



Leasehold and Freehold Reform Act 2024

2024 CHAPTER 22

PART 4

REGULATION OF LEASEHOLD

PROSPECTIVE

Litigation costs

62 Limits on rights of landlords to claim litigation costs from tenants

- (1) The LTA 1985 is amended in accordance with subsections (2) and (3).
- (2) Omit section 20C (limitation of service charges: costs of proceedings).
- (3) Before section 20D insert—

“20CA Limitation of variable service charges: litigation costs

- (1) A landlord’s litigation costs are not to be regarded as relevant costs to be taken into account in determining the amount of a variable service charge, whether or not the charge is payable—
 - (a) by a party to the lease which the relevant proceedings concern, or
 - (b) to a person that is party to the relevant proceedings.
- (2) But the relevant court or tribunal may, on an application by a landlord, order that subsection (1) does not apply to any or all of the landlord’s litigation costs in relation to a variable service charge payable by a person specified in the application.
- (3) An order may be made only in respect of litigation costs—
 - (a) that would, but for subsection (1), be taken into account in determining the amount of the variable service charge;

Status: This version of this cross heading contains provisions that are prospective.

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- (b) that are not incurred, or to be incurred, in connection with relevant proceedings arising under—
 - (i) Part 1 of the Leasehold Reform Act 1967 (enfranchisement and extension of leases of houses),
 - (ii) Chapter 1 or 2 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993 (enfranchisement and extension of leases of flats), or
 - (iii) Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002 (right to manage).
- (4) The relevant court or tribunal may make such order on the application as it considers just and equitable in the circumstances.
- (5) The relevant court or tribunal must, in deciding whether to make an order, take into account any matters specified in regulations made by the appropriate authority.
- (6) The appropriate authority may by regulations make provision about—
 - (a) how an application is to be made;
 - (b) whether and how notice of an application is to be given to—
 - (i) a person specified in the application;
 - (ii) a person not specified in the application;
 - (c) the effect of—
 - (i) giving notice of an application;
 - (ii) failing to give notice of an application;
 - (d) circumstances in which a person not specified in an application is to be treated as having been specified.
- (7) See section 20CB for powers of the appropriate authority to provide for other exceptions to subsection (1).
- (8) A lease, contract or other arrangement is of no effect to the extent it makes provision contrary to this section, regulations made under this section or an order made under this section.
- (9) In this section—
 - “litigation costs” means any costs incurred, or to be incurred, by a person in connection with relevant proceedings to which they are party;
 - “relevant proceedings” means proceedings—
 - (a) that are before a court, residential property tribunal, leasehold valuation tribunal, the First-tier Tribunal or the Upper Tribunal, or are arbitration proceedings,
 - (b) to which a landlord and a tenant are party, and
 - (c) that concern a lease of a dwelling to which that landlord and that tenant are party;
 - “the relevant court or tribunal” means—
 - (a) where the relevant proceedings are court proceedings, the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, the county court;

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- (b) where the relevant proceedings are before a residential property tribunal, a leasehold valuation tribunal;
 - (c) where the relevant proceedings are before a leasehold valuation tribunal, the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, any leasehold valuation tribunal;
 - (d) where the relevant proceedings are before the First-tier Tribunal, the Tribunal;
 - (e) where the relevant proceedings are before the Upper Tribunal, the Tribunal;
 - (f) where the relevant proceedings are arbitration proceedings, the arbitral tribunal or, if the application is made after the proceedings are concluded, the county court.
- (10) A reference in this section to proceedings concerning a lease includes—
- (a) proceedings concerning any matter arising out of—
 - (i) the existence of the lease,
 - (ii) any term of the lease, or
 - (iii) any agreement or arrangement entered into in connection with the lease;
 - (b) proceedings concerning any enactment relevant to—
 - (i) the lease, or
 - (ii) any agreement or arrangement entered into in connection with the lease;
 - (c) proceedings that otherwise have a connection with the lease.
- (11) Regulations under this section—
- (a) are to be made by statutory instrument;
 - (b) may make provision generally or only in relation to specific cases;
 - (c) may make different provision for different purposes;
 - (d) may include supplementary, incidental, transitional or saving provision.
- (12) A statutory instrument containing regulations under this section is subject to the negative procedure.

20CB Section 20CA: powers to provide for exceptions

- (1) The appropriate authority may by regulations provide for circumstances in which—
- (a) section 20CA(1) does not apply, or
 - (b) the effect of section 20CA(1) is to be suspended until an event of a specified description occurs.
- (2) The circumstances may include, among other things, that—
- (a) the litigation costs,
 - (b) the relevant proceedings, or
 - (c) the landlord,
- are of a specified description.

