Leasehold and Freehold Reform Bill

SECOND MARSHALLED

LIST OF AMENDMENTS

TO BE MOVED

IN COMMITTEE OF THE WHOLE HOUSE

The amendments have been marshalled in accordance with the Instruction of 27th March 2024, as follows –

Clauses 1 to 7	Clauses 45 and 46
Schedule 1	Schedule 9
Clauses 8 to 18	Clauses 47 to 68
Schedule 2	Schedule 10
Clauses 19 to 29	Clauses 69 to 103
Schedule 3	Schedule 11
Clauses 30 to 36	Clauses 104 to 108
Schedules 4 to 7	Schedule 12
Clauses 37 to 44	Clauses 109 to 123
Schedule 8	Title

[*Amendments marked ★ are new or have been altered*]

Amendment No.

Clause 36

BARONESS ANDREWS
LORD STUNELL

23 Clause 36, page 29, line 29, at end insert "and has effect subject to section *(LRHUDA 1993: Non-development guarantee)*"

Member's explanatory statement
This amendment is related to another amendment in the name of Baroness Andrews inserting a new Clause (LRHUDA 1993: Non-development Guarantee).

After Clause 36

BARONESS ANDREWS
LORD STUNELL
BARONESS TAYLOR OF STEVENAGE

24 After Clause 36, insert the following new Clause—

"LRHUDA 1993: Non-development guarantee

(1) For the purpose of securing a reduction in the price payable for collective enfranchisement in relation to any premises, a nominee purchaser ("N") may propose to give a guarantee, in this Act referred to as a "non-development guarantee" or "NDG", specifying works of development, including, if any, demolition, reconstruction or substantial works of construction on the whole or a substantial part of those premises (the "specified works"), which, if N were successful in securing the statutory grant or transfer it sought, it would, for the duration of the guarantee, warrant not to undertake, or permit to be undertaken.

(2) Where such an NDG is proposed, then, in calculating the compensation, if any, payable under Schedule 5 for a loss of development value, there shall be disregarded the possibility of any demolition, reconstruction or substantial work of construction in relation to the premises which corresponds to some or all of the specified works.

(3) Where in consequence of proceedings under Chapter 1 of Part 1 of the LRHUDA 1993 a statutory grant or transfer is effected, whether under binding contract to which the nominee purchaser is party or by order under section 24(4) of the LRHUDA 1993, then, where the price payable has been reduced in consequence of the terms of an NDG, whether as proposed in the notice under section 13(1) of the LRHUDA 1993, or as varied in the course of those proceedings, those terms shall be set out expressly in the contract or order as the case may be.

(4) When the statutory grant or transfer has been effected, the immediately former freeholder may register any applicable NDG as a local land charge in relation to the premises in question.

(5) The NDG registered under (4) above is enforceable by injunction by the immediately former freeholder of the premises in question.

(6) An NDG expires 10 years after the date of the statutory grant or transfer to which it is applicable.

(7) From the date of expiry of an NDG the freeholder of the premises to which it is applicable shall, for the purposes of discharging the registration of the NDG as a local land charge, be treated for the purposes of the Local Land Charges Act 1975, to the exclusion of the immediately former freeholder, as the person by whom the charge was enforceable.

(8) Notwithstanding any provision in or having effect under the Local Land Charges Act 1975, no variation to a registered NDG shall have effect unless agreed to by both the immediately former freeholder and the current freeholder of the premises concerned.

(9) In section 13(3) of the LRHUDA 1993, after paragraph (d) insert—

"(da) specifying the terms of any NDG proposed by the nominee purchaser"

(10) In section 24(8) of the LRHUDA 1993, after paragraph (c) insert—

"(ca) the terms of any NDG affecting such amounts payable"

(11) In section 38(1) of the LRHUDA 1993, after the entry for "the nominee purchaser" insert—

""non-development guarantee" or "NDG" has the meaning given by section *(LRHUDA 1993: Non-development Guarantee)*(1) of the Leasehold and Freehold Reform Act 2024""

Member's explanatory statement
The new clause gives effect to Option 9 of the Law Commission's "Report on options to reduce the price payable", Law Com 387, as adopted by the Government in January 2021, to the effect that "Leaseholders will also be able to voluntarily agree to a restriction on future development of their property to avoid paying "development value".

Schedule 4

BARONESS SCOTT OF BYBROOK

25 Schedule 4, page 157, line 35, at end insert—

"(1A) If section 3(3) of the LRA 1967 applies to the current lease (successive leases treated as a single lease), sub-paragraph (1) is to apply only if the one of those leases which is in effect at the valuation date is a market rack rent lease."

Member's explanatory statement
This modifies the application of paragraph 8 where successive leases are "chained" to constitute a long lease under the LRA 1967.

LORD HOWARD OF RISING
BARONESS DEECH
LORD LAMONT OF LERWICK
LORD PALMER OF CHILDS HILL

26 Schedule 4, page 160, line 27, at end insert ", but see sub-paragraph (3A)."

LORD HOWARD OF RISING
BARONESS DEECH
LORD LAMONT OF LERWICK
LORD PALMER OF CHILDS HILL

27 Schedule 4, page 161, line 15, at end insert ", but see sub-paragraph (3A).

(3A) Assumption 2 is not to be made where—

(a) the claimant held the lease on the day on which this Act was passed, and

(b) on that day the lease was of less than 80 years' duration.

Accordingly, marriage or hope value is payable in the case of a lease of less than 80 years' duration at the date of the passage of this Act."

THE LORD BISHOP OF MANCHESTER
LORD MOYLAN

28 Schedule 4, page 161, line 15, at end insert—

"(3A) But in a case where the freeholder is a charity and the freehold interest was vested in that charity immediately before the passing of this Act—

(a) assumption 2 must not be made, and

(b) accordingly, marriage and hope value are payable."

Member's explanatory statement
This amendment would provide that, where the freeholder in the case of a lease extension or freehold enfranchisement is a charity which had owned the freehold interest since before the passing of the Bill, marriage and hope value are payable.

LORD MOYLAN

29 Schedule 4, page 161, line 15, at end insert—

"(3A) Where assumption 2 is made, the person (natural or legal) to whom marriage value would otherwise have been payable, may claim monetary compensation for the sum foregone from the Secretary of State and the Secretary of State must within twelve months of receiving such a claim make compensation such as to ensure that person's rights to property have not been infringed."

Member's explanatory statement
This amendment would ensure that a landlord's legitimate expectation of a share of marriage value was not removed without compensation from the Secretary of State.

BARONESS SCOTT OF BYBROOK

30 Schedule 4, page 161, line 24, leave out from "of" to "a" in line 27 and insert "—

(a) the relevant freehold on the transfer of a freehold house under the LRA 1967, or

(b) the notional lease on"

Member's explanatory statement
This amendment would correct the references in paragraph 18 to what is being valued under Schedule 4.

BARONESS SCOTT OF BYBROOK

31 Schedule 4, page 163, line 40, leave out "time of valuation" and insert "valuation date"

Member's explanatory statement
This changes the terminology used in paragraph 21(2)(a) so that the correct defined term is used.

BARONESS SCOTT OF BYBROOK

32 Schedule 4, page 165, line 26, leave out "a lease (the "lease being valued")" and insert "the current lease"

Member's explanatory statement
This amendment would avoid the "current lease" (the terminology otherwise used in Schedule 4) being referred to by a different term ("lease being valued") in paragraph 25.

BARONESS SCOTT OF BYBROOK

33 Schedule 4, page 165, line 28, leave out "lease being valued" and insert "current lease"

Member's explanatory statement
This amendment would avoid the "current lease" (the terminology otherwise used in Schedule 4) being referred to by a different term ("lease being valued") in paragraph 25.

BARONESS SCOTT OF BYBROOK

34 Schedule 4, page 165, line 31, leave out "lease being valued" and insert "current lease"

Member's explanatory statement
This amendment would avoid the "current lease" (the terminology otherwise used in Schedule 4) being referred to by a different term ("lease being valued") in paragraph 25.

BARONESS SCOTT OF BYBROOK

35 Schedule 4, page 165, line 35, leave out "lease being valued" and insert "current lease"

Member's explanatory statement
This amendment would avoid the "current lease" (the terminology otherwise used in Schedule 4) being referred to by a different term ("lease being valued") in paragraph 25.

BARONESS SCOTT OF BYBROOK

36 Schedule 4, page 165, line 38, leave out "lease being valued" and insert "current lease"

Member's explanatory statement
This amendment would avoid the "current lease" (the terminology otherwise used in Schedule 4) being referred to by a different term ("lease being valued") in paragraph 25.

BARONESS SCOTT OF BYBROOK

37 Schedule 4, page 166, line 21, leave out "lease being valued" and insert "current lease"

Member's explanatory statement
This amendment would avoid the "current lease" (the terminology otherwise used in Schedule 4) being referred to by a different term ("lease being valued") in paragraph 25.

BARONESS SCOTT OF BYBROOK

38 Schedule 4, page 166, line 23, leave out "lease being valued" and insert "current lease"

Member's explanatory statement
This amendment would avoid the "current lease" (the terminology otherwise used in Schedule 4) being referred to by a different term ("lease being valued") in paragraph 25.

