



Leasehold and Freehold Reform Act 2024

2024 CHAPTER 22

PART 5

REGULATION OF ESTATE MANAGEMENT

PROSPECTIVE

Appointment of substitute manager by Tribunal

89 Notices of complaint

- (1) An owner of a managed dwelling may give a notice of complaint to an estate manager.
- (2) A notice of complaint is a notice that—
 - (a) sets out one or more complaints listed in subsection (3) in relation to the estate manager,
 - (b) states that, if the complaints are not remedied by the end of the qualifying period (see subsection (7)), the owner may make an application under section 90 (application to appoint substitute manager), and
 - (c) contains any other information specified in regulations made by the Secretary of State.
- (3) The complaints are—
 - (a) that the estate manager—
 - (i) is in breach of an obligation in relation to the dwelling, or
 - (ii) in the case of an obligation dependent on notice, would be in breach of such an obligation but for the fact that it has not been reasonably practicable to give the estate manager the appropriate notice;
 - (b) that sums payable by way of estate management charges by the owner, or, if the owner is a tenant or sub-tenant, by the landlord or superior landlord, are not being applied in an efficient or effective manner;

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Changes to legislation: There are currently no known outstanding effects for the Leasehold and Freehold Reform Act 2024, Cross Heading: Appointment of substitute manager by Tribunal. (See end of Document for details)

- (c) that an estate management charge payable, or proposed or likely to be payable, by the owner, or, if the owner is a tenant or sub-tenant, by the landlord or superior landlord, is unreasonable;
 - (d) that an administration charge payable, or proposed or likely to be payable, by the owner, or, if the owner is a tenant or sub-tenant, by the landlord or superior landlord, is unreasonable;
 - (e) that the estate manager has failed to comply with a relevant provision of a code of practice approved under section 87 of the LRHUDA 1993 (codes of management practice).
- (4) A notice of complaint may be given jointly by two or more persons if each of those persons is entitled to give a notice to the estate manager (whether or not in respect of the same dwelling).
- (5) For that purpose, it is not necessary for every complaint set out in the notice, or every part of each complaint, to apply in relation to each dwelling owned by each of the persons giving the notice.
- (6) The Secretary of State may by regulations make provision for determining when a notice of complaint is given.
- (7) In this section and sections 90 to 93—
“notice of complaint” means a notice of complaint under this section;
“qualifying period”, in relation to a notice of complaint, means the period of six months beginning with the date on which the notice is given.
- (8) A statutory instrument containing regulations under this section is subject to the negative procedure.

Commencement Information

II S. 89 not in force at Royal Assent, see [s. 124\(3\)](#)

90 Appointment of substitute manager

- (1) The appropriate tribunal may, on the application of an owner of a managed dwelling, by order appoint a person to carry out, in place of an estate manager, such functions in connection with the estate management relating to that dwelling as the tribunal thinks fit.
- (2) Section 91 sets out conditions that must be met for a person to make an application.
- (3) Section 92 sets out criteria the appropriate tribunal must consider in deciding whether to make an appointment order.
- (4) Section 93 makes further provision in relation to appointment orders.
- (5) In this section and sections 91 to 93—
“appointment order” means an order under subsection (1);
“substitute manager” means a person appointed under an appointment order.

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Commencement Information

I2 S. 90 not in force at Royal Assent, see [s. 124\(3\)](#)

91 Conditions for applying for appointment order

- (1) An owner of a managed dwelling may make an application for an appointment order in relation to an estate manager only if—
 - (a) the owner has given a notice of complaint to the estate manager,
 - (b) the qualifying period in relation to that notice has ended,
 - (c) the owner has, after the end of the qualifying period but before the application is made, given further notice to the estate manager (a “final warning notice”), and
 - (d) the condition in subsection (5) is met in relation to the final warning notice.
- (2) If the owner gave the notice of complaint jointly with other persons, the owner may not make an application for an appointment order unless—
 - (a) the owner does so jointly with each of those other persons that remain owners of managed dwellings in relation to the estate manager, and
 - (b) the final warning notice was given jointly by the owner and each of those other persons.
- (3) The owner, or the owners acting jointly in accordance with subsection (2), may make an application jointly with an owner of a managed dwelling who did not give the notice of complaint to the estate manager (a “joined applicant”), if the final warning notice was given jointly by the owner or owners and the joined applicant.
- (4) A final warning notice must—
 - (a) specify—
 - (i) the name of the person (or persons) giving the notice,
 - (ii) the address of their dwelling (or the addresses of each of their dwellings), and
 - (iii) if different, an address (or addresses) at which a person may give notice to that person (or one or more of those persons) in connection with the application,
 - (b) state that the person or persons giving the notice intend to make an application for an appointment order in respect of the dwelling specified in the notice,
 - (c) specify the grounds on which the appropriate tribunal would be asked to make such an order and the matters that would be relied on by the person or persons for the purpose of establishing those grounds,
 - (d) where those matters are capable of being remedied by the estate manager, require the estate manager, within a reasonable period specified in the notice, to take specified steps for the purpose of remedying them,
 - (e) state that, if those matters are remedied, the person or persons will not make an application, and
 - (f) contain any other information specified in regulations made by the Secretary of State.
- (5) The condition in this subsection is met if—

