

# Right to Manage — Qualifying Criteria Guide

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A guide for leaseholders considering exercising their Right to Manage

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## WHAT IS THE RIGHT TO MANAGE?

The Right to Manage (RTM) is a statutory right under the Commonhold and Leasehold Reform Act 2002 allowing leaseholders to take over the management of their building from the freeholder — without proving fault and without paying compensation.

RTM is exercised through a specially formed RTM company. Once acquired, the RTM company takes over management functions previously exercised by the freeholder or their managing agent.

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## WHY EXERCISE THE RIGHT TO MANAGE?

- Dissatisfaction with the current managing agent or freeholder
- Lack of transparency around service charges and expenditure
- Poor maintenance of the building
- Wish to appoint a managing agent of leaseholders' own choice
- Desire for greater control and accountability

## Qualifying Criteria — The Building

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The RTM right applies to a self-contained building or self-contained part of a building if the following criteria are met:

Criterion	Requirement
<b>Building type</b>	Must be a self-contained building or self-contained part of a building
<b>Residential use</b>	At least two-thirds of the flats must be held on long leases
<b>Mixed use</b>	No more than 25% of the internal floor area may be non-residential (excluding common parts). Note: the Leasehold and Freehold Reform Act 2024 increases this to 50%
<b>No-fault right</b>	There is no requirement to show that the freeholder or managing agent has been at fault

# Qualifying Criteria — The Leaseholders

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## QUALIFYING TENANTS

A qualifying tenant is a leaseholder who holds a long lease (originally granted for more than 21 years) of a flat in the building. A person cannot be a qualifying tenant if they hold three or more flats in the building.

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## MEMBERSHIP THRESHOLD

At least 50% of the qualifying tenants in the building must be members of the RTM company when the claim notice is served. For example, in a building with 20 flats all held on long leases, at least 10 qualifying tenants must be members. If a building contains only two flats, both qualifying tenants must be members.

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## THE RTM COMPANY

The RTM company must be a private company limited by guarantee incorporated specifically for the purpose of acquiring and exercising the right to manage. Its articles of association must comply with the prescribed form under the Right to Manage (Prescribed Particulars and Forms) (England) Regulations 2010.

## The RTM Process — Step by Step

Step	Action	Timescale
1	Incorporate RTM company with compliant articles of association	Before serving notice
2	Recruit qualifying tenant members to reach 50% threshold	Before serving notice
3	Serve Notice of Invitation to Participate on all non-member qualifying tenants	At least 14 days before claim notice
4	Serve Claim Notice on the freeholder and any management company	—
5	Freeholder may serve Counter-Notice admitting or disputing the claim	Within 1 month of claim notice
6	If disputed, apply to the First-tier Tribunal to determine the right	Within 2 months of counter-notice
7	RTM is acquired on the Acquisition Date if admitted or determined	Not less than 3 months after claim notice

# After Acquiring the Right to Manage

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## ONGOING OBLIGATIONS

- The RTM company becomes responsible for all management functions under the leases
- Service charges must be managed in compliance with the Landlord and Tenant Act 1985
- The RTM company must comply with all statutory obligations (fire safety, compliance etc.)
- The freeholder retains certain rights including the right to be consulted on some matters
- The RTM company may appoint a professional managing agent to carry out management on its behalf

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## HOW BERGASON CAN HELP

**Bergason Property Services Limited advises and assists leaseholders through the entire RTM process and provides ongoing block management services to RTM companies following acquisition. Contact us: 0121 384 1333 | [info@bergason.co.uk](mailto:info@bergason.co.uk)**