BARONESS SCOTT OF BYBROOK

39 Schedule 4, page 166, line 30, at end insert—

"(10A) If section 3(3) of the LRA 1967 applies to the current lease (successive leases treated as a single lease), sub-paragraph (9) is to apply only if the one of those leases which is in effect at the valuation date meets the condition in sub-paragraph (9)(a) or (b)."

Member's explanatory statement
This modifies the application of paragraph 25 where successive leases are "chained" to constitute a long lease under the LRA 1967.

BARONESS SCOTT OF BYBROOK

40 Schedule 4, page 166, line 31, leave out "lease being valued" and insert "current lease"

Member's explanatory statement
This amendment would avoid the "current lease" (the terminology otherwise used in Schedule 4) being referred to by a different term ("lease being valued") in paragraph 25.

LORD BORWICK

41 Schedule 4, page 167, line 31, leave out from "rate" to "and" in line 33 and insert "determined using this formula:

Bank Rate at the time that the notice of intention to enfranchise is served + 5 %

Member's explanatory statement
This amendment seeks to make the process for setting the deferment rate more efficient through using a fixed formula based on Bank Rate, rather than requiring the Secretary of State to set the deferment rate in regulations.

BARONESS TAYLOR OF STEVENAGE

42 Schedule 4, page 167, line 35, at end insert—

"(8A) In setting the deferment rate the Secretary of State must have regard to the desirability of encouraging leaseholders to acquire their freehold at the lowest possible cost."

Member's explanatory statement
This amendment would ensure that when determining the applicable deferment rate, the Secretary of State would have to have regard to the desirability of encouraging leaseholders to acquire their freehold at the lowest possible cost.

LORD BORWICK

43 Schedule 4, page 167, line 36 leave out sub-paragraphs (9) and (10)

Member's explanatory statement
This amendment is consequential on another amendment in my name to paragraph 26(8) of Schedule 4.

LORD BORWICK

44 Schedule 4, page 168, line 36, leave out from "rate" to "and" in line 38 and insert "determined using this formula:

Bank Rate at the time that the notice of intention to enfranchise is served + 5 %

Member's explanatory statement
This amendment seeks to make the process for setting the deferment rate more efficient through using a fixed formula based on Bank Rate, rather than requiring the Secretary of State to set the deferment rate in regulations.

LORD BORWICK

45 Schedule 4, page 169, line 1 leave out sub-paragraphs (8) and (9)

Member's explanatory statement
This amendment is consequential on another amendment in my name to paragraph 27(7) of Schedule 4.

THE LORD BISHOP OF MANCHESTER
LORD MOYLAN

46 Schedule 4, page 170, line 36, at end insert—

"(2A) But in a case where the freeholder is an eligible person and a charity and the freehold interest was vested in that charity immediately before the passing of this Act—

(a) assumption 2 (in paragraph 17(3)) must not be made, and

(b) accordingly, marriage and hope value are taken into account in determining the freeholder's loss."

Clause 37

BARONESS TAYLOR OF STEVENAGE

47 Clause 37, page 33, leave out from line 12 to line 6 on page 34

Member's explanatory statement
This amendment would leave out the proposed new section 19C of the Leasehold Reform Act 1967, and so ensure that leaseholders are not liable to pay their landlord's non-litigation costs in cases where a low value enfranchisement or extension claim is successful.

Clause 38

BARONESS TAYLOR OF STEVENAGE

48 Clause 38, page 38, leave out from line 29 to line 15 on page 39

Member's explanatory statement
This amendment would leave out the proposed new section 89C of the Leasehold Reform, Housing and Urban Development Act 1993, and so ensure that leaseholders are not liable to pay their landlord's non-litigation costs in cases where a low value enfranchisement or extension claim is successful.

Clause 41

BARONESS SCOTT OF BYBROOK

49 Clause 41, page 51, line 10, at beginning insert "the appropriate tribunal may"

Member's explanatory statement
This amendment would correct an error.

Schedule 8

BARONESS SCOTT OF BYBROOK

50 Schedule 8, page 196, line 17, leave out "paragraphs 11 to 15" and insert "this Part of this Schedule"

Member's explanatory statement
This amendment is consequential on the removal of the amendment to the Housing and Planning Act 1986 in paragraph 16 of Schedule 8.

BARONESS SCOTT OF BYBROOK

51 Schedule 8, page 199, line 34, leave out from beginning to end of line 3 on page 200

Member's explanatory statement
This amendment is consequential on alternative amendments to the Housing and Planning Act 1986 being made in the new Schedule of consequential amendments to be inserted after Schedule 8.

Clause 45

BARONESS SCOTT OF BYBROOK

52 Clause 45, page 55, line 37, at end insert—

"(4) Subsection (1) does not apply in any of the following cases—

(a) the tenancy was created by the grant of a lease under Part 5 of the Housing Act 1985 (a "right to buy lease");

(b) the tenancy is, by virtue of section 3(3), treated as a single tenancy with a tenancy created by the grant of a right to buy lease;

(c) the tenancy is a sub-tenancy directly or indirectly derived out of a tenancy falling within paragraph (a) or (b);

(d) the tenancy was granted under this Part in substitution for a tenancy or sub-tenancy falling within paragraph (a), (b) or (c)."

Member's explanatory statement
This amendment would prevent the tenants listed from exercising the right in new section 7A of the LRA 1967 to have that Act apply without the amendments in the Bill.

After Clause 45

BARONESS SCOTT OF BYBROOK

53 After Clause 45, insert the following new Clause—

"Part 2: consequential amendments to other legislation

Schedule (*Part 2: consequential amendments to other legislation*) contains amendments to other legislation that are consequential on this Part."

Member's explanatory statement
This new Clause would introduce the new Schedule on consequential amendments to be inserted before Schedule 9.

LORD YOUNG OF COOKHAM

54 After Clause 45, insert the following new Clause—

"Crown Application

(1) For section 33 of the LRA 1967, substitute—

"33A Crown land

(1) References in this Act to "Landlord", include the Crown Estate and the Crown where the Crown Estate or the Crown hold freehold land subject to long leases, howsoever such freehold land is held or acquired, including land falling to the Crown as demesne, or by Escheat.

(2) The prevailing standard method of dealing with lease enfranchisement in the market, is the method of valuation and calculation of fees for enfranchisement, the extension of leases, or grant of a new freehold title for Escheat land held by the Crown Estate, the Crown, in accordance with this Act, and applies to all leaseholders seeking to enfranchise their leases."

(2) LRHUDA 1993 is amended as follows.

(3) Omit section 88.

(4) For section 94, substitute—

"94A Crown Application

(1) References in this Act to "Reversioner" and "Landlord", include the Crown Estate and the Crown where the Crown Estate or the Crown hold freehold land subject to long leases, howsoever such freehold land is held or acquired, including land falling to the Crown as demesne, or by Escheat.

(2) The prevailing standard method of dealing with lease enfranchisement in the market, is the method of valuation and calculation of fees for enfranchisement, the extension of leases, or grant of a new freehold title for Escheat land held by the Crown Estate, the Crown, in accordance with this Act, and applies to all leaseholders seeking to enfranchise their leases.""

BARONESS TAYLOR OF STEVENAGE
BARONESS PINNOCK

55 After Clause 45, insert the following new Clause—

"Abolition of forfeiture of a long lease

(1) This section applies to any right of forfeiture or re-entry in relation to a dwelling held on a long lease which arises either—

(a) under the terms of that lease, or

(b) under or in consequence of section 146(1) of the Law of Property Act 1925.

(2) The rights referred to in subsection (1) are abolished.

(3) In this section—

"dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, or outhouses and appurtenances belonging to it or usually enjoyed with it;

"lease" means a lease at law or in equity and includes a sub-lease, but does not include a mortgage term;

"long lease" has the meaning given by sections 76 and 77 of the Commonhold and Leasehold Reform Act 2002."

Member's explanatory statement
This new Clause would abolish the right of forfeiture in relation to residential long leases in instances where the leaseholder is in breach of covenant.

Before Schedule 9

BARONESS SCOTT OF BYBROOK

56 Before Schedule 9, insert the following new Schedule—

"SCHEDULE

PART 2: CONSEQUENTIAL AMENDMENTS TO OTHER LEGISLATION

Parliamentary Commissioner Act 1967

1 In Schedule 4 to the Parliamentary Commissioner Act 1967 (relevant tribunals), in the entry relating to rent assessment committees, omit "and also known as leasehold valuation tribunals for the purpose of determinations pursuant to section 21(1), (2) and (3) of the Leasehold Reform Act 1967".

Leasehold Reform Act 1979

2 In section 1 of the Leasehold Reform Act 1979 (price of enfranchisement under the LRA 1967 not to be made less favourable by reference to superior interest), in subsection (1), after "the price payable on a conveyance for giving effect to that section" insert ", in a case where the price payable is determined under section 9(1) of that Act by virtue of section 7A of that Act,".

