

“Easier, quicker and more cost effective”? – costs and procedure



Rebecca Sage



Non-litigation costs: Enfranchisement

- Law Comm: each party bears own costs save in limited circumstances (fixed costs)

Clause 12 – amendments to 1967 Act

Clause 13 – amendments to 1993 Act

- Some of the detail:

No contracting out, though T and successor can agree to split costs

Responsibility for costs of failed claim – only liable for a “prescribed sum” if not “permitted reason” for claim ceasing

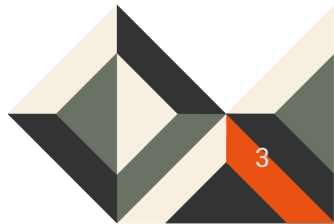
Successful claim – only liable for “prescribed sum” if low value claim/leaseback (NB security for costs)

Sharing fixed costs between landlords



Non-litigation costs: RTM

- Law Comm: each party bears its own costs unless withdrawn/ceased early and RTM Co acted unreasonably in bringing claim
NB no fixed costs contribution – different policy drivers
- **Clause 23**
Application to Tribunal for costs of withdrawn claim
Information rights



Litigation costs: Enfranchisement



- Step 1: Transfer jurisdiction to FTT
- *Clauses 14 - 18*
- Step 2: Expand costs powers?

A tenant, former tenant or nominee purchaser is liable for costs incurred by another person in connection with proceedings before a court or tribunal if—

- (a) *the court or tribunal has power under [LRA 1967/LRHUDA 1993] or another enactment to order that those costs are paid, and*
- (b) *the court or tribunal makes such an order.*



Litigation costs: RTM

- Law Comm: remove one-way costs shifting
- Clause 23 – repeals s.83 CLRA 2002

An RTM company or a member of an RTM company are liable for costs incurred by another person in connection with proceedings before a court or tribunal if—

(a) the court or tribunal has power under another enactment to order that they pay those costs, and

(b) the court or tribunal makes such an order.

- **Clauses 24 and 25**

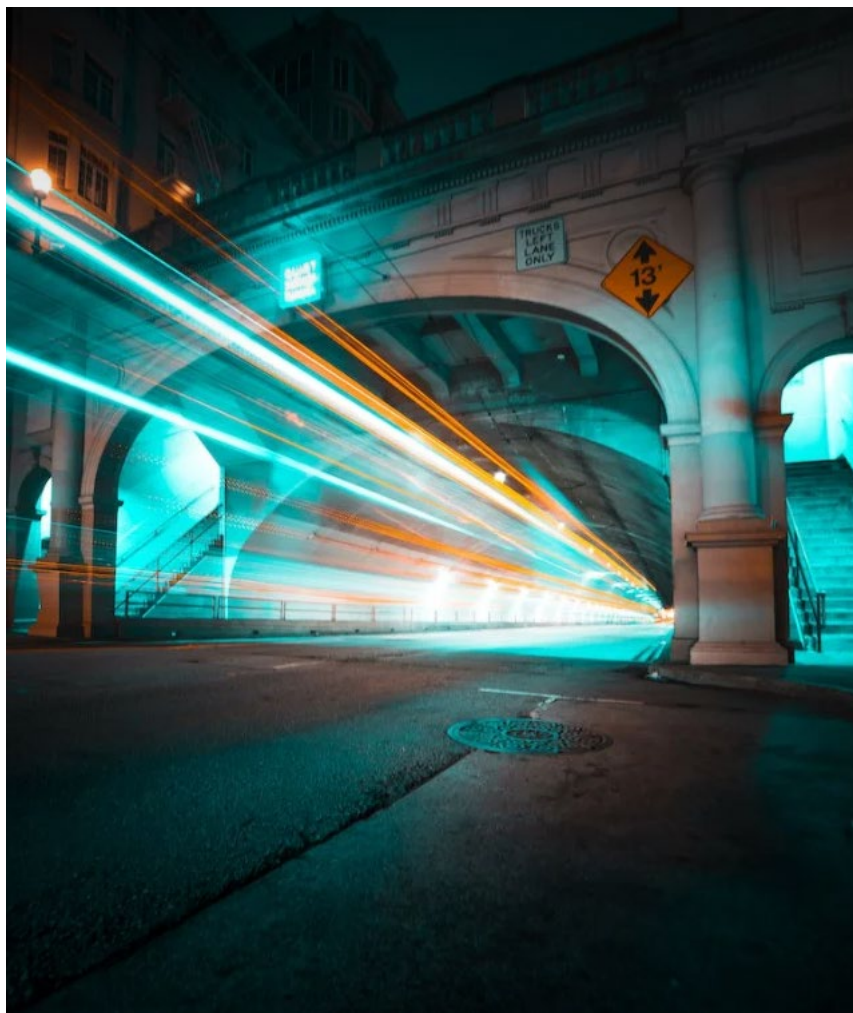
Transfer of remaining CC functions to FTT



Procedure?



Policy aim achieved?







- Identified procedural issues remain
- FTT?



Thank you

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