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SCHEDULES

SCHEDULE 12

Section 303

SERVICE CHARGES: PROVISION OF INFORMATION AND DESIGNATED ACCOUNTS

Landlord and Tenant Act 1985 (c. 70)

1 The Landlord and Tenant Act 1985 is amended as follows.

Commencement Information

II Sch. 12 para. 1 in force at 1.12.2008 for specified purposes by [S.I. 2008/3068](#), [art. 4\(6\)](#) (with [arts. 6-13](#))

2 For section 21 (as substituted by section 152 of the Commonhold and Leasehold Reform Act 2002 (c. 15)) (regular statements of account) substitute—

“21 Service charge information

- (1) The appropriate national authority may make regulations about the provision, by landlords of dwellings to each tenant by whom service charges are payable, of information about service charges.
- (2) The regulations must, subject to any exceptions provided for in the regulations, require the landlord to provide information about—
 - (a) the service charges of the tenant,
 - (b) any associated service charges, and
 - (c) relevant costs relating to service charges falling within paragraph (a) or (b).
- (3) The regulations must, subject to any exceptions provided for in the regulations, require the landlord to provide the tenant with a report by a qualified person on information which the landlord is required to provide by virtue of this section.
- (4) The regulations may make provision about—
 - (a) information to be provided by virtue of subsection (2),
 - (b) other information to be provided (whether in pursuance of a requirement or otherwise),
 - (c) reports of the kind mentioned in subsection (3),
 - (d) the period or periods in relation to which information or reports are to be provided,
 - (e) the times at or by which information or reports are to be provided,
 - (f) the form and manner in which information or reports are to be provided (including in particular whether information is to be contained in a statement of account),

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- (g) the descriptions of persons who are to be qualified persons for the purposes of subsection (3).
- (5) Subsections (2) to (4) do not limit the scope of the power conferred by subsection (1).
- (6) Regulations under this section may—
 - (a) make different provision for different cases or descriptions of case or for different purposes,
 - (b) contain such supplementary, incidental, consequential, transitional, transitory or saving provision as the appropriate national authority considers appropriate.
- (7) Regulations under this section are to be made by statutory instrument which, subject to subsections (8) and (9)—
 - (a) in the case of regulations made by the Secretary of State, is to be subject to annulment in pursuance of a resolution of either House of Parliament, and
 - (b) in the case of regulations made by the Welsh Ministers, is to be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (8) The Secretary of State may not make a statutory instrument containing the first regulations made by the Secretary of State under this section unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (9) The Welsh Ministers may not make a statutory instrument containing the first regulations made by the Welsh Ministers under this section unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (10) In this section—
 - “the appropriate national authority”—
 - (a) in relation to England, means the Secretary of State, and
 - (b) in relation to Wales, means the Welsh Ministers,
 - “associated service charges”, in relation to a tenant by whom a contribution to relevant costs is payable as a service charge, means service charges of other tenants so far as relating to the same costs.”

Commencement Information

12 Sch. 12 para. 2 in force at 1.12.2008 for specified purposes by [S.I. 2008/3068](#), [art. 4\(6\)](#) (with [arts. 6-13](#))

3 (1) Section 21A (withholding of service charges) is amended as follows.

(2) For subsection (1) substitute—

- “(1) A tenant may withhold payment of a service charge if—
- (a) the landlord has not provided him with information or a report—
 - (i) at the time at which, or
 - (ii) (as the case may be) by the time by which,
- he is required to provide it by virtue of section 21, or

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- (b) the form or content of information or a report which the landlord has provided him with by virtue of that section (at any time) does not conform exactly or substantially with the requirements prescribed by regulations under that section.”
- (3) In subsection (2)—
- (a) in paragraph (a) for “accounting period to which the document” substitute “period to which the information or report”, and
 - (b) for paragraph (b) substitute—
 - “(b) amounts standing to the tenant's credit in relation to the service charges at the beginning of that period.”
- (4) In subsection (3)—
- (a) in paragraph (a) for “document concerned has been supplied” substitute “information or report concerned has been provided”, and
 - (b) for paragraph (b) substitute—
 - “(b) in a case within paragraph (b) of that subsection, after information or a report conforming exactly or substantially with requirements prescribed by regulations under section 21 has been provided to the tenant by the landlord by way of replacement of that previously provided.”

