

Leasehold and Freehold Reform Bill

FOURTH 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.**

After Clause 95

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.

Clause 96

LORD BERKELEY

93A Leave out Clause 96 and insert the following new Clause –

“Part 5: Crown application

This Part binds the Crown.”

After Schedule 12

THE EARL OF LYTTON

93B After Schedule 12, insert the following new Schedule –

“SCHEDULE**BUILDING SAFETY REMEDIATION SCHEME***Duty to establish the scheme*

- 1 (1) The Secretary of State must establish, or make arrangements for the establishment of, a Building Safety Remediation Scheme (“the BSRS”).
- (2) The purpose of the BSRS must be to ensure that residential blocks of flats with building safety risks are made safe, mortgageable and insurable at no cost to leaseholders or landlords.
- (3) For the purposes of this Schedule “building safety remediation principle” is the principle that –
 - (a) so far as reasonably practicable, remediation costs for relevant buildings with building safety risks arising from defective construction or additional building work should be met by the developer, the principal contractor or both, and
 - (b) where that is not reasonably practicable, or where building safety risks do not arise from defective construction or additional building work, costs should be met by the building industry.

Scope of the scheme

- 2 The BSRS must be framed so as to apply to relevant buildings which –
 - (a) were constructed, or subject to additional building work, on or after 1 June 1992, and
 - (b) present building safety risks.

Operation of the scheme

- 3 (1) The BSRS must provide for persons (including freeholders and leaseholders) to apply –
 - (a) for a building to be recognised as a relevant building, and
 - (b) for a relevant building to be recognised as eligible for grants in respect of the cost of remediation works.
- (2) The BSRS must provide –
 - (a) for the appointment of persons (“BSRS adjudicators”) with appropriate expertise to determine, on behalf of the Secretary of State, applications under sub-paragraph (1)(a) and (b), and
 - (b) for BSRS adjudicators to be required to exercise operational independence in making determinations under the scheme.
- (3) For the purposes of sub-paragraph (2), the BSRS may provide for appointments to be made by the Secretary of State or by one or more persons designated for that purpose by the Secretary of State under the scheme.
- (4) The BSRS must provide that determinations of BSRS adjudicators in respect of building eligibility for the scheme under paragraph 4 are final (but nothing in this sub-paragraph prevents the exercise by the High Court of its judicial review jurisdiction).

Scheme supplementary regulations

- 4 (1) The Secretary of State must make regulations (“scheme supplementary regulations”) in respect of the BSRS.
- (2) Scheme supplementary regulations, in particular –
 - (a) may make provision for determining what is to be, or not to be, treated as a relevant building for the purposes of the scheme;
 - (b) may make provision for determining the date on which buildings were constructed or subject to additional building work;
 - (c) may make provision for determining who is entitled to make an application under the scheme in respect of a relevant building;
 - (d) may specify criteria to be applied by BSRS adjudicators in determining whether a relevant building presents building safety risks as a result of defective construction (and the criteria may, in particular, make provision wholly or partly by reference to building regulations or other enactments in force at the time of construction or by reference to specified classes of document);
 - (e) may make provision permitting or requiring BSRS adjudicators to conduct tests, and requiring owners and occupiers of relevant buildings to cooperate with BSRS adjudicators in conducting tests;
 - (f) may make provision permitting BSRS adjudicators to require local authorities or other specified classes of person to provide information or documents, and requiring persons to comply with any requirements imposed;

