FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	HAV/45UB/LVl/2025/0001
Property	:	Loxwood House, Middle Road, Lancing BN15 9JG
Applicant	:	MC Housing Limited
Representative	:	Wallace LLP (Ref: Mr S Serota)
Respondents	:	Robert Adam Biss (Flat 1) Rebecca Ann Peters (Flat 3) Lee Piper and Jean Piper (Flat 4) Cyrus Yazdani and Alex Lappin (Flat 5) Alison Caroline Shaw (Flat 6) Christine Adams (Flat 7) Terry Joseph Langridge (Flat 8)
Representatives	:	Mr Biss in person. The other Respondents did not appear and were not represented
Type of Application	:	Lease variation pursuant to section 35 of the Landlord and Tenant Act 1987
Tribunal Members	:	Mr C Norman FRICS Valuer Chairman Mr M Ayres FRICS Ms P Gravell
Date of Hearing/ Venue	:	21 August 2025 via video link at Havant Civil Justice Centre, and 20 November 2025 in person at Brighton Tribunal Hearing Centre
Date of Decision	:	22 February 2026

DECISION

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Decision

1. The application is granted.

2. The Tribunal orders the parties to enter into the respective deeds of variation for each flat within the application as included in the bundle.

3. The Tribunal makes no order for the Applicant to pay compensation to the Respondents.

Reasons

Background

4. On 22 January 2025 the Applicant applied for a lease variation in respect of flats 1, and 3-8 inclusive of Loxwood House Lancing. The application was brought under section 35 of the Landlord and Tenant Act 1987 ("the 1987 Act") on the grounds that those leases failed to make satisfactory provision with respect to the computation of service charges. Loxwood House is a purpose built block of 8 flats. Each of the 7 leases provides for a 6.25% contribution. Flat 2 provided for a 12.5% contribution and was therefore outside the application. The aggregate service charge was therefore 56.25% of expenditure. The Tribunal was told that the freehold had been bought at auction in 2022 and the freeholder did not have historic service charge information.

5. The lease for flat 1 was granted for 189 years from 22 May 2007. Those leases for flats 4,5,6 and 8 were granted for 99 years from 22 May 2007. The lease for flat 8 was granted for 99 years from 7 June 2007.

Procedural History

6. On 29 April 2025 directions were given. Paragraph 18 directed that the application and supporting documents shall stand as the Applicants statement of case. Subsequently a hearing was directed at the request of a Respondent.

7. On 21 August 2025 a hearing via video conferencing was held at the Havant Civil Justice Centre. The Applicant was represented by Mr Serota, Solicitor of Wallace LLP. Mr Biss appeared in person. The other Respondents did not appear. The Tribunal had received a bundle comprising 459 pages.

8. At that hearing the Tribunal raised a point of law and also determined that expert evidence was required to consider the issue of prejudice to the Respondents and the matter of compensation. The case was adjourned part heard. Further Directions were issued and the matter set down for a further face to face hearing at a venue close to the subject property. The resumed hearing took place face to face on 20 November

9.

2025 with Mr Serota and Mr Biss in attendance. As directed, a supplemental bundle was served, comprising 177 pages.

There were no formal factual witness statements, but Mr Langridge and Mr Biss gave written submissions, and the latter also addressed the Tribunal orally. As directed, the Applicant produced an experts' report. This was prepared by Mr Jason Mellor Assoc.RICS who gave evidence (see below).

The Law

10. Relevant sections from the 1987 Act are annexed to the decision.

The Applicant's Case

11. This may be summarised as follows. The 6.25% apportionment arose from a mistake when the block was developed together with Steyning House which is adjacent. It was intended that the twin blocks should be treated as a single entity which resulted in the 6.25% contribution (one-sixteenth). The lease terms were unsatisfactory. The sister block Steyning House was the subject of an LVT decision in 2012. In that case the LVT granted the variation sought. No compensation was ordered.

12. The threshold for making the variation sought in this application was crossed. The Tribunal had a very wide jurisdiction.

13. The objectors had raised two issues. Mr Biss submitted that the services provided were unsatisfactory. This was not a relevant consideration. Mr Langridge [who had made a written submission] was not present. In *Steyning House* the LVT found that there was no diminution in the value of the flats.

<u>The Applicant's Expert Evidence</u>

14. Mr Serota called Mr Jason D Mellor Assoc.RICS, who had produced an expert's report which contained appropriate declarations. Mr Mellor is a consultant valuation surveyor at Maunder Taylor 1320 High Rd, Whetstone London N20 9HP. He has a diploma in surveying practice from the College of Estate Management and became Assoc.RICS qualified in 2021. He commenced practice as a residential property manager at Maunder Taylor in 2000.

