FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	CHI/18UG/LSC/2022/0006
Property	**:**	4 Sawmill Close, Totnes, Devon. TQ9 5WT
Applicant	**:**	Lisbeth Peterson
Respondent	**:**	Baltic Wharf Totnes (Flats) Management Company Limited
Representative	**:**	Blenheims Estate and Asset Management (SW) Limited
Type of Application	**:**	Service Charges S.27A Landlord and Tenant Act 1985 (the Act) Limitation of costs S. 20C of the Act and Paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act")
Tribunal Members	**:**	Mr W H Gater FRICS Regional Surveyor (Chairman) Judge C A Rai
Date type and venue of Hearing	**:**	12 July 2022 Paper determination without an oral hearing
Date of Decision	**:**	1 August 2022 Reviewed 26 October 2022

DECISION

The Application

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 and Schedule 11 to the Commonhold and Leasehold Reform Act 2002 as to the amount of service charges and (where applicable) administration charges payable by the Applicant
   a. For the past service charge years:-
      2017/2018, 2018/2019, 2019/2020 and 2020/2021 and
   b. on account of the current service charge year 2021/2022.

The Background

2. The property which is the subject of this application is a ground floor leasehold apartment within a mixed development of 95 houses and apartments known as Baltic Wharf. It stands on an elevated site close to the River Dart and a short distance from the centre of Totnes.

3. Both parties agreed that it was not necessary for the Tribunal to inspect the Property.

4. The matter was determined in a decision dated 1 August 2022. On September 2022 the Respondent successfully made an application to have the decision reviewed on the basis that the Estate Charges levied by the Baltic Wharf Totnes Management Company Limited as distinct from the Baltic Wharf Totnes (Flats) Management Company Limited were not at issue in the application. The Tribunal granted the application to review, and this is the reviewed decision.

The issues

5. The Applicant objects to paying service charges annually in advance and asks that the Tribunal require the Respondent to accept payment by quarterly instalments. It appears that she has intermittently simply paid the Respondent quarterly. She has not disputed that she is liable to pay the service charges.

6. The Applicant disputes whether or not the Respondent can require that she contribute towards the Reserve Fund.

7. She also complains that the service charge demands (not disclosed) contain no reference to either Respondent but only refer to Blenheims and questions whether Blenheims are entitled to collect the service charges.

8. The Applicant objects to being asked to contribute towards the costs of services which she claims are subject to qualifying long term agreements and in respect of which she has not been consulted.

9. The Applicant also complains about the late submission of service charge accounts and that these have not been audited.

10. The Applicant seeks to have the administration charges for late payment deleted.

11. For the year 2018-19 the Applicant challenges the charge for insurance of £248.33, a substantially increased premium, which had not been explained.

12. The Tribunal notes that, with the exception of the last issue re insurance, the application centres on payability under the lease and Section 20 consultation and that no specific service charges have been challenged as being unreasonable.

Proceedings

13. Following receipt of the application dated 10 January 2022 [40] the Tribunal issued Directions dated 25 March 2022 [65] which provided for a telephone Case Management Hearing (CMH) on 20 April 2022.

14. Both parties provided brief written "position statements" prior to the CMH.

15. Mr D Banfield issued further Directions on 20 April 2022 which required that the parties exchange statements and information. He stated that some of the issues raised by the Applicant were outside of the Tribunal's jurisdiction which is to determine the amount of the service charges payable under the terms set out in the lease and in accordance with statute [62].

16. The Applicant has, with the cooperation of the Respondent, provided a bundle to which the Tribunal refers in determining the application.

17. Having reviewed the bundle and the parties' submissions the Tribunal has made the following findings.

18. The Applicant purchased a long lease of the property. The lease was made between the landlord freeholder, the management company, the building management company and the tenant (Applicant). It requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge.

19. There are two distinct service charges, one payable for the maintenance of the Building of which the Property is a part (The Building Service Charge) and one payable in respect of the Estate as defined in the Lease. (The Estate Service Charge). The estate service charge is apparently payable by all of the properties within the Estate and secured by means of a rent charge.

