STATUTORY INSTRUMENTS

2003 No. 2098

LANDLORD AND TENANT, ENGLAND

Leasehold Valuation Tribunals (Fees)(England) Regulations 2003

Made - - - -	*7th August 2003*
Laid before Parliament	*18th August 2003*
Coming into force - -	
For all purposes other than regulation 3(3)(a) - - -	*30th September 2003*
For the purposes of regulation 3(3)(a) - - -	*31st October 2003*

The First Secretary of State, in exercise of the powers conferred upon him by paragraphs 1 and 9 of Schedule 12 to the Commonhold and Leasehold Reform Act 2002(**a**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Leasehold Valuation Tribunals (Fees) (England) Regulations 2003.

(2) These Regulations shall come into force—

(a) for all purposes other than regulation 3(3)(a), on 30th September 2003; and

(b) for the purposes of regulation 3(3)(a), on 31st October 2003.

(3) In these Regulations—

"the 1985 Act" means the Landlord and Tenant Act 1985(**b**);

"the 1987 Act" means the Landlord and Tenant Act 1987(**c**);

"the 2002 Act" means the Commonhold and Leasehold Reform Act 2002;

"applicant" means—

(a) the person making an application to a tribunal; or

(b) the person who is the claimant or applicant in proceedings before a court which are transferred by order of the court to a tribunal;

"application" means an application made to the tribunal under—

(**a**) 2002 c. 15.
(**b**) 1985 c. 70.
(**c**) 1987 c.31.

(a) section 20ZA of the 1985 Act (consultation requirements)(**a**);

(b) section 27A of the 1985 Act (service charges)(**b**);

(c) paragraph 8(2) of the Schedule to the 1985 Act (insurers)(**c**);

(d) section 24 of the 1987 Act (appointment of managers)(**d**);

(e) Part 4 of the 1987 Act (variation of leases);

(f) paragraph 3 of Schedule 11 to the 2002 Act (administration charges); or

(g) paragraph 5 of Schedule 11 to the 2002 Act;

"hearing" means a hearing before a tribunal to determine one or more of the following—

(a) an application;

(b) transferred proceedings; or

(c) a representative application

but, for the purposes of the payment of a fee for a hearing, does not include—

(i) a pre-trial review; or

(ii) a hearing to consider dismissing an application as frivolous or vexatious;

"representative application" means an application dealt with as a representative application under regulation 8 of the Leasehold Valuation Tribunal (Procedure)(England) Regulations 2003(**e**);

"transferred proceedings" means proceedings which a court has transferred to a tribunal for determination; and

"tribunal" means a leasehold valuation tribunal.

Application of Regulations

2. These Regulations shall apply—

(a) in relation to any application (other than an application made under section 20ZA of the 1985 Act) made to a tribunal on or after 30th September 2003;

(b) in relation to any proceedings transferred from a court to a tribunal on or after that date; and

(c) in relation to an application under section 20ZA of the 1985 Act made to a tribunal on or after 31st October 2003,

in respect of premises in England.

Fees: applications

3.—(1) Subject to regulation 8, a fee shall be payable for an application to a tribunal under—

(a) section 27A of the 1985 Act (determination of liability to pay a service charge);

(b) paragraph 8(2)(b) of the Schedule to the 1985 Act (right to challenge the insurance premium);

(**a**) Substituted, together with a new section 20, by the Commonhold and Leasehold Reform Act 2002 (c. 15) ("the 2002 Act"), section 151(1), in force for the purposes of making regulations from 26 July 2002 (S.I. 2002/1912) and in force for the remaining purposes from 31 October 2003 (S.I. 2003/1986 (c.82)).

(**b**) Inserted by the 2002 Act, section 155(1) from 30 September 2003 (S.I. 2003/1986 (c.82)).

(**c**) Substituted by the Housing Act 1996 (c.52), section 83(2); amended by the 2002 Act, section 165(1), (2) from 30 September 2003 (S.I. 2003/1986 (c. 82)).

(**d**) Amended by the Housing Act 1996 (c. 52), section 86(2); amended by the 2002 Act, section 160(1), (4) from 26 July 2002; there are other amendments not relevant to these Regulations.

(**e**) S.I. 2003/[ ].

(c) paragraph 3 of Schedule 11 to the 2002 Act (variation of lease because of administration charge); and

(d) paragraph 5 of Schedule 11 to the 2002 Act (determination of liability to pay an administration charge).

(2) Subject to paragraph (5), the fee payable under paragraph (1), where the service charge, insurance premium or administration charge which is the subject of the application—

(a) is not more than £500, is £50;

(b) is more than £500 but not more than £1000, is £70;

(c) is more than £1000 but not more than £5000, is £100;

(d) is more than £5000 but not more than £15000, is £200; and

(e) is more than £15000, is £350.

(3) Subject to regulation 8, a fee shall be payable for an application to a tribunal under—

(a) section 20ZA of the 1985 Act (determination to dispense with consultation requirements);

(b) paragraph 8(2)(a) of the Schedule to the 1985 Act (determination as to suitability of insurer);

(c) section 24 of the 1987 Act (appointment of managers); and

(d) Part 4 of the 1987 Act (variation of leases).

