House of Commons Library

Research Briefing

22 February 2024

By Hannah Cromarty

Leasehold and Freehold Reform Bill 2023-24: Progress of the Bill

Summary

1 Background to the Bill
2 Second reading in the House of Commons
3 Public Bill Committee: Overview
4 Part 1: Leasehold enfranchisement and extension
5 Part 2: Other rights of long leaseholders
6 Part 3: Regulation of leasehold
7 Part 4: Regulation of estate management
8 Part 5: Rentcharges
9 Commencement
10 New clauses

Contents

Summary **5**

1 Background to the Bill **8**

1.1 What would the Bill do? 8

2 Second reading in the House of Commons **10**

3 Public Bill Committee: Overview **15**

4 Part 1: Leasehold enfranchisement and extension **17**

4.1 Eligibility for enfranchisement and extension 17

4.2 Effects of enfranchisement 20

4.3 Effects of extension 21

4.4 Price payable on enfranchisement or extension 21

4.5 Costs of enfranchisement or extension 23

4.6 Jurisdiction of the county court and tribunals 24

5 Part 2: Other rights of long leaseholders **25**

5.1 New right to replace rent with peppercorn rent 25

5.2 The Right to Manage 26

6 Part 3: Regulation of leasehold **29**

6.1 Service charges 29

6.2 Insurance 32

6.3 Administration charges 33

6.4 Litigation costs 34

7 Part 4: Regulation of estate management **36**

7.1 Limitation of estate management charges: Reasonableness 36

7.2 Duty of estate managers to publish administration charge schedules 37

8 Part 5: Rentcharges **38**

9 Commencement **39**

10 New clauses 40

10.1 Abolition of forfeiture of a long lease 40

10.2 Requirement to establish a management company under leaseholder control 41

10.3 The Right to Manage regime for freeholders 42

10.4 Appointment of a substitute estate manager 43

10.5 Redress schemes 44

10.6 Regulation of property agents 45

10.7 Building safety 47

10.8 Providing leaseholders in flats with a share of the freehold 48

10.9 Commencement of section 156 of the CLRA 2002 49

10.10 The Right to Manage procedure 50

10.11 Meaning of "accountable person" for the purposes of the BSA 2022 50

10.12 Requests for sales information 51

11 Appendix: Members of the Public Bill Committee 53

Summary

Report stage and third reading of the Leasehold and Freehold Reform Bill [158 of 2023-24] as amended in Public Bill Committee, are scheduled for 27 February 2024. This briefing provides an overview of the progress of the Bill through the House of Commons prior to report stage.

The Bill together with its explanatory notes, impact assessment and transcripts of the parliamentary stages are available on the Parliament website: Leasehold and Freehold Reform Bill.

What would the Bill do?

The Bill applies to England and Wales. It would make long-term changes intended to improve homeownership for leaseholders and freeholders in England and Wales.

It implements commitments in the 2017 housing white paper to "improve consumer choice and fairness in leasehold" and in the Conservative Party Manifesto 2017 (PDF) to "crack down on unfair practices in leasehold". It also takes forward many of the leasehold reform recommendations made by the Law Commission in their reports of 2020.

The Library briefing, Leasehold and Freehold Reform Bill 2023-24, provides an overview, policy background and comment on the Bill, as it was originally introduced.

Second reading in the Commons

The Leasehold and Freehold Reform Bill [013 of 2023-24] was introduced to the House of Commons on 27 November 2023.

The Bill had its second reading on 11 December 2023 where it was broadly welcomed, although the Government faced criticism for the length of time it had taken to bring the legislation forward. Some MPs expressed frustration at the limitations of the Bill, including the fact that it did not include any provisions to ban leasehold for flats or houses or to reinvigorate commonhold. MPs outlined the specific areas of the Bill that they hoped would be strengthened in the Public Bill Committee.

Winding up the debate, Lee Rowley, the Housing Minister, thanked all the campaigners and others who had spent many years working in this area. He

welcomed the consensus across the Commons on the need for leasehold reform. Responding to criticism that the Bill did not go far enough in reforming leasehold, he said the Government had sought to bring forward a Bill that was "practical, achievable and makes a difference."

Public Bill Committee in the Commons

The Bill was considered by a Public Bill Committee over twelve sittings between 16 January and 1 February 2024. Oral evidence was taken from expert witnesses during the first four sittings.

The Government tabled 124 amendments to the Bill, including 24 new clauses and one new schedule, all of which were agreed. The majority of the amendments were minor, technical or consequential. Substantive additions to the Bill included:

- new redress schemes for leaseholders and freeholders on private or mixed-tenure estates.
- the right for freeholders on estates to apply to the tribunal to appoint a substitute manager where their estate management company is failing.
- measures to ensure that relevant property sales information is provided to leaseholders and freeholders on estates in a timely manner.

The Opposition tabled 72 amendments to the Bill, including 24 new clauses, none of which were agreed. These included provisions to:

- abolish forfeiture of a long lease.
- increase penalties for non-compliance.
- amend the non-residential limit for collective enfranchisement and the percentage of qualifying tenants required to participate in an enfranchisement claim.
- require that all leases on new flats should provide leaseholders with a share of the freehold and establish a residents' management company.
- introduce a right for freeholders to manage the estates they live in.
- regulate property managing agents.
- strengthen measures to protect leaseholders from paying for historical fire safety remediation costs.

The Shadow Housing Minister indicated that Labour might come back to some of these issues at a later stage of the Bill.

The Housing Minister said he would write to members of the Public Bill Committee in response to the many detailed questions that were raised during committee stage.

What measures are not in the Bill?

At second reading the Housing Minister said the Government intended to include the outcome of the consultation on restricting ground rents for existing leases in Government amendments to the Bill at committee stage. No such amendments were tabled.

The background briefing notes to the King's Speech on 7 November 2023 said the Bill would:

- ban the creation of new leasehold houses.
- protect leaseholders by extending the measures in the Building Safety Act 2022 to ensure it operates as intended.

These provisions have not yet been included in the Bill.

1 Background to the Bill

The Leasehold and Freehold Reform Bill [013 of 2023-24] was introduced to the House of Commons on 27 November 2023.

The Bill [Bill 158 of 2023-24], as amended in Public Bill Committee, together with its explanatory notes, impact assessment and transcripts of the parliamentary stages are available on the Parliament website: Leasehold and Freehold Reform Bill.