20. Confusingly the two management companies have very similar names. Baltic Wharf Totnes (Flats) Management Company is the company with responsibility for the Building (the Building Management Company) and Baltic Wharf Management Company is the company with responsibility for the Estate (the Estate Management Company).

21. The freeholder landlord presumably retains the ownership of the undeveloped parts of the Estate and the reversion to those properties within the Estate sold by way of long leases, although neither party has supplied any evidence of the current ownership of the Estate.

22. The Applicant's lease provides that she must, if requested, become a member of both management companies but she has told the Tribunal that she is not a member of either company.

23. The Applicant named the original freeholder Bloor Homes Limited and Dinesh Isherwerial Khushalbhai Metha (an active director of the Respondent Company as Respondent) [42]. The Tribunal assumed that the correct Respondent was the Baltic Wharf Totnes (Flat) Management Company.

24. Blenheims Estate and Asset Management (SW) Ltd (Blenheims) the managing agent has confirmed that it represents the Respondent [68]. Pursuant to Rule 10 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the "Rules") the Tribunal directs that Baltic Wharf Totnes Management Company is joined as a Respondent. Blenheims act as the company secretary of both Respondents.

25. The Tribunal has not been provided with copies of any service charge demands.

26. Although accounts have been provided by the Respondent for three past service charge years 2017/2018, 2018/2019 and 2019/2020 those accounts relate only to the Building Service Charge and do not relate to the Estate Service Charge.

27. This application has been dealt with without a hearing and on the papers provided by the parties. A face-to-face hearing was not held because during the telephone case management hearing it was agreed that the issues could be determined on papers. The documents that were referred to are in a bundle containing 222 pages. References to pages in the bundle shown in square brackets are to the electronic page numbering.

The Lease

28. The Applicant's lease of the Property is dated 20 June 2017 made between Bloor Homes Limited (1) Lisbeth Petersen (2) Baltic Wharf Totnes Management Company Limited (3) Baltic Wharf Totnes (Flat) Management Company Limited (4). It demised the Property described

in the Lease as Plot 12 on the ground floor of the Building and a parking space (**the Demised Premises**) [27] to the Applicant. The term is for 150 years from 1 October 2015 and the reserved ground rent is subject to review every ten years. Plot 12 is now known as 4 Sawmill Close.

29. The Lease of the Property is poorly drafted with inconsistencies and errors in the defined terms and cross referencing. The Applicant has raised questions about the meaning and interpretation of the Lease. The Tribunal's jurisdiction in this matter is limited by the Application which is made under sections 19 and 27A of the Landlord and Tenant Act 1985 (the Act). This was stated in Mr Banfield's Directions dated 20 April 2022. Those sections of the Act are set out in the schedule to this decision.

30. The Lease defines certain terms.
- The Building means the building constructed on or within the Estate of which the Demised Premises form part.
- The Estate means the land now or formerly within the landlords title and known as Baltic Wharf Totnes.
- The Building Service Charge means Building Service Charge Percentage.
- The Services means the services set out in the Fourth Schedule.
- The Amenity Land is the Common Driveway and Common Footpath together with any flowerbeds and any other exterior parts of the Common Parts not intended to be separately sold or let [12].

31. The **Management Company**, which generates the Estate Service Charge, covenants to maintain and repair the Amenity Land. The Management Company covenants with both landlord and tenant (clause 6) to provide the Services (see definition below) so far as they relate to the Amenity Land.

32. The **Building Management Company,** which generates the Building Service Charge, covenants to maintain and repair the Building common parts and arranges insurance, cleaning, etc. The Building Management Company covenants with both landlord and tenant (clause 8) to provide the Services (see definition below) so far as they relate to the Building and the Common Parts.

33. The tenant covenants to pay the rent to the landlord and to pay separate service charges to both the Building Management Company and the Management Company. The tenant is obliged to pay those charges annually in advance, on account of the expenses which both management companies consider fair and reasonable.

34. "As soon as practicable" after the end of each service charge year both management companies are required to issue a Certificate (of actual expenditure) and make an adjustment with regard to the advance service

charges collected by demanding any shortfall or crediting any overpayment to the tenant's service charge account.

