superior landlord), and

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- (b) the superior landlord must comply with the requirement within a reasonable time.
- (2) If a notice under section 22 imposes a requirement in relation to documents held by a superior landlord—
 - (a) the landlord shall immediately inform the tenant or secretary of that fact and of the name and address of the superior landlord, and
 - (b) section 22 then applies in relation to the superior landlord (as in relation to the landlord).”

Change of landlord

2 After that section insert—

“23A Effect of change of landlord

- (1) This section applies where, at a time when a duty imposed on the landlord or a superior landlord by or by virtue of any of sections 21 to 23 remains to be discharged by him, he disposes of the whole or part of his interest as landlord or superior landlord to another person.
- (2) If the landlord or superior landlord is, despite the disposal, still in a position to discharge the duty to any extent, he remains responsible for discharging it to that extent.
- (3) If the other person is in a position to discharge the duty to any extent, he is responsible for discharging it to that extent.
- (4) Where the other person is responsible for discharging the duty to any extent (whether or not the landlord or superior landlord is also responsible for discharging it to that or any other extent)—
 - (a) references to the landlord or superior landlord in sections 21 to 23 are to, or include, the other person so far as is appropriate to reflect his responsibility for discharging the duty to that extent, but
 - (b) in connection with its discharge by the other person, section 22(6) applies as if the reference to the day on which the landlord receives the notice were to the date of the disposal referred to in subsection (1).”

Assignment

3 For section 24 of the 1985 Act substitute—

“24 Effect of assignment

The assignment of a tenancy does not affect any duty imposed by or by virtue of any of sections 21 to 23A; but a person is not required to comply with more than a reasonable number of requirements imposed by any one person.”

Offences

4 In section 25(1) of the 1985 Act (offences), for “by section 21, 22 or 23” substitute “by or by virtue of any of sections 21 to 23A”.

Exceptions

- 5 In sections 26(1) and 27 of the 1985 Act (exceptions from sections 18 to 25), for “and requests for information about costs)” substitute “, statements of account and inspection etc. of documents)”.

Accountants

- 6 (1) Section 28 of the 1985 Act (meaning of “qualified accountant”) is amended as follows.
- (2) In subsection (1), for “21(6) (certification of summary of information about relevant costs)” substitute “21(3)(a) (certification of statements of account)”.
- (3) In subsection (4)(d), for “any of the costs covered by the summary in question relate” substitute “the statement of account in question relates”.
- (4) In subsection (5A)—
- (a) for “any costs relate” substitute “a statement of account relates”, and
 - (b) for “those costs” substitute “costs covered by the statement of account”.
- (5) In subsection (6), after “landlord is” insert “an emanation of the Crown.”.
- 7 In section 39 of the 1985 Act (defined expressions), in the entry relating to “qualified accountant”, for “21(6)” substitute “21(3)(a)”.

Insurance

- 8 (1) Paragraph 2 of the Schedule to the 1985 Act (request for summary of insurance cover) is amended as follows.
- (2) In sub-paragraph (1), for “require the landlord in writing” substitute “by notice in writing require the landlord”.
- (3) In sub-paragraph (2), for “request may be made” substitute “notice may be served”.
- (4) In sub-paragraph (3)—
- (a) for “request is duly” substitute “notice under this paragraph is duly”, and
 - (b) for “whom a request” substitute “whom such a notice”.
- (5) In sub-paragraph (4), for “one month of the request,” substitute “the period of twenty-one days beginning with the day on which he receives the notice,”.
- (6) In sub-paragraph (6), for “request” substitute “notice”.
- 9 For paragraph 3 of that Schedule (request to inspect insurance policy etc. after obtaining summary of insurance cover) substitute—

“Inspection of insurance policy etc.

- 3 (1) Where a service charge is payable by the tenant of a dwelling which consists of or includes an amount payable directly or indirectly for insurance, the tenant may by notice in writing require the landlord—
- (a) to afford him reasonable facilities for inspecting any relevant policy or associated documents and for taking copies of or extracts from them, or

