

Leasehold Reform (Ground Rent) Bill [HL]

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

[Amendments marked ★ are new or have been altered]

Amendment
No.

Clause 1

LORD GREENHALGH

1 Page 1, line 5, after second “a” insert “single”

Member’s explanatory statement

This amendment excludes leases of multiple dwellings from the definition of “regulated lease”.

2 Page 1, line 5, at end insert —
“(aa) it is granted for a premium,”

Member’s explanatory statement

This amendment provides that a lease will only be a regulated lease if it is granted for a premium. “Premium” is defined in Lord Greenhalgh’s first amendment to Clause 22, page 13, line 28.

LORD EHERTON

3★ Page 1, line 14, after “lease” insert “do not”

Clause 2

LORD GREENHALGH

4 Page 2, leave out line 21 and insert “relevant authority”

Member’s explanatory statement

This amendment, with Lord Greenhalgh’s second amendment to Clause 22, page 13, line 28, allows the Welsh Ministers to make regulations under Clause 2(6)(b) in relation to premises in Wales.

THE EARL OF LYTTON

5★ Page 3, line 7, at end insert –

“Leases at large and complex buildings

- (12) A lease is an excepted lease if it is a lease of a dwelling at a large and complex building.
- (13) A large and complex building is one which contains at least 15 dwellings and satisfies at least one of the following conditions –
 - (a) it contains significant communal facilities,
 - (b) a connected building contains significant communal facilities, or
 - (c) any landlord under the lease is the “responsible person” for the purposes of the Regulatory Reform (Fire Safety) Order 2005 for the building and for any connected building.
- (14) “Significant communal facilities” means any services provided by means of mechanical and electrical installations which benefit (or are intended to benefit) two or more dwellings where –
 - (a) the total floor area allocated to those services exceeds 15 per cent of the internal floor area of any building,
 - (b) the cost of any insurance policy (or policies) procured by or on behalf of the landlord in respect of those facilities exceeded £100,000 per annum, or
 - (c) a tenant under a long lease of a dwelling in one building is entitled to receive services associated with any significant communal facilities in another building, but has no express right under the terms of the lease to access the other building for the purposes of repairing or maintaining any significant communal facilities.
- (15) For the purpose of determining the internal floor area of a building or of any part of a building, the floor or floors of the building or part shall be taken to extend (without interruption) throughout the whole of the interior of the building or part.
- (16) Buildings are connected buildings if –
 - (a) when the first lease of a dwelling was granted, the buildings formed part of the same freehold or leasehold title as registered at the Land Registry, or
 - (b) when the first lease of a dwelling was granted, the relevant services in respect of one building were provided (or were intended to be provided) together with the relevant services of another building.
- (17) “Relevant service” means any service provided for the benefit of one or more occupiers of a building and includes works of repairs, maintenance, improvements, insurance or management.
- (18) The Secretary of State may by regulations make provision to extend any existing regulatory provision imposed by any enactment to section 14(c).”

Member's explanatory statement

The ongoing stewardship of management arrangements for large and complex buildings requires significant resource. This amendment is intended to allow leaseholders to continue to be allowed to pursue a freeholder-leaseholder arrangement in such circumstances, with the expectation that the freeholder is able to raise more than a peppercorn, and seeks to define what are large and complex buildings.

After Clause 2

LORD MACKAY OF CLASHFERN

6 Insert the following new Clause—

“Leases with an option of redemption

- (1) In this Act a lease with an option of redemption means a lease which meets the following conditions—
 - (a) it is a long lease of a dwelling,
 - (b) it is in force on the “relevant transition date”, and
 - (c) it is not an excepted lease.
- (2) The “relevant transition date” is the day on which this section and the other relevant provisions of this Act come into force in relation to leases of that kind.
- (3) After the relevant transition date the tenant has an option to pay a capital sum to the landlord, on payment of which the rent payable under the lease shall be a peppercorn rent.
- (4) The capital sum in subsection (3) shall be calculated in accordance with a formula specified by regulations made by the Secretary of State.
- (5) The option to pay a capital sum to the landlord set out in subsection (3) may only be exercised within two years of the relevant transition date.”