1.1 What would the Bill do?

The Bill applies to England and Wales. It would make long-term changes intended to improve homeownership for leaseholders and freeholders.

It implements commitments in the 2017 housing white paper to "improve consumer choice and fairness in leasehold"[1] and in the Conservative Party Manifesto 2017 (PDF) to "crack down on unfair practices in leasehold".[2] It also takes forward many of the leasehold reform recommendations made by the Law Commission in their reports of 2020.[3]

The Bill's main provisions would:

- make it cheaper and easier for leaseholders in houses and flats to extend their lease and buy the freehold.
- increase the standard lease extension term to 990 years, with ground rent reduced to a peppercorn (zero financial value), upon payment of a premium.
- change the qualifying criteria to give more leaseholders the right to extend their lease, buy their freehold and take over management of their building.
- improve the transparency of service charges and ensure leaseholders receive key information on a regular basis.
- give leaseholders a new right to request information about service charges and the management of their building.

1 MHCLG, Fixing our broken housing market, 7 February 2017, para 4.38
2 The Conservative and Unionist Party Manifesto 2017 (PDF), p59
3 Law Commission, Residential leasehold and commonhold (accessed on 10 February 2023)

- improve the transparency of administration charges and buildings insurance commissions.
- ensure leaseholders are not subject to any unjustified legal costs and can claim their own legal costs from their freeholder.
- give freehold homeowners who pay charges for the maintenance of communal areas and facilities on a private or mixed-tenure residential estate the right to challenge the reasonableness of charges and the standard of services provided.
- improve the transparency of estate charges and ensure freehold homeowners receive key information on a regular basis.
- ensure a rentcharge owner is not able to take possession or grant a lease on a freehold property where the rentcharge remains unpaid for a short period of time.

Alongside the Bill, the Government launched a consultation seeking views on options to restrict ground rents for existing leaseholders. The consultation closed on 17 January 2024. Subject to that consultation, the Government has said it will look to introduce a ground rent cap through the Bill.

The Bill is the second part of a legislative package to reform leasehold law. It follows on from the Leasehold Reform (Ground Rent) Act 2022, which put an end to ground rents for most new residential leasehold properties in England and Wales.

The Library briefing, Leasehold and Freehold Reform Bill 2023-24, provides an overview, policy background and comment on the Bill, as it was originally introduced.

The Department for Levelling Up, Housing and Communities has published a guide to the Leasehold and Freehold Reform Bill.

2 Second reading in the House of Commons

The Leasehold and Freehold Reform Bill 2023-24 received its second reading on 11 December 2023.

The debate was opened by the Secretary of State at the Department for Levelling Up, Housing and Communities (DLUHC), Michael Gove. He thanked the people and organisations that had helped to shape the Bill and outlined the aims of the Bill.[4]

He explained the Government was consulting on options to restrict ground rents through the Bill, and his preference was to restrict them to a 'peppercorn' (effectively no financial value):

> First, we have a consultation on ground rents. I cannot pre-empt that consultation, but at its conclusion, we will legislate on the basis of that set of responses in order to ensure that ground rents are reduced, and can only be levied in a justifiable way. As I say, I cannot pre-empt the consultation, but in a way I already have, because I was asked by the Select Committee last week what my favoured approach would be, and I believe that it should be a peppercorn. Of course, if compelling evidence is produced, as a Secretary of State with great civil servants, I will look at it, but my preference is clear, and I suspect that it is the preference of the House as well.[5]

He acknowledged "… this Bill does not go as far as some in the House and elsewhere would like" and there were some issues, such as strengthening the regulation of property agents, that the Government did not have the legislative time to address through the Bill.[6]

Richard Fuller (Con) asked whether the Government intended to give freeholders on residential estates the right to manage those estates. In response Michael Gove said there were two areas of the Bill that he thought should be looked at in committee: the right to manage; and the abuse of forfeiture[7] by freeholders. He also confirmed the Government intended to bring forward provisions to ban new leasehold houses.[8] He commended the Bill to the House.

4 HC Deb 11 December 2023 c655
5 HC Deb 11 December 2023 c659
6 HC Deb 11 December 2023 c662
7 Forfeiture means the lease can be terminated and the property revert to the freeholder. This could arise if the leaseholder breaches the terms of the lease.
8 HC Deb 11 December 2023 c662

Angela Rayner (Lab), Shadow Secretary of State for Levelling Up, Housing and Communities, welcomed the Bill; however, she pointed out that leaseholders had been waiting six years for the Bill.[9] She was also critical of the fact that the Bill, as introduced, did not include any provisions to ban leasehold, either for flats or houses:

> The fact is that even if the Government belatedly fix their leasehold house loophole, flat owners will be left out of the picture, yet 70% of all leasehold properties are flats and there are over 600,000 more owner-occupied leasehold flats than houses in England. Having listened to the Secretary of State, those owners will still be wondering just when the Government will fulfil their pledge to them. As I am sure everyone in the House will agree, property law is, by nature, extremely complex, but we cannot and must not lose sight of the daily impact that these laws have on the lives of millions across our country, including over 5 million owners of leasehold properties in England and Wales. I am sure that most of us in the House know what that means in human terms for our constituents.[10]

She urged the Government to work with the Opposition to strengthen the Bill as it passed through its parliamentary stages. She also confirmed a Labour Government would make commonhold the default tenure for all new properties and would enact the Law Commission's recommendations on enfranchisement, commonhold and the right to manage in full.[11]

During second reading many MPs gave examples of leasehold issues in their constituencies, including cases relating to high service and administration fees, disproportionate costs for lease extensions, poor practice by managing agents and difficulties in resolving disputes. MPs generally supported the Bill's provisions to reform the tenure. However, many also called on the Government to go further.

