

Right to manage key

Question 1

We provisionally propose that the RTM should be exercisable in respect of leasehold houses as well as flats.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 2

Do consultees think leasehold houses qualifying for the RTM would increase the number of RTMs?

Yes/No/Other

Please share your views below.

Do consultees think this would be used by leaseholders of houses to acquire single-building RTMs, or only to join multi-building RTMs on estates?

Yes/No/Other

Please share your views below.

Question 3

We provisionally propose that leaseholders of houses should follow the same process as leaseholders of flats in order to acquire the RTM.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 4

We provisionally propose to adopt the same approach as in our proposals relating to enfranchisement, so that the RTM will be exercisable over “residential units”. Do consultees agree it should be a consistent approach?

Yes/No/Other

Please share your views below.

If not, how can we justify different terminology and what should it be?

Question 5

Our provisional view is that the different underlying considerations for enfranchisement and for the RTM justify a divergent approach to the qualifying criteria for premises.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 6

We provisionally propose that there should be a broader definition of “building” for the purposes of the RTM qualifying criteria for premises.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 7

Instead of introducing a broader definition of “building”, would consultees prefer to retain the existing requirements for a self-contained building or part of a building, with an additional judicial discretion to allow the RTM to be acquired where the qualifying criteria are not met?

Yes/No/Other

Please share your views below.

Question 8

Do consultees have experience of failing to acquire the RTM because of the current definition of “building”?

Yes/No/Other

Please share your views below.

Question 9

We provisionally propose that one qualifying tenant should be able to claim the RTM over:

- (1) buildings which contain no other residential premises; and
- (2) buildings in which there are no other qualifying tenants.

Do consultees agree?

Yes/No/Other

Please share your views below..

Question 10

We provisionally propose that the requirement for at least two-thirds of the flats in the premises to be held by qualifying tenants should be reduced to 50%.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 11

We provisionally propose that the current rule requiring the participation of both qualifying tenants in a two-unit building should be retained, because of the particular risk of dispute and deadlock in the RTM context. Do consultees agree?

Yes/No/Other

Please share your views below.

Question 12

We provisionally propose that the exemption for buildings containing more than 25% non-residential premises should be removed, so that the RTM could be acquired in respect of such buildings.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 13

We provisionally propose that the RTM company should be required to instruct professional managing agents, satisfying applicable regulatory standards, for any buildings containing commercial premises which represent more than 25% of the total internal floor area.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 14

Do consultees have experience of being unable to acquire the RTM because of the exemption for buildings containing more than 25% non-residential premises?

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 15

We provisionally propose that shared ownership leaseholders with long leases should be qualifying tenants for the purposes of RTM, regardless of whether they have staircased to 100%.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 16

We provisionally propose that the law should be changed to allow leaseholders to qualify for the RTM in premises with a resident freeholder.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 17

Do consultees have experience of leaseholders being prevented from exercising the RTM by the resident landlord exemption?

Yes/No/Other

Please share your views below.

Question 18

Do consultees consider that our provisional proposal to allow leaseholders to qualify for the RTM on premises with a resident freeholder is likely to deter home owners from converting part of their property into a leasehold flat or flats?

Yes/No/Other

Please share your views below.

Question 19

Do consultees consider that an RTM company should be able to acquire the RTM over the whole building where the freehold of the building is in split ownership?

Yes/No/Other

Please share your views below.

Question 20

If the law was changed to allow the RTM over a building in split freehold ownership, do consultees agree that the tribunal should have the power to reconcile any conflicting covenants in the leases with the different freeholders?

Yes/No/Other

Please share your views below.

Question 21

Do consultees have experience of the RTM in relation to a building owned by different freeholders?

Yes/No/Other

Please share your views below.

Question 22

We provisionally propose that National Trust properties should be excluded from the RTM.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 23

We provisionally propose that the existing exclusion for leases which allow any non-residential use should be replaced with an exclusion for leases which prohibit residential use. Do consultees agree? Yes/No/Other Please share your views below.

Do consultees agree?

Yes/No/Other

Please share your views below.

If not, is there any justification for having a different position in the RTM than in enfranchisement?

Question 24

Do consultees have experience of leaseholders being prevented from exercising the RTM by the exclusion for leases which allow any non-residential use?