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- (3) Where, by virtue of regulations under subsection (1)(b), the effect of section 20CA(1) is suspended until an event of a specified description occurs—
- (a) section 20CA(1) does not have effect before the event, but
 - (b) section 20CA(1) does have effect on or after the event in relation to a variable service charge paid or payable before the event.
- (4) Accordingly, if—
- (a) a variable service charge was paid before the event, and
 - (b) the landlord’s litigation costs were regarded as relevant costs to be taken into account in determining the amount of that charge until the event because the effect of section 20CA(1) was suspended,
- the landlord may retain the amount of those costs after the event only if the relevant court or tribunal makes an order under section 20CA(2) in relation to that charge.
- (5) In this section—
- “litigation costs”, “relevant proceedings” and “the relevant court or tribunal” have the same meaning as in section 20CA;
- “specified” means specified in regulations under this section.
- (6) Regulations under this section—
- (a) are to be made by statutory instrument;
 - (b) may make provision generally or only in relation to specific cases;
 - (c) may make different provision for different purposes;
 - (d) may include supplementary, incidental, transitional or saving provision.
- (7) A statutory instrument containing regulations under this section (whether alone or with other provision) is subject to the affirmative procedure.”
- (4) The CLRA 2002 is amended in accordance with subsections (5) to (7).
- (5) In section 172(1) (application of provision to the Crown)—
- (a) omit the “and” at the end of paragraph (g);
 - (b) in paragraph (h), at the end insert “, and
 - (i) Schedule 12 (leasehold valuation tribunals), as it applies in relation to paragraph 5B of Schedule 11.”
- (6) In section 178(4) (orders and regulations), after “171” insert “, paragraph 5C of Schedule 11”.
- (7) In Schedule 11 (administration charges)—
- (a) omit paragraph 5A (limitation of administration charges: costs of proceedings);
 - (b) before paragraph 6 insert—
- “Limitation of administration charges: litigation costs*
- 5B (1) No administration charge is payable by a tenant of a dwelling in respect of the landlord’s litigation costs.

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- (2) But the relevant court or tribunal may, on an application by a landlord, order that sub-paragraph (1) does not apply to an administration charge in respect of all or any of the landlord's litigation costs.
- (3) An order may be made only in respect of an administration charge—
 - (a) that would, but for sub-paragraph (1), be payable by the tenant;
 - (b) that is for litigation costs that are not incurred, or to be incurred, in connection with relevant proceedings arising under—
 - (i) Part 1 of the 1967 Act (enfranchisement and extension of leases of houses),
 - (ii) Chapter 1 or 2 of Part 1 of the 1993 Act (enfranchisement and extension of leases of flats), or
 - (iii) Chapter 1 of Part 2 of this Act (right to manage).
- (4) The relevant court or tribunal may make such order on the application as it considers just and equitable in the circumstances.
- (5) The relevant court or tribunal must, in deciding whether to make an order, take into account any matters specified in regulations made by the appropriate national authority.
- (6) See paragraph 5C for powers of the appropriate national authority to provide for other exceptions to sub-paragraph (1).
- (7) A lease, contract or other arrangement is of no effect to the extent it makes provision contrary to this paragraph, regulations made under this paragraph, or an order made under this paragraph.
- (8) In this paragraph—

“litigation costs” means any costs incurred, or to be incurred, by a person in connection with relevant proceedings to which they are party;

“relevant proceedings” means proceedings—

 - (a) that are before a court, residential property tribunal, leasehold valuation tribunal, the First-tier Tribunal or the Upper Tribunal, or are arbitration proceedings,
 - (b) to which a landlord and a tenant are party, and
 - (c) that concern a lease to which that landlord and that tenant are party;

“the relevant court or tribunal” means—

 - (a) where the relevant proceedings are court proceedings, the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, the county court;

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- (b) where the relevant proceedings are before a residential property tribunal, a leasehold valuation tribunal;
 - (c) where the relevant proceedings are before a leasehold valuation tribunal, the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, any leasehold valuation tribunal;
 - (d) where the relevant proceedings are before the First-tier Tribunal, the Tribunal;
 - (e) where the relevant proceedings are before the Upper Tribunal, the Tribunal;
 - (f) where the relevant proceedings are arbitration proceedings, the arbitral tribunal or, if the application is made after the proceedings are concluded, the county court.
- (9) The reference in the definition of “relevant proceedings” to proceedings concerning a lease includes—
- (a) proceedings concerning any matter arising out of—
 - (i) the existence of the lease,
 - (ii) any term of the lease, or
 - (iii) any agreement or arrangement entered into in connection with the lease;
 - (b) proceedings concerning any enactment relevant to—
 - (i) the lease, or
 - (ii) any agreement or arrangement entered into in connection with the lease;
 - (c) proceedings that otherwise have a connection with the lease.