Sir Peter Bottomley (Con), Co-Chair of the All-Party Parliamentary Group on Leasehold and Commonhold Reform, urged the Government to implement the Law Commission's recommendations in full.[12] He also proposed the Bill should strengthen measures to protect leaseholders from paying for historic fire safety remediation costs.[13]

Clive Betts (Lab), Chair of the Levelling Up, Housing and Communities Select Committee, welcomed many of the Bill's provisions which he said were in line with the recommendations made in the Committee's 2019 report on leasehold reform.[14] However, he asked the Secretary of State to commit to the Committee's recommendation for a programme of education and information for leaseholders, to ensure a better understanding of commonhold. He said

9 HC Deb 11 December 2023 c663
10 HC Deb 11 December 2023 c665
11 HC Deb 11 December 2023 c667
12 HC Deb 11 December 2023 c668
13 HC Deb 11 December 2023 c669
14 House of Commons Levelling Up, Housing and Communities Committee, Leasehold Reform, 2017-19 HC 1468, 19 March 2019

this was essential "if we are to move to commonhold for new properties and encourage leaseholders in existing properties to convert…"[15]

He also outlined areas where he would like to see the Bill strengthened, including:

- the right to manage, both for leaseholders and for freeholders on residential estates.
- the right for leaseholders to have first refusal if a freehold is sold.
- removal of the threat of forfeiture.
- a requirement for freeholders to join a redress scheme.
- greater transparency and protections around reserve funds.[16]
- independent conveyancing advice for leaseholders when purchasing a leasehold property.
- the introduction of a specialised housing court.[17]

Helen Morgan (Lib Dem), the Liberal Democrat spokesperson for Levelling Up, Housing and Communities, welcomed the Bill, but said the Liberal Democrats had significant concerns about provisions that were not included. In particular, she called on the Government to:

- ban the creation of new leasehold flats and make commonhold the new default tenure.
- give leaseholders first refusal when the freehold is sold.
- introduce professionalisation in the management of leasehold buildings.
- consider ending the practice of shared ownership of communal spaces on residential estates.
- strengthen the rights of freeholders on residential estates, including by giving them the right to manage their estates.[18]

Matthew Pennycook (Lab), Shadow Housing Minister, said leaseholders would be disappointed by the Bill's limitations:

> Leaseholders across the country, whose daily lives are often made miserable by the unjust and discriminatory practices that our archaic leasehold system facilitates, took Tory Ministers at their word. They expected the second part of the promised two-part legislative agenda to live up to the weighty promises

15 HC Deb 11 December 2023 c671

16 A reserve fund (also referred to as a sinking fund) is money collected to cover the cost of future large individual items of expenditure such as a new roof, or replacement lift.

17 HC Deb 11 December 2023 cc671-674

18 HC Deb 11 December 2023 cc687-689

> made by the Government. They have been badly let down. Having waited so long and had their expectations raised so high, they are understandably disappointed at the limited Bill that we are considering today. And it is a limited Bill, and no amount of bravado from the Secretary of State can alter that fact. They are also perplexed, as we are, that legislation that the Government claimed would end leaseholds on newly built houses in England and Wales does not actually contain any provision to end such leaseholds.[19]

He also pointed out that the Bill failed to deliver the Government's commitment to reinvigorate commonhold. He said the Opposition would seek to strengthen the Bill in committee, for example, by:

- tightening provisions to protect leaseholders from covering the legal and valuation costs associated with lease extensions, and to protect Right To Manage companies from cost claims by landlords.[20]
- including provisions to abolish forfeiture for leases entirely and replace it with a more equitable means for freeholders to recover costs in a dispute.
- ensuring that leases on new flats include a requirement to establish and operate a residents' management company responsible for all service charge matters, with each leaseholder given a share.

Winding up the debate, Lee Rowley, the Housing Minister, thanked all the campaigners and others who had spent many years working in this area. He welcomed the consensus in the Commons on the need for leasehold reform and the broad support for the Bill. Responding to criticism that the Bill did not go far enough in reforming leasehold, he said it would make a significant difference to leaseholders' lives:

> Our focus in the Bill is on being able to make practical progress—to make the Bill as practically useful as it can be—and then to have the greatest impact that it can have. Some, including hon. Members tonight, have said that it does not go far enough; others have said that we should return to first principles and seek to build the whole system again. I am sure that those hon. Members will make their case in Committee if they are part of it, and on Report and in subsequent stages. The Government seek to have a proposition on which can be built; one that is practical, achievable and makes a difference. The art of politics is about being able to make progress, and we think that the Bill will make a significant difference to people's lives.[21]

The Minister said the Government was happy to look at specific issues in committee and improve the Bill where possible. He also confirmed the Government intended to include the outcome of the consultation on

19 HC Deb 11 December 2023 c707

20 For further information on Right to Manage companies see the Leasehold Advisory Service advice note on Right to Manage.

21 HC Deb 11 December 2023 c710

restricting ground rents for existing leases in Government amendments to the Bill in committee.[22]

The Bill was agreed to without division and was committed to a Public Bill Committee.

[22] HC Deb 11 December 2023 c713

3 Public Bill Committee: Overview

The Leasehold and Freehold Reform Bill 2023-24 was considered by a Public Bill Committee over 12 sittings on 16 January, 18 January, 23 January, 25 January, 30 January and 1 February 2024. The appendix lists the Committee members.

Oral evidence was taken from expert witnesses during the first four sittings. The Committee also received written evidence. Line by line examination of the Bill took place over the subsequent eight sittings.

The Government tabled 124 amendments to the Bill, including 24 new clauses and one new schedule, all of which were agreed. The majority of the amendments were minor, technical or consequential. The Opposition tabled 72 amendments to the Bill, including 24 new clauses, none of which were agreed.

The following sections provide commentary on key parts of the debate on the clauses and highlight the changes made. Note: clause numbers refer to Bill 013 of 2023-24, as introduced.

A record of what happened to each clause, amendment, and new clause considered at committee stage is set out in a document published on the Parliament Bill webpage (PDF). Transcripts of the committee stage debates are also available.

Terminology

In existing legislation, leaseholders are referred to as "tenants". However, it is more common to use the term "leaseholders" to differentiate long leaseholders from tenants holding shorter tenancies. Where this briefing refers to "tenants" it therefore means long leaseholders.

This briefing uses the term "landlord" to mean both landlords and freeholders. In many cases, the landlord will be the freeholder, although that is not always the case, for example where the landlord is an intermediate leaseholder.

References in this briefing to "the Secretary of State" mean the Secretary of State in relation to England and the Welsh Ministers in relation to Wales.

References in this briefing to "the tribunal" mean the First-tier Tribunal (Property Chamber) in relation to England and the Leasehold Valuation Tribunal in Wales.