15. Mr Mellor had been instructed to provide expert valuation advice on whether the proposed variation gave rise to any loss or prejudice to the flats affected, for which compensation should be ordered.

16. Mr Mellor had obtained service charge budgets and accounts for the property for the years 2020, 2021, 2023 and the budget for 2024. The average was £6,658 per annum or £416 per flat per annum. If the proposed variation took effect the average would increase to £832 per flat per annum.

17. Mr Mellor firstly considered whether this variation would result in a diminution in value of the subject flat flats. Mr Mellor considered that there were two competing elements to be considered. The first were potential advantages to the flat owner from the status quo, as the amount payable would be half that of competing flats. Conversely there were potential disadvantages. The service charge shortfall can affect the mortgageability of a flat. A freeholder faced with a significant shortfall may carry out work to a low standard, although this was subject to the legal rights of the tenant to enforce covenants. Thirdly, the freehold could be sold to a company without assets giving rise to an inability to fund the service charge shortfall. Fourthly an RMT company could not exist without 100% service charge recovery, so creating an RTM would not be possible. Fifthly, in the event of collective enfranchisement, a lessee-controlled enfranchisement company would need to obtain 100% service charge recovery otherwise this would be non-viable. Sixthly any Tribunal appointed manager under section 24 of the 1987 act would require an order providing for full recovery of service charges.

18. Mr Mellor approached his assessment by comparing sales of flats in a block where the service charge contributions are substantially less than the total service charges against sales in a similar block where there is no service charge shortfall, albeit service charge percentages are higher. To carry out this analysis Mr Mellor compared sales in Loxwood House and Steyning House being identical blocks, and where Steyning House has no service charge shortfall. Mr Mellor carried out an analysis of sales in the respective properties between May 2022 and June 2024 and also considered the effect of time adjustment. The unexpired lease terms range from 82 to 84 years. He had also considered the respective condition of flats. His conclusions were that for Loxwood House the average of all sales was £118,855 say £118,900. For Steyning House the average of all sales was hundred £119,767 say £119,800. In Mr Mellor's opinion the difference in value between the two blocks was too small to show any adverse effect on value as a result of the service charge amendment.

19. Mr Mellor had given evidence on behalf of a lessee in *Triplerose v Stride* [2019] UKUT 0099(LC). The factual matrix was that the extent of repairing obligations differed between the four leases within the building. The landlord had to bear a shortfall. Triplerose (the lessee) was not liable to make any contribution towards the repair or renewal of the main structure or the employment of staff or agents by the lessor for the performance of its obligations. The FTT ordered Triplerose, via a variation, to contribute one quarter of the cost of repair and renewal of the main structure and of staff costs. The Upper Tribunal set aside the FTT Decision and Order, following the UT' s interpretation of section 35 (see below).

20. In *Triplerose* Mr Mellor opined that compensation should be payable and, in the absence of market evidence, he adopted a variety of methods
to assess quantum. He had, in the context of enfranchisement,

negotiated capitalisation of the difference over the unexpired term of 5% with the 25% deduction to reflect the risk of a successful application for variation. He referred to a decision of the FTT to allow a discount of 1.48% from the value of 3 flats to be leased back to the freeholder reflecting an increase in service charge payable from 8.15% to 33.7%. He also referred to an LVT decision in 2009 concerning lease extensions in which the LVT added 3% to existing lease values to reflect reduced service charge liabilities. He also capitalised the difference between the service charge proposed and the current service charge. This was done as if the difference was ground rent. He capitalised "vanilla" ground rents at 6% and 3.35% where the ground rent was "dynamic".

21. He also approached the service charge differences as if it was a negative ground rent. The Upper Tribunal with some qualifications accepted that the approach was reasonable in the absence of direct comparables.

22. Mr Mellor also opined that a number of flat purchasers might be put off by the current service charge arrangement due to (i) the fear of litigation; and (ii) the risk that the freeholder will not properly maintain the building in future due to a service charge shortfall. The Upper Tribunal said "We agree that there are benefits in having a lease structure which provides fully and fairly for the recovery of service charges and that the inadequate arrangements in the present lease would discourage prudent and well-informed purchasers. The proposed variation of the lease would remove this detrimental effect (at least insofar as the subject flat is concerned) and, in our opinion, would increase the value of the lease to a degree. Such an increase would partially offset the loss or disadvantage of the proposed variation to the appellant, and we consider the average figure of £14,463 should be reduced by one-third to reflect this."

