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**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case reference** : LON/00AE/LSC/2016/0121

**Property** : 77 Bathurst Gardens, London,  
NW10 5JH

**Applicants** : Andrew David Buurman (Flat A)  
David Bank (Flat B)

**Representative** : In person

**Respondents** : Premji and Manu Patel

**Representative** : Mr Patel appeared in person

**Type of application** : For the determination of the  
reasonableness of and the liability  
to pay a service charge

**Tribunal members** : Judge Robert Latham  
Alison Flynn MA MRICS

**Date and Venue of  
Hearing** : 6 June 2016 at  
10 Alfred Place, London WC1E 7LR

**Date of decision** : 18 July 2016

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**DECISION**

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**Decisions of the Tribunal**

- (1) The Tribunal determines that, subject to the provisions of the Limitation Act 1980, the following sums are payable by the First Applicant in respect of service charges for the years: (a) 2007/8: 683.63 (reduced from £885.63); (b) 2008/9: £677.00 (reduced from £929.07); (c) 2009/10: £718.02 (reduced from £970.02); (d) 2010/11: £724.98 (reduced from £1,001.98); and (e) 2011/2: 503.66 (reduced from £1,053.67).

- (2) The Tribunal considers the impact of the Limitation Act 1980 on the sums demanded at [21] - [22], [24] and [29] of the decision.
- (3) The Tribunal is satisfied that the demand for the payment of an administration charge of £150 (26.8.09) is statute barred under the Limitation Act 1980. Had it otherwise been payable, we would have reduced it to £50.
- (4) The Tribunal determines that the following sum is payable by the Second Applicant in respect of service charges for the year 2011/2: £503.66 (reduced from £1,053.67).
- (5) The Tribunal determines that the Respondent shall pay the Applicants £287 within 28 days of this Decision, in respect of the reimbursement of the tribunal fees paid by the Applicants.

### **The Application**

1. The Applicants seek a determination pursuant to s.27A of the Landlord and Tenant Act 1985 (“the 1985 Act”) and Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (“the 2002 Act”) as to the amount of service charges and administration charges payable by the Applicants in respect of their flats at 77 Bathurst Gardens, London NW10 5GH (“the property”).
2. Mr Buurman (“the First Applicant”) is the tenant of Flat A; Mr Bank (“the Second Applicant”) the tenant of Flat B. The First Applicant challenges the service charges in the years 2007/8 to 2011/12. The Second Applicant, who acquired his leasehold interest on 22 December 2011, only challenges the service charges in the years 2011/12. The First Applicant further challenges an administration charge of £150 which was demanded on 26 August 2009.
3. Both parties have filed Bundles of Documents. References to the Applicants’ Bundle will be prefaced by “A” and the Respondent’s Bundle by “R”. The Applicants challenge the service charge summary accounts, dated 13 August 2015, which are at A13 for Flat A; and A13R (the rear of page 13) for Flat B.
4. The Tribunal gave Directions on 17 March 2016. Pursuant to these Directions: (i) The Applicants’ Case is at A14; (ii) The Respondent’s Case at A19; and (iii) The Applicants’ Reply at A23.
5. All the parties appeared in person at the hearing. Mrs Manu Patel did not attend the hearing.

6. The relevant legal provisions are set out in the Appendix to this decision.

### **The Leases**

7. The lease for Flat A, dated 9 January 1996 is at A54. The leases are granted for terms of 125 years from 24 June 1994. We were told that the leases contain similar covenants in relation to service charges. Each tenant is required to contribute one half charge of the service charge expenditure, namely the costs, expenses, outgoings and matters specified in the Fourth Schedule (Clause 4(b)). The landlord is required to insure the property and to keep the structure and exterior in repair (Clause 5(d)). The landlord is also entitled to recover all other expenses reasonably incurred for the convenient management and running of the property (Schedule 4, paragraph 6). We are satisfied that this extends to the cost of employing managing agents and auditing the service charge accounts.
8. There is the provision for half yearly advance payments on 24 June and 25 December. The service charge contribution is reserved as rent (Clause 1). Clause 3(d) requires a lessee to pay all reasonable costs and expenses for the purposes of and incidental to the service of a Section 146 Notice.

