LEASEHOLD AND FREEHOLD REFORM BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Leasehold and Freehold Reform Bill as brought from the House of Commons on 28 February 2024 (HL Bill 50).

- These Explanatory Notes have been prepared by the Department for Levelling Up, Housing and Communities in order to assist the reader. They do not form part of the Leasehold and Freehold Reform Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Leasehold and Freehold Reform Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Leasehold and Freehold Reform Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

1 The Leasehold and Freehold Reform Bill is the second part of a legislative package to reform English and Welsh property law. It follows on from the Leasehold Reform (Ground Rent) Act 2022, which put an end to ground rents for most new, qualifying long residential leasehold properties in England and Wales.

2 The Bill will make long-term changes to homeownership for millions of leaseholders in England and Wales. The main elements of the Bill are:

3 Empowering leaseholders:

a. Ban the sale of new leasehold houses so that - other than in exceptional circumstances - every new house in England and Wales will be freehold from the outset.

b. Making it cheaper and easier for existing leaseholders in houses and flats to extend their lease or buy their freehold.

c. Increasing the standard lease extension term from 90 years to 990 years for both houses and flats, with ground rent reduced to a peppercorn.

d. Removing the requirement for a new leaseholder to have owned their house for two years before they can extend their lease or buy their freehold and for flats before they can extend their lease.

e. Increasing the 25 per cent 'non-residential' limit preventing leaseholders in buildings with a mixture of homes and other uses such as shops and offices, from buying their freehold or taking over management of their buildings - to allow leaseholders in buildings with up to 50 per cent non-residential floorspace to buy their freehold or take over its management.

4 Improving leaseholder consumer rights:

a. Requiring greater transparency regarding leaseholders' service charges so that all leaseholders receive minimum key financial and non-financial information on a regular basis, including introducing a standardised service charge demand form and an annual report, so that leaseholders can scrutinise and better challenge costs if they are considered unreasonable.

b. Replacing buildings insurance commissions for managing agents, landlords and freeholders with transparent administration fees.

c. Scrapping the presumption for leaseholders to pay their landlords' legal costs when challenging poor practice.

d. Make buying or selling a leasehold property quicker and easier by setting a maximum time and fee for the provision of information required to make a sale to a leaseholder by their freeholder.

e. Granting freehold homeowners on private and mixed tenure estates the same rights of redress as leaseholders – by extending equivalent rights to transparency over their estate charges and to challenge the charges they pay by taking a case to a Tribunal.

f. Requiring freeholders who manage their property to belong to a redress scheme so leaseholders can challenge them if needed.

g. Separately, the Bill will further protect leaseholders by extending the measures in the Building Safety Act 2022 to ensure it operates as intended.

Policy background

Leasehold houses

5 Over recent decades, England and Wales have witnessed developers selling new houses with a lease which could have been sold freehold. In many cases, consumers were often not aware of what owning a house on a lease would involve.

6 The Government announced on 21st December 2017 it would ban the practice, and changes to Help to Buy, and the Ground Rent Act 2022 have already made steps to reduce the prevalence of new leasehold houses coming onto the market. Government consulted twice on details of the ban, including which sites and individual units would qualify for an exemption (please refer to the 'Related documents' section for the links).

7 These measures put a restriction on the grant of a new long lease of a house on a legislative footing.

8 From the point of commencement, under provisions in the Bill all new houses would have to be sold as freehold, unless the seller can demonstrate they are a 'permitted lease'. The permitted leases are included in Schedule 1.

9 Where vendors, mostly new house developers, are proposing to sell a permitted lease, provisions in this Bill would require them to be explicit during the marketing and sale process that they are selling a leasehold house and clearly evidence why the lease is permitted.

10 Specifically, the restrictions would require the following steps:

a. Step 1: Marketing: If a developer is advertising a new lease on a house, they will need to declare it as part of standard 'material information' in their marketing. If they do not, they can be subject to a financial penalty.

b. Step 2: Pre-sale: 7 days before the lease is granted (or an agreement for lease is entered into), the developer will need to provide a 'warning notice' to the buyer, setting out what qualifies the house as a 'permitted lease'. If they do not, they can be subject to a financial penalty.

c. Step 3: Registration: All new long leases will need to include a declaration of compliance on the cover and within the lease, stating whether it is either a 'permitted lease', or is not a long residential lease of a house. If this declaration is not included, the property can be restricted from re-sale until compliance is clarified. This is to protect future buyers from purchasing a prohibited lease.

d. For site-wide permitted leases (listed in Schedule 1 Part 1), there is an additional consumer protection. Prior to Step 1, developers will need to apply to the appropriate tribunal for a certificate that the proposed leasehold house is exempt. If they do not, they can be subject to a financial penalty.

11 Failure to comply with the restrictions could result in a fine ranging from £500 - £30,000 per infraction. The government will appoint a lead enforcement authority to investigate and enforce infractions of the ban, but enforcement action can be taken by all local weights and measures authorities.

12 If a buyer is mis-sold (i.e. house was not a permitted lease), under provisions in the Bill they

would be entitled to compel the seller to covey the freehold to them for free and to pay their legal costs.

Leasehold enfranchisement

13 Generally, homeownership in England and Wales consists of two tenure types: freehold and leasehold. Freehold is ownership over the land and the property built upon it, which lasts forever, and generally gives extensive control over the property. Leasehold provides time-limited ownership (for example, a 99-year lease), and control of the property, which is shared with, and limited by the landlord. Unless a leaseholder extends their lease, the property will revert to the landlord, and ultimately the freeholder. The balance of power between leasehold owners and their landlord (who may or may not also be the freeholder) is governed by the terms of the lease and by legislation. The residential leasehold sector represents one in five (4.98 million properties) of the English housing stock and one in six in Wales (approximately 235,000).

14 Qualifying leaseholders have statutory rights to extend their lease or buy the freehold (either individually for houses, or collectively with fellow leaseholders for blocks of flats). The process of extending a lease or buying the freehold is often referred to as enfranchisement. When a leaseholder exercises their right to extend their lease or buy the freehold, they must pay a price (known as the premium) to their landlords (except for lease extensions of houses, where a 'modern ground rent' is paid instead of a premium). In addition, leaseholders in a building may have the right to take over its management without buying the freehold (which is known as the right to manage, or "RTM"), or to seek the appointment of a new manager.

15 In the leasehold system, the ownership structures can be complex. In addition to freeholders, intermediate landlords and managing agents also play a role. For example, where one is appointed, it is a managing agent's job to manage the property in accordance with the terms of the lease and statutory requirements on behalf of the landlord. Sometimes there might be a chain of leases in a building, sitting like rungs on a ladder, with a freeholder at the top, leaseholders (such as those qualifying for enfranchisement rights) at the other end, and one or more leases - called "intermediate leases" - in-between. There might also be leases that do not act as landlords to leaseholders, for example ones covering the common parts.

16 Until recently, landlords could sell a new lease on a property subject to an ongoing obligation to pay a ground rent. A ground rent is a regular payment which a leaseholder must make to their landlord, which is unconnected with any services that the landlord might provide (for example, building maintenance). From 30 June 2022, the Leasehold Reform (Ground Rent) Act 2022 prohibited the charging of a financial ground rent for most new regulated leases. However, the 2022 Act did not alter the position for existing leaseholders. Ground rents, and any potential increases through rent review provisions set out in the lease, are factored into the calculation of premiums for lease extension and freehold acquisition claims. After a statutory lease extension of a flat, the leaseholder is only liable to pay a peppercorn ground rent, whereas in a lease extension of a house, a financial ground rent is due.

17 Most houses are sold as freehold, although an increasing number of freehold homeowners live on estates ("freehold estates") where the communal areas are owned, paid for and maintained privately, rather than by the local authority. Freehold homeowners are required to contribute towards the maintenance of the shared areas through payment of an estate rentcharge or equivalent contribution. There are an estimated 20,000 freehold estates in England.

Qualifying criteria

18 The Bill removes the requirement for the leaseholder of a flat to have owned their property for at least two years before they can extend their lease, and the leaseholder of a house to have owned their property for at least two years before they can extend their lease or buy their freehold. The Bill allows leaseholders of flats to extend their lease, and leaseholders of houses to extend their lease or buy their freehold, immediately upon taking ownership of a lease.

19 The Bill increases the 'non-residential limit' to 50% for collective enfranchisement and the right to manage. The 'non-residential limit' restricts leaseholder's access to collective enfranchisement and the right to manage based on the proportion of the building's floor space that is used for non-residential purposes. The Bill gives leaseholders the right to collectively enfranchise or claim a right to manage in buildings where up to 50% of the floorspace (excluding common parts) is used, or intended to be used, for non-residential purposes which represents an increase from the current 25% limit.

Lease extensions and ground rent

20 This Bill introduces a new right to a lease extension for leaseholders of both houses and flats, for a term of 990 years at a peppercorn ground rent on payment of a premium. The Bill also gives shared ownership leaseholders the right to a lease extension for 990 years.

21 The Bill amends statutory redevelopment break rights to give freeholders consistent rights for houses and flats. Break rights will be available during the last 12 months of the original lease or the last five years of each period of 90 years of a 990-year lease extension.

22 The Bill repeals a limited number of statutory redevelopment 'defences' (or blockers) to lease extension (as well as some freehold acquisition claims) in houses and flats, where the rights have become redundant, or in certain cases for houses, compensation rules are incompatible with the new 990-year lease extension rights.

23 The Bill introduces a new right for leaseholders who already have very long leases (with over 150 years remaining) to buy out their ground rent without also needing to extend the term of their lease or buy the freehold. Leaseholders already have the right to buy out their ground rent as part of the lease extension process, and leaseholders with under 150 years on their lease will continue to be able to do this. The Bill sets the method for calculating the price of a statutory lease extension or freehold acquisition, known as the valuation process. The Bill removes the requirement for marriage value to be paid, caps the treatment of ground rents in the valuation calculation at 0.1% of the freehold value and allows Government to prescribe the rates used to calculate the enfranchisement premium. Rates will be set by the Secretary of State in secondary legislation.

Intermediate leases

24 Intermediate leases are a feature in many blocks of flats but can also be found in leasehold houses. Where intermediate leases are present, the Bill treats those interests as merged into the freehold for the purposes of determining the premium a leaseholder must pay. This simplifies the valuation process for leaseholders, and in many cases will reduce the premium payable and reduce their costs.

25 The Bill introduces a new right for an intermediate landlord to reduce the rents that they pay where a ground rent is reduced to a peppercorn following a lease extension or ground rent buyout claim. In collective enfranchisements, the Bill introduces a right for leaseholders to leave in place the parts of intermediate leases that are superior to leaseholders who qualify for enfranchisement, but do not participate in the claim. The Bill also introduces certain

protections for intermediate landlords and extends the right to a lease extension to certain sublessees.

Mandatory leasebacks and jurisdiction

26 The Bill establishes a new right for leaseholders to require their landlord to take a 'leaseback' of any unit that is not let to a participating tenant (which would include commercial units). Leasebacks are 999-year leases (at a peppercorn rent) given to the former freeholder following a collective enfranchisement claim. If there is an existing lease of the unit (e.g. a sitting commercial tenant) the former freeholder, having received a leaseback, becomes an intermediate leaseholder and therefore continues to be the landlord of that unit, and receives any rent payable by the tenant. The leaseholders participating in the collective enfranchisement claim benefit because the value of the unit is removed from the premium they must pay for the freehold. Under the current law, in some circumstances, a freeholder can require the leaseholders who are pursuing a collective enfranchisement claim against them to grant them a 'leaseback' of any unit that is not let to a qualifying tenant (leaseholder). The Bill gives leaseholders an equivalent right for any non-participating units.

27 The Bill sets a new costs regime for enfranchisement and right to manage claims. Leaseholders who are extending their lease, buying their freehold or exercising their right to manage will no longer generally pay the landlord's costs of dealing with the claim (such as valuation, conveyancing and legal fees). Each party will generally bear their own costs.

28 The Bill amends the jurisdiction for enfranchisement and right to manage disputes, so that as far as possible all disputes will be determined by the Tribunal. Again, in most cases each party will pay their own litigation costs.

Transparency of service charges and administration charges

29 Most leaseholders and some tenants, particularly assured tenants of social housing landlords, are required to pay a service charge to their landlord in return for services carried out to manage, maintain, repair, insure and, in some cases, improve their building (commonly known as "management functions"). For assured tenants, they will only pay for services carried out to manage and maintain the building and will not be responsible for the payment of charges to repair, insure or improve the building. Details - for example on the way service charges are to be organised, what landlord may or may not be charged for, the proportion of the overall change individual leaseholders must pay, and the frequency of payment - are set out in individual leases.

30 Leaseholders and tenants who pay a variable service charge have some protection. Under section 19 and 27A of the 1985 Act, variable service charges must be reasonably incurred and, where costs relate to work or services, those works or services must be of a reasonable standard. Leaseholders and tenants may challenge the reasonableness of the service charge by making an application to the appropriate tribunal (the First-tier Tribunal (Property Chamber) in England and the Leasehold Valuation Tribunal in Wales) who can make a legal determination on the reasonableness of the service charge. There are also two Government approved codes of practice – Royal Institution of Chartered Surveyors Code of Practice[1], and the Association of Retirement Housing Managers Code of Practice[2] - which outline best practice for managing agents, landlords or other relevant parties in relation to residential leasehold property management. Both documents can be taken into account as evidence at

[1] https://www.rics.org/profession-standards/rics-standards-and-guidance/sector-standards/real-estate-standards/service-charge-residential-management-code

[2] https://www.arhm.org/code-of-practice/

court and First-tier Tribunal hearings, including hearings on the reasonableness of service charges.

31 Those leaseholders and tenants who pay a variable service charge also have other rights. For example, the demand must contain an address in England or Wales which can be used to send notices to the landlord. The landlord must demand the service charge within 18 months of the relevant costs having been incurred or provide notice in writing that those costs have been incurred and that the leaseholder or tenant will subsequently be required to contribute to them by the payment of a service charge. Leaseholders and tenants may ask for a summary of the service charge account for the last accounting year or, if accounts are not kept by accounting years, the past 12 months. Leaseholders and tenants also have the right to inspect documents relating to the service charge to provide more detail on the summary.

32 The proposals in this Bill seek to drive up the transparency of financial and non-financial information that leaseholders and tenants receive. This includes how service charge costs are presented; the provision of key information – such as insurance costs; greater financial information through the annual preparation of written statements of account; and the ability to compel landlords to provide other relevant information that the tenant needs to know as an occupier of a building where a service charge is payable. Some of these measures will be extended to those who currently pay fixed service charges.

33 Another charge most leaseholders and some tenants may be liable to pay is a variable administration charge. The lease or tenancy governs the situations where a variable administration charge may be payable and include, for example, obtaining permission to carry out alterations to the flat, or payment of the landlord's legal fees incurred incidental to any action taken in respect of non-payment of rent and service charge or for other alleged breaches of the agreement.

34 Variable administration charges are subject to a statutory limitation that any charge is payable only to the extent that the amount of the charge is reasonable, and again the reasonableness of the charge may be challenged through an application to the appropriate tribunal. Landlords have discretion, albeit not unfettered, as to the amount that is payable. Leaseholders and tenants may be aware that a cost may be payable, but do not know in advance how much these fees will be. The proposal in this Bill seeks to drive up the transparency of administration charges that leaseholders and tenants may face.

Buildings insurance

35 Most leaseholders are obliged to maintain buildings insurance as part of their mortgage. It is normal, especially in the context of residential multi-occupancy buildings, for the freeholder/landlord (or property agent if they are acting on their behalf) to reserve the right in the lease to place and manage the insurance of the building and recover the cost of the premium either as a separate insurance rent or as part of the service charge.

36 The Secretary of State asked the Financial Conduct Authority (FCA) to review the residential multi-occupancy building insurance market because of dramatic premium increases. In 2022, the FCA published a report[3] that found over the period 2016-2021, premiums for residential multi-occupancy buildings had increased by 187% for buildings which had flammable cladding, and 94% for buildings without flammable cladding.

[3] https://www.fca.org.uk/publication/corporate/report-insurance-multi-occupancy-buildings.pdf

37 The FCA followed up with a report[4] in 2023 that found that commissions were often at least 30% of the total insurance premium, with some commissions being over 50%. On average, these are split 50/50 between the insurance broker and the placer and manager of insurance.

38 Under existing legislation, leaseholders do not have to be made aware of the level of any commission being taken throughout the value chain, which gives intermediaries the opportunity to take substantial commissions without needing to demonstrate the reasonableness of the costs. This arrangement may incentivise lessors or those working on their behalf, to maximise their own remuneration as opposed to choosing the best value.

39 The measures in this Bill will prohibit commissions from the placer/manager of insurance from being recovered from leaseholders through their service charge. These commissions will be replaced by a transparent handling fee system where those placing or managing insurance can charge for their work, for example, if they are handling claims on behalf of leaseholders. The intent is the cost will have to reflect the work and time undertaken to carry out the work; both, to understand the basis of the fee and to make it more easily challengeable if considered by the leaseholder as being unreasonable.

Rebalancing the legal costs regime

40 Under the terms of a lease, leaseholders may be liable to pay the legal costs of their landlord, regardless of the outcome before the appropriate tribunal. Currently, leaseholders and tenants must apply to the appropriate tribunal to limit their liability to pay their landlord's legal costs recovered either through the service charge or as an administration charge. In addition, leaseholders and tenants are only able to claim their own legal costs from their landlord under very limited circumstances. This may deter some leaseholders and tenants from bringing challenge.

41 The Government announced[5] its commitment to ensuring leaseholders and tenants are not subject to any unjustified legal costs and can claim their own legal costs from their landlord if appropriate.

42 The proposals in this Bill will flip the requirement that leaseholders and tenants have to apply to limit their liability for their landlord's legal costs, and will instead require landlords to apply to the relevant court or tribunal to pass any or all of their legal costs on to leaseholders and tenants as an administration charge; or on to participant and non-participant leaseholders and tenants through the service charge. The relevant court or tribunal will make a decision on applications that is just and equitable in the circumstances. An implied term in all leases will give leaseholders a new right to apply to claim their legal costs from their landlord. The relevant court or tribunal will make a decision on applications that is just and equitable in the circumstances.

Leasehold and freehold sales information

43 To sell a leasehold property or a property on a manage estate, a leaseholder or homeowner requires certain information about their property (e.g. level of ground rent and service charges, legal obligations or the level of estate management charge) and must request this from their landlord or estate manager. Currently, there is no statutory requirement for landlords or estate managers to respond to such information requests within a set time limit or provide the information at a reasonable cost. Some landlords and estate managers therefore take weeks or months to provide information; holding up the sales process and causing sales to fall through. Others set significant fees for providing this information, leaving leaseholders and homeowners with little option but to pay if they want to sell their home. The process is

[4] https://www.fca.org.uk/publications/multi-firm-reviews/multi-occupancy-buildings-insurance-broker-remuneration

[5] https://assets.publishing.service.gov.uk/media/627a57f88fa8f57d893d3008/Lobby_Pack_10_May_2022.pdf

governed by custom and the market, and despite extensive engagement with industry, action to improve best practice on this matter has not been forthcoming and the Government believes it must therefore intervene to regulate.

44 Around 25-30% of all sales fall through after the offer has been placed. Fall-throughs can result in thousands of pounds of losses in each case and cumulatively cost consumers £250m per year. Approximately 260,000 leasehold transactions take place annually. In more than a third of cases, leasehold information is not received by the leaseholder until more than 30 days after payment is made.

45 The clauses in the Bill seek to support leaseholders and homeowners by removing unnecessary delays to the homebuying and selling process by setting a maximum time and fee for the provision of information required to make a sale to a leaseholder by their freeholder or to a homeowner from their estate manager.

Regulation of estate management

46 There is a growing number of households in England who live on private or mixed-tenure estates where, on completion of a development, they – rather than the local authority – are required to pay for the maintenance of communal areas and facilities. This can include payments for servicing of private roads, external lighting, play areas for children or electric gates. The provision of these services is undertaken either through a private or resident-led Estate Management Company, and the liability for contributions towards maintenance of communal areas and facilities is usually defined in the deed of conveyance or the rent charge deed.

47 Homeowners on these estates have extremely limited rights over the quality of services provided. There is currently no regulatory framework to protect homeowners from excessive costs or poor quality work – and homeowners currently have no statutory rights to challenge their estate management provider when there has been a failure to provide a reasonable service or when an unreasonable charge has been levied. The Government made a public commitment in December 2017[6] to give freeholders who pay charges for the maintenance of communal areas and facilities on a private or mixed-use estate the ability to access equivalent rights as leaseholders to challenge the reasonableness of service charges.

48 The provisions in this Bill seek to give homeowners living on managed estates a number of new rights to make it easier to hold estate management companies to account. This includes the ability to challenge the reasonableness of the charges they pay. It also includes similar rights to leaseholders that are being proposed in this Bill around greater transparency of information over their costs and the ability to obtain other information. There will be provision for a system of civil penalties, which will apply to an estate management provider, who fails to comply with requirements in respect of the provision of information, inspecting of accounts or insurance.

49 Homeowners on managed estates, like many leaseholders and tenants, are also subject to various administration charges for which they have no control or protection. These may be payable for issues such as variation of the deed of the property, handling requests for information or costs of non-payment of estate management charges. The proposals in the Bill will create a new regulatory framework around administration charges. They will require all administration charges to be reasonable and give homeowners the right to challenge the reasonableness of the charges by making an application to the First-tier Tribunal in England (and the Leasehold Valuation Tribunal in Wales). The Bill also proposes measures to ensure

[6] https://assets.publishing.service.gov.uk/media/5a820e6640f0b62305b923df/Tackling_Unfair_Practices_-_gov_response.pdf

that homeowners are provided with better information about the amount of the administration fee they are liable to pay.

Redress

50 Currently, property agents (including managing agents) are required by law to belong to one of the following government approved redress schemes: The Property Redress Scheme, or The Property Ombudsman. Social Landlords who are registered with the Regulator for Social Housing (RSH) are required to be members of the Housing Ombudsman Scheme.

51 There is currently a gap in access to redress for leaseholders where their landlord does not employ a managing agent and is not a social landlord but carries out their own property management on their leasehold property. There is also a gap in access to redress for homeowners on freehold estates where the estate management company does not employ a managing agent. In such circumstances, the landlord or estate management company is not required to sign up to a redress scheme.

52 To address the gap in access to redress, the measures in this Bill can require landlords and estate management companies who manage their property or estate to sign up to a new mandatory redress scheme.

53 The measures allow for robust enforcement should a relevant landlord or estate management company who is required to join a redress scheme fail to do so. This includes significant financial penalties; and giving homeowners a route to apply to the appropriate tribunal for an order to appoint an alternative manager.

Rentcharges

54 A rentcharge is generally an annual sum of money (other than rent) which is charged on and payable out of land. It can be created by deed, will or codicil, or by statute. Rentcharges were historically used for the purpose of making financial provision for family members or other dependants. However, since the Rentcharges Act 1977, no new income-supported rentcharges of the type mentioned above can be created, and any existing charges will be phased out by 2037.

55 Failure to pay a rentcharge within 40 days of its due date means that [under section 121 of the Law of Property Act 1925], the recipient of the rentcharge (the rentcharge owner) may take possession of the subject premises until the arrears and all costs and expenses are paid, or the rentcharge owner may grant a lease of the subject premises to a trustee that the rentcharge owner may set up themselves. The proposals in this Bill seek to fulfil a public commitment made in December 2017 so that a rentcharge owner is not able to take possession or grant a lease on the property where the rentcharge remains unpaid for a short period of time.

Building safety

56 The leaseholder protections in the Building Safety Act 2022 came into force on 28 June 2022, with new financial protections for leaseholders in buildings of at least 11 metres or five storeys in height with historical safety defects.

57 The effect of the Act is that building owners and landlords who built defective buildings of at least 11 metres or at least five storeys, or are associated with those responsible, pay to remedy historical safety defects for both cladding and non-cladding defects.

58 In this Bill, there are six amendments to the Building Safety Act to ensure the leaseholder protections function in the way they were originally intended, and additional protections in some specific scenarios.

Legal background

59 The Bill will implement a streamlined package of the enfranchisement and right to manage ("RTM") reforms recommended by the Law Commission in their reports of July 2020 [details in Related Documents], together with other leasehold and homeownership reforms.

60 The main legislation relevant to the rights of residential leaseholders is:

a. The Leasehold Reform Act 1967[7];

b. The Landlord and Tenant Act 1987[8];

c. Schedule 2 of the Housing Act 1988[9];

d. The Local Government and Housing Act 1989[10];

e. The Leasehold Reform, Housing and Urban Development Act 1993[11];

f. The Commonhold and Leasehold Reform Act 2002[12].

61 The main legislation relevant to Freeholders on managed estates and rent charges is:

a. The Rentcharges Act 1977[13]

b. The Law of Property Act 1925[14]

62 The following abbreviations are used throughout these instructions:

a. "the 1967 Act" means the Leasehold Reform Act 1967;

b. "the 1985 Act" means the Landlord and Tenant Act 1985;

c. "the 1987 Act" means the Landlord and Tenant Act 1987;

d. "the 1993 Act" means the Leasehold Reform, Housing and Urban Development Act 1993;

e. "the 2002 Act" means the Commonhold and Leasehold Reform Act 2002;

f. "the appropriate Tribunal" means the First-Tier Tribunal (Property Chamber) (for England) and the Leasehold Valuation Tribunal (for Wales) unless otherwise stated;

g. "the 2022 Act" means the Building Safety Act 2022.

63 The Bill in the main amends the 1967 Act, the 1985 Act, the 2022 Act and the 1993 Act.

[7] https://www.legislation.gov.uk/ukpga/1967/88/contents
[8] https://www.legislation.gov.uk/ukpga/1987/31/contents
[9] https://www.legislation.gov.uk/ukpga/1988/50/schedule/2
[10] https://www.legislation.gov.uk/ukpga/1989/42/contents
[11] https://www.legislation.gov.uk/ukpga/1993/28/contents
[12] https://www.legislation.gov.uk/ukpga/2002/15/contents
[13] https://www.legislation.gov.uk/ukpga/1977/30/contents
[14] https://www.legislation.gov.uk/ukpga/Geo5/15-16/20/contents

Territorial extent and application

64 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Bill

Part 1: Leasehold houses

Clause 1: Ban on the grant or assignment of long residential leases of houses

65 Clause 1 prohibits the granting or entering into an agreement to grant a new long residential lease of a house.

66 Subsection (1) bans the granting or entering into an agreement to grant a long residential lease of a house on or after the day this section comes into force unless it is a permitted lease.

67 Subsection (2) prevents leases from being entered into after the ban comes into force, if at the time of assigning the lease it is a long residential lease of a house, but at the time of granting it was not a long residential lease of a house. For example, this would prevent a person in an attempt to avoid being captured by the ban building a house on land leased for other purposes and then selling the lease.

68 Subsection (3) details that this section does not affect (a) the validity of a lease granted in breach of subsection (1) and does not affect the powers of an owner to grant such a lease and (b) any contractual rights of a party to an agreement entered into in breach of subsection (1).

Clause 2: Long residential leases of a house

69 Clause 2 sets out details of what constitutes a "long residential lease of a house".

70 Subsection (1) details that a lease is a "long residential lease of a house" if at the time the lease is granted, conditions A to C are met.

71 Subsection (2) sets out condition A as the lease has a long term (as detailed in sections (Clause 3) and (Clause 4).

72 Subsection (3) sets out condition B as the lease comprises of one house (see section (Clause 5) for a definition of a house for this Part).

73 Subsection (4) sets out condition C as the lease is a residential lease (see section 6).

Clause 3: Leases which have a long term

74 Clause 3 establishes what is meant by a lease with a long term, which is a lease granted for 21 years or longer, regardless of how the lease has been designed between the two parties.

75 Subsection (1) defines a lease as having "a long term" if any of cases A to D apply.

76 Subsection (2) sets out case A where a lease has a term exceeding 21 years.

77 Subsection (3) sets out case B where a lease has been granted for life or until marriage or civil partnership under section 149(6) of the LPA 1925.

78 Subsection (4) sets out case C where the lease is granted with a covenant or obligation for perpetual renewal unless it is a sub-lease with a term of 21 years or less.

79 Subsection (5) sets out case D where the lease can form part of a series of leases with terms that would extend beyond 21 years (see section Clause 4).

80 Subsection (6) clarifies that the lease being terminable by notice, re-entry or forfeiture does not prevent it from being a long lease and that the lease length is determined as the length it was at the point it was granted.

Clause 4: Series of leases whose term would extend beyond 21 years

81 Clause 4 establishes what is meant by a 'series of leases' under section Clause 3(5).

82 Subsection (1) sets out that a lease ("the original lease") can form a series of leases where terms extend beyond 21 years, if conditions A to C are met when the original lease is granted.

83 Subsection (2) sets out condition A as the original lease does not have a long term under section Clause 3(2), (3) or (4).

84 Subsection (3) sets out condition B as the provision for the grant of another lease of the same house ("the new lease") is included in (a) the original lease or (b) any related arrangements.

85 Subsection (4) sets out condition C as the total duration of (a) the term of the original lease, (b) the term of the new lease (if granted) and (c) the term or terms of any subsequent leases (if granted) would exceed 21 years.

86 Subsection (5) clarifies that if the new or subsequent leases have the option for terms of varying durations, the longest duration is always used.

87 Subsection (6) details that a lease is a "lease of the same house" if the property contained in the lease (if granted) would consist of one house, being the house in the original lease.

88 Subsection (7) details that arrangements are "related arrangements" if they are entered into in connection with the grant of the original lease.

89 Subsection (8) details that a lease is a subsequent lease if (a) it is not a new lease, (b) it is a lease of the same house and (c) provision for the grant of the lease (i) is included in the original, (ii) would be included in the new lease (if granted) or (iii) would be included in any other lease that itself would be a subsequent lease.

Clause 5: Houses

90 Clause 5 establishes the definition of a house for the purposes of the ban.

91 Subsection (1) defines a "house" as a separate set of premises (on one or more floors) which (a) forms the whole or part of a building and (b) is constructed or adapted for use for the purposes of a dwelling.

92 Subsection (2) states that if there is significant material under- or overhang then the property does not meet the definition of a house. This is to avoid forcing developers to sell 'flying freeholds' and continue to allow them to use a lease to manage the situation where two or more parts of a building are structurally interdependent.

Clause 6: Residential leases

93 Clause 6 establishes what is meant by a residential lease, providing a broad interpretation of how a house might be occupied as a residence, while also ensuring that commercial leases are not prohibited by the ban. A lease is a "residential lease" if the terms of the lease do not prevent the house contained in the lease from being occupied as a separate dwelling.

Clause 7: Permitted leases

94 Clause 7 defines a lease as a "permitted lease" if it (a) is a long residential lease of a house and (b) falls into the list of exemptions set out in Schedule 1.

Clause 8: Permitted leases: certification by the appropriate tribunal

95 Clause 8 sets out that there will be certain permitted leases (outlined in Part 1 of Schedule 1) which will require prior approval from the appropriate tribunal. This clause grants the appropriate tribunal – the First Tier Tribunal in England and the Leasehold Valuation Tribunal in Wales - a power to determine whether, upon application by a developer or other vendor, the applicant has the right to market and grant a new lease of a house.

96 Subsection (1) details that a "permitted lease certificate" must be issued by the appropriate tribunal, upon receiving an application in relation to a long residential lease of a house, or a proposed long residential lease of a house, where the tribunal is satisfied that the lease is or will be a permitted lease under the definitions set out in Part 1 of Schedule 1.

97 Subsection (2) sets out that the tribunal may issue a certificate irrespective of whether the lease or house is already in existence. For example, a house sold 'off-plan' may not yet have been built, or have an accompanying lease. This subsection caters for that event by allowing the tribunal to issue a certificate before either the house or lease has materialised.

98 Subsection (3) details that a permitted lease certificate issued by the appropriate tribunal must (a) identify the house or land the certificate applies to (b) state the category or categories of permitted lease the certificate applies to. The tribunal may attach further conditions to the certificate as it deems appropriate.

99 Subsection (4) sets out that a certificate is able to cover more than one leasehold house on a site. For example, if a Community Land Trust wished to sell ten new leasehold houses on a single plot of land, they would need only apply for a single certificate.