- (g) may make provision about the timing of applications and determinations;
- (h) may make provision about evidence to be adduced in support of an application;
- (i) may require or permit BSRS adjudicators to operate a rebuttable presumption of defective construction where specified classes of fact have been proved (for which purpose the regulations may make provision similar to, or applying with or without modification, any enactment);
- (j) may make provision about the making, processing and determination of applications under the scheme;
- (k) may make provision about the giving of notice to developers and others;
- (l) may make provision about the payment of awards;
- (m) may make provision about monitoring expenditure on remediation works;
- (n) may set a threshold for the estimated or quoted cost of remediation works below which an application for recognition cannot be made;
- (o) may make provision for determining, having regard in particular to the need for proportionality, the nature and extent of remediation costs which may be funded by the scheme (for which purpose “remediation costs” means any class of expenditure related to building safety risks, including, in particular, repair costs, the costs of interim mitigation or safety measures and reimbursement of or compensation for increases in insurance premiums);
- (p) may make provision for account to be taken of grants provided in respect of remediation works by any other scheme established by enactment or by a public authority;
- (q) may make provision for financial assistance provided by any other scheme established by enactment or by a public authority to be repaid out of grants under the remediation scheme;
- (r) may permit or require the amalgamation of multiple applications in respect of one relevant building, or of applications on behalf of the residents of one or more relevant buildings;
- (s) may permit or require representative applications on behalf of the residents of one or more relevant buildings;
- (t) may make provision about the qualifications, appointment, remuneration and conduct of BSRS adjudicators, and the regulations may, in particular –
 - (i) provide for adjudicators to be remunerated from BSRS funds;
 - (ii) provide for indemnities in respect of decisions taken by adjudicators (for which purpose the regulations may apply an enactment (with or without modification));
- (u) must include provision requiring the maintenance and publication of records of applications and determinations under the BSRS;
- (v) must confer a right to appeal to the First-tier Tribunal in respect of determinations as to whether a building safety risk arose from defective construction or additional building work.

Scheme funding regulations

- 5 (1) The Secretary of State must make regulations about the funding of the BSRS and of grants made under it (“scheme funding regulations”).and of grants made under it (“scheme funding regulations”).
- (2) Scheme funding regulations must aim to apply the building safety remediation principle so far as practicable.
- (3) For that purpose, scheme funding regulations must aim to ensure that a grant awarded under the BSRS is funded –
 - (a) so far as possible where building safety risks arise from defective construction or additional building work, by the developer or principal contractor of the building in respect of which the grant is awarded, and
 - (b) failing that (whether by reason of the dissolution of a developer or principal contractor, insolvency or otherwise), or where building safety risks do not arise from defective construction or additional building work, by money paid into a fund maintained through a levy on the building industry in general, or specified parts of the building industry.
- (4) For the purposes of achieving the objective in sub-paragraph (3)(a) –
 - (a) the reference to the developer of a building includes a reference to any person who arranged for its construction or additional building work and for the sale of units in the building;
 - (b) the reference to the principal contractor is a reference to the person who was responsible to the developer for the construction of a building or undertaking additional building work;
 - (c) scheme funding regulations must permit a BSRS adjudicator to provide for an award under the scheme to be paid by one or more persons specified by the adjudicator (and awards may, in particular, provide for joint and several liability);
 - (d) scheme funding regulations must confer a right to appeal to the First-tier Tribunal;
 - (e) scheme funding regulations may include provision permitting a BSRS adjudicator to permit or require an award for payment by a specified person to be satisfied wholly or partly by a person connected to that person (within the meaning of the regulations, for which purpose the regulations may apply, with or without modification, section 121 of the Building Safety Act 2022 and any enactment relating to joint ventures);
 - (f) scheme funding regulations may include provision about enforcement of liability to satisfy awards, which may, in particular –
 - (i) provide for collection of awards as a statutory debt,
 - (ii) include provision for interest or penalties,
 - (iii) provide for liability to make payments pending appeal or review, and
 - (iv) create criminal offences in connection with evasion.
- (5) For the purposes of achieving the objective in sub-paragraph (3)(b), scheme funding regulations –

- (a) must establish one or more levies to be paid by specified businesses or classes of business;
 - (b) must make provision for determining liability to pay the levy;
 - (c) may confer functions on BSRS adjudicators or other specified persons (which may include the Secretary of State) in respect of determination of liability to pay the levy;
 - (d) must confer on a person determined to be liable to pay the levy the right to appeal to the First-tier Tribunal;
 - (e) may provide for different amounts of levy to be paid by different classes of person;
 - (f) may provide for the levy to be paid by way of one-off payments, periodic payments or both;
 - (g) may include provision about enforcement of liability to pay the levy (which may, in particular, provide for collection of the levy as a statutory debt, include provision for interest or penalties and create criminal offences in connection with evasion);
 - (h) must include provision about the administration of the levy by the Secretary of State, including provision as to the maintenance and publication of estimates, accounts and other records;
 - (i) may include supplemental provision about the levy.
- (6) In making regulations under sub-paragraph (5), and in particular in assessing the proportionality and other fairness of any levy imposed by regulations under sub-paragraph (5), the Secretary of State must –
- (a) have regard to any other levy or similar imposition that appears to have a similar purpose as a levy under the scheme funding regulations, and
 - (b) must consult persons appearing to him or her to represent the interests of persons affected by other relevant levies and impositions.
- (7) Scheme funding regulations may include provision about –
- (a) application of awards, levies and grants, including provision for holding (or return) of surplus funds;
 - (b) the nature and extent of obligations imposed by awards (which may, in particular, provide for payments in money or services or money's worth);
 - (c) processes and procedures to be applied in determining applications for grants and questions of liability to awards (which may, in particular, include provision for determination wholly, partly, absolutely or contingently by arbitration, mediation or any other kind of process or procedure the Secretary of State thinks appropriate);
 - (d) terms and conditions of awards, levies and grants;
 - (e) appraisals, appeals and enforcement.