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- (b) to take copies of or extracts from any such policy or documents and either send them to him or afford him reasonable facilities for collecting them (as he specifies).
 - (2) If the tenant is represented by a recognised tenants' association and he consents, the notice may be served by the secretary of the association instead of by the tenant (and in that case any requirement imposed by it is to afford reasonable facilities, or to send copies or extracts, to the secretary).
 - (3) A notice under this paragraph is duly served on the landlord if it is served on—
 - (a) an agent of the landlord named as such in the rent book or similar document, or
 - (b) the person who receives the rent on behalf of the landlord;
 and a person on whom such a notice is so served shall forward it as soon as may be to the landlord.
 - (4) The landlord shall comply with a requirement imposed by a notice under this paragraph within the period of twenty-one days beginning with the day on which he receives the notice.
 - (5) To the extent that a notice under this paragraph requires the landlord to afford facilities for inspecting documents—
 - (a) he shall do so free of charge, but
 - (b) he may treat as part of his costs of management any costs incurred by him in doing so.
 - (6) The landlord may make a reasonable charge for doing anything else in compliance with a requirement imposed by a notice under this paragraph.
 - (7) In this paragraph—
 - “relevant policy” includes a policy of insurance under which the dwelling was insured for the period of insurance immediately preceding that current when the notice is served (being, in the case of a flat, a policy covering the building containing it), and
 - “associated documents” means accounts, receipts or other documents which provide evidence of payment of any premiums due under a relevant policy in respect of the period of insurance which is current when the notice is served or the period of insurance immediately preceding that period.”
- 10 (1) Paragraph 4 of that Schedule (insurance effected by superior landlord) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) for “a request is made” substitute “a notice is served”,
 - (b) for “to whom the request is made” substitute “on whom the notice is served”,
 - (c) for “make a written request for the relevant information to the person who is his landlord” substitute “by notice in writing require the person who is his landlord to give him the relevant information”,
 - (d) for “that request” substitute “the notice”, and

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(e) for “secretary’s request” substitute “secretary’s notice”.

(3) In sub-paragraph (2)—

(a) for “request under paragraph 3 relates” substitute “notice under paragraph 3 imposes a requirement relating”, and

(b) for “to whom the request is made” substitute “on whom the notice is served”.

11 After that paragraph insert—

“Effect of change of landlord

4A (1) This paragraph applies where, at a time when a duty imposed on the landlord or a superior landlord by virtue of any of paragraphs 2 to 4 remains to be discharged by him, he disposes of the whole or part of his interest as landlord or superior landlord).

(2) If the landlord or superior landlord is, despite the disposal, still in a position to discharge the duty to any extent, he remains responsible for discharging it to that extent.

(3) If the other person is in a position to discharge the duty to any extent, he is responsible for discharging it to that extent.

(4) Where the other person is responsible for discharging the duty to any extent (whether or not the landlord or superior landlord is also responsible for discharging it to that or any other extent)—

(a) references to the landlord or superior landlord in paragraphs 2 to 4 are to, or include, the other person so far as is appropriate to reflect his responsibility for discharging the duty to that extent, but

(b) in connection with its discharge by that person, paragraphs 2(4) and 3(4) apply as if the reference to the day on which the landlord receives the notice were to the date of the disposal referred to in sub-paragraph (1).”

12 In paragraph 5 of that Schedule, for the words from “the validity” onwards substitute “any duty imposed by virtue of any of paragraphs 2 to 4A; but a person is not required to comply with more than a reasonable number of requirements imposed by any one person.”

13 In paragraph 6 of that Schedule, for “paragraph 2, 3 or 4” substitute “any of paragraphs 2 to 4A”; and for the heading before that paragraph substitute “Offence of failure to comply”.

Service charge contributions: appointment of manager

14 In section 24(2) of the 1987 Act (grounds for appointment of manager), before paragraph (ac) insert—

“(abb) where the tribunal is satisfied—

(i) that there has been a failure to comply with a duty imposed by or by virtue of section 42 or 42A of this Act, and

(ii) that it is just and convenient to make the order in all the circumstances of the case;”.

Status: This is the original version (as it was originally enacted).

