

# **Leasehold Reform (Ground Rent) Bill [HL]**

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Ministry of Housing, Communities and Local Government, have been ordered to be published as HL Bill 1—EN.

## EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord Greenhalgh has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Leasehold Reform (Ground Rent) Bill [HL] are compatible with the Convention rights.



# Leasehold Reform (Ground Rent) Bill [HL]

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[AS INTRODUCED]

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Schedule – Enforcement

[AS INTRODUCED]

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# B I L L

TO

Make provision about the rent payable under long leases of dwellings; and for connected purposes.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## *Application of Act*

### **1 Regulated leases**

- (1) In this Act a “regulated lease” means a lease which meets the following conditions—
  - (a) it is a long lease of a dwelling, 5
  - (b) it is granted on or after the relevant commencement day, otherwise than in pursuance of a contract made before that day, and
  - (c) when it is granted, it is not an excepted lease.
- (2) The “relevant commencement day”, in relation to a lease, is the day on which this Act comes fully into force in relation to leases of that kind (see section 25). 10
- (3) For the purposes of subsection (1)(b) “contract” does not include an option or right of first refusal.
- (4) In this Act references to the grant of a lease include the case where, by virtue of any variation of a lease, there is a deemed surrender and regrant. 15

### **2 Excepted leases**

#### *Business leases*

- (1) A lease is an excepted lease if—
  - (a) the terms of the lease expressly permit premises demised by the lease to be used for purposes which are business purposes (and do not require any further consent from the landlord for such use), 20
  - (b) the nature of the business purposes permitted by the lease is such that the use of premises demised by the lease as a dwelling significantly contributes to the business purposes, and

- (c) at or before the time the lease is granted, the landlord and tenant (or prospective landlord and tenant) each give the other a written notice to the effect that they intend premises demised (or to be demised) by the lease to be used, and to continue to be used, for the purposes mentioned in paragraph (a). 5
- (2) The Secretary of State may by regulations make further provision about the form and content of notices under subsection (1)(c).
- (3) “Business” includes a trade, profession or employment, but does not include a home business within the meaning of Part 2 of the Landlord and Tenant Act 1954 (see section 43ZA of that Act). 10
- Statutory lease extensions*
- (4) A lease is an excepted lease if it is granted under Part 1 of the Leasehold Reform Act 1967 (tenant of leasehold house entitled to extended lease).
- (5) A lease is an excepted lease if it is granted under Chapter 2 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993 (tenant of flat entitled to extended lease). 15
- Community housing leases*
- (6) A lease is an excepted lease if—
- (a) it is a community housing lease, and
  - (b) it meets any further conditions specified in regulations made by the Secretary of State. 20
- (7) A lease is a community housing lease if—
- (a) the landlord under the lease is a community land trust within the meaning of section 79 of the Housing and Regeneration Act 2008, or
  - (b) it is a lease of a dwelling in a building within paragraph 2B of Schedule 14 to the Housing Act 2004 (buildings controlled or managed by co-operative societies), disregarding sub-paragraph (3)(b) of that paragraph. 25
- Home finance plan leases*
- (8) A lease is an excepted lease if— 30
- (a) it is a home finance plan lease, and
  - (b) it meets any further conditions specified in regulations made by the Secretary of State.
- (9) A lease is a home finance plan lease if— 35
- (a) it is granted pursuant to an arrangement which is a regulated home reversion plan for the purposes of Chapter 15A of Part 2 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544), or
  - (b) it is granted by a finance provider to a home buyer pursuant to a rent to buy arrangement. 40
- (10) A “rent to buy arrangement” is an arrangement in relation to which the following conditions are met—

- (a) a person (the “finance provider”) buys a qualifying interest, or an undivided share of a qualifying interest, in land, and
  - (b) the arrangement provides for the obligation of another person (the “home buyer”) to buy the interest bought by the finance provider over the course of, or at the end of, a specified period. 5
- (11) A “qualifying interest in land” means an estate in fee simple absolute or a term of years absolute, whether subsisting at law or in equity.