### **The Background**

9. 77 Bathurst Gardens is a terraced property which has been converted into two flats. On 28 September 2001, the First Applicant acquired the leasehold interest in Flat A. The First Applicant has not resided in his flat at the material times. On 22 December 2011, the Second Applicant acquired the leasehold interest in Flat B. He resides at his flat.
10. At all material times, the freehold interest has been owned by the Respondents. On 28 February 2012, the Applicants acquired the right to manage the property pursuant to the provisions of the Commonhold and Leasehold Reform Act 2002. On 18 October 2011, the Applicants had served their Claim Notice (R86). On 24 November 2011, the Respondents served their Counter-notice (R90) admitting the right to manage. It is common ground that the service charges for the year 2011/2 should be apportioned by 8/12 (67%) in order to compute the sums due on 28 February 2012.
11. On 1 March 2016, the Applicants acquired the freehold pursuant to the provisions of the Leasehold Reform, Housing and Urban Development Act 1993. On 31 July 2014, the Applicants had served their Initial Notice (R109).

12. The Respondents arranged for Naran Jesha & Sons (UK) Ltd (“NJS”) to manage the property. Their son, Ravi Patel, a surveyor, is the director. There is a Management Agreement dated 10 June 2016 (at R130). Mr Premji Patel told us that he had drafted this agreement. This provides for a fixed annual fee of £600. “Our surveyor’s hourly rate” is stated to be £150 per hour. The agreement is signed by “Naran Jesha, Building Surveyor”. We were told that Naran Jesha is the son’s community name.
13. We are asked to determine the service charges payable for the 25 June 2007 to 28 February 2012. The service charge year runs from 25 June to 24 June. During these five years, the only service charges have related to insurance, management and accountancy. Nothing has been spent on repairs, external decorations or maintenance. At no time has the landlord contacted the tenants to arrange access to inspect their flats, the common parts or the rear of the property. Mr Patel stated that the landlord inspected the property annually in December. He drove past in his car. He was unable to produce any inspection notes. The Applicants questioned whether this had occurred. They stated that the first time that they had seen their landlord was at the hearing. Neither had they met the managing agent.
14. Mr Patel told the Tribunal that he owned some 25-30 and managed a total of some 80-90 properties. He had a block insurance policy in respect of the properties that he was required to insure. He argued that this secured best value. The Applicants did not put forward any alternative insurance quotes before the Tribunal and the sums claimed were not seriously challenged.
15. Having heard evidence and submissions from the parties and considered all of the documents provided, the Tribunal has made determinations on the various issues raised by the parties.

### **The Tribunal’s Decision**

#### **Service Charge Year 2007/8**

16. On 7 September 2007 (R35), NJS issued a demand to the First Applicant for an advance service charge of £825. This was sent to Mr Buurman at his then address, namely 3 Sussex Lodge, W2 2SC. This was a revised demand as Mr Buurman had disputed his liability to contribute towards a fire risk assessment report. The demand enclosed an estimated service charge account (R36) which includes insurance (£1,000); management (£1,000) and book keeping/accounts (£150). Mr Buurman did not pay this sum.
17. On 22 June 2009 (R47), NJS issued their demand for the final service charge payable for 2007/8 in the sum of £885.63. The demand stated

that the sum was “payable in 21 days from due date”. We compute this to be 13 July. The demand was accompanied by the requisite summary of rights and obligations (R48). The demand attached the service charge accounts (R42).