Local Government Act 1985

3 In Schedule 13 to the Local Government Act 1985 (residuary bodies)—

(a) in paragraph 14(aa), at the end insert ", where it applies by virtue of section 7A or 32(5) of that Act";

(b) omit paragraph 17.

Housing Act 1985

4 In the Housing Act 1985—

(a) in section 115 (meaning of "long tenancy")—

(i) for subsection (2)(c) substitute—

"(c) at the time it is granted, it complies with the specified requirements.";

(ii) after subsection (2) insert—

"(3) The "specified requirements" are—

(a) in the case of a tenancy granted before 11 December 1987, the requirements of the Housing (Exclusion of Shared Ownership Tenancies from the Leasehold Reform Act 1967) Regulations 1982 (S.I. 1982/62) (including where the tenancy was granted before those regulations came into force);

(b) in the case of a tenancy granted on or after 11 December 1987 and before the 2024 Act commencement day, the requirements in paragraph 2 of Schedule 2 to the Housing Association Shared Ownership Leases (Exclusion from Leasehold Reform Act 1967 and Rent Act 1977) Regulations 1987 (S.I. 1987/1940);

(c) in the case of a tenancy granted on or after the 2024 Act commencement day, requirements specified in regulations made by the appropriate authority.

(4) The "2024 Act commencement day" is the day on which paragraph 11 of Schedule 8 to the Leasehold and Freehold Reform Act 2024 comes into force.

(5) "The appropriate authority" means—

(a) in relation to England, the Secretary of State;

(b) in relation to Wales, the Welsh Ministers.

(6) Regulations under subsection (3)(c)—

(a) are to be made by statutory instrument;

(b) may make provision generally or only in relation to specific cases;

(c) may make different provision for different purposes or different areas;

(d) may include supplementary, incidental, transitional or saving provision.

(7) A statutory instrument containing regulations under this section is subject to annulment in pursuance of—

(a) where it contains regulations made by the Secretary of State, a resolution of either House of Parliament;

(b) where it contains regulations made by the Welsh Ministers, a resolution of Senedd Cymru.";

(b) omit section 175 (determination of price payable on enfranchisement under LRA 1967 where tenancy created under right to buy).

Landlord and Tenant Act 1985

5 In section 26 of the LTA 1985 (exception to service charge restrictions for public authority tenants)—

(a) for subsection (3)(c) substitute—

"(c) at the time it is granted it complies with the specified requirements.";

(b) after subsection (3) insert—

"(4) The "specified requirements" are—

(a) in the case of a tenancy granted before 11 December 1987, the requirements of the Housing (Exclusion of Shared Ownership Tenancies from the Leasehold Reform Act 1967) Regulations 1982 (S.I. 1982/62) (including where the tenancy was granted before those regulations came into force);

(b) in the case of a tenancy granted on or after 11 December 1987 and before the 2024 Act commencement day, the requirements in paragraph 2 of Schedule 2 to the Housing Association Shared Ownership Leases (Exclusion from Leasehold Reform Act 1967 and Rent Act 1977) Regulations 1987 (S.I. 1987/1940);

(c) in the case of a tenancy granted on or after the 2024 Act commencement day, requirements specified in regulations made by the appropriate authority.

(5) The "2024 Act commencement day" is the day on which paragraph 11 of Schedule 8 to the Leasehold and Freehold Reform Act 2024 comes into force.

(6) Regulations under subsection (4)(c)—

(a) are to be made by statutory instrument;

(b) may make provision generally or only in relation to specific cases;

(c) may make different provision for different purposes or different areas;

(d) may include supplementary, incidental, transitional or saving provision.

(7) A statutory instrument containing regulations under this section is subject to the negative procedure."

Housing and Planning Act 1986

6 In Schedule 4 to the Housing and Planning Act 1986 (shared ownership leases), in paragraph 11 (transitional provisions and savings)—

(a) in sub-paragraph (1), at the end insert ", subject to sub-paragraphs (1A) and (2)";

(b) for sub-paragraph (2) substitute—

"(1A) The amendment made by paragraph 7 (repeal of section 140 of the Housing Act 1980) also applies in relation to leases granted before the commencement of this Schedule, except in cases where, under section 7A or 32(5) of the Leasehold Reform Act 1967, the Leasehold Reform Act 1967 has effect without the amendments made by the Leasehold and Freehold Reform Act 2024.

(2) In those cases, this Schedule does not affect the operation of section 140 of the Housing Act 1980, the enactments applying that section or regulations made under it."

Housing Act 1988

7 In Schedule 17 to the Housing Act 1988 (minor and consequential amendments)—

(a) omit paragraph 40;

(b) omit paragraph 68.

Local Government and Housing Act 1989

8 In paragraph 5 of Schedule 10 to the Local Government and Housing Act 1989 (security of tenure for long residential leases)—

(a) in sub-paragraph (4), for the words from "unless" to the end substitute "unless—

(a) the landlord is a relevant authority, and

(b) the premises are required for relevant development.";

(b) after sub-paragraph (4) insert—

"(4A) For those purposes—

(a) "relevant authority" means a person referred to in any paragraph of section 38(2) of the Leasehold Reform Act 1967;

(b) "relevant development"—

(i) in relation to a relevant authority other than a health authority, means development for the

purposes (other than investment purposes) of that body;

(ii) in relation to a relevant authority that is a health authority, means development for the purposes of the National Health Service Act 2006 or the National Health Service (Wales) Act 2006;

(iii) in relation to a relevant authority that is a university body, also includes development for the purposes of any related university body;

(iv) in relation to a relevant authority that is a local authority, also includes area development;

(c) "health authority" means—

(i) NHS England;

(ii) any integrated care board;

(iii) any Local Health Board;

(iv) any Special Health Authority;

(v) any National Health Service trust;

(vi) any NHS foundation trust;

(vii) any clinical commissioning group;

(viii) any Strategic Health Authority;

(ix) any Primary Care Trust;

(d) "university body" and "related university body" have the same meaning as in section 29(6ZA) of the Leasehold Reform Act 1967;

(e) "local authority" has the same meaning as in section 29(5) of the Leasehold Reform Act 1967;

(f) "area development" means any development to be undertaken, whether or not by a local authority, in order to secure—

(i) the development or redevelopment of an area defined by a development plan under the Planning and Compulsory Purchase Act 2004 as an area of comprehensive development;

(ii) the treatment as a whole, by development, redevelopment or improvement, or partly by one and partly by another method, of any area in which the premises are situated."

Local Government (Wales) Act 1994

9 In Schedule 13 to the Local Government (Wales) Act 1994, in paragraph 24—

(a) omit paragraph (b);

(b) in paragraph (c), at the end insert ", where it applies by virtue of section 7A or 32(5) of that Act".

Housing Act 1996

10 In the Housing Act 1996—

(a) omit section 109 (collective enfranchisement: valuation);

(b) omit section 110 (lease extension for flats: valuation);

(c) in Schedule 10 (consequential amendments)—

(i) in paragraph 6, omit sub-paragraph (4);

(ii) omit paragraph 18;

(d) in Schedule 11 (compensation for postponement of termination in connection with ineffective claims)—

(i) in paragraph 2, omit sub-paragraph (2);

(ii) in paragraph 3, omit sub-paragraph (2).

Commonhold and Leasehold Reform Act 2002

11 In the CLRA 2002—

(a) omit section 126 (collective enfranchisement: valuation date);

(b) omit section 127 (collective enfranchisement: freeholder's share of marriage value);

(c) omit section 128 (collective enfranchisement: disregard of marriage value for very long leases);

(d) in section 130 (lease extension for flats: residence test), omit subsection (2);

(e) omit section 132 (lease extension for flats: personal representatives);

(f) omit section 134 (lease extension for flats: valuation date);

(g) omit section 135 (lease extension for flats: freeholder's share of marriage value);

(h) omit section 136 (lease extension for flats: disregard of marriage value for very long leases);

(i) in Schedule 13 (leasehold valuation tribunals), omit paragraph 15.

Finance Act 2003

12 In the Finance Act 2003—

(a) in Schedule 4 (stamp duty land tax: chargeable consideration), for paragraph 16C substitute—

"16C The following do not count as chargeable consideration—

(a) costs borne by the purchaser under section 9(4) of the Leasehold Reform Act 1967, where it applies by virtue of section 7A of that Act;

(b) any amount payable by the purchaser under section 19C of the Leasehold Reform Act 1967;

(c) any amount payable by the purchaser under section 89C or 89D of the Leasehold Reform, Housing and Urban Development Act 1993.";

(b) in Schedule 17A (leases: further provision), in paragraph 10 (tenants' obligations etc that do not count as chargeable consideration), for sub-paragraph (1)(f) substitute—

"(f) any liability of the tenant for costs under section 14(2) of the Leasehold Reform Act 1967, where it applies by virtue of section 32(5) of that Act;

(fa) any amount payable by the tenant under section 19C of the Leasehold Reform Act 1967 or section 89F of the Leasehold Reform, Housing and Urban Development Act 1993;".

