

Leasehold and Freehold Reform Bill

AMENDMENTS
TO BE MOVED
ON REPORT

After Clause 28

LORD HOWARD OF RISING

After Clause 28, insert the following new Clause –

“Residence condition where a claim is made in reliance on section 28 of this Act

(1) Section 13 of the LRHUDA 1993 is amended as follows –

- (a) in subsection (2)(a)(ii), omit “and”;
- (b) in subsection (2)(b), at end insert “and –
 - (c) in a claim to which the High Non-Residential Floor Area Condition applies, not less than one half of the qualifying tenants by whom the notice is given must satisfy the Residence Condition.”;
- (c) after subsection (11), insert –
 - “(11A) In this section –
 - (a) the “High Non-Residential Floor Area Condition” applies if –
 - (i) the specified premises are not excluded from the right to enfranchise by section 4(1), and
 - (ii) the internal floor area percentage assessed in accordance with section 4(1)(b) is more than 25 per cent, and
 - (b) the Residence Condition applies if the qualifying tenant or, where there are joint tenants who comprise the qualifying tenant, one of those joint tenants, occupies their flat as their only or principal home at the relevant date.”

Member's explanatory statement

This amendment ensures that, in a case where a building has more than 25% of commercial floor space, the right of collective enfranchisement will not apply unless at least 50% of the participating tenants are occupying home owners.

Schedule 4

LORD HOWARD OF RISING
LORD MOYLAN

Schedule 4, page 160, line 6, after “Schedule” insert “but only to the extent that the property comprised in that freehold or lease is comprised in a current lease which is held under a homeowner lease at the valuation date”

Member's explanatory statement

This amendment defines a homeowner lease, to distinguish between homeowners and investors, and restricts certain benefits of the Bill to leaseholders who reside in the property as their principal home.

LORD HOWARD OF RISING
LORD MOYLAN

Schedule 4, page 162, line 18, after second “is” insert “held under a homeowner lease at the valuation date, and”

Member's explanatory statement

This amendment defines a homeowner lease, to distinguish between homeowners and investors, and restricts certain benefits of the Bill to leaseholders who reside in the property as their principal home.

LORD HOWARD OF RISING
LORD MOYLAN

Schedule 4, page 162, line 41, at end insert –

“Hope value and/or marriage value payable

- 13A The standard valuation method is not compulsory for the property comprised in a current lease in circumstances where Assumption 2 in paragraph 17 does not apply.”

Member's explanatory statement

This amendment would not require the standard valuation method to be used in circumstances where hope value and/or marriage value is payable.

LORD HOWARD OF RISING
LORD MOYLAN

Schedule 4, page 163, line 27, at end insert “, but see sub-paragraph (3A).”

LORD HOWARD OF RISING
LORD MOYLAN

Schedule 4, page 163, line 35, after "2:" insert "in a case where the claimant or, if there is more than one claimant, every claimant, holds the house or flat by virtue of which they are entitled to make the claim under a homeowner lease,"

Member's explanatory statement

This amendment defines a homeowner lease, to distinguish between homeowners and investors, and restricts certain benefits of the Bill to leaseholders who reside in the property as their principal home.

LORD HOWARD OF RISING
LORD MOYLAN

Schedule 4, page 164, 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 held by the claimant at the date of the passage of this Act.”

LORD HOWARD OF RISING
LORD MOYLAN

Schedule 4, page 164, line 15, at end insert –

- “(3A) Assumption 2 applies only where the current lease held by the claimant has an unexpired term of more than 80 years on 27 November 2023.
- (3B) Where Assumption 2 does not apply (so that marriage value and/or hope value is payable), it is to be assumed that neither the LRA 1967 nor the LRHUDA 1993 confers any right to acquire the freehold or an extended or new lease of the newly owned premises, and –
- (a) such hope value, or
 - (b) the percentage of such marriage value
- shall form part of the market value.”