18. The following sums are claimed (the tenant being liable for 50%):
- (i) Insurance: £971.26. There is an invoice for the insurance premium, dated 6 August 2007 (R46).
  - (ii) Management fee: £600. There is an invoice for the management fee, dated 12 June 2008 (R44). This includes an additional item for “accounts information and queries in the sum of £56.25. The landlord does not seek to recover this sum through the service charge in this or subsequent years.
  - (iii) Audit and accountancy: £200. There is an invoice for this, dated 17 June 2009, in the sum of £143.75 inclusive of VAT (R43).
19. The First Applicant disputes his liability to pay this sum on the basis that the sums are not reasonable. We deal with each item in the service charge account:
- (i) Insurance: £971.26. We are satisfied that this is reasonable. The First Applicant has failed to adduce any alternative quote to suggest to the contrary.
  - (ii) Management fee: £600, namely £300 per flat. Mr Patel referred us to the decision in *61 Rawstorne Street (LON/00AU/LSC/2015/0091*, in which the First-tier tribunal found a management fee of £300 per flat was reasonable. Such a finding is fact sensitive and an issue on which we are able to apply our knowledge as a specialist tribunal. We are not satisfied that the sum charged in respect of this property is reasonable and reduce it by 50%. First, the management of this terraced property is extremely straight forward. Secondly, we are not satisfied that the managing agent has carried out the basic management duties such as a full and proper annual inspection of the property. We accept that the managing agent has had to arrange insurance. We allow £300 per annum (£150 per flat) for this year and all subsequent years.
  - (iii) Audit and accountancy: £200. This is more than the account charged and is manifestly unreasonable. The accounts for this property are extremely straight forward. We allow £80 per annum + VAT, a total of £96.
20. We would therefore have allowed £683.63, namely 50% of £971.26 (insurance); £300 (management fees); and £96 (accountancy).

However, the First Applicant further contends that these sums are not payable on a number of additional grounds:

(i) There has been no formal demand. We reject this. We are satisfied that the landlord made a lawful demand on 22 June 2009 and that this was sent to Mr Buurman at the address that he had notified to his landlord (see R47).

(ii) The landlord has failed to provide a breakdown of the services provided. We reject this. We are satisfied that the demand included the Statement of Accounts at R42.

(iii) The landlord has failed to provide the prescribed information. We reject this. We are satisfied that the demand included the summary of rights and obligations at R48.

(iv) The service charges are barred by Section 20B of the 1985 Act as the service charges were incurred more than 18 months before a demand for payment of the service charge was served on the tenant. We reject this argument. The service charges for the management fee and the accountancy fee were incurred less than 18 months before the demand. The only item to which the provision might apply is the insurance. However, Section 20B does not apply where the tenant has previously been notified in writing of the relevant costs (Section 20B(2)). On 7 September 2007, NJS had demanded an advance service charge which included an estimate of £1,000 for insurance (R35-36). Section 20B only applies where the landlord has spent more than the estimated sum (see *Brent LBC v Shulem B Association Ltd* [2011] EWHC 1663 (Ch); [2011] 1 WLR 3014). The actual expenditure was less than this.

21. Mr Buurman also argues that the recovery of the service charge is barred under the Limitation Act 1980, the limitation period being six years. This Tribunal has no power to enforce the payment of service charges. An action is only brought to recover service charges when proceedings are issued in the County Court. The issue would then arise as to whether the service charges are reserved as rent in which case Section 19 would impose a limitation period of 6 years, or whether it is an action on a specialty (i.e. a deed) in which case Section 8 would impose a longer limitation period of 12 years. The final determination as to whether any claim is statute barred would therefore be for the County Court.
22. Our view is that the service charge is reserved as rent (see Clause 1 of the lease). This service charge became payable on 13 July 2009. Section 19 would therefore require any County Court action to recover this debt to be brought no later than 12 July 2015.

### Service Charge Year 2008/9

23. On 3 July 2009 (R53), NJS issued their demand for the final service charge payable for 2008/9 in the sum of £929.07. The sum became payable in 21 days, namely on 24 July. The demand was accompanied by the requisite summary of rights and obligations (R54). The demand attached the service charge accounts (at R58). The following sums are claimed (the tenant being liable for 50%):

(i) Insurance: £958.13. The landlord has adduced evidence relating to the insurance, dated 30 July 2008 (at R55-56). We are satisfied that this charge is reasonable.

(ii) Management fee: £700. There is an invoice for the management fee, dated 12 June 2009 (at R51). We are again satisfied that this charge is not reasonable and reduce it to £300.

