

*Status: Point in time view as at 31/05/2005.*

**Changes to legislation:** Housing Act 1996, SCHEDULE 4 is up to date with all changes known to be in force on or before 14 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 4

Section 84.

#### RIGHTS EXERCISABLE BY SURVEYOR APPOINTED BY TENANTS’ ASSOCIATION

##### **Modifications etc. (not altering text)**

- C1** Sch. 4 (except para. 7) 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) (with Sch. 2)
- C2** Sch. 4 extended to Crown Land (30.9.2003 for E. for specified purposes, 30.3.2004 for W. for specified purposes, 28.2.2005 for E. for specified purposes, 31.5.2005 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); S.I. 2004/3056, art. 3(h) (with art. 4); S.I. 2005/1353, art. 2(h)

##### *Introductory*

- 1 (1) A surveyor appointed for the purposes of section 84 has the rights conferred by this Schedule.
- (2) In this Schedule—
- (a) “the tenants’ association” means the association by whom the surveyor was appointed, and
- (b) the surveyor’s “functions” are his functions in connection with the matters in respect of which he was appointed.

##### *Appointment of assistants*

- 2 (1) The surveyor may appoint such persons as he thinks fit to assist him in carrying out his functions.
- (2) References in this Schedule to the surveyor in the context of—
- (a) being afforded any such facilities as are mentioned in paragraph 3, or
- (b) carrying out an inspection under paragraph 4,
- include a person so appointed.

##### *Right to inspect documents, &c.*

- 3 (1) The surveyor has a right to require the landlord or any other relevant person—
- (a) to afford him reasonable facilities for inspecting any documents sight of which is reasonably required by him for the purposes of his functions, and
- (b) to afford him reasonable facilities for taking copies of or extracts from any such documents.

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- (2) In sub-paragraph (1) “other relevant person” means a person other than the landlord who is or, in relation to a future service charge, will be—
- (a) responsible for applying the proceeds of the service charge, or
  - (b) under an obligation to a tenant who pays the service charge in respect of any matter to which the charge relates.

- (3) The rights conferred on the surveyor by this paragraph are exercisable by him by notice in writing given by him to the landlord or other person concerned.

Where a notice is given to a person other than the landlord, the surveyor shall give a copy of the notice to the landlord.

- (4) The landlord or other person to whom notice is given shall, within the period of one week beginning with the date of the giving of the notice or as soon as reasonably practicable thereafter, either—
- (a) afford the surveyor the facilities required by him for inspecting and taking copies or extracts of the documents to which the notice relates, or
  - (b) give the surveyor a notice stating that he objects to doing so for reasons specified in the notice.

- (5) Facilities for the inspection of any documents required under sub-paragraph (1)(a) shall be made available free of charge.

This does not mean that the landlord cannot treat as part of his costs of management any costs incurred by him in connection with making the facilities available.

- (6) A reasonable charge may be made for facilities for the taking of copies or extracts required under sub-paragraph (1)(b).

- (7) A notice is duly given under this paragraph to the landlord of a tenant if it is given to a person who receives on behalf of the landlord the rent payable by that tenant.

A person to whom such a notice is so given shall forward it as soon as may be to the landlord.

#### *Right to inspect premises*

- 4 (1) The surveyor also has the right to inspect any common parts comprised in relevant premises or any appurtenant property.

- (2) In sub-paragraph (1)—
- “common parts”, in relation to a building or part of a building, includes the structure and exterior of the building or part and any common facilities within it;
- “relevant premises” means so much of—
- (i) the building or buildings containing the dwellings let to members of the tenants’ association, and
  - (ii) any other building or buildings,

as constitute premises in relation to which management functions are discharged in respect of the costs of which service charges are payable by members of the association; and

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“appurtenant property” means so much of any property not contained in relevant premises as constitutes property in relation to which any such management functions are discharged.

For the purposes of the above definitions “management functions” includes functions with respect to the provision of services, or the repair, maintenance [<sup>F1</sup>, improvement] or insurance of property.

- (3) On being requested to do so, the landlord shall afford the surveyor reasonable access for the purposes of carrying out an inspection under this paragraph.
- (4) Such reasonable access shall be afforded to the surveyor free of charge.

