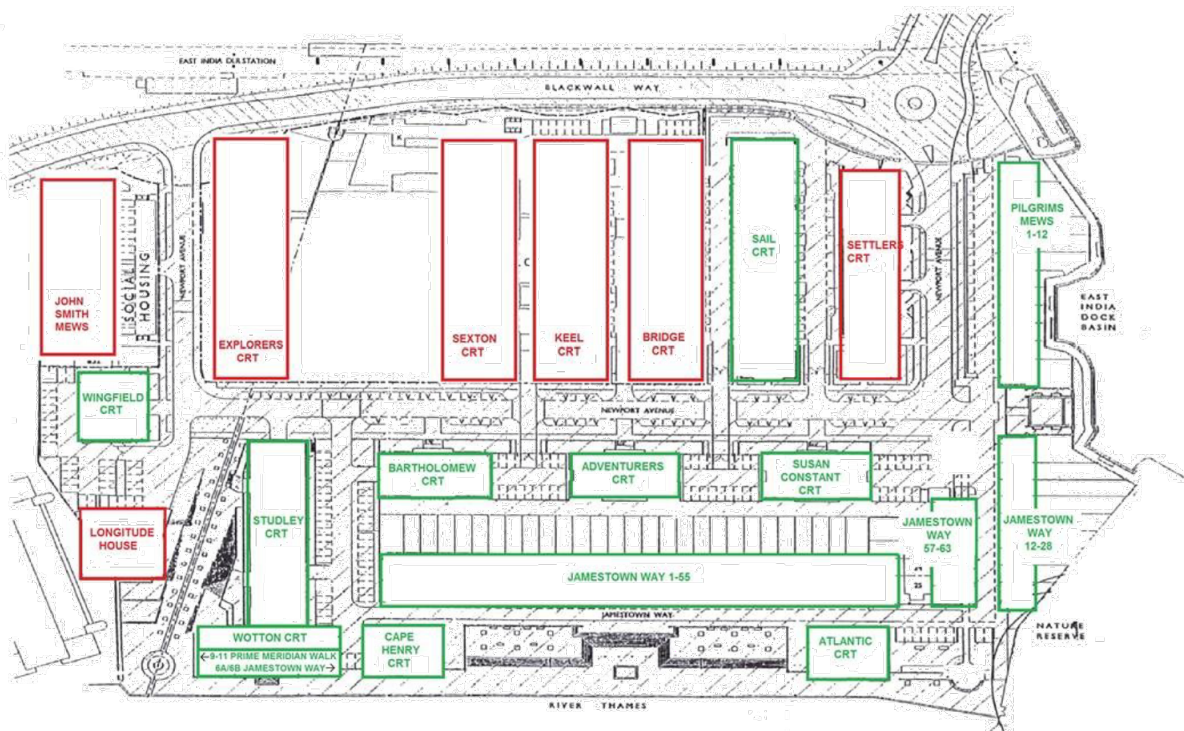


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2002 ACT PROVISIONS

72 Premises to which Chapter applies

- (1) This Chapter applies to premises if—
- (a) they consist of a self-contained building or part of a building, with or without appurtenant property,
 - (b) they contain two or more flats held by qualifying tenants, and
 - (c) the total number of flats held by such tenants is not less than two-thirds of the total number of flats contained in the premises.
- (2) A building is a self-contained building if it is structurally detached.
- (3) A part of a building is a self-contained part of the building if—
- (a) it constitutes a vertical division of the building,
 - (b) the structure of the building is such that it could be redeveloped independently of the rest of the building, and
 - (c) subsection (4) applies in relation to it.
- (4) This subsection applies in relation to a part of a building if the relevant services provided for occupiers of it—
- (a) are provided independently of the relevant services provided for occupiers of the rest of the building, or
 - (b) could be so provided without involving the carrying out of works likely to result in a significant interruption in the provision of any relevant services for occupiers of the rest of the building.
- (5) Relevant services are services provided by means of pipes, cables or other fixed installations.
- (6) [Schedule 6](#) (premises excepted from this Chapter) has effect.

96 Management functions under leases

- (1) This section and [section 97](#) apply in relation to management functions relating to the whole or any part of the premises.
- (2) Management functions which a person who is landlord under a lease of the whole or any part of the premises has under the lease are instead functions of the RTM company.
- (3) And where a person is party to a lease of the whole or any part of the premises otherwise than as landlord or tenant, management functions of his under the lease are also instead functions of the RTM company.

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- (4) Accordingly, any provisions of the lease making provision about the relationship of—
- (a) a person who is landlord under the lease, and
 - (b) a person who is party to the lease otherwise than as landlord or tenant, in relation

to such functions do not have effect.

(5) “Management functions” are functions with respect to services, repairs, maintenance, improvements, insurance and management.

(6) But this section does not apply in relation to—

- (a) functions with respect to a matter concerning only a part of the premises consisting of a flat or other unit not held under a lease by a qualifying tenant, or
- (b) functions relating to re-entry or forfeiture.

(7) An order amending subsection (5) or (6) may be made by the appropriate national authority.