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- (a) the matters specified in the final warning notice were not capable of being remedied, or
 - (b) the period specified in the final warning notice for the matters to be remedied has expired without the estate manager having taken the required steps to remedy them.
- (6) The appropriate tribunal may by order dispense with a requirement in subsection (1), (2) or (3) if the tribunal is satisfied in light of the urgency of the case that it would not be reasonably practicable for the requirement to be satisfied.
- (7) But the tribunal may, when so ordering, direct that such other notices are given, or such other steps are taken, as it thinks fit.
- (8) If the tribunal makes an order under subsection (6), an application for an appointment order may be made only if any notices required to be given, and any other steps required to be taken, by virtue of the order have been given or taken.
- (9) The Secretary of State may by regulations make provision for determining when a notice under this section is given.
- (10) A statutory instrument containing regulations under this section is subject to the negative procedure.

Commencement Information

I3 S. 91 not in force at Royal Assent, see [s. 124\(3\)](#)

92 Criteria for determining whether to make appointment order

- (1) The appropriate tribunal may not make an appointment order in relation to an estate manager if the estate manager is specified, or is of a description specified, in regulations made by the Secretary of State.
- (2) The appropriate tribunal may make an appointment order only if the tribunal is satisfied that—
- (a) it is just and convenient to make the order in all the circumstances of the case, and
 - (b) either—
 - (i) those circumstances include those set out in subsection (3), or
 - (ii) there are other circumstances that make it just and convenient for the order to be made.
- (3) The circumstances are—
- (a) that the estate manager is—
 - (i) in breach of an obligation in relation to a dwelling, or
 - (ii) in the case of an obligation dependent on notice, would be in breach of the obligation but for the fact that it has not been reasonably practicable to give the estate manager the appropriate notice;
 - (b) that an estate management charge payable, or proposed or likely to be payable, is unreasonable;
 - (c) that an administration charge payable, or proposed or likely to be payable, is unreasonable;

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- (d) that the estate manager has failed to comply with a relevant provision of a code of practice approved under section 87 of the LRHUDA 1993 (codes of management practice);
 - (e) that the estate manager has breached regulations under section 100(1) of this Act (requirement to be member of redress scheme).
- (4) For the purposes of subsection (3)(b), an estate management charge is to be taken to be unreasonable if—
- (a) the amount is unreasonable having regard to the items for which it is payable,
 - (b) the items for which it is payable are of an unnecessarily high standard, or
 - (c) the items for which it is payable are of an insufficient standard with the result that additional charges are or may be incurred.
- (5) An appointment order may be made despite the fact that—
- (a) a period specified in a final warning notice was not a reasonable period, or
 - (b) a final warning notice otherwise failed to comply with a requirement under section 91(4).
- (6) A statutory instrument containing regulations under this section is subject to the negative procedure.

Commencement Information

I4 S. 92 not in force at Royal Assent, see s. 124(3)

93 Appointment orders: further provision

- (1) An appointment order may—
- (a) make provision with respect to such matters relating to the exercise by the substitute manager of their functions under the order, and such incidental or ancillary matters, as the tribunal thinks fit, including—
 - (i) for rights and liabilities arising under contracts or other arrangements to which the substitute manager is not party to become rights and liabilities of the substitute manager;
 - (ii) for the substitute manager to be entitled to prosecute claims in respect of causes of action (whether contractual or tortious) accruing before or after the date of their appointment;
 - (iii) for remuneration to be paid to the substitute manager by the estate manager;
 - (iv) for the substitute manager's functions to be exercisable during a specified period;
 - (b) be subject to such conditions as the tribunal thinks fit;
 - (c) be subject to suspension on terms set by the tribunal.
- (2) The appropriate tribunal may, on the application of any interested person or of its own motion, vary or discharge (whether conditionally or unconditionally) an appointment order.
- (3) The tribunal may not vary or discharge an appointment order unless the tribunal is satisfied that—

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- (a) the variation or discharge will not result in a recurrence of the circumstances which led to the appointment order being made, and
 - (b) it is just and convenient in all the circumstances of the case to vary or discharge the order.
- (4) In deciding—
- (a) the terms of an appointment order, or
 - (b) whether or how to vary or discharge an appointment order,
- the appropriate tribunal must have regard to whether the estate manager in relation to which the order is made has breached regulations under section 100(1) (requirement to be member of redress scheme).

Commencement Information

I5 S. 93 not in force at Royal Assent, see s. 124(3)

Status:

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