35. The computation of the **Annual Maintenance Provision** is set out in Part III of the Fifth Schedule [33]. The annual Maintenance Provision in respect of each maintenance year shall be computed not later than the beginning of March immediately preceding the commencement of the maintenance year.

36. "The Annual Maintenance Provision shall consist of a sum comprising:

    (i) The expenditure estimated as likely to be incurred in the maintenance year by the Landlord for the purposes mentioned in the Fourth Schedule together with
    (ii) An appropriate amount as a reserve for or towards those matters mentioned in the Fourth schedule are likely to give rise to expenditure after such maintenance year being matters which are likely to arise either only once during the unexpired term of this lease or at intervals or more than one year during such unexpired term (including without prejudice to the generality of the foregoing) such matters as the decorating of the exterior of the Building the repair of the structure thereof and the repair of the Conduits".

    In summary, the Annual Maintenance Sum is the estimated cost of maintenance for the next service charge year, plus an appropriate amount as a reserve towards the cost of providing the services listed in the Fourth Schedule, likely to occur at intervals of more than a year. This specifically includes decoration of the exterior, repair of the structure and conduits plus a reasonable sum to cover the cost of remuneration Landlord's administration and management costs (Para 2(ii)) [34].

37. Paragraph 4 of Part III of the Fifth Schedule provides: "Subject to the provisions of paragraph 2(ii) of this part of this Schedule a certificate signed by the Landlord and purporting to show the amount of the Annual Maintenance Provision or the amount of the Maintenance Adjustment for any maintenance year shall be conclusive of such amount".

38. The **Building Service Charge Percentage** means a fair and reasonable proportion as notified by the Building Management Company of the expenditure incurred by the Building Management Company in performance of its obligations in relation to the Common Parts and the Building under the Fourth Schedule or such other proportion as may be determined pursuant to Part II of the Fifth Schedule.

39. The Fourth Schedule is headed "Services to be provided and obligations to be discharged by the Management Company and the Building Management Company" which is followed by a statement "The parties

agree and for the avoidance of doubt the Management Company shall provide all of the Services in relation to the Amenity Land and the Building Management Company shall provide all of the Services in relation to the Common Parts and the Building. Paragraph 1 of Part I states:-

"To maintain renew replace and keep in good and substantial repair and condition (save in so far as damage has been caused by a risk against which the Landlord is liable to insure and insurance monies are irrecoverable by any act or default of the Tenant) the Common Parts including but without prejudice to the foregoing provisions: -

1.1 the main structure of the Building including the foundations roof and load bearing walls thereof together with the gutters and rainwater pipes hereof

1.2 all Service Media and any fire alarms firefighting equipment and security systems within the curtilage of the Building used or intended to be used in common by the owners or occupiers of the apartments in the Building

1.3 the main entrances passages landings staircases and all other parts of the Building enjoyed or used in common by the owners or occupiers of the apartments in the Building

1.4 any refuse stores enjoyed or used in common by the owners or occupiers of the apartments in the Building"

40. The Building Management Company must also contribute a share of the costs of renewal and or replacement of party walls, cultivate and keep in good order the gardens if not part of Amenity Land, keep clean and lit internal and any external Building common parts, comply with regulations, pay for common water and electricity and other services, paint decorate and clean the windows of the common parts and external windows of the apartments, obtain valuations provide the details of the Landlord's insurance cover to the Tenant and provide such services and discharge other obligations as both Management Companies reasonably consider necessary or expedient. It must keep full accounts and records of all sums expended and serve upon the tenants of all the apartments in the Building from time to time the Building Certificate and the Certificate and such other documents as are required [31].

41. Paragraph 9 [30] states "To pay to the Landlord on demand (to be made not more than one month prior to the annual renewal date) the cost of effecting insurance pursuance to clause 7.5 of this Lease". Paragraph 7.5 [22] is the Landlords' insurance covenant whereby the Landlord covenants with the tenant and separately with both management companies to insure the Building of which the Demised Premises form part against loss or damage by fire and other risks.....and whenever reasonably required by the Building Management Company to produce details of the insurance cover and evidence of payment of the last premium.

