



# Landlord and Tenant Act 1987

## 1987 CHAPTER 31

### PART V

#### MANAGEMENT OF LEASEHOLD PROPERTY

##### *Service charges*

#### **42 Service charge contributions to be held in trust**

- (1) This section applies where the tenants of two or more dwellings may be required under the terms of their leases to contribute to the same costs by the payment of service charges; and in this section—
- "the contributing tenants" means those tenants;
  - "the payee" means the landlord or other person to whom any such charges are payable by those tenants under the terms of their leases;
  - "relevant service charges" means any such charges;
  - "service charge" has the meaning given by section 18(1) of the 1985 Act, except that it does not include a service charge payable by the tenant of a dwelling the rent of which is registered under Part IV of the Rent Act 1977, unless the amount registered is, in pursuance of section 71(4) of that Act, entered as a variable amount;
  - "tenant" does not include a tenant of an exempt landlord; and
  - "trust fund" means the fund, or (as the case may be) any of the funds, mentioned in subsection (2) below.
- (2) Any sums paid to the payee by the contributing tenants by way of relevant service charges, and any investments representing those sums, shall (together with any income accruing thereon) be held by the payee either as a single fund or, if he thinks fit, in two or more separate funds.
- (3) The payee shall hold any trust fund—

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*Status: This is the original version (as it was originally enacted).*

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- (a) on trust to defray costs incurred in connection with the matters for which the relevant service charges were payable (whether incurred by himself or by any other person), and
  - (b) subject to that, on trust for the persons who are the contributing tenants for the time being.
- (4) Subject to subsections (6) to (8), the contributing tenants shall be treated as entitled by virtue of subsection (3)(b) to such shares in the residue of any such fund as are proportionate to their respective liabilities to pay relevant service charges.
- (5) If the Secretary of State by order so provides, any sums standing to the credit of any trust fund may, instead of being invested in any other manner authorised by law, be invested in such manner as may be specified in the order; and any such order may contain such incidental, supplemental or transitional provisions as the Secretary of State considers appropriate in connection with the order.
- (6) On the termination of the lease of a contributing tenant the tenant shall not be entitled to any part of any trust fund, and (except where subsection (7) applies) any part of any such fund which is attributable to relevant service charges paid under the lease shall accordingly continue to be held on the trusts referred to in subsection (3).
- (7) If after the termination of any such lease there are no longer any contributing tenants, any trust fund shall be dissolved as at the date of the termination of the lease, and any assets comprised in the fund immediately before its dissolution shall—
  - (a) if the payee is the landlord, be retained by him for his own use and benefit, and
  - (b) in any other case, be transferred to the landlord by the payee.
- (8) Subsections (4), (6) and (7) shall have effect in relation to a contributing tenant subject to any express terms of his lease which relate to the distribution, either before or (as the case may be) at the termination of the lease, of amounts attributable to relevant service charges paid under its terms (whether the lease was granted before or after the commencement of this section).
- (9) Subject to subsection (8), the provisions of this section shall prevail over the terms of any express or implied trust created by a lease so far as inconsistent with those provisions, other than an express trust so created before the commencement of this section.