Apportionment

- 6 (1) Scheme funding regulations may make provision about apportionment of liability for defective construction.

- (2) In particular, scheme funding regulations may provide that where a person is required to pay an award under the BSRS, that person may bring proceedings to recover a contribution from one or more persons who share responsibility for the defects in respect of which the award is made.
- (3) Provision made by virtue of this paragraph may –
 - (a) confer jurisdiction on the First-tier Tribunal or on any other specified court or tribunal;
 - (b) apply (with or without modifications) any enactment about third-party liability.

Interim payments

- 7 (1) The Secretary of State may make interim grants to persons whom the Secretary of State believes are likely to be entitled to benefit from the remediation scheme.
- (2) Interim grants may be made on such terms and conditions (including as to repayment) as the Secretary of State may specify.
- (3) Scheme supplementary regulations –
 - (a) may include provision for account to be taken of interim grants under this paragraph, and
 - (b) may include other provision about interim grants under this paragraph (including provision about applications for grants, eligibility for grants and determination of applications for grants).

Interpretation

- 8 For the purposes of this Schedule –
 - “building safety risk” has the meaning given in section 120(5) of the Building Safety Act 2022; “building industry” has the meaning given in section 127(7) of the Building Safety Act 2022; “construction” includes any kind of building work (whether part of the original construction of a building or not) including works of improvement, repair and extension; “class” includes description; “defective construction or other building work” means construction or additional building work that –
 - (a) contravened building regulations or other enactments in force at the time of the construction or additional building work, or
 - (b) satisfies any other criteria specified in the BSRS or in scheme supplementary regulations;
 - “BSRS funding regulations” has the meaning given by paragraph 5;
 - “BSRS scheme” has the meaning given by paragraph 1;
 - “BSRS adjudicator” has the meaning given by paragraph 3;
 - “grant” includes loans and any other form of financial assistance (for which purpose a reference to payment includes a reference to the provision of assistance);
 - “building safety remediation principle” has the meaning given by paragraph 1;

“landlord” means means the landlord under the lease or any superior landlord.

“remediation costs” has the meaning given by paragraph 4;

“relevant building” means a self-contained building, or self-contained part of a building that contains at least two dwellings;

“scheme supplementary regulations” has the meaning given by paragraph 4.

Consultation

- 9 Before making the scheme, the scheme supplementary regulations and the scheme funding regulations, the Secretary of State must consult—
- (a) persons appearing to represent the interests of freeholders, leaseholders or occupiers of blocks of flats with building safety risks;
 - (b) persons appearing to represent the interests of the construction industry and related industries, and
 - (c) such other persons as the Secretary of State thinks appropriate.

Regulations

- 10 (1) Scheme supplementary regulations and scheme funding regulations—
- (a) may make provision that applies generally or only for specified purposes,
 - (b) may make different provision for different purposes,
 - (c) may confer functions (including discretionary functions) on specified persons or classes of person, and may provide for the Secretary of State to appoint persons to exercise functions under the regulations or the remediation scheme (whether or not on behalf of the Secretary of State), and
 - (d) may include supplemental, consequential or transitional provision.
- (2) Scheme funding regulations may not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.
- (3) Scheme supplementary regulations are subject to annulment in pursuance of a resolution of either House of Parliament.”

Member's explanatory statement

This new Schedule would implement a building safety remediation scheme to ensure that buildings with building safety risks are put right without costs to leaseholders.