Yes/No/Other

Please share your views below.

Question 25

We provisionally propose that qualifying tenants of a single building on an estate should retain the existing right to claim the RTM over that single building.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 26

We provisionally propose that the law should allow for a single RTM company to acquire the RTM over two or more buildings situated on the same estate in a single RTM claim.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 27

Do consultees think it would be cheaper for leaseholders on an estate to carry out a multi-building RTM rather than multiple single-building RTMs (both in terms of acquisition costs and ongoing costs)?

Yes/No/Other

Please share your views below.

Question 28

We provisionally propose that the RTM should be capable of being exercised over multiple buildings by a single RTM company in a single RTM claim if either:

- (1) the buildings to be managed by the single RTM company share some appurtenant property; or
- (2) the qualifying tenants in each building contribute to a common service charge (whether or not other, separate service charges are payable).

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 29

We provisionally propose that the qualifying criteria and participation requirement should have to be satisfied by each individual building included in the claim for a multi-building RTM, rather than as a whole across all of the buildings included in the claim.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 30

We do not consider that there should be an automatic right for qualifying tenants of premises not originally included in an RTM claim to later join an existing multi-building RTM arrangement.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 31

We provisionally propose that qualifying tenants of buildings should be able to “break away” from existing multi-building RTM arrangements and exercise the RTM in their own right.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 32

We provisionally propose that the restriction on successive claims should apply to break-away claims, so that the qualifying tenants of the building(s) wishing to break away have to wait for a minimum period following the multi-building RTM acquisition before making the break-away claim.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 33

We do not consider that members of a multi-building RTM company should have different voting rights to members of a single-building RTM company, because of the likely associated complexity and cost.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 34

We provisionally propose that there be a presumption that the management functions relating to appurtenant property which does not belong exclusively to, or is not usually enjoyed exclusively with, the building(s) over which the RTM is being acquired should not transfer to the RTM company.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 35

We provisionally propose that RTM companies should continue to be companies limited by guarantee.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 36

We provisionally propose that, if our proposals on prescribed articles for nominee purchasers are adopted, it should not be permitted to use RTM companies as nominee purchasers in collective freehold acquisitions, as it is easier to set up a new company for this purpose.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 37

We provisionally propose that the limit on the number of RTM companies that can exist in relation to a set of premises should be removed and replaced by a rule that once one RTM company serves a claim notice in relation to a set of premises, no other RTM company can do so until:

- (1) the RTM claim is withdrawn or rejected by the tribunal; or
- (2) the RTM, having been acquired, ceases.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 38

Do consultees have experience of landlords setting up RTM companies in an attempt to prevent leaseholders from acquiring the RTM?

Yes/No/Other

Please share your views below.

Question 39

Do consultees have experience of third parties such as managing agents setting up RTM companies in an attempt to gain some benefit?

Yes/No/Other

Please share your views below.

Question 40

We invite consultees' views on whether any requirements of company law should be relaxed for RTM companies.

Please share your views below.

Question 41

We provisionally propose that the prescribed articles of association should be amended to require RTM company directors to hold a general meeting once a year.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 42

We provisionally propose that training for RTM company directors should be encouraged and well-publicised, but not mandatory.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 43

We provisionally propose that the Government should ensure that training resources for prospective RTM directors are provided free of charge.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 44

In your experience, do most RTM companies appoint managing agents?

Yes/No/Other

Please share your views below.

Question 45

Should it ever be mandatory for RTM companies to use a managing agent which meets the regulatory standards expected to be set by the Ministry of Housing, Communities and Local Government?

Yes/No/Other

Please share your views below.

Question 46

If consultees think it should be mandatory for RTM companies to use a managing agent meeting the regulatory standards expected to be set by the Ministry of Housing, Communities and Local Government, are any (or all) of the following the appropriate circumstances in which it should be mandatory:

- (1) Where more than 25% of the internal floorspace of the premises is commercial property?
- (2) Where the premises have more than a certain number of units?
- (3) Where the premises have special characteristics such as:
 - (a) being a listed building; or
 - (b) having a specialised use, such as retirement property?

Option 1

Option 2

Option 3a

Option 3b

None

Please share your views below.

