



Housing Act 1996

1996 CHAPTER 52

PART III

LANDLORD AND TENANT

CHAPTER I

TENANTS' RIGHTS

Service charges

83 Determination of reasonableness of service charges.

^{F1}(1)

(2) In the Schedule to the Landlord and Tenant Act 1985, for paragraph 8 (right to challenge landlord's choice of insurers) substitute—

“8 (1) This paragraph applies where a tenancy of a dwelling requires the tenant to insure the dwelling with an insurer nominated by the landlord.

(2) The tenant or landlord may apply to a county court or leasehold valuation tribunal for a determination whether—

- (a) the insurance which is available from the nominated insurer for insuring the tenant's dwelling is unsatisfactory in any respect, or
- (b) the premiums payable in respect of any such insurance are excessive.

(3) No such application may be made in respect of a matter which—

- (a) has been agreed or admitted by the tenant,
- (b) under an arbitration agreement to which the tenant is a party is to be referred to arbitration, or

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- (c) has been the subject of determination by a court or arbitral tribunal.
 - (4) On an application under this paragraph the court or tribunal may make—
 - (a) an order requiring the landlord to nominate such other insurer as is specified in the order, or
 - (b) an order requiring him to nominate another insurer who satisfies such requirements in relation to the insurance of the dwelling as are specified in the order.
 - (5) Any such order of a leasehold valuation tribunal may, with the leave of the court, be enforced in the same way as an order of a county court to the same effect.
 - (6) An agreement by the tenant of a dwelling (other than an arbitration agreement) is void in so far as it purports to provide for a determination in a particular manner, or on particular evidence, of any question which may be the subject of an application under this paragraph.”
- ^{F2}(3)
- (4) For section 20C of the ^{M1}Landlord and Tenant Act 1985 (limitation of service charges: costs of court proceedings) substitute—

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

- (1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court or leasehold valuation tribunal, or the Lands Tribunal, or in connection with arbitration 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.
- (2) The application shall be made—
 - (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
 - (b) in the case of proceedings before a leasehold valuation tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any leasehold valuation tribunal;
 - (c) in the case of proceedings before the Lands Tribunal, to the tribunal;
 - (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.
- (3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.”
- (5) In section 38 of the ^{M2}Landlord and Tenant Act 1985 (minor definitions), at the appropriate place insert—

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““arbitration agreement”, “arbitration proceedings” and “arbitral tribunal” have the same meaning as in Part I of the ^{M3}Arbitration Act 1996;”.

- (6) In section 39 of that Act (index of defined expressions), at the appropriate place insert—

“arbitration agreement, arbitration proceedings and arbitral tribunal section 38”

Textual Amendments

- F1** S. 83(1) 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)
- F2** S. 83(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. 1 (with Sch. 2); [S.I. 2004/669](#), art. 2(c)(iv), Sch. 1 Pt. 1 (with Sch. 2)

Commencement Information

- I1** S. 83 wholly in force 11.8.1998; s. 83 not in force at Royal Assent see s. 232(1)-(3); s. 83(3) in force for certain purposes at 23.8.1996 by [S.I. 1996/2212](#), [art. 2\(1\)](#); s. 83 in force at 1.9.1997 to the extent not already in force by [S.I. 1997/1851](#), [art. 2](#) (subject to the saving in [Sch. para. 1](#)); s. 83 in force at 11.8.1998 to the extent that it does not, because of [Sch. para. 1](#), already have effect by [S.I. 1998/1768](#), [art. 2](#) (subject to [art. 3](#)).

Marginal Citations

- M1** 1985 c. 70.
M2 1985 c. 70.
M3 1996 c. 23.

84 Right to appoint surveyor to advise on matters relating to service charges.

- (1) A recognised tenants' association may appoint a surveyor for the purposes of this section to advise on any matters relating to, or which may give rise to, service charges payable to a landlord by one or more members of the association.

The provisions of Schedule 4 have effect for conferring on a surveyor so appointed rights of access to documents and premises.

- (2) A person shall not be so appointed unless he is a qualified surveyor.

For this purpose “qualified surveyor” has the same meaning as in section 78(4)(a) of the ^{M4}Leasehold Reform, Housing and Urban Development Act 1993 (persons qualified for appointment to carry out management audit).

- (3) The appointment shall take effect for the purposes of this section upon notice in writing being given to the landlord by the association stating the name and address of the surveyor, the duration of his appointment and the matters in respect of which he is appointed.

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- (4) An appointment shall cease to have effect for the purposes of this section if the association gives notice in writing to the landlord to that effect or if the association ceases to exist.
- (5) A notice is duly given under this section to a landlord of any tenants if it is given to a person who receives on behalf of the landlord the rent payable by those tenants; and a person to whom such a notice is so given shall forward it as soon as may be to the landlord.
- (6) In this section—
- “recognised tenants’ association” has the same meaning as in the provisions of the ^{M5}Landlord and Tenant Act 1985 relating to service charges (see section 29 of that Act); and
- “service charge” means a service charge within the meaning of section 18(1) of that Act, other than one excluded from that section by section 27 of that Act (rent of dwelling registered and not entered as variable).

Modifications etc. (not altering text)

- C1** S. 84 modified (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 181(1), [Sch. 7 para. 15\(1\)](#); S.I. 2003/1986, art. 2(a); S.I. 2004/669, art. 2(a)
- C2** S. 84 extended to Crown Land (30.9.2003 for E. for specified purposes, 30.3.2004 for W. for specified purposes) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), [ss. 172, 181\(1\)](#); S.I. 2003/1986, art. 2(c)(ii) (with [Sch. 2](#)); S.I. 2004/669, art. 2(c)(ii) (with [Sch. 2](#))
- C3** S. 84(5) applied (with modifications) (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 181(1), [Sch. 7 para. 15\(2\)](#); S.I. 2003/1986, art. 2(a); S.I. 2004/669, art. 2(a)

Marginal Citations

- M4** 1993 c. 28.
M5 1985 c. 70.

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