*Prohibited and permitted rent*

### 3 Prohibited rent

- (1) The landlord under a regulated lease must not require the tenant to make a payment of a prohibited rent. 10
- (2) For the purposes of subsection (1), a landlord requires a tenant to make a payment of a prohibited rent where the landlord, or a person acting on behalf of the landlord, does either or both of the following in relation to the payment— 15
- (a) asks the tenant for the payment;
  - (b) having received the payment, fails to refund it to the tenant before the end of the period of 28 days beginning with the day after its receipt.
- (3) In this section— 20
- (a) references to a landlord include a person who has ceased to be a landlord, and
  - (b) references to a tenant include— 25
    - (i) a person who has ceased to be a tenant;
    - (ii) a person acting on behalf of a tenant;
    - (iii) a person who has guaranteed the payment of rent by a tenant.
- (4) In this Act “prohibited rent” means any rent, to the extent that it exceeds the permitted rent (see sections 4 to 6).

### 4 Permitted rent: general rule

- (1) This section applies to a regulated lease, other than a regulated lease to which section 5 or 6 applies. 30
- (2) The permitted rent is a peppercorn rent.
- (3) In this Act a “peppercorn rent” means an annual rent of one peppercorn.

### 5 Permitted rent: shared ownership leases

- (1) This section applies to a regulated lease which is a relevant shared ownership lease. 35
- (2) The permitted rent is—

- (a) in respect of the tenant's share in the demised premises, a peppercorn rent;
  - (b) in respect of the landlord's share in the demised premises, any rent.
- (3) A shared ownership lease is a lease—
- (a) granted on payment of a premium calculated by reference to a percentage of the value of the demised premises or the cost of providing them, or 5
  - (b) under which the tenant (or the tenant's personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of those premises. 10
- (4) A relevant shared ownership lease is a shared ownership lease where the tenant's share in the demised premises is less than 100%.
- (5) The tenant's share in the demised premises is the tenant's initial share in the demised premises, plus any additional share or shares in the demised premises which the tenant has acquired. 15
- (6) The landlord's share in the demised premises is the share in the demised premises which is not comprised in the tenant's share.
- (7) Where a shared ownership lease does not reserve separate rents in respect of the tenant's share in the demised premises and the landlord's share in the demised premises, any rent reserved is to be treated as reserved in respect of the landlord's share. 20
- (8) This section does not apply to a regulated lease if section 6 applies to it.

## 6 Permitted rent: leases replacing pre-commencement leases

- (1) This section applies where—
- (a) the tenant under a pre-commencement lease is granted a new lease (a "replacement lease") of some or all of the premises demised by the pre-commencement lease, 25
  - (b) the term of the replacement lease begins before the end of the term of the pre-commencement lease, and
  - (c) the replacement lease is a regulated lease. 30
- (2) The permitted rent under the replacement lease is—
- (a) in respect of the excepted period, a rent not exceeding the rent that would have been payable under the pre-commencement lease in respect of that period;
  - (b) in respect of the regulated period, a peppercorn rent. 35
- (3) The "excepted period" is the period which—
- (a) begins with the first day of the term of the replacement lease, and
  - (b) ends with the last day of the term of the pre-commencement lease.
- (4) The "regulated period" is the period which—
- (a) begins immediately after the excepted period, and 40
  - (b) ends with the last day of the term of the replacement lease.



