

2004 No. 2665

LANDLORD AND TENANT, ENGLAND

**The Service Charges (Consultation Requirements)
(Amendment) (England) Regulations 2004**

<i>Made</i> - - - -	<i>11th October 2004</i>
<i>Laid before Parliament</i>	<i>18th October 2004</i>
<i>Coming into force</i> - -	<i>8th November 2004</i>

The First Secretary of State, in exercise of the powers conferred by sections 20(4) and (5) and 20ZA(3) to (6) of the Landlord and Tenant Act 1985(a), hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Service Charges (Consultation Requirements) (Amendment) (England) Regulations 2004 and shall come into force on 8th November 2004.

(2) These Regulations apply in relation to England only.

Amendment of Regulations

2. Regulation 4 (application of section 20 to qualifying long term agreements) of the Service Charges (Consultation Requirements) (England) Regulations 2003(b) is amended—

- (a) in paragraph (3), by the substitution, for “In”, of “Subject to paragraph (3A), in”; and
- (b) by the insertion, after paragraph (3) of the following paragraph—

“(3A) Where—

- (a) a landlord intends to enter into a qualifying long term agreement on or after *date* November 2004; and
- (b) he has not at any time between 31st October 2003 and *date* November 2004 made up accounts relating to service charges referable to a qualifying long term agreement and payable in respect of the dwellings to which the intended agreement is to relate,

the relevant date is the date on which begins the first period for which service

(a) 1985 c.70. Section 20 was substituted, and section 20ZA inserted, by section 151 of the Commonhold and Leasehold Reform Act 2002 (c.15). *See also* paragraph 4 of Schedule 7 to that Act for modifications relevant to sections 20 and 20ZA associated with the right to manage under Chapter 1 of Part 2 of that Act. The functions of the Secretary of State under sections 20 and 20ZA are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2; *see* the entry in Schedule 1 for the Landlord and Tenant Act 1985. *See also* section 177 of the Commonhold and Leasehold Reform Act 2002.

(b) S.I. 2003/1987.

charges referable to that intended agreement are payable under the terms of the leases of those dwellings.”.

Signed by authority of the First Secretary of State

11th October 2004

Keith Hill
Minister of State,
Office of the Deputy Prime Minister

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend regulation 4 of the Service Charges (Consultation Requirements) (England) Regulations 2003 (“regulation 4”). Regulation 4 provides for the application of section 20 of the Landlord and Tenant Act 1985 (“the 1985 Act”) to certain agreements entered into, by or on behalf of a landlord or superior landlord, for a term of more than twelve months (“qualifying long term agreements”), where relevant costs (defined in section 18(2) of the 1985 Act) incurred under the agreement in any accounting period exceed an amount which results in the relevant contribution of any tenant, in respect of that period, being more than £100. Section 20 of the 1985 Act imposes limitations on the amount of tenants’ contributions to service charges in respect of qualifying long term agreements unless the consultation requirements in the Service Charges (Consultation Requirements) (England) Regulations 2003 have been complied with or dispensed with by a leasehold valuation tribunal.

The amendments made by the Regulations affect any landlord who intends to enter into a qualifying long term agreement on or after [date] November 2004, but only if he or she has not previously made up service charge accounts referable to a qualifying long term agreement in respect of the dwellings to which the intended agreement is to relate.

The Regulations modify the operation of paragraph (3) of regulation 4, which relates to the definition of the term “accounting period” that is used in paragraph (1) of that regulation. Section 20 of the 1985 Act will apply in the circumstances mentioned above if the relevant contribution of any tenant to relevant costs to be incurred under the agreement in the period of twelve months beginning with the relevant date exceed £100. For this purpose, the relevant date is that on which the first period for which service charges are payable by a tenant under a lease of a dwelling to which the intended agreement relates begins. The effect of paragraphs (2) and (4) of regulation 4 is that each subsequent accounting period will be a period of twelve months beginning as soon as the previous accounting period has ended.

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