97 Management functions: supplementary

(1) Any obligation owed by the RTM company by virtue of [section 96](#) to a tenant under a lease of the whole or any part of the premises is also owed to each person who is landlord under the lease.

(2) A person who is—

- (a) landlord under a lease of the whole or any part of the premises,
- (b) party to such a lease otherwise than as landlord or tenant, or
- (c) a manager appointed under [Part 2](#) of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises,

is not entitled to do anything which the RTM company is required or empowered to do under the lease by virtue of [section 96](#), except in accordance with an agreement made by him and the RTM company.

(3) But subsection (2) does not prevent any person from insuring the whole or any part of the premises at his own expense.

(4) So far as any function of a tenant under a lease of the whole or any part of the premises—

- (a) relates to the exercise of any function under the lease which is a function of the RTM company by virtue of [section 96](#), and
- (b) is exercisable in relation to a person who is landlord under the lease or party to the lease otherwise than as landlord or tenant,

it is instead exercisable in relation to the RTM company.

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(5) But subsection (4) does not require or permit the payment to the RTM company of so much of any service charges payable by a tenant under a lease of the whole or any part of the premises as is required to meet costs incurred before the right to manage was acquired by the RTM company in connection with matters for which these service charges are payable.

112 Definitions

(1) In this Chapter—

...

“*appurtenant property*”, in relation to a building or part of a building or a flat, means any garage, outhouse, garden, yard or appurtenances belonging to, or usually enjoyed with, the building or part or flat, ...

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1993 ACT PROVISIONS

1.— The right to collective enfranchisement.

(1) This Chapter has effect for the purpose of conferring on qualifying tenants offlats contained in premises to which this Chapter applies on the relevant date theright, exercisable subject to and in accordance with this Chapter, to have the freehold of those premises acquired on their behalf—

- (a) by a person or persons appointed by them for the purpose, and
- (b) at a price determined in accordance with this Chapter;

and that right is referred to in this Chapter as *“the right to collective enfranchisement”* .

(2) Where the right to collective enfranchisement is exercised in relation to any such premises (“the relevant premises”)—

- (a) the qualifying tenants by whom the right is exercised shall be entitled, subject to and in accordance with this Chapter, to have acquired, in like manner, the freehold of any property which is not comprised in the relevant premises but to which this paragraph applies by virtue of subsection (3); and
- (b) [section 2](#) has effect with respect to the acquisition of leasehold intereststo which [paragraph \(a\)](#) or [\(b\) of subsection \(1\)](#) of that section applies.

(3) Subsection (2)(a) applies to any property if at the relevant date either—

- (a) it is appurtenant property which is demised by the lease held by aqualifying tenant of a flat contained in the relevant premises; or
- (b) it is property which any such tenant is entitled under the terms of thelease of his flat to use in common with the occupiers of other premises (whether those premises are contained in the relevant premises or not).

(4) The right of acquisition in respect of the freehold of any such property as is mentioned in subsection (3)(b) shall, however, be taken to be satisfied with respectto that property if, on the acquisition of the relevant premises in pursuance of this Chapter, either—

- (a) there are granted by the person who owns the freehold of thatproperty —
 - (i) over that property, or
 - (ii) over any other property,

such permanent rights as will ensure that thereafter the occupier of the flat referred to in that provision has as nearly as may be the same rights as thoseenjoyed in relation to that property on the relevant date by the qualifying tenant under the terms of his lease; or

(b) there is acquired from the [person who owns the freehold of that property the freehold of any other property over which any such permanent rights maybe granted.

(5) A claim by qualifying tenants to exercise the right to collective enfranchisement may be made in relation to any premises to which this Chapter applies despite the fact that those premises are less extensive than the entirety of the premises in relation to which those tenants are entitled to exercise that right.

(6) Any right or obligation under this Chapter to acquire any interest in property shall not extend to underlying minerals in which that interest subsists if—

(a) the owner of the interest requires the minerals to be excepted, and

(b) proper provision is made for the support of the property as it is enjoyed on the relevant date.

(7) In this section—

“*appurtenant property*”, in relation to a flat, means any garage, outhouse, garden, yard or appurtenances belonging to, or usually enjoyed with, the flat;

“*the relevant premises*” means any such premises as are referred to in subsection (2).

(8) In this Chapter “*the relevant date*”, in relation to any claim to exercise the right to collective enfranchisement, means the date on which notice of the claim is given under [section 13](#).

2.— Acquisition of leasehold interests.

(1) Where the right to collective enfranchisement is exercised in relation to any premises to which this Chapter applies (“the relevant premises”), then, subject to and in accordance with this Chapter—

(a) there shall be acquired on behalf of the qualifying tenants by whom the right is exercised every interest to which this paragraph applies by virtue of subsection (2); and

(b) those tenants shall be entitled to have acquired on their behalf any interest to which this paragraph applies by virtue of subsection (3);

and any interest so acquired on behalf of those tenants shall be acquired in the manner mentioned in [paragraphs \(a\) and \(b\) of section 1\(1\)](#).

(2) Paragraph (a) of subsection (1) above applies to the interest of the tenant under any lease which is superior to the lease held by a qualifying tenant of a flat contained in the relevant premises.