Question 47

If consultees think that use of a managing agent should be mandatory in premises with more than a certain number of units, would 10 units be an appropriate threshold?

Yes/No/Other

Please share your views below.

If not, what would be an appropriate threshold?

Question 48

Are there any other circumstances in which consultees think it should be mandatory to use a managing agent which meets the regulatory standards set by the Ministry of Housing, Communities and Local Government?

Yes/No/Other

Please share your views below.

Question 49

We provisionally propose that RTM companies should be able to recover their management costs (including administration costs) from leaseholders as if the lease made express provision for them to be recovered as part of the service charge.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 50

Do consultees think that there would be a reduction in litigation if RTM companies were permitted to recover their management costs (including administration costs) through the service charge? If possible, please provide an estimate of the percentage of cases in which this might make a difference.

Yes/No/Other

Please select your percentage below.

Please share your views below.

Question 51

We provisionally propose that the requirement to serve notices inviting participation should be abolished. Do consultees agree? Yes/No/Other Please share your views below.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 52

Do consultees think the acquisition process would be shorter and/or cheaper if notices inviting participation were abolished?

Both

Shorter only

Cheaper only

None

Other

If possible, please estimate how much time and/or money the average RTM company might save.

Question 53

We provisionally propose that the prescribed notes accompanying the claim notice should include a statement that qualifying tenants are entitled to join the RTM company at any time.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 54

In our enfranchisement consultation paper we provisionally proposed to replace the current deemed withdrawal provisions for a claim notice. If this proposal applied in the RTM context, landlords who have served a counter-notice and leaseholders would have a new right to apply to the tribunal for an order striking out the claim where the RTM company has not initiated the next step in the process.

We provisionally propose that the same right should be introduced in the RTM context. Do consultees agree? Yes/No/Other Please share your views below. This would replace the rule that the RTM company is deemed to have withdrawn its claim if it does not apply to the tribunal after receiving a negative counter-notice. If consultees think the position should be different from that in enfranchisement, please give reasons.

Yes/No/Other

Please share your views below.

Question 55

We provisionally propose that landlords should be required to state all possible objections in the counter-notice and should not generally be permitted to raise new arguments at a later stage.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 56

We provisionally propose that, where a counter-notice has not been served, the RTM company should be able to apply to the tribunal to determine:

(Please tick all that you agree with)

- (1) that the RTM company was on the relevant date entitled to acquire the RTM;
- (2) the acquisition date on which the RTM was or will be acquired; and/or
- (3) the transfer of management functions in respect of non-exclusive appurtenant property.

Please share your views below.

Question 57

We provisionally propose that, where no counter-notice is served and an RTM company applies to the tribunal for a determination as to its acquisition of the RTM and/or the transfer of management functions in respect of non-exclusive appurtenant property, then:

- (1) the landlord should have to apply to the tribunal for permission to participate in the proceedings; and
- (2) the tribunal should be able to make the permission conditional on such terms as it thinks fit.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 58

Do consultees think that giving RTM companies the right to apply to the tribunal to determine their entitlement to acquire the RTM when no counter-notice has been served is likely to prevent future litigation over the validity of the RTM? If possible, please provide an estimate of the percentage of cases in which this might make a difference.

Please select your estimated percentage.

Please share your views below.

Question 59

We provisionally propose that the tribunal should be given a power to waive defects or allow amendments in the claim notice and make any other directions it considers appropriate.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 60

We provisionally propose that the tribunal should be given a power to waive defects or allow amendments in the counter-notice and make any other directions it considers appropriate, provided that amendments are not permitted unless the landlord has made a genuine mistake or other exceptional criteria are met.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 61

Do consultees think that giving the tribunal the power to waive defects or allow amendments in notices would reduce litigation and therefore reduce costs? If possible, please estimate how much money an RTM company might save.

Yes/No/Other

Please share your views below.

Question 62

Do consultees consider that there should continue to be a requirement for the claim notice to be signed by or on behalf of the RTM company?

Yes/No/Other

Please share your views below.

Question 63

If the requirement for a claim notice to be signed by or on behalf of the RTM company is to be retained, do consultees consider that the claim notice should be signed by either:

- (1) a single officer of the RTM company; or

- (2) a person authorised by an officer of the RTM company to sign the claim notice on behalf of the RTM company?