Clause 6LORD STUNELL
BARONESS GRENDER

7 Page 4, line 32, leave out paragraph (a) and insert—

- “(a) in respect of the excepted period, a rent which does not at any time during the excepted period exceed 0.1% of the value of the landlord’s interest in the dwelling, being the value once any replacement lease is granted;”

Member's explanatory statement

This amendment prescribes a monetary ground rent of no more than 0.1% of the freehold value of the dwelling for leases replacing pre-commencement leases.

8 Leave out Clause 6

Member's explanatory statement

This amendment would remove Clause 6 from the Bill so as to extend peppercorn ground rents to any non-statutory lease extension or lease variation effective in relation to a residential dwelling after a relevant commencement date.

After Clause 7

LORD STUNELL
BARONESS GRENDER

9★ Insert the following new Clause –

“Duty to inform the tenant

- (1) Before entering a formal or informal renegotiation or extension of an existing lease, the landlord must inform the tenant of the changes introduced by this Act, if the sections of the Act in relation to prohibited rent are not yet in force.
- (2) An enforcement authority may impose a financial penalty on a person if the authority is satisfied beyond reasonable doubt that the person has breached the duty in this section.
- (3) The amount of the financial penalty under subsection (2) is to be such amount as the authority determines but –
 - (a) is not to be less than £500, and
 - (b) is not to be more than £30,000.
- (4) This section comes into force on the day on which this Act is passed.”

Member’s explanatory statement

This amendment would require landlords to let tenants know of the upcoming changes to ground rents to try and prevent lease extensions before the changes in this Bill are implemented.

Clause 9

LORD GREENHALGH

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

Member’s explanatory statement

This amendment increases the maximum penalty that an enforcement authority may impose.

11 Page 7, line 37, leave out subsection (9) and insert –

- “(9) The relevant authority may by regulations amend this section so as to change the minimum amount or the maximum amount.”

Member’s explanatory statement

This amendment, with Lord Greenhalgh’s second amendment to Clause 22, page 13, line 28, enables the Welsh Ministers (instead of the Secretary of State) to make regulations changing the amount of the minimum and maximum penalties for breaches of Clause 3 in relation to leases of premises in Wales.

12 Page 7, line 39, leave out “Secretary of State” and insert “relevant authority”

Member’s explanatory statement

This amendment is consequential on Lord Greenhalgh’s amendment to Clause 9, page 7, line 37.

Clause 12

LORD GREENHALGH

- 13 Page 9, line 3, after “Act” insert “in relation to a lease of premises in England;
(b) the Welsh Ministers about the exercise of its functions under this Act in relation to a lease of premises in Wales.”

Member’s explanatory statement

This amendment requires enforcement authorities to have regard to guidance issued by the Secretary of State in relation to enforcement action in England and by the Welsh Ministers in relation to enforcement action in Wales.

Clause 13

LORD GREENHALGH

- 14 Page 9, line 24, leave out “First-tier Tribunal” and insert “appropriate tribunal”

Member’s explanatory statement

This amendment, with Lord Greenhalgh’s amendment to Clause 17, page 11, line 17, requires applications for the recovery of prohibited rent paid under a lease of premises in Wales to be made to a leasehold valuation tribunal (instead of the First-tier Tribunal).

- 15 Page 9, line 36, leave out “First-tier Tribunal” and insert “appropriate tribunal”

Member’s explanatory statement

This amendment is consequential on Lord Greenhalgh’s amendment to Clause 13, page 9, line 24.

- 16 Page 9, line 39, leave out “First-tier Tribunal” and insert “appropriate tribunal”

Member’s explanatory statement

This amendment is consequential on Lord Greenhalgh’s amendment to Clause 13, page 9, line 24.

Clause 14

LORD GREENHALGH

- 17 Page 10, line 4, leave out “First-tier Tribunal” and insert “appropriate tribunal”

Member’s explanatory statement

This amendment and Lord Greenhalgh’s amendment to Clause 14, page 10, line 5 are consequential on Lord Greenhalgh’s amendments to Clause 13, and enable a leasehold valuation tribunal to order interest to be paid on amounts of prohibited rent that it orders to be repaid to the tenant under that Clause.