Clause 9: Permitted leases: marketing restrictions

100 Clause 9 requires developers or vendors engaged in advertising and selling of new leases of houses to comply with new marketing requirements. A developer or vendor will have to include in any marketing material that the property was a new leasehold house, and the grounds on which it would be a 'permitted lease'.

101 Subsection (1) clarifies that this section applies in relation to the marketing of house, where the house is to be comprised in a new lease and the lease will be a long residential lease of the house.

102 Subsection (2) details that where a house is being marketed as leasehold, a person (a "promoter") may not make any material marketing available unless the permitted lease information is included in or provided with that material.

103 Subsection (3) details that the "permitted lease information" means (a) a statement identifying the category or categories in Part 1 of Schedule 1 into which the lease falls and a copy of the permitted lease certificate issued by the relevant tribunal, or (b) a statement identifying the category or categories in Part 2 of Schedule 1 into which the lease falls, to the best of the knowledge and belief of the promoter at the time the material is made available.

104 Not all new leases of houses will be required to comply with this new stipulation, because not all new leases of houses will be marketed as such. For example, where a buyer is using a home purchase plan to secure finance on the house, the house will likely be advertised as freehold, but the financing of the purchase will lead to the connected creation of a lease.

105 Subsection (4) defines marketing relating to a house as any form of material used in advertising or promoting the house.

Clause 10: Permitted leases: transaction warning conditions

106 Clause 10 introduces warning notices for when a prospective buyer is to be sold a leasehold house. These will warn a prospective buyer before they enter into a lease that they are entering into a new lease on a house, and will detail the category under which it qualifies as a permitted lease.

107 Subsection (1) details that a person may not grant, or enter into an agreement to grant, a permitted lease on or after the day on which the ban comes into force unless the transaction warning conditions are met.

108 Subsection (2) sets out the transaction warning conditions as: (a) the warning notice must be issued to the prospective leaseholder(s) at least 7 days before the permitted lease is granted or the agreement is entered into, (b) the prospective leaseholder(s) must provide a notice of receipt of the warning notice to grantor, and (c) a reference to the warning notice and the notice of receipt must be included in, endorsed on, the agreement for lease or in lease.

109 Subsection (3) defines a "warning notice" as a notice provided in a specified form and manner and containing (a) sufficient information to identify the house comprised in the lease, (b) a copy of the tribunal certificate, if the permitted lease is one listed in Part 1 of the Schedule (Categories of permitted lease), (c) a statement identifying the category or categories which the lease comes under in Part 2 of the Schedule (Categories of permitted lease)(d) where a lease is permitted under both Part 1 and Part 2 of the Schedule (Categories of permitted lease), information required under both (c) and (d) is must be provided, and e) such further information as may be specified in regulations.

110 Subsection (4) defines a "notice of receipt" as a notice in a specified form and manner to be specified in regulations.

111 Subsection (5) states that Subsection (1) is not breached where (a) an agreement for lease was already entered into and the transaction warning conditions were already met, and (c) a reference to the warning notice and notice of receipt is included in, or endorsed on, the agreement for lease or the lease.

112 Subsection (6) sets out that this section does not apply to the grant of a permitted lease which falls within paragraph 5 of the Schedule (Categories of permitted lease). Subsection (7) clarifies that that this section does not affect (a) the validity of a lease granted in breach of Subsection (1) and does not affect the powers of an owner to grant such a lease and (b) any contractual rights of a party to an agreement entered into in breach of Subsection (1). This Subsection is intended to protect the contractual rights of the leaseholders.

113 Subsection (8) defines: "grantor", "proposed tenant", "relevant date", "relevant instrument" and "specified" in relation to a lease.

114 Subsection (9) sets out that the statutory instrument containing regulations is subject to the negative procedure.

Clause 11: Prescribed statements in new long leases

115 Under existing HM Land Registry rules, all new leases require the use of prescribed clauses, which require those registering a lease to record all the information the Land Registry needs in one place. This amendment will require all new leases that are registered with HM Land Registry to include an additional prescribed clause stating whether they are compliant with

the new ban, either by declaring that they are not registering a long residential lease of a house (as defined by this part of the bill), or that the lease is a 'permitted lease'.

116 Subsection (1) sets out that this section applies to a lease of a land which has a long term and is granted on or after the day the ban comes into force.

117 Subsections (2) and (3) details that all new long leases registered with His Majesty's Land Registry must contain prescribed statements declaring that they are compliant with the new ban, either because the lease is not a long residential lease of a house (as defined by this bill), or because the lease is a 'permitted lease' of a house.

118 Subsection (4) sets out that the prescribed clause must comply with requirements prescribed by land registration rules under the Land Registration Act 2002.

119 Subsection (5) excludes "Case D" leases (a series of leases) detailed in Clause 3 from this requirement. This is because the series of leases involved may not individually be 'prescribed clause leases' and would not be identified by HM Land Registry in the same way as standard newly registered leases. Such leases will, however, be captured by other aspects of the ban.

Clause 12: Restriction on title

120 Clause 12 requires HM Land Registry, if the relevant prescribed clauses confirming the property is compliant with the ban are missing, to enter a restriction on the title. This restriction will prevent the property being sold on to other home buyers, until the compliance of the property with the ban is resolved.

121 Subsection (1) sets out the circumstances, where the relevant prescribed statements confirming the property is compliant with the ban are missing, to which Subsection (3) applies. Subsection (3) requires HM Land Registry to enter a restriction on the registered title of the house.

122 This restriction will prevent the property being sold on to other home buyers, until the correct statement has been included in the lease and the compliance of the lease with the ban has been ascertained.

123 Subsection (2) details what would constitute an application for registering a lease.

124 Subsection (4) states that the restriction may be removed under Subsection (3) if the lease is varied to include the appropriate prescribed statement.

125 Subsection (5) sets out the circumstances (where a deemed surrender and regrant has taken place and the prescribed statements are missing) to which Subsection (6) applies. As under Subsection (3), Subsection (6) requires HM Land Registry to enter a restriction on the title.

126 In the event of a restriction being placed on a 'deemed surrender and regrant' Subsection (7) allows HM Land Registry to lift this restriction if they are satisfied it is either a permitted lease, or is not a long residential lease of a house.

127 Subsection (8) clarifies that an expression used in this Section has the same meaning as an expression used in the Land Registration Act 2002.

Clause 13: Redress: right to acquire a freehold or superior leasehold estate

128 Clause 13 provides for the key redress rights for leaseholders under the house ban.

129 Subsection (1) gives the redress rights to a "relevant rights holder". This generally will mean the homeowner at the time, but could also be a mortgage lender in possession of the property.

130 Subsection (2) sets out what the key redress right is, which is to grant the owner the "right to acquire" the freehold of the house for the payment of no premium or legal costs, with subsection (4) detailing that this is acquired from the landlord.

131 Subsection (3) makes clear that references to this redress right in the rest of this section, as well as the sections provided for by Clauses 14-16 are to be interpreted in accordance with subsection (2).

132 Subsection (5) defines who has the right to redress. This is either (a) the mortgagee or chargee of the tenant who has the right to deal with the lease, or it is (b) in any other case, the tenant. Subsection (6) defines "superior leasehold estate as a leasehold estate that is superior to the long residential lease.

Clause 14: Redress: application of the right to acquire

133 Clause 14 sets out where the redress right does and does not apply.

134 Subsection (1) sets out that the relevant rights holder no longer has the right to acquire if the lease comes to an end or expires. However, where a lease does expire but the right to acquire still applies for as long as the lease is continued under a relevant law (Subsection (2). The relevant laws are specified under subsection (4), but for example, includes where the lease becomes an assured tenancy at the end of its term.

135 Subsection (3) sets out that the right to acquire is no longer available if the leaseholder acquires the freehold of their house, whether through a formal enfranchisement or via other means (whether or not by exercising their right to acquire).

Clause 15: Redress: general provisions

136 Clause 15 gives general provision for the redress measures.

137 Subsection (1) provides that the right of redress does not, of itself, create a registrable interest or binding contract for the freehold to be conveyed to the homeowner. The relevant rights holder has to exercise the right of redress to become entitled to acquire the freehold.

138 Subsection (2) is an anti-exploitation clause. It makes clear that an agreement relating to a lease of the house cannot remove or alter the leaseholder's right to acquire; or require the leaseholder to surrender their lease or be subject to a penalty in the event they exercise their right.

139 Subsection (3) clarifies that the restriction on the landlord's rights in subsection (2) do not prevent a leaseholder of a house from surrendering or terminating the lease, or entering into an agreement to acquire the freehold in a different way from exercising their statutory right to acquire.

140 Subsection (4) clarifies that the right to acquire is not capable of outlasting the lease, i.e. if the lease no long exists for whatever reason, the redress right no longer applies.

Clause 16: Redress regulations: exercising and giving effect to the right to acquire

141 Clause 16 provides for the Secretary of State to make regulations in connection with the exercise of the redress rights.

142 Subsection (2) sets out what the regulations may provide for under the power specified in subsection (1). This includes: the period within which the right must be exercised, how the leaseholder and landlord serve notice in relation to the right to acquire, that the relevant appropriate court or tribunal may make an order to give effect to acquire application, requirements regarding the conveyance of the freehold, the liability for specified costs in connection with the right to acquire, and enforcement of the requirements of the regulations.

143 Subsection (3) provides for regulations relating to the appropriate court or tribunal making an order following a right to acquire application specifying the circumstances where an order can be made, and what that order can include, where the relevant rights owner has not been able to give the landlord notice (for example, the landlord is missing or unresponsive).

144 Subsection (4) sets out that regulations can provide for cases where there is an intermediate landlord.

145 Subsection (5) allows the regulations to apply or incorporate any provision made by or under a relevant enactment (as defined in subsection 7)); and amend or repeal any provision made by an Act of Parliament.

146 Subsection (6) defines the parliamentary procedure for making regulations relevant to this section, Subsection (7) sets out the relevant definitions for this section.

Clause 17: Enforcement by trading standards authorities

147 Clause 17 provides for the local weights and measures authorities in England or Wales to investigate and enforce breaches of the ban.

148 Subsection (1) sets out that it is the duty of every local weights and measures authority in England or Wales to enforce the leasehold house restrictions in its area.

149 Subsection (2) clarifies that penalties are applicable to breaches of specific sections of the Bill relating to the grant of a long lease of a house (unless the lease is a permitted lease), the assignment of a long lease of house (unless the assignment is of a permitted lease), the marketing of a new long lease of a house, and the provision of a warning notice for a new long lease of a house.

150 Subsection (3) states that a breach occurs in the area where the house is located, and if it is located in more than one area, the breach is considered to have occurred in each of those areas.

151 Subsection (4) clarifies that the duty in subsection (1) is subject to subsequent clauses, including how the penalties are to be enforced (Financial penalties: cross-border enforcement (4)), and the role of the lead enforcement authority (Enforcement by the lead enforcement authority).

Clause 18: Financial penalties

152 Clause 18 provides details of the financial penalties that an enforcement authority may impose for breaches the ban. Specifically, it establishes that breaches are subject to fines of between £500 and £30,000. It also details which breaches are standalone or can be treated collectively by the enforcement authority.

153 Subsection (1) sets out that an enforcement authority may impose a financial penalty on a person if the authority is satisfied beyond reasonable doubt that the person has breached the ban.

154 Subsection (2) details that an enforcement authority may impose a financial penalty of between £500 and £30,000.

155 Subsection (3) states that entering into an agreement to grant or assign a lease in breach of section (Ban on grant or assignment of certain long residential leases of houses) or entering into an agreement to grant a lease in breach of section (Permitted leases: transaction warning conditions) are to be treated as a single breach.

156 Subsection (4) clarifies that multiple breaches of the marketing requirements in relation to the same lease are to be treated as one breach.

157 However, in relation to all other breaches, subsection (5) sets out that where the same person has committed the same breach in relation to two more leases, or has committed different breaches in relation to the same lease, these are to be regarded as separate breaches. An enforcement authority may then wish to impose a separate penalty for each breach, or may wish to impose a single penalty of an amount equal to the total of the amount of the penalties that could have been separately imposed.

158 Subsection (6) confirms that the Secretary of State may make regulations to vary the minimum (£500) and maximum (£30,000) penalties to reflect a change in the value of money. Subsection (7) makes it clear that such regulations will be subject to the negative procedure.

159 Subsection (8) signposts to Part A1 of the Schedule, which contains further provisions about financial penalties under this section.

Clause 19: Financial penalties: cross-border enforcement

160 Clause 19 sets out the procedure for enforcement when a person breaches the ban in another enforcement authority's area and where the breach occurs in more than one enforcement authority's areas.

161 Subsection (1) clarifies that an enforcement authority may impose a penalty for a breach of the ban which occurs outside its own area (in addition to being able to impose a penalty for breaches in its own area).

162 Subsection (2) states that if one enforcement authority (A) proposes to the impose a penalty in another authority's (B) area, then A must notify B, including if A does not ultimately impose a penalty (Subsection 3), or where it does (Subsection 5).

163 Subsection (4) notes that authority B's duty is relieved where they receive a notice under Subsection (2) unless they receive a notice under Subsection (3).

Clause 20: Lead enforcement authority

164 Clause 20 provides for a lead enforcement authority to oversee the ban.

165 Subsection (1) sets out that the lead enforcement authority means: (a) the Secretary of State, or (b) a person who the Secretary of State has arranged to be the lead enforcement authority, with subsection (2) allowing for the local weights and measures authority to be the lead enforcement authority for this Part.

166 Subsection (3) sets out that arrangements may include provision: (a) for payments by the Secretary of State, and (b) about bringing arrangements to an end.

167 Subsection (4) confers powers on the Secretary of State to make regulations to account for where there is a change in the lead enforcement authority and Subsection (5) details that regulations may relate to a specific change in the lead enforcement authority. Subsection (6) makes it clear that regulations made under subsection (4) are subject to the negative procedure.

Clause 21: General duties of the lead enforcement authority

168 Clause 21 provides further details on the general duties of the lead enforcement authority.

169 Subsection (1) sets out that it is the duty of the lead enforcement authority to oversee the operation of the "relevant provisions of this Part" in England and Wales. Subsection (2) clarifies that the "relevant provisions of this Part" are all enforceable provisions of the Bill except those relating to prescribed statements and restrictions on title.

170 Subsection (3) sets out that it is the duty of the lead enforcement authority to issue guidance on enforcement to the enforcement authorities. If the Secretary of State is not the lead enforcement authority, then the Secretary of State may provide directions on the content of the guidance.

171 Subsection (4) states that the lead enforcement authority has a duty to provide information and advice to the public about the operation of the ban.

172 Subsection (5) sets out that the lead enforcement authority may disclose information to enable another enforcement authority to determine whether a breach has occurred.

173 Subsection (6) clarifies that where the Secretary of State is not the lead enforcement authority, the lead enforcement authority must keep under review and advise the Secretary of State about: (a) social and commercial developments in England and Wales in relation to the grant and assignment of long resident leases of houses or agreements of such leases, and (b) the operation of the relevant provisions of this Part.

Clause 22: Enforcement by the lead enforcement authority

174 Clause 22 provides details regarding enforcement by the lead enforcement authority.

175 Subsection (1) clarifies that the lead enforcement authority may: (a) take steps to enforce any restrictions of the ban and (b) exercise any powers that an enforcement authority holds in respect of the restrictions.

176 Subsection (2) details that where the lead enforcement authority proposes to take enforcement action, it must notify the enforcement authority for the area where the breach has (or may have) occurred.

177 Subsection (3) details that where the lead enforcement authority notifies an enforcement authority under Subsection (2) but does not take the enforcement action, the lead enforcement authority must inform the enforcement authority that the lead enforcement authority has not taken enforcement action.

178 Subsection (4) sets out that where an enforcement authority receives a notification under Subsection (2), the authority is relieved of its duty to take enforcement action unless it receives a notification under Subsection (3) from the lead enforcement authority.

179 Subsection (5) details that the lead enforcement authority may require the enforcement authority to assist the lead enforcement authority in taking the enforcement action.

Clause 23: Further powers and duties of enforcement authorities

180 Clause 23 makes further provision about the enforcement of the ban, including making provision to extend the investigatory powers contained in the Consumer Rights Act 2015 to local weights and measures authorities enforcing the regime.

181 Subsection (1) requires an enforcement authority to report to the lead enforcement authority if they believe a breach of the ban has occurred in their area.

182 Subsection (2) sets out sets out that every enforcement authority must report to the lead enforcement authority, whenever required by them, with the information requested and in the required form.

183 Subsection (3) requires an enforcement authority to have regard to the guidance issued by the Secretary of State or the lead enforcement authority about the exercise of its functions under the ban.

184 Subsection (4) details that for investigatory powers available to an enforcement authority for enforcement purposes for this Part, Schedule 5 of the Consumer Rights Act 2015 is applicable.

185 Subsection (5) amends the Consumer Rights Act 2015 to ensure that the investigatory powers available under that Act apply to an enforcement authority in relation a breach. Subsection (6) also signposts to relevant existing provisions under the Consumer Rights Act 2015 necessary to provide the power of enforcement.

Clause 24: Power to amend: permitted leases and definitions

186 Clause 24 provides for the Secretary of State by regulations to amend or remove definitions of permitted leases, and also to amend certain individual definitions of long residential leases of houses.

187 Subsection (1) confers powers on the Secretary of State by regulations to make provision to (a) amend the definitions of "long residential lease of a house", a lease which has a "long term" and "house", (b) to add or remove a category of permitted lease in Schedule 1 and (c) to amend a category of permitted lease in Schedule 1.

188 Subsection (2) sets out that a statutory instrument containing regulations under Subsection (1)(a) or (b) (to add or omit a category of permitted lease to the Schedule (Categories of permitted lease)) is subject to the affirmative procedure.

189 Subsection (3) sets out that any other statutory instrument containing regulations under this Subsection 1(b) (amending a definition of a category of permitted lease in the Schedule (Categories of permitted lease)) is subject to the negative procedure.

190 Subsection (4) details further powers to make regulations under paragraphs 2(1)(b), 3(1)(b) 6(2) and 7(1)(b) of the Schedule (Categories of permitted lease).

191 Subsection (5) states that the provision may be made by regulations under this section by virtue of section 86(1) (consequential etc provision), including provision amending or repealing any provision under this Part.

Clause 25: Interpretation of Part 1

192 Clause 25 defines various terms used throughout this Part to ensure that the Bill may be interpreted correctly.

193 Subsection (2) means that where there is a deemed surrender and regrant, the (new) lease deemed to be (re)granted is, for the purposes of the Bill, to be treated as the grant of the lease.

Part 2 - Leasehold enfranchisement and extension

Clause 26: Removal of qualifying period before enfranchisement and extension claims

194 Clause 26 amends section 1(b) of the LRA 1967 to remove the requirement that a leaseholder must have owned the lease of their house for at least two years before qualifying to buy their freehold or extend their lease. It also amends section 39(2) of LRHUDA 1993 to remove the requirement that a leaseholder of a flat has owned their lease for two years before qualifying for a lease extension.

Clause 27: Removal of restrictions on repeated enfranchisement and extension claims

195 Clause 27 removes the provisions of the LRA 1967 and the LRHUDA 1993 that prevent tenants from starting new enfranchisement or lease extension claims for 12-months where an earlier claim fails to complete. Subsection (1)(c) and (d) remove provisions of the LRA 1967

that give the court the power to order compensation and prevent new enfranchisement or lease extension claims for five-years where a claim has failed, and the tenant did not act in good faith or attempted to misrepresent or conceal material facts. Additionally, subsection (1)(b) repeals the restriction in the LRA 1967 on bringing a further lease extension claim where a lease extension has already been obtained under the Act.

Clause 28: Change of non-residential limit on collective enfranchisement claims

196 Clause 28 amends section 4(1) of the LRHUDA 1993 so that a building is excluded from collective enfranchisement rights if more than 50% of the internal floorspace is used for non-residential purposes (such as a ground-floor shop).

Clause 29: Eligibility for enfranchisement and extension: specific cases

197 Clause 29 gives effect to Schedule 3, which repeals limitations on enfranchisement rights under the LRA 1967 and the LRHUDA 1993 relating to redevelopment or reoccupation by the landlord, and limitations on the rights of sublessees.

Clause 30: Acquisition of intermediate interests in collective enfranchisement

198 Clause 30 replaces section 2 of the LRHUDA 1993 with a new Schedule (Schedule A1) which governs the acquisition of leases and parts of leases during a collective enfranchisement. The clause also makes consequential amendments of the LRHUDA 1993 to address the substitution of section 2 with Schedule A1.

199 Paragraph 1 of Schedule A1 introduces the provisions of the schedule. There are a series of gateways set out in the Schedule for acquiring leases (or parts of leases) during a collective enfranchisement claim:

a. The mandatory gateways, which require the nominee purchaser to acquire a lease, are listed in paragraph 1(2).

b. The optional gateways, which let the participating tenants choose whether the nominee purchaser will acquire a lease, are listed in paragraph 1(3).

200 Paragraph 2 deals with an intermediate lease (a) that is superior to the lease of a qualifying tenant and (b) that relates to the qualifying tenant's flat (or appurtenant property let with that flat). Under paragraph 2, there are two gateways for acquiring this intermediate lease, one mandatory and one optional. Which gateway is used depends on whether the qualifying tenant of the flat is participating in the collective enfranchisement claim.

a. If the qualifying tenant of the flat is participating, the superior intermediate lease must be acquired (under paragraph 2(4)).

b. If the qualifying tenant of the flat is not participating, the nominee purchaser may acquire the superior intermediate lease but does not have to do so (paragraph 2(5)).

201 These gateways only apply to the part of the intermediate lease that relates to the relevant flat (and associated appurtenant property). Any parts of the intermediate lease that relate to other property cannot be acquired under paragraph 2 (although they may be acquired under paragraph 3, if applicable).

202 Paragraph 2(6) deal with the situation in which an intermediate lease includes several flats sublet to non-participating qualifying tenants, as explained in the following example.

A block of flats is let on a headlease. The flats are sublet to qualifying tenants and a collective enfranchisement claim is made. Flats A and B are let to non-participating qualifying tenants. The nominee purchaser can choose whether to acquire the part of the headlease that relates to Flat A, or the part that relates to Flat B, or both parts. But the nominee purchaser cannot choose to acquire only a part of the headlease that demises (for example) the kitchen of Flat A, without acquiring the rest of the headlease of Flat A.

203 Paragraph 2(6) deals with a situation in which a qualifying tenant has obtained a longer, superior lease of their flat (in addition to their qualifying lease), for example, as an alternative to getting a lease extension. Provided the longer lease is immediately superior to the qualifying lease, it cannot be acquired by the nominee purchaser.

204 In certain circumstances, qualifying tenants may stop or start participating in a collective enfranchisement claim during the course of the claim. Given the new rules in paragraph 2, changes in participation may affect whether the acquisition of an intermediate lease of a flat is mandatory or optional. Subsection (10) of clause 5 allows corresponding amendments to be made to the claim notice, to add or remove the proposed acquisition of an intermediate lease.

205 Paragraph 3 sets out an optional gateway for acquiring leases of common parts of the building or leases of a "section 1(3)(b) addition". A section 1(3)(b) addition is property which a qualifying tenant in the building is entitled to use in common with other tenants and which is acquired with the building as part of the collective enfranchisement.

206 The participating tenants can choose how much of a lease of common parts or a section 1(3)(b) addition they want to acquire. This provision entrenches the decision of the Upper Tribunal in *Hemphurst Ltd v Durrels House Ltd* [2011] UKUT 6 (LC), which held that parts of common-parts leases could be acquired on a collective enfranchisement.

207 However, the acquisition of the lease of common parts or a section 1(3)(b) addition must meet the test in paragraph 3(3): acquiring the lease must be necessary for maintaining or managing the property demised by the lease on behalf of the participating tenants. However, under sub-paragraph (4), a lease cannot be acquired if the leaseholder grants easements that are sufficient to enable proper maintenance or management.

208 The gateway in paragraph 3 does not allow any parts of a lease to be acquired that relate to property other than common parts or a section 1(3)(b) addition.

209 Paragraph 4 sets out a further mandatory gateway for acquiring leases. It applies where the participating tenants have chosen to acquire a lease of common parts or a section 1(3)(b) addition, or an intermediate lease of a non-participating qualifying tenant's flat, under the optional gateways in paragraphs 2 and 3. The nominee purchaser must acquire any lease or part of a lease that is superior to the lease or part of a lease that is being acquired under the optional gateways.

210 Section 21(4) of the LRHUDA 1993 allows a landlord to require the nominee purchaser to acquire a freehold or leasehold interest in certain circumstances. Paragraph 5 applies if the landlord requires the nominee purchaser to acquire a lease (or part of a lease) that would have fallen within paragraph 4 had the participating tenants chosen to acquire it. In these circumstances, paragraph 5 applies the rule in paragraph 4. All leases (or parts of leases) that are superior to the lease being acquired under section 21(4) must also be acquired.

211 Paragraph 6 preserves the exception for public sector landlords formerly set out in section 2(5) and (6) of the LRHUDA 1993.

212 Paragraph 7 confirms that, where the nominee purchaser acquires part of a lease belonging to a landlord under Schedule A1, the lease is severed, and the landlord retains the other part. See the tribunal's power to determine the terms of severance in clause 16(6) (new section 91(1)(h) of the LRHUDA 1993).

213 Paragraph 8 clarifies that different parts of the same lease may be acquired via different gateways in Schedule A1, or via the repeated use of the same gateway.

214 Paragraph 9 sets out definitions for the purposes of Schedule A1.

Clause 31: Right to require leaseback by freeholder after collective enfranchisement

215 Clause 31 amends the LRHUDA 1993 to insert a new leaseback right for tenants participating in a collective enfranchisement claim. The participating tenants will be able to require the freeholder to take a leaseback of particular units in the building. The tenants can thereby reduce the price payable for acquiring the freehold.

216 Subsection (2) amends the LRHUDA 1993 to allow the participating tenants to state in their claim notice whether they are going to require the freeholder to take a leaseback. Subsections (3) and (4) make further amendments to establish the right of the participating tenants to require the freeholder to accept a leaseback.

217 The details of the new right are set out in paragraphs 7A and 7B, inserted into Schedule 9 to the LRHUDA 1993 by subsection (5). The nominee purchaser, who conducts the claim on behalf of the participating tenants, can give the freeholder a notice requiring the freeholder to accept a leaseback of any flat or unit in the building, other than a flat let to a participating tenant. This right is similar to the power of the freeholder to require leasebacks under paragraph 5 of Schedule 9. But there are two significant differences.

a. The nominee purchaser can require the freeholder to accept a leaseback of a flat let to a qualifying tenant, so long as the qualifying tenant is not *participating* in the claim. The freeholder cannot require a leaseback of a flat let to a qualifying tenant, regardless of whether the tenant is participating.

b. Where the freehold reversion of a flat or unit is split, the nominee purchaser can require the freeholders to accept leasebacks of their respective parts of the property (under paragraph 7A(5)). Leasebacks must be granted of all parts of the flat or unit. A freeholder cannot insist on a leaseback of a unit if the freehold title is split.

218 Paragraph 7A(3) deals with a link between leasebacks and the acquisition of intermediate leases. Under paragraph 2(5) of Schedule A1 to the LRHUDA 1993 (inserted by clause 5),, the participating tenants can choose whether or not they acquire an intermediate lease of a flat let to a non-participating qualifying tenant. But if the tenants choose to acquire an intermediate lease, and so pay for some of the reversion to a flat, they cannot then avoid paying for the rest of the reversion by requiring the freeholder to take a leaseback of that flat.

219 Paragraph 7B sets out the terms on which a leaseback must be granted. The same rules apply as apply to leasebacks required by the freeholder: the leaseback must comply with the requirements of Part 4 of Schedule 9 (unless the parties agree otherwise or the tribunal orders otherwise). A new sub-paragraph (2A) is inserted into paragraph 10 to deal with cases in which the freehold reversion of the flat or unit is split.

Clause 32: Longer lease extensions;

220 Clause 32 makes changes to the lease extension rights under the LRA 1967 and LRHUDA 1993 to give tenants of houses and flats the right to a 990-year lease extension.

Clause 33: Lease extensions under LRA 1967 on payment of premium at peppercorn rent

221 Clause 33 makes changes to the lease extension right under the LRA 1967 so that a tenant of a house can obtain a lease extension at a peppercorn rent in exchange for payment of a premium.

222 The amendments made by clause 8(3)(a) ensure that when a shared ownership leaseholder claims a lease extension, only the rent payable in respect of the tenant's share in the house becomes a peppercorn on the grant of the extended lease (so any rent paid by the shared ownership leaseholder in respect of the landlord's share is unaffected by the lease extension claim).

223 Clause 33 also contains consequential amendments of the LRA 1967 which are required due to the change to the lease extension right. Alongside the changes made by clause 7, these changes ensure that the lease extension rights available under the LRA 1967 and the LRHUDA 1993 are equivalent to one another, so that the qualifying tenant of either a house or a flat can obtain—

a. a 990-year lease extension,

b. at a peppercorn ground rent,

in exchange for the payment of a premium set by the amended valuation scheme set out in clauses 9 to 11.

Clause 34: LRA 1967: determining price payable for freehold or lease extension

224 This clause makes amendments to the LRA 1967 to provide that the premium payable to acquire the freehold of a house, or a lease extension of a house, must be calculated in accordance with clause 36.

Clause 35: LRHUDA 1993: determining price payable for collective enfranchisement or new lease

225 This clause makes amendments to the LRHUDA 1993 to provide that the premium payable to acquire the freehold of a block of flats, or a lease extension of a flat, must be calculated in accordance with clause 35. The amendments made by this clause also ensure that, when a shared ownership leaseholder claims a lease extension, only the rent payable in respect of the tenant's share in the flat is to become a peppercorn on the grant of the extended lease (so any rent paid by the shared ownership leaseholder in respect of the landlord's share is unaffected by the lease extension claim).

Clause 36: Enfranchisement or extension: new method for calculating price payable

226 Clause 36 provides that a premium is payable when exercising any of the four enfranchisement rights, namely acquiring the freehold of a house; extending a lease of a house; acquiring the freehold of a block of flats; and extending a lease of a flat. The clause does not apply to premiums calculated under the preserved section 9(1) of the LRA 1967.

227 The clause provides that the premium comprises two elements:

a. the market value, which is to be calculated in accordance with Schedule 2; and

b. any other compensation, which is to be calculated in accordance with Schedule 3.

Clause 37: Costs of enfranchisement and extension under LRA 1967

228 Clause 37 replaces the separate costs regimes for enfranchisement and lease extension claims under the LRA 1967. The new regime is established in new sections 19A, 19B, 19C, 19D and 19E.

229 New section 19A sets out the general rules (and the exceptions to them) that neither a tenant nor a former tenant are liable for any costs incurred by another person because of an enfranchisement or lease extension claim. Subsection (3) prevents arrangements to the contrary, however, subsection (5) ensures a former tenant and their successor in title may agree how to split their costs. The general rules do not apply to litigation costs awarded by the court or tribunal (subsection (4)). Subsection (6) clarifies what is not included under "costs" and subsection (7) defines "former tenant" for the purpose of the new regime. Subsection (8) cross-refers to prohibitions on recovering enfranchisement costs via a service charge (see clauses 35 and 37).

230 New section 19B sets out an exception to the general rule where the tenant's claim ceases for a reason other than a "permitted reason", as defined in the new section. Where the criteria are met, the tenant will be liable to pay the landlord a prescribed amount.

231 New section 19C sets out an exception to the general rule where the price payable for the freehold or extended lease is below a prescribed amount. Where the costs incurred by the landlord are reasonable and do not exceed the prescribed amount, the tenant will be liable to pay the difference between the price payable and the reasonable costs incurred. Where the costs incurred by the landlord are reasonable and do exceed the prescribed amount, the tenant is liable to pay the difference between the price payable and the prescribed sum.

232 New section 19D gives the Secretary of State and the Welsh Ministers the power to set out the circumstances in which the reversioner is required to pay part of the prescribed amount received under new sections 19B or 19C to other landlords.

233 New section 19E prevents any arrangement for a tenant to pay an amount to another person in anticipation of having to pay that person's costs as a result of an enfranchisement or lease extension claim from having effect.

Clause 38: Costs of enfranchisement and extension under LRHUDA 1993

234 Clause 38 replaces the separate costs regimes for collective enfranchisement and lease extension claims under the LRHUDA 1993. The new regime is established in new sections 89A, 89B, 89C, 89D, 89E, 89F, 89G and 89H.