- (5) Where—
- (a) the tenant under a lease to which subsection (2) applies is granted a new lease of some or all of the premises demised by that lease,
  - (b) the term of the new lease begins before the end of the term of the pre-commencement lease, and
  - (c) the new lease is a regulated lease,
- subsections (2) to (4) apply to the new lease, reading references to the replacement lease as references to the new lease. 5
- (6) Where the pre-commencement lease is a relevant shared ownership lease, subsection (2)(a) applies as if after “payable” there were inserted “in respect of the tenant’s share in the demised premises”. 10
- (7) Where a lease to which subsection (2) applies is a relevant shared ownership lease—
- (a) that subsection applies as if after “replacement lease” there were inserted “in respect of the tenant’s share in the demised premises”, and
  - (b) the permitted rent in respect of the landlord’s share in the demised premises is any rent. 15
- (8) In this section—
- (a) “pre-commencement lease” means a long lease of a dwelling which is granted before the day which is the relevant commencement day in relation to the replacement lease; 20
  - (b) references to the end of the term of the pre-commencement lease are to what would have been the end of the term of the pre-commencement lease if the replacement lease had not been granted. 25
- (9) Section 5(3) to (7) applies for the purposes of this section.

*Effect of term reserving prohibited rent*

**7 Term reserving prohibited rent treated as reserving permitted rent**

- (1) This section applies where any term of a regulated lease to which a section specified in column 1 of the table applies reserves a prohibited rent. 30
- (2) The term has effect as if, in place of the prohibited rent, it reserved the rent specified in column 2 of the table.
- (3) Where the prohibited rent is reserved in respect of a period specified in column 3 of the table, or a share in the demised premises specified in column 4 of the table, or both, the term is treated as reserving the rent specified in column 2 of the table in respect of that period, that share, or that period and that share. 35

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	
<i>Section</i>	<i>Rent treated as reserved</i>	<i>Period for which rent reserved</i>	<i>Share in demised premises</i>	
Section 4 (general rule)	peppercorn rent			5
Section 5 (shared ownership leases)	peppercorn rent		tenant's share	
Section 6 (replacement leases)	maximum permitted rent	excepted period	tenant's share (where section 6(7) applies)	10
Section 6 (replacement leases)	peppercorn rent	regulated period	tenant's share (where section 6(7) applies)	15

- (4) The “maximum permitted rent” means the maximum rent permitted by section 6(2)(a).
- (5) The other terms of the regulated lease have effect with any modifications necessary because of subsections (2) and (3).
- (6) For the purposes of this section, the terms of a regulated lease include the terms of any contract relating to the lease. 20
- (7) Terms used in this section and in sections 4 to 6 have the same meaning in this section as in those sections.

### *Enforcement*

- 8 Enforcement authorities** 25
- (1) Every local weights and measures authority in England or Wales—
- must enforce section 3 in its area, and
  - may enforce that section elsewhere in England or Wales.
- (2) A district council that is not a local weights and measures authority may enforce section 3 in England (both inside and outside the council's district). 30
- (3) For the purposes of subsection (1)(a) a breach of section 3 occurs in the area in which the premises demised by the lease are located (and where the premises are located in more than one area, the breach is taken to have occurred in each of those areas).
- (4) The duty imposed and power conferred by this section are subject to section 9(8). 35
- (5) In this Act, “enforcement authority” means—

- (a) a local weights and measures authority in England or Wales, or
- (b) a district council that is not a local weights and measures authority.