(iii) Audit and accountancy: £200. There is an invoice for this, dated 25 June 2009, in the sum of £143.75 (R52). We are again satisfied that this charge is not reasonable and reduce it to £96.

24. On 26 August 2009, the First Applicant paid this sum of £929.07 by cheque (R53). The First Applicant does not therefore pursue his additional arguments as to the payability of this service charge. We are satisfied that payment does not imply that the tenant has admitted the reasonableness of this charge within Section 27A(4)(a) of the 1985 Act. We have reduced the sum payable for this year to £677.00, namely 50% of £958.13 (insurance); £300 (management fees); and £96 (accountancy). We are also satisfied that it would be open to the landlord to appropriate the additional sum that was paid against the service charges that were due for 2007/8. Thus no refund or credit would be due.

### Administration Fee of £150 (26 August 2009)

25. On 26 August 2009, NJS demanded an administration charge of £150 (R50). The alleged breach of covenant was the failure to pay the service charge of £885.63 which had been demanded on 22 June 2009 and ground rent which had been unpaid for the period 22 June 2007 to 24 June 2010 (R49). The charge is for a single "chaser" letter. The demand (R47) had referred to a charge of £85 for any chaser letter.
26. We would only have been minded to allow an administration charge of £50. However, payment became due immediately, namely on 26 August 2009. No County Court action could be brought to recover this sum after 25 August 2015.

### Service Charge Year 2009/10

27. On 12 July 2010 (R60), NJS issued their demand for the final service charge payable for 2009/10 in the sum of £970.02. The demand stated that the sum was “payable in 21 days from due date”, namely 2 August 2010. The demand was accompanied by the requisite summary of rights and obligations (R61). The demand attached the service charge accounts (at R62).

28. The following sums are claimed (the tenant being liable for 50%):

(i) Insurance: £1,040.04. There is a debit note, dated 4 August 2009 (R65) and particulars (R64). We are satisfied that this sum is reasonable.

(ii) Management fee: £700. There is an invoice for the management fee, dated 12 June 2010 (at R67). We reduce this to £300.

(iii) Audit and accountancy: £200. There is an invoice for this, dated 12 July 2010, in the sum of £150 (R74). We reduce this sum to £96.

We therefore allow £718.02, namely 50% of £1,040.04 (insurance); £300 (management fees); and £96 (accountancy).

29. The First Applicant further contends that they are not lawfully due on the following grounds: (i) There has been no formal demand. We reject this – see R60. (ii) The landlord has failed to provide a breakdown of the services provided. We reject this – see R62. (iii) The landlord has failed to provide the prescribed information. We reject this – see p.61. (iv) The service charges are barred by Section 20B of the 1985 Act. We reject this. All charges had been incurred since 25 June 2009 and the sum was demanded on 12 July 2010. (v) The Limitation Act. We compute that any County Court proceedings to recover the sum of £718.02 must be brought by 1 August 2016.

### Service Charge Year 2010/11

30. On 12 July 2011 (R68), NJS issued their demand for the final service charge payable for 2010/11 in the sum of £1,001.98. The demand stated that the sum was “payable in 21 days from due date”, namely 2 August 2011. The demand was accompanied by the requisite summary of rights and obligations (R69). The demand attached the service charge accounts (R71).

31. The following sums are claimed (the tenant being liable for 50%):



(i) Insurance: £1,053.95. There is a debit note, dated 8 July 2010 (R72) and particulars (R73). We are satisfied that this sum is reasonable.

(ii) Management fee: £700. There is an invoice for the management fee, dated 12 June 2011 (at R75). We reduce this sum to £300.

(iii) Audit and accountancy: £200. There is an invoice for this, dated 27 June 2011, in the sum of £150 (R74). We reduce this sum to £96.

We therefore allow £724.98, namely 50% of £1,053.95 (insurance); £300 (management fees); and £96 (accountancy).

32. The First Applicant further contends that they are not lawfully due on the following grounds: (i) There has been no formal demand. We reject this – see R68. (ii) The landlord has failed to provide a breakdown of the services provided. We reject this – see R71. (iii) The landlord has failed to provide the prescribed information. We reject this – see R69. (iv) The service charges are barred by Section 20B of the 1985 Act. We reject this. All charges had been incurred since 25 June 2010. (v) The Limitation Act. We compute that any County Court proceedings must be brought in the County Court by 1 August 2017.