235 New section 89A sets out the general rules (and exceptions to them) that neither a tenant, former tenant, nor the nominee purchaser are liable for any costs incurred by another person because of a collective enfranchisement or lease extension claim. Subsection (4) prevents arrangements to the contrary. But the general rules do not apply to litigation costs awarded by the court or tribunal (subsection (8)). Subsections (5) and (6) allow tenants, former tenants and nominee purchasers involved in a collective enfranchisement claim to agree between themselves how to split their costs. A former tenant and their successor in title may also agree how to split their costs (subsection (7)). Subsection (9) cross-refers to section 15(7) of the LRHUDA 1993 for the nominee purchaser's liability where their appointment as nominee purchaser terminates. Subsection (10) clarifies what is not included under "costs" and

subsection (11) defines "former tenant" and "nominee purchaser" for the purposes of new section 89A. Subsection (12) cross-refers to prohibitions on recovering enfranchisement costs via a service charge (see clause {NC7}).

236 New sections 89B and 89E set out an exception to the general rules in collective enfranchisement and lease extension claims where the tenant's claim ceases for a reason other than a "permitted reason", as defined in the new section. Where the criteria are met in a collective enfranchisement claim, the tenant, nominee purchaser and any other person liable under new section 89B are jointly and severally liable to pay the reversioner a prescribed amount. Where the criteria are met in a lease extension claim the tenant is liable to pay the competent landlord a prescribed amount.

237 New sections 89C and 89F set out an exception to the general rules in collective enfranchisement and lease extension claims where the price payable for the freehold or extended lease is below a prescribed amount. Where the costs incurred by the reversioner or competent landlord are reasonable and do not exceed the prescribed amount, the nominee purchaser (in collective enfranchisement claims) or the tenant (in lease extension claims) are liable to pay the difference between the price payable and the costs incurred. Where the costs incurred by the reversioner or competent landlord are reasonable and exceed the prescribed amount, the nominee purchaser (in collective enfranchisement claims) or the tenant (in lease extension claims) are liable to pay the difference between the price payable and the prescribed sum.

238 New section 89D set out an exception to the general rule in collective enfranchisement claims where the freeholder is required to accept a leaseback of a unit and incurs costs as a result. Where the criteria are met, the nominee purchaser is liable to pay the freeholder a prescribed amount.

239 With respect to collective enfranchisement claims, new section 89G gives the Secretary of State and the Welsh Ministers the power to set out the circumstances in which the reversioner is required to pay part of the prescribed amount received under new sections 89B or89C to other relevant landlords. With respect to lease extension claims, the Secretary of State and the Welsh Ministers may set out the circumstances in which the competent landlord is required to pay part of the prescribed amount received under new sections 89E or 89F to other landlords.

240 New section 89H prevents any arrangement for a tenant or nominee purchaser to pay an amount to another person in anticipation of having to pay that person's costs as a result of a collective enfranchisement or lease extension claim from having effect. However, where new section 89D applies, new section 89H provides that the tribunal may order a nominee purchaser to pay an amount to another person or the tribunal in anticipation of that person's costs.

Clause 39: Replacement of sections 20 and 21 of LRA 1967

241 Clause 39 repeals and replaces sections 20 and 21 of the LRA 1967 with new sections 20, 21, {21A, 21B and 21C}. The new sections transfer jurisdiction from the county court to the tribunal for a number of matters and provide the tribunal with additional powers to facilitate the exercise of the tribunal's expanded jurisdiction.

242 New section 20 replaces the provision of the LRA 1967 governing the jurisdiction of the county court.

243 New section 21 restates and extends the tribunal's jurisdiction to determine certain specified matters under the LRA 1967.The new section gives the tribunal powers to make orders requiring a person to pay certain costs or compensation determined by the tribunal. It also gives the tribunal power to deal with cases in which intermediate landlords claim reduction of

their rents, exercising the right conferred by the provision inserted into the LRA 1967 by paragraph {6} of Schedule 6.

244 New section {21A} confers jurisdiction on the tribunal for proceedings for which no specific jurisdiction is otherwise identified or conferred by the provisions of the LRA 1967. But where only the court has the power to grant a remedy sought in such proceedings (even if other remedies that could be granted by the tribunal are also sought), new section {21A} confers jurisdiction for the proceedings as a whole on the court. Where the court has jurisdiction in relation to the proceedings, new section {21A} enables the court to transfer part of the proceedings to the tribunal where the tribunal would have the power to grant the relevant remedy.

245 New section {21B} gives both the court and the tribunal the power to make an order requiring a person to comply with any requirement imposed on them under the LRA 1967. Subsection (2) sets out when an application for a compliance order can be made and subsection (3) sets out when an application can be made to the court (rather than the tribunal). Subsection {(4)} makes provision in relation to enforcement of certain compliance orders made by the tribunal.

246 New section 21C gives the tribunal new powers to make orders in relation to the completion of a conveyance or the grant of an extended lease under the LRA 1967 in certain circumstances. Where there has been a failure to execute, or pay the price payable for, a conveyance or extended lease under the LRA 1967, an application can be made to the tribunal for an order appointing a person to execute the conveyance or lease on behalf of a party to the transaction and/or requiring the tenant to pay the price into the tribunal (or to a specified person).

Clause 40: References to "the court" in Part 1 of LRA 1967

247 Clause 40 amends the LRA 1967 to transfer jurisdiction for specific matters from the court to the tribunal. Subsection (3) amends various provisions to permit or require payment into the tribunal, rather than into court. Subsections (4) to (7) make various consequential amendments to provisions of the LRA 1967 to reflect the tribunal's expanded jurisdiction.

Clause 41: Amendment of Part 1 of LRHUDA 1993

248 Clause 41 amends and inserts new provision into the LRHUDA 1993 to transfer jurisdiction from the county court to the tribunal for a number of matters and provide the tribunal with additional powers to facilitate the exercise of the tribunal's expanded jurisdiction.

249 Subsection (2) inserts a new section 27A into the LRHUDA 1993 which gives the tribunal new powers to make orders in relation to the completion of a conveyance under Chapter 1 of the LRHUDA 1993 in certain circumstances. Where there has been a failure to execute, or pay the price payable for, a conveyance in accordance with the terms of a contract entered into pursuant to the provisions of Chapter 1, an application can be made to the tribunal for an order appointing a person to execute the conveyance on behalf of a party to the transaction and/or requiring the nominee purchaser to pay the price into the tribunal (or to a specified person).

250 Subsections (3) and (4) amend sections 48 and 49 of the LRHUDA 1993 to permit the tribunal to make an order appointing a person to execute a new lease on behalf of a party to the transaction and/or requiring the price payable for a new lease to be paid into the tribunal (or to a specified person), where the conditions for making an order under section 48(3) or section 49(4) are met.

251 Subsection (5) amends section 90 of the LRHUDA 1993 (which covers the jurisdiction of the county court) to repeal section 90(2) and (4) of that Act. Those repeals follow from the general

transfer of jurisdiction from the court to the tribunal. Section 90(2) of the LRHUDA 1993 is replaced with new section 91A of the LRHUDA 1993 (see clause 16(6)).

252 Subsection (6) replaces section 91 of the LRHUDA 1993 with new sections 91 and 91A. New section 91 restates and extends the tribunal's jurisdiction to determine certain specified matters under the LRHUDA 1993. New section 91 gives the tribunal powers to apportion rent in certain circumstances and to make orders requiring a person to pay certain costs or compensation determined by the tribunal. It also gives the tribunal power to deal with cases in which intermediate landlords claim reduction of their rents, exercising the right conferred by the provision inserted into the LRHUDA 1993 by paragraph {7} of Schedule 8. New section 91A confers jurisdiction on the tribunal for proceedings arising under Chapters 1, 2 or 7 of the LRHUDA 1993 for which no specific jurisdiction is otherwise identified or conferred. But where only the court has the power to grant a remedy sought in such proceedings (even if other remedies that could be granted by the tribunal are also sought), new section 91A confers jurisdiction for the proceedings as a whole on the court. Where the court has jurisdiction in relation to the proceedings, new section 91A enables the court to transfer part of the proceedings to the tribunal where the tribunal would have the power to grant the relevant remedy.

253 Subsection (7) amends section 92 of the LRHUDA 1993 to give the tribunal the same power as the court to make an order requiring a person to comply with any requirement imposed on them by any provision in Chapters 1 or 2 of the LRHUDA 1993. The amendments set out when an application for a compliance order can be made to the court (rather than the tribunal) and make provision in relation to enforcement of certain compliance orders made by the tribunal.

Clause 42: References to "the court" in Part 1 of LRHUDA 1993

254 Clause 42 amends the LRHUDA 1993 to transfer jurisdiction for specific matters from the court to the tribunal. Subsection (3) amends various provisions to permit or require payment into the tribunal, rather than into court. Subsections (4) to (14) make various consequential amendments to provisions of the LRHUDA 1993 to reflect the tribunal's expanded jurisdiction.

Clause 43: No first-instance applications to the High Court in tribunal matters

255 As part of its inherent jurisdiction, the High Court has the power to make declarations on matters that would otherwise fall within the jurisdiction of another court or tribunal. Clause 43 prevents an application being made to the High Court at first-instance in respect of an enfranchisement matter falling within the tribunal's jurisdiction under the LRA 1967 or the LRHUDA 1993. It is intended to prevent parties from using the High Court as an alternative forum to the tribunal for determining enfranchisement matters at first instance.

256 The provision does not affect the ability of a party to appeal a decision of the tribunal (under the Tribunals, Courts and Enforcement Act 2007) or the jurisdiction of the High Court to consider judicial review claims in respect of decisions of the tribunal that are not subject to a statutory appeal.

Clause 44: Miscellaneous amendments

257 Clause 44 brings Schedule 8 into effect, which contains miscellaneous amendments of the LRA 1967 and the LRUHDA 1993.

Clause 45: LRA 1967: preservation of existing law for certain enfranchisements

258 This clause preserves the right of leaseholders to acquire the freehold of a house using the LRA 1967 as it existed prior to amendment by this Act, but only where the property would be

valued using the valuation basis for calculating premiums under section 9(1) of the unamended LRA 1967. It also addresses cases in which a tenant is barred from bringing a claim under the unamended LRA 1967.

Part 3 - Other rights of long leaseholders

Clause 46: Right to vary long lease to replace rent with peppercorn rent

259 Clause 46 brings Schedule 9 into effect. Schedule 9 make provision for a new enfranchisement right to buy out the ground rent under a very long residential lease.

Clause 47: Change of non-residential limit on right to manage claims

260 Clause 47amends Schedule 6 to the CLRA 2002 so that a building is excluded from the RTM if more than 50% of the internal floorspace is used for non-residential purposes (such as a ground-floor shop).

Clause 48: Costs of right to manage claims

261 Clause 48 replaces the existing costs regimes for RTM claims under the CLRA 2002. The new regime is established in new sections 87A and 87B. The clause also amends the CLRA 2002 to ensure a person complying with a duty to provide information under section 82 cannot withhold supplying a copy of a document to an RTM company until they receive a reasonable fee. The RTM company will be liable for the reasonable costs of a person complying with their duty under section 82.

262 New section 87A sets out the general rule that RTM companies and RTM company members are not liable for the costs incurred by another person because of an RTM claim. It contains a provision that prevents arrangements to the contrary or the recovery of costs by other means. However, new section 87A also sets out the costs liability between RTM company members, and between RTM company members with an RTM company.

263 New section 87B allows the tribunal to order an RTM company to pay the reasonable costs of specified people that arise from an RTM claim being made. An order can only be made if the claim notice is withdrawn or ceases to have effect and the RTM company has acted unreasonably. Where an order is made, members and former members of the RTM company may be jointly and severally liable.

Clause 49: Compliance with obligations arising under Chapter 1 of Part 2 of CLRA 2002

264 Clause 49 amends the CLRA 2002 to transfer from the county court to the tribunal the power under section 107(1) of that Act to make an order requiring a person who has failed to comply with a requirement imposed under the right to manage provisions of the CLRA 2002 to make good the default within a specified time. The amendments also make provision in relation to enforcement of certain compliance orders made by the tribunal.

Clause 50: No first-instance applications to the High Court in tribunal matters

265 As part of its inherent jurisdiction, the High Court has the power to make declarations on matters that would otherwise fall within the jurisdiction of another court or tribunal. Clause 50 prevents an application being made to the High Court at first-instance in respect of a right to manage matter falling within the tribunal's jurisdiction under the CLRA 2002. It is intended to prevent parties from using the High Court as an alternative forum to the tribunal for determining right to manage matters at first instance.

266 The provision does not affect the ability of a party to appeal a decision of the tribunal (under the Tribunals, Courts and Enforcement Act 2007) or the jurisdiction of the High Court to consider judicial review claims in respect of decisions of the tribunal that are not subject to a statutory appeal.

Part 4 - Regulation of leasehold

Clause 51: Extension of regulation to fixed service charges

267 Clause 51 makes a number of technical amendments to the 1985 Act to extend part of the existing regulatory framework to cover fixed service charges. Under current provisions there is no regulation of fixed service charge, which are those charges where the charges are fixed at the start of a 12-month accounting period. This can be based on a prescribed formula, or a regular landlord assessment of cost, or some other mechanism.

268 Subsection (2)(b)(1) amends section 18 of the 1985 Act to provide a new definition of "service charge" as an amount payable by a tenant which is payable, directly or indirectly, for the purposes of meeting, or contributing towards relevant costs, and "variable service charge" as a service charge the whole or part of which varies or may vary according to the relevant costs. Subsection 2(b)(2) defines relevant costs as costs incurred, to be incurred by or on behalf of the landlord or superior landlord, in connection with services repairs, maintenance, improvements or insurance, or landlord's cost of management. Subsection (2)(c) replaces "a service charge" with "a variable service charge" in section 18(3)(b) of the 1985 Act.

269 Subsections (3), (4) and (5) then amend various provisions of the 1985 Act to ensure that certain obligations only remain applicable with regard to variable service charges. These include subsection (3)(a) which requires service charges to be reasonable or that work carried out for the cost incurred is of a reasonable standard, subsection (4)(b) which sets out consultation requirements under section 20 of the 1985 Act, and subsections (4) (e)-(h) make changes in respect in respect of obligations introduced under Parts 4 and 5 of the Building Safety Act 2022 ("the 2022 Act"). Subsection (5) amends section 30E (3) of the 1985 Act.

270 Subsection (6) makes changes to the index of defined expressions to include variable service charge.

Clause 52: Notice of Future Service Charge Demands

271 Clause 52 replaces part of subsection (2) and inserts new subsections (3) to (9) into Section 20B of the Landlord and Tenant Act 1985. This covers the time limit after works or services are carried out for the landlord to demand payment, or to notify tenants that a demand for payment will be forthcoming.

272 In subsection (2) of section 20B of the Landlord and Tenant Act 1985, the words "from notified in writing" to the end are replaced with "given a future demand notice in respect of future costs."

273 New Subsection (3) defines a "future demand notice" as a notice in writing that confirms relevant costs have been incurred and that the tenant will be required to contribute towards the cost, as set out in their lease, as part of their variable service charge.

274 New Subsection (4) confers powers on the appropriate authority to set out in regulations: (a) the form of the notice; (b) information to be included in the notice; and (c) the manner in which the future demand notice must be given to the tenant.

275 New Subsection (5) details that regulations made by the appropriate authority may, among other things, specify information to be included in the future demand notice as: (a) an amount

estimated as the costs incurred (an "estimated cost"); (b) an amount the tenant is expected to contribute toward the costs (an "expected contribution"); and (c) a date on or before which it is expected that the variable service charge will be demanded ("expected demand date").

276 New Subsection (6) sets out that regulations may provide for a relevant rule to apply where: (a) the tenant has been given a future demand notice, and (b) the demand for payment of a variable service charge as a contribution to the costs is served on the tenant more than 18 months after the costs were incurred.

277 New Subsection (7) sets out the relevant rules. New Subsection (7)(a) states that where the future demand notice contains estimated costs, the tenant is only liable to pay the service charge to the extent it reflects relevant costs that do not exceed the estimated costs. New Subsection (7)(b) states that where a future demand notice contains an expected contribution, the tenants are only liable to pay the service charge to the extent that is does not exceed the expected contribution. Subsection (7)(c) states that where a future demand notice contains an expected demand date, the tenant is not liable to pay the service charge to the extent it reflects any of the costs if the demand is served after the expected demand date.

278 New Subsection (8) details that regulations that provide the relevant rule in new subsection (7)(c), may also provide that the rule is to apply as if, for the expected demand date, there were substituted a later date determined in accordance with the regulations. This would allow for the landlord to be able to extend the expected demand date in cases specified by regulations, for example, due to unexpected delays in completing the work.

279 New Subsection (9) details that regulations under this clause are: (a) to be made by statutory instrument; (b) may make provision generally or for a specific case; (c) may make different provision for different purposes; and (d) may include supplementary, incidental, transitional or saving provision. New subsection (10) sets out that the statutory instrument containing regulations under this section is subject to the negative procedure.

Clause 53: Service charge demands

280 Clause 53 replaces existing provisions in the 1985 Act with a new provision that requires landlords to demand a payment of a service charge using a specified form. This replaces the current obligation of landlords to issue any service charge demand form in accordance with the terms under the lease or, in the absence of such provision in any manner that suits them.

281 Subsection (1) states that the 1985 Act is to be amended in accordance with subsections (2) and (3). Subsection (2) omits existing sections 21, 21A and 21B of the 1985 Act.

282 Subsection (3) inserts a new section 21C into the 1985 Act. New section 21C (1) states that a landlord may not demand is in the specified form, contains the specified information and is provided to the tenant in a specified manner. The definition of "specified for his subsection means specified in regulations made by appropriate authority. New section 21C (2) states that where the demand for service charge payment does not comply with subsection (1) then a provision in the lease relating to late or non-payment does not apply in respect of that particular service charge. New section 21C (3) confers powers on the appropriate authority, by regulations, to exempt certain landlords, descriptions of service charges, or any other matter from the requirement to comply with the requirement of subsection (1).

283 New section 21C (4) details that regulations under this section are (a) to be made by statutory instrument; (b) may make provision generally or for specific cases; (c) may make different provision for different purposes; (d) may include supplementary, incidental, transitional or saving provision.

284 New section 21C (5) sets out that the statutory instrument will be subject to the negative procedure.

285 Subsection (4) makes consequential amendments to sections 47 and 47A of the 1987 Act to give effect that, in the case of any potential overlap between information required in the form under new section 21C and the obligations under the 1987 Act, then the provisions of new section 21C take precedence.

Clause 54: Accounts and Annual reports

286 Clause 54 inserts new sections 21D and 21E into the 1985 Act. These provisions create a new requirement for a written Statement of Account to be provided by landlords within 6 months of the end of the 12-month accounting period for which service charges apply, as well as an obligation on landlords to provide an annual report to leaseholders.

287 Under existing provisions individual service charge demands on leaseholders who pay variable service charges must be in writing and be accompanied by details of the landlord's name and address, as well as a summary of rights and obligations. If a landlord's address is outside England or Wales, the demand must contain an address in England or Wales which can be used to send notices to the landlord. Leaseholders may ask for a summary of the service charge account for the last accounting year or, if accounts are not kept by accounting years, the past 12 months. Leaseholders also have the right to inspect documents relating to the service charge to provide more detail on the summary.

288 Clause 54(1) makes clear that this Clause makes further amendments to the 1985 Act. Subsection (2) inserts a new section 21D on service charge accounts and a new section 21E on annual reports. New section 21D (1) sets out that the section applies to leases of a dwelling if (a) a variable service charge is or may be payable under the lease, and (b) any of the relevant costs which may be taken into account in determining that variable service charges are taken into account in determining the amount of variable service charge payable by the tenants of three or more other dwellings. These are known as "connected tenants".

289 New section 21D (2)(a) implies into leases that landlord must, on or before the account date for each accounting period, provide the tenant with a written statement of accounts in relation to variable service charges arising in the period. The statement must be in a specified form and manner and set out (i) the variable service charge arising in the period which are payable by each tenant and any connected tenants, (ii) the relevant costs relating to the service charge, and (iii) any other specified matters set out in legislation by the appropriate authority. New section 21D (2)(b) implies into a lease that landlords must also ensure the statement of account is certified by a qualified accountant as being a fair summary of relevant costs and sufficiently supported by documents. For the purposes of this subsection ""specified" is defined as "specified in regulations made by the appropriate authority".

290 New section 21D (3) defines an accounting period as a period of 12 months as specified in the lease or, if the lease does not specify a period, 12 months starting from 1 April. New section 21D (4) sets the "account date" for an accounting period as being the final day of a period of six months from the final day of the accounting period.

291 New section 21D (5) allows the appropriate authority, through regulations, to provide for circumstances in which a term in subsection (2) is not implied into a lease or is to be implied into a lease in a modified form.

292 New section 21D (6) details that regulations under this section are (a) to be made by statutory instrument; (b) may make provision generally or for specific cases; (c) may make different provision for different purposes; (d) may include supplementary, incidental, transitional or

saving provision. New section 21D (7) sets out that the statutory instrument will be subject to the negative procedure.

293 New section 21E (1) places the obligation on landlords to provide an annual report in respect of service charges arising in that period. New section 21E (2) allows the appropriate authority through regulations to set out (a) the information that must be contained in the report; (b)the form of the report and (c) the manner for providing the report. New section 21E (3) gives the ability of the appropriate authority to make provision requiring information to be contained in the report in respect of other matters which the appropriate authority considers are likely to be of interest to the tenant, whether or not they directly relate to service charges or service charges arising in the period.

294 New section 21E (4) defines an accounting period as a period of 12 months as specified in the lease or, if the lease does not specify a period, 12 months starting from 1 April. New section 21E (5) defines the "report date" for an accounting period as being the final day of the period of one month beginning with the day after the final day of the accounting period. New section 21E (6), allows the appropriate authority to set the exceptions to this duty through (a)descriptions of the landlord, (b) descriptions of the service charge, or (c) any other matter.

295 New section 21E (7) details that regulations under this section are (a) to be made by statutory instrument; (b) may make provision generally or for specific cases; (c) may make different provision for different purposes; (d) may include supplementary, incidental, transitional or saving provision.

296 Section 21E (8) sets out that the statutory instrument will be subject to the negative procedure

297 Clause 54 (3) makes a consequential amendment to section 28 of the 1985 Act on the definition of qualified accountant. Clause 28(4) makes a consequential amendment to section 39 of the 1985 Act (index of defined expressions), substituting new section 21D(2)(b) in place of existing section 21(6).

Clause 55: Right to obtain service charge information on request

298 Clause 55 (1) makes clear that this Clause makes further amendments to the 1985 Act to create a new right for tenants to request information from their landlord.

299 Clause 55 (2) introduces a new section 21F which sets out provisions that enable tenants to obtain information on request. New section 21F (1) allows a tenant to request specified information from their landlord. New section 21F (2) details that the appropriate authority may specify information only if it relates to (a) service charges or (b) services, repairs, maintenance, improvements, insurance or management of dwellings. New section 21F (3) requires the landlord to provide the tenant with any of the information requested that is in their possession.

300 New section 21F (4) requires the landlord to request information from another person if three conditions are met: (a) the information has been requested under subsection (1); (b) landlord does not possess the information when the request is made, and (c) the landlord believes that the other person possesses the information. New section 21F (5) requires that person to provide the landlord with any of the information requested that is in their possession.

301 New section 21F (6) requires a person ("A") to request the information from another person ("B") individual if (a) the person receives an information request under subsection (4) or subsection (6), (b) the person does not hold that information and (c) person A believes that person B possess that information. New section 21F (7) requires person B to provide person A with any of the information requested that is in person B's possession.

302 New section 21F (8) confers powers on the appropriate authority to make regulations to (a) provide for how a request may be made under this subsection; (b) provide that a request may not be made until the end of a particular period, or until after a condition is met; (c) provide for circumstances when a request under subsection (4) or (6) must be made; (d) provide for circumstance in which a duty to comply with a request under this section does not apply.

303 New section 21F (9) details that new section 21G makes further provision about information requests under this section. New section 21F (10) sets out the definition of "information" for this section as includes a document containing information, and a copy of such document. It also confirms that references to a tenant includes the secretary of a recognised tenants' association representing the tenant, in circumstances where the tenant has consented to the association acting on their behalf.

304 New section 21F (11) details that regulations under this section are (a) to be made by statutory instrument; (b) may make provision generally or for specific cases; (c) may make different provision for different purposes; (d) may include supplementary, incidental, transitional or saving provision. New section 21F (12) sets out that the statutory instrument containing regulations under this section will be subject to the negative procedure.

305 New section 21G gives further details on information requests under new section 21F. New section 21G (1) details that subsections (2) to (6) apply where a person (R) requests information under new section 21F from another person (P). New section 21G (2) states that person (R) may request that another person (P) provides them with by allowing (R) access to premises where (R) may inspect and/or make and remove a copy of the information. New section 21G (3) details that Person (P) must provide the information they are required to provide under new section 21F (a) before the end of a specified period that begins on the day of the request, and (b) if R has made a request under subsection 2, allow person (R) the access requested during a specified period. "Specified" under this subsection means "specified" in regulations made by the appropriate authority.

306 New section 21G (4) details that Person (P) is allowed to charge person (R) for doing anything required under the section. New section 21G (5) details that if (P) is a landlord, they may not charge the tenant for accessing the premises to inspect information but can charge for the cost of making copies. New section 21G (6) details that the costs referred to in subsection (4) may be relevant costs for the purposes of a variable service.

307 New section 21G (7) details that regulations under new section 21G (3) may make provision for circumstances where a specified period can be extended. New section 21G (8) confers powers on the appropriate authority to set out in regulations further provision on how information under new section 21F is to be provided.

308 New section 21G (9) details that regulations under this section are (a) to be made by statutory instrument; (b) may make provision generally or for specific cases; (c) may make different provision for different purposes; (d) may include supplementary, incidental, transitional or saving provision.

309 New section 21G (10) sets out that the statutory instrument containing regulations under this section will be subject to the negative procedure.

310 New section 21H (1) provides that the assignment of tenancy does not affect an obligation arising as a result of the request under new section 21F before the assignment. New section 21H (2) states that, in the circumstances of such assignment, a person is not obliged to provide the same information more than once in respect of the same dwelling.

311 Clause 55 (3) seeks to omit existing sections 22, 23 and 24 of the 1985 Act.

Clause 56: Enforcement of duties relating to service charges

312 Clause 56 substitutes existing section 25 of the 1985 Act to create new enforcement measures for the new requirements of landlords under sections 21C, E and F of the 1985 Act. Clause 56(2) omits existing section 25 of the 1985 Act.

313 Clause 56 (3) inserts a new section 25A into the 1985 Act. New section 25A (1) allows a tenant to apply to the appropriate tribunal where their landlord (a) did not demand a service charge payment in accordance with section 21C, or (b) failed to provide a report in accordance with section 21E.

314 New section 25A (2)(a) allows, on an application made under subsection (1), the appropriate tribunal to make an one or more of the following orders; (a) an order that the landlord must, within 14 days from the date of the Order (i) demand payment of a service charge in accordance with section 21C or (ii) provide a report in accordance with section 21E; (b) an order that the landlord to pay damages to the tenant, and (c)any other order that the tribunal finds consequential under new sections 25A (2)(a) and 25A (2)(b).

315 New section 25A (3) grants a person "C" the right to make an application to the appropriate tribunal on the grounds that person D has breached section 21F or 21G. New section 25A (4) of the Act allows the tribunal to make one or more of the following orders: a) an order that D comply with section 21F within 14 days of the order being made, b) an order for D to pay damages to C, and c) an order which the tribunal finds relevant to section 25A(4)(a) and section 25A (4)(b).

316 New section 25A (5) requires that the damages paid must not exceed £5,000. New section 25A (6) confers powers on the appropriate authority to amend the amount in subsection (5) by regulations if it considers it expedient to do so to reflect changes in the value of money.

317 New section 25A (7) prohibits the landlord from making any present or future person(s) liable for the damages payable to the tenant under this section of the Act.

318 New section 25A (8) makes provision that where the landlord uses services charge held in trust as defined by Section 42 of the 1987 Act to pay damages under section 25A of the 1985 Act, this is classed as a breach of that trust.

319 New section 25A (9) makes clear that damages awarded under this section are not classed as relevant costs when determining the amount of any variable service charge payable by a tenant (whether or not a tenant to which the damages are paid).

320 New Section 25A (10) prevents provisions set out in a lease, contract, or other arrangement from having effect where contrary to subsections (7) to (9) of section 25A.

321 New section 25A (11) details that regulations under this section are (a) to be made by statutory instrument; (b) may make provision generally or for specific cases; (c) may make different provision for different purposes; (d) may include supplementary, incidental, transitional or saving provision. New section 25A (12) sets out that the statutory instrument containing regulations under this section will be subject to the negative procedure.

322 Clause 56(4) makes consequential amendments to section 26(1) of the 1985 Act to clarify that these enforcement measures do not apply to local authority landlords.

Clause 57: Limitation on ability of landlord to charge insurance costs

323 Clause 57 inserts new sections 20G, 20H and 20I into the Landlord and Tenant Act 1985. These provisions prevent excluded insurance costs from being charged in a variable service charge and create a new right to claim damages through the Tribunal when a tenant considers that these excluded insurance costs or related insurance costs have been charged.

324 Section 20G defines excluded insurance costs as those that are linked to placing and managing insurance and which provide an incentive for those placing and managing the insurance to enter in a particular contract, for instance remuneration from the broker.

325 Section 20G provides that excluded insurance costs cannot be charged or else the service charge is not to be considered valid and payable by tenants. The only payment that can be charged is the general premium for the building or a "permitted insurance payment" which will be set out in regulations. The intention is that the permitted insurance payment will cover the transparent insurance handling fee which can be charged for work to place or manage the insurance, so long as the cost is commensurate with work and time undertaken.

326 Section 20H gives the Tribunal powers to award tenants damages in cases where the tenant has paid any excluded insurance costs or any separate fee that is attributable to any excluded insurance costs. The damages will be ordered to be paid by the landlord or the person that has benefitted from the payment of the prohibited amount. The damages are capped at an amount that is three times the amount of the excluded insurance cost. In England, the Tribunal will be the First-tier Tribunal and in Wales it will be the Leasehold Valuation Tribunal.

327 Section 20I outlines the right of the landlord to obtain costs of a permitted insurance payment. This is for cases where the lease may be constructed in a way that makes it unclear whether the leaseholder is liable to pay the permitted insurance payment.

Clause 58: Duty to provide information about insurance to tenants

328 Clause 58 amends the Schedule to the 1985 Act about rights in relation to insurance. Clause 32(2) inserts a new Paragraph 1A and 1B into the Schedule.

329 New paragraph 1A (1) makes it clear that sub-paragraph (2) applies where a service charge is payable by a tenant directly or indirectly for insurance. New paragraph 1A (2) details that the landlord must (a) obtain the specified information about the insurance, including requesting it from another person and (b) within a specified period after insurance is affected in relation to the dwelling, provide the information about the insurance to the tenant. New paragraph 1A (2) defines "specified" as meaning specified in regulations made by an appropriate authority.

330 New paragraph 1A (3) details that regulations under sub-paragraph (2) may make provision for circumstances where a specified period can be extended.

331 New paragraph 1A (4) details that new paragraph 1B makes further provision about requests by the landlord under sub-paragraph (2)(a) where the landlord must obtain information about the insurance, including requesting it from another person.

332 New paragraph 1A (5) confers powers on the appropriate authority to make provision, by regulations, on the form and manner in which the information is to be provided. New paragraph 1A (6) states that insurance is "effected" in relation to a dwelling whenever an insurance policy is purchased or renewed in relation to that dwelling.

333 New paragraph 1A (7) allows the landlord to charge the tenant for the costs of complying with the duty in sub-paragraph (2).

334 New paragraph 1A (8) allows the appropriate authority, by regulations, to provide for exceptions to the duty in sub-paragraph (2) by reference to (a) descriptions of landlord, (b) descriptions of insurance, or (c) any other matter. New paragraph 1A (9) states that, for the purposes of the new paragraph, "information" includes a document containing information and a copy of such a document.