Please share your views below.

Question 64

We provisionally propose that an RTM company should be able to serve the RTM claim notice on the landlord at the following email addresses:

- (1) an address they have specified for the service of RTM notices;
- (2) an address they have specified for the purposes of serving notices (including notices in proceedings); or
- (3) an address included on or at HM Land Registry as one at which the registered proprietor can be served with notices.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 65

We provisionally propose that the law should be clarified to confirm that an RTM company is entitled to serve a copy of the claim notice on a qualifying tenant at an email address they have confirmed to the RTM company as an email address for the service of notices under the RTM provisions.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 66

We provisionally propose that a claim notice should be deemed to have been served on the landlord if it is delivered by hand, or sent by post or email (where permitted) to one of the specified addresses in Group A or Group B.

Group A addresses for service include:

- (1) any address (including an email address) that has been provided by the landlord to the leaseholders or RTM company as an address at which an RTM notice may be served; and
- (2) the landlord's current address.

Group B addresses for service include:

- (3) the landlord's last known address;
- (4) the latest address given by the landlord for the purposes of section 47 of the Landlord and Tenant Act 1987;
- (5) the latest address given by the landlord for the purposes of section 48 of the Landlord and Tenant Act 1987; and
- (6) the latest email address given by the landlord for the purposes of serving notices (including notices in proceedings).

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 67

We provisionally propose that before serving a claim notice, the RTM company should be required to check the landlord's address on or at HM Land Registry.

Do consultees agree?

Yes/No/Other

Please share your views below.

Before service of a claim notice at a Group B address, we provisionally propose that the RTM company should be required to:

- (a) search the Probate Register;
- (b) search the Insolvency Register; and
- (c) (in the case of a company landlord) check its status at Companies House.

We also provisionally propose the following:

- (1) if an individual landlord is dead, the designated address for service should be the address of any personal representatives given in any grant of probate (or, if none, the office of the Public Trustee);

- (2) if an individual landlord is insolvent, the designated address for service should be the address for their trustee in bankruptcy as shown on the Insolvency Service website;
- (3) if a company landlord is insolvent, the designated address for service should be the address for its administrator, liquidator or receiver as listed at Companies House. If no such person has been appointed, the Official Receiver should be served.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 68

Do consultees consider that a claim notice should include a statement of truth confirming that specified checks (if required) have been carried out?

Yes/No/Other

Please share your views below.

Question 69

We provisionally propose that if the identity of the landlord is known, but the RTM company does not have an address for them falling within Group A or B, they should carry out the Group B checks above. If this fails to provide an address, an advertisement should be placed in the London Gazette.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 70

We provisionally propose, in line with our proposals in the enfranchisement consultation paper, that an RTM company applying to acquire the RTM under the missing landlord procedure should be required to:

- (1) conduct the pre-service checks for using a Group B address for service;

- (2) place an advertisement in the London Gazette inviting the owner of the identified property to contact the RTM company within 28 days; and
- (3) include confirmation that these preliminary checks have been undertaken in the application to the tribunal for a determination that the RTM company is entitled to acquire the RTM.

Do consultees agree that the procedure where there is a missing landlord should be the same for RTM as for enfranchisement claims?

Yes/No/Other

Please share your views below.

Question 71

We provisionally propose that an RTM company should be able to specify in the claim notice an alternative address (other than the company's registered office) at which a landlord should serve a counter-notice. This could be:

- (1) an address in England or Wales for service by post or hand delivery; or
- (2) an email address.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 72

We provisionally propose that, in the absence of agreement between the landlord and the RTM company, the minimum period between:

- (1) either
 - (a) the withdrawal of a counter-notice opposing the RTM claim; or
 - (b) the tribunal's final determination that the RTM company is entitled to acquire the RTM; and

- (2) the acquisition date of the RTM,

should be three months.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 73

We provisionally propose that, where the claim notice does not specify a date for acquisition, this should be determined by the tribunal, following an application by the RTM company or landlord.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 74

We provisionally propose that the tribunal should be able to change the acquisition date on an application from an RTM company.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 75

Do consultees consider that we should prescribe a form for the information notice? The form would contain information which should always be provided, as well as information which, depending on the circumstances, it may be reasonable to request/provide.

