

Right to Manage (RTMs)

The Commonhold and Leasehold Reform Act 2002 introduced the Right to Manage, allowing the tenants to form a company that can take over the management of their building.

The tenants do not have to prove any fault or default by the current management nor do they have to pay any compensation to the current management in order for them to exercise this right. It is possible therefore that property managers may find themselves ousted by the leaseholders. The leaseholders must fulfil certain detailed criteria in order to exercise this right to manage. The landlord can dispute the right of the tenants to manage the building but on limited specified grounds, not simply because they wish to continue managing the building.

Tenants can exercise their right to manage if they and the premises fulfil the following criteria:

- **The Tenants must be 'qualifying tenants'. This means a tenant who has a long lease granted for more than 21 years.**
- **The Premises must:**
 - (a) consist of a self-contained building or part of a building,
 - (b) 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.

As soon as the RTM Company is created all qualifying tenants and the landlord are able to become members of this company should they wish.

It should be noted that some premises are exempt from the Right to Manage even if they do fulfil these criteria, such as commercial buildings or buildings that are of mixed use but are primarily commercial. This is something that can be clarified on a case-by-case basis.

There are also other criteria which must be met and Brethertons would be happy to discuss these with you on a case by case basis.

If the criteria is fulfilled, qualifying tenants may then serve a formal notice of their intention to take over the management of the building on the landlord. It is at this point that the landlord may object, in a specified form, if s/he believes that the leaseholders do not fulfil the criteria.

If the Landlord's objections are held to be not valid by the Leasehold Valuation Tribunal, the management of the premises will transfer to the right to manage company after a set period of time.

Contact information

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