Companies Act 2006

13 In section 1181 of the Companies Act 2006 (access to constitutional documents of RTE and RTM companies)—

(a) in the heading, omit "RTE and";

(b) in subsection (1), omit paragraph (a);

(c) in subsection (4), omit the definition of "RTE companies".

Enterprise and Regulatory Reform Act 2013

14 In section 84 of the Enterprise and Regulatory Reform Act 2013 (redress schemes: property management work), in subsection (10), omit the words from "or which" to the end.

Immigration Act 2014

15 In Schedule 3 to the Immigration Act 2014 (excluded residential tenancy agreements), in paragraph 13(2)(a), omit the words from "or which" to the end.

Consumer Rights Act 2015

16 In section 88 of the Consumer Rights Act 2015 (duty of letting agents to publicise fees: supplementary provisions), in subsection (1), in the definition of "long lease", omit paragraph (a)(ii) and the "or" preceding it.

Housing and Planning Act 2016

17 In Schedule 10 to the Housing and Planning Act 2016 (leasehold enfranchisement and extension: calculations)—

(a) omit paragraph 4;

(b) omit paragraph 5.

Tenant Fees Act 2019

18 In section 28 of the Tenant Fees Act 2019 (interpretation), in subsection (1), in the definition of "long lease", omit paragraph (b) and the "or" preceding it.

Building Safety Act 2022

19 In Schedule 8 to the BSA 2022 (remediation costs), in paragraph 6 (permitted maximum)—

(a) in sub-paragraph (5), omit "total" in each place it occurs;

(b) in sub-paragraph (8)—

(i) for "total" substitute "tenant's";

(ii) for "section 7" substitute "section 101(1)"."

Member's explanatory statement
This new Schedule would make amendments to other legislation in consequence of Part 2.

Schedule 9

BARONESS TAYLOR OF STEVENAGE

57 Schedule 9, page 204, line 15, leave out sub-paragraph (a)

Member's explanatory statement
This amendment would ensure that all leaseholders, not just those with residential leases of 150 years or over, have the right to vary their lease to replace rent with peppercorn rent.

BARONESS SCOTT OF BYBROOK

58 Schedule 9, page 212, line 22, at beginning insert "the appropriate tribunal may"

Member's explanatory statement
This amendment would correct an error.

BARONESS SCOTT OF BYBROOK

59 Schedule 9, page 221, line 16, first column, leave out "premium" and insert "price"

Member's explanatory statement
This amendment would reflect other amendments in the Bill to change references to the premium to references to the price.

Clause 47

THE LORD BISHOP OF MANCHESTER
LORD THURLOW

The above-named Lords give notice of their intention to oppose the Question that Clause 47 stand part of the Bill.

Member's explanatory statement
This amendment would retain the current minimum threshold of 25% floor area of a building occupied by non-residential purposes which prevents a right to manage claim being launched, to enable large estate owners to continue to ensure liveable communities with the amenities people need.

Clause 48

BARONESS TAYLOR OF STEVENAGE

60 Clause 48, page 57, leave out from line 23 to line 23 on page 58

Member's explanatory statement
This amendment would leave out the proposed new section 87B of the Commonhold and Leasehold Reform Act 2002 and so ensure that RTM companies cannot incur costs in instances where claims cease.

After Clause 50

LORD MOYLAN

61 After Clause 50, insert the following new Clause—

"Right to manage: local housing authorities

(1) The CLRA 2002 is amended as follows.

(2) In Schedule 6 (premises excluded from right to manage), omit paragraph 4."

Member's explanatory statement
This would allow the right to manage to be exercised where the landlord was a local housing authority.

LORD MOYLAN

62 After Clause 50, insert the following new Clause—

"Right to manage: local housing authority Housing Revenue Account

(1) The CLRA 2002 is amended as follows.

(2) In paragraph 4(1) of Schedule 6 (premises excluded from right to manage), after "premises" insert "and the whole of the premises are held within the Housing Revenue Account of that local housing authority""

Member's explanatory statement
This would allow the right to manage to be exercised where the landlord was a local housing authority but the premises were not held within that local housing authority's Housing Revenue Account.

BARONESS PINNOCK

63 After Clause 50, insert the following new Clause—

"Report: restrictions around ground rent investments

(1) Within six months of the day on which this Act is passed the Secretary of State must lay before Parliament a report outlining the impact of this Act on ground rent investments.

(2) The report in subsection (1) must also make an assessment of the impact of—
  (a) prohibiting future ground rent investments, and
  (b) encouraging divestment from existing ground rent investments

on leaseholders and freeholders.

(3) In this section "ground rent investment" means investment by a pension fund or other type of fund in leaseholds for the purpose of collecting ground rent."

Member's explanatory statement
This is a probing amendment that would require the Government report on the impact of this Act on ground rent investments, and the impact of prohibiting future ground rent investments and encouraging divestment from existing ground rent investments on leaseholders and freeholders.

BARONESS TAYLOR OF STEVENAGE

64 After Clause 50, insert the following new Clause—

"Power to establish a Right to Manage regime for freeholders on private or mixed-use estates

In Section 71 of the CLRA 2002, after subsection (2) insert—

"(3) The Secretary of State may by regulations make provision to enable freeholder owners of dwellings to exercise a right to manage in a way which corresponds with or is similar to this Part.

(4) A statutory instrument containing regulations under subsection (3) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.""

Member's explanatory statement
This new Clause would permit the Secretary of State to establish a Right to Manage regime for freeholders of residential property on private or mixed-use estates.

BARONESS TAYLOR OF STEVENAGE

65 After Clause 50, insert the following new Clause—

"Ground rent cap

The Secretary of State must, within 30 days of this Bill coming into force, publish the Government's response to its consultation, 'Modern leasehold: restricting

ground rent for existing leases' and lay before both Houses of Parliament a statement outlining its plans to bring forward any such legislation that its implementation requires."

Member's explanatory statement
This amendment would require the Government to publish its response to its consultation on a cap on ground rents and set out its implementation within a month of the Bill passing.

LORD BAILEY OF PADDINGTON

65A After Clause 50, insert the following new Clause—

"Premises to which leasehold right to manage applies

In section 72(1)(a) of the CLRA 2002 at the end insert the words "or of any other building or part of a building which is reasonably capable of being managed independently"."

Member's explanatory statement
This new Clause, which is an amendment to the Commonhold and Leasehold Reform Act 2002, adopts Recommendation 5 of the Law Commission's Right to Manage report to permit leaseholders in mixed-use property with shared services or underground car park to exercise the Right to Manage for their element of the building.

LORD BAILEY OF PADDINGTON

65B After Clause 50, insert the following new Clause—

"Proportion of qualifying tenants required for a notice of claim to acquire right to manage

In section 79(5) of the CLRA 2002 omit "one-half" and insert "35%"."

Member's explanatory statement
This new Clause would reduce the proportion of qualifying tenants who must be members of a proposed Right to Manage company for a claim to be made from one-half to 35%.

Clause 51

BARONESS SCOTT OF BYBROOK

66 Clause 51, page 59, line 15, leave out "as follows" and insert "in accordance with subsections (2) to (6)"

Member's explanatory statement
This amendment is consequential on the other Government amendment to this clause.

BARONESS TAYLOR OF STEVENAGE

67 Clause 51, page 60, line 2, leave out subsection (4)(a)

Member's explanatory statement
This amendment would ensure that the statutory test of reasonableness would apply to fixed service charges.

BARONESS SCOTT OF BYBROOK

68 Clause 51, page 60, line 19, at end insert—

"(7) The Landlord and Tenant Act 1987 ("the LTA 1987") is amended in accordance with subsections (8) to (10).

(8) In the provisions referred to in subsection (9), in each place they occur—
(a) for "service charge" substitute "variable service charge";
(b) for "service charges" substitute "variable service charges".

(9) The provisions are—
(a) in section 24 (appointment of manager by tribunal), subsections (2) and (2A);
(b) in section 35 (application by party to lease for variation of lease), subsections (2) and (4);
(c) in section 42 (service charge contributions to be held in trust), the heading and subsections (1), (2), (3), (4), (6), and (8).

(10) In section 35(8), for ""service charge" has the meaning" substitute ""service charge" and "variable service charge" have the meaning".

(11) In section 167 of the CLRA 2002 (failure to pay small amount for short period)—
(a) in subsection (1), for "service charges" substitute "variable service charges";
(b) in subsection (5), for "service charge" substitute "variable service charge"."

Member's explanatory statement
This amendment would, in light of the amended definition of "service charges" in section 18 of the LTA 1985, make amendments to provisions in the LTA 1987 and CLRA 2002 that use that definition so that they refer to "variable service charges" (and accordingly preserve the current effect of those provisions).

Clause 53

BARONESS TAYLOR OF STEVENAGE

69 Clause 53, page 62, leave out line 16

Member's explanatory statement
This amendment would remove provision for the appropriate authority to exempt certain categories of landlord from the requirements relating to service charge demands set out in subsection (1) of the Clause.

BARONESS SCOTT OF BYBROOK

70 Clause 53, page 62, line 28, leave out "the Landlord and Tenant Act 1987 ("the LTA 1987")" and insert "the LTA 1987"

Member's explanatory statement
This amendment is consequential on the Government amendments to clause 51.