Commencement Information

I3 Sch. 12 para. 3 in force at 1.12.2008 for specified purposes by [S.I. 2008/3068](#), [art. 4\(6\)](#) (with [arts. 6-13](#))

- 4
- (1) Section 22 (as substituted by section 154 of the Commonhold and Leasehold Reform Act 2002 (c. 15)) (inspection etc. of documents) is amended as follows.
 - (2) In subsection (1)(a) for the words from “the matters” to “under” substitute “information required to be provided to him by virtue of”.
 - (3) In subsection (3) for “supplied with the statement of account under” substitute “provided with the information concerned by virtue of”.
 - (4) In subsection (4)—
 - (a) for “statement of account”, wherever it appears, substitute “information”,
 - (b) for “supplied”, wherever it appears, substitute “provided”, and
 - (c) in paragraph (b) for “21(4)” substitute “21”.

Commencement Information

I4 Sch. 12 para. 4 in force at 1.12.2008 for specified purposes by [S.I. 2008/3068](#), [art. 4\(6\)](#) (with [arts. 6-13](#))

- 5
- In section 23(1) (as substituted by paragraph 1 of Schedule 10 to the Commonhold and Leasehold Reform Act 2002 (c. 15) (information held by superior landlord))—
 - (a) for “a statement of account which the landlord is required to supply under” substitute “information which the landlord is required to provide by virtue of”, and
 - (b) after “of the relevant information” insert “which relates to those matters”.

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I5 Sch. 12 para. 5 in force at 1.12.2008 for specified purposes by [S.I. 2008/3068](#), **art. 4(6)** (with [arts. 6-13](#))

- 6 In section 23A(4) (effect of change of landlord)—
- (a) in paragraph (a) after “23” insert “ and any regulations under section 21 ”, and
 - (b) after paragraph (b) insert “and
 - (c) any regulations under section 21 apply subject to any modifications contained in the regulations.”

Commencement Information

I6 Sch. 12 para. 6 in force at 1.12.2008 for specified purposes by [S.I. 2008/3068](#), **art. 4(6)** (with [arts. 6-13](#))

- 7 In section 26(1) (exception: tenants of certain public authorities) for “statements of account” substitute “ service charge information, reports on such information ”.

Commencement Information

I7 Sch. 12 para. 7 in force at 1.12.2008 for specified purposes by [S.I. 2008/3068](#), **art. 4(6)** (with [arts. 6-13](#))

- 8 In section 27 (exception: rent registered and not entered as variable) for “statements of account” substitute “ service charge information, reports on such information ”.

Commencement Information

I8 Sch. 12 para. 8 in force at 1.12.2008 for specified purposes by [S.I. 2008/3068](#), **art. 4(6)** (with [arts. 6-13](#))

- 9 Omit section 28 (meaning of “qualified accountant”).

Commencement Information

I9 Sch. 12 para. 9 in force at 1.12.2008 for specified purposes by [S.I. 2008/3068](#), **art. 4(6)** (with [arts. 6-13](#))

- 10 In section 39 (index of defined expressions) omit the entry in the Table for “qualified accountant”.

Commencement Information

I10 Sch. 12 para. 10 in force at 1.12.2008 for specified purposes by [S.I. 2008/3068](#), **art. 4(6)** (with [arts. 6-13](#))

Landlord and Tenant Act 1987 (c. 31)

- 11 The Landlord and Tenant Act 1987 is amended as follows.

Commencement Information

I11 Sch. 12 para. 11 in force at 1.12.2008 for specified purposes by [S.I. 2008/3068](#), **art. 4(7)** (with [arts. 6-13](#))