4 Part 1: Leasehold enfranchisement and extension

4.1 Eligibility for enfranchisement and extension

Removal of qualifying period before enfranchisement and extension claims (clause 1)

Clause 1 would amend the Leasehold Reform Act (LRA) 1967 to remove the requirement that the leaseholder of a house must have owned the property for at least two years before they qualify to buy their freehold (a process known as enfranchisement) or extend their lease. It would also amend the Leasehold Reform, Housing and Urban Development Act (LRHUDA) 1993 to remove the requirement for the leaseholder of a flat to have owned the property for at least two years before they qualify to extend their lease. The clause would implement recommendation 29 from the Law Commission's report on leasehold enfranchisement (2020).[23]

Matthew Pennycook (Lab), Shadow Housing Minister, queried whether the drafting of the clause (specifically subsections (2)(c) and (3)) would remove the right of a leaseholder's personal representative to exercise enfranchisement rights on their behalf in the event of their death. Lee Rowley, the Minister for Housing, Planning and Building Safety, said this was not the Government's intention. His understanding was that the removal of the two-year requirement simply meant that the provisions relating to personal representatives were no longer needed. However, he undertook to double-check this.[24]

Clause 1 was ordered to stand part of the Bill.

Removal of restrictions on repeated enfranchisement and extension claims (clause 2)

Clause 2 would remove certain restrictions on repeated enfranchisement and lease extension claims.

Matthew Pennycook (Lab) welcomed clause 2 but asked for clarification on how it would operate. He also asked why the Government had not accepted

23 Law Commission, Leasehold home ownership: buying your freehold or extending your lease, HC584, 21 July 2020, paras 6.131

24 PBC 23 January 2024 cc167-168

the Law Commission's recommendation to give freeholders the right to apply to the tribunal for an enfranchisement restraint order, with the purpose of preventing leaseholders from making repeat claims without merit or that were frivolous, vexatious or otherwise an abuse of process. The minister undertook to provide further clarification on these points in writing.[25]

Clause 2 was ordered to stand part of the Bill.

Change of non-residential limit on collective enfranchisement claims (clause 3)

Under the current law, leaseholders cannot collectively buy their freehold if more than 25% of the floor space in their building, excluding common parts, is used for non-residential purposes.

Clause 3 would amend the LRHUDA 1993 so that a building would be excluded from collective enfranchisement rights if more than 50% of the internal floorspace were used for non-residential purposes (such as a ground-floor shop). This increase in the non-residential limit would bring many more currently excluded leaseholders within the collective enfranchisement regime.

The Opposition moved amendment 1 which would enable the Secretary of State to change the description of premises which were excluded from collective enfranchisement rights.

Matthew Pennycook (Lab) explained that while Labour supported clause 3, they were concerned there was no flexibility to amend the non-residential limit for collective enfranchisement at a future date if needs be, without using primary legislation. Amendment 1 would provide flexibility and ensure that changes could be enacted through regulations. In response the minister said the Government considered the non-residential limit was an important threshold that should be set out in primary legislation, and in this case a Henry VIII power[26] would not be appropriate.

Amendment 1 was put to a vote and rejected (Ayes 7, Noes 10).[27]

Clause 3 was ordered to stand part of the Bill.

Eligibility for enfranchisement and extension: Specific cases (clause 4 and schedule 1)

Clause 4 gives effect to Schedule 1, which would repeal limitations on enfranchisement rights under the LRA 1967 and the LRHUDA 1993 relating to

25 PBC 23 January 2024 cc169-170

26 A Henry VIII power is a delegated power which enables a minister, by delegated legislation, to amend, repeal or otherwise alter the effect of an Act of Parliament.

27 PBC 23 January 2024 cc176-177 [Division 1]

redevelopment or reoccupation by the landlord and limitations on the rights of sub-lessees.[28]

The Minister confirmed his understanding that clause 4 would not result in a general reduction in the value of leases for the very small number of leaseholders that this provision would cover. He undertook to write to the Committee if that was incorrect or needed further clarification.[29]

Clause 4 was ordered to stand part of the Bill.

Schedule 1 would repeal restrictions that enable landlords to block claims for lease extensions and enfranchisement in specific cases, for example where the landlord intended to redevelop a property.

The Government tabled amendment 57, and consequential amendments 30 and 32, which would provide for an exception to enfranchisement (but not extension) for tenants of certified community housing providers. The reason for the amendment was because this model of housing relies on land being held in single ownership to remain as community-led housing. The amendments would also provide a power for the Secretary of State to define in regulations further types of community-led housing, should that be necessary in future.

The Government also tabled amendment 58 to schedule 1 which would provide for tenants of National Trust properties to have the right to a lease extension, subject to exceptions, and subject to a requirement to grant the National Trust the right to buy back the property in certain circumstances.

The Shadow Housing Minister put on record Labour's the Opposition's "intense frustration" that so many detailed Government amendments were tabled just days before commencement of line-by-line scrutiny in committee began:

> The practice of significantly amending Bills as they progress through the House has become common practice for this Government and in our view it is not acceptable. Other Governments have done it, but it has become the norm under this Government. It impedes hon. Members in effectively scrutinising legislation and increases the likelihood that Acts of Parliament contain errors that subsequently need to be remedied, as happened with the Building Safety Act 2022; as the Minister will know, we have had to pass a number of regulations making technical corrections to that Act.
>
> When it comes to this Bill, the Government have had the Law Commission's recommendations for almost four years and access to Law Commission staff to aid parliamentary counsel with drafting. There really is no excuse for eleventh-hour amendments introducing Law Commission policy or technical

[28] A sub-lessee is a person who holds a sub-lease. They hold a leasehold interest, and their immediate landlord is also a leaseholder.

[29] PBC 23 January 2024 c178

amendments designed to clarify, correct mistakes, or ensure consistency across provisions.[30]

Schedule 1, as amended, was agreed.

4.2 Effects of enfranchisement

Acquisition of intermediate interests in collective enfranchisement (clause 5)

Clause 5 sets out how intermediate leases and leases of common parts are treated in collective enfranchisement claims for flats.

Matthew Pennycook (Lab) asked for further clarification about the treatment of intermediate leases during collective enfranchisement and the extent to which this part of the Bill as a whole reflected the Law Commission's proposals. The Minister undertook to write to the Committee on the technicalities.[31]

Clause 5 was ordered to stand part of the Bill.