23. Mr Mellor sought to distinguish *Triplerose* on the basis that he had found no comparable properties in that case. In *Triplerose* the freehold was collectively owned by flat owners, and the shortfall arose only in respect of a limited number of service charge items. Therefore, there was little chance of the freehold company attempting to minimise their maintenance cost expenditure. In *Triplerose* any prospective purchaser of a flat would be unlikely to be aware of the service charge deficit. This was in contrast with Loxwood House where this shortfall is obvious. Mr Mellor also sought to distinguish C*learly v Lakeside Developments* [2011] UKUT 264(LC) (as cited in *Triplerose*), in which it was held that where a tenant is asked to pay a sum they were previously not paying that would be a detriment.

24. Mr Mellor also opined that mortgageability would be affected in Loxwood House compared with Steyning House. He identified that none of the three sold flats at Loxwood had a mortgage whereas 3 of the 4 flats sold at Steyning house sold did. He submitted that this supported the notion that Loxwood House flats more restricted to cash buyers but accepted that this is not compelling evidence.

Legal submissions by the Applicant

25. Wallace LLP made further legal submissions which may be summarised as follows. No compensation should be ordered. The Respondents will not suffer any loss or damage. The remarks in connection with compensation in *Cleary v Lakeside Developments Ltd* were obiter because the Upper Tribunal determined that no compensation was payable. The mere fact of variation resulting in increased sums being payable is not in itself a loss or disadvantage. In *Parkinson v Keeney Construction Ltd* [2015] UKUT 607 (LC), His Honour Judge Huskinson held that where the existing leases of flats in the building do not make satisfactory provisions with respect to the payment of service charges "an amendment to secure that satisfactory provisions are made (such that each lessee pays a fair share of the relevant expenditure) is not an amendment which necessarily brings loss or disadvantage to a lessee even though the lessee may be by paying a higher percentage of the service costs than previously."

26. The Applicant relied on the evidence of Mr Jason Mellor. The Applicant also relied on the decision of the LVT in *Bath Ground Rent Estate v Lessees of 1-8 Baden House* where leases were varied by inserting a provision permitting the cost of management to be recoverable as a service charge. The Tribunal declined to order compensation on the grounds of the variation was for the benefit of the lessees and the additional cost was more or less balanced out by the advantage is that the variation would give them.

27. Further, 5 of the 7 Respondents had not opposed the application. Wallace LLP also cited the LVT decision *Toynbee Partnership Housing Association v The Leaseholders of Flats 1 to 32 Black Church Ln* in which the LVT took into account the no tenant had requested compensation.

28. Moreover, the reason for the variation is relevant and results from a mistake when the leases were granted the landlord had been entitled to obtain rectification during the limitation period, without compensation. The Respondents had had the benefit of a reduced service charge over several years and this was also a factor in *Toynbee Partnership*.

29. Mr Serota also submitted that the leaseholder of flat 3 was aware of the 12.5% proposal before she bought the flat and had agreed to pay it. Emails were provided.

30. Late in the hearing Mr Serota submitted that the lessees were already paying service charges based on 12.5%.

The Respondents' cases

31. Mr Langridge, who was not in attendance, provided a brief response, to the effect that he would suffer prejudice if the variation sought was made. He stated "[I] won't be able to afford to live here, now given the price is being doubled to what was agreed on the original stated contract "I agreed & signed the contract on the terms of the original stated contract fees knowing that I could afford it, but giving (sic) the whole bill being doubled it's a big change … " He also complained about the quality of services being provided.

32. Mr Biss who attended both hearings, made the following submissions. He disputed the proposed doubling of service charges. It was suspicious that it had taken the landlord 18 years since 2007 for the supposed "error/miscalculation" regarding the service charges to be addressed. Blocks of flats adjacent next to Loxwood House have significantly lower service charges. Bramber House was £184 per annum, Arundel House £400 per annum and Steyning House £900 per annum. There are various items of disrepair in Loxwood House. The process was very stressful. He would not be able to afford the proposed increase service charges and will be forced to sell property if the proposed increased service charge proceeds. This would also negatively affect the value of the property. He has had serious medical issues requiring major surgery in 2023. The stress of the process is affecting his health.

Discussion

Are the Present Lease Terms "Unsatisfactory"?

