

Leasehold Reform (Disclosure and Insurance Commissions) Bill [HL]

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by Lord Kennedy of Southwark, have been ordered to be published separately as HL Bill 47—EN.

Leasehold Reform (Disclosure and Insurance Commissions) Bill [HL]

[AS INTRODUCED]

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[AS INTRODUCED]

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TO

Amend the Landlord and Tenant Act 1985 to prevent landlords recovering service charges where they have failed to comply with their disclosure obligations under that Act; to commence section 21A of the Landlord and Tenant Act 1985 insofar as is it not already in force; to require landlords to disclose commissions earned on insurance policies; 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) After subsection 19(5) insert—
 - “(6) Relevant costs are not be to regarded as reasonable where the landlord—
 - (a) is subject to a prescribed duty under this Act; and
 - (b) without reasonable excuse fails to comply fully with that duty in the time for compliance prescribed by this Act.
 - (7) For the purposes of this section, a prescribed duty is any duty of the landlord under—
 - (a) section 21;
 - (b) section 22; or
 - (c) section 30A and Schedule 1.
 - (8) A landlord in breach of a prescribed duty without reasonable excuse may only recover relevant costs to the extent permitted by order of the court or tribunal, taking into account—
 - (a) whether the landlord eventually complied with the prescribed duty;
 - (b) the extent of the landlord's compliance with the prescribed duty;
 - (c) how long after the time permitted for compliance with the prescribed duty the landlord complied (if at all); and

- (d) whether the landlord has breached any prescribed duty in the period of six years ending with the day of the landlord’s most recent breach of a prescribed duty.
- (9) The defence of reasonable excuse for the purposes of subsection (8) shall be as prescribed in regulations made by the Secretary of State under this section.” 5
- (3) In paragraph 1 of the Schedule, before “landlord” insert—
- ““associate” has the same meaning as in section 1260 of the Companies Act 2006;
- “commission” means any amount paid in cash or in kind by or on behalf of an insurer (or an associate of the insurer), whether or not contingent on any event or thing, or said to be in consideration for services provided directly or indirectly to the insurer;” 10
- (4) In paragraph 2(4) of the Schedule, after paragraph 2(4)(c) insert—
- “(d) all commission paid or payable— 15
- (i) by the insurer (or any associate of the insurer) under any relevant policy; and
- (ii) pursuant to any agreement made by, with or on behalf of the insurer (or any associate of the insurer) in relation to any relevant policy.” 20
- (5) In paragraph 2(6) of the Schedule, after “relevant policy” insert—
- “, provided that any such copy contains all of the information required from the landlord under sub-paragraph (4).”
- (6) After sub-paragraph 2(7) of the Schedule, insert—
- “(8) The disclosure required of the landlord under paragraph 2(4)(d) applies to any relevant policy commenced in the period of six years ending with the day on which the Leasehold Reform (Disclosure and Insurance Commissions) Act 2022 is passed. 25
- (9) Any payment a tenant makes in respect of any relevant policy directly to an insurer (or a person acting on behalf of the landlord or an insurer) at the direction of the landlord (or any person acting on behalf of the landlord) is to be deemed to be a payment of a service charge for the purposes of— 30
- (a) this Schedule; and
- (b) sections 18, 19 and 27A of this Act.” 35

2 Commencement of section 21A of the Landlord and Tenant Act 1985

Insofar as it is not already in force, section 21A of the Landlord and Tenant Act 1985 comes into force on 1 July 2023.

3 Extent, commencement and short title

- (1) This Act extends to England and Wales. 40

- (2) This Act, apart from section 1(2), comes into force on the day on which it is passed.
- (3) Section 1(2) comes into force—
 - (a) for the purposes of making regulations, on the day this Act is passed; and
 - (b) for remaining purposes, on a day appointed by the Secretary of State by regulations, to be no later than 1 July 2024.
- (4) This Act may be cited as the Leasehold Reform (Disclosure and Insurance Commissions) Act 2022.

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Lord Kennedy of Southwark

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