(3) Paragraph (b) of subsection (1) above applies to the interest of the tenant under any lease (not falling within subsection (2) above) under which the demised premises consist of or include—

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- (a) any common parts of the relevant premises, or
- (b) any property falling within [section 1\(2\)\(a\)](#) which is to be acquired by virtue of that provision,

where the acquisition of that interest is reasonably necessary for the proper management or maintenance of those common parts, or (as the case may be) that property, on behalf of the tenants by whom the right to collective enfranchisement is exercised.

(4) Where the demised premises under any lease falling within subsection (2) or (3) include any premises other than—

- (a) a flat contained in the relevant premises which is held by a qualifying tenant,
- (b) any common parts of those premises, or
- (c) any such property as is mentioned in subsection (3)(b),

the obligation or (as the case may be) right under subsection (1) above to acquire the interest of the tenant under the lease shall not extend to his interest under the lease in any such other premises.

(5) Where the qualifying tenant of a flat is a public sector landlord and the flat is let under a secure tenancy [or an introductory tenancy][1](#) , then if—

- (a) the condition specified in subsection (6) is satisfied, and
- (b) the lease of the qualifying tenant is directly derived out of a lease under which the tenant is a public sector landlord,

the interest of that public sector landlord as tenant under that lease shall not be liable to be acquired by virtue of subsection (1) to the extent that it is an interest in the flat or in any appurtenant property; and the interest of a public sector landlord as tenant under any lease out of which the qualifying tenant's lease is indirectly derived shall, to the like extent, not be liable to be so acquired (so long as the tenant under every lease intermediate between that lease and the qualifying tenant's lease is a public sector landlord).

(6) The condition referred to in subsection (5)(a) is that either—

- (a) the qualifying tenant is the immediate landlord under the secure tenancy [or, as the case may be, the introductory tenancy][2](#) , or
- (b) he is the landlord under a lease which is superior to the secure tenancy [or, as the case may be, the introductory tenancy][3](#) and the tenant under that lease, and the tenant under every lease (if any) intermediate between it and the secure tenancy [or the introductory tenancy][3](#) , is also a public sector landlord;

and in subsection (5) “*appurtenant property*” has the same meaning as in [section 1](#).

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(7) In this section “*the relevant premises*” means any such premises as are referred to in [subsection \(1\)](#).

3.— Premises to which this Chapter applies.

(1) Subject to [section 4](#), this Chapter applies to any premises if—

- (a) they consist of a self-contained building or part of a building [...][1](#);
- (b) they contain two or more flats held by qualifying tenants; and
- (c) the total number of flats held by such tenants is not less than two-thirds of the total number of flats contained in the premises.

(2) For the purposes of this section a building is a self-contained building if it is structurally detached, and a part of a building is a self-contained part of a building if—

- (a) it constitutes a vertical division of the building and the structure of the building is such that that part could be redeveloped independently of the remainder of the building; and
- (b) the relevant services provided for occupiers of that part either—
 - (i) are provided independently of the relevant services provided for occupiers of the remainder of the building, or
 - (ii) could be so provided without involving the carrying out of any work likely to result in a significant interruption in the provision of any such services for occupiers of the remainder of the building;

and for this purpose “*relevant services*” means services provided by means of pipes, cables or other fixed installations.

4.— Premises excluded from right.

(1) This Chapter does not apply to premises falling within [section 3\(1\)](#) if—

- (a) any part or parts of the premises is or are neither—
 - (i) occupied, or intended to be occupied, for residential purposes, nor
 - (ii) comprised in any common parts of the premises; and
- (b) the internal floor area of that part or of those parts (taken together) exceeds 25 per cent. of the internal floor area of the premises (taken as a whole).

(2) Where in the case of any such premises any part of the premises (such as, for example, a garage, parking space or storage area) is used, or intended for use, in

conjunction with a particular dwelling contained in the premises (and accordingly is not comprised in any common parts of the premises), it shall be taken to be occupied, or intended to be occupied, for residential purposes.

(3) For the purpose of determining the internal floor area of a building or of any part of a building, the floor or floors of the building or part shall be taken to extend (without interruption) throughout the whole of the interior of the building or part, except that the area of any common parts of the building or part shall be disregarded.

(3A) Where different persons own the freehold of different parts of premises within [subsection \(1\) of section 3](#), this Chapter does not apply to the premises if any of those parts is a self-contained part of a building for the purposes of that section.

(4) This Chapter does not apply to premises falling within [section 3\(1\)](#) if the premises are premises with a resident landlord and do not contain more than four units.

(5) This Chapter does not apply to premises falling within [section 3\(1\)](#) if the freehold of the premises includes track of an operational railway; and for the purposes of this subsection—

(a) “*track*” includes any land or other property comprising the permanent way of a railway (whether or not it is also used for other purposes) and includes any bridge, tunnel, culvert, retaining wall or other structure used for the support of, or otherwise in connection with, track,

(b) “*operational*” means not disused, and

(c) “*railway*” has the same meaning as in any provision of [Part 1](#) of the [Railways Act 1993 \(c. 43\)](#) for the purposes of which that term is stated to have its wider meaning.

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