Trust of service charges paid by only one tenant

- 15 (1) Section 42 of the 1987 Act (service charge contributions of tenants to be held in trust) is amended as follows.
- (2) In subsection (1)—
- (a) after “costs” insert “, or the tenant of a dwelling may be required under the terms of his lease to contribute to costs to which no other tenant of a dwelling may be required to contribute,”,
 - (b) at the end of the definition of “the contributing tenants” insert “and “the sole contributing tenant” means that tenant;”, and
 - (c) in the definition of “the payee”, for “under the terms of their leases” substitute “, or that tenant, under the terms of their leases, or his lease”.
- (3) In subsection (2), after “tenants” insert “, or the sole contributing tenant,”.
- (4) In subsection (3), insert at the end “, or the person who is the sole contributing tenant for the time being.”
- (5) In subsection (4), insert at the end “or the sole contributing tenant shall be treated as so entitled to the residue of any such fund.”
- (6) In subsection (6), for “a contributing tenant” substitute “any of the contributing tenants”.
- (7) In subsection (7), for “If after the termination of any such lease there are no longer any contributing tenants,” substitute “On the termination of the lease of the last of the contributing tenants, or of the lease of the sole contributing tenant,”.
- (8) In subsection (8)—
- (a) for “a contributing tenant” substitute “any of the contributing tenants, or the sole contributing tenant,”, and
 - (b) after “his lease” insert “(whenever it was granted)”.
- (9) In subsection (9)—
- (a) after “so created” insert “, in the case of a lease of any of the contributing tenants,”, and
 - (b) insert at the end “or, in the case of the lease of the sole contributing tenant, before the commencement of paragraph 15 of Schedule 10 to the Commonhold and Leasehold Reform Act 2002.”

Management audit

- 16 (1) Section 79 of the 1993 Act (rights exercisable in connection with management audit) is amended as follows.
- (2) In subsection (1), for “subsection (2)” substitute “subsections (2) and (2A)”.
- (3) For subsection (2) substitute—
- “(2) The right conferred on the auditor by this subsection is a right to require the landlord—
- (a) to afford him reasonable facilities for inspecting accounts, receipts or other documents relevant to the matters which must be shown in any statement of account required to be supplied to the qualifying

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- tenants of the constituent dwellings under section 21 of the 1985 Act and for taking copies of or extracts from them, or
- (b) to take copies of or extracts from any such accounts, receipts or other documents and either send them to him or afford him reasonable facilities for collecting them (as he specifies).
- (2A) The right conferred on the auditor by this subsection is a right to require the landlord or any relevant person—
- (a) to afford him reasonable facilities for inspecting any other documents sight of which is reasonably required by him for the purpose of carrying out the audit and for taking copies of or extracts from them, or
- (b) to take copies of or extracts from any such documents and either send them to him or afford him reasonable facilities for collecting them (as the auditor specifies).”
- (4) In subsection (3), for “subsection (2)” substitute “subsections (2) and (2A)”.
- (5) For subsections (5) and (6) substitute—
- “(5) To the extent that a requirement imposed under this section on the landlord or any relevant person requires him to afford facilities for inspecting documents, he shall do so free of charge; but the landlord may treat as part of his costs of management any costs incurred by him in doing so.
- (6) The landlord or a relevant person may make a reasonable charge for doing anything else in compliance with such a requirement.”
- (6) In subsection (8)(a), for “being afforded any such facilities as are mentioned in subsection (2)” substitute “a requirement imposed under subsection (2) or (2A)”.
- 17 In section 80(3) of the 1993 Act (matters to be contained in notice of exercise of right management audit), for paragraph (c) substitute—
- “(c) specify any documents or description of documents in respect of which a requirement is imposed on him under section 79(2) or (2A); and”.
- 18 (1) Section 81 of the 1993 Act (procedure following giving of notice under section 80) is amended as follows.
- (2) In subsection (1), for paragraphs (a) and (b) substitute—
- “(a) comply with it so far as it relates to documents within section 79(2);
- (b) either—
- (i) comply with it, or
- (ii) give the auditor a notice stating that he objects to doing so for such reasons as are specified in the notice,
- so far as it relates to documents within section 79(2A); and”.
- (3) In subsection (3), for the words from “requiring him” to the end substitute “, then within the period of one month beginning with the date of the giving of the notice, he shall either—
- (a) comply with it, or
- (b) give the auditor a notice stating that he objects to doing so for such reasons as are specified in the notice,

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in the case of every document or description of document specified in the notice.”

- (4) In subsection (5), for “paragraph (a) or (b) of section 79(2)” substitute “section 79(2) or (2A)”.
- 19 In section 82 of the 1993 Act (information held by superior landlord), for subsections (1) and (2) substitute—
- “(1) Where the landlord is given a notice under section 80 imposing on him a requirement relating to any documents which are held by a superior landlord, he shall inform the auditor as soon as may be of that fact and of the name and address of the superior landlord.
- (2) The auditor may then give the superior landlord a notice requiring him to comply with the requirement.”