33. Section 35 (4) provides

> For the purposes of subsection (2)(f) a lease fails to make satisfactory provision with respect to the computation of a service charge payable under it if—
> (a) it provides for any such charge to be a proportion of expenditure incurred, or to be incurred, by or on behalf of the landlord or a superior landlord; and
> (b) other tenants of the landlord are also liable under their leases to pay by way of service charges proportions of any such expenditure; and
>
> (c) the aggregate of the amounts that would, in any particular case, be payable by reference to the proportions referred to in paragraphs (a) and (b) would [either exceed or be less than][3] the whole of any such expenditure.

34. The Tribunal finds that as the aggregate service charge contributions are 56.25% of expenditure, that the lease does fail to make satisfactory provision with respect to the computation of service charges.

General

35. The Tribunal rejects arguments relating to the quality of services which are not relevant to this application and lessees may have other remedies to challenge this under section 27A of the Act. The Tribunal also rejects the argument that rectification could have been obtained at no cost. There is no evidence to support the past availability of rectification, and it is not directly relevant to this application. The Tribunal also rejects arguments made late in the hearing that the lessees were already paying service charges based on 12.5%. This did not form part of the Applicant's statement of case, and it was too late to raise it at the hearing. In any event, the evidence such as it was, was unsatisfactory. Even if correct it is not relevant to the question of the landlord's entitlements under the lease terms. The Tribunal accepts that the lessee of Flat 3 was aware of the intended variation and had agreed to it before purchasing her flat.

36. In terms of legal submissions, the Tribunal finds that *Parkinson v Keeney Construction Ltd* is not easy to reconcile with *Triplerose*. The Tribunal notes that *Triplerose* is a later case and did not cite *Parkinson*. The Tribunal does not rely on the LVT decisions, as they are non-binding and were decided before *Parkinson* and *Triplerose*.

37. The Tribunal accepts that the remark in *Cleary* v *Lakeside Developments Ltd* was obiter as the Upper Tribunal determined that no compensation was payable. The Tribunal also accepts that a variation resulting increased sums being payable by the lessees will not always represent a loss or disadvantage requiring compensation.

38. The Tribunal notes that in *Triplerose* the remarks of the Upper Tribunal in relation to compensation were obiter.

Prejudice and Compensation

39. The Tribunal recognises that the valuation reasoning in *Triplerose* was given absent direct market evidence. In the present case the Tribunal accepts the evidence of Mr Mellor that there is no demonstrable diminution in value of the flats as a result of the proposed service charge.

40. The Tribunal also accepts that there are advantages flowing to the lessees in the event that the application is granted. The Tribunal accepts Mr Mellor's evidence that in this case the advantages and disadvantages would balance out. The Tribunal therefore finds that the proposed variation would not substantially prejudice the Respondents and that therefore compensation should not be ordered.

41. The Tribunal orders the parties to enter into the respective deeds of variation for each flat within the application as included in the bundle.

22 February 2026

1.

RIGHTS OF APPEAL

2. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.

3. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.

4. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.

The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.

LEGAL ANNEX

Landlord and Tenant Act 1987 c. 31
s. 35 Application by party to lease for variation of lease.

Law In Force With Amendments Pending

Version 7 of 8

1 July 2013 - Present

Subjects
Landlord and tenant

Keywords
Applications; Flats; Leases; Variation

35.— Application by party to lease for variation of lease.

(1) Any party to a long lease of a flat may make an application to [the appropriate tribunal][1] for an order varying the lease in such manner as is specified in the application.

(2) The grounds on which any such application may be made are that the lease fails to make satisfactory provision with respect to one or more of the following matters, namely—

(a) the repair or maintenance of—

(i) the flat in question, or

(ii) the building containing the flat, or

(iii) any land or building which is let to the tenant under the lease or in respect of which rights are conferred on him under it;

[

(b) the insurance of the building containing the flat or of any such land or building as is mentioned in paragraph (a)(iii);

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]²

(c) the repair or maintenance of any installations (whether they are in the same building as the flat or not) which are reasonably necessary to ensure that occupiers of the flat enjoy a reasonable standard of accommodation;

(d) the provision or maintenance of any services which are reasonably necessary to ensure that occupiers of the flat enjoy a reasonable standard of accommodation (whether they are services connected with any such installations or not, and whether they are services provided for the benefit of those occupiers or services provided for the benefit of the occupiers of a number of flats including that flat);

(e) the recovery by one party to the lease from another party to it of expenditure incurred or to be incurred by him, or on his behalf, for the benefit of that other party or of a number of persons who include that other party;

(f) the computation of a service charge payable under the lease [;]²

[

(g) such other matters as may be prescribed by regulations made by the Secretary of State.