(4) Subject to paragraph (5), the fee payable under paragraph (3)—

(a) where the application relates to 5 or fewer dwellings, is £150;

(b) where the application relates to between 6 and 10 dwellings, is £250; and

(c) where the application relates to more than 10 dwellings, is £350.

(5) Where an application is made under—

(a) two or more of the provisions mentioned in paragraph (1);

(b) two or more of the provisions mentioned in paragraph (3); or

(c) one or more of the provisions mentioned in paragraph (1) and one or more of the provisions mentioned in paragraph (3),

the fee payable in respect of the application shall be the highest of the fees which would have been payable in accordance with paragraph (2) or (4) (as the case may be) if a separate application had been made under each of those provisions.

Fees: applications transferred from court

4.—(1) Subject to paragraph (2) and regulation 8, where a court, by order, transfers to a tribunal so much of any proceedings as relate to the determination of a question falling within the jurisdiction of the tribunal by virtue of a provision mentioned in paragraph (1) or (3) of regulation 3, the fee payable to the tribunal shall be the fee which would have been payable under paragraph (2), (4) or (5) of that regulation (as the case may be) for an application less the total amount of any fees paid by the applicant to the court in respect of the proceedings on or before the date of that order.

(2) Where the total amount of any fees paid to the court on or before the date of the order mentioned in paragraph (1) is equal to or more than the fee payable under that paragraph, no fee shall be payable to the tribunal under that paragraph.

Fees: hearings

5.—(1) Subject to paragraph (2) and regulation 8, a fee of £150 shall be payable for a hearing.

(2) Where part of an application or transferred proceedings is or will be determined at, or in accordance with, a hearing of a representative application and part is to be determined at a separate hearing, the fee for the part which is to be heard separately shall be £150 less the total amount of any fees paid by the applicant in accordance with regulation 7(5) for that part of the

application or transferred proceedings which is to be determined at, or in accordance with, the representative application.

Payment of fees

6.—(1) Any fee payable under regulation 3 shall accompany the application.

(2) Any fee payable under regulation 4 or 5 shall be due within 14 days of a written request for payment by the tribunal and shall be sent to the address specified in that request.

(3) The fee shall be paid by a cheque made payable to or postal order drawn in favour of the Office of the Deputy Prime Minister.

Liability to pay and apportionment of fees

7.—(1) Subject to regulation 8 and the following paragraphs, the applicant shall be liable to pay any fee payable to a tribunal under these Regulations.

(2) Subject to paragraph (3), where an application is made or transferred proceedings are brought by more than one person, any fee payable under regulations 3 or 4 for the application or transferred proceedings shall be apportioned equally between those persons and each person shall be liable to pay one portion.

(3) Where—

(a) an application is made or transferred proceedings are brought by the tenant or the landlord of premises; and

(b) the tenant or landlord is more than one person,

those persons together shall be treated as one person for the purposes of paragraph (2).

(4) Where two or more applications are heard together, other than applications which are heard with a representative application, any fee payable under regulation 5 for the hearing shall be apportioned equally between the applications and, subject to the provisions of paragraphs (2), (3) and (6) and regulation 8, the applicant in each application shall be liable to pay one portion.

(5) Any fee payable under regulation 5 for the hearing of a representative application and any application heard with the representative application shall be apportioned equally between—

(a) the representative application;

(b) all other applications which, at the time of the request for payment of the fee, are to be determined in whole or in part in accordance with the representative application; and

(c) any application heard with the representative application,

and, subject to the provisions of paragraphs (2), (3) and (6) and regulation 8, the applicant in each application shall pay be liable to pay one portion of the fee.

(6) The amount payable by any person in respect of a fee shall be calculated in accordance with the provisions of this article and by reference to the persons who are applicants on the date the application is made or the date of the request for payment issued by the tribunal.

(7) In this regulation, "applicant" includes any person, whose request under regulation 6 of the Leasehold Valuation Tribunals (Procedure)(England) Regulations 2003 to be joined as a party to the proceedings and treated as an applicant, has been granted by the tribunal.

Waiver and reduction of fees

8.—(1) A person shall not be liable to pay any fee due under these Regulations where on the relevant date, he or his partner is in receipt of—

(a) either of the following benefits under Part 7 of the Social Security Contributions and Benefits Act 1992(**a**)—

(**a**) 1992 c. 4; amended by the Tax Credits Act 2002 (c. 21), sections 60 and Schedule 6. There are other amendments not relevant to these Regulations.

(i) income support; or

(ii) housing benefit;

(b) an income-based jobseeker's allowance within the meaning of section 1 of the Jobseekers Act 1995(**a**);

(c) a tax credit to which paragraph (2) applies;

(d) guarantee credit under the State Pensions Credit Act 2002(**b**); or

(e) a certificate—

(i) which has been issued under the Funding Code(**c**) and which has not been revoked or discharged; and

(ii) which is in respect of the proceedings before the tribunal the whole or part of which have been transferred from the county court for determination by a tribunal.