42. There is an obligation to pay the Landlord, interpreted as an obligation to reimburse it in respect of the buildings insurance premium. The obligation would more usually have been included in clause 8 of the Lease.

43. All the obligations referred to in the paragraph above are subject to two provisos [31], one of which authorises the Building Management Company to delegate its obligations and/or employ contractors and pay them and the costs of performing the covenants and employing contractors and agents.

44. **Service Charge** means the Service Charge Percentage of the Annual Maintenance Provision as calculated in accordance with the Fifth Schedule [13]. Part 1 of the Fifth Schedule states [33] under the Heading **Percentage Proportions of the Service Charge and Building Service Charge**: The Service Charge Percentage and Building Service Charge Percentage as shown in the Particulars. There is no reference to either in the Particulars [8] although both are defined in Clause 1 Interpretation and definitions.[12].

Service Charge Accounts

45. The Accounts which relate solely to the Building Service Charge [109] are titled Baltic Wharf Sawmill Close Baltic Way and Dart View House. They are addressed to the Property Owners and state that the accountants (Southern Accounting Services) have relied on the records supplied by Blenheims and certify that the accounts are in accordance with those books and records.

46. Schedule 1 which refers to Block 4, 5, 6 Sawmill Close shows income, surpluses/deficits. The accountants certify, on Page 8, the expenditure by the Buildings Management Company and that the funds are held in an interest bearing account. There is no requirement in the Lease for the accounts to be independently audited.

47. From the certification of the accountants the Tribunal concluded that the accounts reflect the expenditure of the service charges demanded and accurately show the surplus by the Respondent funds accrued at the end of each service charge year for which accounts have been provided.

48. No copies of demands have been provided.

49. A copy of the Flat payment account history for the Applicant has been produced by the Respondent [86]. The amounts shown which appear relevant are listed below. The reference to Schedule 1 in the accounts relates to the building service charges.

Service charges for service charge years 2017 2018.

£

1 Sep 2017 – 31 Aug 2018	Building Yearly reserve fund sch 1* in advance	88.67
1 Sep 2017 – 31 Aug 2018	Building yearly service charge sch 1 in advance	885.33

Service charges for service charge years 2018/2019.

1 Sep 2018 – 31 Aug 2019	Building Yearly reserve fund sch 1 in advance	99.67
1 Sep 2018 – 31 Aug 2019	Building Yearly service charge sch 1 in advance	995

Service charges for service charge years 2019/2020.

1 Sep 2019 – 31 Aug 2020	Building Yearly reserve fund sch 1 in advance	100
1 Sep 2019 – 31 Aug 2020	Building Yearly service charge sch 1 in advance	1043

Service charges for service charge years 2020/2021.

1 Sep 2020 – 31 Aug 2021	Building Yearly reserve fund sch 1 in advance	118.33
1 Sep 2020– 31 Aug 2021	Building Yearly service charge sch 1 in advance	1066.67

Service charges for service charge years 2021/2022.

1 Sep 2021 – 31 Aug 2022	Building Yearly reserve fund sch 1 in advance	133.33
1 Sep 2021– 31 Aug 2022	Building Yearly service charge sch 1 in advance	1,008.67

Evidence and Findings:

50. The Tribunal has considered in detail the submissions by both parties contained in the bundle. Some items are outside of the jurisdiction of an application under Section 27A and the Tribunal has confined its finding to matters withing that jurisdiction. The poor drafting of the lease and the paucity of documentation provided by the Respondents has been an issue.

51. Frequency of service charge payments: The Lease provides for the Tenant to pay two service charges- the Building Service Charge and the Estate Service Charge. These are to be paid annually in advance on 1 September in each year. This is a contractual commitment with which the Applicant is obliged to comply [Clauses 5.2 and 5.3 page 18]. She is obliged to pay both service charges annually in advance.

52. The Tribunal has no jurisdiction to make any order in relation to frequency of the payment of the service charge. The Lease provides when the charges are due, so that is when the Applicant is obliged to pay them.

