

2004 No. 3056 (C.127)

LANDLORD AND TENANT, ENGLAND AND WALES

**The Commonhold and Leasehold Reform Act 2002
(Commencement No.5 and Saving and Transitional Provision)
Order 2004**

Made - - - - *16th November 2004*

The Lord Chancellor, as respects England and Wales, and the First Secretary of State, as respects England, in exercise of the powers conferred on them by section 181 of the Commonhold and Leasehold Reform Act 2002(a), hereby make the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Commonhold and Leasehold Reform Act 2002 (Commencement No.5 and Saving and Transitional Provision) Order 2004.

(2) In this Order, unless otherwise stated, references to sections and Schedules are references to sections of, and Schedules to, the Commonhold and Leasehold Reform Act 2002.

Provision coming into force in England and Wales

2. Section 180, in so far as it relates to the repeal in Schedule 14 of section 104, shall come into force in England and Wales on the day after that on which this Order is made.

Provisions coming into force in England on 28th February 2005

3. Subject to article 4, the following provisions shall come into force in England on 28th February 2005—

- (a) section 126,
- (b) section 157, in so far as it relates to paragraph 15 of Schedule 10,
- (c) section 164, to the extent that it is not already in force,
- (d) section 165,
- (e) sections 166 and 167, to the extent that they are not already in force,
- (f) sections 168 to 170,
- (g) section 171, to the extent that it is not already in force,
- (h) in section 172, subsections (1) to (5), except to the extent that they relate to the application to the Crown of sections 21 to 22 of the Landlord and Tenant Act 1985, as substituted or inserted by sections 152 to 154(b),

(a) 2002 c.15. See the definition of “the appropriate authority” in section 181(4).

(b) 1985 c.70. (Sections 21, 21A, 21B and 22 will be substituted or inserted on the commencement of sections 152 to 154 of the Commonhold and Leasehold Reform Act 2002.)

- (i) section 176 and Schedule 13, to the extent that they are not already in force, and
- (j) section 180, in so far as it relates to the repeals in Schedule 14 of—
 - (i) the definition of “the valuation date” in paragraph 1(1) of Schedule 6 to the Leasehold Reform, Housing and Urban Development Act 1993(a);
 - (ii) section 82 of the Housing Act 1996(b); and
 - (iii) in paragraph 18(2) of Schedule 10 to that Act, paragraph (b) and the word “and” before it.

Saving and transitional provision

4.—(1) During the period beginning with 28th February 2005 and ending on the date on which sections 121 to 124 come into force, paragraph 4(2) of Schedule 6 to the Leasehold Reform, Housing and Urban Development Act 1993 shall have effect as if, for “participating tenants”, there were substituted “persons who are participating tenants immediately before a binding contract is entered into in pursuance of the initial notice”.

(2) Section 168 shall not have effect as regards notices served under section 146(1) of the Law of Property Act 1925 before 28th February 2005 in respect of a breach by a tenant of any covenant or condition.

(3) The amendments made by section 170 shall not have effect as regards notices served under section 146(1) of the Law of Property Act 1925(c) (restriction on re-entry or forfeiture) before 28th February 2005.

Signed by authority of the Lord Chancellor

16th November 2004

David Lammy
Parliamentary Under Secretary of State,
Department for Constitutional Affairs

Signed by authority of the First Secretary of State

16th November 2004

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

(a) 1993 c.28.
(b) 1996 c.52.
(c) 1925 c.20.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force further provisions of Part 2 (leasehold reform) of the Commonhold and Leasehold Reform Act 2002 (“the 2002 Act”).

Article 2 brings into force, in England and Wales, on the day after this Order is made, the repeal of section 104 of the 2002 Act. That section amended the Land Registration Act 1925 (c.21) (“the 1925 Act”) to allow for notice to be entered in the register under the 1925 Act in respect of the right to manage (a new right conferred by the 2002 Act allowing leaseholders of flats to take over the management of their block). The 1925 Act has been repealed and replaced by the Land Registration Act 2002 (c.9), making section 104 of the 2002 Act redundant.