This does not mean that the landlord cannot treat as part of his costs of management any costs incurred by him in connection with affording reasonable access to the surveyor.

- (5) A request is duly made under this paragraph to the landlord of a tenant if it is made to a person appointed by the landlord to deal with such requests or, if no such person has been appointed, to a person who receives on behalf of the landlord the rent payable by that tenant.

A person to whom such a request is made shall notify the landlord of the request as soon as may be.

#### Textual Amendments

- F1** Word in Sch. 4 para. 4(2) inserted (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 181(1), [Sch. 9 para. 12](#); S.I. 2003/1986, [art. 2\(c\)\(i\)](#) (with Sch. 2); S.I. 2004/669, [art. 2\(e\)\(i\)](#) (with Sch. 2)

#### Modifications etc. (not altering text)

- C3** Sch. 4 para. 4(2): power to amend conferred (*prosp.*) by [2002 c. 15](#), ss. 102(1), 181(1), [Sch. 7 para. 13](#)
- C4** Sch. 4 para. 4(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\(a\)](#)

#### *Enforcement of rights by the court*

- 5 (1) If the landlord or other person to whom notice was given under paragraph 3 has not, by the end of the period of one month beginning with the date on which notice was given, complied with the notice, the court may, on the application of the surveyor, make an order requiring him to do so within such period as is specified in the order.
- (2) If the landlord does not, within a reasonable period after the making of a request under paragraph 4, afford the surveyor reasonable access for the purposes of carrying out an inspection under that paragraph, the court may, on the application of the surveyor, make an order requiring the landlord to do so on such date as is specified in the order.
- (3) An application for an order under this paragraph must be made before the end of the period of four months beginning with the date on which notice was given under paragraph 3 or the request was made under paragraph 4.
- (4) An order under this paragraph may be made in general terms or may require the landlord or other person to do specific things, as the court thinks fit.

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*Documents held by superior landlord*

- 6 (1) Where a landlord is required by a notice under paragraph 3 to afford the surveyor facilities for inspection or taking copies or extracts in respect of any document which is in the custody or under the control of a superior landlord—
- (a) the landlord shall on receiving the notice inform the surveyor as soon as may be of that fact and of the name and address of the superior landlord, and
  - (b) the surveyor may then give the superior landlord notice in writing requiring him to afford the facilities in question in respect of the document.
- (2) Paragraphs 3 and 5(1) and (3) have effect, with any necessary modifications, in relation to a notice given to a superior landlord under this paragraph.

*Effect of disposal by landlord*

- 7 (1) Where a notice under paragraph 3 has been given or a request under paragraph 4 has been made to a landlord, and at a time when any obligations arising out of the notice or request remain to be discharged by him—
- (a) he disposes of the whole or part of his interest as landlord of any member of the tenants’ association, and
  - (b) the person acquiring that interest (“the transferee”) is in a position to discharge any of those obligations to any extent,
- that person shall be responsible for discharging those obligations to that extent, as if he had been given the notice under paragraph 3 or had received the request under paragraph 4.
- (2) If the landlord is, despite the disposal, still in a position to discharge those obligations, he remains responsible for doing so.
- Otherwise, the transferee is responsible for discharging them to the exclusion of the landlord.
- (3) In connection with the discharge of such obligations by the transferee, paragraphs 3 to 6 apply with the substitution for any reference to the date on which notice was given under paragraph 3 or the request was made under paragraph 4 of a reference to the date of the disposal.
- (4) In this paragraph “disposal” means a disposal whether by the creation or transfer of an estate or interest, and includes the surrender of a tenancy; and references to the transferee shall be construed accordingly.

*Effect of person ceasing to be a relevant person*

- 8 Where a notice under paragraph 3 has been given to a person other than the landlord and, at a time when any obligations arising out of the notice remain to be discharged by him, he ceases to be such a person as is mentioned in paragraph 3(2), then, if he is still in a position to discharge those obligations to any extent he remains responsible for discharging those obligations, and the provisions of this Schedule continue to apply to him, to that extent.

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