

Leasehold Reform (Reasonableness of Service Charges) Bill [HL]

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by Baroness Kennedy of Cradley, have been ordered to be published as HL Bill 46—EN.

Leasehold Reform (Reasonableness of Service Charges) Bill [HL]

[AS INTRODUCED]

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[AS INTRODUCED]

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TO

Amend the Landlord and Tenant Act 1985 to provide for service charges to be reduced where they do not reflect the landlord’s actual costs in providing goods and services; to make fixed service charges subject to reasonableness requirements; to amend the Commonhold and Leasehold Reform Act 2002 to make the same changes; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Amendment of the Landlord and Tenant Act 1985

- (1) The Landlord and Tenant Act 1985 is amended as follows.
- (2) In section 18(1)(b) after “costs” insert—
 - “(i) a specified amount, index, percentage or period of time
(or any combination of them).” 5
- (3) After section 19(5), insert—
 - “(6) A charge is not reasonably incurred, and a service is not of a reasonable standard, if it does not reflect the out-of-pocket cost incurred by the landlord (or an associate of the landlord).
 - (7) It is for the landlord seeking to retain service charges, or to use service charges to pay an associate, to—
 - (a) provide evidence of the landlord’s out-of-pocket costs (or those of any associate); and
 - (b) show that the charges are reasonable by reference to that evidence. 15
 - (8) For the purposes of this section—
 - “associate” has the same meaning as in section 1260 of the Companies Act 2006;
 - “out-of-pocket” means the direct cost to the landlord of providing the thing or service in question.” 20

2 Amendment of the Commonhold and Leasehold Reform Act 2002

- (1) The Commonhold and Leasehold Reform Act 2002 is amended as follows.
- (2) In paragraph 2 of Schedule 11, after “reasonable” insert—
- “(2) For the purposes of this paragraph, an administration charge is only reasonable if it reflects the out-of-pocket cost to the landlord (or person providing the service for or on behalf of the landlord), taking into account—
- (a) the use of any standard form document or precedent;
 - (b) the time taken to complete the task;
 - (c) whether all or any part of the task involves collating or providing information or documents for which any tenant under the same landlord has been charged via a service charge; and
 - (d) the nature of the task in question.
- (3) It is for the landlord seeking to enforce any administration charge to—
- (a) provide evidence of its out-of-pocket costs; and
 - (b) show that the administration charge is reasonable by reference to that evidence.
- (4) For the purposes of this paragraph—
- “out-of-pocket” means the direct cost to the landlord of providing the thing or service in question;
 - “service charge” has the same meaning as in section 18 of the Landlord and Tenant Act 1985.”

3 Extent, commencement and short title

- (1) This Act extends to England and Wales.
- (2) This Act comes into force on the day on which it is passed.
- (3) This Act may be cited as the Leasehold Reform (Reasonableness of Service Charges) Act 2022.

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Baroness Kennedy of Cradley

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