Clause 54

BARONESS SCOTT OF BYBROOK

71 Clause 54, page 63, line 21, leave out paragraph (b) and insert—

"(b) that, on or before the account date for an accounting period in respect of which a statement of account is provided, the landlord must provide the tenant with a written report about the statement prepared by a qualified accountant, which—

(i) is prepared in accordance with specified standards for the review of financial information, and

(ii) includes a statement by the accountant, in a specified form and manner, that the report is a faithful representation of what it purports to represent;

(c) that the landlord must provide adequate accounts, receipts or other documents or explanations to the accountant to enable them to provide the report;

(d) that, if the landlord incurs costs in obtaining the report, the tenant must pay the landlord a fair and reasonable contribution to those costs."

Member's explanatory statement
This amendment would clarify that the obligations of the landlord are to obtain a report from a qualified accountant as to the accuracy of the statement of account and to provide adequate documents to the accountant, and would require the tenant to contribute towards the costs of the report.

BARONESS SCOTT OF BYBROOK

72 Clause 54, page 63, line 36, at end insert—

"(4A) An amount payable under the term implied by subsection (2)(d)—

(a) is a variable service charge for the purposes of section 18, and the provisions of this Act relating to service charges apply accordingly;
(b) is payable irrespective of whether a lease, contract or other arrangement provides for it to be payable as a service charge."

Member's explanatory statement
This amendment would subject any costs payable under the new section 21D(2)(d) to the restrictions relating to variable service charges.

BARONESS SCOTT OF BYBROOK

73 Clause 54, page 65, line 7, leave out "certification of" and insert "report on"

Member's explanatory statement
This amendment is consequential on the amendment to new section 21D(2)(b).

BARONESS SCOTT OF BYBROOK

74 Clause 54, page 65, line 8, at end insert—

"(aa) for subsection (2) substitute—

"(2) A person has the necessary qualification if the person—
(a) is eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006, or
(b) satisfies such other requirement or requirements as may be specified in regulations made by the appropriate authority.";"

Member's explanatory statement
This amendment would allow an appropriate authority to expand the meaning of "the necessary qualification" in section 28(2) of the LTA 1985.

BARONESS SCOTT OF BYBROOK

75 Clause 54, page 65, line 10, at end insert—

"(c) after subsection (6) insert—

"(7) Regulations under this section—
(a) are to be made by statutory instrument;
(b) may make provision generally or only in relation to specific cases;
(c) may make different provision for different purposes;
(d) may include supplementary, incidental, transitional or saving provision.

(8) A statutory instrument containing regulations under this section (whether alone or with other provision) is subject to the affirmative procedure.""

Member's explanatory statement
This amendment would make provision about regulations about the meaning of "the necessary qualification" in section 28(2) of the LTA 1985.

Clause 55

BARONESS TAYLOR OF STEVENAGE

76 Clause 55, page 67, leave out lines 5 to 12 and insert—

"(4) P may not charge R any sum in excess of the prescribed amount in respect of the costs incurred by P in doing anything required under section 21F or this section.

(5) The prescribed amount means an amount specified in regulations by the appropriate authority; and such regulations may prescribe different amounts for different activities.

(6) If P is a landlord, P may not charge the tenant for the costs of allowing the tenant access to premises to inspect information (but may charge for the making of copies)."

Member's explanatory statement
This amendment would make the appropriate authority (i.e. the Secretary of State or the Welsh Ministers) responsible for setting a prescribed amount for the costs of providing information to leaseholders. That prescribed amount would be the maximum amount that freeholders and managing agents employed by them could seek to recover through a service charge.

Clause 56

LORD BAILEY OF PADDINGTON

76A Clause 56, page 67, line 38, leave out subsection (2) and insert—

"(2) In section 26(1) (Exception: tenants of certain public authorities), omit the words "but section 25 (offence of failure to comply) does not"."

Member's explanatory statement
This amendment seeks to preserve the ability to crowdfund private prosecutions of rogue landlords, which should help get section 24 orders for abused blocks. It also extends the protection of the criminal sanction to council leaseholders.

BARONESS THORNHILL

77 Clause 56, page 68, line 16, at end insert—

"(ba) an order that penalties be applied to the price payable for enfranchisement to acquire a freehold, to reflect the dereliction of duty to leaseholders;"

Member's explanatory statement
This amendment seeks to ensure that leaseholders are entitled to apply to the appropriate tribunal to ensure that freeholders who do not provide the agreed estate management services can be subject to penalty at sale of the freehold.

After Clause 56

BARONESS FOX OF BUCKLEY

78 After Clause 56, insert the following new Clause—

"Consultation about service charges

(1) Section 20ZA of the Landlord and Tenant Act 1985 (consultation requirements: supplementary) is amended in accordance with subsections (2) and (3).

(2) In subsection 20ZA(1) leave out from "satisfied" to end and insert "the landlord meets the requirements of subsections (1A), (1B) and (1C)".

(3) After subsection 20ZA(1) insert the following—

"(1A) There is a presumption that the appropriate tribunal is not to grant dispensation unless the landlord proves—

(a) there are grounds of bona fide urgency that are not within the landlord's control, and

(b) the dispensation would not prejudice any tenant, whether in pecuniary terms or otherwise.

(1B) In every application under this section the appropriate tribunal must consider whether any condition should be imposed on the grant of dispensation, whether or not requested by the landlord or the tenant.

(1C) No application under this section may be made—

(a) after the relevant costs have been incurred by the landlord, except in the case of the landlord proving a bona fide emergency,

(b) during any proceedings before the appropriate tribunal under section 27A, or

(c) after any determination made against the landlord by the appropriate tribunal under section 27A.""

Member's explanatory statement
This amendment enhances leaseholders' consultation rights by only allowing dispensation from consultation in relation to major works or qualifying long-term agreements in cases of genuine

urgency that would improve the position of tenants. It also places the burden of proof of landlords and requires that all applications for dispensation be made prospectively.

LORD BAILEY OF PADDINGTON

78A After Clause 56, insert the following new Clause—

"LTA 1985: regime for service charge disputes

(1) The Landlord and Tenant Act 1985 is amended in accordance with subsections (2) to (3).

(2) In section 27A(4)(a), after "tenant" insert the words "or landlord".

(3) After section 27A insert the following—

"27B Requirement to join all interested tenants unless they opt-out

(1) On receipt of any application under section 27A from any tenant, the appropriate tribunal shall direct the landlord to give notice of the application to all tenants under the same landlord.

(2) The appropriate tribunal must direct that all tenants will be deemed joined to application unless they write to the appropriate tribunal and opt-out of the proceedings before the final hearing.

27C Landlord's duty to account to all tenants following determinations in favour of any tenant under section 27A

(1) A landlord owes a duty to account to all tenants for any costs found to be unreasonable following a determination by the appropriate tribunal in favour of any tenant under section 27A.

(2) A landlord must account to all tenants by the end of the period of two months beginning with the date of the appropriate tribunal's determination under section 27A.

(3) The account must include any interest awarded under section 27D.

(4) An appeal does not suspend the landlord's duty to account unless—

(a) The appellate court of tribunal orders otherwise, and

(b) As a condition of any order the landlord pays the sum due into escrow on terms approved by the appellate court or tribunal, or else into the Court Funds Office.

27D Power to award interest on determinations under section 27A

(1) On application by the tenant, the appropriate tribunal shall have the power to award interest on any determination in favour of the tenant under section 27A.

(2) Provided the landlord accounts to the tenant in accordance with section 27C, interest ordered under this section shall accrue daily on the simple basis at a rate that is the higher of—

(a) any interest rate for late payments specified in the lease, or

(b) the rate specified in section 17 of the Judgments Act 1838 at the date of the appropriate tribunal's determination.

(3) If the landlord does not comply with its duty to account to the tenant in accordance with section 27C then beginning on the day after the period specified in section 27C(2)—

(a) the applicable rate of interest shall increase to 15% per annum, or such higher amount as the relevant authority shall prescribe,

(b) interest shall apply to the aggregate of the sum outstanding and interest calculated in accordance with subsection (2), and

(c) interest shall accrue daily on a compound basis until the date of payment by the landlord.

27E Avoidance of sections 27B to 27D

Any agreement contrary to sections 27B to 27D is void, whether made before or after the coming into force of this section.""

Member's explanatory statement

This amendment would strengthen the regime for service charge disputes by allowing tenants to claim interest, imposing a 2 month limit on repayments from landlords and requiring landlords to account to all tenants for costs found to be unreasonable.

BARONESS JONES OF MOULSECOOMB

78B After Clause 56, insert the following new Clause—

"Review of municipalisation of public assets funded by leaseholders

(1) Within six months of the passing of this Act, the Secretary of State must publish a report on the municipalisation of public assets funded by leaseholders through ground rent and/or service charge payments.

(2) In preparing the report in subsection (1), the Secretary of State must consult representatives from—

(a) local government,

(b) relevant leaseholders,

(c) relevant freeholders, and

(d) anyone else that the Secretary of State considers relevant.