335 New paragraph 1A (10) details that regulations under this section are (a) to be made by statutory instrument; (b) may make provision generally or for specific cases; (c) may make

different provision for different purposes; (d) may include supplementary, incidental, transitional or saving provision.

336 New paragraph 1A (11) sets out that the statutory instrument containing regulations under this paragraph will be subject to the negative procedure.

337 New paragraph 1B sets out details of further provisions for requests by a landlord under paragraph 1A where they must request information from another individual. New paragraph 1B (1) details that sub-paragraph (2) applies where a landlord requests information from another person under new paragraph 1A(2)(a). Sub paragraph (2) sets out that the person must provide the information to the landlord that has been requested if it is in their possession.

338 New paragraph 1B (3) sets out when a person (A) must request information from another person (B) where (a) the information has been requested from A under paragraph 1A(2)(a) or this sub-paragraph, (b) A does not possess the information when the request is made and (c) A believes that B possesses the information.

339 New paragraph 1B (4) requires person B to provide person A with any of the information requested that is in B's possession. New paragraph 1B (5) details that a person must provide the information they are required to provide before the end of a specified person which begins on the day the request is made. New paragraph 1B (6) details that, in this paragraph, "specified" means specified in regulations made by the appropriate authority.

340 New paragraph 1B (7) sets out that a person who provides the information to another person may charge that person for the cost of providing the information.

341 New paragraph 1B(8) confers powers on an appropriate authority to make regulations to (a) provide for how a request may be made under paragraph 1A(2)(a) or this paragraph; (b) provide that a request may not be made until the end of a particular period, or until after a condition is met; (c) provide for circumstances when a request under subsection (3) must be made; (d) provide for circumstance in which a duty to comply with a request under paragraph 1A(2)(a) or this paragraph and (e) provide for how the requested information is to be provided.

342 New paragraph 1B (9) details that regulations under this section are (a) to be made by statutory instrument; (b) may make provision generally or for specific cases; (c) may make different provision for different purposes; (d) may include supplementary, incidental, transitional or saving provision. New paragraph 1B (10) sets out that the statutory instrument containing regulations under this paragraph will be subject to the negative procedure.

343 New paragraph 1C sets out the enforcement of the duty to provide information. New paragraph 1C(1) grants tents the right to apply to the appropriate tribunal on the ground that a landlord has failed to comply with a requirement under paragraph 1A. New paragraph 1C(2)(a) confers powers on the tribunal to make one or both of the following orders; (a) an order for the landlord to provide information to the tenant within a period specified in regulations by an appropriate authority; and (b) allows the tribunal to make an order for damages to be paid by the landlord to the tenant.

344 New paragraph 1C (3) sets out that a person ("C) may apply to the appropriate tribunal on the ground that another person (D) failed to comply with a requirement under new paragraph 1B.

345 New paragraph 1C (4) details that on application made under sub-paragraph 3 the tribunal may make one or both of the following orders; (a) D comply with the requirement before the end of a period specified in regulations by the appropriate authority (b) an order that D pay damages to C.

346 New paragraph 1C (5) details that the damages cannot exceed £5,000, with new paragraph 1C6) conferring powers on the appropriate authority to amend the amount in new paragraph 1C (5) by regulations if it considers it expedient to do so to reflect changes in the value of money.

347 New paragraph 1C (7) details that regulations under this section are (a) to be made by statutory instrument; (b) may make provision generally or for specific cases; (c) may make different provision for different purposes; (d) may include supplementary, incidental, transitional or saving provision.

348 New paragraph 1C (8) sets out that the statutory instrument containing regulations under this paragraph will be subject to the negative procedure.

349 Clause 58(3) omits paragraphs 2 to 6 of the Schedule of the 1985 Act. Clause 32(4) makes consequential amendments to paragraph 9(1) of the Schedule to refer to the new paragraph.

Clause 59: Duty to publish administration charge schedules

350 Clause 59 substitutes paragraph 4 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 to create a new provision to require landlords to publish administration charge schedules. Subsection (a) omits existing paragraph 4 to Schedule 11of the 2002 Act, while subsection (b) inserts a new paragraph 4A.

351 New paragraph 4A (1) requires that a person must produce and publish an administration charge schedule in relation to a building if they are the landlord of one or more dwellings in that building.

352 New paragraph 4A (2) defines an "administration charge schedule" as a document which sets out: (a) the administration charges the landlord considers to be payable by those tenants, and (b) for each charge, (i) its amount or, (ii) if it is not possible to determine its amount before it is payable, how the amount will be determined if it becomes payable.

353 New paragraph 4A (3) allows the landlord to (a) revise its published administration charge schedule, and (b) if they do, the landlord must publish the revised schedule.

354 New paragraph 4A (4) states that a landlord must provide a tenant with the administration charges schedule for the time being published in relation to their building.

355 New paragraph 4A (5) allows an appropriate national authority to make regulations as to (a) the meaning of "building" for the purpose of this paragraph; (b) the form an administration charge must make; (c) how an administration charge must be published; and (d) the content an administration charge schedule must have.

356 New paragraph 4A(6) provides that an administration charge is payable by a tenant if (a) the amount appeared on the published administration charge schedule for the required period; or (b) the amount was determined in accordance with a method that appeared on the administration charge schedule for the specified period.

357 New paragraph 4A(7) states that the "required period" is the period of 28 days ending with the day the administration charge is demanded to be paid.

358 New paragraph 4B sets out the enforcement provisions of the duty to publish and administration charge schedule. New paragraph 4B (1) allows a tenant to make an application to the relevant tribunal on the grounds that the landlord has not complied with paragraph 4A, or regulations made under it.

359 New paragraph 4B (2) gives the appropriate tribunal the power to make one or both of the following orders; (a)an order that the landlord comply with that order or regulations made

under it before the end of the period 14 days beginning with the day after the date of the order and (b)an order that the landlord pay damages to the tenant. New paragraph 4B (3) states that the damages must may not exceed £1000.

360 New paragraph 4B (4) confers powers on the appropriate authority to amend the amount in subparagraph (3) by regulations if it considers it expedient to do so to reflect changes in the value of money.

Clause 60: Limits on rights of landlords to claim litigation costs from tenants

361 Clause 60 amends the Landlord and Tenant Act 1985 (LTA 1985) by replacing the existing section 20C with the new section 20CA as set out in subsections (2) and (3); and amends Schedule 11 of the Commonhold and Leasehold Reform Act 2002 (CLRA 2002) by replacing the existing paragraph 5A with the new paragraph 5B as set out in subsections (4) to (6).

362 New section 20CA subsection (1) means that a landlord's litigation costs are not regarded as relevant costs when determining the amount of a variable service charge. This applies whether or not leaseholders are participating in the proceedings.

363 New section 20CA subsection (2) requires landlords to make an application to the relevant court or tribunal for an order that subsection (1) does not apply to any or all of their litigation costs in relation to a variable service charge payable by a person specified in the application. The landlord must specify in the application those persons who it is seeking to pay its litigation costs as a variable service charge. Litigation costs include any costs incurred, or to be incurred, by the landlord in proceedings to which the landlord and leaseholder are a party and that concern a lease of a dwelling. Subsection (8A) sets out which proceedings "concern a lease" for the purpose of new section 20CA.

364 New section 20CA subsection (3) provides that an order may only be made by the relevant court or tribunal under subsection (2) if the landlord's litigation costs would have been able to be taken into account when determining the amount of a variable service charge if it weren't for subsection (1). Subsection (3) also provides that an order may only be made by the relevant court or tribunal under subsection (2) on litigations costs that are not incurred (or to be incurred) by proceedings arising from leasehold enfranchisement as set out in Part 1 of the Leasehold Reform Act 1967, or Chapter 1 or 2 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993, or from right to manage as set out in Chapter 1 of Part 2 of the CLRA 2002.

365 New section 20CA subsection (4) provides for the relevant court or tribunal to make such order on the application made by a landlord under subsection (2) as it considers just and equitable in the circumstances.

366 New section 20CA subsection (5) provides that the "appropriate authority" (which is defined elsewhere in the Bill as the Secretary of State or Welsh Ministers) may by regulation specify matters the relevant court or tribunal must take into account when deciding whether to make an order under subsection (2).

367 New section 20CA subsection (6) provides that the "appropriate authority" (which is defined elsewhere in the Bill as the Secretary of State or Welsh Ministers) may make regulations to provide how an application by a landlord under subsection (2) is made; whether and how notice of application by a landlord is to be given to person(s) specified and not specified in the application; the effect of giving notice of an application and failing to give notice of an application under (6)(b); and circumstances where a person not specified in an application by a landlord is to be treated as having been specified in the application.

368 New section 20CA subsection (7) provides that a lease, contract or other arrangement has no effect if it says differently to this section, including regulations made under this section or an order made under this section.

369 New section 20CA subsection (8) defines terms used in section 20CA.

370 New section 20CA subsection (8) provides through the definition of "the relevant court or tribunal" that in most cases the court or tribunal who is hearing the proceedings (which creates the litigation costs) should consider the section 20CA application. It also sets out where an application should be made after the proceedings are concluded.

371 New section 20CA subsection (8A) provides that references in new section 20CA to proceedings concerning a lease includes proceedings concerning any matter arising out of a lease, a lease term, or agreement or arrangement in connection with the lease; proceedings concerning any enactment relevant to the lease, or agreement or arrangement in connection with the lease; or proceedings that otherwise have a connection with the lease.

372 New section 20CA subsection (9) provides that regulations in this section under subsection (5) and (6) are to be made by statutory instrument; may make provision generally or only in relation to specific cases; may make different provision for different purposes or different areas; and may include supplementary, incidental, transitional or saving provision.

373 Clause 34 subsection (5) amends section 172(1) of the CLRA 2002 (application of provision to the Crown) so that the new section 5B applies to Crown land in Wales (as well as England).

374 New paragraph 5B subsection (1) means that a landlord's litigation costs are not payable by a leaseholder as an administration charge.

375 New paragraph 5B subsection (2) requires landlords to make an application to the relevant court or tribunal for an order that subsection (1) does not apply to any or all of their litigation costs in relation to an administration charge. Litigation costs include any costs incurred, or to be incurred, by the landlord in proceedings to which the landlord and leaseholder are a party and that concern a lease of a dwelling. Subsection (8) sets out which proceedings "concern a lease" for the purpose of new paragraph 5B.

376 New paragraph 5B subsection (3) provides that an order may only be made by the relevant court or tribunal under subsection (2) if the landlord's litigation costs would have been payable by a leaseholder as an administration charge if it weren't for subsection (1). Subsection (3) also provides that an order may only be made by the relevant court or tribunal under subsection (2) on litigations costs that are not incurred (or to be incurred) by proceedings arising from leasehold enfranchisement as set out in Part 1 of the Leasehold Reform Act 1967, or Chapter 1 or 2 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993, or from right to manage as set out in Chapter 1 of Part 2 of the CLRA 2002.

377 New paragraph 5B subsection (4) provides for the relevant court or tribunal to make such order on the application made by a landlord under subsection (2) as it considers just and equitable in the circumstances.

378 New paragraph 5B subsection (5) provides that the "appropriate national authority" (which is defined as the Secretary of State or Welsh Ministers) may by regulation specify matters the relevant court or tribunal must take into account when deciding whether to make an order under subsection (2).

379 New paragraph 5B subsection (6) provides that a lease, contract or other arrangement has no effect if it says differently to this paragraph, including regulations made under this paragraph or an order made under this paragraph.

380 New paragraph 5B subsection (7) defines terms used in paragraph 5B.

381 New paragraph 5B subsection (7) provides through the definition of "the relevant court or tribunal" that in most cases the court or tribunal who is hearing the proceedings (which creates the litigation costs) should consider the paragraph 5B application. It also sets out where an application should be made after the proceedings are concluded.

382 New paragraph 5B subsection (8) provides that the reference in the definition of "relevant proceedings" (under subsection (7)) to proceedings concerning a lease includes proceedings concerning any matter arising out of a lease, a lease term, or agreement or arrangement in connection with the lease; proceedings concerning any enactment relevant to the lease, or agreement or arrangement in connection with the lease; or proceedings that otherwise have a connection with the lease.

Clause 61: Rights of tenants to claim litigation costs from landlords

383 Subsection (1) amends the Landlord and Tenant Act 1985 (LTA 1985) by inserting the new section 30J after the existing section 30I.

384 New section 30J subsection (1) implies a term into leases which gives leaseholders a right to apply to the relevant court or tribunal for an order that their landlord pay any or all of their litigation costs incurred in connection with relevant proceedings concerning the lease. Litigation costs include any costs incurred, or to be incurred, by the leaseholder in proceedings to which the landlord and leaseholder are a party and that concern a lease of a dwelling. Subsection (6A) sets out which proceedings "concern a lease" for the purpose of new section 30J.

385 New section 30J subsection (2) provides for the relevant court or tribunal to make such order on the application made by a leaseholder under subsection (1) as it considers just and equitable in the circumstances.

386 New section 30J subsection (3) provides that the "appropriate authority" (which is defined elsewhere in the Bill as the Secretary of State or Welsh Ministers) may by regulation specify matters the relevant court or tribunal must take into account when deciding whether to make an order under subsection (2).

387 New section 30J subsection (4) clarifies that where a landlord has incurred costs as a result of a leaseholder claiming their litigation costs from the landlord under subsections (1) and (2), the landlord must apply to the relevant court or tribunal under new section 20CA of LTA 1985 or new paragraph 5B of Schedule 11 of the CLRA 2002 in order to recover these as either a variable service charge or administration charge.

388 New section 30J subsection (5) provides that a lease, contract or other arrangement has no effect if it says differently to this section, including regulations made under this section or an order made under this section.

389 New section 30J subsection (6) defines terms used in section 30J.

390 New section 30J subsection (6) provides through the definition of "relevant proceedings" that the "appropriate authority" (which is defined elsewhere in the Bill as the Secretary of State or Welsh Ministers) may make regulations that describe what "relevant proceedings" relate to.

391 New section 30J subsection (6), provides through the definition of "the relevant court or tribunal" that in most cases the court who is hearing the proceedings (which creates the litigation costs) should consider the section 30J application. It also sets out where an application should be made after the proceedings are concluded.

392 New section 30J subsection (6A) provides that references in new section 30J to proceedings concerning a lease includes proceedings concerning any matter arising out of a lease, a lease term, or agreement or arrangement in connection with the lease; proceedings concerning any enactment relevant to the lease, or agreement or arrangement in connection with the lease; or proceedings that otherwise have a connection with the lease.

393 New section 30J subsection (7) provides that regulations in this section under subsections (3) and (6) are to be made by statutory instrument; may make provision generally or only in relation to specific cases; may make different provision for different purposes or different areas; and may include supplementary, incidental, transitional or saving provision.

Clause 62: Restriction on recovery of non-litigation costs of enfranchisement, extension and right to manage

394 Clause 62 adds 20J to the 1985 Act which prohibits the recovery of non-litigation (process) costs through variable service charges and renders any term of a lease or collateral agreement that purports to allow a landlord or third party to recover their process costs unenforceable. These provisions supplement clause 37, stating that the aforementioned contractual agreements are also made unenforceable for non-participating tenants, ensuring that measures which overall seek to prevent a landlord from recovering any costs (litigation or process) from an enfranchising tenant, an RTM company or member of such company, cannot be subject to a loophole. The clause ensures that as well as these parties, mechanisms such as variable service charges to pass on costs they are not entitled to recoup are unenforceable if issued to any other leaseholder.

395 The clause also adds section 20K to the 1985 Act, which gives the Tribunal a power to order the recovery of any sums that have been paid by non-participating tenants to a landlord or third party under a term of a lease or collateral contract that is in fact unenforceable.

Clause 63: Appointment of manager: power to vary or discharge orders

396 Clause 63 makes minor amendments to section 24 of the Landlord and Tenant Act 1987. It amends section 24 of the Landlord and Tenant Act 1987, by: firstly, in subsection (9), after "interested" inserting "or of its own motion"; and secondly, in subsection (9A), omitting "on the application of any relevant person. These amendments will enable the appropriate tribunal to vary or discharge an order to appoint a manager without prior application to do so. The tribunal will only be allowed to do this if it is satisfied in all cases that the variation of the discharge is just and convenient and would not lead to the recurrence of the circumstances that led to the order being made. This ensures that, where there are overlapping applications for a manager, for example for a manager over leasehold premises and for a manager over a freehold estate, the tribunal will be able to decide which manager is best placed to carry out the relevant functions.

Clause 64: Appointment of manager: breach of redress scheme requirements

397 Clause 64 amends section 24(2) the Landlord and Tenant Act 1987 (LTA 1987) (grounds for appointment of a manager). It does this by omitting the "or" at the end of paragraph (ac); and inserting new paragraph (ad) after existing paragraph (ac).

398 New paragraph 24(2)(ad) of LTA 1987 sets out that the tribunal may, upon application for an order under section 24 of the LTA 1987, make an order to appoint a manager where it is

satisfied that any relevant person has breached regulations under section NC15(1) of the Leasehold and Freehold Reform Bill (requirement to join redress scheme); *and* where it is just and convenient to make the order in all the circumstances of the case.

Clause 65: Leasehold sales information requests

399 Under existing arrangements landlords have discretion on the length of time they can take to provide information about a leasehold property that a leaseholder requests in anticipation of selling their property ("sales information"). There are also no restrictions on the charge the landlords may levy to provide this information. Nor are they obliged to obtain information from other parties to meet the leaseholder's demands. There is also no enforcement mechanism for instances where sales information is not provided.

400 Clause 65 provides for a leaseholder to give a sales information request to the landlord in anticipation of selling their property.

401 Clause 65 (1) sets out that sections 30K, 30L, 30M, 30N and 30P are to be inserted into the LTA 1985.

402 New Section 30K inserted in the LTA 1985 provides for a leaseholder to give a sales information request to the landlord in anticipation of selling their property.

403 New Section 30K (1) details that the leaseholder may give the sales information request to the landlord.

404 New Section 30K (2) requires a "sales information request" to be set out in a specified form and given in a specified manner. It must also detail (a) that the leaseholder is contemplating selling their property, (b) the sales information requested from the landlord and (c) any other specified information.

405 New Section 30K (3) details that a leaseholders may request sales information only if it is information that is specified in regulations made by the appropriate authority.

406 New Section 30K (4) confirms that the information specified by the appropriate authority under subsection (3) must reasonably be expected to help a prospective purchaser in deciding whether to purchase the property.

407 New Section 30K (5) confers powers on the appropriate authority to provide that a sales information request may not be given until a particular period has come to an end or until another condition is met.

408 New Section 30K(6) details that regulations under this section: (a) are to be made by statutory instrument; (b) may make provision generally or for specific cases; (c) may make different provision for different purposes; and (d) may include supplementary, incidental, transitional or saving provision.

409 New Section 30K (7) makes it clear that any statutory instrument containing regulations under this section is subject to the negative procedure.

410 New Section 30L inserted into the LTA 1985 requires a landlord who has received a sales information request to provide the requested information to the leaseholder and, if necessary, to request any information from other parties/individuals.

411 New Section 30L (1) details that a landlord who has received a sales information request from the leaseholder must provide the leaseholder with any of the information requested that is within the landlord's possession.

412 New Section 30L (2) sets out that a landlord must request information from another person if (a) the information has been requested in a sales information request, (b) the landlord does not have the information and (c) the landlord believes the other person has the information.

413 New Section 30L (3) sets out that the person who the landlord has requested information from must provide the information that they hold.

414 New Section 30L (4) requires those, who have been asked to provide information, to make a further request to whoever they believe possesses the information, if they do not have it themselves. It requires a person ("A") to request information from another person ("B") if (a) the information has been requested from A in a request under subsection (2) or as an "onward request", (b) A does not hold the information and (c) A believes that B has the information. "Onward request" means a request made under subsection (4).

415 New Section 30L (5) requires B to provide A with any information they hold.

416 New Section 30L (6) sets out that any person required to provide information under this section must provide the information within a specified period.

417 New Section 30L (7) sets out that any person who (a) has received a sales information request or onward request and (b) does not provide the information before the end of the specified period, because they do not hold the information, must provide a "negative response confirmation" to the person who made the request.

418 New Section 30L (8) details that a negative response confirmation is a document in a specified form and given in a specified manner that sets out (a) that the individual does not hold the information, (b) actions taken by the individual to determine whether or not they hold the information, (c) onward requests they have made and to whom, (d) an explanation of why they were unable to obtain the information, including details of any negative response confirmations they have received and (e) any other specified information.

419 New Section 30L (9) details that where a person is required to provide a negative response confirmation, they must provide it before the end of a specified period, which begins the day after the period in subsection (7)(b) ends.

420 New Section 30L (10) confers powers on the appropriate authority to set out in regulations the detail of the process for making onward requests for information. The regulations may (a) provide that an onward request may not be made until the end of a particular period or until another condition is met; (b) provide for how an onward request can be made; (c) provide for the period within which an onward request must be made; (d) provide for circumstances when a duty to comply with a sales information request or onward request does not apply; (e) provide for how information requested in a sales information or onward request is to be given; (f) make provision for circumstances when the period specified in subsection (6), (7) or (9) may be extended.

421 New Section 30L(11) details that regulations under this section (a) are to be made by statutory instrument; (b) may make provision generally or for specific cases; (c) may make different provision for different purposes; and (d) may include supplementary, incidental, transitional or saving provision.

422 New Section 30L (12) makes it clear that any statutory instrument containing regulations under this section is subject to the negative procedure.

423 New Section 30M inserted into the LTA 1985 regulates the charges for the provision of sales information and sets out when charges can be made.

424 New Section 30M (1) details that subject to regulations under subsection (2), a person ("P") may charge another person for (a) determining whether information requested in a sales information request or onward request is held by P and (b) providing or obtaining information under clause 30L.

425 New Section 30M (2) confers powers on the appropriate authority by regulations to (a) limit the amount to be charged under subsection (1) and (b) prohibit a charge under subsection (1) in specified circumstances or unless specified requirements are met.

426 New Section 30M (3) details that where a landlord charges the leaseholder under subsection (1) the charge is (a) an administration charge and (b) is not to be treated as a service charge.

427 New Section 30M (4) details that for the purposes of this part, the costs of (a) determining whether information requested in a sales information request or onward request is in a person's possession or (b) providing or obtaining information under clause 30L are not to be regarded as relevant costs and should not be taken in to account when determining the amount of any variable service charge payable by a leaseholder.

428 New Section 30M (5) details that regulations under this section (a) are to be made by statutory instrument; (b) may make provision generally or for a specific case; (c) may make different provision for different purposes; and (d) may include supplementary, incidental, transitional or saving provision.

429 New Section 30M (6) makes it clear that any statutory instrument containing regulations under this section is subject to the negative procedure.

430 New Section 30N inserted into the LTA 1985 sets out the enforcement provisions for failing to comply with requirements relating to sales information requests (new section 30L) and charges for the provision of information (new section 30M).

431 New Section 30N (1) sets out that an application can be made to the appropriate tribunal by a person who has made a sales information request or an onward request ("C") on the ground that another person ("D") failed to comply with a requirement under new section 30L or 30M).

432 New Section 30N (2) sets out orders that the appropriate tribunal can make. It can make one or more of the following orders (a) an order that D comply with the requirement of providing the requested information before the end of a specified period; (b) an order that D pay damages to C for the failure to comply; (c) if D charged C in excess of a limit specified in regulations under Clause 30M subsection (2)(a), an order that D repay the amount charged in excess of the limit to C; and (d) if D charged C in breach of regulations under Clause 30M subsection (2)(b), an order that D repay the amount charged to C.

433 New Section 30N (3) details that damages under subsection (2)(b) must not exceed £5,000.

434 Subsection (4) confers powers on the appropriate authority to amend the amount in subsection (3) by regulations if it considers expedient to do so to reflect changes in the value of money.

435 New Section 30N(5) details that regulations under this section (a) are to be made by statutory instrument; (b) may make provision generally or for a specific case; (c) may make different provision for different purposes; and (d) may include supplementary, incidental, transitional or saving provision.

436 New Section 30N (6) makes it clear that any statutory instrument containing regulations under this section is subject to the negative procedure.

437 New Section 30P (1) sets out the definitions for Sections 30K to 30N of "information", "landlord", "long lease", "onward request", "sales information request" and "specified".

438 New Section 30P (2) sets out that a reference in section 30K to 30N to purchasing a long lease is a reference to becoming a tenant under the lease for consideration, whether by grant, assignment or otherwise.

Clause 66: Regulations under the LTA 1985: procedure and appropriate authority

439 Clause 66 makes changes to the 1985 Act, the effect of which is to provide general provisions that apply to regulation-making powers under the 1985 Act. Clause 36(2) introduces a new section 37A which relates to procedures applicable to statutory instruments. New section 37A(1) details that a statutory instrument subject to the affirmative procedure may not be made unless (a) a draft of the instrument has been laid before and approved by resolution of each House of Parliament, where it contains regulations or an order made by the Secretary of State; (b) a draft of the instrument has been laid before and approved by resolution of the Senedd Cymru, where it contains regulations or an order made by Welsh Ministers.

440 New section 37A(2) details that if a statutory instrument is subject to the negative procedure it is (a) subject to annulment in pursuance of a resolution by either House of Parliament, where it contains regulations or an order made by the Secretary of State; (b) subject to annulment in pursuance of a resolution by the Senedd Cymru, where it contains regulations or an order made by Welsh Ministers.

441 Clause 66(3) inserts the definition of "the appropriate authority" into section 38 (minor definitions) of the LTA 1985. It defines "the appropriate authority" in relation to England as meaning the Secretary of State, and in relation to Wales as meaning the Welsh Ministers. Clause 66(4) makes an addition to section 39 (index of defined expressions) to add reference to "appropriate authority".

Clause 67 – LTA 1985: Crown application

442 Clause 67 moves provision about the extent of Crown application of the LTA 1985, which is currently in the Commonhold and Leasehold Reform Act 2002, directly into the LTA 1985. It also clarifies that the relevant provisions, Sections 18 to 30P of the LTA 1985, bind the Crown whether or not they relate to Crown land.

Clause 68: Part 4: consequential amendments

443 Clause 68 gives effect to Schedule 8 which contains a number of consequential amendments to this Part.

Clause 69: Application of Part 4 provisions to existing leases

444 Clause 69 makes clear that the new provisions introduced by this part of the Act extends to leases entered into before the date the section comes into force.

Part 5 - Regulation of Estate Management

Clause 70: Meanings of "estate management" etc

445 Clause 70 sets out key definitions that have effect for Part Five of this Bill. Subsection (2) defines estate management as meaning: the provision of services; the carrying out of maintenance, repairs or improvements, the effecting of insurance or the making of payments for the benefit of one or more dwellings. Subsection (3) defines an "estate manager" as a body of persons (whether incorporated or not) which carries out, or is required to carry out, estate management; and which recovers the cost of carrying out estate management by means of relevant obligations.

446 Subsection (4) sets out that an estate manager in relation to a managed dwelling means an estate manager which carries out, or is required to carry out, estate management in relation to that dwelling. Subsection (5) defines a "managed dwelling" as a dwelling in relation to which an estate manager carries out, or is required to carry out, estate management.

447 Subsection (6) defines a "relevant obligation" in relation to a dwelling. This includes: an estate rentcharge set out under the Rentcharges Act 1977 ("the 1977 Act"); an obligation under a lease (that is not a service charge); any other obligation which runs with the land that comprises the dwelling or binds the owner for the time being of the land which comprises the dwelling; and any other obligation to which the owner of the dwelling is subject and to which any immediate successor in title of that owner will become subject, if an arrangement to which the estate manager and that owner are parties is performed. Subsection (7) makes it clear that subsection (6)(d) includes an arrangement under which the owner is required to ensure that any immediate successor in title to the owner enters into an obligation.

448 Subsections (8) and (9) define what is meant by, and what is excluded from the definition of an estate management charge. Subsection (8) makes it clear that the costs are amounts payable by people that own a dwelling, who contribute towards the costs incurred by an estate manager in carrying out estate management for the benefit of the homeowner and other homeowners, and who are obliged to pay through a relevant obligation. Subsection (9) sets out those payments that do not count as an estate management charge. These include costs paid as part of an estate management scheme (under the 1967 Act and the 1993 Act), rent reserved under a lease, services charges as defined in the 1985 Act, and charges in respect of the expenses of a commonhold association.

449 Subsection (10) clarifies - in relation to subsection (9) – that "unit holder", "commonhold unit" and "commonhold association" have the same meaning as set out in the Commonhold and Leasehold Reform Act 2002.

450 Subsection (11) defines "relevant costs", in relation to a dwelling, as costs which are incurred by an estate manager in carrying out estate management for the benefit of that dwelling, or that dwelling and other dwellings.

451 Subsection (12) states that costs are relevant costs in relation to an estate management charge whether they are incurred, or to be incurred, in the period for which the charge is payable or in an earlier or later period.

Clause 71: Estate Management Charge: general limitations

452 Clause 71(1) states that any charge demanded as an estate management charge is payable (a) only to the extent the amount of that charge reflects relevant costs; and (b) only to the extent not otherwise limited under this Part. Clause 71(2) introduces Clauses 72 to 74 and the costs that would otherwise be relevant costs are not relevant costs or are relevant costs only to a limited extent.

Clause 72: Limitation of estate management charges: reasonableness

453 Clause 72 mirrors Section 19 of the 1985 Act in relation to leasehold service charges. Subsection (1) states that costs incurred by estate managers are relevant costs only to the extent they are reasonably incurred, and they are incurred in the provision of services or carrying out works, only if the services or works are of a reasonable standard. Subsection (2) explains that where an estate management charge is payable before relevant costs are incurred, then no greater amount that is reasonable is so payable and, after costs have been incurred, a necessary adjustment must be made to the charge (by repayment, reduction of service charges or otherwise).

Clause 73: Limitation of estate management charges: consultation requirements

454 Clause 73 introduces requirements for estate managers to consult managed owners if the cost any works to be charged as an estate management charge exceeds an appropriate amount. Subsection (2) makes it clear that this amount will be set in regulations by the Secretary of State while subsection (3) make it clear that regulations may make provision for an appropriate amount to be (a) an amount prescribed by or determined in accordance with regulations or (b) an amount which results in the relevant contribution of any one or more managed owners being an amount prescribed by, or determined in accordance with, the regulations. Subsection (4) defines relevant contribution as the amount a managed owner may be required to contribute by the payment of an estate management charge to the relevant costs incurred in carrying out the works.

455 Subsection (5) explains that the contribution made by managed owners is limited in accordance with subsections (9) and (10), except where the consultation requirements have been met or the tribunal has dispensed with these requirements.

456 Subsection (6) sets out that the consultation requirements are to be set out in regulations made by the Secretary of State, while subsection (7) sets out that these regulations may include requirements on estate managers to: (a) provide details of the proposed works to owners of managed dwellings, (b) obtain estimates for the proposed works, (c) invite owners to give the names of persons from which the manager should try to obtain other estimates, (d) have regard to observations made by owners in relation to proposed works and estimates, (e) and give reasons in prescribed circumstances for carrying out works.

457 Subsection (8) states that an appropriate tribunal may make a determination that all or any of the consultation requirements are to be dispensed with only if the tribunal is satisfied that it is reasonable to dispense with the requirements.

458 Subsection (9) states that where an appropriate amount is set by virtue of subsection (3)(a), costs in excess of the appropriate amount are not relevant costs. Subsection (10) states that where an appropriate amount is set by virtue of subsection (3)(b), costs in the amount of the relevant contribution of the managed owners, or each of the owners, whose relevant contribution would otherwise exceed the amount prescribed or determined in accordance with the regulations, is limited to the amount set in subsection 3(b).

459 Subsection (11) requires that any statutory instrument containing regulations under this section is subject to the negative procedure.

Clause 74: Limitation of estate management charges: time limits

460 Clause 74 clarifies the time limits around when costs incurred by an estate manager can be defined as "relevant costs".

461 Subsection (1) sets out that costs are not "relevant costs" and therefore not chargeable to an owner of a managed dwelling in circumstances where the estate manager both seeks to charge more than 18 months after the works take place, and where the estate manager failed to provide the owner with a "future demand notice" within this 18-month period.

462 Subsection (2) defines a "future demand notice" as a notice in writing to the owner that relevant costs have been incurred and that the owner will be required to contribute to the costs through the payment of an estate management charge. Subsection (3) confers powers on the Secretary of State to set out in regulations: (a) the form of the notice; (b) information to be included in the notice; and (c) the manner in which the future demand notice must be given to the owner.

