
STATUTORY INSTRUMENTS

1997 No. 1852

**LANDLORD AND TENANT,
ENGLAND AND WALES**

The Leasehold Valuation Tribunals (Fees) Order 1997

Made - - - - 28th July 1997
Laid before Parliament 30th July 1997
Coming into force - - 1st September 1997

The Secretary of State for the Environment as respects England, and the Secretary of State for Wales as respects Wales, in exercise of the powers conferred upon them by section 31B of the Landlord and Tenant Act 1985(1) and section 24B of the Landlord and Tenant Act 1987(2) and all other powers enabling them in that behalf, hereby make the following Order—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Leasehold Valuation Tribunals (Fees) Order 1997 and shall come into force on 1st September 1997.

(2) In this Order—

“applicant” means—

- (i) the person who makes an application to a tribunal, and
- (ii) the person who is the plaintiff or applicant in proceedings before a court which are transferred by order of the court to a tribunal;

“application” means an application to the tribunal under—

section 19 of the Landlord and Tenant Act 1985 (determination of reasonableness of service charges)(3),

section 20C of that Act (limitation of service charges: costs of proceedings)(4),

paragraph 8 of the Schedule to that Act (right to challenge landlord’s choice of insurers)(5),

(1) 1985 c. 70; section 31B was inserted by section 83(3) of the Housing Act 1996 (c. 52).

(2) 1987 c. 31; section 24B was inserted by section 86(5) of the Housing Act 1996.

(3) Section 19 was amended by paragraph 2 of Schedule 2 to the Landlord and Tenant Act 1987 (c. 31) and by section 83(1) of the Housing Act 1996.

(4) Section 20C was substituted by section 83(4) of the Housing Act 1996.

(5) The Schedule to the Landlord and Tenant Act 1985 was inserted by section 43(2) of the Landlord and Tenant Act 1987 and paragraph 8 was substituted by section 83(2) of the Housing Act 1996.

Part II of the Landlord and Tenant Act 1987 (appointment of manager by leasehold valuation tribunal)(**6**), or

transferred proceedings;

“hearing” means a hearing before a tribunal to determine an application to a tribunal, transferred proceedings or a representative application but, for the purposes of the payment of a fee for a hearing, does not include a pre-trial review, a hearing of an objection to a proposal to hear a representative application, a hearing to consider dismissing an application as frivolous or vexatious, or any other interim hearing;

“representative application” means an application which a tribunal has determined to hear as representative of numerous applications which concern or include the same or substantially the same matters;

“transferred proceedings” means proceedings which a county court has transferred to a tribunal for determination;

“tribunal” means a leasehold valuation tribunal; and

references to the 1985 Act are references to the Landlord and Tenant Act 1985 and references to the 1987 Act are references to the Landlord and Tenant Act 1987.

Fees: applications

2.—(1) Subject to paragraph (2) and article 5, a fee of £150 shall be payable for an application to a tribunal—

- (a) under section 19(2A) of the 1985 Act(**7**) (determination of reasonableness of past service charges),
- (b) under section 19(2B) of that Act(**8**) (determination of reasonableness of future service charges),
- (c) under paragraph 8(2) of the Schedule to that Act(**9**) (right to challenge landlord’s choice of insurers);
- (d) for an order under section 24(1) of Part II of the 1987 Act(**10**) (appointment of a manager), or
- (e) for an order under section 24(9) of that Part(**11**) (variation or discharge of order appointing a manager).

(2) Only one fee of £150 shall be payable for an application which relates to more than one of the following—

- (a) section 19(2A) of the 1985 Act (determination of reasonableness of past service charges),
- (b) section 19(2B) of that Act (determination of reasonableness of future service charges),
- (c) paragraph 8 of the Schedule to that Act (right to challenge landlord’s choice of insurers).

Fees: applications transferred from court

3. Subject to article 5, where a court transfers proceedings to a tribunal for determination(**12**), the fee payable to the tribunal shall be £150 less the total amount of fees paid by the applicant to

(**6**) Part II of the Landlord and Tenant Act 1987 was amended by sections 85 and 86 of the Housing Act 1996.

(**7**) Subsection (2A) was inserted by section 83(1) of the Housing Act 1996.

(**8**) Subsection (2B) was inserted by section 83(1) of the Housing Act 1996.

(**9**) The Schedule was inserted by section 43 of the Landlord and Tenant Act 1987; paragraph 8 was substituted by section 83(2) of the Housing Act 1996.

(**10**) Section 24(1) was amended by section 86(2) of the Housing Act 1996.

(**11**) Section 24(9) was amended by section 86(2) of the Housing Act 1996.

(**12**) See section 31C of the Landlord and Tenant Act 1985, inserted by section 83(3) of the Housing Act 1996.

the court up to and including the date of the order to transfer the proceedings to the tribunal; where the total fees paid to the court are at least £150 no fee shall be payable to the tribunal on the transfer of such proceedings.