SCHEDULE 11

Section 158

ADMINISTRATION CHARGES

PART 1

REASONABLENESS OF ADMINISTRATION CHARGES

Meaning of “administration charge”

- 1 (1) In this Part of this Schedule “administration charge” means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly—
- (a) for or in connection with the grant of approvals under his lease, or applications for such approvals,
 - (b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,
 - (c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or
 - (d) in connection with a breach (or alleged breach) of a covenant or condition in his lease.
- (2) But an amount payable by the tenant of a dwelling the rent of which is registered under Part 4 of the Rent Act 1977 (c. 42) is not an administration charge, unless the amount registered is entered as a variable amount in pursuance of section 71(4) of that Act.
- (3) In this Part of this Schedule “variable administration charge” means an administration charge payable by a tenant which is neither—
- (a) specified in his lease, nor
 - (b) calculated in accordance with a formula specified in his lease.

Status: This is the original version (as it was originally enacted).

- (4) An order amending sub-paragraph (1) may be made by the appropriate national authority.

Reasonableness of administration charges

- 2 A variable administration charge is payable only to the extent that the amount of the charge is reasonable.
- 3 (1) Any party to a lease of a dwelling may apply to a leasehold valuation tribunal for an order varying the lease in such manner as is specified in the application on the grounds that—
- (a) any administration charge specified in the lease is unreasonable, or
 - (b) any formula specified in the lease in accordance with which any administration charge is calculated is unreasonable.
- (2) If the grounds on which the application was made are established to the satisfaction of the tribunal, it may make an order varying the lease in such manner as is specified in the order.
- (3) The variation specified in the order may be—
- (a) the variation specified in the application, or
 - (b) such other variation as the tribunal thinks fit.
- (4) The tribunal may, instead of making an order varying the lease in such manner as is specified in the order, make an order directing the parties to the lease to vary it in such manner as is so specified.
- (5) The tribunal may by order direct that a memorandum of any variation of a lease effected by virtue of this paragraph be endorsed on such documents as are specified in the order.
- (6) Any such variation of a lease shall be binding not only on the parties to the lease for the time being but also on other persons (including any predecessors in title), whether or not they were parties to the proceedings in which the order was made.

Notice in connection with demands for administration charges

- 4 (1) A demand for the payment of an administration charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to administration charges.
- (2) The appropriate national authority may make regulations prescribing requirements as to the form and content of such summaries of rights and obligations.
- (3) A tenant may withhold payment of an administration charge which has been demanded from him if sub-paragraph (1) is not complied with in relation to the demand.
- (4) Where a tenant withholds an administration charge under this paragraph, any provisions of the lease relating to non-payment or late payment of administration charges do not have effect in relation to the period for which he so withholds it.

Liability to pay administration charges

- 5 (1) An application may be made to a leasehold valuation tribunal for a determination whether an administration charge is payable and, if it is, as to—
- (a) the person by whom it is payable,
 - (b) the person to whom it is payable,
 - (c) the amount which is payable,
 - (d) the date at or by which it is payable, and
 - (e) the manner in which it is payable.
- (2) Sub-paragraph (1) applies whether or not any payment has been made.
- (3) The jurisdiction conferred on a leasehold valuation tribunal in respect of any matter by virtue of sub-paragraph (1) is in addition to any jurisdiction of a court in respect of the matter.
- (4) No application under sub-paragraph (1) may be made in respect of a matter which—
- (a) has been agreed or admitted by the tenant,
 - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
 - (c) has been the subject of determination by a court, or
 - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.
- (6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—
- (a) in a particular manner, or
 - (b) on particular evidence,
- of any question which may be the subject matter of an application under sub-paragraph (1).

Interpretation

- 6 (1) This paragraph applies for the purposes of this Part of this Schedule.
- (2) “Tenant” includes a statutory tenant.
- (3) “Dwelling” and “statutory tenant” (and “landlord” in relation to a statutory tenant) have the same meanings as in the 1985 Act.
- (4) “Post-dispute arbitration agreement”, in relation to any matter, means an arbitration agreement made after a dispute about the matter has arisen.
- (5) “Arbitration agreement” and “arbitral tribunal” have the same meanings as in Part 1 of the Arbitration Act 1996 (c. 23).

PART 2

AMENDMENTS OF LANDLORD AND TENANT ACT 1987

- 7 The 1987 Act has effect subject to the following amendments.

Status: This is the original version (as it was originally enacted).