Paragraph 5B: powers to provide for exceptions

- 5C (1) The appropriate national authority may by regulations provide for circumstances in which—
- (a) paragraph 5B(1) does not apply, or
 - (b) the effect of paragraph 5B(1) is to be suspended until an event of a specified description occurs.
- (2) The circumstances may include, among other things, that—
- (a) the litigation costs,
 - (b) the relevant proceedings, or
 - (c) the landlord,
- are of a specified description.
- (3) Where, by virtue of regulations under sub-paragraph (1)(b), the effect of paragraph 5B(1) is suspended until an event of a specified description occurs—
- (a) paragraph 5B(1) does not have effect before the event, but

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(b) paragraph 5B(1) does have effect on or after the event in relation to an administration charge paid or payable before the event.

(4) Accordingly, if an administration charge was paid before the event in respect of the landlord's litigation costs because the effect of paragraph 5B(1) was suspended, the landlord may retain the amount of that charge after the event only if the relevant court or tribunal makes an order under paragraph 5B(2) in relation to that charge.

(5) In this paragraph—
“litigation costs”, “relevant proceedings” and “the relevant court or tribunal” have the same meaning as in paragraph 5B;
“specified” means specified in regulations under this paragraph.”

Commencement Information

II S. 62 not in force at Royal Assent, see s. 124(3)

63 Right of tenants to claim litigation costs from landlords

After section 30I of the LTA 1985 insert—

“Right of tenants to claim litigation costs from landlords

30J Right of tenants to claim litigation costs from landlords

- (1) It is an implied term of a lease that if—
 - (a) there are relevant proceedings concerning the lease, and
 - (b) the relevant court or tribunal orders, on an application by the tenant, that the landlord pay an amount in respect of all or any of the tenant's litigation costs in connection with the proceedings,the landlord must pay the tenant the amount ordered.
- (2) The relevant court or tribunal may make such order on the application as it considers just and equitable in the circumstances.
- (3) The relevant court or tribunal must, in deciding whether to make an order, take into account any matters specified in regulations made by the appropriate authority.
- (4) Costs incurred by a landlord—
 - (a) in connection with an application for an order,
 - (b) in compliance with the implied term, or
 - (c) otherwise in connection with the implied term or an order (for example, in connection with appeal proceedings or proceedings to enforce the implied term),

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are litigation costs of the landlord (and section 20CA of this Act and paragraph 5B of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 apply accordingly).

(5) A lease, contract or other arrangement is of no effect to the extent it makes provision contrary to this section, regulations made under this section or an order made under this section.

(6) In this section—

“landlord” and “tenant” have the same meanings as in the provisions relating to service charges (see section 30);

“litigation costs” means any costs incurred, or to be incurred, by a person in connection with relevant proceedings to which they are party;

“relevant proceedings” means proceedings—

- (a) that are before a court, residential property tribunal, leasehold valuation tribunal, the First-tier Tribunal or the Upper Tribunal, or are arbitration proceedings,
- (b) to which a landlord and a tenant are party,
- (c) that concern a lease of a dwelling to which that landlord and that tenant are party, and
- (d) that relate to a matter of a description specified in regulations made by the appropriate authority;

“the relevant court or tribunal” means—

- (a) where the relevant proceedings are court proceedings, the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, the county court;
- (b) where the relevant proceedings are before a residential property tribunal, a leasehold valuation tribunal;
- (c) where the relevant proceedings are before a leasehold valuation tribunal, the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, any leasehold valuation tribunal;
- (d) where the relevant proceedings are before the First-tier Tribunal, the tribunal;
- (e) where the relevant proceedings are before the Upper Tribunal, the tribunal;
- (f) where the relevant proceedings are arbitration proceedings, the arbitral tribunal or, if the application is made after the proceedings are concluded, the county court.

(7) A reference in this section to proceedings concerning a lease includes—

- (a) proceedings concerning any matter arising out of—
 - (i) the existence of the lease,
 - (ii) any term of the lease, or
 - (iii) any agreement or arrangement entered into in connection with the lease;
- (b) proceedings concerning any enactment relevant to—
 - (i) the lease, or

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- (ii) any agreement or arrangement entered into in connection with the lease;
 - (c) proceedings that otherwise have a connection with the lease.
- (8) Regulations under this section—
- (a) are to be made by statutory instrument;
 - (b) may make provision generally or only in relation to specific cases;
 - (c) may make different provision for different purposes;
 - (d) may include supplementary, incidental, transitional or saving provision.
- (9) A statutory instrument containing regulations under this section is subject to the negative procedure.”

Commencement Information

I2 S. 63 not in force at Royal Assent, see [s. 124\(3\)](#)

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