- 18 Page 10, line 5, leave out “First-tier Tribunal” and insert “appropriate tribunal”

Member’s explanatory statement

See the explanatory statement to Lord Greenhalgh’s amendment to Clause 14, page 10, line 4.

Clause 15

LORD GREENHALGH

- 19 Page 10, line 19, leave out “First-tier Tribunal” and insert “appropriate tribunal”

Member’s explanatory statement

This amendment, with Lord Greenhalgh’s amendment to Clause 17, page 11, line 17, requires applications as to the effect of Clause 7 on the terms of a lease of premises in Wales to be made to a leasehold valuation tribunal (instead of the First-tier Tribunal).

- 20 Page 10, line 22, leave out “First-tier Tribunal” and insert “appropriate tribunal”

Member’s explanatory statement

This amendment is consequential on Lord Greenhalgh’s amendment to Clause 15, page 10, line 19.

- 21 Page 10, line 24, leave out “Tribunal” and insert “appropriate tribunal”

Member’s explanatory statement

This amendment is consequential on Lord Greenhalgh’s amendment to Clause 15, page 10, line 19.

- 22 Page 11, line 1, leave out “First-tier Tribunal” and insert “appropriate tribunal”

Member’s explanatory statement

This amendment is consequential on Lord Greenhalgh’s amendment to Clause 15, page 10, line 19.

Clause 16

LORD GREENHALGH

- 23 Page 11, line 12, leave out “First-tier Tribunal” and insert “appropriate tribunal”

Member’s explanatory statement

This amendment is consequential on Lord Greenhalgh’s amendments to Clause 13.

Clause 17

LORD GREENHALGH

- 24 Page 11, line 17, at beginning insert –

“(1) For the purposes of sections 13 to 16 and the Schedule, the “appropriate tribunal” is –

- (a) in relation to a lease of premises in England, the First-tier Tribunal;
- (b) in relation to a lease of premises in Wales, a leasehold valuation tribunal.”

Member’s explanatory statement

This amendment defines the “appropriate tribunal” for the purposes of Lord Greenhalgh’s amendments to Clauses 13 to 16 and the Schedule.

25 Page 11, line 19, at beginning insert “except in relation to section 16(1)(b),”

Member’s explanatory statement

This amendment corrects the drafting of Clause 17(b) to reflect the fact that the right to apply to a tribunal for a declaration as to the effect of the Bill on the terms of a lease does not extend to a tenant’s guarantor.

After Clause 18

LORD LENNIE

26 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.

BARONESS PINNOCK

BARONESS GRENDER

LORD STUNELL

27 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.

LORD LENNIE

28 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.

After Clause 18 - continued

- (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;
 - (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.

29 Insert the following new Clause—

“Commonhold ownership

Within 60 days of this Act being passed, the Secretary of State must publish an assessment of the impact of this Act on levels of commonhold ownership.”

After Clause 19

LORD STUNELL
BARONESS GRENDER

30 Insert the following new Clause—

“Ground rent in pre-commencement leases: prescribed information

- (1) Section 166 of the Commonhold and Leasehold Reform Act 2002 is amended as follows.
- (2) In subsection 2(b), omit the final “and”.
- (3) After subsection 2(c) insert—
 - “(d) the landlord’s justification for the amount of the rent, including identifying and explaining what, if any, expenses the landlord will meet in whole or in part using any part of the rent demanded, and
 - (e) in cases where the landlord will not meet any expenses using the rent demanded, a statement by the landlord to that effect,””

Member’s explanatory statement

This amendment requires landlords collecting ground rent under pre-commencement leases to justify the payments by reference to the expenses to be met from the ground rent, or else to confirm that the ground rent is not used to pay any expenses.

Clause 20

LORD GREENHALGH

31 Page 12, line 25, after “State” insert “and the Welsh Ministers”

Member's explanatory statement

This amendment extends the power to make consequential regulations to the Welsh Ministers.

32 Page 12, line 28, after first "Act" insert "of Parliament"

Member's explanatory statement

This amendment clarifies that the reference to an "Act" is to an Act of Parliament.

33 Page 12, line 29, at end insert –

“(b) a Measure or Act of Senedd Cymru.”

Member's explanatory statement

This amendment allows regulations under Clause 20 to make consequential amendments to Measures or Acts of Senedd Cymru.