## 9 Financial penalties

- (1) An enforcement authority may impose a financial penalty on a person if the authority is satisfied beyond reasonable doubt that the person has breached section 3(1). 5
- (2) The amount of the financial penalty under subsection (1) is to be such amount as the authority determines but—
  - (a) is not to be less than £500 (the “minimum amount”), and
  - (b) is not to be more than £5,000 (the “maximum amount”). 10
- (3) Where the same landlord has committed more than one breach of section 3(1) in relation to the same lease, only one financial penalty may be imposed on the landlord in respect of all of those breaches committed in the period—
  - (a) before the imposition of the penalty, and
  - (b) where a penalty has previously been imposed on the landlord for a breach of section 3(1) in relation to the same lease, after the imposition of that earlier penalty. 15
- (4) In subsection (3), the “landlord” includes a person who has ceased to be a landlord.
- (5) Where a person has committed one or more breaches of section 3(1) in relation to two or more leases, an enforcement authority may impose a single financial penalty on the person under subsection (1) in respect of all of those breaches. 20
- (6) In such a case, the amount of the penalty—
  - (a) is not to be less than the sum of the penalties that would be imposed if a separate penalty of the minimum amount were imposed on the person for each of the breaches, and 25
  - (b) is not to be more than the sum of the penalties that would be imposed if a separate penalty of the maximum amount were imposed on the person for each of the breaches.
- (7) For the purposes of subsection (6), the effect of subsection (3) is to be taken into account when determining the minimum and maximum amount of the penalty that could be imposed on a person for breaches of section 3(1) in relation to the same lease. 30
- (8) An enforcement authority may not impose a penalty on a person in respect of a breach of section 3(1) if another enforcement authority has imposed a penalty on the person in respect of the same breach. 35
- (9) The Secretary of State may by regulations amend the amounts for the time being set out in subsection (2).
- (10) The power in subsection (9) may be exercised only where the Secretary of State considers it expedient to do so to reflect changes in the value of money. 40

## 10 Recovery of prohibited rent by enforcement authority

- (1) Subsection (2) applies where an enforcement authority is satisfied on the balance of probabilities that—
  - (a) a tenant has made a payment of a prohibited rent under a regulated lease, and 5
  - (b) in breach of section 3(1) all or part of the payment has not been refunded.
- (2) The enforcement authority may order any one of the following persons to pay to the tenant the amount that has not been refunded—
  - (a) the landlord under the lease at the time the payment was made; 10
  - (b) the landlord under the lease at the time the enforcement authority makes the order;
  - (c) where the payment was made to a person acting on behalf of the landlord under the lease, that person.
- (3) Subsection (2) does not apply if— 15
  - (a) the tenant has made an application under section 13 for the recovery of the rent;
  - (b) an enforcement authority has previously made an order under this section in relation to the payment.
- (4) Where part or all of two or more payments of a prohibited rent made by a tenant under the same lease have not been refunded, the enforcement authority may make a single order under subsection (2) in respect of all the prohibited rent that has not been refunded. 20

## 11 Interest on amounts ordered to be paid under section 10

- (1) Where an enforcement authority orders a person to pay an amount under section 10, the authority may include provision in the order for interest to be payable on that amount in accordance with this section. 25
- (2) Where the amount ordered to be paid relates to a single payment of a prohibited rent, interest is payable on the amount from the day on which the payment was made until the day on which the amount is paid. 30
- (3) Where the amount ordered to be paid relates to more than one payment of a prohibited rent, interest is payable on so much of the amount as relates to a particular payment from the day on which that particular payment was made until that part of the amount is paid.
- (4) The rate of interest is the rate for the time being specified in section 17 of the Judgments Act 1838. 35
- (5) The total amount of interest payable under provision made under this section must not exceed the amount ordered to be paid under section 10.

**12 Enforcement authorities: supplementary**

- (1) An enforcement authority must have regard to any guidance issued by the Secretary of State about the exercise of its functions under this Act.
- (2) For the investigatory powers available to an enforcement authority for the purposes of enforcing this Act, see Schedule 5 to the Consumer Rights Act 2015 (investigatory powers of enforcers etc). 5
- (3) In paragraph 10 of Schedule 5 to the Consumer Rights Act 2015 (duties and powers to which Schedule 5 applies), at the appropriate place, insert “section 8 of the Leasehold Reform (Ground Rent) Act 2021;”.
- (4) The Schedule contains provision about— 10
  - (a) the procedure for imposing a financial penalty under section 9 or making an order under section 10,
  - (b) the time limits for doing so,
  - (c) rights of appeal,
  - (d) the recovery of a financial penalty imposed or an amount ordered to be paid, and 15
  - (e) the retention of sums received.