53. Payments to reserve funds. The Applicant has questioned whether she is obliged to contribute to the Building Maintenance Reserve Fund.

54. The Respondent points to the terms of the lease which deal with reserve funds.

55. The Lease enables the Landlord to demand a contribution towards a reserve with regard to the "Building" Service Charge. The Applicant's obligations are similar in relation to the "Estate" Service Charge.

56. The Tribunal has referred to the relevant clauses in the Lease in the preceding paragraphs and finds that the Applicant is contractually obliged to contribute to both reserve funds.

57. Status of Blenheims. The Applicant questions whether Blenheims are entitled to collect the service charges. The Respondent asserts that they are the current managing agents.

58. The Tribunal, in determining a Section 27A application has limited jurisdiction in which to consider the appointment of agents. Nevertheless, insofar at this applies to this application the Tribunal has considered the issue.

59. It finds that Blenheims are clearly authorised by both management companies to collect the service charges and provide the services. The lease enables to the landlord to delegate its obligations to the Respondent.

60. The Respondents have employed Blenheims pursuant to 6.2.1 and 8.2.1 of the lease which entitles them to employ a firm of managing agents. The Tribunal finds that the engagement of Blenheims being in accordance with the lease has no effect on the application.

61. Consultation and Qualifying Long Term agreements. The Applicant challenges charges for electricity, cleaning, fire equipment insurance and valuation, management fees and the reserve fund on the basis that these are qualifying long term agreements. She states that there has been no consultation that the charges in each case must be limited to £100 [178].

62. The Respondent states that no major works have been carried out to flats 4-6 Sawmill Close which exceed the £250 Section 20 Threshold. This does not address the challenge which refers to qualifying long term agreements and not major works.

63. A qualifying long-term agreement is an agreement entered into by the landlord for a period of more than 12 months. Where consultation is not undertaken for these type of contracts the limit for those charges is £100.

64. However, in the Case Management hearing the Respondent gave evidence that it has not entered into any qualifying long term agreements with contractors. [74] It's management contracts last three months and it therefore stated that the claim was not justified.

65. The Tribunal accepts that there is no evidence of any qualifying long term agreements.

66. The Reserve fund payments are not subject to consultation requirements and the Tribunal notes that the amount is an appropriate percentage of the adjusted service charge for each year for which accounts have been produced.

67. Late unaudited accounts.

68. The Respondents state that the service charge accounts are normally produced 6 months after the financial year end and then circulated to all leaseholders.

69. Alternatively, they produce expenditure reports and although these are not the final audited service charge accounts, they do indicate what monies have been spent from the service charges.

70. They point out that under clause 6.3 of the Lease is to produce accounts "as soon as practicable after the end of the financial year". Six months is not unreasonable in the circumstances.

71. The Applicant challenges this and helpfully sets out the relevant dates in the table below which points to accounts being issued 12 to 25 months after the year end. In the case of 2021 no accounts have been produced.

Period end	Accounts dated	Accounts sent to me	Time from year end + 6 months to my overpayments credited to me
31/08/21	*To date no accounts received, overdue by 3 months?*		
31/08/20	05/10/21	18/11/21	14+ months
31/08/19	19/08/20	09/09/20	12+ months
31/08/18	12/03/20	21/05/20	20+ months
31/08/17	09/08/19	07/10/19	25+ months

72. Guidance on this can be found in Tanfeild on Services Charges and Management 5th edition, citing Mohammadi v Anston Investments Ltd, *[2003] EWCA Civ 981; [2004] L. & T.R. 8*. in which the Court of Appeal found that the expression “as soon as practicable after the signature of the Certificate” did not make time of the essence.

73. The Tribunal finds that as time is not of the essence in this respect, it has no jurisdiction to order more timely provision of accounts. However, it does note that this delay is evidence of poor practice and that the Landlord would ordinarily be unable to recover underpayments by the tenants until accounts are provided.

74. With regard to the question of audits, there is no requirement in the Lease for the accounts to be independently audited.