(2) This paragraph applies to a working tax credit under Part 1 of the Tax Credits Act 2002(**d**), where—

(a) either—

(i) there is a disability element or severe disability element (or both) to the tax credit received by the person or his partner; or

(ii) the person or his partner is also in receipt of child tax credit(**e**); and

(b) the gross annual income taken into account for the calculation of the working tax credit is £14,213 or less;

(3) Where a person is not liable to pay a fee by virtue of paragraph (1), the following provisions shall apply—

(a) where more than one person is the applicant and at least one of those persons is liable to pay a fee, the fee shall be reduced rateably in accordance with the number of persons who would have been liable but for paragraph (1); and

(b) where more than one person is the applicant and at least one person is liable to pay a portion of a fee by virtue of regulation 7(2) to (5), such portion shall be reduced rateably in accordance with the number of persons who would have been liable but for paragraph (1).

(4) In this regulation—

(a) "applicant" includes any person, whose request under regulation 6 of the Leasehold Valuation Tribunals (Procedure)(England) Regulations 2003 to be joined as a party to the proceedings and treated as an applicant, has been granted by the tribunal;

(b) "partner", in relation to a person, means—

(i) that person's spouse;

(ii) a person of the opposite sex who is living with that person as husband or wife; and

(iii) a person of the same sex living with that person in a relationship which has the characteristics of the relationship between husband and wife;

(c) "relevant date" means—

(i) in the case of a fee payable under regulation 3, the date of the application;

(ii) in the case of a fee payable under regulation 4, the date of the court order transferring proceedings to the tribunal;

(iii) in the case of a fee payable under regulation 5, the date of the request for payment.

(**a**) 1995 c.18; amended by the Welfare Reform and Pensions Act 1999 (c.30), sections 59 and 88 and Schedules 7 and 13.
(**b**) 2002 c. 16.
(**c**) *See* sections 8 and 9 of the Access to Justice Act 1999 (c. 22) for the Funding Code. *See* section 4 of Part 2 to the Funding Code for the certificate.
(**d**) 2002 c. 21.
(**e**) *See* section 1 of the Tax Credits Act 2002 (c. 21).

Reimbursement of fees

9.—(1) Subject to paragraph (2), in relation to any proceedings in respect of which a fee is payable under these Regulations a tribunal may require any party to the proceedings to reimburse any other party to the proceedings for the whole or part of any fees paid by him in respect of the proceedings.

(2) A tribunal shall not require a party to make such reimbursement if, at the time the tribunal is considering whether or not to do so, the tribunal is satisfied that the party is in receipt of any of the benefits, the allowance or a certificate mentioned in regulation 8(1).

Signed by authority of the First Secretary of State

Keith Hill
Minister of State
Office of the Deputy Prime Minister

7th August 2003

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for fees in respect of applications to, and hearings before, leasehold valuation tribunals (including cases transferred from a court). These Regulations apply in relation to any application (other than an application under section 20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act")) or proceedings transferred to a tribunal on or after 30th September 2003 in respect of premises in England. In relation to applications made under section 20ZA of the 1985 Act, these Regulations apply from 31st October 2003.

They replace, with amendments, the Leasehold Valuation Tribunals (Fees) Order 1997 (S.I. 1997/1852) ("the 1997 Order").

Regulation 3 prescribes the fees payable for applications to tribunals. In the case of applications relating to—

liability to pay service charge or administration charge;

the amount of the insurance premium; or

the variation of leases because of administration charge,

the fee is calculated by reference to the value of the application.

In the case of applications relating to—

dispensing with consultation requirements;

the suitability of a proposed insurer;

the appointment of a manager; or

the variation of leases,

the fee is calculated by reference to the number of dwellings the application relates to.

Regulation 4 prescribes that the fee payable where a court transfers proceedings to a tribunal shall be calculated as if the application had been made directly to the tribunal, less any fees paid to the court on or before the date of the order transferring the proceedings.

The equivalent fees provided for in the 1997 Order were set at £150. As the fee is now variable the minimum fee now payable is £50, a reduction of 66.6%, while the maximum fee payable is £350, an increase of 133.3%.

Regulation 5 prescribes a set hearing fee of £150. Under the 1997 Order the hearing fee was variable, the minimum fee payable was £150 and the maximum fee payable was £350. Under these Regulations there is a reduction of the hearing fee of 57.1% in relation to cases that used to attract the maximum fee.

Regulation 6 provides that a fee payable under regulation 3 shall accompany the application and a fee payable under regulations 4 and 5 will be payable within 14 days of a written request for payment.

Regulation 7 contains provisions dealing with liability to pay the fees due under these Regulations. In particular—

where an application is brought by more than one person;

where more than one application is heard together; and

where there is a representative application,

the fee is apportioned and each person is liable to pay his portion.

Regulation 8 provides for liability to pay fees to be waived where a person or his partner is in receipt of specified benefits and for fees to be reduced where there is more than one person liable to pay a fee and at least one person is in receipt of such benefits. For the purposes of this regulation "partner" can include a person of the same sex.

Regulation 9 provides for the reimbursement of fees.

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