463 Subsection (4) details that regulations made by the Secretary of State may, among other things, specify information to be included in the future demand notice as: (a) an amount estimated as the costs incurred (an "estimated cost amount"); (b) an amount the owner is expected to contribute toward the costs (an "expected contribution"); and (c) a date on or before which it is expected that the estate management charge will be demanded ("expected demand date").

464 Subsection (5) states that regulations that include provision by virtue of subsection (4) may also provide for a relevant rule to apply in a case where the owner has been given a "future demand notice" in respect of relevant costs, and a demand for payment of an estate management charge as a contribution to those costs is served on the owner more than 18 months after the costs were incurred.

465 Subsection (6) provides detail of the relevant rules which may apply in relation to subsection (5) These are: subsection (6) (a) in a case where a future demand notice is required to contain an estimated costs amount, that the owner of a managed dwelling is liable to pay the charge only to the extent it reflects relevant costs that do not exceed the estimated costs amount; subsection (6)(b) in a case where a future demand notice is required to contain an expected contribution, that the owner is liable to pay the charge only to the extent it does not exceed the expected contribution; and (6)(c) in a case where a future demand notice is required to contain an expected demand date, that, if the demand is served after the expected demand date, the owner is not liable to pay the charge to the extent it reflects any of the costs.

466 Subsection (7) states that regulations that provide for the relevant rule in subsection (6)(c) to apply may also provide that, in a case set out in the regulations, the rule is to apply as if, for the expected demand date, there were substituted a later date determined in accordance with the regulations.

467 Subsection (8) requires that any statutory instrument containing regulations under this section is subject to the negative procedure.

Clause 75: Determination of tribunal as to estate management charges

468 Clause 75 sets out the circumstances under which an owner of a managed dwelling may seek to challenge the reasonableness of the estate management charge.

469 Subsection (1) allows for applications to be made to the appropriate tribunal for a determination as to whether an estate management charge is payable and, if so, the persons by which and to which it is payable, the amount which is payable, the date at or by which it is payable, and the manner in which it is payable. Subsection (2) provides that an application may be made whether or not any payment has been made.

470 Subsection (3) provides that an application may also be made to the appropriate tribunal for a determination as to whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, an estate management charge would be payable for the costs and, and if so , the persons by which and to which it is payable, the amount which is payable, the date at or by which it is payable, and the manner in which it is payable.

471 Subsection (4) sets out the circumstances under which an application to the relevant tribunal under subsections (1) and (3) cannot be made. This includes (a) a matter relating to a managed dwelling that has been agreed or admitted by every owner of the dwelling; (b) a matter that has been or is being referred to arbitration pursuant to a post-dispute arbitration agreement to which the owner is a party; (c) a matter that has been the subject of a determination by a court; or (d) a matter that is in respect of a determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

472 Subsection (5) makes it clear that, for the purpose of subsection (4), simply paying the estate management charge does not mean that the owner of the managed dwelling has agreed or admitted any matter. Subsection (6) provides that an agreement by an owner (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination in a particular manner or on particular evidence on any question which may be subject of an application.

Clause 76: Demand for payment

473 Clause 76 creates a requirement for estate managers to demand a payment of an estate management charge using a specified form. Under current provisions estate managers may issue a demand in any manner that suits them. Clause 76 introduces a standardised demand form that estate managers must use, subject to any exemptions.

474 Subsection (1) confers a power on the Secretary of State to prescribe the form, its contents and how it may be provided to the owner of the managed dwelling. It does not restrict estate managers from including other relevant information on the form should they wish. Subsection (2) states that where the demand for an estate management charge does not comply with subsection (1) then a provision of a deed, lease, contract or other arrangement or instrument relating to late, or non-payment does not apply in respect of that particular estate management charge. Subsection (3) confers powers on the Secretary of State, by regulations, to provide for exceptions by reference to descriptions of person making the demand, or any other matter from the requirement to comply. Subsection (4) makes it clear that any statutory instrument containing regulations is subject to the negative procedure.

Clause 77: Annual reports

475 Clause 77 creates a new obligation on estate managers to provide an annual report to an owner of a managed dwelling.

476 Subsection (1) places the obligation to provide a report in circumstances where an estate manager provides estate management, and an owner of the managed dwelling is or may be required to pay estate management charges. Subsection (2) places the obligation on the manager to provide an annual report on or before the report date for an accounting period.

477 Subsection (3) allows the Secretary of State through regulations to set out the information that must be contained in the report, along with the form and manner for doing so. Subsection (4) defines an accounting period as a period of 12 month agreed between the estate manager and the owner or, if no such period is agreed, a period of 12 months beginning with 1 April. Subsection (5) defines the "report date" for an accounting period as being one month beginning with the end of the accounting period.

478 Subsection (6) allows the Secretary of State to set the exceptions to this duty through descriptions of the estate manager, the estate management charge, or any other matter. Subsection (7) states that any statutory instrument containing regulations under this section is subject to the negative procedure.

Clause 78: Right to request information

479 Clause 78 creates a new provision that entitles owners of managed dwellings to request and receive information.

480 Subsection (1) confers the right on an owner of a managed dwelling to require an estate manager carrying out estate management in relation to the dwelling to provide information specified in regulations made by the Secretary of State. Subsection (2) allows the Secretary of State appropriate authority to specify information only if it relates to estate management.

481 Subsection (3) requires the estate manager to provide the owner with any of the information requested that is in their possession. Subsection (4) requires the estate manager to request information from another person if three conditions are met: (a) the information has to be requested under subsection (1); (b) the estate manager does not possess the information when the request is made, and (c) the estate manager believes that the other person possesses the information. Subsection (5) requires that person to provide the estate manager with any of the information requested that is in their possession.

482 Subsection (6) requires a person ("A") to request the information from another person ("B") if: (a) the information has been requested from A under subsection (4) or this subsection; (b) person A does not hold that information when the request is made; and (c) person A believes that person B possesses that information. Subsection (7) requires person B to provide person A with any of the information requested that is in person B's possession.

483 Subsection (8) confers powers on the Secretary of State to make regulations to (a) specify the information that may be requested;(b) provide that a request may not be made until the end of a particular period, or until after a condition is met; (c) make provision as to the period within which a request under subsection (3) or (5) must be made; (d) provide for circumstances in which a request under this section may be refused. Subsection (9) defines "specified information" as being information specified in regulations made by the appropriate authority, Subsection (9) states that Clause 79 makes further provision about requests under this Clause.

484 Subsection (10) makes it clear that any statutory instrument containing regulations is subject to the negative procedure.

Clause 79: Requests under section 78: further provision

485 Clause 79 sets out further provisions in cases where a person ("R) requests information under Clause 78 from another person ("P). Subsection (2) states that R may request that person P provide access to premises where R may inspect and/or make and remove a copy of the information. Subsection (3) requires person P to provide this information under section 78 before the end of a specified period or give person R the access requested during a specified period. "Specified" is defined as specified in regulations made by the Secretary of State. Subsection (4) allows person P to charge person R for doing anything required under Clause 78 or Clause 79. Subsection (5) states that where person "P" is the estate manager, that person may not charge an owner of a managed dwelling for the costs of allowing the owner access to premises to inspect information (but may charge for the making of copies).

Clause 80: Enforcement of sections 76 to 79

486 Clause 80 creates new enforcement measures for sections 76 to 79.

487 Subsection (1) allows an owner of a managed dwelling to make an application to the appropriate tribunal on the ground that (a) a person demanded the payment of an estate management charge otherwise than in accordance with section 76(1) or (b) failed to provide a report in accordance with section 46.

488 Subsection (2) allows the appropriate tribunal to make one or more of the following orders; (a) an order that the estate manager must, within 14 days of the order being made, either (i) demand payment of an estate management charge in accordance with section 76(1); or (ii) provide a report in accordance with section 77; (b) an order that an estate manager pay damages to the owner and (c)any other order that the tribunal finds consequential under paragraph (a) or (b). Damages reflect the degree of fault on behalf of the estate manager, and managed owners do not have the burden of showing financial or non-financial loss.

489 Subsection (3) grants a person "C" the right to make an application to the appropriate tribunal on the grounds that another person "D" failed to comply with a requirement under section 78 or 79. Subsection (4) states that an application under subsection (3) the tribunal to make one or more of the following orders: a) an order that D comply with the requirement within 14 days of the order being made; (b) an order that D pay damages to C; and (c) any other order that the tribunal finds consequential under paragraph (a) or (b). Subsection (5) states that damages must not exceed £5,000. Subsection (6) confers a power on the appropriate authority to amend the amount in subsection (5) by regulations, if it considers it expedient to do so to reflect changes in the value of money.

490 Subsection (7) makes it clear that any statutory instrument containing regulations is subject to the negative procedure.

Clause 81: Meaning of "Administration charge"

491 Subsection (1) defines administration charge as an amount payable directly or indirectly: (a) for or in connection with the grant of approvals in connection with a relevant obligation, or applications for such approvals; (b) for or in connection with the provision of information or documents by or on behalf of an estate manager; (c) for or in connection with the sale or transfer of land to which a relevant obligation relates, or the creation of an interest in or right over that land; (d) in respect of a failure by the owner to make a payment to the estate manager by the due date under a relevant obligation; and (e) in connection with a breach (or alleged breach) of a relevant obligation.

492 Subsection (2) allows an appropriate authority by regulations to make provision (including provision amending this Act) to amend the definition of "administration charge" while subsection (3) makes it clear that a statutory instrument containing regulations under this section (whether alone or with other provision) is subject to the affirmative procedure.

Clause 82: Duty of estate managers to publish administration charge schedules

493 Subsection (1) states that if an estate manager expects to charge an administration charge, the estate manager must produce and publish an administration charge schedule.

494 Subsection (2) defines an "administration charge schedule" as a document setting out: (a) the administration charges the estate manager considers to be payable, and (b) for each charge, (i) its amount or, (ii) if it is not possible to determine its amount before it is payable, how the amount will be determined if it becomes payable.

495 Subsection (3) allows the estate manager to revise the schedule, and if they do, they must publish the revised schedule. Subsection (4) requires the estate manager to provide the administration charges schedule for the time being published setting out the charges that may be payable by that person.

496 Subsection (5) allows an appropriate national authority to make regulations as to the form and content of an administration charge schedule; how an administration charge must be published; and how an administration charge schedule is to be provided to an owner of a dwelling.

497 Subsection (6) makes it clear that any statutory instrument containing regulations is subject to the negative procedure.

Clause 83: Enforcement of section 82

498 Clause 83 sets out the enforcement provisions for breach of the duty to publish an administration charge schedule. Subsection (1) allows a tenant to make an application to the

appropriate tribunal on the grounds that the estate manager has not complied with section 82, or regulations made under it.

499 Subsection (2) allows the tribunal the power to make one or both of the following orders; (a)an order that the manager comply with section 51 or regulations made under it before the end of the period 14 days beginning with the day after the date of the order and (b)an order that the manager pay damages to the owner. Subsection (3) states that any damages must not exceed £1000. Subsection (4) confers a power on the Secretary of State, by regulations, to amend the amount in subsection (3) if the appropriate authority considers it expedient to do so to reflect changes in the value of money.

Clause 84: Limitation of administration charges

500 Subsection (1) states that an administration charge is payable only to the extent that the amount of the charge is reasonable. Subsection (2) enables an administration charge to be payable to an estate manager only if (a) its amount for the required period appeared on an administration charge schedule published under section 51 or (b) its amount was determined in accordance with a method that appeared on the published administration charge schedule for the required period.

501 Subsection (3) defines "required period" as the period of 28 days ending with the day on which the administration charge is demanded to be paid.

502 Subsection (4) states that an administration charge is not payable to an estate manager if all three of the following conditions are met: (a) the charge relates to the same matter as, or a matter of a similar nature to, a matter for which an administration charge is payable by another person to that estate manager; (b) the amount of the charge is different from the charge payable by that person, and (c) it is not reasonable for the amount of the charge to be different.

Clause 85: Determination of tribunal as to administration charges

503 Clause 85 creates a new right for owners of managed dwellings to challenge the reasonableness of administration charges.

504 Subsection (1) provides that an application may be made to the appropriate tribunal for a determination as to whether an administration charge is payable, and if it is, as to: the persons by which and to which it is payable, the amount which is payable, the date at or by which it is payable, and the manner in which it is payable. Subsection (2) provides that the requirement for an administration charge to be reasonable applies whether or not any payment has been made.

505 Subsection (3) sets out the circumstances under which an application to the relevant tribunal cannot be made. These circumstances are in respect of a matter which: (a) relates to a dwelling and has been agreed or admitted by the owner of the dwelling; (b) has been or is referred to arbitration pursuant to a post-dispute arbitration agreement to which the managed owner is a party; (c) has been subject of a determination by a court; or are in respect of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

506 Subsection (4) provides that simply paying the estate management charge does not mean that the owner has agreed or admitted any matter. Subsection (5) provides that an agreement (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination in a particular manner or on particular evidence on any question which may be subject of an application.

Clause 86: Codes of management practice: extension to estate managers

507 Clause 86 makes amendments to section 87 of the 1993 Act, the effect of which is to allow the Secretary of State to approve or publish a Code or management practice in relation to estate management. This Code may be taken into account as evidence at a Tribunal or Court.

Clause 87: Notice of complaint

508 Clauses 87 to 91 taken together seek to introduce measures which allow homeowners on managed estates to apply to the appropriate tribunal in order to appoint a substitute manager in cases of serious management failure.

509 Clause 87 sets out the process for an owner of a managed dwelling to give a notice of a complaint to an estate manager. Subsection (1) gives an owner of a managed dwelling the right to give a notice of complaint to an estate manager.

510 Subsection (2) defines a notice of complaint as a notice that: (a) sets out one or more complaints listed in subsection (3) in relation to the estate manager; (b) states that if the complaints are not remedied by the end of the qualifying period (subsection (7)), the owner may make an application to appoint a substitute manager; and (c) contains any other information specified in regulations made by the Secretary of State.

511 Subsection (3) details the complaints which can be included in the notice in relation to the substitute manager. The grounds for complaint comprise: (a) the estate manager is in breach of an obligation in relation to the dwelling; (b), sums payable through an estate management charge are not being applied in an efficient or effective manner; (c) that an estate management charge or administration charge payable or likely to be payable by the owner, tenant or sub-tenant is unreasonable; or (d) the estate manager has failed to comply with a relevant code of practice approved by the Secretary of State under section 87 of the LRHUDA 1993.

512 Subsection (4) clarifies that a notice of complaint may be given jointly by two or more persons if each of those persons is entitled to give a notice to the estate manager. Subsection (5) sets out for the purpose of subsection (4), it is not necessary for every complaint set out in the notice, or every part of each complaint, to apply in relation to each dwelling owned by each of the persons giving the notice.

513 Subsection (6) confers a power on the Secretary of State, by regulations, to make provision for determining when a notice of complaint is given.

514 Subsection (7) defines a "notice of complaint" as a notice of complaint under this clause, and the "qualifying period" in relation to a notice of complaint as the period of six months beginning with the date on which the notice is given.

515 Subsection (8) requires that any statutory instrument containing regulations under this section is subject to the negative procedure.

Clause 88: Appointment of substitute manager

516 This Clause provides an owner of a managed dwelling with the right to apply for the appointment of a substitute manager.

517 Subsection (1) gives the appropriate tribunal the ability to appoint a person, in place of an estate manager, to carry out such functions in connection with estate management in relation to a dwelling as the tribunal sees fit.

518 Subsection (2) clarifies that the application for an appointment order must meet the conditions set out in Clause 89. Subsection (3) states that Clause 90 sets out the criteria the appropriate

tribunal must consider in deciding whether to make an appointment order. Subsection (4) states that Clause 91 makes further provision in relation to appointment orders.

519 Subsection (5) defines "appointment order" as an order under subsection (1) and "substitute manager" as a person appointed under an "appointment order". These definitions are also applicable to Clause 90 and Clause 91.

Clause 89: Conditions for applying for appointment order

520 This Clause sets out the conditions which must be met before an application to appoint a substitute manager under Clause 88 may be made.

521 Subsection (1) sets out the conditions under which an owner of managed dwelling may make an application order in relation to an estate manager. These conditions include: (a) the owner giving a notice of complaint to the estate manager; (b) that the qualifying period has ended; (c) the owner has issued a further "final warning notice" after the qualifying period has ended; and (d) the conditions relating to a final warning notice have been met.

522 Subsection (2) states that, in cases where the owner gave notice of complaint jointly with other persons, the owner may not make an application unless: (a) the owner does so jointly with those other persons that are also owners of managed dwellings; and (b) the final warning notice was given jointly by the owner and each of those other persons.

523 Subsection (3) allows an owner of a managed dwelling who did not give the notice of complaint to the estate manager to join the owner or owners who acted in accordance with subsection (2) in applying for an application order, if the final warning notice was given jointly by the owner or owners and the joined applicant.

524 Subsection (4) sets out the detail which must be specified in the final warning notice. This includes: (a) the names and address of those issuing the notice; (b) a statement that they intend to make an application order; (c) the grounds on which they consider the appropriate tribunal should make an order; (d) giving the estate manager a reasonable period to resolve the problem; (e) stating that if the problem is remedied within this period, the persons will not make an application order; and (f) any other information specified in regulations made by the Secretary of State.

525 Subsection (5) specifies when the conditions of a final warning notice are met if: the matters specified in the final warning notice are not capable of being remedied; or the period specified in the final warning notice for the matters to be remedied has expired without the estate manager having taken the required steps to remedy them.

526 Subsection (6) allows the appropriate tribunal to dispense with the requirements set out in subsections (1) (2) or (3) if they are satisfied, in light of the urgency of the case, that it would not be reasonably practicable for the requirement to be satisfied. Subsection (7) provides that, in the case subsection (6) is applicable, the tribunal may direct that such other notices are given, or such other steps are taken, as it thinks fit. Subsection (8) provides that, where a tribunal has made an order under subsection (6), an application for an appointment order may be made only if any notices required to be given, and any other steps required to be taken are given or taken.

527 Subsection (9) sets out that the Secretary of State may by regulations make provision for determining when a notice under this section is given. Subsection (10) requires that any statutory instrument containing regulations under this section is subject the negative procedure.

Clause 90: Criteria for determining whether to make an appointment order

528 This Clause sets out the criteria and grounds on which the appropriate tribunal may make an order to appoint a substitute manager.

529 Subsection (1) clarifies that the appropriate tribunal may not make an appointment order in relation to an estate manager if the estate manager is specified, or is of a description specified, in regulations made by the Secretary of State.

530 Subsection (2) sets out the conditions the tribunal must be satisfied with before making an appointment order. These conditions are that: it is just and convenient to make the order in all the circumstances of the case; and either those circumstances include those set out in subsection (3), or there are other circumstances that make it just and convenient for the order to be made.

531 Subsection (3) provides detail of the circumstances the tribunal may consider in subsection (2). These are that: (a) the estate manager is in breach of an obligation in relation to the dwelling, or in the case of an obligation dependent on notice, would be in breach of the obligation but for the fact that it has been reasonably practicable to give the estate manager the appropriate notice; (b) an estate management charge or administration charge payable or likely to be payable is unreasonable; (c) the estate manager has failed to comply with a relevant provision of a code of practice approved by the Secretary of State under section 87 of the LRHUDA 1993 ; and (d) the estate manager has breached regulations under Clause [x] of this Bill).

532 Subsection (4) sets out that an estate management charge may be taken to be unreasonable under subsection (3) (b) if: (a) the amount is unreasonable having regard to the items for which it is payable; (b) the items for which it is payable are of an unnecessarily high standard; or (c) the items for which it is payable are of an insufficient standard with the result that additional charges are or may be incurred.

533 Subsection (5) provides that the appropriate tribunal may make an appointment order despite the fact that: a period specified in a final warning notice was not a reasonable period; or a final warning notice otherwise failed to comply with a requirement under clause (89(4)).

534 Subsection (6) requires that any statutory instrument containing regulations under this section is subject the negative procedure.

Clause 91: Appointment orders: further provision

535 Clause 91 sets out further provisions relating to the making of orders to appoint a substitute manager.

536 Subsection (1) sets out that the appointment order may make provision relating to the undertaking of the substitute manager's functions, and such incidental or ancillary matters as the tribunal thinks fit. This includes: the extent to which the substitute manager can become party to rights and liabilities arising under existing contracts; for the substitute manager to be entitled to prosecute claims in respect of causes of action; remuneration to be paid by the estate management company and setting a time limit for how long the substitute manager may carry out any of the functions given to it by the appropriate tribunal. Subsection (1) also states that appointment orders may be subject to any other conditions the tribunal sees fit, and be subject to suspension on terms set by the tribunal.

537 Subsection (2) states that the appropriate tribunal, may, on the application of any interested person or of its own motion, vary or discharge an appointment order. Subsection (3) states that the tribunal may not vary or discharge an appointment order unless it is satisfied that: the variation or discharge will not result in a recurrence of the circumstances which led to the

appointment order being made; and it is just and convenient in all the circumstances of the case to vary or discharge the order.

538 Subsection (4) sets out that in deciding the terms of an appointment order, or whether or how to vary or discharge an appointment order, the tribunal must have regard to whether the estate manager has breached regulations under section (Clause 98 Leasehold and estate manager: redress schemes (1)) of the Act.

Clause 92: Estate management: sales information requests

539 Under existing arrangements estate managers have discretion on the length of time they can take to provide sales information to the homeowner on a managed estate, that has been requested in anticipation of selling their property. There are also no restrictions on the charge the estate manager may levy to provide this information. Nor are they obliged to obtain information from other parties to meet the homeowner's demands. There is also no enforcement mechanism for instances where sales information has not been provided.

540 Clause 92 provides for a homeowner on a managed estate to give a sales information request to the estate manager in anticipation of selling their property.

541 Subsection (1) details that the homeowner may give the sales information request to the estate manager.

542 Subsection (2) requires a "sales information request" to be set out in a specified form and given in a specified manner. It must also detail (a) that the homeowner is contemplating selling their property, (b) the sales information requested from the estate manager and (c) any other specified information.

543 Subsection (3) details that a homeowner on a managed estate may request sales information only if it is information that is specified in regulations made by the appropriate authority.

544 Subsection (4) confirms that the information specified by the appropriate authority under subsection (3) must: (a) relate to estate management, estate managers, estate management charges or relevant obligations; and (b) reasonably be expected to help a prospective purchaser in deciding whether to purchase the property.

545 Subsection (5) confers powers on the appropriate authority to provide that a sales information request may not be given until a particular period has come to an end, or until another condition is met.

546 Subsection (6) details that a reference to purchasing a dwelling is a reference to becoming an owner of the dwelling, and references to selling a dwelling are to be read accordingly. It also details a "sales information request" has the meaning given in subsection (2) and "specified" means specified in, or determined in accordance with, regulations made by the appropriate authority.

547 Subsection (7) makes it clear that any statutory instrument containing regulations under this section is subject to the negative procedure.

Clause 93: Effect of sales information request

548 Clause 93 requires an estate manager who has received a sales information request to provide the requested information to the homeowner on the managed estate and, if necessary, to request any information from other parties/individuals.

549 Subsection (1) details that an estate manager who has received a sales information request from the homeowner on a managed estate must provide the homeowner with any of the relevant information requested that is within the estate manager's possession.

550 Subsection (2) sets out that an estate manager must request information from another person if: (a) the information has been requested in a sales information request, (b) the estate manager does not have the information, and (c) the estate manager believes the other person has the information.

551 Subsection (3) sets out that the person who the estate manager has requested information from must provide the information that they hold.

552 Subsection (4) requires those, who have been asked to provide information, to make a further request to whoever they believe possesses the information, if they do not have it themselves. It requires a person ("A") to request information from another person ("B") if: (a) the information has been requested from A in a request under subsection (2) or as an "onward request"; (b) A does not hold the information; and (c) A believes that B has the information. "Onward request" means a request made under subsection (4).

553 Subsection (5) requires B to provide A with any relevant information they hold.

554 Subsection (6) sets out that any person required to provide information under this clause must provide the information within a specified period.

555 Subsection (7) sets out that any person who (a) has received a sales information request or onward request; and (b) does not provide the information before the end of the specified period, because they do not hold the information, must provide a "negative response confirmation" to the person who made the request.

556 Subsection (8) details that a negative response confirmation is a document in a specified form and given in a specified manner that sets out: (a) that the individual does not hold the information;, (b) actions taken by the individual to determine whether or not they hold the information; (c) onward requests they have made, and to whom; (d) an explanation of why they were unable to obtain the information, along with details of any negative response confirmations they have received; and (e) any other specified information.

557 Subsection (9) details that where a person is required to provide a negative response confirmation, they must provide it before the end of a specified period, which begins the day after the period in subsection (7)(b) ends.

558 Subsection (10) confers powers on the appropriate authority to set out in regulations the detail of the process for making onward requests for information. The regulations may: (a) provide that an onward request may not be made until the end of a particular period or until another condition is met; (b) provide for how an onwards request can be made; (c) provide for the period within which an onward request must be made; (d) provide for circumstances when a duty to comply with a sales information request or onward request does not apply; (e) provide for how information requested in a sales information or onward request is to be given; (f) make provision for circumstances when the period specified in subsection (6), (7) or (9) may be extended.

559 Subsection (11) details that for this clause, clause 94 and clause 95, an "onward request" has the meaning given in subsection (4)(a).

560 Subsection (12) makes it clear that any statutory instrument containing regulations under this section is subject to the negative procedure.

Clause 94: Charges for the provision of information

561 Clause 94 regulates the charges for the provision of sales information and sets out when charges can be made.

562 Subsection (1) details that subject to regulations under subsection (2), a person ("P") may charge another person for: (a) determining whether information requested in a sales information request or onward request is held by P, and (b) providing or obtaining information under clause 93.

563 Subsection (2) confers powers on the appropriate authority by regulations to: (a) limit the amount to be charged under subsection (1), and (b) prohibit a charge under subsection (1) in specified circumstances or unless specified requirements are met.

564 Subsection (3) details that where an estate manager changes the homeowner on a managed estate under subsection (1) the charge is: (a) an administration charge, and (b) not to be treated as an estate management charge.

565 Subsection (4) details that for the purposes of this part, the costs of: (a) determining whether information requested in a sales information request or onward request is in a person's possession, or (b) providing or obtaining information under Clause 93 are not to be regarded as relevant costs and should not be included in estate management charges paid by homeowners on managed estates.

566 Subsection (5) makes it clear that any statutory instrument containing regulations under this section is subject to the negative procedure.

Clause 95: Enforcement of sections 93 and 94 (Effect of sales information request) and (Charges for provision of information)

567 Clause 95 sets out the enforcement provisions for failing to comply with requirements relating to sales information requests (clause 93) and charges for the provision of information (clause 94).

568 Subsection (1) sets out that an application can be made to the appropriate tribunal by a person who has made a sales information request or an onward request ("C") on the ground that another person ("D") failed to comply with a requirement under clause 67 or 68.

569 Subsection (2) sets out orders that the appropriate tribunal can make. It can make one or more of the following orders: (a) an order that D comply with the requirement of providing the requested information before the end of a specified period; (b) an order that D pay damages to C for the failure to comply; (c) if D charged C in excess of a limit specified in regulations under Clause 94 subsection (2)(a), an order that D repay the amount charged in excess of the limit to C; and (d) if D charged C in breach of regulations under Clause 94 subsection (2)(b), an order that D repay the amount charged to C.

570 Subsection (3) details that damages under subsection (2)(b) must not exceed £5,000. Subsection (4) confers powers on the appropriate authority to amend the amount in subsection (3) by regulations if it considers expedient to do so to reflect changes in the value of money.

571 Subsection (5) makes it clear that any statutory instrument containing regulations under this section is subject to the negative procedure.

Clause 96: Part 5: Crown application

572 Clause 96 sets out the extent to which the provisions of Part 5 apply to the Crown. It requires that the provisions in Part 5 apply in relation to estate management carried out by, or on behalf of, a government department.

573 Subsection (1) seeks to bind the Crown in all respect for clauses [Clauses 92-95], which relate to the provision of sales information requests. Subsection (2) details how the remaining provisions in Part 5 apply to the Crown. Subsection (2)(a) clarifies that the provisions in Part 4

apply in circumstances where estate management functions are carried out by, or on behalf of, government departments. Subsection (2)(b) binds the Crown in all respects in circumstances where the estate management is carried out by another entity, for example an estate management company or a government department, as the Crown may be required to provide information which is not held by those entities.

Clause 97: Interpretation of Part 5

574 Clause 97 defines various terms used throughout Part 5. Subsection (1) sets out the meaning of "appropriate authority" to mean the Secretary of State in relation to England and to mean the Welsh Ministers in relation to Wales. It also sets out the meaning of "the appropriate tribunal" to mean, in relation to a dwelling in England, the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal; and in relation to a dwelling in Wales, a leasehold valuation tribunal. The definition of "long lease" is also set out as having the meaning given in section 77(2) of the 1993 Act. Subsection (1) also gives meaning to other terms.

575 Subsection (1) also defines as "dwelling" as a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it. Subsection (2) sets out that for the purposes of this Part, a person "owns" a dwelling if (a) the person owns freehold land which comprises a dwelling, (b) the person is a tenant of a dwelling under a long lease or (c)where the dwelling is part of a building (i) the person owns the freehold land which comprises the building, or (ii) the person is a tenant of the building under a long lease.

Part 6 – Leasehold and estate management: Redress schemes

Clause 98: Leasehold and estate management: redress schemes

576 Clause 98(1) provides that the Secretary of State may make regulations to require a person (a landlord or estate management company) that carries out estate management for a dwelling in England in a "relevant capacity" to be a member of a redress scheme. The definition of "estate management" is set out in 98(8), and means the provision of services, the carrying out of maintenance, repairs or improvements, the effecting of insurance, or the making of payments for the benefit of one or more dwellings.

577 Clause 98(2) sets out that a person carries out estate management in a "relevant capacity" if they do so either as a relevant landlord of the dwelling, or as an estate manager. 98(8) defines "relevant landlord" as a landlord under a long lease of the dwelling; and defines "estate manager" as a body of persons (whether incorporated or not) which carries out, or is required to carry out, estate management, and which recovers the costs of carrying out estate management by means of "relevant obligations". The meaning of "relevant obligations" is set out in Clause 98(8).

578 Clause 98(3) clarifies that a person may not be required to be a member of a redress scheme under this section if they carry out estate management only as a leaseholder, or as an agent.

579 Clause 98(4) sets out that a "redress scheme" is a scheme which: allows complaints to be made against a member of the scheme by a current or former owner of a dwelling where estate management is carried out to be investigated and determined independently. The "redress scheme" is a scheme which is either approved by the lead enforcement authority for this purpose; or administered by or behalf of the lead enforcement authority and designated by the lead enforcement authority for these purposes. The "lead enforcement authority" is

defined in Clause 98(8) and means either the Secretary of State or another person designated by the Secretary of State as the lead enforcement authority.

580 Clause 98(5) allows the Secretary of State to make regulations under subsection (1) to require a person (a landlord or estate management company) to remain a member of a redress scheme after they cease to be a person required to join a scheme under that subsection, for a period specified in the regulations. This may provide that landlords or estate management companies who were required to be a member of a redress scheme under subsection (1) but are no longer so required (for example, because they have ceased carrying out estate management) may still be required to remain a member of a scheme for a specified period after that point.

581 Clause 98(6) makes clear that, before making regulations under subsection (1) requiring a person (a landlord or estate management company) to be a member of a redress scheme, the Secretary of State must be satisfied that all persons (landlords and estate management companies) who are to be required to be a member are able to join a scheme. This is subject to any provision about expulsion from the scheme – see Clause 102 (3)(k).

582 Clause 98(7) sets out that potential consequences of breaching regulations under subsection (1) are contained in section 24(2)(ad) of the LTA 1987 (appointment of a manager by tribunal) and clause 63(3)(3) of the Leasehold and Freehold Reform Bill, as well as Clause 103 (financial penalties by enforcement authorities).

583 Clause 98(8) provides definitions of key terms used in this Part, including "estate management", "estate manager", "the lead enforcement authority" (with further provision about the lead enforcement authority in Clause 106), "relevant landlord" and "relevant obligation".