Yes/No/Other

Please share your views below.

Question 76

Do consultees think that landlords should be exempted from providing information which they cannot reasonably provide without incurring disproportionate expense (whether these costs are to be met by the RTM company or the landlord)?

Yes/No/Other

Please share your views below.

Question 77

Do consultees think that the provision of information before the RTM company finds out whether it is actually entitled to exercise the RTM is a good idea?

Yes/No/Other

Please share your views below.

If so, which of the two options relating to the timing of the provision of information would you prefer and why? Please also provide any further comments on your preferred option which may improve it.

If possible, when setting out your preferred option for the timing of the provision of information, please set out how you consider the costs should be allocated, and estimate the cost/impact of the different options.

- (1) Option 1: information as part of the counter-notice. The RTM company could serve the request for information as part of the claim notice. The request would not be mandatory, as some RTM companies may feel that they have all the information they need. See from paragraph 7.67 of the consultation paper for more information.
- (2) Option 2: optional information notice, with information provided by the counter-notice stage at the latest. Option 2 introduces the option for the RTM company to serve an early, stand-alone information notice in advance of the claim notice. It would not be mandatory, but we envisage that it would be desirable, particularly in the case of more complex premises. See from paragraph 7.78 of the consultation paper for more information.

Please select your preferred option.

Please share your views below.

Question 78

Do consultees think that the landlord should have:

- (1) 28 days, with a possible extension in exceptional circumstances; or
- (2) a fixed period of 60 days,

in order to provide the information needed by the RTM company in connection with the RTM?

Please select from the options below.

Please share your views below.

Question 79

We provisionally propose that the landlord should be under a duty to notify the RTM company of any material changes to the information previously provided and confirm, on the date of acquisition, that there are no material changes that have not been notified.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 80

Do consultees think that RTM companies need a copy of every lease to understand their management obligations?

Yes/No/Other

Is a copy of each lease provided to or obtained by RTM companies at the moment?

Yes/No/Other

Please share your views below.

Question 81

Do consultees consider that the benefits of the RTM company accessing a copy of each lease would outweigh the additional time and cost incurred in preparing these?

Yes/No/Other

Please share your views below.

Question 82

We provisionally propose to require the landlord, RTM company and contractor parties to communicate within prescribed periods to clarify how existing contracts will be dealt with prior to the RTM acquisition date. Our proposals would require:

- (1) the landlord to provide copies or details of the management contracts, (including the contract terms, cost and notice period) in response to the information notice or with the counter-notice, depending on the preferred option for provision of information;

- (2) the RTM company to notify the landlord of the contractor parties which it does not wish to, or cannot agree terms with on which to maintain a contractual relationship within one month of the determination date; and
- (3) the landlord to notify the RTM company's preference to the contractor parties within 14 days. The landlord should also confirm that it considers the contract terminated as a matter of law as it will no longer be managing the premises post acquisition.

Do consultees consider that these additional requirements will provide sufficient clarity and certainty for all parties involved in the management of the premises?

Yes/No/Other

Please share your views below.

Question 83

We invite consultees to share their experiences of TUPE where the RTM has been acquired. Did the landlord's employees, who were involved in management of the premises, transfer over to the RTM company? If so, in what circumstances? If not, what happened to them once the RTM transferred?

Please share your views below.

Question 84

Do consultees have experience in relation to a caretaker or landlord's employee's rights to occupy a flat in the premises? What happened once the RTM was transferred?

Please share your experience below.

Question 85

Do consultees consider that any amendments could be made to the definition of "management functions", or more information provided by way of guidance, to improve clarity and certainty?

Yes/No/Other

Please share your views below.

Question 86

Are consultees aware of cases where the RTM company and landlord have arranged for certain management functions to remain with, or transfer back to, the landlord?

Yes/No/Other

If so:

- (1) What functions, and why?
- (2) Did any disputes arise from the agreement to transfer them back?

Question 87

Do consultees think that regulated activities, such as the provision of personal care, should be excluded from the definition of “management functions”, so that they do not transfer to the RTM company?

Yes/No/Other

Please share your views below.