(3) The report must include the following issues—

(a) the prevalence of public assets funded by leaseholders through ground rent and/or service charge payments, such as green space, play equipment, roads and pavements;

(b) the costs and benefits to leaseholders and other users of these assets;

(c) Whether such assets ought to be taken into some form of public ownership, control, and/or funding."

Clause 57

LORD BAILEY OF PADDINGTON

79 Clause 57, page 70, line 10, at end insert—

"(5A) The regulations must specify a broker's reasonable remuneration at market rates as a permitted insurance payment.

(5B) The regulations must exclude any payment which arises, directly or indirectly, from any breach of trust, fiduciary obligation or failure to act in the best interests of the tenant."

Member's explanatory statement
This amendment would require "permitted insurance payment" to include payment of a reasonable sum to a broker at market rates for placing the cover, and to exclude any payments which have arisen from wrongdoing.

After Clause 57

BARONESS PINNOCK
BARONESS TAYLOR OF STEVENAGE

80 After Clause 57, insert the following new Clause—

"Report on the impact of section 57

(1) Within one year of the day on which section 57 of this Act comes into force the Financial Conduct Authority (FCA) must conduct a report into the impact of that section in reducing instances of unreasonable insurance costs being passed on to leaseholders.

(2) The FCA may make a recommendation as to whether further action is needed to protect leaseholders from unreasonable insurance costs.

(3) The Secretary of State must lay a copy of the report in subsection (1) before Parliament."

Member's explanatory statement
This amendment would require the FCA to report on the impact of the provisions in the bill around insurance costs in order to monitor progress on reducing costs passed on to leaseholders.

Clause 60

LORD MOYLAN

81 Clause 60, page 76, line 36, at end insert—

"(1A) Subsection (1) does not apply to a Right to Manage Company constituted under the Commonhold and Leasehold Reform Act 2002 when exercising the functions of the landlord."

LORD MOYLAN

81A Clause 60, page 76, line 36, at end insert—

"(1A) Subsection (1) does not apply to non-profit entities which have the right to enforce payment of a service charge. The following (non-exhaustive) list provides examples of the types of entities in question—

(a) Residential Management Companies;

(b) Right to Manage Companies constituted under the Commonhold and Leasehold Reform Act 2002."

Member's explanatory statement
This would allow non-profit resident-run lease operators to continue to recoup legal costs through a service charge.

BARONESS TAYLOR OF STEVENAGE
BARONESS PINNOCK

82 Leave out Clause 60 and insert the following new Clause-—

"Prohibition on landlords claiming litigation costs from tenants

(1) Any term of a long lease of a dwelling which provides a right for a landlord to demand litigation costs from a leaseholder (whether as a service charge, administration charge or otherwise) is of no effect.

(2) The Secretary of State may, by regulations, specify classes of landlord to which, or prescribed circumstances in which, subsection (1) does not apply.

(3) In this section—

"administration charge" has the meaning given by Schedule 11 of the Commonhold and Leasehold Reform Act 2022;

"dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, or outhouses and appurtenances belonging to it or usually enjoyed with it;

"long lease" has the meaning given by sections 76 and 77 of the Commonhold and Leasehold Reform Act 2002;

"service charge" has the meaning given by section 18 of the Landlord and Tenant Act 1985;

"landlord" has the meaning given by section 30 of the Landlord and Tenant Act 1985."

Member's explanatory statement
This new Clause would prohibit landlords from claiming litigation costs from tenants other than under limited circumstances determined by the Secretary of State.

Schedule 10

BARONESS SCOTT OF BYBROOK

83 Schedule 10, page 227, line 11, leave out "subsection (4)" and insert "subsections (4) and (7)"

Member's explanatory statement
This amendment is consequential on clause 67 repealing section 172(1)(a) of the CLRA 2002, which is amended by section 112(7) of the BSA 2022.

After Clause 69

BARONESS FOX OF BUCKLEY

84 After Clause 69, insert the following new Clause—

"Marketing of residential leasehold property

(1) Within six months of the day on which this Act is passed, the Secretary of State must make regulations to regulate the marketing of residential leasehold property.

(2) Regulations under subsection (1) may—

(a) require residential leasehold property without a share of the freehold to be marketed and sold as "lease-rental",

(b) require that residential leasehold property without a share of the freehold be advertised with a disclaimer containing the words that "leasehold is a lesser title and management and service charges at this property are controlled by a third-party entity that is not subject to democratic resident control",

(c) provide information about the rights and responsibilities of leaseholders and landlords under a long lease to be given to prospective home buyers by sellers and property agents in the form of a document produced by the Secretary of State or another person,

(d) require sellers and property agents to clearly state material information, including lease length, ground rent and service charge, in the marketing of residential leasehold property,

(e) define "prospective home buyers", "sellers" and "property agents",

(f) provide that the document to be given is the version that has effect at the time the requirement applies, and

(g) specify cases where the regulations do not apply.

(3) Regulations under subsection (1) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament."

Member's explanatory statement
This amendment would provide for a scheme to regulate the marketing of residential leasehold property. The scheme involves requiring leasehold homes without a share of the freehold to be marketed and sold as "lease-rental", which adopts a key recommendation of the leasehold report by the House of Commons' Levelling Up, Housing and Communities Committee, published on 11 March 2019.

BARONESS FOX OF BUCKLEY

85 After Clause 69, insert the following new Clause—

"Prevention of leaseholder abuse in retirement housing

(1) Within one year of the passing of this Act, a Minister of the Crown must publish a report assessing the state of the United Kingdom's retirement leasehold sector with special regard to the treatment of elderly and vulnerable leaseholders.

(2) The report must consider whether the government should introduce legislation on retirement housing to address consumer detriment while encouraging downsizing, a larger, healthier retirement housing sector and a better functioning property market.

(3) The report must also include—
  (a) an assessment of the extent to which the following factors harm leaseholders in retirement housing—
    (i) service charges not subject to resident control;
    (ii) inability to easily switch managing agents to remove predatory or poorly performing service providers;
    (iii) license and permission fees;
    (iv) short leases;
    (v) shared ownership structures;
    (vi) exit and event fees;
    (vii) resale values, and
  (b) an update on the government's implementation of the recommendations in the Law Commission report "Event Fees in Retirement Properties", published on 30 March 2017,
  (c) the Older People's Housing Taskforce report and a statement on the government's implementation of its findings,
  (d) legislative options to address the significant financial loss and emotional distress of leaseholders in retirement housing and those of their families, and
  (e) a recommendation as to whether the housing-with-care model, license to occupy schemes and commonhold developments should be promoted by the government as preferred alternatives to leasehold tenure in the retirement sector."

Member's explanatory statement
This new Clause would require a Minister of the Crown to publish a report to establish the experience of leaseholders in retirement housing and to outline legislative options to improve consumer outcomes in this sector.

Clause 72

BARONESS THORNHILL

86 Clause 72, page 93, line 7, at end insert—

"(c) only where they are incurred in the provision of services or the carrying out of works that would not ordinarily be provided by local authorities."

Member's explanatory statement
This amendment would mean that services or works that would ordinarily be provided by local authorities are not relevant costs for the purposes of estate management charges.

BARONESS TAYLOR OF STEVENAGE

87 Clause 72, page 93, line 7, at end insert—

"(c) where they are incurred in the provision of services or the carrying out of works, only where the requirement for those services or works is not the result of defects in the original construction."

Member's explanatory statement
This amendment would ensure that services or works on private or mixed-use estate that are required as a result of defects in its construction are not relevant costs for the purposes of estate management charges.

Clause 77

BARONESS SCOTT OF BYBROOK

88 Clause 77, page 97, line 6, leave out "provides" and insert "carries out"

Member's explanatory statement
This amendment would align the terminology used with terminology used elsewhere in Part 5.

BARONESS SCOTT OF BYBROOK

89 Clause 77, page 97, line 8, leave out "provided" and insert "carried out"

Member's explanatory statement
This amendment would align the terminology used with terminology used elsewhere in Part 5.

Clause 81

BARONESS SCOTT OF BYBROOK

90 Clause 81, page 100, line 25, at end insert—

"(1A) But "administration charge" does not include an amount payable by a tenant of a dwelling in a case where all of the following conditions are met—

(a) the tenant's lease specifies that only a person who has attained a minimum age may occupy the dwelling;

(b) the amount is payable under a term of the tenant's lease or is otherwise payable in connection with the tenant's lease;

(c) the amount is payable if—

(i) the tenant's lease is granted, assigned or terminated,

(ii) a lease of the dwelling which is inferior to the tenant's lease is granted, assigned or terminated, or

(iii) there is a change in the person or persons occupying the dwelling;

(d) the amount is fixed or is calculated by a method determinable in advance;

(e) any other conditions specified in regulations made by the appropriate authority."

Member's explanatory statement
This amendment would provide for "administration charge" in clause 81 to exclude "event fees" (which will generally be "fixed" service charges subject to the provisions regulating those charges inserted by Part 4).