]²

(3) For the purposes of subsection (2)(c) and (d) the factors for determining, in relation to the occupiers of a flat, what is a reasonable standard of accommodation may include—

(a) factors relating to the safety and security of the flat and its occupiers and of any common parts of the building containing the flat; and

(b) other factors relating to the condition of any such common parts.

[

(3A) For the purposes of subsection (2)(e) the factors for determining, in relation to a service charge payable under a lease, whether the lease makes satisfactory provision include whether it makes provision for an amount to be payable (by way of interest or otherwise) in respect of a failure to pay the service charge by the due date.

]²

(4) For the purposes of subsection (2)(f) a lease fails to make satisfactory provision with

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ect to the computation of a service charge payable under it if—

(a) it provides for any such charge to be a proportion of expenditure incurred, or to be incurred, by or on behalf of the landlord or a superior landlord; and

(b) other tenants of the landlord are also liable under their leases to pay by way of service charges proportions of any such expenditure; and

(c) the aggregate of the amounts that would, in any particular case, be payable by reference to the proportions referred to in paragraphs (a) and (b) would [either exceed or be less than][3] the whole of any such expenditure.

(5) [Procedure regulations under Schedule 12 to the Commonhold and Leasehold Reform Act 2002][4][and Tribunal Procedure Rules][5] shall make provision—

(a) for requiring notice of any application under this Part to be served by the person making the application, and by any respondent to the application, on any person who the applicant, or (as the case may be) the respondent, knows or has reason to believe is likely to be affected by any variation specified in the application, and

(b) for enabling persons served with any such notice to be joined as parties to the proceedings.

[

(6) For the purposes of this Part a long lease shall not be regarded as a long lease of a flat if—

(a) the demised premises consist of or include three or more flats contained in the same building; or

(b) the lease constitutes a tenancy to which Part II of the Landlord and Tenant Act 1954 applies.

][6]

(8) In this section *"service charge"* has the meaning given by section 18(1) of the 1985 Act.

[

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(9) For the purposes of this section and sections 36 to 39, *"appropriate tribunal"* means—

(a) if one or more of the long leases concerned relates to property in England, the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal; and

(b) if one or more of the long leases concerned relates to property in Wales, a leasehold valuation tribunal.

]7

Notes

1 Words substituted by Transfer of Tribunal Functions Order 2013/1036 Sch.1(1) para.75(a) (July 1, 2013: substitution has effect subject to transitional provisions and savings specified in SI 2013/1036 art.6(3) and Sch.3)

2 Amended by Commonhold and Leasehold Reform Act 2002 c. 15 Pt 2 c.5 s.162 (January 1, 2003 as SI 2002/3012, modification has effect subject to transitional provisions and savings specified in SI 2002/3012 Sch.2)

3 Words substituted by Leasehold Reform, Housing and Urban Development Act 1993 c. 28 Pt I c.VI s.86 (November 1, 1993 subject to transitional provisions and savings specified in SI 1993/2134 Sch.1)

4 Amended by Commonhold and Leasehold Reform Act 2002 c. 15 Pt 2 c.5 s.163(2) (March 30, 2004 as SI 2004/669)

5 Words inserted by Transfer of Tribunal Functions Order 2013/1036 Sch.1(1) para.75(b) (July 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/1036 art.6(3) and Sch.3)

6 S.35(6)(7) substituted by Housing Act 1988 (c.50), s. 119, Sch. 13 para. 5

7 Added by Transfer of Tribunal Functions Order 2013/1036 Sch.1(1) para.75(c) (July 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/1036 art.6(3) and Sch.3)

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Notes

Part IV VARIATION OF LEASES > Applications relating to flats > s. 35 Application by party to lease for variation of lease.

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s. 36 Application by respondent for variation of other leases.

Law In Force

Version 3 of 3

30 March 2004 - Present

Subjects
Landlord and tenant

Keywords
Applications; Flats; Leases; Variation

36.— Application by respondent for variation of other leases.

(1) Where an application ("the original application") is made under section 35 by any party to a lease, any other party to the lease may make an application to the [tribunal][1] asking it, in the event of its deciding to make an order effecting any variation of the lease in pursuance of the original application, to make an order which effects a corresponding variation of each of such one or more other leases as are specified in the application.