Right to require leaseback by freeholder after collective enfranchisement (clause 6)

Clause 6 would amend the LRHUDA 1993 to insert a new leaseback right for leaseholders participating in a collective enfranchisement claim. The participating leaseholders would be able to require the freeholder to take a leaseback of any unit in the building which was not let to a participating leaseholder (for example, a commercial unit), thereby reducing the price payable for acquiring the freehold.[32]

Matthew Pennycook (Lab) asked the Minister to clarify whether the Bill sought to address the impact that intermediate leases might have on the benefits that leaseholders could otherwise expect to secure as a result of the new leaseback right. The Minister agreed to address this point in writing.[33]

Barry Gardiner (Lab) moved amendment 127 which would ensure that any sub-lease that the former landlord gave, or retained, must contain a provision to say that the service charge was payable to the new landlord. This was intended to prevent an aggrieved former landlord from frustrating the process. The Minister said the Government's view was that amendment 127

30 PBC 23 January 2024 c183

31 PBC 23 January 2024 c191

32 The term 'leaseback' refers to when a property is leased back to the seller.

33 PBC 23 January 2024 c194

was unnecessary as the matter could be dealt with under existing legislation. He agreed to write to the MP with more detail.[34]

Amendment 127 was withdrawn.

Clause 6 was ordered to stand part of the Bill.

4.3 Effects of extension

Clause 7 (longer lease extensions) and **clause 8** (lease extensions under the LRA 1967 on payment of premium at peppercorn) would amend the lease extension rights under the LRA 1967 (for leaseholders of houses) and the LRHUDA 1993 (for leaseholders of flats) to ensure that the rights available under each Act were equivalent to one another.

The Opposition expressed their support for the clauses. Matthew Pennycook (Lab) asked the Minister:

- when would the rights provided by clauses 7 and 8 come into effect?
- how would clauses 7 and 8 operate if the Government, following its ground rent consultation, decided to cap ground rents at a peppercorn for all existing leases?[35]
- why had the Law Commission's recommendation on development break rights not made it into the Bill?

In response, the Minister said it was difficult to provide an answer on timing at this stage, but he hoped to say more in due course. Similarly, the Government would announce the outcome of the ground rents consultation as soon as possible. He agreed to write to the Shadow Housing Minister with regards to development break rights.[36]

Clauses 7 and 8 were ordered to stand part of the Bill.

4.4 Price payable on enfranchisement or extension

Clause 9 would amend the LRA 1967 to provide that the premium payable to acquire the freehold of a house, or a lease extension of a house, must be calculated in accordance with clause 11.

34 PBC 23 January 2024 c195

35 DLUHC, Modern leasehold: restricting ground rent for existing leases, last updated 8 December 2023

36 PBC 23 January 2024 c201

Clause 10 would amend the LRHUDA 1993 to provide that the premium payable to acquire the freehold of a block of flats, or a lease extension of a flat, must be calculated in accordance with clause 11.

Clause 11 would provide that the premium payable for acquiring the freehold or extending a lease would be comprised of two elements:

1) the market value, which would be calculated in accordance with **Schedule 2.** (The capitalisation[37] and the deferment[38] rates used to calculate the price payable on enfranchisement or extension would be prescribed in regulations and must be reviewed every 10 years); and

2) any other compensation, which would be calculated in accordance with **Schedule 3**.

Schedule 4 contains interpretation provisions. **Schedule 5** contains consequential amendments.

The Government tabled technical amendments to schedules 2 and 5, some of which pertained to the rights of shared ownership leaseholders.

Matthew Pennycook (Lab) moved amendment 2 and amendment 3 which would ensure that when determining the applicable deferment rate, the Secretary of State would have to have regard to the desirability of encouraging leaseholders to acquire their freehold or extend their lease at the lowest possible cost.

He agreed it was right to give the Secretary of State the power to set both the capitalisation and the deferment rates used to calculate the price payable on enfranchisement or extension. Getting the deferment rate right would be key to the effective functioning of the new process. However, he considered that while the deferment rate would be set in regulations, the objective underpinning the setting of the deferment rate should be put on the face of the Bill, and the overriding objective should be to encourage leaseholders to acquire their freehold or extend their lease at the lowest possible cost.[39]

Richard Fuller (Con) spoke to amendments 146 to 149, which sought to provide a better understanding of how the Secretary of State would determine the deferment and capitalisation rates, with reference to market rates of interest and regional variations in market conditions.[40]

Responding to the amendments, the Minister asserted that the correct approach was for the rates to be set out in secondary legislation and regularly reviewed every 10 years. There would be much further discussion, including with the sector, on what the rates should be, and this would include

---

37 The capitalisation rate would be used to calculate the term value. The Bill's explanatory notes provide further information on calculating the price payable on enfranchisement or extension.

38 The deferment rate would be used to calculate the reversion value.

39 PBC 23 January 2024 cc228-229

40 PBC 23 January 2024 c229

considerations such as market conditions and regional variations. He said the Government wanted to "ensure that rates are set in a way that is fair to all those whose property rights are changed and interfered with, and fair to leaseholders."[41]

Amendment 2 was put to a vote and rejected (Ayes 6, Noes 9).[42]

Amendment 3 and amendments 146 to 149 were not called.

All the Government amendments were agreed.

Clauses 9, 10 and 11 were ordered to stand part of the Bill.

Schedule 2 (as amended), schedule 3, schedule 4 and schedule 5 (as amended) were agreed.

4.5 Costs of enfranchisement or extension

Clause 12 and **clause 13** would establish a new costs regime for enfranchisement and lease extension. Under the regime, leaseholders of houses and flats who are buying their freehold or extending their lease would generally no longer pay the freeholder's non-litigation costs of dealing with the claim (for example, valuation and conveyancing costs). In general, each party would bear their own costs.

The Government tabled a number of technical amendments to clauses 12 and 13 and new clause 7. Government amendments 4, 5 and 128 would ensure that leaseholders were not liable to pay their landlord's non-litigation costs in cases where a low-value enfranchisement or extension claim was successful. The Minister explained the rationale for this exception:

> In low-value claims, it is not fair for landlords to be required to incur a net financial loss at any time that leaseholders wish to exercise their rights. In claims that are not low-value, the landlord will receive sufficient compensation and will be able to use this to cover the costs incurred; in low-value claims, that is not possible, as the premium is less than the process costs.
>
> [...] The low-value claim cost provisions create protection. They mean that leaseholders will be liable for some of their freeholders' costs, but their exposure to cost will not be excessive. Although it is right that the cost regime changes, we must continue to ensure that there are protections in place both for leaseholders and for landlords.[43]

41 PBC 23 January 2024 c231

42 PBC 23 January 2024 c232 [Division 2]

43 PBC 23 January 2024 c236

Matthew Pennycook (Lab) said he fully supported the intention behind clauses 12 and 13, but was concerned that making an exception for low-value claims could create practical problems, including:

> ... costly and time-consuming disputes in cases in which the price payable is close to the level of the non-litigation costs in question for low-value claims, and the potential for landlords to game the new system by arguing for a price payable below the threshold, in order to secure both it and associated non-litigation costs because of the burden of disputing the amount.[44]

The Opposition's amendment 4 and amendment 5 would therefore remove any exception to the general rule that leaseholders are not required to pay the freeholder's non-litigation costs.