584 Clause 98(9) sets out that arrangement under paragraph (d) of the definition of "relevant obligation" in subsection (8) includes an arrangement where an owner is required to ensure that any immediate successor in title to the owner enters into an obligation.

585 Clause 98(10) provides that the Secretary of State may make regulations (including provision to amend this Act) for the purpose of changing the meaning of "relevant capacity", "relevant landlord", or "relevant obligation" as defined in 98(2) and 9(8).

586 Clause 98(11) makes clear a statutory instrument containing regulations under this section (whether alone or with other provision) is subject to the affirmative procedure.

Clause 99: Redress schemes: voluntary jurisdiction

587 Clause 99 makes clear that, subject to regulations under Clause 101, nothing prevents a redress scheme from:

a. allowing membership of the scheme to voluntary members;

b. investigating or determining complaints under a voluntary jurisdiction (including complaints from those outside of the scope of the scheme);

c. providing voluntary mediation services; or

d. excluding complaints from investigation and determination in cases or circumstances which may be specified in, or determined under, the scheme.

588 Clause 99(2) sets out the meanings of "complaints under a voluntary jurisdiction", "voluntary mediation services" and "voluntary members".

Clause 100: Financial assistance for establishment or maintenance of a redress scheme

589 Clause 100(1) provides the Secretary of State with the power to provide financial assistance (by grant, loan or guarantee, or in any other form) or to make other payments to a person for the establishment or maintenance of a redress scheme, or a scheme that would be a redress scheme if it were approved or designated under 98(4)(b).

Clause 101: Approval and designation of redress schemes

590 Clause 101(1) makes clear that this section applies when the Secretary of State makes regulations to require a person (a landlord or estate management company) to be a member of a redress scheme under 98(1).

591 Clause 101(2) requires the Secretary of State to make regulations setting out the conditions that an approved or designated scheme must meet.

592 Clause 102(3) states that these conditions must include conditions requiring the scheme to include provision in accordance with the regulations to:

a. (3)(a) and [(aa)]: for the appointment of an individual who is to be responsible for overseeing and monitoring the investigation and determination of complaints under the scheme; and to allow for terms and conditions for that individual, as well as the termination of their appointment.

b. (3)(b): outline the types of complaints that may be made under a scheme, including complaints about the failure to comply with any code of practice approved or issued by the Secretary of State;

c. (3)(c) and (d): define the length of time to be allowed for scheme members to resolve matters before a complaint can be escalated to the scheme, and the circumstances in which a scheme might reject a complaint;

d. (3)(e) and (f): make provision about co-operation (and potential joint exercise of functions) and the provision of information with other bodies who have functions in relation to other kinds of complaint and with enforcement authorities.

e. (3)(g): make provision about the level of fees to be paid in respect of compulsory aspects of the scheme, and the level of those fees;

f. (3)(h): make provision that where the scheme provides additional voluntary services, for the fees charged in respect of these aspects of the scheme and for the fees to be set at a level that is sufficient to meet the costs of administering these aspects of the scheme and the costs of investigating and determining complaints under the voluntary aspects of the scheme.

g. 3)(i): for the scheme operator be able to award redress to complainants, including but not limited to requiring a landlord to issue an apology or explanation; and/or pay compensation; and/or take any such other actions in the interests of the complainant as the redress scheme may specify;

h. (3)(j),(k),(l) and (m): to provide for enforcement of the scheme and scheme decisions, and to allow the scheme operator to take action against scheme members who fail to comply with decisions taken by the scheme. The regulations will allow for expulsion from the scheme, review of decisions to expel, revocation of decisions to expel, and prohibiting membership of the scheme where an existing expulsion from another scheme is in place;

i. (3)(n) and (o): make provision for the transfer of scheme administration to another body, and the closure of an approved scheme.

593 Clause 101(4) allows for regulations made under subsection (3) to include conditions requiring an administrator or proposed administrator of a scheme to undertake activities (both during and after being an administrator of the scheme); to set conditions in regulations under subsection (3)(d) to require a scheme to reject complaints from current or former owners of certain descriptions specified in the regulations; and that regulations made under subsection (3)(n) may specify circumstances that require the administration of a scheme to be transferred to the lead enforcement authority or a body acting on behalf of the lead enforcement authority. Any scheme transferred in this way may become a designated, rather than an approved, scheme.

594 Clause 101(5) makes clear that 101(3) and 101(4) do not limit the conditions that may be set out in regulations under Subsection (2).

595 Clause 101(6) provides for the Secretary of State to make further provision about the approval or designation of redress schemes under Clause 98(4)(b) including provision about the number of redress schemes which may be approved or designated; about how prospective schemes may make applications for approval; about the period for which an approval or designation is valid; about the withdrawal of approval or revocation of designation; and to set fees at a level that will ensure that the scheme has sufficient income to cover the administration of, and investigation and determination of complaints under, the compulsory aspects of the scheme.

596 Clause 101(7) allows for the lead enforcement authority to make regulations under this section which confer functions (including those involving the exercise of discretion) on the lead enforcement authority and provide for the delegation of such functions by the lead enforcement authority.

597 Clause 101(8) sets out the definitions and meanings of the following terms: "compulsory aspects", "compulsory member", "voluntary aspects" in relation to a scheme.

598 Clause 101(9) makes clear a statutory instrument containing regulations under this section (whether alone or with other provision) is subject to the affirmative procedure.

Clause 102: Redress schemes: no Crown status

599 Clause 102 clarifies that people exercising functions under a redress scheme (other than the Secretary of State) do not have Crown status. This includes not being regarded as a servant or agent of the Crown, or as enjoying any status, privilege or immunity of the Crown or as exempt from any tax, duty, rate, levy or other charge, and any property held by people exercising functions under a redress scheme is not to be regarded as property of, or held on behalf of, the Crown.

Clause 103: Financial penalties

600 Clause 103(1) provides that an enforcement authority may impose a financial penalty on a person (a landlord or estate management company) if satisfied beyond reasonable doubt that they have breached regulations under Clause 98(1). The meaning of "enforcement authority" is set out in Clause 109 and means the lead enforcement authority; the Secretary of State; a local housing authority; or another person designated by the Secretary of State as an enforcement authority.

601 Clause 103(2) and 103(3) provide that the Secretary of State may make provisions by regulations about the investigation by an enforcement authority of suspected breaches of regulations under 98(1) for the purpose of determining whether to impose a financial penalty,

including (but not necessarily limited to) co-operation and information sharing between enforcement authorities.

602 Clause 103(4) provides that the amount of the financial penalty to be imposed under this section will be determined as set out in Clause 104.

603 Clause 103(5) provides that more than one penalty may be imposed for the same conduct only if the conduct continues after the end of 28 days on which the final notice in respect of the previous penalty was given (unless the person appeals that notice) or, if the person appeals against the notice, then the conduct continues after 28 days when the appeal is determined, withdrawn or abandoned. Terms and processes used in 103(5) are defined in 103(8) and Schedule 11.

604 Clause 103(6) clarifies that Clause 103(5) does not enable a penalty to be imposed after a final notice in respect of the previous penalty has been withdrawn or quashed on appeal.

605 Clause 103(7) sets out that Schedule 11 makes provision about the procedure for imposing a financial penalty under this section; appeals against financial penalties; enforcement of financial penalties; and how enforcement authorities are to deal with the proceeds of financial penalties.

606 Clause 103(8) clarifies that for the purposes of Clause 103 and 104, a financial penalty is imposed on the date specified in the final notice as the date on which the notice was given. 'Final notice' has the meaning given by paragraph 3 of New Schedule 1.

607 Clause 103(9) makes clear a statutory instrument containing regulations under this section (whether alone or with other provision) is subject to the affirmative procedure.

Clause 104: Financial penalties: maximum amounts

608 Clause 104(1) provides for the maximum amount of financial penalty imposed under Clause 103 be determined by the enforcement authority imposing it. The maximum penalty that may be imposed must not be more than £30,000 if Case A, B or C applies; otherwise, the maximum penalty that may be imposed must not be more than £5,000.

609 Clause 104(2) sets out that Case A applies if a relevant penalty has been imposed on the person, and the final notice imposing the penalty has not been withdrawn; *and* the conduct for which the penalty was imposed continues after the period of 28 days. This period begins with the day after the day on which the penalty was imposed; or if the final notice was appealed within that period, the day after the day on which the appeal is finally determined, withdrawn, or abandoned.

610 Clause 104(3) sets out that Case B applies if a relevant penalty has been imposed on the person for breach of the regulations under 98(1), and the final notice imposing the penalty has not been withdrawn; *and* the person engages in conduct which constitutes a different breach of the regulations within a period of five years beginning with the day on which the penalty was imposed.

611 Clause 104(4) sets out that Case C applies if a relevant penalty has been imposed on the person for conduct where Case A, B, or C applies, and the final notice to impose the penalty has not been withdrawn; *and* the person breaches regulations under section Clause 98(1) within a period of five years beginning with the day the penalty was imposed.

612 Clause 104(2)-(4) makes clear the circumstances wherein a person who has breached the regulations multiple times, may have a penalty imposed by an enforcement authority under Clause 104 (1)(a).

613 Clause 104(5) defines "relevant penalty" for the purposes of this section as a financial penalty imposed under Clause 103 where the period for bringing an appeal against the penalty under paragraph 5 of New Schedule 1 has expired without an appeal being brought; an appeal against the financial penalty under that paragraph has been withdrawn or abandoned; or the final notice imposing the penalty has been confirmed or varied on appeal. Terms and processes used in Clause 104(5) are defined in New Schedule 1.

614 Clause 104(6) provides for the Secretary of State to change the amounts specified in Clause 104(1) by regulations to account for inflation.

615 Clause 104(7) provides that a statutory instrument containing regulations under this section is subject to the negative procedure.

Clause 105: Decision under a redress scheme may be made enforceable as if it were a court order

616 If enacted, regulations under Clause 105(1) would allow a redress scheme administrator to apply to a court or tribunal for an order that decisions made under the scheme and accepted by the complainant are to be enforced as if they were a court order.

617 Clause 105(2) provides that a statutory instrument containing regulations under this section is subject to the negative procedure.

Clause 106: Lead enforcement authority: further provision

618 Clause 106(1) provides that the lead enforcement authority must oversee the operation of a redress scheme under this Part. "The lead enforcement authority" has the meaning set out in 98(8) and means either the Secretary of State, or another person designated by the Secretary of State as the lead enforcement authority.

619 Clause 106(2) provides that the lead enforcement authority must provide other enforcement authorities and the public in England with information and advice about the operation redress schemes. "Enforcement authority" has the meaning set out in Clause 108 and means: the lead enforcement authority; the Secretary of State; a local housing authority; or another person designated by the Secretary of State as an enforcement authority.

620 Clause 106(3) permits the lead enforcement authority to disclose information to another enforcement authority to assist in determining whether there has been a breach in regulations under Clause 98 (1).

621 Clause 106(4) and Clause 106(5) provides that the lead enforcement authority may issue guidance to other enforcement authorities about the exercise of their functions under this Part, and that enforcement authorities must have regard to this guidance.

622 Clause 106(6) sets out the powers of the Secretary of State in the case where the Secretary of State designates a person as the lead enforcement authority. Subsection(6)(a) provides that the Secretary of State may make arrangements in connection with the person's role as the lead enforcement authority, which may include arrangements for payments by the Secretary of State and about bringing the arrangements to an end. Subsection (6)(b) provides the Secretary of State may direct the lead enforcement authority about the exercise of any of its functions. Subsection (6)(c) provides that the lead enforcement authority must also keep under review, and advise the Secretary of State on, the operation of the redress scheme(s), and social or commercial developments relating to estate management in England it considers relevant to redress schemes.

623 Clause 106(7) provides that the Secretary of State may make regulations relating to transitional or saving provision including where there is a change in the lead enforcement authority.

624 Clause 106(8) provides that a statutory instrument containing regulations under this section is subject to the negative procedure.

Clause 107: Guidance for enforcement authorities and scheme administrators

625 Clause 107(1) provides that the Secretary of State may issue or approve guidance for enforcement authorities in England and administrators of redress schemes about co-operation between them.

626 Clause 107(2) requires an enforcement authority in England to have regard to any guidance issued or approved under this section.

627 Clause 107(3) requires the Secretary of State to exercise the powers in Clause 101 to ensure that the redress scheme administrator(s) has regard to any guidance issued or approved under this section.

Clause 108 - Part 6: amendments to other Acts

628 Clause 108 introduces new Schedule 12 which makes amendments to the Local Government Act 1974, the Housing Act 1996, and the Building Safety Act 2022 in connection with Part 5 of the Bill.

Clause 109: Interpretation of Part 6

629 Clause 109 provides for the interpretation of Part 4A. It interprets, or gives meaning to, the following terms: "complaints under a voluntary jurisdiction"; "dwelling", "enforcement authority", "estate management"; "estate manager", "the lead enforcement authority"; "local housing authority"; "long lease"; "owner"; "redress scheme"; "relevant capacity"; "relevant landlord"; "relevant obligation"; "rentcharge"; "voluntary mediation services", and "voluntary members".

Part 7 - Rentcharges

Clause 110: Meanings of "estate rentcharge"

630 Clause 110 amends the definition of "estate rentcharge" in section 2(4)(b) of the 1977 Act to cover improvements.

Clause 111: Regulation of remedies for arrears of rentcharges

631 Clause 111 provides remedies for arrears of rentcharges, where the rentcharge remains unpaid for a period of 40 days. Clause 111 (1) details that the Law of Property Act 1925 is to be amended with this new section.

632 Clause 111(2) inserts new sections 120A, 120B, 120C, 120D and 122A into the Law of Property Act 1925 ("the 1925 Act").

633 New section 120A defines various terms used throughout this Clause. New section 120A (1) details that for new sections 120B to 122, a rentcharge is "regulated" if it is a rentcharge that could not be created under section 2 of the 1977 Act; it relates to historic rentcharges.

634 New section 120A (2) defines, for the purposes of sections 120B and 120C, "charged land" means the land which is, or the land the income of which is, charged by the rentcharge. It also set outs out the meaning of "demand for payment" as meaning a notice under section 120(1)(a) demanding payment of regulated rentcharge arrears, and "landowner" is defined as,

in relation to a sum that is charged by rentcharge, meaning the person who hods the charged land.

635 New section 120A (2) also sets out the meaning of "regulated rentcharge arrears" means a sum charged by a regulated rentcharge that is unpaid after the time appointed for its payment. This new section also sets out the definition of "rent owner" as, in relation to a sum that is charged by rentcharge, meaning the person who hold title to the rentcharge.

636 New section 120B (1) details that no action to recover or require payment of regulated rentcharge arrears may be taken unless (a) a notice has been served by the rent owner to the landowner demanding payment of the rentcharge arrears; (b) the demand complies with the requirements of new section 120B(2); (c) the demand for payment either (i) complies with the requirements of new section 120B(3) or (ii) does not need to comply with those requirements and (d) the period of 30 days, which begins on the day that the demand is served, has ended.

637 New section 120B (2) details that the demand for payment must set out (a) the name of the rent owner; (b) the address of the rent owner, with an address in England and Wales at which notices may be served on the rent owner by the landowner, if the rent owner address is not in England and Wales; (c) the amount of regulated rentcharge arrears; (d) how the amount has been calculated; (e) how to pay the amount.

638 New section 120B (3) details that the demand for payment must set out or be served with (a) a copy of the instrument that created the regulated rentcharge; (b) proof that the rent owner holds the title to the regulated rentcharge.

639 New section 120B (4) details that the demand for payment complies with new section 120B(3)(b) if (a) the demand includes a copy of the registered title, where the rent owner's title to the registered charge is registered at Land Registry or (b) the demand includes copies of instruments by which title to the rent charge has passed to the rent owner, where the title to the regulated charge is not registered at Land Registry.

640 New section 120B (5) details that a demand for payment served by a rent owner on a landowner in relation to a regulated rentcharge does not need to comply with new section 120B(3) if: (a) a previous demand for payment served by the rent owner on the landowner in relation to the rentcharge complied with new section 120B(3); and (b) there has been no material change in the matters of new section 120B(3) since the previous demand was served.

641 New section 120B (6) details that no sum is payable by the landowner for the preparation or service of a demand for payment, which includes getting or preparing documents or copies to comply with new section 120B(3).

642 New section 120B (7) sets out that new section 120B applies to the action to recover or compel payment of rentcharge arrears whether the action is authorised by this Act or is otherwise available, including bringing proceedings.

643 New section 120C inserts into the 1925 Act relates to additional requirements for the service of notice under section 120B. New section 120C(1) details that new section 120C applies if (a) notice served under new section 120B demanding the payment of rentcharge arrears is served in compliance with the requirements of section 196 (3) or (4), but (b) the address the notice is left at or sent to, in compliance with those requirements is not the charged land.

644 New section 120C(2) details that the notice is sufficiently served only if, in addition to complying with existing requirements under section 196(3) or (4) of the 1925 Act, (a) it is left for the landowner on the charged land or (b) it is sent by post in a registered letter addressed to the landowner, by name, at the charged land, with the letter not being returned

undelivered by the postal operator; and the serving of the notice will be deemed to be made at the time the registered letter would be delivered.

645 New section 120D inserts into the 1925 Act new administrative charge provisions relating to regulated rentcharge arrears. New section 120D (1) confers powers on the Secretary of State to set out in regulations a limit of the amounts payable by landowners, directly or indirectly, in relation to the action of recovering or requiring payment of regulated rentcharge arrears.

646 New section 120D (2) details that regulations under this section may provide that no amount is to be payable by landowners in respect of particular descriptions of action to recover or compel payment of regulated rentcharge arrears. New section 120D (3) details that regulations under this section may make (a) different provisions for different cases; (b) transitional or saving provision. New section 120D (4) details that regulations will be made by statutory instrument and (5) details that the negative resolution procedure will be used.

647 Clause 59(3) inserts new subsection(1A) into section 121 of the 1925 Act. New subsection(1A) details that where a sum is charge as a regulated rentcharge, the rent owner does not have any remedies for recovering or compelling payment of the sum on and after 27 November 2023 (the date of the first reading of the Bill).

648 Clause 59(4) inserts new subsection(1A) into section 122 of the 1925 Act. New subsection(1A) details that on and after27 November 2023 (the date of the first reading of the Bill), such a rentcharge or another annual sum may not be granted, reserved, charged or created out of or on another rentcharge if it is a regulated rentcharge.

649 Clause 59(5) details that the amendments made by subsections (1) to (4) are to be applied to both rentcharge arrears that have arisen before and after these changes come into force.

650 Clause 59(6) inserts new section 122A into the 1925 Act. New section 122A details that an instrument creating a rentcharge or a contract or any other arrangement is of no effect to the extent that it makes provision that is contrary to (a) section 120B, 120C, 121 (1A) or 122 (1A) or (b) regulations under section 120D.

Part 8 – Amendments of Part 5 of the Building Safety Act 2022

Clause 112: Steps relating to remediation of defects

651 The 2022 Act made clear that a relevant landlord is responsible for the safety and upkeep of a building. There have been instances where relevant landlords are unsure about whether to take responsibility for relevant steps needed for their buildings such as fire sprinklers, waking watches and simultaneous evacuation alarms.

652 Clause 112 amends section 120 and Schedule 8 of the 2022 Act, to place beyond doubt in law that relevant steps fall within a relevant landlord's responsibility. The amendment clarifies that relevant steps can be included in orders under sections 123 (remediation orders) and 124 (remediation contribution order), which ensures that leaseholders are protected. The relevant landlord is responsible for remediying (or, where applicable, taking mitigating steps in relation to) relevant defects in a building. A developer or previous landlord can be required to contribute to the costs of remedying (or, where applicable, taking mitigating steps in relation to) relevant defects. Costs will be recoverable, both retrospectively and prospectively, under remediation contribution orders.

653 Subsection (4A) introduces a definition of 'relevant steps'. These are essentially preventative or mitigating steps that can be taken to reduce the risk and/or severity of any incident resulting from a relevant defect.

654 Schedule 8 is amended to omit the definitions of "building safety risk" and "relevant risk" and substitute the definition of "relevant measure" to include reference to "relevant steps" as defined in section 120.

Clause 113: Remediation orders

655 There is currently a lack of clarity in section 123 of the 2022 Act for First-tier Tribunal (FTT) Judges when making remediation orders. This provision is aimed at providing more clarity for the FTT when making remediation orders, and thereby improve their functionality and improve take-up.

656 Clause 113 amends section 123 of the 2022 Act. The existing s.123(2) is amended to include provision that a remediation order can require a relevant landlord to take relevant steps (defined in Clause 112) instead of, or in addition to, remedying a relevant defect where practical.

657 Subsection (6) is amended to signpost the relevant definitions required to interpret this section.

658 Subsection (8) provides that the FTT may order as part of a remediation order, and enforce, the production of an expert report by a relevant landlord. The FTT's direction is enforceable with the permission of the County Court (in the same way as a court order is enforceable) pursuant to the existing subsection (7).

659 Subsection (9) defines an expert report as a report or survey relating to relevant defects, or potential relevant defects, in a relevant building, and relevant steps that might be taken in relation to a relevant defect (details of necessary works for example).

Clause 114: Remediation contribution orders

660 This power is aimed at providing more clarity for the FTT when making remediation contribution orders, to improve their functionality and take-up, equivalent to the way Clause 113 amends remediation orders.

661 Clause 114 amends section 124 of The 2022 Act. New subsection (2A) sets out descriptions of "costs" as referred to in the existing subsection (2). These are examples of costs which can be recovered under a remediation contribution order.

662 New subsection (2B) provides the Secretary of State with the power to make regulations specifying descriptions of costs which are, or are not, to be regarded as falling within subsection (2). This delegated power effectively enables the Secretary of State to supplement the description of costs incurred in remedying (or taking relevant steps in relation to) relevant defects, to specify certain costs as inside or outside the scope of the remediation contribution order, as is deemed appropriate.

663 Subsection (3) is amended to clarify that the person set out in existing subsections (3)(a) to (d) can be specified as a person required to make payments under a remediation contribution order. The "person" may be a current landlord, a previous landlord, a developer or an entity associated with any of the above.

664 Subsection (4) is amended to clarify that if a remediation contribution order does not require the making of payments of a specified amount, the order may determine that a specified body corporate or partnership is liable for the reasonable costs of specified things done or to be done.

665 Subsection (5) is amended to insert definitions of "expert report", "relevant steps", "temporary accommodation costs" and "works". Local Authorities will have the ability to apply to the FTT for a remediation contribution order to recoup costs associated with temporarily rehousing vulnerable residents whose building has to be decanted, where they have not received financial support for housing from responsible relevant landlords.

666 These clauses will apply, in relation to proceedings for a remediation contribution order (under section 124 of The 2022 Act) which are pending, on the day on which the amendments come into force (as well as proceedings for such an order which are commenced on or after that day) and, in relation to costs incurred, before as well as after those amendments come into force.

Clause 115: Recovery of legal costs etc through service charge

667 Clause 115 amends paragraph 9 of Schedule 8 of The 2022 Act by inserting new subsections 9(1A), 9(3) and 9(4).

668 New subsection (1A) disapplies the existing prohibition in paragraph 9 of Schedule 8 against recovery of legal and other professional fees by permitting Management Companies to recover, via the service charge when the lease permits, legal and other professional costs incurred in connection with an application or a possible application for or relating to a remediation contribution order.

669 New subsection (3) defines 'management company' to mean a resident management company or a right to manage company within the meaning of Chapter 1, Part 2 of the Commonhold and Leasehold Reform Act 2002.

670 New subsection (4) goes on to define a 'resident management company'.

671 Clause 115 is not retrospective and will not apply to legal or professional services obtained for a remediation contribution order before the section comes into force. Clause 115 will only apply where the lease currently allows for recovery of such costs through the service charge provisions in the lease. It is not creating a new right.

Clause 116: Repeal of section 125 of the Building Safety Act 2022

672 Clause 116 omits section 125 of the 2022 Act. Section 125 of the 2022 Act contains provisions about meeting the remediation costs of insolvent landlord.

Clause 117: Higher-risk and relevant buildings: notifications in connection with insolvency

673 Clause 117 is aimed at improving regulator awareness of buildings where the person with repairing obligations relating to a relevant or higher risk building is insolvent.

674 Section 125A imposes a new duty on insolvency practitioners to notify local and fire and rescue authorities and, in relation to higher risk (18m+) buildings, the Building Safety Regulator - if they are appointed in relation to the insolvency of a person with repairing obligations for a relevant or higher risk building (known as a "responsible person"). This will allow local and fire and rescue authorities or the Building Safety Regulator, at their discretion, to meet with the insolvency practitioner and/or leaseholders and inspect the building to make sure it is being managed appropriately and that leaseholders are safe.

675 Subsection (2) sets out who the responsible person is for a higher risk building and, separately, a relevant building (which is not a higher risk building).

676 Subsection (3) sets out that the required information must be given to the local authority and fire and rescue authority for the area in which the building for which the person is

responsible, is situated. Subsection (5) requires that the required information must be provided within 14 days of the insolvency practitioner's appointment.

677 Subsection (4) provides that the insolvency practitioner must also inform the Building Safety Regulator where the building for which the person is responsible is a higher-risk building. Subsection (5) also applies to this subsection.

678 Subsection (6) describes the required information that the insolvency practitioner must provide under subsections (3) and (4).

679 Subsection (7) clarifies that a local authority or fire and rescue authority need only be notified about buildings, or registered estates or interests in buildings, in their area.

680 Subsections (8) and (9) set out definitions which apply to the clause.

Part 9 – General

Clause 118: Interpretation of references to other Acts

681 Clause 118 sets out the meaning of terms used throughout the Act.

Clause 119: Power to make consequential provision

682 Clause 119 allows the Secretary of State to make consequential amendments by affirmative regulations as regards amendments to primary legislation (i.e. an Act) and to make consequential amendments to any other legislation by regulations subject to annulment by a resolution of either House of Parliament in accordance with the negative procedure.

Clause 120: Regulations

683 Clause 120(1) provides that where regulations are made under this Act, those regulations may make consequential, supplementary, incidental, transitional or saving provision. Clause 120(1)(b) also allows regulations to make different provision for different purposes.

684 Clause 120(2) clarifies that a power to make regulations under Part 6 (leasehold and estate management: redress schemes) also includes a power to make different provisions for different areas.

685 Clause 120(3) clarifies that regulations under this Act are to be made by statutory instrument.

686 Clauses 120(4) and (5) define the "affirmative" and "negative" scrutiny procedures that apply to the making of regulations under the Act whether made by the Secretary of State or by the Welsh Ministers.

687 Clause 120(6) provides that if a draft statutory instrument containing regulations under Part 6 (leasehold and estate management: redress schemes) would be treated as a "hybrid instrument", it is to proceed as if it were not a hybrid instrument.

688 Clause 120(7) is self-explanatory.

Clause 121: Extent

689 Clause 121 sets out the territorial extent of this Act, that is the jurisdiction which the Act forms part of the law. In addition, amendments and repeals made by this Act have the same territorial extent as the legislation that they are amending or repealing.

Clause 122: Commencement

690 Clause 122(1) specifies the parts of the Bill which come into force on the day on which the Act is passed.

691 Clause 122(2) lists provisions which will commence two months after Royal Assent. Clause 122(3) provides that other provisions of the Act come into force on the day that this Act is passed.

692 Clause 122(4) gives a power to make regulations which include transitional or saving provision in connection with the coming into force of any provision of the Act. Clause 122(5) confirms that the power to make regulations under this section includes power to make different provision for different purposes. Clause 122(6) is self-explanatory.

Clause 123: Short title

693 Clause 123 provides that the Act may be cited as the Leasehold and Freehold Reform Act 2024.

Schedule 1 Leasehold houses

Parts 1 & 2: Categories of permitted lease for tribunal and self-certification

694 This schedule contains two Parts; Part 1 provides details of permitted lease categories where tribunal certification is required, and Part 2 provides details of permitted lease categories where self-certification applies.

695 Paragraphs 1 to 4 are contained within Part 1 of the Schedule and paragraphs 5 to 9 are contained within Part 2.

696 Paragraph 1 details that a lease granted out of a historic leasehold estate, is a lease granted out of a leasehold estate acquired by the vendor before 22 December 2017, or a lease granted out of an agreement for lease entered into before 22 December 2017.

697 Paragraph 2 states that the permitted lease definition for community housing leases may include Community Land Trusts, co-operatives, or a lease of a description that meets any further conditions specified in regulations by the Secretary of State. These regulations are subject to the negative procedure.

698 Paragraph 3 clarifies the permitted lease definition for retirement housing leases. This lease must meet certain conditions including a minimum age restriction for the tenant, and that all the leasehold houses within that development scheme must also be held on a retirement lease. Paragraph 3 states that further conditions may be specified in regulations by the Secretary of State and these regulations are subject to the negative procedure.

699 Paragraph 4 details the permitted lease definition for certain National Trust leases as a lease comprising a house specified in (a) Part 1 of Schedule 1 of the National Trust Act 1907 or (b) section 8 of the National Trust Act 1939.

700 Paragraph 5 defines leases agreed before commencement of the Act as a lease granted out of an agreement for lease entered into before Section (Ban on grant or assignment of certain long residential leases of houses) comes into force.

701 Paragraph 6 details the permitted lease definition for shared ownership leases, as being a shared ownership lease that meets conditions A to D. Subparagraph (2) details that conditions C and D do not to be met if the shared ownership lease is of a description specified for this purpose in regulation made by the Secretary of State. These regulations are subject to the negative procedure.

702 Paragraph 7 details the permitted lease definition for home finance plan leases. Subparagraph (1) refers to a lease that (a) is a home finance plan and (b) meets any further conditions specified in regulations made by the Secretary of State, with Subparagraph (5) confirming that regulations made under sub-paragraph (1)(b) are subject to the negative procedure.

703 Paragraph 8 defines an extended lease, as an extended lease that falls within any of cases A to C detailed in the schedule.

704 Paragraph 9 details the permitted lease definition for agricultural leases as a lease where the house is comprised in (a) an agricultural holding within the meaning of the Agricultural Holdings Act 1986 which is held under a tenancy to which that Act applies, or (b) a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995.

Schedule 2: Financial penalties

705 The Schedule details the processes that must be followed when an enforcement authority imposes a penalty. It includes the types of notices to be served, the right to appeal and treatment of penalties.

706 Paragraphs 1, 4, and 5 state the information that must be contained in any notice served by an enforcement authority relating to a penalty, while paragraph 2 states the time limits for issuing a notice of intent.

707 Paragraphs 3 and 6 set out the right for a recipient of an enforcement authority's notice to make written representation and to make an appeal to the appropriate tribunal (First-tier Tribunal in England, Leasehold Valuation Tribunal in Wales).

708 Paragraphs 7, 8 and 9 deal with the recovery and proceeds of penalties, and paragraph 10 confers a power on the Secretary of State to amend regulations on the manner for providing a notice.

709 Paragraph 11 contains an interpretation for the Schedule.

Schedule 3 - Eligibility for enfranchisement and extension

710 Paragraph 1 repeals the sections of the LRA 1967 and the LRHUDA 1993 that allow a landlord to defend a lease extension claim (for a house or a flat) or a collective enfranchisement claim because they intend to redevelop the property.

711 Paragraph 2 repeals the power in the LRA 1967 for the landlord to defeat a freehold acquisition or lease extension claim and retake possession of the property so that the landlord or their family can reside in it.

712 Paragraph 3 repeals the power in the LRA 1967 for a Minister to certify that property belonging a public authority is needed for development and thereby prevent a tenant of the property bringing a lease extension or freehold acquisition claim.

713 Paragraphs {4} and {5} amend the LRA 1967 and the LRHUDA 1993 respectively to make provision for an exemption for a tenant whose landlord is a certified community housing provider from (a) the right to acquire the freehold under the LRA 1967 and (b) qualifying for the right to collective enfranchisement under the LRHUDA 1993. The amendments insert a new section 4B into the LRA 1967 and a new section 8B into the LRHUDA 1993 which set out when and how a person may obtain a certificate from the tribunal which will make them a "certified community housing provider". These sections also make provision for the cancellation of community housing certificates.

714 Paragraph 6 removes the limitations in the LRA 1967 and the LRHUDA 1993 that prevent a sublessee from claiming a lease extension if their sublease was granted by an intermediate leaseholder out of a lease that had been extended under the relevant Act.

