



Northumberland County Council

Leasehold Reform (Ground Rent) Bill (HL)

Background

In England and Wales, properties can either be owned as freehold or as leasehold. Leasehold is a form of ownership where a person may own a property however does not own the land for this property which is 'leased' to them for a set number of years (typically, 99 or 125 years) from a landlord, who themselves owns the freehold. Flats are almost always owned on a leasehold basis, but in recent years it has also increasingly been used for newly built houses.

Since the early 2000s, there has been an increasing number of properties sold, and leases renewed, with leases that require more significant financial ground rent payments from leaseholders. There has been little consistency in when and how much ground rent is charged and also the problem that leaseholders received no clear service in return for these ground rent payments. It was not always clear what costs leaseholders would have to pay when they purchased their home.

These payments were subject to increases, some doubling more frequently than every 20 years. Unfair practices relating to ground rent have damaged the reputation of the leasehold system, but, fundamentally, it is known that ground rents are frequently not transparent and have caused substantial difficulties for some leaseholders. In addition there may be hidden clauses within a lease that create restrictions to what the property owner is permitted to do to their own property, or can create additional costs which they then have to pay to the holder of the lease if they make changes, be they major, or even very minor.

A survey for Propertymark¹, found that 57% of leaseholders had no idea of the escalating costs they would face, 50% were first-time buyers. The survey showed that had they known, 93% said that they would not have chosen a leasehold home. Thousands of leaseholders bought homes for which the ground rent started at hundreds of pounds a year.

The Bill to date

¹ Propertymark is the professional body for the property sector

On 11 January 2021, the Secretary of State for Housing, Communities and Local Government, Robert Jenrick, announced the Government's intention to bring forward residential leasehold legislation. It was indicated that the Government intended to reform the way in which the sum that enfranchising leaseholders² must pay to extend their lease or buy the freehold is calculated.

In addition, the Secretary of State signalled the Government's intentions to introduce legislation to give residential leaseholders of houses and flats the same right to extend their lease, as often as they wish, at zero ground rent, for 990-years, or, where leaseholders already have a long lease, to buy out the ground rent without any need to extend the lease. The provisions will also apply to leasehold retirement properties, but not before 1 April 2023.

The Leasehold Reform (Ground Rent) Bill will legislate so that new residential long leases have no financial demand for ground rent. In new leases, ground rent will be set in law at a genuine "peppercorn rent" level. This means that nothing more than an actual peppercorn can be sought from leaseholders, if indeed any ground rent is sought at all.

The package announced in January will result in substantial savings for existing leaseholders, particularly those with fewer than 80 years left on their lease. For existing leaseholders, the length of lease extensions will be increased to 990 years, which is a significant improvement on the current length of 90 years for flats and 50 years for houses. Existing leaseholders can currently pay a premium up front in exchange for extinguishing or buying out the ground rent and extending their lease.

Marriage³ value will be abolished and a cap on the treatment of ground rents at 0.1% of the freehold value and prescribe rates for the calculations at market value. A new online calculator will be made available to make it simpler for leaseholders to find out how much it will cost them to enfranchise.

Enforcement

The Bill proposes a number of enforcement measures that offer a strong deterrent to any freeholders and their managing agents who try to get around its provisions and in doing so it protects leaseholders. Enforcement will be the duty of local trading standards authorities. Enforcement authorities will be able to retain the proceeds of any penalties they impose to meet the costs of their work relating to residential leasehold property. The amount of the financial penalty can be determined by the authority as long as it complies with the following:

- (a) it is not less than £500 and

² Leasehold enfranchisement is **the process you go through to either extend your lease or purchase a share of the freehold (collective enfranchisement).**

³ Marriage value is the difference in a leasehold property's value before the 80-year lease is extended and after.

(b) is not to be more than £5,000

Exemptions in the Bill

There are some exemptions in the Bill. It does not apply to leases used only for a business purpose.

The Bill includes a slightly different definition of a business lease from the one used for business tenancies in the Landlord and Tenant Act 1954. The new definition will ensure that residential leaseholders are protected, and commercial landlords can still collect rent from their tenants. For mixed-use properties, the residential use must significantly contribute to the business purposes of the lease for the exemption to apply. Community housing leases will also to be exempt. This will allow a community land trust or a co-operative society to collect rent to provide services for their community.

Bill Passage through Parliament

Bill in the House of Lords		Bill in the House of Commons		Final Stages	
1 st reading	✓	1 st reading	✗	Consideration of amendments	✗
2 nd reading	✓	2 nd reading	✗	Royal Assent	✗
Committee stage	✓	Committee stage	✗		
Report stage	✓	Report stage	✗		
3 rd reading	⌚	3 rd reading	✗		

Key

✓ COMPLETE	⌚ IN PROGRESS	✗ NOT STARTED
------------	---------------	---------------

Summary of legislation

The Bill is the first of two-part legislation to reform the leasehold system. The Bill focuses specifically of ground rent clauses. Long residential leases and further leasehold reform will follow later in this Parliament.

The Leasehold Reform (Ground Rent) Bill when finalised will include the following:

- Reform the process of enfranchisement valuation used to calculate the cost of extending a lease or buying the freehold.

- Abolish marriage value.
- Cap the treatment of ground rents at 0.1% of the freehold value and prescribe rates for the calculations at market value. An online calculator will simplify and standardise the process of enfranchisement.
- Keep existing discounts for improvements made by leaseholders and security of tenure.
- Introduce a separate valuation method for low-value properties.
- Give leaseholders of flats and houses the same right to extend their lease agreements “as often as they wish, at zero ground rent, for a term of 990 years”.
- Allow for redevelopment breaks during the last 12 months of the original lease, or the last five years of each period of 90 years of the extension to continue, “subject to existing safeguards and compensation”.
- Enable leaseholders, where they already have a long lease, to buy out the ground rent without having to extend the lease term.

Leasehold reform is to be tackled through two pieces of legislation. Future legislation will deal with enfranchisement, commonhold and the right to manage. No exact timescales have been given for when this being translated into law.