Amendment 4 was put to a vote and rejected (Ayes 6, Noes 8).[45]

Amendment 5 was not called.

Barry Gardiner (Lab) raised concerns about landlords being able to increase the costs of enfranchisement when it involved leasebacks. The Minister undertook to write to him to reassure him on the points he raised.[46]

The Government amendments were agreed. Clauses 12 and 13, as amended, were ordered to stand part of the Bill.

4.6 Jurisdiction of the county court and tribunals

Clauses 14, 15, 16 and **17** would amend the jurisdiction for enfranchisement disputes from the county court to the first-tier tribunal, so that as far as possible all disputes would be determined by the tribunal.

The Government moved a number of minor technical amendments to clauses 14 and 16. All of the amendments were agreed.

Matthew Pennycook (Lab) asked how the Government would ensure that the first-tier tribunal was adequately resourced to discharge all its proposed new responsibilities effectively and efficiently. The Minister confirmed that if the Bill progressed through to legislation it would be subject to a justice impact test, which would include a review of capacity.[47]

Clause 14 (as amended), clause 15, clause 16 (as amended), and clause 17 were ordered to stand part of the Bill.

---

44 PBC 23 January 2024 c240
45 PBC 23 January 2024 c244 [Division 3]
46 PBC 23 January 2024 c244
47 PBC 23 January 2024 c250

5 Part 2: Other rights of long leaseholders

5.1 New right to replace rent with peppercorn rent

Clause 21 would bring Schedule 7 into effect.

Schedule 7 would introduce a new right for leaseholders who already have very long leases (with 150 years or more remaining) to buy out their ground rent without having to extend the term of their lease or buying the freehold.

The Minister explained how the provision would operate:

> On the payment of a premium to the landlord, the lease is varied so that the future ground rent payable is a peppercorn. The buy-out premium is subject to a 0.1% freehold value cap, so any future ground rent payable that exceeds 0.1% of the freehold value of the property is treated in the calculation of the premium as if it is only 0.1% of the freehold value. This ensures that high or escalating ground rents, such as those that were articulated in the Committee's discussions last week, do not make the premium unaffordable for leaseholders.[48]

The Government tabled many technical amendments to clause 21 and schedule 7.

Matthew Pennycook's (Lab) moved amendment 6 which would ensure that all leaseholders, not just those with residential leases of 150 years or over, had the right to vary their lease to replace their ground rent with a peppercorn rent.

He explained that while Labour supported the clause, they did not support the proposed threshold of 150 years, which was arbitrary. Setting a lower threshold, or removing it altogether, would extend the right to more leaseholders. He considered it "inherently unfair" that leaseholders with the most common forms of lease (with terms of 90, 99 and 125 years) would be excluded from this right. In order to extinguish their ground rent, these leaseholders would have to extend their lease or buy the freehold, which they might not be able to afford to do.[49]

In response, the Minister said the threshold was a matter of judgement. The Law Commission had recommended a threshold of 250 years, but the Government took the view that 150 years was the appropriate length of term.

48 PBC 23 January 2024 c262

49 PBC 25 January 2024 c273

The Minister also said extending the right to all leaseholders, regardless of the length of their remaining term, could be disadvantageous:

> Making the right available to all leaseholders, irrespective of their term remaining, would mean that leaseholders who will need a lease extension at some point might opt first to buy out only the ground rent, but would need to extend their lease in due course. That would potentially disadvantage leaseholders in two ways. First, as the term on the lease runs down, the price on the lease extension accelerates. Secondly, a leaseholder who buys out their ground rent first and later extends the lease will pay two sets of transaction costs.[50]

Amendment 6 was put to a vote and rejected (Ayes 5, Noes 8).[51]

Clause 21 (as amended) was ordered to stand part of the Bill.

Schedule 7 (as amended) was ordered to stand part of the Bill.

5.2 The Right to Manage

Change of non-residential limit on right to manage claims (clause 22)

Clause 22 would amend Schedule 6 to the Commonhold and Leasehold Reform Act (CLRA) 2002 so that a building would be excluded from the Right To Manage (RTM) if more than 50% of the internal floorspace were used for non-residential purposes (such as a ground-floor shop), rather than 25%. This increase in the non-residential limit would make the RTM available to more leaseholders in a wider variety of buildings.

Barry Gardiner (Lab) tabled amendment 129 which would increase the floorspace threshold from the current 25% to 75% and thereby give even more leaseholders access to the RTM. The Minister said the Government believed the threshold of 50% struck a "proportionate balance". A higher threshold could potentially unfairly prejudice the interests of landlords and commercial tenants, for example, where a minority of leaseholders took over the management of a building that was predominantly commercial.[52] Following the debate Barry Gardiner withdrew his amendment.

Matthew Pennycook (Lab) explained that while Labour supported clause 22, they were concerned there was no flexibility to amend the floorspace threshold at a future date if needs be, without using primary legislation. Amendment 26 and amendment 27 would provide flexibility and ensure that changes could be enacted through regulations. In response, the Minister said the Government considered the floorspace threshold was sufficiently

50 PBC 25 January 2024 c271
51 PBC 25 January 2024 c274 [Division 4]
52 PBC 25 January 2024 c289

important to be set out in primary legislation.[53] Matthew Pennycook withdrew the amendments.

Clause 22 was ordered to stand part of the Bill.

Costs of right to manage claims (clause 23)

Clause 23 would replace the existing costs regimes for RTM claims under the CLRA 2002. Leaseholders exercising their RTM would, in general, no longer pay the landlord's costs of dealing with the claim (for example, the costs of legal services, surveyors and accountants). Each party would generally bear their own costs. This is intended to reduce the costs of making an RTM claim for leaseholders, thereby bringing the RTM within reach of more leaseholders.