- 8 (1) Section 24 (appointment of manager by leasehold valuation tribunal) is amended as follows.
- (2) In subsection (2), after paragraph (ab) insert—
- “(aba) where the tribunal is satisfied—
- (i) that unreasonable variable administration charges have been made, or are proposed or likely to be made, and
- (ii) that it is just and convenient to make the order in all the circumstances of the case;”.
- (3) After subsection (2A) insert—
- “(2B) In subsection (2)(aba) “variable administration charge” has the meaning given by paragraph 1 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.”
- 9 In section 46 (interpretation of provisions concerning information to be furnished to tenants), insert at the end—
- “(3) In this Part “administration charge” has the meaning given by paragraph 1 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.”
- 10 (1) Section 47 (landlord’s name and address to be contained in demands for rent etc.) is amended as follows.
- (2) In subsection (2), after “service charge” insert “or an administration charge”.
- (3) In subsection (3), after “service charges” insert “or (as the case may be) administration charges”.
- 11 (1) Section 48 (notification by landlord of address for service of notices) is amended as follows.
- (2) In subsection (2), for “or service charge” substitute “, service charge or administration charge”.
- (3) In subsection (3)—
- (a) for “or service charge” substitute “, service charge or administration charge”, and
- (b) for “or (as the case may be) service charges” substitute “, service charges or (as the case may be) administration charges”.

SCHEDULE 12

Section 174

LEASEHOLD VALUATION TRIBUNALS: PROCEDURE

Procedure regulations

- 1 The appropriate national authority may make regulations about the procedure of leasehold valuation tribunals (“procedure regulations”).

Applications

- 2 Procedure regulations may include provision—

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- (a) about the form of applications to leasehold valuation tribunals,
- (b) about the particulars that must be contained in such applications,
- (c) requiring the service of notices of such applications, and
- (d) for securing consistency where numerous applications are or may be brought in respect of the same or substantially the same matters.

Transfers

- 3 (1) Where in any proceedings before a court there falls for determination a question falling within the jurisdiction of a leasehold valuation tribunal, the court—
- (a) may by order transfer to a leasehold valuation tribunal so much of the proceedings as relate to the determination of that question, and
 - (b) may then dispose of all or any remaining proceedings, or adjourn the disposal of all or any remaining proceedings pending the determination of that question by the leasehold valuation tribunal, as it thinks fit.
- (2) When the leasehold valuation tribunal has determined the question, the court may give effect to the determination in an order of the court.
- (3) Rules of court may prescribe the procedure to be followed in a court in connection with or in consequence of a transfer under this paragraph.
- (4) Procedure regulations may prescribe the procedure to be followed in a leasehold valuation tribunal consequent on a transfer under this paragraph.

Information

- 4 (1) A leasehold valuation tribunal may serve a notice requiring any party to proceedings before it to give to the leasehold valuation tribunal any information which the leasehold valuation tribunal may reasonably require.
- (2) The information shall be given to the leasehold valuation tribunal within such period (not being less than 14 days) from the service of the notice as is specified in the notice.
- (3) A person commits an offence if he fails, without reasonable excuse, to comply with a notice served on him under sub-paragraph (1).
- (4) A person guilty of an offence under sub-paragraph (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Pre-trial reviews

- 5 (1) Procedure regulations may include provision for the holding of a pre-trial review (on the application of a party to proceedings or on the motion of a leasehold valuation tribunal).
- (2) Procedure regulations may provide for the exercise of the functions of a leasehold valuation tribunal in relation to, or at, a pre-trial review by a single member of the panel provided for in Schedule 10 to the Rent Act 1977 (c. 42) who is qualified to exercise them.
- (3) A member is qualified to exercise the functions specified in sub-paragraph (2) if he was appointed to that panel by the Lord Chancellor.

Parties

- 6 Procedure regulations may include provision enabling persons to be joined as parties to proceedings.

Dismissal

- 7 Procedure regulations may include provision empowering leasehold valuation tribunals to dismiss applications or transferred proceedings, in whole or in part, on the ground that they are—
- (a) frivolous or vexatious, or
 - (b) otherwise an abuse of process.

Determination without hearing

- 8 (1) Procedure regulations may include provision for the determination of applications or transferred proceedings without an oral hearing.
- (2) Procedure regulations may provide for the determinations without an oral hearing by a single member of the panel provided for in Schedule 10 to the Rent Act 1977.