After Clause 95

BARONESS THORNHILL

91 After Clause 95, insert the following new Clause—

"Estate management services

(1) Within three months of the passage of this Act, the Secretary of State must by regulation provide for residents of managed dwellings to take ownership of—

(a) an estate management company, or

(b) the assets of an estate management company, or other company or business connected with the development or management of the dwellings, which are used to provide services to managed dwellings,

where a relevant condition in subsection (2) is met.

(2) A relevant condition is if the estate management company or connected company or business does not—

(a) provide the residents of the managed dwellings with a copy of its budget for the forthcoming year and accounts for the past year,

(b) give sufficient notice to enable residents to attend its annual meeting, or

(c) acknowledge correspondence sent by registered post to its registered office within a reasonable length of time.

(3) Regulations under subsection (1)—

(a) may amend primary legislation, and

(b) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament."

Member's explanatory statement

This amendment would enable residents to take ownership of estate management companies where the existing management companies are not providing them with an adequate service.

BARONESS TAYLOR OF STEVENAGE

92 After Clause 95, insert the following new Clause—

"Requirement to establish and operate a management company under leaseholder control

(1) The Secretary of State may by regulations make provision—

(a) requiring any long lease of a dwelling to include a residents management company ("RMC") as a party to that lease, and

(b) for that company to discharge under the long lease such management functions as may be prescribed by the regulations.

(2) Regulations under subsection (1) must provide—

(a) for the RMC to be a company limited by share (with each share to have a value not to exceed £1), and

(b) for such shares to be allocated (for no consideration) to the leaseholder of the dwelling for the time being.

(3) Regulations under subsection (1) must prescribe the content and form of the articles of association of an RMC.

(4) The content and form of articles prescribed in accordance with subsection (3) have effect in relation to an RMC whether or not such articles are adopted by the company.

(5) A provision of the articles of an RMC has no effect to the extent that it is inconsistent with the content or form of articles prescribed in accordance with subsection (3).

(6) Section 20 of the Companies Act 2006 (default application of model articles) does not apply to an RMC.

(7) The Secretary of State may by regulations make such provision as the Secretary of State sees fit for the enforcement of regulations made under subsection (1), and such provision may (among other things) include provision—

(a) conferring power on the First-Tier Tribunal to order that leases be varied to give effect to this section;

(b) providing for terms to be implied into leases without the need for any order of any court or tribunal.

(8) The Secretary of State may by regulations prescribe descriptions of buildings in respect of which regulations may be made under subsection (1).

(9) In this section—

"dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, or outhouses and appurtenances belonging to it or usually enjoyed with it;

"long lease" has the meaning given by sections 76 and 77 of the Commonhold and Leasehold Reform Act 2002;

"management function" has the meaning given by section 96(5) of the Commonhold and Leasehold Reform Act 2002.

(10) The Secretary of State may by regulations amend the definition of "management function" for the purposes of this section."

Member's explanatory statement
This new Clause would ensure that leases on new flats include a requirement to establish and operate a residents' management company responsible for all service charge matters, with each leaseholder given a share.

BARONESS TAYLOR OF STEVENAGE

93 After Clause 95, insert the following new Clause—

"Review of terms and charges contained within deeds and leases

The Secretary of State must, within 12 months of this Bill coming into force, carry out and publish a review of the extent and impact of deeds of residential freehold properties and leases of residential leasehold properties containing non-standard terms and charges imposed by estate managers."

Member's explanatory statement
This amendment would require the Government to carry out a review of non-standard terms and charges included in freehold deeds and leasehold leads by estate management companies.

After Clause 109

LORD BEST
LORD YOUNG OF COOKHAM
BARONESS HAYTER OF KENTISH TOWN
BARONESS TAYLOR OF STEVENAGE

94 After Clause 109, insert the following new Clause—

"The Regulator of Property Agents

(1) The Secretary of State shall establish a body corporate known as the Regulator of Property Agents ("the Regulator") to regulate property agents in respect of—

(a) estate management of leasehold properties,
(b) sale of leasehold properties, and
(c) sale of freehold properties subject to estate management or service charges.

(2) Regulations under this section—
(a) must be laid within 24 months of the date of Royal Assent to this Act,
(b) must be made by statutory instrument, and
(c) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

(3) If, at the end of the period of 12 months beginning with the day on which this Act is passed, the power in subsection (1) is yet to be exercised, the Secretary of State must publish a report setting out the progress that has been made towards doing so.

(4) The objectives of the Regulator are—
(a) to protect the consumers of services provided by property agents, in respect of—
(i) estate management of leasehold properties,
(ii) sale of leasehold properties, and
(iii) sale of freehold properties subject to estate management or service charges.
(b) to set and uphold standards of competence and conduct for property agents in relation to the sale of leasehold properties and freehold properties subject to estate management or service charges.

(5) "Property agent" means an individual or body of persons (whether incorporated or not) which carries out the roles of an estate agent as defined in Section 1 of the Estate Agents Act 1979 or of a property manager as defined in Sections 54 and 55 of the Housing and Planning Act 2016.

(6) The Secretary of State may provide financial assistance (by way of grant, loan or guarantee, or in any other form) and make other payments for the establishment and maintenance of the Regulator.

(7) The Regulator must establish a panel of persons called "the Advisory Panel".

(8) The Panel may provide information and advice to the Regulator about, and on matters connected with, the Regulator's functions (whether or not it is requested to do so by the Regulator).

(9) The Regulator must appoint the following persons to the Panel—
(a) persons appearing to the Regulator to represent the interests of—
(i) leaseholders of properties managed by property agents,
(ii) freeholders of properties subject to estate management or service charges, and
(iii) professional bodies and associations representing property agents who manage leasehold properties.
(b) the Secretary of State.

(10) The Regulator has powers as follows—

(a) to monitor, assess, report, and intervene (as appropriate) in relation to the performance of property agents who manage leasehold properties;

(b) to determine mandatory qualifications to ensure that those undertaking the activities of a property agent in England have, or are working towards, qualifications that demonstrate competency in respect of the sale or management of leasehold and freehold properties;

(c) to enforce compliance with a mandatory and legally-enforceable Code of Practice for property agents selling or managing leasehold properties;

(d) to provide guidance to property agents on the regulatory framework for the sale and management of leasehold and freehold properties;

(e) to register all property agents complying with the requirements of the Regulator and to revoke the registration of property agents who persistently breach the regulatory framework;

(f) to raise a registration fee and an annual fee to pay for the ongoing costs of the Regulator of Property Agents;

(g) to review and make recommendations to the Secretary of State for the updating of the statutory guidance that sits alongside the regulatory framework for the sale and management of leasehold and freehold properties;

(h) to delegate to designated bodies administrative and regulatory functions in respect of the sale and management of leasehold and freehold properties, as it deems appropriate.

(11) The Property Ombudsman and other redress schemes, if any, covering property agents shall provide the Regulator with such information as the Regulator shall request."

Member's explanatory statement

This amendment seeks to create a Regulator of Property Agents to regulate property agents in respect of estate management of leasehold properties, sale of leasehold properties, and sale of freehold properties subject to estate management or service charges.

Clause 111

BARONESS TAYLOR OF STEVENAGE

95 Leave out Clause 111 and insert the following new Clause—

"Remedies for the recovery of annual sums charged on land

(1) Section 121 of the Law of Property Act 1925 is omitted.

(2) The amendment made by subsection (1) has effect in relation to arrears arising before or after the coming into force of this section."

Member's explanatory statement
This new clause would remove the provision of existing law which, among other things, allows a rent charge owner to take possession of a freehold property in instances where a freehold homeowner failed to pay a rent charge.

BARONESS TAYLOR OF STEVENAGE

Baroness Taylor of Stevenage gives notice of her intention to oppose the Question that Clause 111 stand part of the Bill.

Member's explanatory statement
This amendment, along with that replacing clause 111, would remove the provision of existing law which, among other things, allows a rent charge owner to take possession of a freehold property in instances where a freehold homeowner failed to pay a rent charge.

After Clause 116

LORD YOUNG OF COOKHAM
THE LORD BISHOP OF MANCHESTER
BARONESS PINNOCK

96 After Clause 116, insert the following new Clause—

"Meaning of "relevant building"

In section 117(2) of the BSA 2022 (meaning of "relevant building") leave out "and—

(a) is at least 11 metres high, or
(b) has at least 5 storeys.""

LORD YOUNG OF COOKHAM

97 After Clause 116, insert the following new Clause—

"Meaning of "qualifying lease"

In section 119(2)(d)(iii) of the BSA 2022 (meaning of "qualifying lease" and "the qualifying time") for "two" substitute "six"."

LORD YOUNG OF COOKHAM

98 After Clause 116, insert the following new Clause—

"Amendment of the meaning of accountable person

(1) Section 72 of the BSA 2022 is amended in accordance with subsection (2).

(2) At the end of subsection (1)(b) insert ", or

(c) a manager appointed under an order of the appropriate tribunal made under section 24 of the Landlord and Tenant Act 1987 (appointment of manager by a tribunal).""

