

SCHEDULE 4

CONSULTATION REQUIREMENTS FOR QUALIFYING WORKS OTHER THAN WORKS UNDER QUALIFYING LONG TERM AGREEMENT OR AGREEMENTS TO WHICH REGULATION 7(3) APPLIES

PART 1

CONSULTATION REQUIREMENTS FOR QUALIFYING WORKS FOR WHICH PUBLIC NOTICE IS REQUIRED

Notice of intention

- 1.—(1) The landlord shall give notice in writing of intention to carry out qualifying works—
 - (a) to each tenant; and
 - (b) where a recognised tenants' association represents some or all of the tenants, to the association.
- (2) The notice shall—
 - (a) describe, in general terms, the works proposed to be carried out or specify the place and hours at which a description of the proposed works may be inspected;
 - (b) state the landlord's reasons for considering it necessary to carry out the proposed works;
 - (c) state that the reason why the landlord is not inviting recipients of the notice to nominate persons from whom the landlord should try to obtain an estimate for carrying out the works is that public notice of the works is to be given;
 - (d) invite the making, in writing, of observations in relation to the proposed works; and
 - (e) specify—
 - (i) the address to which such observations may be sent;
 - (ii) that they must be delivered within the relevant period; and
 - (iii) the date on which the relevant period ends.

Inspection of description of proposed works

- 2.—(1) Where a notice under paragraph 1 specifies a place and hours for inspection—
 - (a) the place and hours so specified must be reasonable; and
 - (b) a description of the proposed works must be available for inspection, free of charge, at that place and during those hours.
- (2) If facilities to enable copies to be taken are not made available at the times at which the description may be inspected, the landlord shall provide to any tenant, on request and free of charge, a copy of the description.

Duty to have regard to observations in relation to proposed works

3. Where, within the relevant period, observations are made in relation to the proposed works by any tenant or the recognised tenants' association, the landlord shall have regard to those observations.

Status: This is the original version (as it was originally made).

Preparation of landlord's contract statement

4.—(1) The landlord shall prepare, in accordance with the following provisions of this paragraph, a statement in respect of the proposed contract under which the proposed works are to be carried out.

(2) The statement shall set out—

- (a) the name and address of the person with whom the landlord proposes to contract; and
- (b) particulars of any connection between them (apart from the proposed contract).

(3) For the purpose of sub-paragraph (2)(b) it shall be assumed that there is a connection between a person and the landlord—

- (a) where the landlord is a company, if the person is, or is to be, a director or manager of the company or is a close relative of any such director or manager;
- (b) where the landlord is a company, and the person is a partner in a partnership, if any partner in that partnership is, or is to be, a director or manager of the company or is a close relative of any such director or manager;
- (c) where both the landlord and the person are companies, if any director or manager of one company is, or is to be, a director or manager of the other company;
- (d) where the person is a company, if the landlord is a director or manager of the company or is a close relative of any such director or manager; or
- (e) where the person is a company and the landlord is a partner in a partnership, if any partner in that partnership is a director or manager of the company or is a close relative of any such director or manager.

(4) Where, as regards each tenant's unit of occupation, it is reasonably practicable for the landlord to estimate the amount of the relevant contribution to be incurred by the tenant attributable to the works to which the proposed contract relates, that estimated amount shall be specified in the statement.

(5) Where—

- (a) it is not reasonably practicable for the landlord to make the estimate mentioned in sub-paragraph (4); and
- (b) it is reasonably practicable for the landlord to estimate, as regards the building or other premises to which the proposed contract relates, the total amount of the landlord's expenditure under the proposed contract,

that estimated amount shall be specified in the statement.

(6) Where—

- (a) it is not reasonably practicable for the landlord to make the estimate mentioned in sub-paragraph (4) or (5)(b); and
- (b) it is reasonably practicable for the landlord to ascertain the current unit cost or hourly or daily rate applicable to the works to which the proposed contract relates,

that cost or rate shall be specified in the statement.

(7) Where it is not reasonably practicable for the landlord to make the estimate mentioned in sub-paragraph (6)(b), the reasons for being unable to comply and the date by which the landlord expects to be able to provide an estimated amount, cost or rate shall be specified in the statement.

(8) Where observations are made to which (in accordance with paragraph 3) the landlord is required to have regard, the statement shall summarise the observations and set out the landlord's response to them.

Notification of proposed contract

- 5.—(1) The landlord shall give notice in writing of intention to enter into the proposed contract—
- (a) to each tenant; and
 - (b) where a recognised tenants' association represents some or all of the tenants, to the association.
- (2) The notice shall—
- (a) comprise, or be accompanied by, the statement prepared in accordance with paragraph 4 (“the paragraph 4 statement”) or specify the place and hours at which that statement may be inspected;
 - (b) invite the making, in writing, of observations in relation to any matter mentioned in the paragraph 4 statement;
 - (c) specify—
 - (i) the address to which such observations may be sent;
 - (ii) that they must be delivered within the relevant period; and
 - (iii) the date on which the relevant period ends.
- (3) Where the paragraph 4 statement is made available for inspection, paragraph 2 shall apply in relation to that statement as it applies in relation to a description of proposed works made available for inspection under that paragraph.

Landlord's response to observations

6. Where observations are made in response to the invitation in the notice under paragraph 5, the landlord shall, within 21 days of their receipt, by notice in writing to the person by whom the observations were made, state the landlord's response to the observations.

Supplementary information

7. Where a statement prepared under paragraph 4(7) specifies the landlord's reasons for being unable to comply with sub-paragraph (6) of that paragraph, the landlord shall, within 21 days of receiving sufficient information to enable the landlord to estimate the amount, cost or rate referred to in sub-paragraph (4), (5) or (6) of that paragraph, give notice in writing of the estimated amount, cost or rate (as the case may be)—
- (a) to each tenant; and
 - (b) where a recognised tenants' association represents some or all of the tenants, to the association.