Fees

- 9 (1) Procedure regulations may include provision requiring the payment of fees in respect of an application or transfer of proceedings to, or oral hearing by, a leasehold valuation tribunal in a case under—
- (a) the 1985 Act (service charges and choice of insurers),
 - (b) Part 2 of the 1987 Act (managers),
 - (c) Part 4 of the 1987 Act (variation of leases),
 - (d) section 168(4) of this Act, or
 - (e) Schedule 11 to this Act.
- (2) Procedure regulations may empower a leasehold valuation tribunal to require a party to proceedings to reimburse any other party to the proceedings the whole or part of any fees paid by him.
- (3) The fees payable shall be such as are specified in or determined in accordance with procedure regulations; but the fee (or, where fees are payable in respect of both an application or transfer and an oral hearing, the aggregate of the fees) payable by a person in respect of any proceedings shall not exceed—
- (a) £500, or
 - (b) such other amount as may be specified in procedure regulations.
- (4) Procedure regulations may provide for the reduction or waiver of fees by reference to the financial resources of the party by whom they are to be paid or met.
- (5) If they do so they may apply, subject to such modifications as may be specified in the regulations, any other statutory means-testing regime as it has effect from time to time.

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Costs

- 10 (1) A leasehold valuation tribunal may determine that a party to proceedings shall pay the costs incurred by another party in connection with the proceedings in any circumstances falling within sub-paragraph (2).
- (2) The circumstances are where—
- (a) he has made an application to the leasehold valuation tribunal which is dismissed in accordance with regulations made by virtue of paragraph 7, or
 - (b) he has, in the opinion of the leasehold valuation tribunal, acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings.
- (3) The amount which a party to proceedings may be ordered to pay in the proceedings by a determination under this paragraph shall not exceed—
- (a) £500, or
 - (b) such other amount as may be specified in procedure regulations.
- (4) A person shall not be required to pay costs incurred by another person in connection with proceedings before a leasehold valuation tribunal except by a determination under this paragraph or in accordance with provision made by any enactment other than this paragraph.

Enforcement

- 11 Procedure regulations may provide for decisions of leasehold valuation tribunals to be enforceable, with the permission of a county court, in the same way as orders of such a court.

SCHEDULE 13

Section 176

LEASEHOLD VALUATION TRIBUNALS: AMENDMENTS

Leasehold Reform Act 1967 (c. 88)

- 1 The 1967 Act has effect subject to the following amendments.
- 2 In section 9 (costs of enfranchisement), after subsection (4) insert—
- “(4A) Subsection (4) above does not require a person to bear the costs of another person in connection with an application to a leasehold valuation tribunal.”
- 3 In section 14 (costs of lease extension), after subsection (2) insert—
- “(2A) Subsection (2) above does not require a person to bear the costs of another person in connection with an application to a leasehold valuation tribunal.”
- 4 In section 20 (county court), after subsection (4) insert—
- “(4A) Where the court certifies particulars of delay or default to the Lands Tribunal under subsection (4)(b) above, the Lands Tribunal may make any order as to costs of proceedings before the Lands Tribunal which the court may make in relation to proceedings in the court.”
- 5 In section 21 (leasehold valuation tribunals), after subsection (2) insert—

Status: This is the original version (as it was originally enacted).

“(2A) For the purposes of this Part of this Act a matter is to be treated as determined by (or on appeal from) a leasehold valuation tribunal—

- (a) if the decision on the matter is not appealed against, at the end of the period for bringing an appeal; or
- (b) if that decision is appealed against, at the time when the appeal is disposed of.

(2B) 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.”

6 In paragraph 8 of Schedule 2 (county court), after sub-paragraph (1) insert—

“(1A) Where the court certifies particulars of delay or default to the Lands Tribunal under sub-paragraph (1)(b) above, the Lands Tribunal may make any order as to costs of proceedings before the Lands Tribunal which the court may make in relation to proceedings in the court.”

Housing Act 1980 (c. 51)

7 (1) Section 142 of the Housing Act 1980 (role of leasehold valuation tribunals under 1967 Act) is amended as follows.

(2) In subsection (1), for “rent assessment committee constituted under Schedule 10 to the 1977 Act” substitute “leasehold valuation tribunal”.

(3) In subsection (3), for “Part 2 of that Schedule” substitute “Schedule 22 to this Act”.

Landlord and Tenant Act 1987 (c. 31)

8 The 1987 Act has effect subject to the following amendments.

9 In section 24(9A) (appointment of manager), for “court” substitute “tribunal”.

10 In section 47(3) (landlord’s name and address to be contained in demands for rent etc.), after “court” insert “or tribunal”.

11 In section 48(3) (notification by landlord of address for service of notices), after “court” insert “or tribunal”.

Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)

12 The 1993 Act has effect subject to the following amendments.

13 (1) Section 70 (approval by leasehold valuation tribunal of estate management scheme) is amended as follows.

(2) For subsection (6) substitute—

“(6) Where the application is to be considered in an oral hearing, the tribunal shall afford to any person making representations under subsection (4)(b) about the application an opportunity to appear at the hearing.”