Member's explanatory statement

This amendment would (i) disregard the effect of any right of compulsory acquisition in a case where hope and/or marriage value is payable and (ii) restrict the abolition of marriage and hope value to existing leases where there is more than 80 years of the term left on the lease at the date that the Bill was published.

LORD HOWARD OF RISING
LORD MOYLAN

Schedule 4, page 164, line 15, at end insert –

- “(3A) *Assumption 2A*: in a case where Assumption 2 does not apply, then it must be assumed (having made assumption 1) that –
- (a) there is no right to acquire the relevant freehold or notional lease or to acquire any new lease under the LRA 1967 or LRHUDA 1993 and no right to vary any existing lease to replace rent with a peppercorn rent under Schedule 9 to this Act,
 - (b) one half of any marriage value is to be taken into account in the valuation, but
 - (c) in the case of any property held under a lease with an unexpired term of more than 80 years at the valuation date, any marriage value or hope of marriage value is to be taken to be nil.”

Member's explanatory statement

This amendment defines a homeowner lease, to distinguish between homeowners and investors, and restricts certain benefits of the Bill to leaseholders who reside in the property as their principal home.

LORD HOWARD OF RISING
LORD MOYLAN

Schedule 4, page 165, line 11, at end insert –

- “(1A) Where Assumption 2 does not apply (so that marriage value and/or hope value is payable), reference in paragraph 17(3A)) to “the claimant” shall be construed as a reference to “a participating tenant”, and marriage value is the increase (if any) in the value of the newly owned premises when regarded as being (in consequence of their being acquired by the nominee purchaser) an interest under the control of the participating tenants, as compared with the value of that interest when held by the persons from whom they are to be so acquired, being an increase in value –
- (a) which is attributable to the potential ability of the participating tenants, once that interest has been so acquired to have new leases granted to them without payment of any premium and without restriction as to length of term, and
 - (b) which, if those interests were being sold to the nominee purchaser on the open market by willing sellers, the nominee purchaser would have to agree to share with the sellers in order to reach agreement as to price.”

Member's explanatory statement

This amendment provides the basis for calculation of marriage value (where applicable) on a collective claim.

LORD HOWARD OF RISING
LORD MOYLAN

Schedule 4, page 165, line 25, at end insert –

- “(3A) For the purposes of this paragraph, “marriage value” in Assumption 3 means any increase in the aggregate value of the freehold and every intermediate leasehold interest in the specified premises, when regarded as being (in consequence of their being acquired by the nominee purchaser) interests under the control of the participating tenants, as compared with the aggregate value of those interests when held by the persons from whom they are to be so acquired, being an increase in value –
- (a) which is attributable to the potential ability of the participating tenants, once those interests have been so acquired, to have new leases granted to them without payment of any premium and without restriction as to length of term, and
 - (b) which, if those interests were being sold to the nominee purchaser on the open market by willing sellers, the nominee purchaser would have to agree to share with the sellers in order to reach agreement as to price.”

Member's explanatory statement

This amendment defines a homeowner lease, to distinguish between homeowners and investors, and restricts certain benefits of the Bill to leaseholders who reside in the property as their principal home.

LORD MOYLAN
LORD HOWARD OF RISING

Schedule 4, page 170, line 35, leave out sub-paragraphs (8) to (10)

LORD MOYLAN
LORD HOWARD OF RISING

Schedule 4, page 172, line 1, leave out sub-paragraphs (7) to (9)

LORD MOYLAN
LORD HOWARD OF RISING

Schedule 4, page 172, line 32, at end insert –

“Interpretation

- 28A(1) In this Part of this Schedule “applicable deferment rate”, in relation to the determination of any aspect of the reversion value of premises, means the deferment rate prescribed in regulations made by the Secretary of State that is applicable to that aspect by virtue of the regulations; and for this purpose a “deferment rate” is a rate applied to an anticipated future receipt to ascertain its value at an earlier date.