75. Administration Charges See 86 below.

76. Increase in insurance premium 2018-2019. For the year 2018-19 the Applicant challenges the charge for insurance of £248.33, a substantially increased premium, which had not been explained.

77. The Respondent has not provided any information regarding the insurance premium, policy or cover. It would therefore be appropriate for the Respondent to supply additional information to the Applicant to explain the insurance costs as a matter of urgency. The Tribunal refers both parties the Schedule to the provisions contained in both the Lease and the Schedule to the Act. In the absence of any information provided by the Landlord the Tribunal finds: -

a. The Respondent has not provided any information in relation to the buildings insurance with would enable the Tribunal to determine if the amount it seeks to recover is reasonable.
b. The Landlord is obliged to provide the Building Management Company with information regarding its policy and the Respondent and paragraph 10 of the Fourth Schedule contains an obligation to produce details of insurance cover to the Tenant.
c. Accordingly, the charges for insurance and insurance valuation listed in the table above are not payable (pending receipt of the required information).

78. **In summary the Tribunal finds that the service charges listed for each year are payable with the exception of the insurance charge for 2018-19.**

79. The Respondents have a contractual obligation to calculate updated balancing payments and make adjustments.

80. The Tribunal suggests that this is dealt with promptly on receipt of this decision since, by not having done this, the Respondent has made itself vulnerable to this application.

Application under s.20C and refund of fees

81. The Applicant has not requested the return of her application fee. Given the failure of the Respondent to clarify its response to deal with its actual obligations in the lease the Tribunal orders that the Respondent pays the sum of £100 to the Applicant within 14 days of the date of this Decision.

82. The Applicant has applied for an order under section 20C. Whilst the Tribunal has accepted that the majority of the service charges are recoverable the Respondent has failed to provide any information at all regarding the Estate Service Charge. It has not provided information about the insurance and has not provided copies of the demands for service charges nor administration fees. Despite the Respondents stating that accounts are produced within six months of the year end (30 August) the Tribunal prefers the evidence of the Applicant that the delay is far greater. No accounts have been provided for 2021. For those reasons the Tribunal makes an order under section 20C.

Application under paragraph 5A of Schedule 11 of CLARA

83. Although reference has been made to an "administration charge" for late payment of service charges no demands for these charges have been produced.

84. The Respondent has submitted that it will add a late payment fee of to a tenants account if a second reminder letter is issued [132].

85. In order to be payable an administration charge must be levied in a prescribed form containing the appropriate notes on rights and obligations of the tenant. No such evidence that such a demand has been made was provided.

86. The Tribunal determines that in the absence of any evidence of appropriate demands made for administration fees in respect of late payment of service charges those fees are not payable.

87. If such fees are demanded at a later date these must be reasonable, failing which the Applicant can seek a determination of reasonableness under Schedule 11 of CLARA.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

Schedule of relevant sections of the Landlord and Tenant Act 1985.

19 Limitation of service charges: reasonableness.

(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 provision 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.

20 Limitation of service charges: consultation requirements

(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

20ZAConsultation requirements: supplementary

(1) Where an application is made to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

(2) In section 20 and this section—

- "qualifying works" means works on a building or any other premises, and
- "qualifying long term agreement" means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

(3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—

(a) if it is an agreement of a description prescribed by the regulations, or

(b) in any circumstances so prescribed.

(4) In section 20 and this section "the consultation requirements" means requirements prescribed by regulations made by the Secretary of State.

(5) Regulations under subsection (4) may in particular include provision requiring the landlord—

(a) to provide details of proposed works or agreements to tenants or the recognised tenants' association representing them,

(b) to obtain estimates for proposed works or agreements,

(c) to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,

(d) to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and

(e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.

(6) Regulations under section 20 or this section—

(a) may make provision generally or only in relation to specific cases, and

(b) may make different provision for different purposes.

(7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

27ALiability to pay service charges: jurisdiction

(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.

(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 of an application under subsection (1) or (3).

(7) The jurisdiction conferred on the appropriate tribunal in respect of any matter by virtue of this section is in addition to any jurisdiction of a court in respect of the matter.]