Matthew Pennycook (Lab) moved amendment 7 which would leave out the proposed new section 87B of the CLRA 2002. 87B would allow the tribunal to order an RTM company to pay the landlord's reasonable costs where the claim had been withdrawn, abandoned, struck out or otherwise ceased, or where an RTM company had acted unreasonably.

He explained he was concerned about the inclusion of new section 87B for the following reasons:

- there was a principled argument that leaseholders should not be put at risk of having to pay costs simply for exercising statutory rights.
- the first-tier tribunal already had the power to punish unreasonable behaviour by making the parties' legal or other representative pay to the other party any costs incurred as a result of improper, unreasonable or negligent acts or omissions.
- there was a risk that new section 87B would incentivise unscrupulous landlords to fight RTM claims on the basis that they were defective in the hope of recovering costs.[54]

In response, the Minister said it was important to protect landlords from unfair costs. However, this didn't mean that leaseholders weren't protected:

> The power for the tribunal to order payment of costs for such ceased claims also includes protections for leaseholders. The landlord will not be entitled to costs automatically and it will be necessary to make an application to the tribunal for an order to that effect. If the tribunal does not consider that costs should be payable, it can decline to make an order.[55]

Amendment 7 was put to a vote and rejected (Ayes 5, Noes 8).[56]

53 PBC 25 January 2024 c292
54 PBC 25 January 2024 c294
55 PBC 25 January 2024 c294
56 PBC 25 January 2024 c296 [Division 5]

The Government tabled a technical amendment which was agreed. Clause 23, as amended, was ordered to stand part of the Bill.

6 Part 3: Regulation of leasehold

6.1 Service charges

Extension of regulation to fixed service charges (clause 26)

Clause 26 would make technical amendments to the Landlord and Tenant Act (LTA) 1985 to extend part of the regulatory framework on the provision of information to cover leaseholders who pay fixed service charges.

The Opposition was concerned that the Bill did not apply the statutory test of reasonableness to fixed service charges. There was a risk this might incentivise unscrupulous freeholders to create more fixed service charges, rather than relying on variable service charges. Labour's amendment 10 was intended to address this issue.

The Minister replied that there were good reasons for not giving leaseholders the same right to challenge fixed service charges as to challenge variable charges, including operational and practical challenges. He said he would write to the Committee to provide more information on this point.[57]

Amendment 10 was withdrawn. Clause 26, as amended,[58] was ordered to stand part of the Bill.

Accounts and annual reports (clause 28)

Clause 28 would amend the Landlord and Tenant Act (LTA) 1985 to create a new requirement for landlords to provide leaseholders with a written statement of accounts in relation to variable service charges. Landlords would need to provide this within six months of the end of the 12-month accounting period for which service charges apply. The statement of accounts must be certified by a qualified accountant. The clause would also require landlords to provide an annual report in respect of services charges to leaseholders.

Barry Gardiner (Lab) moved amendment 130 which would require the landlord's written statement of account to include a statement of all transactions relating to any sinking fund or reserve fund in which

[57] PBC 25 January 2024 c300

[58] The Government moved technical amendment 46 to clause 26 which was consequential on new clause 6.

leaseholders' monies were held.[59] He explained there was currently no accountability for reserve funds.

The Minister agreed that leaseholders should have access to this information. He confirmed it was the "Government's intention to move forward with this, albeit through secondary legislation." Clause 28(2) gave the Secretary of State the power to prescribe other matters that should be included as part of a written statement of account. The Government would consult with interested parties about which other information should be included in the statement of account.[60]

Barry Gardiner asserted that the strongest protection for leaseholders would be to have this provision on the face of the Bill and he therefore pressed his amendment to a vote.

Amendment 130 was put to a vote and rejected (Ayes 5, Noes 7).[61]

Matthew Pennycook (Lab) moved amendment 13 which would require courts and tribunals to treat the landlord's compliance with the accounts and annual report requirements as a condition precedent to the lessee's obligation to pay their service charges.

Amendment 13 was put to a vote and rejected (Ayes 5, Noes 7).[62] The Minister agreed to provide further information in writing to 1) address the question underlying amendment 13; and 2) explain the nature of the accounts that would be required.[63]

Clause 28 was ordered to stand part of the Bill.

Right to obtain information on request (clause 29)

Clause 29 would amend the LTA 1985 to create a new right for leaseholders to request information from their landlord, and an obligation on landlords to provide information in their possession, or in certain circumstances, to request information from a third party. Landlords may charge individuals for the cost of providing information, or the provision of information may be a relevant cost for the purposes of a variable service charge.

Matthew Pennycook (Lab) said there was a concern that landlords would charge excessive fees for supplying information. Labour's amendment 16 would give the Secretary of State the power to prescribe maximum fees for the provision of information.

---

59 A reserve fund (also referred to as a sinking fund) is money collected to cover the cost of future large individual items of expenditure such as a new roof or replacement lift.

60 PBC 25 January 2024 c312

61 PBC 25 January 2024 c313 [Division 6]

62 PBC 25 January 2024 c317 [Division 7]

63 PBC 25 January 2024 cc318-319

In response, the Minister said that it would be very difficult to set a maximum cap on fees as costs could vary according to the specific circumstances:

> The level of cost will vary, depending on the volume of information, the complexity, the period, the timeline and a number of other factors. There may be difficulties in obtaining all that information. Landlords may also incur a cost in chasing other people who hold the information required to answer a leaseholder's request...[64]

Matthew Pennycook reiterated the Opposition felt strongly that leaseholders needed to be protected from unreasonable costs. He pressed the amendment to a vote.

Amendment 16 was put to a vote and rejected (Ayes 5, Noes 7).[65]

Clause 29 was ordered to stand part of the Bill.

Enforcement of duties relating to service charges (clause 30)

Clause 30 would substitute existing section 25 of the LTA 1985 to enable applications to be made to the tribunal where:

- the landlord had not complied with the requirements with regards to service charge demands and/or the annual service charge report; and
- the landlord, or another person, had not complied with the requirements with regards to the provision of information.

The tribunal would be able to order the landlord (or another person) to comply with the requirements and/or pay damages of up to £5,000 and/or make any other order which the tribunal considers consequential.