**13 Recovery of prohibited rent by tenant**

- (1) Subsection (2) applies where—
  - (a) a tenant has made a payment of a prohibited rent under a regulated lease, and 20
  - (b) in breach of section 3(1) all or part of the payment has not been refunded.
- (2) The tenant may apply to the First-tier Tribunal for an order under this section (a “recovery order”). 25
- (3) A recovery order is an order requiring the person specified in the application to pay to the tenant, before the end of the period of 28 days beginning with the day after that on which the order is made, the amount of prohibited rent that has not been refunded.
- (4) The persons who may be specified in the application are— 30
  - (a) the landlord under the lease at the time the payment was made,
  - (b) the landlord under the lease at the time the application is made, or
  - (c) where the payment was made to a person acting on behalf of the landlord under the lease, that person.
- (5) Where part or all of two or more payments of a prohibited rent made by a tenant under the same lease have not been refunded, the First-tier Tribunal may make a single recovery order in respect of all the prohibited rent that has not been refunded. 35
- (6) The First-tier Tribunal may not make a recovery order if an enforcement authority has made an order under section 10 in respect of the prohibited rent that has not been refunded. 40

- (7) This section is without prejudice to any other remedy available to the tenant for recovering a payment of a prohibited rent.

#### **14 Interest on amount ordered to be paid under section 13**

- (1) Where the First-tier Tribunal orders a person to pay an amount under section 13, the First-tier Tribunal may include in the order provision for interest to be payable on the amount in accordance with this section. 5
- (2) Where the amount ordered to be paid relates to a single payment of a prohibited rent, interest is payable on the amount from the day on which the payment was made until the day on which the amount is paid.
- (3) Where the amount ordered to be paid relates to more than one payment of a prohibited rent, interest is payable on so much of the amount as relates to a particular payment from the day on which that particular payment was made until that part of the amount is paid. 10
- (4) The rate of interest is the rate for the time being specified in section 17 of the Judgments Act 1838. 15
- (5) The total amount of interest payable under provision made under this section must not exceed the amount ordered to be paid under section 13.

#### **15 Application to First-tier Tribunal as to effect of section 7**

- (1) The landlord or tenant under a regulated lease may apply to the First-tier Tribunal for a declaration as to the effect of section 7 on the terms of the lease. 20
- (2) If, on an application under subsection (1), the First-tier Tribunal is satisfied that the terms of the regulated lease include a term for the reservation of a prohibited rent, the Tribunal must make a declaration as to the effect of section 7 on the terms of the lease. 25
- (3) An application may be made under subsection (1) in respect of two or more regulated leases where—
- (a) the landlord under each of the leases is the same person, and
  - (b) the application is made by—
    - (i) the landlord, or 30
    - (ii) the tenant under one of the leases with the consent of the tenant under each of the other leases,
 (and in the case of such an application references in subsections (1) and (2) to the lease are to be read as references to each of the leases in respect of which the application is made). 35
- (4) For the purposes of this section, the terms of a regulated lease include the terms of any contract relating to the lease.
- (5) Where the tenant is the registered proprietor of the leasehold estate relating to the lease—

- (a) the landlord must, if the First-tier Tribunal so directs, apply to the Chief Land Registrar (and pay the appropriate fee) for the declaration to be entered in the registered title;
- (b) the tenant may apply to the Chief Land Registrar (and pay the appropriate fee) for the declaration to be entered in the registered title.

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## 16 Assistance

- (1) An enforcement authority may help a tenant—
  - (a) to make an application under section 13 for a recovery order;
  - (b) to make an application under section 15 for a declaration as to the effect of section 7 on the terms of a regulated lease (within the meaning of those sections);
  - (c) to recover an amount that the First-tier Tribunal orders to be paid under a recovery order.
- (2) For example, the enforcement authority may help by conducting proceedings or giving advice.

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## 17 Interpretation of enforcement provisions

In sections 10, 13 and 16, references to a tenant include—

- (a) a person acting on behalf of a tenant,
- (b) a person who has guaranteed the payment of rent by a tenant, and
- (c) except in relation to section 16(1)(b), a person who has ceased to be a tenant.