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 115

LORD FOSTER OF BATH

95A After Clause 115, insert the following new Clause—

“Further amendments to the Building Safety Act

After section 125 of the Building Safety Act 2022, insert—

“125A Electrical defects that require remediation works

- (1) For the purpose of ascertaining whether a building to which this section applies (‘a specified building’) has defects caused by a faulty electrical installation which requires remediation works, a person to whom this section applies (‘a specified person’) must, subject to subsection (3), before putting the building on the market ensure that a valid EICR or a valid EIC is available for the property.
- (2) In subsection (1)—
 - (a) a specified building is a domestic premise placed on the market for sale;

- (b) a specified person is the owner of that building or any person selling that building on behalf of the owner.
- (3) Subsection (1) does not apply where the specified person can demonstrate that—
 - (a) the property is being sold for demolition, or
 - (b) the property being sold has been completely rewired by a competent and qualified person up to five years prior to the proposed sale.
- (4) In this section—
 - “a valid EICR is an Electrical Installation Condition Report” is a report on the condition and age of the whole electrical installation, carried out within the previous five years and completed and issued by a skilled person, competent in such work according to BS 7671 (IET Wiring Regulations);
 - “a valid EIC” is an Electrical Installation Certificate issued by a qualified person stating that a new installation (rewire) or new circuits in an existing installation are in accordance with BS 7671, current at the time of the installation work;
 - “A qualified and competent person” is a person competent in such work according to BS 7671 (IET Wiring Regulations).”

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.

THE EARL OF LYTTON

105C After Clause 116, insert the following new Clause –

“Self remediation contract: implied terms

- (1) It is an implied term of a self remediation contract that the self remediation terms require the remediation of all relevant defects in a member’s own buildings to avoid these costs falling to leaseholders.
- (2) In this section –
 - “building” means a self-contained building, or self-contained part of a building, in England that contains at least two dwellings;
 - “leaseholder” means –
 - (a) a tenant under a long lease, and
 - (b) the tenant under the lease is liable to pay a service charge;
 - “long lease” means a lease granted for a term of years certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise;
 - “relevant defect” has the same meaning as section 120 of the Building Safety Act 2022;
 - “self remediation contract” has the meaning given in regulation 21(1) of The Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023 (S.I. 2023/753);
 - “self remediation terms” has the meaning given in regulation 21(1) of The Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023.”

Member's explanatory statement

This amendment would amend the terms of the developer contract so that developers must remedy all building safety defects in all buildings for which they were responsible.

THE EARL OF LYTTON

105D After Clause 116, insert the following new Clause –

“Building safety contributions

In Chapter 3 of the Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023 (Conditions of scheme), after paragraph 21 insert –

“21A Building safety contributions

- (1) Each member of the scheme must make payment to the government towards meeting costs associated with remedying relevant defects in buildings (including buildings with which a member has no connection) to avoid these costs falling to a leaseholder.
- (2) In this paragraph –
 - “building” means a self-contained building, or self-contained part of a building, in England that contains at least two dwellings;
 - “leaseholder” means –
 - (a) a tenant under a long lease, and
 - (b) the tenant under the lease is liable to pay a service charge;
 - “long lease” means a lease granted for a term of years certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise;
 - “relevant defect” has the same meaning as section 120 of the Building Safety Act 2022.”

Member's explanatory statement

This amendment requires members of the responsible actors scheme to make payments to government towards remediating buildings so that those costs are not paid by leaseholders.

THE EARL OF LYTTON

105E After Clause 116, insert the following new Clause –

“Meaning of “relevant building” and “qualifying lease” under the Building Safety Act 2022

- (1) The BSA 2022 is amended in accordance with subsections (2), (3) and (4).
- (2) In section 117 (meaning of “relevant building”) –
 - (a) in subsection (2), omit from “dwellings” to the end, and
 - (b) omit subsection (3).
- (3) Omit section 118 (Section 117: height of buildings and number of storeys).
- (4) In section 119 (Meaning of “qualifying lease” and “the qualifying time”) –
 - (a) omit subsection (2)(d), and
 - (b) omit subsection (3).”