34 Page 12, line 29, at end insert –

“(3) Regulations under subsection (1) made by the Welsh Ministers may contain only provision which, if contained in an Act of Senedd Cymru, would be within the legislative competence of the Senedd.

(4) Regulations under subsection (1) made by the Secretary of State may not contain provision that could be contained in regulations under this section made by the Welsh Ministers, unless the Welsh Ministers consent.”

Member's explanatory statement

This amendment provides that consequential regulations made by the Welsh Ministers may only make provision that would be within the legislative competence of Senedd Cymru, and that the Secretary of State may make consequential regulations that could be made by Welsh Ministers only with their consent.

Clause 21

LORD GREENHALGH

35 Page 13, line 2, after "Parliament," insert "if the regulations are made by the Secretary of State, or

(b) Senedd Cymru, if the regulations are made by the Welsh Ministers,”

Member's explanatory statement

This amendment provides that the default procedure for regulations made under the Bill by the Welsh Ministers is the negative procedure.

36 Page 13, line 5, after "Act" insert "of Parliament, or a Measure or Act of Senedd Cymru,”

Member's explanatory statement

This amendment requires affirmative procedure for consequential regulations under Clause 20 which amend Measures or Acts of Senedd Cymru.

37 Page 13, line 7, at end insert “, if the regulations are made by the Secretary of State, or

(b) Senedd Cymru, if the regulations are made by the Welsh Ministers.”

Member's explanatory statement

This amendment requires affirmative procedure for consequential regulations made by Welsh Ministers which amend Acts of Parliament, or Measures or Acts of Senedd Cymru.

Clause 22

LORD GREENHALGH

38 Page 13, line 28, at end insert –

““premium” means any consideration in money or money’s worth for the grant of a lease, other than rent;”

Member's explanatory statement

See the explanatory statement for Lord Greenhalgh's second amendment to Clause 1, page 1, line 5.

THE EARL OF LYTTON

As an amendment to Amendment 38

39★ At end insert “but excluding the value of any ongoing obligation to put or keep in repair or improve the property”

Member's explanatory statement

Although not very frequent, instances occur where properties in disrepair or unmodernised are let on long leases with the tenant undertaking extensive works of repair and modernisation which are accordingly disregarded for rent review purposes during the lease term. The amendment is designed to prevent such situations becoming subject to peppercorn rent provisions of the Bill by default.

LORD GREENHALGH

40 Page 13, line 28, at end insert –

““relevant authority” means –

- (a) in relation to a lease of premises in England, the Secretary of State;
- (b) in relation to a lease of premises in Wales, the Welsh Ministers;”

Member's explanatory statement

This amendment defines “relevant authority” for the purpose of Lord Greenhalgh's amendments to Clause 2, page 2, line 21 and Clause 9, page 7, lines 37 and 39.

41 Page 13, line 29, at end insert –

“(2A) A sum expressed to be payable in respect of rates, council tax, services, repairs, maintenance, insurance or other ancillary matters is not rent for the purposes of this Act merely because it is reserved as rent in the lease.”

Member's explanatory statement

This amendment clarifies that service charges and similar payments are not to be treated as rent only because they are reserved as rent in the lease.

Clause 23

LORD BERKELEY

42 Page 14, line 5, leave out paragraph (c)

Member's explanatory statement

This would remove the Duchy of Cornwall from the definition of Crown Land since the Duchy describes itself as a private estate.

43 Page 14, line 7, at end insert –

“(3) Crown land does not include land belonging to the Duchy of Cornwall.”

Clause 25

LORD LENNIE

44 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.

The Schedule

LORD GREENHALGH

45 Page 16, line 37, leave out “First-tier Tribunal” and insert “appropriate tribunal”

Member's explanatory statement

This amendment, with Lord Greenhalgh's amendment to Clause 17, page 11, line 17, requires an appeal against action taken by an enforcement authority in relation to a lease of premises in Wales to be made to a leasehold valuation tribunal (instead of the First-tier Tribunal).

46 Page 17, line 13, leave out “First-tier Tribunal” and insert “appropriate tribunal”

Member's explanatory statement

This amendment is consequential on Lord Greenhalgh's amendment to the Schedule, page 16, line 37.

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15 July 2021