715 Paragraph {7} repeals and replaces section 32 of the LRA 1967 with new sections 32 and 32ZA. New section 32 provides that tenants of inalienable National Trust property ("National Trust tenants") have the right to a 990-year lease extension (unless they have a protected National

Trust tenancy) but continue to have no right to acquire the freehold of their property. Where a National Trust tenant exercises the right to a 990-year lease extension, new section 32(8) requires the new tenancy to contain a "buy-back term" which gives the National Trust the right to buy back the lease in certain circumstances. Under new section 32(5), some National Trust tenants with protected National Trust tenancies – who do not therefore have the right to a 990-year lease extension – continue to have the right to a 50-year lease extension under the LRA 1967 as it existed prior to amendment by this Act. New section 32ZA sets out when a tenancy is a protected National Trust tenancy.

716 Paragraph {8} repeals and replaces section 95 of the LRHUDA 1993 with new sections 95 and 95A. New section 95 provides that tenants of inalienable National Trust property have the right to a 990-year lease extension (unless they have a protected National Trust tenancy) but continue to have no right to acquire the freehold of their property. Where a National Trust tenant exercises the right to a 990-year lease extension, new section 95(5) requires the new lease to contain a "buy-back term" which gives the National Trust the right to buy back the lease in certain circumstances. New section 95A sets out when a lease is a protected National Trust tenancy.

717 Paragraphs 9 to 39 make consequential amendments of the LRA 1967 and the LRHUDA 1993 that are necessary because of the repeals and amendments in paragraphs 1, 2, 3 and 6.

Schedule 4 - Determining and sharing the market value

Part 1: Introduction

718 Paragraph 1(1) provides that Schedule 4 must be followed when calculating the market value element of the premium for any enfranchisement claim, namely acquiring the freehold of a house, extending the lease of a house, acquiring the freehold of a block of flats or extending the lease of a flat.

719 Paragraph 1(2) provides that Schedule 2 also sets out how to divide the premium into shares where loss is suffered by multiple landlords.

Part 2: The Market Value

720 Paragraph 2 sets out that the premium (under Schedule 4) in a freehold acquisition claim (under either the LRA 1967 or the LRHUDA 1993), is the open market value of acquiring the freehold of the premises subject to the claim.

721 Paragraph 3 sets out that the premium (under Schedule 4) in a lease extension claim (under either the LRA 1967 or the LRHUDA 1993) is the open market value of acquiring a notional lease with the following length: 990 years plus the years remaining on the leaseholder's lease when they claim the lease extension. The notional lease is for a peppercorn ground rent and is over the premises which are subject to the lease extension claim. It must also be assumed that the leaseholder's existing lease will continue until its expiry.

722 Paragraph 4 provides that Part 3 and 4 of Schedule 4 set out how the premium is to be determined, and that the premium in respect of different parts of the premises can be calculated in different ways.

Part 3: Determining the Market Value

723 Paragraph 5 sets out that, in general, the standard valuation method must be used to determine the value of acquiring the relevant freehold or notional lease. However, the standard valuation method is not required to be used where the property (or parts of the property) fall into paragraphs 6 to 13: kinds of property for which the standard valuation method is not compulsory.

724 Paragraph 6 sets out that the standard valuation method is not compulsory where the lease has five years or less remaining before it expires when the enfranchisement claim is made.

725 Paragraph 7 sets out that the standard valuation method is not compulsory for property comprised in a lease that is an excepted home finance plan lease, as defined by the Leasehold Reform (Ground Rent) Act 2022.

726 Paragraph 8 sets out that the standard valuation method is not compulsory if the lease is a "market rack rent lease". A market rack rent lease is defined as a lease which is granted for no (or a very low) premium, is at a market rack rent, and which the parties intend to be at a market rack rent.

727 Paragraph 9 sets out that the standard valuation method is not compulsory for parts of the property which are included in the enfranchisement claim under section 2(4) of the LRA 1967 (property that was originally let to the leaseholder, but which is no longer owned by the leaseholder at the date of the enfranchisement claim).

728 Paragraph 10 sets out that the standard valuation method is not compulsory where there has been a pre-commencement lease extension of a house for 50 years at a modern ground rent.

729 Paragraph 11 sets out that the standard valuation method is not compulsory where there is a freehold acquisition or lease extension claim under the LRA 1967 in respect of a business tenancy (to which Part 2 of the Landlord and Tenant Act 1954 applies).

730 Paragraph 12 sets out that the standard valuation method is not compulsory where there is a freehold acquisition of a house by a shared ownership leaseholder under the 1967 Act. A 1967 Act freehold acquisition of a house by a shared ownership leaseholder is only possible if the shared ownership lease does not meet the criteria in section 33B of the LRA 1967.

731 Paragraph 13 sets out that the standard valuation method only applies in a collective enfranchisement to a relevant flat (and appurtenant property leased with a relevant flat). A relevant flat is a flat demised to: a qualifying tenant; a person who would be a qualifying tenant but for section 5(5) and (6) of the LRHUDA (which exclude a tenant from being a qualifying tenant where they own the leases of three or more flats in the same building); or an intermediate leaseholder of flat (where that intermediate leaseholder is also the qualifying tenant of the flat). However, a flat will not be a relevant flat where it is let to an intermediate leaseholder whose lease is not being acquired, or where it is let to a shared ownership leaseholder.

732 Paragraph 14 provides that the standard valuation method can still be used to determine the value of the relevant freehold or notional lease, even when it is not compulsory to do so.

733 Paragraph 15 explains that property is subject to the standard valuation method if the method is required to be used or is used voluntarily.

Part 4: Assumptions And Other Matters Affecting Determination of Market Value

734 Paragraph 16 provides that Part 4 applies to the determination of the premium regardless of whether the standard valuation method is being used. Paragraph 16(2) provides that certain matters (under paragraph 22) must only be taken into account when the standard valuation method is being used.

735 Paragraph 17 sets out assumptions 1 and 2. Paragraph 17(1) explains that these assumptions must be made when determining the value of the relevant freehold or notional lease.

736 Paragraph 17(2) sets out assumption 1, under which various leases are treated for valuation purposes as merged with the freehold (in freehold acquisition claims) or with the interest of

the person granting the lease extension (in lease extension claims). The leases which fall within assumption 1 are those which, under the LRA 1967 or the LRHUDA 1993, are acquired in a freehold acquisition claim or are deemed surrendered and regranted in a lease extension claim. The effect of assumption 1 is that the presence of intermediate leases in a property will not generally have an effect on the premium.

737 Paragraph 17(3) sets out assumption 2, which has the effect of ensuring that marriage value and hope value do not form part of the premium. Marriage value is the additional value that may arise when the landlord's and leaseholder's separate interests are joined into single ownership. Hope value is the additional value that may arise from the potential for marriage value to be realised in the future.

738 Paragraph 17(4) provides that other assumptions can be made when determining the market value, so long as they are consistent with assumptions 1 and 2.

739 Paragraph 18 sets out that assumption 3 applies when calculating the premium in a freehold acquisition claim under the LRA 1967 and a lease extension clause under the LRA 1967 or LRHUDA 1993. This. This assumption has two parts:

a. First, it must be assumed that the leaseholder has complied with the repairing obligations in their lease. As a result, a leaseholder's property which has fallen into disrepair (in breach of the repairing obligations in the lease) will not be devalued, and so their premium will not be reduced by reason of their breach.

b. Secondly, it must be assumed that the leaseholder (or previous leaseholders) has not made any improvements to their property. As a result, the premium will not be increased because the leaseholder has, at their own expense, made improvements to their property so that it is more valuable.

740 Paragraph 18(3) provides that in the case of a freehold acquisition of a house under the LRA 1967, if section 3(3) of that Act applies (successive leases treated as a single lease), assumption 3 applies only to the lease that is in effect at the valuation date.

741 Paragraph 18(4) allows other assumptions to be made when determining the market value provided, they are consistent with assumption 3.

742 Paragraph 18(5) defines the term "tenant's repairing obligation", for the purposes of assumption 3.

743 Paragraph 19 sets out that assumptions 3 and 4 are to be used when calculating the premium for a collective enfranchisement claim. Paragraph 19(2) sets out that assumption 3 has two parts:

a. First, it must be assumed that the leaseholder has complied with the repairing obligations in their lease. As a result, a leaseholder's property which has fallen into disrepair (in breach of the repairing obligations in the lease) will not be devalued, and so their premium will not be reduced by reason of their breach.

b. Secondly, it must be assumed that the participating leaseholder (or previous leaseholders) has not made any improvements to their property. As a result, the premium will not be increased because the leaseholder has, at their own expense, made improvements to their property so that it is more valuable.

744 Paragraph 19(3) sets out assumption 4, under which it must be assumed that the freehold being acquired in the collective is subject to any leasebacks that will be granted under section 36 of the LRHUDA 1993 as part of the claim.

745 Paragraph 19(4) allows other assumptions to be made when determining the market value provided, they are consistent with assumption 3.

746 Paragraph 19(5) defines the term "tenant's repairing obligation", for the purposes of assumption 3.

747 Paragraph 20 sets out that the premium must be increased or reduced to reflect certain specified matters (when they arise) when determining the market value. Those specified matters include any defects in title to the relevant freehold or statutory lease, and any property rights that burden or benefit that title.

748 Paragraph 21 applies where a lease has five years or less remaining before it expires, where leaseholders of these leases have a right to remain in the property at the end of the lease under the Local Government and Housing Act 1989, and the right is likely to be exercised, the premium must be discounted to reflect that right. This paragraph also sets out that the discount does not apply to leases with more than five years remaining before expiry at the date of the enfranchisement claim. Paragraph 22 covers the two situations:

a. In a lease extension claim (under either the LRA 1967 or the LRHUDA 1993), where the standard valuation method is being used and the terms of the extended lease are different the terms of the leaseholder's existing lease, the premium must be increased or decreased to reflect the effect of the change in terms where necessary.

b. In a collective enfranchisement claim, where a qualifying tenant is also the owner of the immediately superior lease of their flat, the standard valuation method applies to the superior lease rather than the inferior lease.

Part 5: The Standard Valuation Method

749 Paragraph 23 introduces the standard valuation method set out in Part 5. The standard valuation method consists of steps 1 to 3, and there are two alternative versions of step 2 (depending on whether the claim is a freehold acquisition or lease extension claim).

750 Paragraph 24 sets out step 1: the determination of the "term value". The term value is the capital value of the landlord's right to receive ground rent for the remainder of the lease. The term value must be calculated in accordance with the provisions in Part 7 of Schedule 2. The rent that is to be used when calculating the term value is set out in paragraph 25. Paragraph 24 makes clear that where the ground rent in the lease is nil or a peppercorn, the term value is nil.

751 Paragraph 24 also makes provision for calculating the term value in respect of collective enfranchisements, as well as for where a leaseholder has two (or more) leases over the property that is subject to the enfranchisement claim (which are a "deemed single lease" under section 3(6) of the LRA 1967 or section 7(6) of the LRHUDA 1993): the term value must be calculated for each constituent lease.

752 Paragraph 25 sets out the rent which must be used when calculating the term value under paragraph 24, and a ground rent cap which applies in certain circumstances. Where the actual rent in the lease is higher than the "notional rent", the term value must be calculated using the notional rent (rather than that actual rent). The notional rent is an annual rent of 0.1% of the open market value of the freehold (for LRA 1967 claims) or of the share of the freehold (for LRHUDA 1993 claims) of the relevant premises.

753 Despite the ground rent cap, the actual rent must be used to calculate the term value in two exceptional circumstances: where the tenant did not pay a premium for their lease; and where

the seller can show that the lease was specifically negotiated to be at a high ground rent, in order to compensate for a corresponding reduction to the premium.

754 If the lease being valued is a shared ownership lease, paragraph 25 sets out that the rent that is to be used for the calculation of the term value under paragraph 24 is the rent payable on the tenant's share.

755 Paragraph 25(2) also limits the rent that is relevant to calculating the term value to rent which is payable only in respect of property that is subject to the standard valuation method. For example:

> A leaseholder has a single lease of a house and a neighbouring field. Under the lease, the leaseholder pays £60 ground rent per year. £50 is ground rent for the house, and £10 is ground rent for the field.
>
> The leaseholder extends the lease of the house, but not of the neighbouring field. The property that is subject to the standard valuation method consists only of the house. As a result, the ground rent taken into account in calculating the term value is £50 per year.

756 Paragraphs 26 and 27 set out the two versions of Step 2, for freehold acquisitions and lease extensions respectively.

757 Paragraph 26 sets out step 2 for freehold acquisition claims (of houses or blocks of flats): the determination of the "reversion value". The reversion value is the market value of the premises subject to the standard valuation method, deferred until the expiry of the leaseholder's lease. Paragraph 26(2) requires the reversion value to be calculated by establishing the market value of the freehold (for LRA 1967 claims) or the share of the freehold (for LRHUDA 1993 claims) and reducing it through the reversion value formula (in which the applicable deferment rate must be used). There will be a separate reversion value for each qualifying tenant's lease in a collective enfranchisement.

758 Like paragraph 24, paragraph 26 provides that where the leaseholder has two (or more) leases that constitute a deemed single lease, there will be a separate reversion value for each of those leases.

759 Paragraph 27 sets out step 2 for lease extension claims (of houses or flats): the determination of the "reversion value". The reversion value is the market value of a 990-year lease granted at a peppercorn ground rent and on the same terms as the extended lease, deferred until the end of the term of the qualifying tenant's lease. Where the lease being valued is a shared ownership lease, the amount determined under step 2 must be reduced in proportion to the share of the property owned by the tenant. Paragraph 27 also makes provision for deemed single leases.

760 Paragraph 28 sets out step 3 for all calculations being carried out following the standard valuation method. Under Step 3, the term value and the reversion value must be added together. In the case of a collective enfranchisement, all the term values and all the reversion values must be added together. Paragraph 28(4) provides that the step 3 amount (adjusted, if necessary, in accordance with paragraph 20 and 22) is the market value to be paid for the part (or parts) of the property that are valued using the standard valuation method. Paragraph 28(5) provides that further sums may be payable in respect of the other parts of the premises (which are not subject to the standard valuation basis).

Part 6: Entitlement Of Eligible Persons to Shares of the Market Value

761 Part 6 is concerned with the apportionment of the premium which has been determined under Parts 1 to 5 of Schedule 4. It provides that the premium should be paid on a pro rata basis to all persons whose interests have been devalued or lost as a result of the enfranchisement claim.

762 Paragraph 29 provides that where there are two or more eligible persons, each is entitled to be paid a share of the premium. The share that each person is entitled to is determined using the formula provided, which involves taking the market value (calculated under Parts 1 to 5 of Schedule 4) and multiplying it by the total of that person's loss divided by the total losses suffered by all the eligible persons.

763 Paragraph 30 defines an eligible person for freehold acquisition claims (or houses or blocks of flats) as a person who has had the whole (or part) of their interest acquired in the claim. The paragraph also sets out that the eligible person's qualifying transaction is the acquisition (in whole or in part) of their interest.

764 Paragraph 31 defines an eligible person for the purposes of lease extension claims, as a person: (1) who has granted the extended lease out of (the whole or part of) their interest; (2) who has had their interest deemed surrendered and regranted as a result of the claim; or (3) who is the landlord under an intermediate lease which is varied as a result of the lease extension under paragraph 12A of Schedule 3 to the LRA 1967 or paragraph 12 of Schedule 11 to the LRHUDA 1993. The paragraph also sets out that the eligible person's "qualifying transaction" is the grant of the extended lease or, where applicable, the variation of the intermediate lease.

765 Paragraph 32 sets out how to determine what loss is suffered by an eligible person. Subparagraph (1) provides that their loss is the combination of any loss they suffer as a result of their qualifying transaction, and any other loss they suffer resulting from the reduction in value of any of the interests they own as a result of the enfranchisement claim. For example:

> A qualifying tenant of a flat extends their lease by 990 years. Their immediate landlord (the "intermediate leaseholder") has 150 years remaining on their lease. The extended lease is granted by the freeholder, and the intermediate leaseholder's lease is deemed surrendered and granted (and is subject to the extended lease).
>
> The intermediate leaseholder is an eligible person, as their interest has been deemed surrendered and regranted. The qualifying transaction is the deemed surrender and regrant of their intermediate lease.
>
> The loss they have suffered as a result of the deemed surrender and regrant is: (1) the qualifying tenant will no longer pay any ground rent to them (as the extended lease is granted for a peppercorn); and (2) they will not recover possession of the property at the end of the qualifying tenant's lease (as the extended lease is now longer than their intermediate lease).
>
> The freeholder is also an eligible person as the extended lease has been granted out of their interest. The qualifying transaction is the grant of the extended lease out of their interest. The loss they have suffered is that they will not recover possession of the

property for 990 more years following the lease extension than they would have done before it.

766 Subparagraph (2) provides that no marriage value or hope value is taken into account when each eligible person's loss is calculated, by requiring assumption 2 to be made in that calculation. Assumption 2 is set out at paragraph 17 of Schedule 4. Marriage value is the additional value that may arise when the landlord's and the leaseholder's separate interests are joined into single ownership. Hope value is the additional value that may arise from the potential for marriage value to be realised in the future.

767 Subparagraph (3) sets out that an eligible person cannot increase the value of their interest (and so increase the amount of loss they suffer) by entering into any transaction after the qualifying tenant's claim is made which involves the creation or transfer of interests (or any alteration of the terms of interests) superior to the qualifying tenant's interest.

768 Paragraph 33 defines a number of the terms used in Part 6 of Schedule 2.

Part 7: Determining the Term Value

769 Paragraph 34 provides that Part 7 is used to work out step 1 of the standard valuation method: determination of the term value.

770 Paragraph 35 is used to determine the term value where the ground rent that the leaseholder must pay is not subject to a rent review. The prescribed capitalisation rate, ground rent that the leaseholder pays, and length of time (in years) until the lease expires must be entered into the formula at paragraph 35(3). Where the ground rent is more than the "notional rent", the notional rent not the actual rent must be used in the formula. Paragraph 25 sets out that the notional rent is 0.1% of the open market value of the freehold (for LRA 1967 claims) or of the share of the freehold (for LRHUDA 1993 claims) of the relevant premises.

771 Paragraph 36 is used to determine the term value where the ground rent that the leaseholder must pay is subject to a rent review, and it is clear from the terms of the lease when and by what amount the ground rent will change. Paragraph 36(3) sets out the formula to be used to work out the term value in respect of the ground rent that is payable until the first rent review (after the date of the claim). Paragraph 36(5) sets out the formula to be used for all subsequent rent review periods. Where the ground rent is more than the "notional rent", the notional rent not the actual rent must be entered into the relevant formula.

772 Paragraph 37 is used to determine the term value where the ground rent that the leaseholder must pay is subject to a rent review, and the lease does not otherwise fall under paragraph 36. Paragraph 37(2) sets out the formula that must be used to determine the term value of these leases. It also sets out how to determine the amount by which the ground rent will change in two types of rent review provisions.; where neither is applicable to the lease being valued, the paragraph requires that amount to be determined in accordance with the terms of the lease. Where the ground rent is more than the "notional rent", the notional rent not the actual rent must be entered into the formula at paragraph 37(2).

773 Paragraph 38 defines a number of terms used in Part 7 of Schedule 2.

Schedule 5 - Other compensation

774 Schedule 5 sets out when and to whom other compensation is payable in addition to the premium determined under Schedule 4.

775 Paragraph 1 provides that other compensation can be claimed in any freehold acquisition or lease extension claim.

776 Paragraph 2(1) provides that the qualifying tenant must pay a person reasonable compensation where that person has an interest in property which is not subject to the freehold acquisition or lease extension claim and which is devalued by that claim. The qualifying tenant must also pay reasonable compensation for any other loss or damage to that person's other property that is caused by the claim. Subparagraph (2) provides that the loss or damage can include the loss of development value (in the property subject to the claim), to the extent that this loss is referable to that person's other property. Subparagraph 3 provides that, in determining the amount of compensation payable in a collective enfranchisement claim, it does not matter if the freeholder could have reduced their loss by requiring a leaseback to be granted to them but chose not to do so. Subparagraph 4 sets our relevant definitions of paragraph 2.

Schedule 6 – Schedule 4 and Schedule 5: Interpretation

777 Schedule 6 sets out the definitions of many terms used in Schedules 4 and 5.

Schedule 7 – Amendments consequential on section 36 and Schedules 4 to 6

778 Paragraphs {1 to 5} of Schedule 7 amend the LRA 1967 and the LRUHDA 1993 to make two changes, which apply where multiple landlords are affected by an enfranchisement claim.

a. First, where the overall price for the freehold or extended lease and all other relevant terms have been agreed between the tenant (or nominee purchaser) and the landlord who is responsible for the claim, the amendments ensure that the tenant (or nominee purchaser) can insist that the landlord completes the transfer or grant. The transfer or grant must take place even if the share of the price due to each individual landlord has not yet been agreed or determined.

b. Secondly, the amendments ensure that the landlord responsible for the claim can receive the entire price, which they will hold on behalf of themselves and all other affected landlords. The amendments remove the power of other landlords to insist on being paid their share of the price directly. But they provide a new protection for other landlords by giving them the power to insist that the whole price must be paid into the Tribunal rather than to the landlord responsible for the claim.

779 Paragraphs {6 to 30} make minor amendments to the LRA 1967 and the LRHUDA 1993 as a consequence of the valuation scheme in Clauses 33 to 35 and Schedules 4 to 6.

Schedule 8 – Leasehold enfranchisement and extension: Miscellaneous amendments

Part 1: LRA 1967 and LHURDA 1993

780 Paragraph 1 removes the restrictions in the LRA 1967 and the LRHUDA 1993 on the extent to which a tenant whose lease has been extended can enjoy various kinds of statutory security of tenure.

781 Given the removal of the restrictions on the enfranchisement rights of sublessees and rights to security of tenure in paragraph 1 of Schedule 8 and paragraph 4 of Schedule 3, paragraph 2 of Schedule 8 removes the obligation to state in an extended lease that is has been extended under the LRA 1967 or the LRHUDA 1993 (as applicable).

782 Paragraph 3, sub-paragraph (1), adjusts the periods in which a landlord can apply to terminate a lease of a house that has been extended under the LRA 1967 for the purposes of redevelopment (and on payment of compensation to the tenant). The new periods take account of the change from 50-year to 990-year lease extensions – see clause 32. The landlord can apply to retake possession:

a. in the last 12 months of the term of the tenant's original lease (before it was replaced by the new extended lease);

b. in the last five years of each 90-year period of the 990-year extension; and

c. in the last five years of each 90-year period of any further 990-year extension.

783 Sub-paragraph (2) makes the same adjustment to the periods for exercising break rights under the LRHUDA 1993 in relation to an extended lease of a flat.

784 Paragraph 4 repeals provisions of the 1967 Act that have become redundant due to other repeals.

785 Paragraph 5 repeals provisions of the LRA 1967 that concern the interaction between enfranchisement claims under the Act and the approval of estate management schemes under section 19. As estate management schemes can no longer be approved, these provisions are obsolete.

786 Paragraph {6} inserts new section 36A into the LRA 1967, and amends paragraph 5(2) of Schedule 4A to the LRA 1967, to make unified provision for the whole of the LRA 1967, clarifying the scope of the powers under the Act to make order or regulations.

787 Paragraph {7} repeals parts of paragraph 11 of Schedule 3 to the LRA 1967 (which lets intermediate leaseholders surrender their leases in certain circumstances during a lease extension claim) and replaces it by inserting a new paragraph 12A into Schedule 3 to the LRA 1967. Paragraph 12A enables the reduction of rent under intermediate leases as part of a lease extension claim over a house. Where a leaseholder obtains a lease extension under the LRA 1967, any rent payable for the house and premises under their lease will be reduced to a peppercorn (see clause 33(3)). Paragraph 12A provides that a tenant or landlord under a "qualifying intermediate lease" has a right to require that the rent for the house and premises under that intermediate lease, and any inferior qualifying intermediate leases, be reduced as a result of the lease extension.

788 Paragraph 12A(1) to {(5)} sets out when this right applies, and provides a definition of "qualifying intermediate lease".

789 Paragraph 12A{(6) and (7)} set out the amount by which the rent under the qualifying intermediate lease or leases is reduced, and paragraph 12A{(8)} provides a limit on any such reduction: an intermediate leaseholder's rental obligation to their landlord cannot be reduced under this paragraph by more than the reduction in the rent they receive from their tenant.

790 Paragraph 12A{(9)} defines a number of the terms used in the paragraph.

791 The following example illustrates the effect that paragraph 12A would have on the rents under a chain of leases and the operation of the limit in paragraph 12A{(8)}.

> The qualifying tenant ("QT") of a house pays their landlord ("IL3") £100 each year in ground rent. There are a series of further intermediate leaseholders ("IL2", and "IL1") above IL3 but below the freeholder ("FH") in the chain. The rent each of them owes to their landlord is as follows.

QT pays IL3: £100 per year

IL3 pays IL2: £50 per year

IL2 pays IL1: £100 per year

IL1 pays FH: £75 per year

QT makes a lease extension claim under the LRA 1967. FH gives notice to the other intermediate landlords that they must reduce the rent under their leases in accordance with paragraph 12A. Following the grant of the extended lease to QT and the variation of the ILs' leases, the rental obligations will be as follows.

QT pays IL3: peppercorn ground rent

IL3 pays IL2: peppercorn ground rent

IL2 pays IL1: £50 per year

IL1 pays FH: £25 per year

Despite the reduction of QT's and IL3's rent to a peppercorn, two intermediate leaseholders (IL2 and IL1) still have ground rents after the reduction. As IL2's rental income from IL3 is reduced by £50 per year, their rental liability to IL1 cannot be reduced by more than £50. And as IL1's rental income is consequently reduced by £50, their rental liability to FH cannot be reduced by more than £50.

792 Paragraph{8} inserts a new paragraph 12 into Schedule 11 to the LRHUDA 1993, which makes equivalent provision to new paragraph 12A, enabling the reduction of rent under intermediate leases as part of a lease extension claim over a flat.

Part 2: Shared ownership leases and the LRA 1967 etc

793 Paragraphs {9 to 11} amend the LRA 1967 to give shared ownership leaseholders lease extension rights. The amendment made by paragraph {11} ensures that shared ownership leaseholders do not need to have a tenancy at a low rent or meet any of the financial criteria in section 1(1)(a) of the LRA 1967 in order to qualify for the lease extension right.

794 Paragraph {12} inserts a new section 33B into the LRA 1967 which sets out four conditions which, if met, will mean that a shared ownership leaseholder will be excluded from freehold acquisition rights. The conditions relate to the terms of the shared ownership lease, specifically the provision they make for allowing the leaseholder to staircase to 100% and acquire the freehold.

795 Paragraph {13} inserts a new paragraph 12B into Schedule 1 to the LRA 1967 which makes provision about the sharing of future staircasing payments between the shared ownership provider and superior landlords in circumstances where a shared ownership leaseholder's lease extension is granted by a landlord superior to the shared ownership provider.

796 Paragraph {14} inserts a new definition of "shared ownership lease" and related terms into the LRA 1967.

797 Paragraph {15} makes amendments to the Housing and Planning Act 1986 that are consequential on the amendments to the LRA 1967 made by paragraphs {9 to 14}.

Part 3: Shared ownership leases and the LRHUDA 1993

798 Paragraphs {16, 17 and 19} amend the LRHUDA 1993 to give shared ownership leaseholders lease extension rights.

799 Paragraph {18} inserts a new section 5A into the LRHUDA 1993 which sets out four conditions which, if met, will mean that a shared ownership leaseholder will not be a qualifying tenant for the purposes of a collective enfranchisement claim. The conditions relate to the terms of the shared ownership lease, specifically the provision they make for allowing the leaseholder to staircase to 100%.

800 Paragraph {20} makes an amendment to section 77 of the LRHUDA 1993 that is consequential on the definition of "shared ownership lease" being inserted into section 101 of the LRHUDA 1993 (see paragraph {23}).

801 Paragraph {21} inserts a new paragraph 3A into Schedule 9 to the LRHUDA 1993, under which the nominee purchaser is required as part of a collective enfranchisement claim to grant a leaseback of a shared ownership leaseholder's flat to the freeholder if they are the shared ownership provider.

802 Paragraph {22} inserts a new paragraph 10A into Schedule 11 to the LRHUDA 1993 which makes provision about the sharing of future staircasing payments between the shared ownership provider and superior landlords in circumstances where a shared ownership leaseholder's lease extension is granted by a landlord superior to the shared ownership provider.

803 Paragraph {23} inserts a new definition of "shared ownership lease" and related terms into the LRHUDA 1993.

Part 4: Other legislation

804 Paragraph {24} repeals provisions of the CLRA 2002 that have not been commenced. They would have required, in collective enfranchisement claims, the freehold to be acquired by a Right to Enfranchise company.

Schedule 9 – Right to vary lease to replace rent with peppercorn rent

805 Paragraph 1 explains the purpose of Schedule 9, which is to confer on a qualifying tenant the right to buy out their ground rent ("the right to a peppercorn rent"). The exercise of the right involves a variation of the tenant's lease permanently to replace the (relevant part of the) rent with a peppercorn rent.

806 Paragraph 2, sub-paragraphs (1) to (4) set out that tenants who qualify for a lease extension under the LRA 1967 or LRHUDA 1993 also have a right to a peppercorn rent.

807 However, under sub-paragraph (2), the tenant must have at least 150 years left on their lease to qualify. Additionally, community housing leases and home finance plan leases, which were excepted by the Leasehold Reform (Ground Rent) Act 2022, do not qualifying for the right to a peppercorn rent.

808 Under sub-paragraphs (3)(b) and (4)(b), tenants who do not have a lease extension right because they have a tenancy of Crown land, or because they do not satisfy the low rent or rateable value tests in the LRA 1967, can still qualify to claim a peppercorn rent.

809 Under sub-paragraphs (5) and (6), the right to a peppercorn rent only applies to the part of the rent relating to the property that would be included in a lease extension under the LRA 1967 or LRHUDA 1993. If a qualifying lease also includes additional property, the tenant cannot

reduce the rent relating to that additional property to a peppercorn. For example, if a tenant has a long residential lease of a house plus neighbouring farmland, they can reduce the part of their rent that relates to the house to a peppercorn but cannot reduce any part of their rent that relates to the farmland.

810 Under sub-paragraphs (7) and (8), if the qualifying lease is a shared ownership lease, the right to a peppercorn rent only applies to the rent payable under the lease in respect of the tenant's share in the property (so any rent paid by the shared ownership leaseholder in respect of the landlord's share is not affected by a claim for a peppercorn rent). Sub paragraph (9) outlines key definitions.

811 Paragraph 3(1) provides that the right to a peppercorn rent is exercised by serving a "rent variation notice" on the landlord and any other party to the lease (for example, a management company). However, under sub-paragraph (2), a claim for a peppercorn rent cannot be made if the tenant is making or participating in an ongoing lease extension or freehold acquisition claim in relation to the property. Sub-paragraph (3) clarifies that Paragraph 4 makes provision about the suspension of a rent variation notice.

812 If the right to a peppercorn rent only applies to some property let under the tenant's lease, sub-paragraphs (4) and (5) state that the tenant must identify the relevant property in their rent variation notice. Under sub-paragraph (6), the notice must also state what premium the tenant proposes to pay and what other variations may be needed to the lease as a consequence of the reduction in rent (for example, the removal of a rent review clause).

813 Sub-paragraphs (7) to (9) deal with how a claim for a peppercorn rent can be protected so it will continue to be effective if the landlord disposes of their interest in the property, and how a tenant can assign an ongoing claim if they sell their lease.

814 Paragraph 4 addresses cases in which a tenant of a flat makes a claim for a peppercorn rent, but other tenants in the building bring (or are already bringing) a collective enfranchisement claim to acquire the block of flats. Paragraph 4 provides for the claim for a peppercorn rent to be suspended until the collective enfranchisement claim is completed.

815 Paragraph 5 requires the landlord to reply to the tenant's notice with a counter-notice before the end of the response period specified in the tenant's notice. The landlord must be given at least two months to respond. The counter-notice must explain whether or not the landlord admits that the tenant had the right to a peppercorn rent on the relevant date, and whether or not they admit that the right applies to the portion of the rent in respect of which the right is claimed. The landlord must also respond to the proposed premium and any other consequential variations which the tenant wants to make to the lease.