Member's explanatory statement

This amendment would change the definition of “relevant building” so that leaseholders of buildings of any height, and resident-owned buildings, qualify for protections in Part 5 and Schedule 8 of the Building Safety Act 2022. It also amends the definition of “qualifying lease” so that all leaseholders are protected irrespective of the number of other properties they own.

THE EARL OF LYTTON

105F After Clause 116, insert the following new Clause –

“Remediation costs

- (1) The BSA 2022 is amended in accordance with subsections (2) and (3).
- (2) Omit paragraphs 2 to 7 of Schedule 8 (Remediation costs under qualifying leases etc) and insert –
 - “2 (1) This paragraph applies in relation to a lease of any premises in a relevant building.
 - (2) No service charge is payable under a lease in respect of a relevant measure relating to a relevant defect.
 - (3) The Secretary of State must make regulations under section 126 providing that the costs of taking relevant measures in respect of a relevant defect are to be paid by members of the building industry scheme.””

Member's explanatory statement

This amendment extends the current leaseholder protections in Schedule 8 of the Building Safety Act 2022 to all leaseholders without qualification. It also provides for members of the building industry scheme to cover remediation costs.

THE EARL OF LYTTON

105G After Clause 116, insert the following new Clause –

“Meeting remediation costs of insolvent landlord

After section 125 of the Building Safety Act 2022, insert –

“125B Meeting remediation costs of insolvent landlord

- (1) This section applies if a company which is a landlord under a lease of a relevant building becomes subject to a relevant insolvency procedure or the appointment of a receiver and it appears that –
 - (a) there are relevant defects relating to the building, and
 - (b) the company is under an obligation (howsoever imposed) to remedy any of the relevant defects or is liable to make a payment relating to any costs incurred or to be incurred in remedying any of the relevant defects.

- (2) A person acting as an insolvency practitioner or a receiver must remedy relevant defects mentioned in subsection (1)(b).
- (3) The court may, on the application of a person acting as an insolvency practitioner or a receiver in relation to the company, by order require a body corporate or partnership associated with the company –
 - (a) to make such contributions to the company’s assets as the court considers to be just and equitable, or
 - (b) to make such payments to a specified person as the court considers to be just and equitable for the purpose of meeting costs incurred or to be incurred in remedying relevant defects mentioned in subsection (1)(b).
- (4) Section 124(4) applies for the purposes of this section.
- (5) Costs incurred in remedying relevant defects mentioned in subsection (1)(b) shall be considered expenses of a person acting as an insolvency practitioner or a receiver.
- (6) In this section –
 - “act as insolvency practitioner” has the same meaning as section 388 of the Insolvency Act 1986;
 - “receiver” means a receiver appointed under section 109 of the Law of Property Act 1925;
 - “relevant insolvency procedure” has the same meaning as in section 233B(2) of the Insolvency Act 1986.”

Member's explanatory statement

This amendment places a duty on insolvency practitioners and Law of Property Act receivers to remedy building safety defects. They may apply to the court for a remediation contribution order. Remediation costs are to be treated as expenses of a person acting as an insolvency practitioner or a receiver.

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.”

THE EARL OF LYTTON

107 After Clause 117, insert the following new Clause –

“Building Safety Remediation Scheme

- (1) The Secretary of State must establish a Building Safety Remediation Scheme (“the BSRS”).

- (2) The purpose of the BSRS must be to ensure that residential blocks of flats with building safety risks are made safe, mortgageable and insurable at no cost to leaseholders or landlords.
- (3) Schedule (*Building Safety Remediation Scheme*) makes further provision for the establishment of the BSRS.
- (4) In this section –
 - “associated persons” has the meaning given in section 121 of the Building Safety Act 2022;
 - “landlord” means the landlord under the lease or any superior landlord.
- (5) The building safety remediation principle is the principle that –
 - (a) so far as reasonably practicable, remediation costs for relevant buildings with building safety risks arising from defective construction or additional building work should be met by the developer, the principal contractor or both, and
 - (b) where that is not reasonably practicable, or where building safety risks do not arise from defective construction or additional building work, costs should be met by the building industry.”

Member's explanatory statement

This Clause introduces a new Schedule to establish a building safety remediation scheme to ensure that buildings with building safety risks are put right without costs to leaseholders.

Leasehold and Freehold Reform Bill

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

30 April 2024

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