

These notes refer to the Commonhold and Leasehold Reform Act 2002 (c.15) which received Royal Assent on 1st May 2002

COMMONHOLD AND LEASEHOLD REFORM ACT 2002

EXPLANATORY NOTES

SCHEDULES

Schedule 12: Leasehold Valuation Tribunals: Procedure (Section 174)

407. These provisions are essentially a consolidation of existing provisions. New substantive provisions are indicated in the following notes.

Procedure regulations

408. *Paragraph 1* provides a power to make regulations about the procedure of a LVT ('procedure regulations').

Applications

409. *Paragraph 2* provides that procedure regulations may include specified matters relating to LVT applications.

Transfers

410. *Paragraph 3* provides a discretion for a court to transfer any matter before it that is within the jurisdiction of a LVT to a LVT for a determination and for the court to give effect to that determination in an order of the court. It also provides for detailed procedures to be prescribed under rules of court (in the case of a court) and procedure regulations (in the case of a LVT) to apply in cases where a case is so transferred.

Information

411. *Paragraph 4* empowers a LVT to require any party to proceedings to provide information within a specified period of time (but not less than 14 days). It provides that failure to comply with such a requirement without reasonable excuse is a summary offence punishable by a fine not exceeding level 3 on the standard scale (currently £1,000).

Pre-trial reviews

412. *Paragraph 5* provides that procedure regulations may enable LVTs to hold a pre-trial review and that such a review can be conducted by a single person who has been appointed by the Lord Chancellor (to act as a Chairman of a LVT).

Parties

413. *Paragraph 6* provides that procedure regulations may enable persons to be joined as parties to proceedings.

Dismissal

414. *Paragraph 7* provides that procedure regulations may give LVTs the power to dismiss applications, or part of an application, on specified grounds.

Determination without hearing

415. *Paragraph 8* provides a new power to provide in procedure regulations that determinations can be made without an oral hearing. It further provides that procedure regulations may enable a single member of a LVT to determine such a case.

Fees

416. *Paragraph 9* provides that procedure regulations may require payment of application fees and additional fees for an oral hearing for disputes where fees are currently payable (i.e. those relating to service charges under the 1985 Act, as amended by this Act,¹ and for the appointment of a manager under Part 2 of the 1987 Act), for disputes about administration charges under Schedule 11 to the Act, for applications for variation of a lease under Part 4 of the 1987 Act (as amended by section 163 of the Act) and for determination of breaches of covenant or condition under section 168 of the Act. Regulations may empower a LVT to require a party to the proceedings to reimburse a fee paid by another party. Regulations may also provide for fees to be reduced or waived in cases where the applicant has limited financial resources. The amount of any fees shall be prescribed by regulations. Where regulations set a total fee for both an application and oral hearing exceeding £500 (*paragraph 9(3)(b)*) a draft of the regulations must be laid before, and approved by resolution of, each House (Section 178).

Costs

417. *Paragraph 10* is a new provision which enables a LVT to determine that a party shall pay costs incurred by another party where an application by that party has been dismissed on the grounds set out in paragraph 7 or where that party has acted unreasonably during the proceedings. The costs shall not exceed £500, or such higher amount as may be specified by regulations. A draft of any such regulations must be laid before, and approved by resolution of, each House (Section 178).

Enforcement

- 418 *Paragraph 11* provides for procedure regulations to enable a county court to enforce a decision of a LVT.

¹ ³ Note that this Act extends the jurisdiction of LVTs under the 1985 Act (see *Sections 150, 151, 152 and 155*). The power to set fees would also apply in such cases.