

Multi-Unit Developments Act 2011

Annual
service
charges.

18.— (1) An owners' management company shall, as soon as practicable, establish and maintain a scheme in respect of annual service charges from which the owners' management company may discharge ongoing expenditure reasonably incurred on the insurance, maintenance (including cleaning and waste management services) and repair of the common areas of the multi-unit development concerned and on the provision of common or shared services to the owners and occupiers of the units in the development.

(2) The annual service charge in respect of a multi-unit development relating to a particular period shall not be levied unless it has been considered by a general meeting of the members concerned called for purposes which include the consideration of an estimate of the expenditure it is anticipated will be incurred by the company in that period and the meeting shall take place within reasonable proximity to the multi-unit development and at a reasonable time (unless otherwise agreed in writing by 75 per cent of the members).

(3) The estimate referred to in *subsection (2)* shall be broken down into the following categories:



(a) insurance;

(b) general maintenance;

(c) repairs;

(d) waste management;

(e) cleaning;

(f) gardening and landscaping;

(g) concierge and security services;

(h) legal services and accounts preparation; and

(i) other expenditure arising in connection with the maintenance, repair and management of the common areas anticipated to arise.

(4) (a) The proposal in relation to the setting of an annual service charge may be amended at the meeting referred to in *subsection (2)* with the approval of 60 per cent of those present and voting at the meeting.

(b) Where the service charge proposed to the general meeting is disapproved by not less than 75 per cent of the persons present and voting, the proposed service charge shall not take effect but the charge applying to the previous period shall continue to apply pending the adoption of a service charge in respect of the period concerned.

(5) Where the proposed service charge is disapproved pursuant to *subsection (4)* and no service charge applied in the previous period the directors of the owners' management company may determine a scheme to operate for a period of 4 months from the date of the meeting, and such charges may be levied and recovered as if such scheme had been approved by the members.

(6) Service charges levied under this section may not be used to defray expense on matters which are or were the responsibility of the developer or builder of the multi-unit development concerned unless such expenditure is approved in writing by 75 per cent of the members of the owners' management company concerned.

(7) An approval under *subsection (6)* shall not have effect unless—

(a) at least 65 per cent of the units in the development have been transferred to a person who is not a connected person as respects the person who was—

(i) the developer or builder of the multi-unit development concerned, or

(ii) a director or shadow director of a company which was the developer or builder of the development,



and

(b) at least 3 years have elapsed since the transfer of the ownership of the relevant parts of the common areas of the multi-unit development concerned.

(8) (a) Notwithstanding *subsection (2)* an owners' management company may, prior to the completion of the sale of the first unit in a multi-unit development, set the annual service charge to be levied on unit owners in the development without holding a meeting in accordance with *subsection (2)* and such charge may be levied and recovered in accordance with this section.

(b) Prior to the annual service charge pursuant to *paragraph (a)* the owners' management company shall prepare an estimate and have regard to the items of expenditure specified in *subsection (3)*.

(9) Where expenditure is incurred following an approval under *subsection (6)* the owners' management company may recover such expenditure from any person (including the developer) who had responsibility for incurring such expenditure or carrying out the works concerned.

(10) The owner of each unit in a multi-unit development (including a person who is the developer or building contractor of the development) shall be under an obligation to pay all service charges levied under this section.

(11) For the purposes of this section a developer or building contractor, as the case may be, shall be regarded to be the owner of a unit in a multi-unit development the first sale of which unit has not been completed, as and from the day on which the first sale of a residential unit in the relevant part of the development is closed.

(12) Nothing in this section shall operate to prevent a unit owner from seeking and recovering reimbursement of service charges levied under this section from a tenant of that owner where so provided by agreement.

(13) The annual service charge shall be calculated on a transparent basis and shall be equitably apportioned between unit owners.

(14) (a) The owners' management company in setting the annual service charge shall do so by reference to the actual or projected expenditure for the year in respect of which the same is levied.

(b) To the extent that any part of the service charge levied is not required for the year concerned any excess shall be taken account of in setting the service charge for the following year.



(c) To the extent that the service charge is inadequate for the expenditure in the year concerned the extent of such inadequacy may be added to the service charge otherwise payable in respect of the following year.

(15) An owners' management company shall maintain sufficient and proper records of expenditure incurred by it to enable appropriate verification and audits to be undertaken.

(16) Service charges levied pursuant to this section shall be applied for the purposes specified in *subsection (1)* but any excess may, notwithstanding *subsection (14)*, be applied on expenditure which may be incurred by the sinking fund established pursuant to *section 19*.

(17) The Minister may, for the purpose of advancing the objective of the fair, effective and efficient operation of owners' management companies and the fair, efficient and effective management of the common areas of multi-unit developments, make regulations prescribing the class or classes of items of expenditure which may be the subject of annual service charges, the procedures to be followed in setting such charges and matters to be taken into account in the setting of such charges, and arrangements for the levying and payment of such charges.