Fees: hearings

4.—(1) Subject to article 5 and paragraph (2), the following fees shall be payable for a hearing, other than a hearing of a representative application and any application heard with a representative application—

- (a) for a hearing of one application—
 - (i) which relates to only one of the provisions specified in article 2(1) the fee shall be that specified in paragraphs 1 to 3 of the Schedule in respect of the particular application, and
 - (ii) which relates to two or more of the provisions specified in article 2(2) the fee shall be that specified for a hearing to determine the reasonableness of a service charge in paragraph 1 of the Schedule, and
- (b) for a hearing where more than one application are heard together the fee shall be that specified in paragraph 4 of the Schedule.

(2) Subject to article 5, the following fees shall be payable for a hearing of a representative application and any application heard with the representative application—

- (a) for a representative application the fee shall be that specified in paragraph 5(1) of the Schedule, and
- (b) for an application heard with a representative application the fee shall be that specified in paragraph 5(2) of the Schedule.

(3) Subject to article 5, in any case where only part of an application is or will be determined at, or in accordance with, a hearing of a representative application and part is to be determined at a separate hearing, the fee for that part which is heard separately shall be the fee specified in paragraph 5(3) of the Schedule.

(4) In any case where two or more applications are heard together, including applications heard with a representative application, an applicant shall not be required to pay an amount in excess of the hearing fee which he would have been liable to pay if the matter was heard separately.

Reduction and waiver of fees

5.—(1) A person shall not be liable to pay a fee for an application to a tribunal under article 2 or on the transfer of proceedings from a court to a tribunal under article 3 where at the time, as the case may be, of the application or the order for the transfer, he or his partner is in receipt of—

- (a) any of the following benefits under Part VII of the Social Security Contributions and Benefits Act 1992⁽¹³⁾—
 - (i) family credit,
 - (ii) income support,
 - (iii) disability working allowance,
 - (iv) housing benefit,
- (b) an income-based jobseeker's allowance within the meaning of section 1 of the Jobseekers Act 1995⁽¹⁴⁾, or

⁽¹³⁾ 1992 c. 4.

⁽¹⁴⁾ 1995 c. 18.

- (c) a civil legal aid certificate—
 - (i) which has been issued in accordance with the Civil Legal Aid (General) Regulations 1989⁽¹⁵⁾ and which has not been revoked or discharged, and
 - (ii) which is in respect of those proceedings the whole or part of which have been transferred from the county court for determination by a tribunal.
- (2) A person shall not be liable to pay the hearing fee referred to in article 4 if—
 - (a) at the time of the application to the tribunal or on the date of the order to transfer proceedings from a court to a tribunal, or
 - (b) at the time when payment of the hearing fee is requested,
 he or his partner is in receipt of a benefit, an allowance or a legal aid certificate specified in paragraph (1).
- (3) For the purposes of this article “partner” in relation to a person, means that person’s spouse or a person other than a spouse with whom he or she lives as husband or wife.

Persons liable for fees

- 6.—**(1) Subject to article 5 and the following provisions of this article, the applicant shall pay the fee.
- (2) In any case where an application is made or transferred proceedings are brought by more than one person—
- (a) subject to sub-paragraph (b), the fee shall be apportioned equally between such persons,
 - (b) where more than one person is the tenant or the landlord of a dwelling and such tenant or landlord makes an application or brings proceedings for the purposes of the apportionment such tenant or landlord shall be regarded as one person.
- (3) The fee for the hearing of more than one application, other than cases which are heard with a representative application, shall be apportioned equally between the applications and, subject to the provisions of paragraphs (2), (5) and (6), the applicant in each application shall pay one portion.
- (4) The fee for the hearing of a representative application and any application heard with the representative application shall be apportioned equally between—
- (a) the representative application,
 - (b) all other applications which, at the time of the request for payment of the fee, are to be determined in whole or in part in accordance with the representative application, and
 - (c) any application heard with the representative application,
- and, subject to the provisions of paragraphs (2), (5) and (6), the applicant in each case shall pay one portion of the fee.
- (5) Where a person is not liable to pay a fee by virtue of article 5 the following provisions shall apply—
- (a) where more than one person is the applicant and at least one person is liable to pay a fee, such fee shall be reduced rateably in accordance with the number of persons who would have been liable but for article 5,
 - (b) where more than one person is the applicant and at least one person is liable to pay a portion of a fee by virtue of paragraphs (2) to (4), such portion shall be reduced rateably in accordance with the number of persons who would have been liable but for article 5.

(15) S.I.1989/339; amended by S.I. 1991/2036, S.I. 1994/228, S.I. 1994/1822 and S.I. 1996/649.

(6) The amount payable shall be calculated in accordance with the provisions of this article and by reference to the persons who are applicants on the date when the request for payment is issued by the tribunal.

Payment of fees

7.—(1) A fee shall be payable within 14 days of the date on which the request for payment was issued by the tribunal and shall be paid to the address specified in the request for payment.

(2) The fee shall be paid in cash or by a cheque or postal order drawn in favour of the Department of the Environment, Transport and the Regions where the application is to be heard by a tribunal sitting in England and in favour of the Welsh Office where the application is to be heard by a tribunal sitting in Wales.

Reimbursement of Fees

8.—(1) Subject to paragraph (2), a tribunal may require any party to the proceedings to reimburse any other party to the proceedings the whole or part of any fees paid by him in respect of the proceedings.

(2) A tribunal shall not require a party to make such reimbursement if, at the time the tribunal is considering making such a requirement, the tribunal is satisfied that the party is in receipt of any of the benefits or the allowance referred to in article 5(1) or a legal aid certificate within article 5(1)(c).

Signed by authority of the Secretary of State

25th July 1997

Hilary Armstrong
Minister of State,
Department of the Environment, Transport and
the Regions

28th July 1997

R. Davies
Secretary of State for Wales

SCHEDULE

Article 4

FEES FOR HEARINGS

Service charge determinations

1.—(1) Subject to paragraphs 4 and 5, the fee for a hearing to determine the reasonableness of a service charge under section 19(2A) or (2B) of the 1985 Act (or both those subsections), whether in consequence of an application to a tribunal under that section or a transfer from a county court under section 31C of the Act, shall be—

- (a) £150 where no part of the service charge relates to more than five dwellings,
- (b) £250 where no part of the service charge relates to fewer than six dwellings or more than 10 dwellings, and
- (c) £350 where no part of the service charge relates to fewer than eleven dwellings.

(2) In any case where the number of dwellings to which the application relates varies in respect of any part of the service charge, the hearing fee shall be that specified in whichever of paragraphs (a) to (c) above would apply in respect of the greatest number of dwellings.

Appointment of a manager

2. Subject to paragraphs 4 and 5, the fee for a hearing in respect of an application for an order under section 24(1) of the 1987 Act for the appointment of a manager shall be—

- (a) £150 where the property in respect of which the application for an order is made consists of not more than five dwellings,
- (b) £250 where the property consists of more than five dwellings but not more than 10 dwellings, and
- (c) £350 where the property consists of more than 10 dwellings.

Challenge to landlord's choice of insurers

3. Subject to paragraphs 4 and 5, the fee for a hearing of a tenant's challenge to a landlord's choice of insurer under paragraph 8 of the Schedule to the 1985 Act (right to challenge landlord's choice of insurers), whether in consequence of an application to a tribunal under that paragraph or a transfer from a county court under section 31C of that Act, shall be £150.

Hearings of more than one application

4.—(1) Where a tribunal has determined that it would be just and convenient to hear at the same time two or more applications relating to—

- (a) section 19 of the 1985 Act,
- (b) paragraph 8 of the Schedule to the 1985 Act, or
- (c) section 24 of the 1987 Act,

only one hearing fee shall be payable which shall be the greater of the hearing fees as prescribed by paragraphs 1 to 3 in respect of each of the applications which are to be heard together.

(2) Where the number of dwellings in premises to which each separate application relates is different, the hearing fee shall be calculated with reference to the application relating to the greater number of dwellings.

Representative applications and applications heard with representative applications

5.—(1) Where a tribunal proposes to hear an application as a representative application, the hearing fee shall be the fee specified for the application.

(2) In any case where an application is to be heard with a representative application the applicant shall not be required to pay a separate hearing fee but shall pay a proportion of the fee for the hearing of the representative application in accordance with article 6(4).

(3) In any case where only part of an application is the same or substantially the same as a representative application, or where only part of an application is heard as a representative application, the fee for the hearing of the remaining part shall be the appropriate fee for that particular provision as specified in paragraphs 1 to 4 reduced by the amount paid by the applicant in respect of the hearing of the representative application.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for fees in respect of applications to and hearings before leasehold valuation tribunals (including cases transferred from a court under section 31C of the Landlord and Tenant Act 1985).

Article 2 prescribes the fees payable for applications to leasehold valuation tribunals for determinations relating to:

- the reasonableness of past or future service charges under section 19(2A) or (2B) of the Landlord and Tenant Act 1985;
- challenging the landlord's choice of insurers under paragraph 8(2) of the Schedule to that Act;
- the appointment of a manager under Part II of the Landlord and Tenant Act 1987; and
- the variation or discharge of such an appointment.

Article 3 prescribes the fee payable where a court transfers proceedings to a leasehold valuation tribunal under the Landlord and Tenant Act 1985.

Article 4 and the Schedule prescribe the fees payable for hearings of any of the matters mentioned above except for varying or discharging an order appointing a manager (where no hearing fee is payable).

Article 5 exempts applicants from the payment of fees where the applicant or his partner is in receipt of the benefits, the allowance or, in the case of proceedings transferred from the county court, a civil legal aid certificate as specified in that article.

Article 6 contains provisions dealing with the persons liable to pay the fees and makes provisions for the hearing of more than one application, the hearing of a representative application, for applications brought by tenants involving more than one dwelling, the payment of fees where one person of several persons is exempt from payment under article 5.

Article 7 contains provisions for the payment of fees.

Article 8 contains provisions about a leasehold valuation tribunal requiring fees to be reimbursed.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*