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### *Administration charges*

## 18 Administration charges for peppercorn rents

- (1) Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (administration charges) is amended as follows.
- (2) For the heading of Part 1 substitute “Administration charges”.
- (3) After paragraph 2 insert—
 

*“No administration charge payable for certain rents*

  - 2A (1) No administration charge is payable for, in connection with or in respect of, the payment of a relevant rent.
  - (2) A “relevant rent” is a rent (or any part of a rent) which, by virtue of the Leasehold Reform (Ground Rent) Act 2021, is permitted only to be a peppercorn rent.
  - (3) “Peppercorn rent” has the same meaning as in that Act (see section 4(3) of that Act).”
- (4) Before paragraph 3 insert the heading “Application for order varying lease”.

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- (5) In paragraph 3(1)—
- (a) omit the “or” at the end of paragraph (a);
  - (b) at the end of paragraph (b) insert “, or
  - (c) an administration charge specified in the lease is not payable because of paragraph 2A.”; 5
- (6) In section 24 of the Landlord and Tenant Act 1987 (appointment of manager by tribunal)—
- (a) in subsection (2)(aba) after “charges” insert “or prohibited administration charges”;
  - (b) at the end of subsection (2B) insert “, and “prohibited administration charge” means an administration charge which is not payable because of paragraph 2A of that Schedule.” 10

### *General*

## **19 Amendments to Housing Act 1985**

- (1) Part 5 of the Housing Act 1985 (right to buy) is amended as follows. 15
- (2) In section 127(3)(c) (assumptions to be made on valuation of dwelling) after “£10 per annum” insert “or, if the lease would be a regulated lease within the meaning of the Leasehold Reform (Ground Rent) Act 2021, the rent permitted by that Act”.
- (3) In paragraph 11 of Schedule 6 (terms of lease granted pursuant to right to buy) after “£10 per annum” insert “or, if the lease is a regulated lease within the meaning of the Leasehold Reform (Ground Rent) Act 2021, the rent permitted by that Act”. 20

## **20 Consequential amendments**

- (1) The Secretary of State may by regulations make provision that is consequential on this Act. 25
- (2) The provision that may be made by regulations under subsection (1) includes provision amending an Act (including an Act passed in the same session as this Act).

## **21 Regulations**

- (1) A power to make regulations under any provision of this Act includes power to make— 30
  - (a) consequential, supplementary, incidental, transitional or saving provision;
  - (b) different provision for different purposes. 35
- (2) Regulations under this Act are to be made by statutory instrument.



- (3) A statutory instrument containing regulations under this Act is subject to annulment in pursuance of a resolution of either House of Parliament, subject to subsection (4).
- (4) A statutory instrument containing (whether alone or with other provision) regulations under section 20 which amend an Act may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. 5
- (5) This section does not apply to regulations under section 25.

## 22 Interpretation

- (1) In this Act a “long lease” means— 10
- (a) a lease granted for a term 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 or forfeiture or otherwise;
  - (b) a lease for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, other than a lease by sub-demise from one which is not a long lease; 15
  - (c) a lease taking effect under section 149(6) of the Law of Property Act 1925 (leases terminable after a death, marriage or civil partnership).
- (2) In this Act—
- “dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it; 20
- “lease”—
- (a) means a lease at law or in equity (and references to the grant of a lease are to be construed accordingly); 25
  - (b) includes a sub-lease;
  - (c) does not include a mortgage term;
- “rent” includes anything in the nature of rent, whatever it is called.
- (3) In this Act— 30
- “enforcement authority” has the meaning given by section 8(5);
- “grant”, in relation to a lease, is to be read in accordance with section 1(4) and subsection (2);
- “peppercorn rent” has the meaning given by section 4(3);
- “permitted rent” has the meaning given by sections 4 to 6; 35
- “prohibited rent” has the meaning given by section 3(4);
- “regulated lease” has the meaning given by section 1(1);
- “relevant commencement day” has the meaning given by section 1(2).