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- 12 (1) Section 42A (service charge contributions to be held in designated account) is amended as follows.
- (2) In subsection (2)—
- (a) for paragraph (b) substitute—
- “(b) any other sums held in the account are sums standing to the credit of one or more other trust funds,” and
- (b) for “Secretary of State” substitute “ appropriate national authority ”.
- (3) After subsection (2) insert—
- “(2A) The appropriate national authority may by regulations ensure that a payee who holds more than one trust fund in the same designated account cannot move any of those funds to another designated account unless conditions specified in the regulations are met.”
- (4) In subsection (3)(a)—
- (a) after “subsection (1) is” insert “ , or regulations under subsection (2A) are, ”, and
- (b) for “them” substitute “ such documents ”.
- (5) In subsections (5), (6), (7) and (8) for “this section” substitute “ subsection (3) ”.
- (6) After subsection (9) insert—
- “(9A) Regulations under subsection (2A) may include provision about —
- (a) the circumstances in which a contributing tenant who has reasonable grounds for believing that the payee has not complied with a duty imposed on him by the regulations may withhold payment of a service charge,
- (b) the period for which payment may be so withheld,
- (c) the amount of service charge that may be so withheld;
- and the regulations may provide that any provisions of the contributing tenant's tenancy relating to non-payment or late payment of service charge do not have effect in relation to the period for which the payment is so withheld.”
- (7) In subsection (10)—
- (a) after “this section” insert “ or in regulations under subsection (2A) ”, and
- (b) for “Secretary of State” substitute “ appropriate national authority ”.
- (8) After subsection (10) insert—
- “(10A) Regulations under this section may—
- (a) make different provision for different cases, including different provision for different areas,
- (b) contain such supplementary, incidental, consequential, transitional, transitory or saving provision as the appropriate national authority considers appropriate.
- (10B) Regulations under this section are to be made by statutory instrument which—

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- (a) in the case of regulations made by the Secretary of State, is to be subject to annulment in pursuance of a resolution of either House of Parliament, and
 - (b) in the case of regulations made by the Welsh Ministers, is to be subject to annulment in pursuance of a resolution of the National Assembly for Wales.”
- (9) In subsection (11)—
- (a) after “section—” insert—
 - ““the appropriate national authority”—
 - (a) in relation to England, means the Secretary of State, and
 - (b) in relation to Wales, means the Welsh Ministers,” and
 - (b) in the definition of “relevant financial institution” for “Secretary of State” substitute “ appropriate national authority ”.

Commencement Information

I12 Sch. 12 para. 12 in force at 1.12.2008 for specified purposes by [S.I. 2008/3068](#), [art. 4\(7\)](#) (with [arts. 6-13](#))

- 13 (1) Section 53 (regulations and orders) is amended as follows.
- (2) In subsection (2)(b) omit “or 42A”.
 - (3) After subsection (2) insert—
 - “(3) This section does not apply to any power to make regulations under section 42A.”

Commencement Information

I13 Sch. 12 para. 13 in force at 1.12.2008 for specified purposes by [S.I. 2008/3068](#), [art. 4\(7\)](#) (with [arts. 6-13](#))

PROSPECTIVE

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

- 14 The Leasehold Reform, Housing and Urban Development Act 1993 is amended as follows.
- 15 (1) Section 78 (management audits) is amended as follows.
- (2) In subsection (4) for paragraphs (a) and (b), and the “and” following paragraph (b), substitute—
 - “(a) he is—
 - (i) a member of a body which is a recognised supervisory body for the purposes of Part 42 of the Companies Act 2006;
 - (ii) a qualified surveyor; or
 - (iii) where the landlord is a relevant landlord, a member of the Chartered Institute of Public Finance and Accountancy;
 - (b) he is not any of the following—

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- (i) an officer, employee or partner of the landlord or, where the landlord is a company, of an associated company;
- (ii) a person who is a partner or employee of any such officer or employee;
- (iii) an agent of the landlord who is a managing agent for any premises to which the audit in question relates; or
- (iv) an employee or partner of any such agent; and”.

(3) After subsection (5) insert—

“(5A) For the purposes of subsection (4)(b)(i) above a company is associated with a landlord company if it is the landlord's holding company, a subsidiary of the landlord or another subsidiary of the landlord's holding company.

(5B) Subsection (4)(b)(i) does not apply where the landlord is a relevant landlord.

(5C) For the purposes of subsection (4)(b)(iii) above a person is a managing agent for any premises if he has been appointed to discharge any of the landlord's obligations relating to the management by the landlord of the premises.”

(4) After subsection (6) insert—

“(7) In this section—

“holding company” and “subsidiary” have the meanings given by section 1159 of the Companies Act 2006;

“relevant landlord” means—

- (a) a local authority (within the meaning of the Landlord and Tenant Act 1985);
- (b) a National Park authority; or
- (c) a new town corporation (within the meaning of the Act of 1985).”

