

# Leasehold Reform (Ground Rent) Bill [HL]

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SECOND  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
IN GRAND COMMITTEE

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*The amendments have been marshalled in accordance with the Instruction of 27th May 2021, as follows –*

Clauses 1 to 12  
Schedule

Clauses 13 to 26  
Title

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

**Amendment  
No.**

**Clause 9**

BARONESS GRENDER

**14** Page 7, line 9, leave out “£500” and insert “£5,000”

*Member’s explanatory statement*

*This amendment would raise the minimum financial penalty under the Bill from £500 to £5,000.*

**15** Page 7, line 10, leave out “£5,000” and insert “£30,000”

*Member’s explanatory statement*

*This amendment would raise the maximum financial penalty under the Bill from £5,000 to £30,000.*

**After Clause 12**

BARONESS GRENDER  
LORD STUNELL

**16** Insert the following new Clause –

**“Banning orders: extension to freeholders in repeated breach of this Act**

- (1) The Housing and Planning Act 2016 is amended as follows.
- (2) In section 14(1), before subsection 14(1)(a) insert –  
“(za) receiving any monetary ground rent”.

**After Clause 12 - continued**

- (3) In section 40, after subsection 40(1) insert –
- “(1A) This Chapter does not apply to anyone in relation to whom a banning order is made under section 14(1)(za) of this Act.”
- (4) After section 55, insert the following new section –
- “(55A) Meaning of “monetary ground rent” and related expressions**
- (1) For the purposes of this Chapter, a “monetary ground rent” means a rent which is a prohibited rent under section 3 of the Leasehold Reform (Ground Rent) Act 2021, regardless of the fact that the lease under which the monetary ground rent is reserved is not a regulated lease under section 1 of that Act.
- (2) For the purposes of this Chapter, a landlord receives a monetary ground rent if the landlord does anything referred to in section 3(2) of the Leasehold Reform (Ground Rent) Act 2021, regardless of the fact that the lease under which the monetary ground rent is reserved is not a regulated lease under section 1 of that Act.
- (3) For the purposes of this section –
- (a) “landlord” and “tenant” have the same meaning as in section 3 of the Leasehold Reform (Ground Rent) Act 2021, and
- (b) “lease” has the same meaning as “long lease” in section 22(1) of the Leasehold Reform (Ground Rent) Act 2021.”
- (5) The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2018 (SI 2018/216) are amended as follows.
- (6) In regulation 2, after “associated person” insert –
- ““body corporate” has the meaning given by section 1173 of the Companies Act 2006;
- “group” has the meaning given by section 1261 of the Companies Act 2006;
- “same landlord” means –
- (a) in relation to a natural person, that person and any associated person;
- (b) in relation to a body corporate, the body corporate itself and any group of which that body corporate forms part or has ever formed part;”
- (7) In regulation 3, after paragraph (c) add –
- “(d) an offence listed in item 15 of the Schedule if –
- (i) any one or more enforcement authority under section 8 of the Leasehold Reform (Ground Rent) Act 2021 has imposed the maximum penalty under section 9 of that Act against the same landlord, or person acting on behalf of the same landlord, three or more times; and
- (ii) the penalties have not been quashed or varied by the First-tier Tribunal by order under paragraph 11 of the Schedule to the Leasehold Reform (Ground Rent) Act 2021; and

**After Clause 12 - continued**

- (iii) each of the three penalties has been incurred in a period of six years beginning with the day on which the final notice was issued by the enforcement authority in respect of the first penalty.”
- (8) In the Schedule (Offences) add new item 15 and in relation to new item 15 add –
- (a) under the column entitled “Statute” –  
“Leasehold Reform (Ground Rent) Act 2021”;
  - (b) under the column entitled “Provision” –  
“Section 9”;
  - (c) under the column entitled “Offence” –  
“Financial penalty”.

**Member’s explanatory statement**

*This new Clause would extend the Banning Order regime under the Housing and Planning Act 2016 (apart from Rent Recovery Orders) so as to ban landlords who receive 3 or more penalties in any six year period from collecting some or all of the monetary ground rents arising under pre-commencement leases.*

**After Clause 14**

LORD YOUNG OF COOKHAM

17 Insert the following new Clause –

**“Application to First-tier Tribunal in relation to section (*Right to buy out ground rent in pre-commencement leases*)**

- (1) The tenant or the landlord under a lease to which section (*Right to buy out ground rent in pre-commencement leases*) applies may apply to the First-tier Tribunal for a declaration as to the effect of that section.
- (2) If, on application under subsection (1), the First-tier Tribunal is satisfied that the landlord or tenant is in default of any one or more of his or her obligations under that section, or that it is necessary to make any other declaration as to the effect of that section, then it must make any necessary declaration and specify the time permitted to comply.
- (3) The time allowed by the First-tier Tribunal for compliance with any declaration made under subsection (2) is at the discretion of the First-tier Tribunal but may not be a period longer than 2 months.
- (4) The First-tier Tribunal may award damages to the tenant for breach of any of the landlord’s obligations under section (*Right to buy out ground rent in pre-commencement leases*) in the amount it considers fit taking into account the landlord’s conduct and the tenant’s losses, whether financial or otherwise.
- (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;

**After Clause 14 - continued**

- (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.
- (6) An application may be made under subsection (1) in respect of two or more 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
    - (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 subsection (1) to the lease are to be read as references to each of the leases in respect of which the application is made and references in subsections (4) and (5) to the tenant are to be read as references to each tenant in respect of which the application is made)."