## 23 Crown application

- (1) This Act applies to Crown land. 40

- (2) Land is Crown land if there is or has at any time been an interest or estate in the land—
- (a) comprised in the Crown Estate,
  - (b) belonging to Her Majesty in right of the Duchy of Lancaster,
  - (c) belonging to the Duchy of Cornwall, or
  - (d) belonging to a government department or held on behalf of Her Majesty for the purposes of a government department.

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## **24 Extent**

This Act extends to England and Wales.

## **25 Commencement**

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- (1) The following provisions come into force on the day this Act is passed—
- (a) sections 2 and 9, but only for the purposes of making regulations;
  - (b) sections 20 to 26.
- (2) Except as provided by subsection (1) this Act comes into force on such day as the Secretary of State may by regulations appoint.
- (3) Different days may be appointed for different purposes (including for different kinds of leases).
- (4) The day appointed for the coming into force of this Act in relation to leases of retirement homes must be no earlier than 1 April 2023.
- (5) A lease is a lease of a retirement home if—
- (a) it is a term of the lease that the premises demised by the lease may be occupied only by persons who have attained a minimum age, and
  - (b) that minimum age is not less than 55.
- (6) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Act.
- (7) The power to make regulations under subsection (6) includes power to make different provision for different purposes (including for different kinds of leases).
- (8) Regulations under this section are to be made by statutory instrument.

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## **26 Short title**

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This Act may be cited as the Leasehold Reform (Ground Rent) Act 2021.

SCHEDULE

Section 12

ENFORCEMENT

*Introduction*

- 1 This Schedule applies in relation to—
- (a) the imposition by an enforcement authority of a financial penalty under section 9, and 5
  - (b) the making of an order by an enforcement authority under section 10.

*Notice of intent*

- 2 (1) Before imposing a financial penalty on a person, or making an order against a person, the enforcement authority must serve on the person notice of its intention to do so (a “notice of intent”). 10
- (2) A single notice of intent may be served on a person in respect of both a penalty and an order.
- (3) The notice of intent must set out— 15
- (a) the date on which the notice is served,
  - (b) the amount of the proposed financial penalty or the terms of the proposed order,
  - (c) the reasons for imposing the penalty or making the order, and
  - (d) information about the right to make representations under paragraph 4. 20

*Time limits for serving notice of intent*

- 3 (1) A notice of intent may not be served in respect of a breach of section 3(1) after the earlier of the following—
- (a) the end of the period of 6 years beginning with the day the breach occurs, and 25
  - (b) the end of the period of 6 months beginning with the day on which evidence comes to the knowledge of the enforcement authority which the authority considers sufficient to justify serving the notice.
- (2) For the purposes of sub-paragraph (1)(a), a breach of section 3(1) occurs— 30
- (a) where the breach arises as a result of a request for a payment of a prohibited rent as mentioned in section 3(2)(a) (whether or not a payment is made), on the day of the request;
  - (b) where the breach arises as a result of a failure to refund a payment of a prohibited rent as mentioned in section 3(2)(b) in a case where no request for the payment was made, at the end of the period of 28 days beginning with the day after receipt of the payment. 35

*Right to make written representations*

- 4 A person who receives a notice of intent may, within the period of 28 days beginning with the day on which the notice of intent was served, make written representations about the proposal.

*Final notice*

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- 5 (1) After the end of the period mentioned in paragraph 4, the enforcement authority must—
- (a) decide whether to impose a financial penalty or make an order, and
  - (b) if it decides to do so, decide the amount of the penalty or the terms of the order. 10
- (2) If the enforcement authority decides to impose a penalty or make an order, it must serve a further notice on the person (a “final notice”) imposing the penalty or making the order.
- (3) A single final notice may be served on a person in respect of both a penalty and an order. 15
- (4) A final notice imposing a penalty or making an order must require the penalty to be paid, or the order to be complied with, before the end of the period of 28 days beginning with the day after that on which the final notice is served.
- (5) The final notice must set out— 20
- (a) the date on which the final notice is served,
  - (b) the amount of the penalty or the terms of the order,
  - (c) the reasons for imposing the penalty or making the order,
  - (d) information about how to pay the penalty or comply with the order,
  - (e) information about rights of appeal, and 25
  - (f) the consequences of failure to comply with the notice.