Question 88

If consultees do not think that regulated activities should be excluded from the definition of “management functions”, do they consider that any changes are needed to the current law, under which the RTM company acquires the obligation to carry out any regulated activities specified in the lease?

Yes/No/Other

Please share your views below.

Question 89

Are there any regulated activities other than the provision of care which consultees think RTM companies should not, or might not want to, acquire?

Yes/No/Other

Please share your views below.

Question 90

We provisionally propose that a copy of the current insurance policy, the insurance claims history and a copy of the last reinstatement valuation should be part of the documentation provided by the landlord to the RTM company before acquisition of the RTM.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 91

Do consultees think that landlords providing a copy of the current insurance policy, claims history and a copy of the last reinstatement valuation would lower the cost of securing insurance for RTM companies? If possible, please provide an estimate of how much could be saved.

Yes/No/Other

Please share your views below.

Question 92

Do consultees think that it should be made explicit in legislation that the RTM company has an insurable interest?

Yes/No/Other

Please share your views below.

Question 93

We provisionally propose that the RTM company should acquire the duty to reinstate the building, provided that the lease places this duty on the landlord. Do consultees agree? Yes/No/Other Please share your views below.

Do consultees agree?

Yes/No/Other

Please share your views below.

If not, should there be a solution based on separate insurances obtained by the RTM company and the landlord respectively (“split insurance”)?

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 94

We provisionally propose that the RTM company should provide the landlord with a copy of any contract of insurance entered into by the RTM company in respect of the premises, within 21 days of a request from the landlord.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 95

Do consultees have experience of landlords purchasing additional insurance for a premises subject to the RTM because an RTM company failed to secure comprehensive insurance?

Yes/No/Other

Please share your experience below.

If so, what was the cost of this additional insurance?

Question 96

We provisionally propose that the landlord should be able to apply to the tribunal for a determination that the RTM company has under-insured.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 97

We provisionally propose that, if the tribunal finds that the RTM company has under-insured, the tribunal should be able to:

- (1) direct that legitimate costs of “top up” insurance are recoverable; and/or
- (2) make a direction for the future insurance of the building to be procured by the RTM company.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 98

Do consultees consider that RTM companies should be required to obtain reinstatement valuations periodically?

Yes/No/Other

Please share your views below.

Question 99

In consultees’ experience, how much does it cost to obtain a reinstatement valuation?

Question 100

In consultees’ experience, how common is it for RTM companies to recover accrued service charge arrears from the landlord?

What are the consequences for the financial security of the RTM company if arrears are not recovered?

Question 101

We provisionally propose that the landlord should be required to pay to the RTM company 50% of the estimated uncommitted service charges at the latest on the acquisition date, with the remainder payable within six months of the acquisition date.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 102

We provisionally propose that the landlord should be required to use reasonable endeavours to pursue service charge arrears accrued prior to the acquisition date, and to pay any recovered funds to the RTM company.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 103

We invite consultees' views on the following points.

- (1) Do consultees consider that there is a practical solution to avoid some of the existing delays and duplication of costs associated with lease consents under the RTM regime?

Yes/No/Other

Please share your views below.

- (2) If so, do consultees consider:
- (a) that the RTM company and landlord should be required to appoint joint advisors (chosen by the RTM company), in order to keep down the costs to be met by the leaseholder ("option 3");
 - (b) that the existing process should be sped up, by requiring the leaseholder to seek consent from the RTM company and landlord concurrently, or requiring the RTM company to pass the request to the landlord within a set period of time ("option 4"); or
 - (c) that there is another model which would work better (in which case, please give details)?

Please share your views below.

- (3) In relation to option 4, do consultees agree that the RTM company and/or landlord should have a limited period within which to respond?

Yes/No/Other

- (4) How long would be appropriate? We suggest 30 days as an initial position. How could costs be kept down?

Please share your views below.

Question 104

What experiences of delays and/or duplication of costs have consultees experienced in relation to lease consents under the RTM regime? If possible, please give an indication of the costs incurred.

Question 105

Do consultees consider that the law should be clarified to make clear that the RTM company is not entitled to grant retrospective consents or consents in respect of absolute covenants?

Yes/No/Other

Please share your views below.