#### Service Charge Year 2011/12

33. This is the first service charge year which is relevant to both Applicants, Mr Bank having acquired his leasehold interest on 22 December 2011. Any liability to pay service charges ceased on 28 February 2012 when the Applicants acquired the right to manage. It is common ground that the service charges for the year should be apportioned by 8/12 (67%) in order to compute the sums due on 28 February 2012.
34. On 25 November 2011, NJS made a demand for an advance payment of £1,580.50 (Mr Buurman at R76-77; Mr Bank's predecessor-in-title at R78-79). On 10 March 2012 (at R101 and R102), NJS made a final demand seeking 8/12 (67%) of this sum, namely £1053.67.
35. The following sums are claimed (each tenant being liable for 33%):
- (i) Insurance: £1,210.99. There is a debit note, dated 21 June 2011 (R81) and particulars (R80). We are satisfied that this sum is reasonable.
- (ii) Management fee: £800. There is an invoice for the management fee, dated 15 October 2011 (R83). This specifies a management fee of £700 and "accounts information and queries" of £100. We again reduce this sum to £300 for the reasons given above. We can see no justification for the additional claim of £100.

(iii) Landlords Right to Manage costs estimated at £1,150. This was subsequently broken down in the Summary Accounts dated 13 August 2015 (at A13) as surveyor's fees of £460 + £275 and legal fees of £750. We note from the Applicants' Reply (A23) that these sums are not disputed. However, these are not service charges which are within our jurisdiction under an application under Section 27A. They are rather the costs for which the RTM Company is liable under Section 88 of the Commonhold and Leasehold Reform Act 2002.

36. The Applicants further contend that these sums are not lawfully due on the following grounds:

(i) The Second Applicant contends that there has been no formal demand. We reject this. On 25 November 2011, a lawful demand was made to his predecessor in title (see R78-9). On 10 March 2012, there was a demand for the final sum (see R102). It is apparent that there have been a number of further demands.

(ii) Both Applicants complain that the landlord has failed to provide a breakdown of the services provided. We reject this – see R82.

(iii) The Second Applicant complains that the demand does not comply with the terms of the lease. It is correct that the lease makes provision for the payment of half yearly advance service charges and that the landlord has not strictly complied with the mechanism in the lease. However, the lessee also covenants to contribute to 50% of the costs, expenses and outgoings incurred by the landlord in carrying out its duties under the Fourth Schedule. This Tribunal is dealing with the reasonableness of the sums actually expended.

(iv) Both Applicants complain that the service charges are barred by Section 20B of the 1985 Act. We reject this. All charges had been incurred since 25 June 2011. The demands for payment were made within 18 months of this date.

37. We therefore allow £503.66 against each Applicant, namely 33.3% of £1,210.99 (insurance); and £300 (management fees).

### **Applications for costs and refund of fees**

38. The Respondents initially indicated that they were minded to make an application for costs under Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 on grounds of the unreasonable conduct of the Applicants. Having reviewed their position, Mr Patel wisely decided not to proceed with this application. The parties also agreed that the issue of an order under section 20C of

the 1985 Act is not appropriate as the Respondents no longer have any interest in the property and are unable to pass on any costs through the service charge account.

39. At the end of the hearing, the Applicants made an application for a refund of the tribunal fees of £430 that they have paid, namely application and hearing fees of £250 and £180. Having heard the submissions from the parties and taking into account the determinations above, the Tribunal orders that the Respondents refund 67% of these fees, namely £287 within 28 days of the date of this decision. The Applicants have been largely successful. However, at all material times it has been important for all parties that the property should be properly insured. The Respondents arranged this insurance; the tenants have not reimbursed them for these costs.

**Robert Latham**  
**18 July 2016**

#### **ANNEX - RIGHTS OF APPEAL**

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.