16 In section 79(2)(a) (rights exercisable in connection with management audits)—

- (a) for the words from “the matters” to “supplied” substitute “ information required to be provided ”, and
- (b) for “under” substitute “ by virtue of ”.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 14(6A) inserted by [2023 c. 55 s. 138](#)
- s. 107(2A) inserted by [2023 c. 36 s. 3\(2\)\(c\)](#)
- s. 107(4A)(4B) inserted by [2023 c. 36 s. 3\(2\)\(f\)](#)
- s. 107(6A) inserted by [2023 c. 36 s. 3\(2\)\(i\)](#)
- s. 115(6A) inserted by [2023 c. 36 s. 8\(d\)](#)
- s. 117(1A) inserted by [2023 c. 36 s. 4\(3\)](#)
- s. 117(4A) inserted by [2023 c. 36 s. 4\(5\)](#)
- s. 126A-126D inserted by [2023 c. 36 s. 10\(2\)](#)
- s. 146(2B) inserted by [2023 c. 36 s. 12\(3\)\(e\)](#)
- s. 153(1)(ba) inserted by [2023 c. 36 s. 12\(6\)\(a\)](#)
- s. 153(1A) inserted by [2023 c. 36 s. 12\(6\)\(b\)](#)
- s. 154(2)(ab) inserted by [2023 c. 36 Sch. 1 para. 18](#)
- s. 161A inserted by [2023 c. 36 s. 18\(2\)](#)
- s. 163A applied (with modifications by [S.I. 2023/1311 reg. 9](#))
- s. 163A inserted by [2023 c. 36 s. 17\(3\)](#)
- s. 163B inserted by [2023 c. 36 s. 18\(3\)](#)
- s. 169CA inserted by [2023 c. 36 s. 19\(4\)](#)
- s. 169CB-169CD and cross-heading inserted by [2023 c. 36 s. 20\(2\)](#)
- s. 169ZA inserted by [2023 c. 36 Sch. 5 para. 14](#)
- s. 199(9) inserted by [2023 c. 36 s. 28\(2\)\(c\)](#)
- s. 199A-199B inserted by [2023 c. 36 s. 28\(3\)](#)
- s. 200(4A) inserted by [2023 c. 36 s. 28\(4\)\(d\)](#)
- s. 201A inserted by [2023 c. 36 s. 29\(2\)](#)
- s. 203A inserted by [2023 c. 36 s. 30\(4\)](#)
- s. 215(1A) inserted by [2023 c. 36 s. 29\(3\)](#)
- s. 218(2)(e) inserted by [2023 c. 36 Sch. 5 para. 26\(b\)](#)
- s. 218A-218D and cross-heading inserted by [2023 c. 36 s. 31\(2\)](#)
- s. 220(11B) inserted by [2023 c. 36 s. 10\(3\)](#)
- s. 220(11D)(11E) inserted by [2023 c. 36 s. 31\(3\)](#)
- s. 225A-225H and cross-heading inserted by [2023 c. 36 s. 32](#)
- s. 227(7B) inserted by [2023 c. 36 s. 10\(4\)](#)
- s. 227(7D)(7E) inserted by [2023 c. 36 s. 31\(4\)](#)
- s. 237(5)(6) inserted by [2023 c. 36 s. 31\(5\)](#)
- s. 247(1)(c) and word inserted by [2023 c. 36 s. 31\(6\)](#)
- s. 247(1)(ab)(ac) inserted by [2023 c. 36 s. 10\(5\)](#)
- s. 249(1)(c) and word inserted by [2023 c. 36 Sch. 3 para. 7\(b\)](#)
- s. 251(1)(c) and word inserted by [2023 c. 36 s. 31\(7\)](#)
- s. 251(1)(ab)(ac) inserted by [2023 c. 36 s. 10\(6\)](#)
- s. 252(2A) inserted by [2023 c. 36 Sch. 3 para. 9\(b\)](#)
- s. 252A(2)(c)(d) inserted by [2023 c. 36 s. 10\(7\)\(b\)](#)
- s. 252A(2)(e) inserted by [2023 c. 36 Sch. 3 para. 10\(b\)](#)
- s. 252A(2)(f) and word inserted by [2023 c. 36 s. 31\(8\)](#)
- s. 253(1)(c) and word inserted by [2023 c. 36 Sch. 3 para. 11\(b\)](#)
- s. 255(1)(c) and word inserted by [2023 c. 36 Sch. 3 para. 12\(b\)](#)

- s. 259(3A) inserted by 2023 c. 36 Sch. 3 para. 15(d)
- s. 266(9) inserted by 2023 c. 36 Sch. 3 para. 17(b)
- s. 269(1)(ba)(bb) inserted by 2023 c. 36 Sch. 3 para. 18(c)
- s. 269(1A) inserted by 2023 c. 36 Sch. 3 para. 18(d)