

LEASE EXTENSION OF FLATS

**"And summer's lease hath all too short a date" Sonnet 18 William Shakespeare.
The Commonhold and Leasehold Reform Act 2002 received Royal Assent on 1st May 2002.**

The Act contains 183 sections with 13 schedules filling 140 pages. The complexity of the Act is acknowledged by the Government publication (released simultaneously) of 83 pages of explanatory notes. The provisions in the Act relating to leasehold flats await Government regulations, expected by May 2003. Meanwhile the existing law, largely contained within the Leasehold Reform, Housing and Urban Development Act 1993 ("the 1993 Act"), remains in force. This article, only attempts to explain the changes which will come about relating to extension of leases, leaving aside the new commonhold concept, the right to manage and changes to the procedure for collective enfranchisement.

A major reform in the Act is the abolition of the residence test for both collective enfranchisement and extension of lease under the 1993 Act. However, for lease extension the tenant must be resident for a minimum of two years. Furthermore, the personal representatives i.e. executors of a will or administrators in the case of an intestacy (no will), of a deceased qualifying tenant may claim a lease extension for up to two years after the grant of probate (will) or letters of administration (intestacy). But this change must await the appropriate statutory instrument. The new lease will be for a term of 90 years plus the unexpired term of the existing lease with no rent payable but only service charges. There is no change here from the 1993 Act.

Meanwhile, there may be many flat owners whose leases need topping up in order to sell or remortgage. Such people must weigh up whether to proceed now or await the commencement of the new Act's provisions. Under existing law, if agreement is not reached for the sum to be paid for a lease extension the matter will be decided by the local leasehold valuation tribunal. The valuation will be calculated on the hearing date so a landlord who delays may benefit as the price usually increases as the lease reduces and as property values rise. The local leasehold valuation tribunal may not take place for up to six months from the date of application.

However, under the new law a valuation will be calculated from the date when a notice of claim is served so any delay in a hearing will be inconsequential for the flat owner.

Generally, in the case of applications for lease extensions where similar leases in a block of flats are concerned, collective action can save costs particularly if one firm of solicitors and surveyors is engaged to act for all residents.

An additional reason for claiming an extension of lease may be one where elderly flat owners wish to take advantage of an equity release scheme to enhance income and provide a capital sum but the fund provider requires a longer lease.

This brief article does not attempt to explain all the changes in the law by the 2002 Act. In all cases competent professional advice should be sought.

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