(3) After subsection (10) insert—

Status: This is the original version (as it was originally enacted).

“(10A) Any person who makes representations under subsection (4)(b) about an application for the approval of a scheme may appeal from a decision of the tribunal in proceedings on the application.”

14 In section 88(2) (jurisdiction of leasehold valuation tribunals in cases of Crown enfranchisement), for “rent assessment committee constituted for the purposes of this section” substitute “leasehold valuation tribunal”.

15 In section 91(1) (jurisdiction of leasehold valuation tribunals), for “such a rent assessment committee” substitute “a leasehold valuation tribunal”.

Housing Act 1996 (c. 52)

16 In section 81 of the Housing Act 1996 (restriction on termination of tenancy for failure to pay service charge), after subsection (5) insert—

“(5A) Any order of a court to give effect to a determination of a leasehold valuation tribunal shall be treated as a determination by the court for the purposes of this section.”

SCHEDULE 14

Section 180

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Leasehold Reform Act 1967 (c. 88)	<p>In section 1—</p> <p>in subsection (1), the words “, occupying the house as his residence,” and the words “, and occupying it as his residence,”,</p> <p>subsection (2), and</p> <p>in subsection (3)(a), the words “and occupied by”.</p> <p>In section 1AA—</p> <p>in subsection (1)(b), the words “falls within subsection (2) below and”, and subsections (2) and (4).</p> <p>In section 2—</p> <p>in subsection (3), the words “and occupied by” and the words from “and are occupied” to the end, and</p> <p>in subsection (4), the words “or a subletting”.</p> <p>In section 3(3), the words “, except section 1AA,”.</p> <p>In section 6—</p> <p>in subsection (2), the words “in respect of his occupation of the house”,</p> <p>subsection (3), and</p>

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	in subsection (5), the words “or statutory owners, as the case may be,” the words “or them” and the words “or (3)”.
	In section 7— in subsection (1), the words “while occupying it as his residence”, the words “, and occupying the house as his residence,” and paragraph (b) and the word “and” before it, in subsection (4), the words “while so occupying the house” and the words “occupying in right of the tenancy”, and subsection (6).
	In section 9— in subsection (1), the words “who reside in the house”, in subsection (1A)(a), the words “and, where the tenancy has been extended under this Part of this Act, that the tenancy will terminate on the original term date”, and subsection (1C)(a).
	In section 16— subsection (1)(a), in subsection (2), the words “or occupied”, the words “(a) or” and the words “the freehold or”, in subsection (3), the words “the freehold or” and the proviso, and in subsection (4), the words “the freehold or”.
	Section 21(1A) and (3) to (4A).
	In section 37— in subsection (4), the words “, except section 1AA,”, and in subsection (5), the words from the beginning to “but”.
	In Schedule 3, in paragraph 6, sub-paragraph (1)(d) and, in sub-paragraph (2), the words “and (d)”.
	In Schedule 4A, in paragraph 3(2)(d), the word “assign,”.
Land Compensation Act 1973 (c. 26)	In section 12A(9), the word “and” at the end of paragraph (a).
Housing Act 1980 (c. 51)	In section 142— subsection (2), and

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	in subsection (3), the words from the beginning to “and”.
	In Schedule 21, paragraph 1.
	In Schedule 22— Part 1, and in Part 2, paragraph 8(4) to (6).
Landlord and Tenant Act 1985 (c. 70)	Section 19(2A) to (3). Sections 31A to 31C. In section 39, the entry relating to the expression “flat”. In the Schedule— in the heading before paragraph 2, the words “ <i>Request for</i> ”, in the heading before paragraph 4, the words “ <i>Request relating to</i> ”, in the heading before paragraph 5, the words “ <i>on request</i> ”, and paragraph 8(5).
Housing and Planning Act 1986 (c. 63)	In Schedule 5, paragraph 9(2).
Landlord and Tenant Act 1987 (c. 31)	Section 23(2). Sections 24A and 24B. In section 29(2)(a), the words “repair, maintenance, insurance or”. In section 38, in the sidenote, the words “by the court”. In section 42— in subsection (2), the words “, and any investments representing those sums,”, subsection (5), and in subsection (8), the words “(whether the lease was granted before or after the commencement of this section)”. Section 52A. In section 53(2), the words “, 42(5)” and the words “under section 52A(3) or”. Section 56(2). In Schedule 2, paragraphs 3, 5, 6 and 7.
Local Government and Housing Act 1989 (c. 42)	In Schedule 11, paragraphs 10 and 91.
Tribunals and Inquiries Act 1992 (c. 53)	In Schedule 3, paragraph 13.