Question 106

We provisionally propose that the law should require the RTM company to include its own name and address for service on service charge demands, but not those of the landlord.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 107

We provisionally propose that the tribunal should have exclusive jurisdiction over disputes between the RTM company and landlord arising from the RTM provisions.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 108

Do consultees consider the tribunal having exclusive jurisdiction over disputes between the RTM company and landlord over RTM provisions would save time and lower costs?

Yes/No/Other

Please share your views below.

Question 109

If consultees do not agree that the tribunal should have exclusive jurisdiction over disputes between the RTM company and the landlord arising from the RTM provisions, over which disputes should the county court retain jurisdiction?

Please share your views below.

Question 110

We provisionally propose that enforcement of the requirements in the 2002 Act should be the exclusive preserve of the tribunal.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 111

Do consultees agree that the tribunal should not be given exclusive jurisdiction to deal with disputes between the RTM company and a third party?

Yes/No/Other

Please share your views below.

Do consultees agree that the tribunal should not be given exclusive jurisdiction to deal with disputes between the RTM company and a leaseholder?

Yes/No/Other

Please share your views below.

Question 112

We invite consultees' views as to whether there is any stage of the RTM process or any issue (pre- or post- acquisition of the RTM) in which mediation or arbitration might play a helpful role. If so, please give details.

Please share your views below.

Question 113

We invite consultees' views as to whether the RTM company should be required to make any contribution to the landlord's non-litigation costs.

Yes/No/Other

Please share your views below.

Question 114

We invite consultees' views as to how any contribution that is to be made by the RTM company to the landlord's non-litigation costs should be calculated. Should the contribution be based on:

- (1) fixed costs;
- (2) capped costs;
- (3) fixed costs subject to a cap on the total costs payable; or
- (4) the landlord's response (the counter-notice) to the claim notice, and/or whether the landlord succeeds in relation to any points raised in his or her counter-notice?

Please select your answer below.

Please share your views below.

Question 115

We also invite consultees' views as to whether, if a fixed costs regime were to be adopted:

- (1) such a regime should apply to claim notices; and
- (2) if a fixed costs regime were to apply to claim notices:
 - (a) what additional features might justify the recovery of additional sums; and
 - (b) whether landlords should be able to recover all their reasonably incurred costs in respect of those additional features (subject to assessment), or only further fixed sums.

Please share your views below.

Question 116

We provisionally propose that:

- (1) no additional costs should be recoverable where there are intermediate landlords or split freehold titles; and
- (2) the RTM company pays an additional fee owed to third party managers if they incur expense due to the RTM company's claim.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 117

We provisionally propose that where a claim notice fails, is withdrawn, or is struck out, the RTM company should be liable to pay a percentage of the non-litigation costs that would have been payable had the claim been completed.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 118

We provisionally propose that the percentage of the fixed non-litigation costs that should be payable where a claim notice fails, is withdrawn, or is struck out should vary depending on the stage that the claim has reached.

Do consultees agree? If so, what percentages should apply at particular stages of the claim?

Yes/No/Other

Please share your views below.

Question 119

We provisionally propose that the litigation process in respect of an RTM claim should not confer a right to costs on either party. Instead, each party should bear their own costs, except where there has been unreasonable behaviour or wasted costs, or where one of the exceptions we refer to above applies.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 120

Do consultees think that each party having to bear their own costs of litigation would lead to fewer tribunal cases?

Yes/No/Other

Please share your views below.

Question 121

We provisionally propose there be a presumption in favour of an order under section 20C of the Landlord and Tenant Act 1985 and/or paragraph 5A of schedule 11 to the 2002 Act to prevent landlords recovering litigation costs from leaseholders through service charges or administration charges.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 122

Do consultees have experience of the RTM ceasing to be exercisable by an RTM company?

Yes/No/Other

What caused the termination, and what happened afterwards?

Please share your experience below.