- (2) A statutory instrument containing regulations under this paragraph is subject to the negative procedure.
- (3) The Secretary of State must review the deferment rate or rates every five years.
- 28B In prescribing the applicable deferment rate or rates –
- (a) the Secretary of State shall ensure that the rate produces reversion values reflecting as closely as possible the market value of the right to vacant possession of residential premises on the expiry of a lease of those premises on the assumption that the LRA 1967 and the LRHUDA 1993 conferred no right on the tenant to acquire the freehold or extend their lease or vary their lease to replace the rent with a peppercorn rent, and
 - (b) the Secretary of State may prescribe different rates for different factual situations, such as prescribing different rates for properties in different parts of the country or for leases with different unexpired terms.”

LORD HOWARD OF RISING
LORD MOYLAN

Schedule 4, page 173, line 35, leave out subsection (2) and insert –

- “(2) In determining the loss suffered by an eligible person in a case to which Assumption 2 (in paragraph 17(3)) applies, that assumption must be made in relation to the person’s qualifying transaction and, accordingly, in such case no marriage or hope value is taken into account in determining the loss.”

LORD MOYLAN
LORD HOWARD OF RISING

Schedule 4, page 178, line 24, leave out “ten” and insert “five”

Member's explanatory statement

This amendment reduces the capitalisation rate review period from ten years to five years.

LORD MOYLAN
LORD HOWARD OF RISING

Schedule 4, page 178, line 24, at end insert –

- “39 In prescribing the applicable capitalisation rate –
- (a) the Secretary of State must ensure that the rate produces term values reflecting as closely as possible the market value of the right to receive a ground rent under a lease of residential premises on the assumption that the LRA 1967, the LRHUDA 1993 and this Act conferred no right on the tenant to acquire the freehold or extend their lease or vary their lease to replace the rent with a peppercorn rent; and
 - (b) the Secretary of State may prescribe different rates for different factual situations, for example different rates may be prescribed for use where the rent is fixed, for when it increases at set intervals by set amounts,

and for when it may change in line with inflation or changes in property values.”

Member's explanatory statement

This amendment specifies criteria by which the Secretary of State will set the applicable capitalisation rate to ensure that the rate is not set inappropriately.

Schedule 6

LORD HOWARD OF RISING
LORD MOYLAN

Schedule 6, page 180, line 21, at end insert –

““homeowner lease” means a lease of a single dwelling where, at the valuation date the dwelling was the only or principal home of the tenant, or if there are joint tenants, the only or principal home of one or more of them;”

Member's explanatory statement

This amendment defines a homeowner lease, to distinguish between homeowners and investors, and restricts certain benefits of the Bill to leaseholders who reside in the property as their principal home.

Schedule 10

LORD HOWARD OF RISING
LORD MOYLAN

Schedule 10, page 213, line 29, after the first “lease” insert “which is a homeowner lease”

Member's explanatory statement

This amendment defines a homeowner lease, to distinguish between homeowners and investors, and restricts certain benefits of the Bill to leaseholders who reside in the property as their principal home.

LORD HOWARD OF RISING
LORD MOYLAN

Schedule 10, page 232, line 21, at end insert –

““homeowner lease” means a lease of a single dwelling where the dwelling is the only or principal home of the tenant, or if there are joint tenants, the only or principal home of one or more of them;”

Clause 123

LORD MOYLAN
LORD HOWARD OF RISING

Clause 123, page 135, line 32, at end insert—

- “(2A) Section 36 comes into force at the end of the period of two months after the “applicable deferment rate(s)” and “applicable capitalisation rate(s)” defined in Schedule 4 have been prescribed in accordance with regulations made under that Schedule.”

Member's explanatory statement

This amendment delays the entering into force of Clause 36 until two months after the applicable deferment rate(s) and applicable capitalisation rate(s) have been prescribed in regulations.

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