816 Paragraph 6 applies where the landlord raises a dispute in their counter-notice or where the landlord fails to give a counter-notice. Sub-paragraphs (1) and (2) allow the landlord or the tenant to apply to the tribunal to resolve the issue if the landlord's counter-notice disputes whether the tenant has the right to a peppercorn rent, what rent that right applies to, the premium or any consequential amendments of the lease. Sub-paragraph (4) allows the tenant to apply to the tribunal to determine their claim if the landlord fails to give a counter-notice. In either case, the application must be made within six months of the counter-notice or the date on which the counter-notice should have been given.

817 Paragraph 7 applies if the landlord admits or the tribunal determines that the tenant has a right to a peppercorn rent and all the terms of the variation of the lease (including the premium) are agreed or determined. (However, where there are several landlords, their individual shares of the premium do not have to have been determined.) The rent variation notice is then "enforceable". Under sub-paragraph (2), on payment of the premium, the

landlord and tenant must execute the variation of the tenant's lease. Under sub-paragraph (4), the variation must put in the place the peppercorn rent agreed with the landlord or, where appliable, determined by the tribunal.

818 Sub-paragraphs (5) and (6) specify what premium is payable in exchange for the variation of the lease. The premium is the value of the landlord's right to receive the rent that is replaced with a peppercorn rent. Subject to the three specified exceptions, the premium is the same as the "term" portion of the premium payable on a lease extension under paragraph 24 of Schedule 4.

819 Paragraph 8 enables the reduction of rent under intermediate leases where a tenant is exercising the right to a peppercorn rent. Paragraph 8 matches the equivalent provisions that apply to lease extensions – see paragraphs {7} and {8} of Schedule 6. It allows the landlord or tenant under a relevant intermediate lease to give notice requiring the variation of their lease, and all inferior intermediate leases, to reduce their rent. The reduction in rent will account for the loss in rental income from the qualifying tenant. Under sub-paragraph (8), an intermediate leaseholder's rental obligation to their landlord cannot be reduced under this paragraph by more than the reduction in the rent they receive from their tenant. Under sub-paragraphs {(9) and (10)}, a landlord under an intermediate lease who suffers loss due to the variation of their lease is entitled to a share of the premium proportional to their loss.

820 Paragraph {9} gives the tribunal the power to resolve disputes about the variation of intermediate leases under paragraph 8. It also empowers the tribunal to ensure that rent variation notices can be validly served where a landlord is missing, and, where necessary, to order that variations of intermediate leases can be executed by a person appointed by the tribunal.

821 Paragraph {10} explains that, where a qualifying lease is not varied in accordance with paragraph 7, the landlord or tenant can apply to the tribunal. The application must be made within four months. The Tribunal –

a. can order that the rent variation notice is to cease to have effect; or

b. can make a suitable order to ensure the variation takes place. The tribunal's power includes ordering that the variation of the lease should be executed by a person appointed by the tribunal in place of the landlord.

822 Paragraph {11} deals with cases in which the landlord under the qualifying lease (or a third party to the lease) is missing. It enables the tribunal to make an order dispensing with any requirement to serve the rent variation notice on the landlord or third party. It also gives the tribunal the power to order that the variation of the qualifying lease should be executed by a person appointed by the tribunal in place of the landlord or third party.

823 Paragraph {12}(1) sets out the circumstances in which a rent variation notice ceases to have effect – for example where the notice is withdrawn (sub-paragraph (a)), where the tribunal declares the right is not exercisable (sub-paragraph (e)), or where a time limit for applying to the tribunal expires (sub-paragraphs (f) and (g)). If the notice ceases to have effect, then, under sub-paragraph (2), the landlord is under no further obligation to deal with the claim.

824 Paragraph {13} contains the general costs rule that applies to claims for a peppercorn rent. The tenant (or a former tenant) is not liable for any costs incurred by another person because of such a claim. Sub-paragraph (3) prevents arrangements to the contrary; however, sub-paragraph (5) ensures a former tenant and their successor in title may agree how to split their costs. The general rule does not apply to litigation costs awarded by the court or tribunal (see sub-paragraph (4)).

825 Paragraphs {14 and 15} set out two exceptions to the general costs rule in paragraph 12. These exceptions parallel those which apply to enfranchisement claims under clauses 37 and 38.

a. Under paragraph {14}, a tenant will be liable to pay the landlord a prescribed amount of costs if their claim ceases to have effect under paragraph {12}. However, these costs are not payable if the claim ceases to have effect (a) because it succeeds, or (b) due to the application of section 55 of LHRUDA 1993 where the tenant's house or flat is subject to compulsory purchase.

b. Under paragraph {15}, a tenant will be liable to pay the landlord an amount in costs if the premium payable under paragraph 7 for the variation of their lease is less than a prescribed amount. Where the costs incurred by the landlord are reasonable and do not exceed the prescribed amount, the tenant will be liable to pay the difference between the premium payable and the reasonable costs incurred. Where the costs incurred by the landlord are reasonable and do exceed the prescribed amount, the tenant is liable to pay the difference between the price payable and the prescribed sum.

826 Paragraph {16} makes provision for the landlord to serve copies of a rent variation notice on superior landlords, who may be entitled to claim a reduction in their rents under paragraph 8. If the landlord fails to serve copies of the notice on superior landlords (of whom the landlord is aware), the landlord may be liable to the superior landlords for damages for any losses suffered due to their failure.

827 Paragraph {17} requires superior landlords to serve copies of the rent variation notice on any other superior landlords of whom they are aware, unless they have been informed that those landlords have already been served. Superior landlords may be liable for damages for any losses caused because of a failure to comply with this obligation.

828 Paragraph {18} applies where there are superior landlords who could require reduction of their rents in according with paragraph 8. The qualifying tenant's immediate landlord (who is served with the rent variation notice under paragraph 3) is given authority to deal with the qualifying tenant's claim for a peppercorn rent. Any agreement by the immediate landlord or determination of the tribunal is binding on the superior landlords.

829 Paragraph {19} applies where a superior landlord has served a notice seeking reduction of the rent under their intermediate lease under paragraph 8. The immediate landlord has authority to deal with the qualifying tenant's claim for a peppercorn rent on behalf of the relevant superior landlords. The immediate landlord may receive the premium on behalf of themselves and the other landlords and hold it pending determination of their shares under paragraph {8(9) and (10)}. However, any of the relevant superior landlords may require the qualifying tenant to pay the entirety of the premium into court. The superior landlords must make such contribution as is just to the immediate landlord's costs of dealing with the claim for a peppercorn rent.

830 Paragraph {20} sets out which provisions of the LRHUDA 1993 apply for the purposes of Schedule 9, and how these provisions may have a modified effect in relation to claims under Schedule 9.

831 Paragraph {21} establishes a power which enables regulations to be made for the purpose of giving effect to the rights of the tenant under Schedule 9. In particular, sub-paragraphs (2) and (3) explain that the regulations may make provision about notices, and sub-paragraph (4) explains that regulations may be used to amend paragraph 17.

832 Paragraph {22} sets out the definitions for the purposes of Schedule 9.

Schedule 10 – Part 4: consequential amendments

Part 1: Amendments consequential on section 66

833 This Schedule, introduced by Clause 68, sets out consequential amendments to reflect the insertion of Part 3 of the Bill.

834 Part 1 details amendments consequential on section 36, with amendments being made to the LTA 1985 according to paragraphs (2) to (13).

835 New paragraph 2(a) makes amendments to subsection (3) of section 5 (information to be contained in rent books). Paragraph 2(b) inserts a new subsection (4) so that "a statutory instrument containing regulations under this section is subject to the negative procedure".

836 New paragraph 3 amends section 10B (8) to substitute "may not be made" with "is subject to the affirmative procedure".

837 New paragraph 4 seeks to substitute "Secretary of State" with "appropriate authority" under subsections (4) and (5) of section 20 of the 1985 Act. New paragraph 5 substitute "Secretary of State" with "appropriate authority" under subsections (3) and (4) of section 20ZA of the 1985 Act, omits the words from "which shall" to the end in subsection (7) and after subsection (7) inserts "a statutory instrument containing regulations under this section is subject to the negative procedure".

838 New paragraphs 6, 7 and 9 seek to amend section 20E (4), section 20F (7), section 29A subsection (7) by substituting from "annulment" to the end with "the negative procedure".

839 New paragraph 8 amends section 29 of the 1985 Act in three ways: in subsection (5) substitute "Secretary of State" with "appropriate authority"; in subsection (6), omits the words from "which shall" to the end; and after subsection (6) insert a new subsection (7) "A statutory instrument containing regulations under subsection (5) is subject to the negative procedure".

840 New paragraph 10 amends section 30D (9) of the 1985 Act to substitute "may not be made" to the end with "is subject to the affirmative procedure".

841 New paragraph 11 amends section 31 of the 1985 Act substitute "Secretary of State" with "appropriate authority" under subsection (1), omits the words from "which shall" to the end in subsection (4), and after subsection (4) inserts "a statutory instrument containing regulations under this section is subject to the negative procedure".

842 New paragraph 12 amends section 35 of the 1985 Act by omitting the words from "which shall" to the end in subsection (2), and after subsection (2) inserting "a statutory instrument containing regulations under this section is subject to the negative procedure".

843 New paragraph 13 amends paragraph 7(5) of the Schedule to the 1985 Act to substitute "Secretary of State" with "appropriate authority".

Part 2: Other consequential amendments

844 Part 2 of Schedule 10 makes other consequential amendments to account for the new measures in Part 3 of the Bill.

845 New paragraph 15 makes changes to section 23A of the 1985 Act by: (a) in subsection (1) replacing "section 21 to 23" with "sections 21D to 21H"; (b) in subsection (4) for "sections 21 to 23 and any regulations under section 21" substituting "sections 21D to 21H and any regulations under those sections", omit paragraph (b) and the "but" preceding it; an omitting paragraph (c).

846 New paragraph 16 makes changes to section 26 of the 1985 Act.

847 New paragraph 17 substitute "Sections 18 to 25A do not apply" for the words from "Sections 18 to 25" to "do not apply" in section 27 of the 1985 Act.

848 New paragraph 18 omits paragraph 9(2) in Schedule 5 to the Housing and Planning Act 1986.

849 New paragraph 19 seeks to omit paragraphs 1, 5 and 6 along with the italic heading preceding the paragraphs from Schedule 2 of the 1987 Act.

850 New paragraph 20 omits paragraph 91 from Schedule 11 of the Local Government and Housing Act 1989.

851 New paragraph 21 omits subsection (4) from section 83 of the Housing Act 1996.

852 New paragraph 22 omits paragraph 12 from Schedule 1 of the Housing Grants, Construction and Regeneration Act 1996.

853 New paragraph 23 seeks to omit a number of provisions from the 2002 Act, including sections 152-154, Section 160 (4)(d), paragraphs 4(4) and 5(4) of Schedule 7, paragraph 7 of Schedule 9, and various parts of Schedule 10.

854 New paragraph 24 omits paragraph 32 and the italic heading preceding it from Schedule 15 to the Housing Act 2004

855 New paragraph 25 seeks to omit paragraphs 1 to 10 of Schedule 12 and omit the entry for the LTA1985 in Schedule 16 to the Housing and Regeneration Act 2008.

856 New paragraph 26 omits "section 20C(2), and" from Schedule 9 to the Crime and Courts Act 2013.

857 New paragraph 27 omits section 128 from the Housing (Wales) Act 2014, in both the English and Welsh language texts of the Act, while new paragraph 29 omits subsection (40 to section 112, and paragraph 17 from Schedule 8 to the Building Safety Act 2022.

Schedule 11: Redress schemes: Financial penalties

858 Paragraph 1 deals with the procedure to be followed where an enforcement authority is considering imposing a financial penalty. Subparagraph (1) requires the enforcement authority to give the person notice of their intention to impose a financial penalty (a "notice of intent"). Subparagraph (2) sets the time limits for issuing a notice of intent – which is before the end of a 6 month period of the enforcement authority first being notified of the conduct which relates to the financial penalty. However, if the conduct continues to persist beyond that period, subparagraph (3) allows the enforcement authority to issue a notice of intent at any time that the conduct is continuing, or within the period of 6 months beginning with the last day on which the conduct occurs.

859 Subparagraph(4) sets out the information that must be included in a notice of intent. This includes the date on which the notice of intent is given, the amount of the proposed financial penalty, the reasons for proposing to impose the penalty, and information about the right to make representations (under paragraph 2).

860 Paragraph 2(1) provides that a person who has been issued with a notice of intent may make written representations to the enforcement authority about the proposal to impose a financial penalty. Subparagraph (2) sets out these representations must be made within a 28 day period beginning on the day after the date on which the notice of intent was given to them (the "period for representations").

861 Paragraph 3 deals with the actions the enforcement authority must take at the end of the period of representation. Under subparagraph (1), it must decide whether to impose a financial penalty, and if so, the amount of the financial penalty to be imposed.

862 Paragraph 3(2) provides that if the enforcement authority decides to impose a financial penalty, it must give notice to the person of that decision (a "final notice").

863 Paragraph 3(3) sets out that the final notice must require the penalty to be paid within a 28-day period, beginning with the day after the day on which the notice was given.

864 Paragraph 3(4) provides that the final notice must include the following information: the date on which the final notice is given; the amount of the financial penalty; the reasons for imposing the penalty; information about how to pay the penalty; the period for payment of the penalty; information about rights of appeal; and the consequences of failure to comply with the penalty.

865 Paragraph 4 makes clear that an enforcement authority can, at any point, withdraw either a notice of intent or final notice, or reduce an amount specified in either the notice of intent or final notice. This decision must be provided in writing to the person to whom the notice was given.

866 Paragraph 5 sets out the process a person who wants to appeal a final notice needs to take. Subparagraph (1) sets out that a person who has received a final notice may make an appeal to the First-tier Tribunal against the decision to impose the penalty, or the amount of the penalty imposed. Subparagraph (2) makes clear an appeal must be brought within 28 days of the day on which the final notice is given to the person.

867 Subparagraph (3) provides that if an appeal is made, the final notice is suspended until the appeal is determined, withdrawn, or abandoned.

868 Under subparagraph (4), an appeal is to be a re-hearing of the enforcement authority's decision, however the tribunal may determine the appeal having regard to matters of which the enforcement authority was not aware.

869 Subparagraphs (5) and (6) provide that the Tribunal may quash, confirm, or vary the final notice on appeal. However, the Tribunal may not vary the final notice so as to impose a financial penalty more than the enforcement authority could have imposed under Clause 104.

870 Paragraph 6 applies where a person fails to pay either all or part of a financial penalty that has been imposed. Subparagraph (2) provides that the enforcement authority which imposed the financial penalty may recover the penalty or part on the order of the county court as if it were payable under an order of the court.

871 Under paragraph 7(1), an enforcement authority may use the financial penalty towards meeting its costs and expenses (whether administrative or legal) incurred in, or associated with, any of its functions under this Part of this Act. Subparagraph (2) sets out that any additional proceeds imposed by an enforcement authority other than the Secretary of State must be paid to the Secretary of State.

Schedule 12: Part 6: Amendments to other Acts

Local Government Act 1974

872 This section of Schedule 12 amends the Local Government Act 1974 (LGA 1974) as set out in paragraphs 2 to 5 of this Schedule.

873 Paragraph 2(2) to (5) of Schedule 12 makes changes to LGA 1974 section 33 (consultation between Local Commissioner and other Commissioners and Ombudsmen).

874 The effect of these changes is to allow a Local Commissioner (as defined by the LGA 1974) to consult the head of leasehold and estate management redress if they think that matter(s) that are subject to their investigation include a matter that could be the subject of investigation under a leasehold and estate management redress scheme, and, if necessary, inform the person who initiated the complaint how to initiate a complaint under the leasehold and estate management redress scheme.

875 In addition, the changes provide that the head of leasehold and estate management redress must consult with the appropriate Local Commissioner if they form the opinion that a complaint under the leasehold and estate management redress scheme relates partly to a matter that could be the subject of an investigation under Part III of the LGA 1974. If the head of leasehold and estate management redress considers necessary, they must inform the complainant of how to initiate a complaint under Part III of the LGA 1974.

876 Where a Local Commissioner consults the head of leasehold and estate management redress, or is consulted by them, they may consult them about anything relating to the matter, including the conduct of an investigation; or the form, content and publication of a report of the investigation.

877 Paragraph 3(2) to (5) of the schedule makes changes to the LGA 1974, section 33ZA (collaborative working between Local Commissioners and others).

878 The effect of these changes is to allow a Local Commissioner to conduct an investigation under Part III of the LGA 1974 jointly if, when they are conducting an investigation, the Local Commissioner forms this opinion that the matter(s) in the investigation include a matter within the jurisdiction of an individual who investigates complaints under a leasehold and estate management redress scheme.

879 New subsection (1B) (inserted by paragraph 3(4) of Schedule 12) clarifies that a matter is "within the jurisdiction" of an individual who investigates complaints under a leasehold and estate management redress scheme if it is a matter which could be the subject of an investigation under that scheme.

880 If a Local Commissioner forms the opinion that a complaint being investigated by an individual who investigates complaints under a leasehold and estate management redress scheme relates partly to a matter within their jurisdiction, the Local Commissioner may conduct a joint investigation with them.

881 Paragraph 4(a) and (b) of Schedule 12 amends LGA 1974, section 33ZB (arrangements for provision of administrative and other services), subsection (4).

882 The effect of these changes is to provide for the administrator of a leasehold and estate management redress scheme to enter into arrangements involving the Commission for Local Administration in England (as defined by LGA 1974) for the provision of administrative, professional or technical services.

883 Paragraph 5 of Schedule 12 makes changes to LGA 1974, section 34 (interpretation of Part 3), subsection (1). The change defines the meanings of "leasehold and estate management redress scheme" and "head of leasehold and estate management redress".

Housing Act 1996

884 This section of Schedule 12 makes changes to the Housing Act 1996 (HA 1996), Schedule 2, paragraph 10A (housing complaints: collaborative working with Local Commissioners) as set out in paragraph 6(2) to (6) of this Schedule.

885 The effect of these changes is to allow a housing ombudsman (as defined in HA 1996) to conduct a joint investigation with an individual who investigates complaints under a leasehold and estate management redress scheme if the housing ombudsman conducting an investigation forms the opinion that the complaint relates partly to a matter within the jurisdiction of the redress scheme.

886 New sub-paragraph (1A) (inserted by paragraph 6(3) of Schedule 12) clarifies that a matter is "within the jurisdiction" of an individual who investigates complaints under a leasehold and estate management redress scheme if it is a matter which could be the subject of an investigation under that scheme.

887 In addition, if a housing ombudsman forms the opinion that a complaint which is being investigated by an individual who investigates complaints under a leasehold and estate management redress scheme relates partly to a matter within the jurisdiction of the housing ombudsman, they may conduct a joint investigation with them.

888 Paragraph 6(6) of Schedule 12 clarifies the definition of "leasehold and estate management redress scheme" in Schedule 2, paragraph 10A of the HA 1996.

Building Safety Act 2022

889 Paragraph 7 of Schedule 12 makes changes to Schedule 3 (Cooperation and Information Sharing) of the Building Safety Act 2022 (BSA 2022) as set out in paragraph 7(a) and (b).

890 This will provide for a leasehold and estate management redress scheme (as defined in Part 5 of the Leasehold and Freehold Reform Bill) to be included as a "relevant scheme" the Building Safety Regulator (as defined in the BSA 2022) must cooperate with in the exercise of any building function of the regulator and any relevant function of the redress scheme. It will also allow for the Building Safety Regulator to disclose information to a redress scheme, and for the redress scheme to disclose information to the regulator, in connection with any building functions of the regulator or any relevant functions of the redress scheme.

Commencement

891 Clause 122 makes provision about when the provisions of this Bill will come into force.

Financial implications of the Bill

892 The Bill will result in financial impacts for different groups in the leasehold sector. The Government has undertaken a robust assessment of the costs and benefits of the reforms on the impacted groups, including freeholders, leaseholders, managing agents and other professionals. The impact assessment is available on the parliament.uk page for the Bill[15].

893 In addition, work is underway to complete a Justice Impact Test and a New Burden Assessment setting out the additional costs of dealing with any disputes and enforcing the new regulation. The Government expects courts to see an overall increase in cases following implementation of the reforms. The Government also expects local authorities to see some

[15] https://publications.parliament.uk/pa/bills/cbill/58-04/0013/LeaseholdandFreeholdReformBillImpactAssessment.pdf

increase in burden as a result of the reforms, but we expect this to be low. The Government seeks to ensure these new burdens are fully funded.

Parliamentary approval for financial costs or for charges imposed

894 The Bill does not contain any provisions which require a money resolution or ways and means resolution.

Compatibility with the European Convention on Human Rights

895 The Parliamentary Under Secretary of State (Social Housing and Faith, and Lords Minister) Baroness Scott of Bybrook OBE has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

896 "In my view the provisions of the Leasehold and Freehold Reform Bill are compatible with the Convention rights."

Environment Act 2021 section 20 statement

897 The Parliamentary Under Secretary of State (Social Housing and Faith, and Lords Minister) is of the view that the Bill as brought from the House of Commons does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

Related documents

898 The following documents are relevant to the Bill and can be read at the stated locations:

- December 2014 - https://assets.publishing.service.gov.uk/media/547d99b8e5274a42900001e1/Property_management_market_study.pdf
- October 2017 - https://www.gov.uk/government/calls-for-evidence/protecting-consumers-in-the-letting-and-managing-agent-market-call-for-evidence
- December 2017 - https://www.gov.uk/government/consultations/tackling-unfair-practices-in-the-leasehold-market
- January 2019 - https://www.gov.uk/government/consultations/strengthening-consumer-redress-in-housing
- March 2019 – https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/1468/1468.pdf
- June 2019 – https://www.gov.uk/government/consultations/implementing-reforms-to-the-leasehold-system

- July 2019 - https://www.gov.uk/government/publications/regulation-of-property-agents-working-group-report
- February 2020 - https://assets.publishing.service.gov.uk/media/5e4fdf37d3bf7f393f3057aa/New_Homes_Ombudsman_Consultation_Response.pdf
- July 2020 – https://lawcom.gov.uk/project/leasehold-enfranchisement/
- July 2020 – https://lawcom.gov.uk/project/right-to-manage/
- November 2023 - https://www.gov.uk/government/consultations/modern-leasehold-restricting-ground-rent-for-existing-leases/modern-leasehold-restricting-ground-rent-for-existing-leases

Annex A – Territorial extent and application in the United Kingdom

Subject matter and legislative competence of devolved legislatures

899 Clause 121 sets out the territorial extent of clauses in the Bill, which is England and Wales except for clause 23(5) which extends to the UK. The extent of a Bill is the legal jurisdiction of which it forms part of the law; application refers to where it has practical effect. The application of the Bill is England and Wales. The exceptions to this are the clauses relating to redress and building safety, which apply to England only.

900 In line with the Legislative Consent Motion Convention (the "Sewel Convention"), the UK Parliament will not normally legislate for areas within devolved legislative competence without the consent of the devolved legislature concerned.

901 The main subject matter of this Bill is the law of property which is a restricted matter in relation to Wales but within the legislative competence of the Scottish and Northern Irish legislatures.

902 The exceptions are in regard to the subject matters of legal costs as they relate to the leasehold valuation tribunal, banning insurance commissions, service charge regulation, challenging estate management administration charges, sales information for leasehold properties and freehold properties on managed estates, and other modifications in relation to the Leasehold Valuation Tribunal which are within the legislative competence of the Welsh legislature. We are seeking an LCM in regard to these areas.

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?

1 LEASEHOLD HOUSES							
	Yes	Yes	No	No	No	No	No
Clause 1	Yes	Yes	No	No	No	No	No
Clause 2	Yes	Yes	No	No	No	No	No
Clause 3	Yes	Yes	No	No	No	No	No
Clause 4	Yes	Yes	No	No	No	No	No
Clause 5	Yes	Yes	No	No	No	No	No
Clause 6	Yes	Yes	No	No	No	No	No
Clause 7	Yes	Yes	Yes	No	No	No	No
Clause 8	Yes	Yes	Yes	No	No	No	No
Clause 9	Yes	Yes	Yes	No	No	No	No
Clause 10	Yes	Yes	No	No	No	No	No
Clause 11	Yes	Yes	No	No	No	No	No
Clause 12	Yes	Yes	No	No	No	No	No
Clause 13	Yes	Yes	No	No	No	No	No
Clause 14	Yes	Yes	No	No	No	No	No
Clause 15	Yes	Yes	Yes	No	No	No	No
Clause 16	Yes	Yes	Yes	No	No	No	No
Clause 17	Yes	Yes	Yes	No	No	No	No
Clause 18	Yes	Yes	Yes	No	No	No	No
Clause 19	Yes	Yes	Yes	No	No	No	No
Clause 20	Yes	Yes	Yes	No	No	No	No
Clause 21	Yes	Yes	Yes	No	No	No	No
Clause 22	Yes	Yes	Yes	Yes	No	Yes	No
Clause 23	Yes	Yes	No	No	No	No	No
Clause 24	Yes	Yes	No	No	No	No	No
Clause 25							

2 LEASEHOLD ENFRANCHISEMENT AND EXTENSION							
Clause 26	Yes	Yes	No	No	No	No	No
Clause 27	Yes	Yes	No	No	No	No	No
Clause 28	Yes	Yes	No	No	No	No	No
Clause 29	Yes	Yes	No	No	No	No	No
Clause 30	Yes	Yes	Yes	No	No	No	No
Clause 31	Yes	Yes	Yes	No	No	No	No
Clause 32	Yes	Yes	No	No	No	No	No
Clause 33	Yes	Yes	Yes	No	No	No	No
Clause 34	Yes	Yes	No	No	No	No	No
Clause 35	Yes	Yes	No	No	No	No	No
Clause 36	Yes	Yes	No	No	No	No	No
Clause 37	Yes	Yes	Yes	No	No	No	No
Clause 38	Yes	Yes	Yes	No	No	No	No
Clause 39	Yes	Yes	Yes	No	No	No	No
Clause 40	Yes	Yes	Yes	No	No	No	No
Clause 41	Yes	Yes	Yes	No	No	No	No
Clause 42	Yes	Yes	Yes	No	No	No	No
Clause 43	Yes	Yes	Yes	No	No	No	No
Clause 44	Yes	Yes	Yes	No	No	No	No
Clause 45	Yes	Yes	No	No	No	No	No
3 OTHER RIGHTS OF LONG LEASEHOLDERS							
Clause 46	Yes	Yes	No	No	No	No	No
Clause 47	Yes	Yes	No	No	No	No	No
Clause 48	Yes	Yes	Yes	No	No	No	No
Clause 49	Yes	Yes	Yes	No	No	No	No
Clause 50	Yes	Yes	Yes	No	No	No	No
4 REGULATION OF LEASEHOLD							
Clause 51	Yes	Yes	Yes	No	No	No	No
Clause 52	Yes	Yes	Yes	No	No	No	No
Clause 53	Yes	Yes	Yes	No	No	No	No
Clause 54	Yes	Yes	Yes	No	No	No	No
Clause 55	Yes	Yes	Yes	No	No	No	No
Clause 56	Yes	Yes	Yes	No	No	No	No
Clause 57							

Clause 58	Yes	Yes	Yes	No	No	No	No
Clause 59	Yes	Yes	Yes	No	No	No	No
Clause 60							
Clause 61	Yes	Yes	Yes	No	No	No	No
Clause 62	Yes	Yes	Yes	No	No	No	No
Clause 63	Yes	Yes	Yes	No	No	No	No
Clause 64	Yes	Yes	Yes	No	No	No	No
Clause 65	Yes	No	No	No	No	No	No
Clause 66	Yes	Yes	Yes	No	No	No	No
Clause 67	Yes	Yes	Yes	No	No	No	No
Clause 68	Yes	Yes	Yes	No	No	No	No
Clause 69	Yes	Yes	Yes	No	No	No	No
5 REGULATION OF ESTATE MANAGEMENT	Yes	Yes	Yes	No	No	No	No
Clause 70	Yes	Yes	No	No	No	No	No
Clause 71	Yes	Yes	No	No	No	No	No
Clause 72	Yes	Yes	No	No	No	No	No
Clause 73	Yes	Yes	Yes	No	No	No	No
Clause 74	Yes	Yes	No	No	No	No	No
Clause 75	Yes	Yes	Yes	No	No	No	No
Clause 76	Yes	Yes	No	No	No	No	No
Clause 77	Yes	Yes	No	No	No	No	No
Clause 78	Yes	Yes	No	No	No	No	No
Clause 79	Yes	Yes	No	No	No	No	No
Clause 80	Yes	Yes	Yes	No	No	No	No
Clause 81	Yes	Yes	Yes	No	No	No	No
Clause 82	Yes	Yes	Yes	No	No	No	No
Clause 83	Yes	Yes	Yes	No	No	No	No
Clause 84	Yes	Yes	Yes	No	No	No	No
Clause 85	Yes	Yes	Yes	No	No	No	No
Clause 86	Yes	Yes	Yes	No	No	No	No
Clause 87	Yes	Yes	No	No	No	No	No
Clause 88	Yes	Yes	Yes	No	No	No	No
Clause 89	Yes	Yes	Yes	No	No	No	No
Clause 90	Yes	Yes	Yes	No	No	No	No
Clause 91	Yes	Yes	Yes	No	No	No	No
Clause 92	Yes	Yes	Yes	No	No	No	No
Clause 93	Yes	Yes	Yes	No	No	No	No
Clause 94							

Clause 95	Yes	Yes	Yes	No	No	No	No
Clause 96	Yes	Yes	Yes	No	No	No	No
Clause 97	Yes	Yes	Yes	No	No	No	No
	Yes	Yes	No	No	No	No	No
6 LEASEHOLD AND ESTATE MANAGEMENT: REDRESS SCHEMES							
Clause 98							
Clause 99							
Clause 100	Yes	No	No	No	No	No	No
Clause 101	Yes	No	No	No	No	No	No
Clause 101	Yes	No	No	No	No	No	No
Clause 102	Yes	No	No	No	No	No	No
Clause 103	Yes	No	No	No	No	No	No
Clause 104	Yes	No	No	No	No	No	No
Clause 105	Yes	No	No	No	No	No	No
Clause 106	Yes	No	No	No	No	No	No
Clause 107	Yes	No	No	No	No	No	No
Clause 108	Yes	No	No	No	No	No	No
Clause 109	Yes	No	No	No	No	No	No
7 RENTCHARGES	Yes	No	No	No	No	No	No
Clause 110	Yes	No	No	No	No	No	No
Clause 111							
	Yes	Yes	No	No	No	No	No
8 AMENDMENTS OF PART 5 OF THE BUILDING SAFETY ACT 2022	Yes	Yes	No	No	No	No	No
Clause 112							
Clause 113	Yes	No	No	No	No	No	No
Clause 114	Yes	No	No	No	No	No	No
Clause 115	Yes	No	No	No	No	No	No
Clause 116	Yes	No	No	No	No	No	No
Clause 117	Yes	No	No	No	No	No	No
	Yes	No	No	No	No	No	No
9 GENERAL							
Clause 118							
Clause 119	Yes	Yes	No	No	No	No	No
Clause 120	Yes	Yes	No	No	No	No	No
Clause 121	Yes	Yes	Yes	No	No	No	No
Clause 122							

Clause 123	Yes	Yes	No	No	No	No	No
	Yes	Yes	No	No	No	No	No
	Yes	Yes	No	No	No	No	No
Schedule 1							
Schedule 2							
Schedule 3							
Schedule 4							
Schedule 5							
Schedule 6	Yes	Yes	Yes	No	No	No	No
Schedule 7	Yes	Yes	Yes	No	No	No	No
Schedule 8	Yes	Yes	Yes	No	No	No	No
Schedule 9	Yes	Yes	No	No	No	No	No
Schedule 10	Yes	Yes	No	No	No	No	No
Schedule 11	Yes	Yes	No	No	No	No	No
Schedule 12	Yes	Yes	Yes	No	No	No	No
	Yes	Yes	Yes	No	No	No	No
	Yes	Yes	Yes	No	No	No	No
	Yes	Yes	Yes	No	No	No	No
	Yes	No	No	No	No	No	No
	Yes	Yes	No	No	No	No	No

LEASEHOLD AND FREEHOLD REFORM BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Leasehold and Freehold Reform Bill as brought from the House of Commons on 28 February 2024 (HL Bill 50).

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