The provisions mentioned in article 3 of the Order will come into force, in relation to England only, on 28th February 2005. They include:

- (a) provisions amending section 18(1) of, and Schedule 6 to, the Leasehold Reform, Housing and Urban Development Act 1993 (“the 1993 Act”). The principal effect of the amendments is that the price to be paid for the freehold, where it is bought by qualifying tenants, will reflect the value of the interests held by all the landlords in the property concerned at the date on which notice of the claim to exercise the right to collective enfranchisement is given under section 13 of the 1993 Act. There is a relevant transitional provision in article 4(1). ;
- (b) new provisions under which, in certain circumstances, long leaseholders may insure their houses otherwise than with an insurer nominated or approved by the landlord (section 164);
- (c) new provisions requiring landlords to notify long leaseholders that rent is due (section 166);
- (d) new provisions preventing the landlord of a long leaseholder from exercising a right of re-entry or forfeiture on account of the leaseholder’s failure to pay rent, service or administration charges where the unpaid amount and the period for which any part of it has been payable do not exceed the amount and period prescribed by regulations (section 167);
- (e) new provisions preventing the landlord of a long leaseholder from serving a forfeiture notice in respect of a breach of covenant or condition in the lease unless the leaseholder admits the breach, or a court or arbitral tribunal has finally determined that the breach has occurred (sections 168 and 169). There is a saving, relevant to section 168, in article 4(2); and
- (f) changes to the conditions that must be satisfied before the landlord of a long leaseholder can exercise a right of re-entry or forfeiture for failure to pay service charges (section 170). There is a relevant saving in article 4(3).

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force in England and Wales by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1 to 20	27.9.04	2004/1832
Section 21(1) to (3) and (6) to (10)	27.9.04	2004/1832
Sections 22 to 41	27.9.04	2004/1832
Section 42	29.9.03	2003/2377
Sections 43 to 61	27.9.04	2004/1832
Section 62	29.9.03	2003/2377
Section 63	27.9.04	2004/1832
Sections 64 to 67	29.9.03	2003/2377
Section 68	27.9.04	2004/1832
Sections 69 and 70	29.9.03 (partially) 27.9.04 (remainder)	2003/2377 2004/1832

The following provisions of the Act have been brought into force in England by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 71 to 73 and Schedule 6	30.9.03	2003/1986
Section 74	26.7.02 (partially) 30.9.03 (remainder)	2002/1912 2003/1986
Sections 75 to 77	30.9.03	2003/1986
Section 78	26.7.02 (partially) 30.9.03 (remainder)	2002/1912 2003/1986
Section 79	30.9.03	2003/1986
Section 80	26.7.02 (partially) 30.9.03 (remainder)	2002/1912 2003/1986
Sections 81 to 83	30.9.03	2003/1986
Section 84	26.7.02 (partially) 30.9.03 (remainder)	2002/1912 2003/1986
Sections 85 to 91	30.9.03	2003/1986
Section 92	26.7.02 (partially) 30.9.03 (remainder)	2002/1912 2003/1986
Sections 93 to 103 and Schedule 7	30.9.03	2003/1986
Sections 105 to 109	30.9.03	2003/1986
Section 110	26.7.02 (partially) 30.9.03 (remainder)	2002/1912 2003/1986
Sections 111 to 113	30.9.03	2003/1986
Sections 114 to 120	26.7.02	2002/1912
Section 122 (partially)	26.7.02	2002/1912
Section 125	26.7.02	2002/1912
Sections 127 to 147	26.7.02	2002/1912
Sections 148 to 150 and Schedule 9	30.9.03	2003/1986
Section 151	26.7.02 (partially) 31.10.03 (remainder)	2002/1912 2003/1986
Sections 152 and 153 (partially)	26.7.02	2002/1912

Section 155	30.9.03	2003/1986
Section 156 (partially)	26.7.02	2002/1912
Section 157 and Schedule 10 (partially)	30.9.03	2003/1986
Section 158 and Schedule 11	30.9.03	2003/1986
Section 159	30.9.03	2003/1986
Sections 160 to 162	26.7.02	2002/1912
Section 163	30.9.03	2003/1986
Section 164 (partially)	26.7.02	2002/1912
Sections 166 and 167 (partially)	26.7.02	2002/1912
Section 171 (partially)	26.7.02	2002/1912
Section 172 (partially)	30.9.03	2003/1986
Section 173	30.9.03	2003/1986
Section 174 and Schedule 12	26.7.02 (partially) 30.9.03 (remainder)	2002/1912 2003/1986
Section 175	30.9.03	2003/1986
Section 176 and Schedule 13 (partially)	30.9.03	2003/1986
Section 180 and Schedule 14 (partially)	26.7.02 30.9.03	2002/1912 2003/1986

(Provisions of Part 2 of the Act (leasehold reform) have been brought into force in Wales by commencement orders made by the National Assembly for Wales.)

STATUTORY INSTRUMENTS

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