(2) Any lease so specified—

(a) must be a long lease of a flat under which the landlord is the same person as the landlord under the lease specified in the original application; but

(b) need not be a lease of a flat which is in the same building as the flat let under that lease, nor a lease drafted in terms identical to those of that lease.

(3) The grounds on which an application may be made under this section are—

(a) that each of the leases specified in the application fails to make satisfactory provision with respect to the matter or matters specified in the original application; and

(b) that, if any variation is effected in pursuance of the original application, it would be in the interests of the person making the application under this section, or in the interests of the other persons who are parties to the leases specified in that application, to have all of the leases in question (that is to say, the ones specified in that application together with the one

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specified in the original application) varied to the same effect.

Notes

1 Word substituted by Commonhold and Leasehold Reform Act 2002 c. 15 Pt 2 c.5 s.163(3) (March 30, 2004 as SI 2004/669)

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s. 38 Orders varying leases.

Law In Force

Version 4 of 4

30 March 2004 - Present

Subjects
Landlord and tenant

Keywords
Leases; Orders; Variation

38.— Orders [...][1] varying leases.

(1) If, on an application under section 35 , the grounds on which the application was made are established to the satisfaction of the [tribunal][2] , the [tribunal][2] may (subject to subsections (6) and (7)) make an order varying the lease specified in the application in such manner as is specified in the order.

(2) If—

(a) an application under section 36 was made in connection with that application, and

(b) the grounds set out in subsection (3) of that section are established to the satisfaction of the [tribunal][2] with respect to the leases specified in the application under section 36,

the [tribunal][2] may (subject to subsections (6) and (7)) also make an order varying each of those leases in such manner as is specified in the order.

(3) If, on an application under section 37, the grounds set out in subsection (3) of that section are established to the satisfaction of the [tribunal][2] with respect to the leases specified in the application, the [tribunal][2] may (subject to subsections (6) and (7)) make an order varying each of those leases in such manner as is specified in the order.

(4) The variation specified in an order under subsection (1) or (2) may be either the variation specified in the relevant application under section 35 or 36 or such other variation as the [tribunal][2] thinks fit.

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(5) If the grounds referred to in subsection (2) or (3) (as the case may be) are established to the satisfaction of the [tribunal][2] with respect to some but not all of the leases specified in the application, the power to make an order under that subsection shall extend to those leases only.

(6) [A tribunal][2] shall not make an order under this section effecting any variation of a lease if it appears to [the tribunal][2] —

(a) that the variation would be likely substantially to prejudice—

(i) any respondent to the application, or

(ii) any person who is not a party to the application,

and that an award under subsection (10) would not afford him adequate compensation, or

(b) that for any other reason it would not be reasonable in the circumstances for the

variation
to be effected.

(7) [A tribunal][2] shall not, on an application relating to the provision to be made by a lease with respect to insurance, make an order under this section effecting any variation of the lease—

(a) which terminates any existing right of the landlord under its terms to nominate an insurer for insurance purposes; or

(b) which requires the landlord to nominate a number of insurers from which the tenant would be entitled to select an insurer for those purposes; or

(c) which, in a case where the lease requires the tenant to effect insurance with a specified insurer, requires the tenant to effect insurance otherwise than with another specified insurer.

(8) [A tribunal][2] may, instead of making an order varying a lease in such manner as is specified in the order, make an order directing the parties to the lease to vary it in such manner as is so specified; and accordingly any reference in this Part (however expressed) to an order which effects any variation of a lease or to any variation effected by an order shall include a reference to an order which directs the parties to a lease to effect a variation of it or (as the case may be) a reference to any variation effected in pursuance of such an order.

(9) [A tribunal][2] may by order direct that a memorandum of any variation of a lease effected by an order under this section shall be endorsed on such documents as are specified in the order.

(10) Where [a tribunal][2] makes an order under this section varying a lease [the tribunal][2] may, if it thinks fit, make an order providing for any party to the lease to pay, to any other party to

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the lease or to any other person, compensation in respect of any loss or disadvantage that [the tribunal][2] considers he is likely to suffer as a result of the variation.

Notes

1

Words repealed by Commonhold and Leasehold Reform Act 2002 c. 15 Sch.14 para.1 (March 30, 2004: repeal has effect as SI 2004/669 subject to savings specified in SI 2004/669 Sch.2 para.12)

2

Amended by Commonhold and Leasehold Reform Act 2002 c. 15 Pt 2 c.5 s.163(5) (March 30, 2004 as SI 2004/669)

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