## **Appendix of relevant legislation**

### **Limitation Act 1980**

#### **Section 8 - Time limit for actions on a specialty**

- (1) An action upon a specialty shall not be brought after the expiration of twelve years from the date on which the cause of action accrued.
- (2) Subsection (1) above shall not affect any action for which a shorter period of limitation is prescribed by any other provision of this Act.

#### **Section 19 - Time limit for actions to recover rent.**

No action shall be brought, and the power conferred by section 72(1) of the Tribunals, Courts and Enforcement Act 2007 shall not be exercisable, to recover arrears of rent, or damages in respect of arrears of rent, after the expiration of six years from the date on which the arrears became due.

### **Landlord and Tenant Act 1985**

#### **Section 18**

- (1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent -
- (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and
  - (b) the whole or part of which varies or may vary according to the relevant costs.
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.
- (3) For this purpose -
- (a) "costs" includes overheads, and
  - (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

#### **Section 19**

- (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -
- (a) only to the extent that they are reasonably incurred, and
  - (b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;
- and the amount payable shall be limited accordingly.

- (2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

### **Section 27A**

- (1) An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to -
  - (a) the person by whom it is payable,
  - (b) the person to whom it is payable,
  - (c) the amount which is payable,
  - (d) the date at or by which it is payable, and
  - (e) the manner in which it is payable.
- (2) Subsection (1) applies whether or not any payment has been made.
- (3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
  - (a) the person by whom it would be payable,
  - (b) the person to whom it would be payable,
  - (c) the amount which would be payable,
  - (d) the date at or by which it would be payable, and
  - (e) the manner in which it would be payable.
- (4) No application under subsection (1) or (3) may be made in respect of a matter which -
  - (a) has been agreed or admitted by the tenant,
  - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
  - (c) has been the subject of determination by a court, or
  - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

### **Section 20**

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
  - (a) complied with in relation to the works or agreement, or
  - (b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal .

- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
  - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
  - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
  - (a) an amount prescribed by, or determined in accordance with, the regulations, and
  - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.]

### **Section 20B**

- (1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.
- (2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been

incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

### **Section 20C**

- (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, residential property tribunal or the Upper 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.

### **Commonhold and Leasehold Reform Act 2002**

#### **Schedule 11, paragraph 1**

- (1) In this Part of this Schedule “administration charge” means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly—
  - (a) for or in connection with the grant of approvals under his lease, or applications for such approvals,
  - (b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,
  - (c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or
  - (d) in connection with a breach (or alleged breach) of a covenant or condition in his lease.
- (2) But an amount payable by the tenant of a dwelling the rent of which is registered under Part 4 of the Rent Act 1977 (c. 42) is not an administration charge, unless the amount registered is entered as a variable amount in pursuance of section 71(4) of that Act.
- (3) In this Part of this Schedule “variable administration charge” means an administration charge payable by a tenant which is neither—
  - (a) specified in his lease, nor
  - (b) calculated in accordance with a formula specified in his lease.
- (4) An order amending sub-paragraph (1) may be made by the appropriate national authority.

#### **Schedule 11, paragraph 2**

A variable administration charge is payable only to the extent that the amount of the charge is reasonable.

#### **Schedule 11, paragraph 5**

- (1) An application may be made to the appropriate tribunal for a determination whether an administration charge is payable and, if it is, as to—
  - (a) the person by whom it is payable,
  - (b) the person to whom it is payable,
  - (c) the amount which is payable,
  - (d) the date at or by which it is payable, and
  - (e) the manner in which it is payable.
- (2) Sub-paragraph (1) applies whether or not any payment has been made.
- (3) The jurisdiction conferred on the appropriate tribunal in respect of any matter by virtue of sub-paragraph (1) is in addition to any jurisdiction of a court in respect of the matter.
- (4) No application under sub-paragraph (1) may be made in respect of a matter which—
  - (a) has been agreed or admitted by the tenant,
  - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
  - (c) has been the subject of determination by a court, or
  - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.
- (6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—
  - (a) in a particular manner, or
  - (b) on particular evidence,of any question which may be the subject matter of an application under sub-paragraph (1).