Question 123

We provisionally propose that when evaluating an application to appoint a manager under Part 2 of the Landlord and Tenant Act 1987, or for management to revert to the landlord, the tribunal should consider whether the RTM company's membership satisfies the RTM participation requirements.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 124

We provisionally propose that, on termination of the RTM, the functions of the RTM company should, by default, revert to:

- (1) the party who is responsible for management functions in the ordinary course of events under the leases; or
- (2) if that person no longer exists, the landlord.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 125

We provisionally propose that the default position should not however apply where:

- (1) the tribunal has made an alternative determination or order; or
- (2) the issue has been otherwise agreed between the RTM company and every landlord.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 126

We provisionally propose that, where an agreement between the RTM company and the landlord to terminate the RTM does not have the support of all qualifying tenants, that agreement should have to be approved by the tribunal. The tribunal should approve the agreement if it is satisfied that the leaseholders will be able to enforce performance of the management functions in the leases against the party proposed to be responsible for management.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 127

We provisionally propose that, where an RTM company which has been struck off is restored to the Register of Companies relatively quickly, the tribunal should have the ability to declare that the RTM is restored to the RTM company.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 128

Do consultees consider that an application to restore the company to the register should have to be made within 30 days of the strike off taking effect?

Yes/No/Other

Please share your views below.

If not, how long?

Question 129

We provisionally propose that interim management should revert to the landlord or other responsible party under the lease, unless the leaseholders apply to the tribunal for a manager to be appointed on an interim basis.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 130

We provisionally propose that the tribunal should have the power to reinstate the RTM even if the RTM has been terminated, if termination has occurred as a result of a clerical or administrative error which does not cause loss or prejudice to any party.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 131

We provisionally propose that regulations should set out a non-exhaustive list of the circumstances in which an RTM company ceases to be an RTM company in respect of the premises.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 132

We provisionally propose that those grounds on which an RTM company ceases to be an RTM company in respect of the premises should include:

- (1) where the freehold of any premises over which RTM is exercised is transferred to the RTM company;
- (2) where the articles of the company are changed so that they no longer provide that the purpose of the company is to manage the premises in question (subject to the RTM company being able to add/remove premises); and
- (3) where the RTM company is a commonhold association.

Do consultees agree?

Yes/No/Other

Please share your views below.

Do consultees consider that any other circumstances should be included?

Question 133

We provisionally propose that the appointment of a manager provisions in Part 2 of the Landlord and Tenant Act 1987 should be extended to apply to any premises which are being managed by an RTM company.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 134

We provisionally propose that an RTM company should be able to apply to the tribunal at any time, whether it is solvent or not, to give up the RTM, and for an order that a manager is appointed, or that the management functions revert to the landlord or other person who has management functions under the lease.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 135

Do consultees think there will be a time and/or financial saving if RTM companies can apply to the tribunal at any time to give up the RTM? How often do consultees think this option would be used?

Both

Time saving only

Financial saving only

None

Other

Please share your views below.

How often do consultees think this option would be used?

Question 136

We provisionally propose that the landlord should be able to object to an RTM company's application to give up the RTM only in exceptional cases. Do consultees agree?

Yes/No/Other

Please share your views below.

What should these be?

Question 137

We provisionally propose that, while the RTM is continuing, the landlord should have the right to apply to the tribunal either:

- (1) for the management functions to be transferred back to the party under the lease, failing which, the landlord; or
- (2) if the default party is not best placed to manage the premises, for the appointment of a manager;

on the basis that the fault-based grounds for appointment of a manager under the Landlord and Tenant Act 1987 are made out.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 138

We provisionally propose that, after the RTM has ceased, the landlord should be able to apply to the tribunal to appoint a manager instead of management reverting to the landlord or other party under the lease.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 139

We provisionally propose that the application to appoint a manager instead of management reverting to the landlord or other party under the lease should have to be made within 30 days of the RTM ending.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 140

We provisionally propose to clarify that the uncommitted service charges held by a solvent RTM company when the RTM ceases should be transferred to the party who takes over management.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 141

We provisionally propose that there should be a statutory assignment from the RTM company to the new manager of the right to collect service charge debts when the RTM ceases.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 142

We provisionally propose that the existing four-year restriction on successive RTM companies should be reduced.

Do consultees agree?

Yes/No/Other

Please share your views below.

Question 143

What period of time do consultees think is appropriate for a restriction on successive RTM companies and why?

Question 144

Do consultees have experience of cases where the tribunal has disapplied the four-year ban?

Yes/No/Other

Please share your views below.

If so, has there been any negative impact on any of the parties?

Yes/No/Other

Please share your views below.