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)	<p>In section 2(3), the words “, on behalf of the tenants by whom the right to collective enfranchisement is exercised”.</p> <p>In section 5—</p> <p>in subsection (1), the words “which is at a low rent or for a particularly long term”, and</p> <p>in subsection (2)(c), the words “at a low rent or for a particularly long term”.</p> <p>Section 6.</p> <p>In section 7(3), the words “at a low rent”.</p> <p>Section 8.</p> <p>Section 8A.</p> <p>In section 10—</p> <p>subsection (2),</p> <p>subsection (3),</p> <p>subsection (4A), and</p> <p>in subsection (6), the definition of “qualifying flat”.</p> <p>In section 11(6), the words “by the qualifying tenant”.</p> <p>In section 12—</p> <p>subsection (1)(a),</p> <p>subsection (2),</p> <p>subsection (4), and</p> <p>subsection (6).</p> <p>In section 13—</p> <p>in subsection (2), sub-paragraph (i) of paragraph (b) and the words following that paragraph, and</p> <p>in subsection (3)(e), the words “the following particulars”, the word “namely” and sub-paragraphs (ii) and (iii).</p> <p>Section 14.</p> <p>Section 15.</p> <p>Section 16.</p> <p>In section 18—</p> <p>in subsection (1), paragraph (b) and the word “or” before it, the words “or shareholding” (in both places) and the words “or established”, and</p> <p>in subsection (2), the words “or shareholding” and the words “or (b)”.</p>

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	In section 28— subsection (3), and in subsection (4), the words “or (3)”.
	In section 29— subsection (5)(a) and (b), and subsection (7).
	In section 33— in subsection (1), the words “, 29(7)”, and subsections (6) and (7).
	In section 37A— subsection (7), and in subsection (8)(a), the words “(whether by persons who are qualifying tenants or not)”.
	In section 38(1), the definitions of “the nominee purchaser” and “the participating tenants”.
	In section 39— in subsection (2), paragraph (b) and the word “and” before it, subsections (2A) and (2B), subsection (3)(c) and (d), and subsections (4A) and (5).
	Section 42(3)(b)(iii) and (iv) and (4).
	In section 45(5), the words “and (b)”.
	Section 62(4).
	Section 75(4) and (5).
	In section 88— in subsection (2)(b), the words “constituted for the purposes of that Part of that Act”, and subsections (3) to (5) and (7).
	In section 91— in subsection (1), the words from the beginning to “this section; and”, subsections (3) to (8), subsection (10), and in subsection (11), the words from “and the reference” to the end.
	In section 93(2)(b)— the words “become a participating tenant for the purposes of Chapter 1 or has”,

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	the words “section 13 or (as the case may be)”, the words “entitlement or”, and the words “(i) or”.
	In section 94— in subsections (3) and (4), the words “which is at a low rent or for a particularly long term”, in subsection (10), the words from “and references in this subsection” to the end, and in subsection (12), the words “which is at a low rent or for a particularly long term” and the words “, 8 and 8A”.
	In section 99(5)(a)— the words “13 or”, and the words “by each of the tenants, or (as the case may be)”.
	In section 101(1), the definition of “rent assessment committee”.
	In Schedule 3— in the heading before paragraph 7, the words “ <i>against participating tenant</i> ”, paragraphs 8 and 9, and in paragraph 10(1), in paragraph (a), the words from “and references” to the end and, in paragraph (b), the words “(whether by persons who are qualifying tenants or not)”.
	In Schedule 5, paragraph 5(2)(a), (b) and (c).
	In Schedule 6, in paragraph 1(1), the definition of “the valuation date”.
	In Schedule 13, in paragraph 1, the definition of “the valuation date”.
Housing Act 1996 (c. 52)	Section 82. Section 83(1) and (3). Section 86(4) and (5). Section 105(3). Sections 111 and 112. Section 119. In Schedule 6, in Part 4, paragraphs 7 and 8. In Schedule 9, paragraphs 2(3) and (7), 3, 4 and 5(2) and (3).

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	In Schedule 10— paragraph 4, and in paragraph 18(2), paragraph (b) and the word “and” before it.
Housing Grants, Construction and Regeneration Act 1996 (c. 53)	In Schedule 1, paragraph 12.
Commonhold and Leasehold Reform Act 2002 (c. 15)	Section 104.