Member's explanatory statement
This amendment includes a section 24 manager within the definition of accountable person. This is to prevent a landlord who has been replaced with the Tribunal appointed manager from regaining access to service charge funds as an accountable person.

LORD YOUNG OF COOKHAM
BARONESS PINNOCK
THE LORD BISHOP OF MANCHESTER
BARONESS TAYLOR OF STEVENAGE

99 After Clause 116, insert the following new Clause—

"Qualifying buildings under the Building Safety Act 2022

(1) The BSA 2022 is amended in accordance with subsections (2) and (3).

(2) In section 117 (meaning of "relevant building")—
(a) in subsection (2), omit all words after "dwellings" to the end;
(b) omit subsection (3).

(3) Omit section 118 (Section 117: height of buildings and number of storeys)."

Member's explanatory statement
This amendment changes the definition of "qualifying building" so that buildings of any height, and resident-owned buildings, qualify. This change would apply the protections in Part 5 of, and Schedule 8 to, the Building Safety Act 2022 to all leaseholders. Consequently, section 118 of the same Act is repealed.

LORD YOUNG OF COOKHAM
THE LORD BISHOP OF MANCHESTER
BARONESS PINNOCK
BARONESS TAYLOR OF STEVENAGE

100 After Clause 116, insert the following new Clause—

"Qualifying leases under the Building Safety Act 2022

(1) Section 119 of the BSA 2022 is amended in accordance with subsections (2) to (8).

(2) In subsection (2) replace paragraph (d)(ii) with the following—

"(ii) a relevant tenant owned more than one dwelling in the United Kingdom but the aggregate value of those dwellings did not exceed £2 million, or"

(3) After subsection (2) insert the following—

"(2A) Where a person owns more than one dwelling, regardless of whether the dwellings are all let on long leases, the first three such dwellings let on long leases are to be deemed qualifying leases."

(4) After subsection (3A) insert the following—

"(3B) It shall be an implied term of every lease that the landlord must issue a certificate to every tenant (the "Cessation Certificate") as soon as any of the prescribed conditions are met.

(3C) The distinction in subsection (3) shall no longer apply in relation to any lease from the date the landlord provides a Cessation Certificate in accordance with subsection (3B)."

(5) In subsection (4)(b) at end insert "and where a person owns an interest in more than one dwelling with more than one other person, that person's interest is pro-rated by reference to the total number of owners of each such dwelling".

(6) After subsection (4)(b) insert the following—

"(ba) "prescribed" means prescribed in regulations made by the Secretary of State;"

(7) After subsection (4)(d) insert the following—

"(e) "value" means the value determined in accordance with regulations made under paragraph 6 of Schedule 8 to the this Act."

(8) The amendments made by this section are deemed to have been in force since 28 June 2022."

Member's explanatory statement
This amendment (a) ends the distinction between qualifying and non-qualifying leases once prescribed conditions are met (for example, an effective level of fire safety is achieved); (b) ensures every leaseholder has protection for the first three flats owned; (c) apportions protection to non-qualifying leaseholders based on ownership and (d) introduces a wealth criteria before costs can be passed on to non-qualifying leaseholders.

LORD YOUNG OF COOKHAM

101 After Clause 116, insert the following new Clause—

"Report on Remediation Works Agency

Within two months of the day on which this Act is passed, the Secretary of State must lay before Parliament a review of the impact of this Act on—

(a) the progress with remediation of fire safety risks in residential or mixed-use residential buildings of all heights,

(b) the steps His Majesty's Government is taking to accelerate remediation works in all affected buildings,

(c) the progress His Majesty's Government has made in obtaining contributions from developers and other parties responsible for the design, construction or sale of defective residential or residential mixed-use buildings, and

(d) the case for the creation of a Remediation Works Agency to accelerate and oversee remediation works for fire safety defects such that all buildings are remediated by no later than 30 June 2027."

Member's explanatory statement
This amendment requires the Secretary of State to review the impact of this Act on remediation of, and holding responsible actors accountable for, fire safety defects, and the case for a new body to oversee and accelerate remedial works so they are completed by no later than June 2027.

BARONESS PINNOCK

102 After Clause 116, insert the following new Clause—

"Reporting requirement: Building safety remediation

(1) Within three months of the day on which this Act is passed, and every year thereafter, the Government must lay before Parliament a report on progress with regard to building safety remediation.

(2) The report in subsection (1) must include but is not limited to—

(a) an update on the number of buildings in England awaiting remediation works, and any significant delays to remediation,

(b) progress in ensuring leaseholders have access to a robust and independent dispute resolution process to allow them to hold developers to account and challenge delays in remediation works, and

(c) progress towards ensuring all leaseholders affected by building safety issues are able to access remediation, including those not currently able to access Government funding schemes.

(3) The report must make recommendations as to whether further legislation is needed to improve progress towards the objectives outlined in subsection (2)."

Member's explanatory statement
This amendment would require the Government to report on progress relating to building safety remediation.

BARONESS TAYLOR OF STEVENAGE

103 After Clause 116, insert the following new Clause—

"Leaseholder protection against costs arising from the new building safety regulatory framework

In section 30D of the Landlord and Tenant Act 1985, after subsection (9) insert—

"(10) The amount payable by a tenant under a lease to which subsection (3)(a) applies shall not exceed £75 per annum.

(11) The Secretary of State may by regulations made by statutory instrument, alter that figure; such regulations may additionally make different provision for different descriptions of landlord or tenant.""

Member's explanatory statement
This new Clause would impose a cap on charges that can be passed on to leaseholders in relation to cost incurred as a result of the new building safety regulatory framework introduced by the Building Safety Act 2022.

BARONESS FOX OF BUCKLEY

104 After Clause 116, insert the following new Clause—

"Amendment of the power to appoint a manager

(1) Section 24 of the Landlord and Tenant Act 1987 is amended as follows.

(2) Subsections 24(2ZB) and 24(2ZC) are omitted."

Member's explanatory statement
This amendment would allow the appropriate tribunal to appoint a Section 24 manager and have that manager be the "accountable person", where the tribunal has found it "just and convenient" to deprive the landlord of their management functions, for any reason. This amendment removes the conflict between the Building Safety Act 2022 and the Landlord and Tenant Act 1987, which currently deprives leaseholders in buildings of 18 metres or higher who are suffering poor management by their landlord from seeking alternative management.

BARONESS TAYLOR OF STEVENAGE

105 After Clause 116, insert the following new Clause—

"Qualifying leases for the purposes of the remediation of building defects

After Section 119(4) of the Building Safety Act 2022 insert—

"(5) The Secretary of State may, by regulations, amend subsection (2) so as to bring additional descriptions of lease within the definition of "qualifying lease"."

Member's explanatory statement
This new Clause would give the Secretary of State the power to bring "non qualifying" leaseholders within the scope of the protections of the Building Safety Act 2022.

LORD BAILEY OF PADDINGTON

105A After Clause 116, insert the following new Clause—

"Report on shared ownership, 999 year leases and adoption of commonhold

Within a period of six months beginning on the day this Act is passed, the Secretary of State must lay a report before both Houses of Parliament containing—

(a) Details of their proposals to ensure a fairer deal for shared ownership leaseholders in matters including, but not limited to—

(i) Lease extensions, so as to ensure shared owners enjoy similar rights to other tenants under this Act;

(ii) Terms of leases, in particular means to ensure shared owners have a right to extend their lease to 999 years;

(iii) Service charge liabilities being pro-rated according to the shared owner's proportion of the equity;

(b) Details of their proposals to ensure that all new flats come with either a share of freehold and / or a minimum lease term of 999 years;

(c) Details of their proposals for the widespread adoption of commonhold for all new flats by 2030."

Member's explanatory statement
This amendment requires the Secretary of State to report on ensuring shared owners enjoy the same benefits as other leaseholders and that he makes proposals for measures to encourage 999 year leases as standard and for the widespread adoption of commonhold.

LORD BAILEY OF PADDINGTON

105B After Clause 116, insert the following new Clause—

"Meaning of "accountable person" for the purposes of the Building Safety Act 2022

(1) Section 72 of the Building Safety Act 2022 is amended in accordance with subsections (2) and (3).

(2) After subsection (2)(b), insert—

"(c) all repairing obligations relating to the relevant common parts which would otherwise be obligations of the estate owner are functions of a manager appointed under section 24 of the Landlord and Tenant Act 1987 in relation to the building or any part of the building.".

(3) In subsection (6), in the definition of "relevant repairing obligation", after "enactment", insert "or by virtue of an order appointing a manager made under section 24 of the Landlord and Tenant Act 1987".

(4) Section 24 of the Landlord and Tenant Act 1987 is amended in accordance with subsection (5).

(5) Omit subsection (2E)."

Member's explanatory statement
This new Clause would provide for a manager appointed under section 24 of the Landlord and Tenant Act 1987 to be the "accountable person" for a higher-risk building.

After Clause 117

LORD BERKELEY

106 After Clause 117, insert the following new Clause—

"Application to the Duchy of Cornwall

All provisions of this Act bind the Duchy of Cornwall."

Leasehold and Freehold Reform Bill

SECOND MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

23 April 2024

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS