

Status: Point in time view as at 30/03/2004.

Changes to legislation: Landlord and Tenant Act 1987, SCHEDULE 2 is up to date with all changes known to be in force on or before 27 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 41.

AMENDMENTS RELATING TO SERVICE CHARGES

Meaning of “service charge” and “relevant costs”

1 In section 18(1) of the 1985 Act, for “flat” substitute “dwelling”.

Limitation of service charges: reasonableness

2 In section 19 of the 1985 Act—

(a) in subsection (3), for “flat” substitute “dwelling”; and

[^{F1}(b) after subsection (4) add—

“(5) If a person takes any proceedings in the High Court in pursuance of any of the provisions of this Act relating to service charges and he could have taken those proceedings in the county court, he shall not be entitled to recover any costs.”]

Textual Amendments

F1 Sch. 2 para. 2(b) repealed (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 124(3), 125(7), **Sch. 20**

Limitation of service charges: estimates and consultation

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Textual Amendments

F2 Sch. 2 para. 3 repealed (30.9.2003 for E., 30.3.2004 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 14**; S.I. 2003/1986, art. 2(c)(iv), Sch. 1 Pt. 2 (with Sch. 2); S.I. 2004/669, art. 2(c)(iv), Sch. 1 Pt. 2 (with Sch. 2)

Additional limitations on service charges

4 The following sections shall be inserted in the 1985 Act after the section 20A inserted by paragraph 9 of Schedule 5 to the ^{M1}Housing and Planning Act 1986—

“20B Limitation of service charges: time limit on making demands.

(1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to

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subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.

- (2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

20C Limitation of service charges: costs of court proceedings.

- (1) A tenant may make an application to the appropriate court for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with any proceedings are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application; and the court may make such order on the application as it considers just and equitable in the circumstances.
- (2) In subsection (1) “the appropriate court” means—
- (a) if the application is made in the course of the proceedings in question, the court before which the proceedings are taking place; and
 - (b) if the application is made after those proceedings are concluded, a county court.”

Marginal Citations

M1 1986 c. 63.

Request for summary of relevant costs

- 5 (1) Section 21 of the 1985 Act shall be amended as follows.
- (2) In subsection (2), for the words from “there is” to “and the tenant” substitute “ the tenant is represented by a recognised tenants’ association and he ”.
- (3) In subsection (5), for the words from “how they are or will be” onwards substitute “how they have been or will be reflected in demands for service charges and, in addition, shall summarise each of the following items, namely—
- (a) any of the costs in respect of which no demand for payment was received by the landlord within the period referred to in subsection (1)(a) or (b),
 - (b) any of the costs in respect of which—
 - (i) a demand for payment was so received, but
 - (ii) no payment was made by the landlord within that period, and
 - (c) any of the costs in respect of which—
 - (i) a demand for payment was so received, and
 - (ii) payment was made by the landlord within that period,
 and specify the aggregate of any amounts received by the landlord down to the end of that period on account of service charges in

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respect of relevant dwellings and still standing to the credit of the tenants of those dwellings at the end of that period.

(5A) In subsection (5) “relevant dwelling” means a dwelling whose tenant is either—

- (a) the person by or with the consent of whom the request was made, or
- (b) a person whose obligations under the terms of his lease as regards contributing to relevant costs relate to the same costs as the corresponding obligations of the person mentioned in paragraph (a) above relate to.”

(4) In subsection (6)—

- (a) for the words from the beginning to “another building” substitute “ If the service charges in relation to which the costs are relevant costs as mentioned in subsection (1) are payable by the tenants of more than four dwellings ”; and
- (b) for “requirement” substitute “ requirements ”.

Request to inspect supporting accounts etc.

6 In section 22 of the 1985 Act, after subsection (4) add—

“(5) The landlord shall—

- (a) where such facilities are for the inspection of any documents, make them so available free of charge;
- (b) where such facilities are for the taking of copies or extracts, be entitled to make them so available on payment of such reasonable charge as he may determine.

(6) The requirement imposed on the landlord by subsection (5)(a) to make any facilities available to a person free of charge shall not be construed as precluding the landlord from treating as part of his costs of management any costs incurred by him in connection with making those facilities so available.”

Effect of assignment on request

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Textual Amendments

F3 Sch. 2 para. 7 repealed (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 181(1), [Sch. 14](#); S.I. 2003/1986, art. 2(c)(iv), Sch. 1 Pt. 2 (with Sch. 2); S.I. 2004/669, art. 2(c)(iv), Sch. 1 Pt. 2 (with Sch. 2)

Exception where rent is registered and not entered as variable

8 In section 27 of the 1985 Act, for “flat” substitute “ dwelling ”.

Meaning of “qualified accountant”

9 (1) Section 28 of the 1985 Act shall be amended as follows.

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- (2) In subsection (4)—
- (a) in paragraph (b), for “or employee” substitute “, employee or partner”; and
 - (b) after paragraph (c) add—
 - “(d) an agent of the landlord who is a managing agent for any premises to which any of the costs covered by the summary in question relate;
 - (e) an employee or partner of any such agent.”

- (3) After subsection (5) insert—

“(5A) For the purposes of subsection (4)(d) a person is a managing agent for any premises to which any costs relate if he has been appointed to discharge any of the landlord’s obligations relating to the management by him of the premises and owed to the tenants who may be required under the terms of their leases to contribute to those costs by the payment of service charges.”

Meaning of “recognised tenants’ association”

- 10 (1) Section 29 of the 1985 Act shall be amended as follows.
- (2) In subsection (1), for “tenants of flats in a building” substitute “ qualifying tenants (whether with or without other tenants) ”.
 - (3) In subsection (4), for “the building is situated” substitute “ the dwellings let to the qualifying tenants are situated, and for the purposes of this section a number of tenants are qualifying tenants if each of them may be required under the terms of his lease to contribute to the same costs by the payment of a service charge. ”
 - (4) For subsection (5) substitute—
 - “(5) The Secretary of State may by regulations specify—
 - (a) the procedure which is to be followed in connection with an application for, or for the cancellation of, a certificate under subsection (1)(b);
 - (b) the matters to which regard is to be had in giving or cancelling such a certificate;
 - (c) the duration of such a certificate; and
 - (d) any circumstances in which a certificate is not to be given under subsection (1)(b).”

Definitions

- 11 In section 30—
- (a) omit the definition of “flat”; and
 - (b) in the definition of “tenant”, for “flat” substitute “ dwelling ”.

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