*Withdrawal or amendment of notice*

- 6 (1) The enforcement authority may at any time—
- (a) withdraw a notice of intent or final notice,
  - (b) reduce an amount specified in a notice of intent or final notice, or 30
  - (c) amend a notice of intent or final notice to remove—
    - (i) the proposal to impose, or the imposition of, a penalty;
    - (ii) the proposal to make, or the making of, an order.
- (2) The power in sub-paragraph (1) is to be exercised by giving notice in writing to the person on whom the notice was served. 35

*Appeals*

- 7 (1) A person on whom a final notice is served may appeal to the First-tier Tribunal against—
- (a) the decision to impose the penalty or make the order,

- (b) the amount of the penalty, or
  - (c) the terms of the order.
- (2) An appeal under this paragraph must be brought before the end of the period of 28 days beginning with the day after that on which the final notice is served. 5
- (3) If an appeal is brought under this paragraph, the final notice is suspended so far as it relates to the matter which is the subject of the appeal until the appeal is finally determined, withdrawn or abandoned.
- (4) An appeal under this paragraph –
- (a) is to be a re-hearing of the authority’s decision, but 10
  - (b) may be determined having regard to matters of which the authority was unaware.
- (5) On an appeal under this paragraph the First-tier Tribunal may quash, confirm or vary the notice.
- (6) The final notice may not be varied so as to make it impose a financial penalty of less than the minimum financial penalty or more than the maximum financial penalty that could have been imposed in the final notice by the enforcement authority. 15

*Recovery of financial penalty*

- 8 (1) This paragraph applies if a person who is liable to pay a financial penalty under section 9 does not pay the whole or any part of the penalty in accordance with the final notice imposing it. 20
- (2) The enforcement authority that imposed the financial penalty may recover the penalty or part on the order of the county court as if it were payable under an order of that court. 25
- (3) In proceedings before the county court for the recovery of a financial penalty or part of a financial penalty, a certificate which is –
- (a) signed by the chief finance officer of the authority that imposed the penalty, and
  - (b) states that the amount due has not been received by a date specified in the certificate, 30
- is evidence of that fact.
- (4) A certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.
- (5) In this paragraph, “chief finance officer” has the same meaning as in section 5 of the Local Government and Housing Act 1989. 35

*Recovery of prohibited rent and interest*

- 9 (1) This paragraph applies if a person who is ordered to pay an amount under section 10 does not pay the whole or any part of that amount, or any interest payable on that amount, in accordance with the final notice making the order. 40

- (2) The person to whom the amount or part or interest is payable may recover it on the order of the county court as if it were payable under an order of that court.

*Assistance to recover prohibited rent*

- 10 (1) An enforcement authority may help a person to make an application for an order under paragraph 9(2). 5
- (2) An enforcement authority may, for example, help the person by conducting proceedings or giving advice.

*Proceeds of financial penalties*

- 11 Where an enforcement authority imposes a financial penalty under this Act, it may apply the proceeds towards meeting the costs and expenses (whether administrative or legal) incurred in, or associated with, carrying out its enforcement functions (under this Act or otherwise) in relation to residential leasehold property. 10
- 12 Any proceeds of a financial penalty imposed under this Act which are not applied in accordance with paragraph 11 must be paid to the Secretary of State. 15



# Leasehold Reform (Ground Rent) Bill [HL]

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[AS INTRODUCED]

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## B I L L

TO

Make provision about the rent payable under long leases of dwellings; and for connected purposes.

*Lord Greenhalgh*

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