***Member's explanatory statement***

*This amendment complements the probing amendment in relation to the "buy out" of ground rents in pre-commencement leases. It gives the tenant or the landlord the right to apply to the First-tier Tribunal for declarations and damages as necessary.*

**After Clause 18**

LORD KENNEDY OF SOUTHWARK  
LORD LENNIE  
BARONESS GRENDER

18 Insert the following new Clause—

**“Ground rent for existing long leases**

Within 30 days of the day on which section 3 comes into force (for any kind of lease), the Secretary of State must publish draft legislation to restrict ground rents on all existing long residential leases to a peppercorn.”

***Member's explanatory statement***

*This amendment aims to ensure that the Government introduces further legislation to remove ground rent for all leaseholders, whereas the Act currently only applies to newly established leases.*

LORD KENNEDY OF SOUTHWARK  
LORD LENNIE

19 Insert the following new Clause—

**“Assessment of financial impact for tenants in long leases of dwellings**

- (1) Within 30 days of the day on which section 3 comes into force (for any kind of lease), the Secretary of State must publish an assessment of the financial impact of this Act for tenants in long leases of dwellings.
- (2) The assessment must consider whether further legislation is necessary to address the financial consequences of this Act for tenants in long leases of dwellings, including but not limited to in relation to—
  - (a) lease forfeiture;

**After Clause 18 - continued**

- (b) transfer fees;
- (c) redress schemes;
- (d) enfranchisement.

(3) The Secretary of State must lay the assessment before Parliament.”

**Member’s explanatory statement**

*This amendment would ensure that the Government must publish an assessment considering the financial impact of this Act for leaseholders, and whether further legislation is required.*

BARONESS PINNOCK  
BARONESS GRENDER

20 Insert the following new Clause –

**“Review of the financial impact of the Act**

- (1) Within 6 months of the day on which this Act is passed the Secretary of State must carry out a review of the financial impact of this Act on leaseholders.
- (2) The review must make a recommendation as to whether further legislation should be introduced to extend the ban on ground rents to existing long leases.
- (3) The recommendation in subsection (2) must take into account the potential financial impact of an extension of the ban on ground rents on those leaseholders and tenants who have been charged for the cost of fire remediation work.”

**Member’s explanatory statement**

*This amendment would require a review of the financial impact of this Act and make a recommendation as to whether a further extension of the ground rents ban could benefit existing leaseholders, especially those facing bills for fire remediation work.*

**Clause 22**

LORD YOUNG OF COOKHAM

21 Page 13, line 29, leave out from ““rent”” to end of line 29 and insert “means rent reserved as such including any part of the rent, whether or not expressed to be in consideration of services to be provided, which is fixed or which varies or may vary by reference to any one or any combination of a specific amount, a specific period of time or a specific measure, disregarding any part of the rent expressed to be payable in consideration of services to be provided which varies or may vary in accordance with the cost of the services provided, or of the variable cost of repairs, maintenance or insurance to be effected by the landlord and which varies or may vary in accordance with the cost of the repairs, maintenance or insurance in question, or to be payable in respect of the cost thereof to the landlord or a superior landlord;”

**Member’s explanatory statement**

*This amendment probes whether the Government can improve the definition of “rent” for the purposes of the Bill. It is derived from definitions in the Leasehold Reform Act 1967 and the Landlord and Tenant Act 1985. It is extended to include fixed service charges and index-linked service charges akin to monetary ground rents.*

**Clause 23**

LORD BERKELEY

**21A★** Page 14, line 7, at end insert –

“(3) Within six months of this Act being passed, the Secretary of State must undertake a consultation with interested parties, and publish a report, on ground rents charged by the Crown on domestic properties exempt from leasehold enfranchisement, including those on which the lease is extended.”

***Member’s explanatory statement***

*The Law Commission’s Report ‘Leasehold home ownership’ (Law Com No 392, para 7.152) says in relation to the Duchy of Cornwall, “Leaseholders who satisfy the criteria for a lease extension will be offered a 50-year extension at a modern ground rent, in line with the legislation. Leaseholders who satisfy the criteria for freehold acquisition will also be offered a 50-year lease extension (again at a modern ground rent) in lieu.” This amendment is intended to probe these arrangements*

**Clause 25**

LORD YOUNG OF COOKHAM

**22** Page 14, line 13, at end insert –

“(1A) Sections (*Right to buy out ground rent in pre-commencement leases*) and (*Application to First-tier Tribunal in relation to section (Right to buy out ground rent in pre-commencement leases)*) come into force on 1 January 2023.”

***Member’s explanatory statement***

*This amendment brings into force all the amendments related to the “buy out” of ground rents in pre-commencement leases on 1 January 2023. This date is chosen to give affected parties, the Government, the Land Registry and HM Courts and Tribunals Service time to prepare.*

**23** Page 14, line 14, after “subsection (1)” insert “and subsection (1A)”

LORD KENNEDY OF SOUTHWARK

LORD LENNIE

BARONESS GRENDER

**24** Page 14, line 15, at end insert “or within 6 months of the day on which this Act is passed, whichever is earlier.”***Member’s explanatory statement***

*This amendment would ensure that the Bill comes into force within 6 months of the day on which it is passed, if regulations are not introduced by then.*

LORD KENNEDY OF SOUTHWARK

LORD LENNIE

**25** Page 14, line 18, leave out subsection (4)

***Member's explanatory statement***

*This amendment aims to ensure that the provisions also apply to retirement properties, whereas at present the Bill will prevent provisions coming into force for retirement properties before April 2023.*

LORD BLENCATHRA  
BARONESS GRENDER

26 Leave out Clause 25 and insert the following new Clause—

**“Commencement**

This Act comes into force on the day on which it is passed.”

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*9 June 2021*

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