The Minister confirmed that the use of the word 'damages' in clause 30 did not mean that leaseholders would be required to provide evidence of financial loss for the tribunal to order the landlord to pay a fine.[66]

He also agreed to ask the Department for Levelling Up, Housing and Communities to consider whether it would be possible to ensure that a tribunal remedy could be applied to all affected leaseholders in a building, rather than requiring all affected leaseholders to apply to the tribunal individually to seek redress.[67]

Some Committee members expressed concern that the maximum financial penalty of £5,000 was an insufficient deterrent against non-compliance and could be easily absorbed by many landlords. Matthew Pennycook (Lab)

64 PBC 25 January 2024 c321
65 PBC 25 January 2024 c323 [Division 8]
66 PBC 25 January 2024 c325
67 PBC 25 January 2024 c327

tabled amendment 17 which would increase the maximum penalty to £30,000, together with amendment 18 which would set a minimum financial penalty of £1,000. Richard Fuller (Con) tabled amendment 142 which would increase the maximum penalty to £50,000.

The Minister pointed out that the Bill would double the financial penalty from £2,500 to £5,000. The Government considered this level of penalty was proportionate. He confirmed the £5,000 penalty would apply to a single challenge, regardless of the number of leaseholders involved.[68]

Following the debate, amendment 17 was withdrawn and amendments 18 and 142 were not called. The Shadow Housing Minister said Labour might return to this issue at a later stage.

The Government tabled a consequential amendment and clause 30, as amended, was ordered to stand part of the Bill.

6.2 Insurance

Limitation on ability of landlord to charge insurance costs (clause 31)

Clause 31 would insert new sections 20G, 20H and 20I into the Landlord and Tenant Act (LTA) 1985. The provisions would:

- prevent certain insurance costs[69] from being charged in a variable service charge; and
- create a new right to claim damages through the tribunal when a leaseholder considers that insurance costs that are not permitted under the legislation have been charged.

The intention is to prohibit opaque and excessive insurance commissions from being recovered from leaseholders through their service charge. Instead, those placing or managing insurance would be permitted to charge a transparent insurance handling fee, so long as the cost was commensurate with the work and time undertaken.

Barry Gardiner (Lab) tabled a package of amendments intended to strengthen the protections for leaseholders under clauses 31 and 32 (see below). The Minister said he could not accept the amendments. However, he assured Committee members that the Government's aim was to improve transparency and prohibit excessive insurance commissions. Much of the detail would be dealt with in secondary legislation. The Government would

68 PBC 25 January 2024 c330

69 'Excluded' insurance costs would be those attributable to payments made to arrange or manage insurance and that were not attributable to a permitted insurance payment. 'Permitted' insurance payments would be defined in secondary legislation.

consult on this and it would be subject to the affirmative procedure in Parliament.[70]

Barry Gardiner pressed three amendments to a vote.

Amendment 151 was put to a vote and rejected (Ayes 5, Noes 8).[71]

Amendment 152 was put to a vote and rejected (Ayes 5, Noes 8).[72]

Amendment 153 was put to a vote and rejected (Ayes 5, Noes 8).[73]

The Government tabled a consequential amendment and clause 31, as amended, was ordered to stand part of the Bill.

Duty to provide information about insurance to tenants (clause 32)

Clause 32 would amend the Schedule to the LTA 1985. It would place an obligation on the landlord to provide specified information on buildings insurance to the leaseholders within a specified time period. This could include what the building insurance premium covers and what quotes were obtained by the landlord when placing the insurance.

Barry Gardiner (Lab) moved amendment 157 which would prevent a landlord from charging for the provision of information about insurance. The Minister reiterated the Government's view that costs that were reasonably incurred should be borne by leaseholders.

Amendment 157 was put to a vote and rejected (Ayes 5, Noes 8).[74]

Clause 32 was ordered to stand part of the Bill.

6.3 Administration charges

Duty of landlords to publish administration charge schedules (clause 33)

Clause 33 would substitute paragraph 4 of Schedule 11 to the Commonhold and Leasehold Reform Act 2000 to require landlords to publish an administration charge schedule. Leaseholders would have the right to apply

70 PBC 25 January 2024 cc338-342
71 PBC 25 January 2024 c343 [Division 9]
72 PBC 25 January 2024 c343 [Division 10]
73 PBC 25 January 2024 c344 [Division 11]
74 PBC 25 January 2024 c344 [Division 12]

to the tribunal if the landlord failed to comply. The tribunal could make an order for the landlord to comply and/or pay damages up to £1,000.

Labour supported the clause; however, Matthew Pennycook (Lab) raised two questions:

- If a leaseholder claimed damages as a result of a breach of the administration charge schedule requirements, how would other leaseholders who had similarly been affected be recompensed?
- How would the Government ensure that leaseholders were aware of their new rights under the Bill. Would they consider mandating that freeholders must provide all leaseholders with an updated "how to lease" guide?

The Minister agreed to respond in writing.[75]

Clause 33 was ordered to stand part of the Bill.

6.4 Litigation costs

Limits on rights of landlords to claim litigation costs from tenants (clause 34)

Clause 34 would amend the Landlord and Tenant Act (LTA) 1985 and the Commonhold and Leasehold Reform Act (CLRA) 2022. The new provisions would require landlords to apply to the relevant court or tribunal for an order before they could pass their legal costs on to individual leaseholders as an administration charge, or on to all leaseholders (regardless of their participation in legal action) through the service charge.

The clause is intended to prevent leaseholders from being charged unjust litigation costs by their landlord and remove barriers to leaseholders holding their landlord to account.

Matthew Pennycook (Lab) opposed clause 34 and argued in favour of Labour's new clause 3. He explained that while he supported the removal of the presumption that leaseholders pay their freeholders' legal costs, Labour wanted to go further by prohibiting freeholders from claiming litigation costs from leaseholders, apart from in a limited number of circumstances which would be set out in regulations. He was concerned that clause 34 was an "invitation to litigate":

> Yes, regulations will prescribe the relevant matters that can be taken into account, but given the multiple Court of Appeal cases and numerous upper tribunal cases on what "in connection with" means, we will almost certainly see disputes arising about what costs are incurred "in connection with" legal

[75] PBC 25 January 2024 c345

> proceedings, and whether they are compatible. The risk is that the outcomes of any such cases could erode the general presumption against leaseholders paying their freeholders' legal costs that the clause attempts to enact.[76]

The Committee voted on whether clause 34 should stand part of the Bill. The clause was agreed and added to the Bill [Ayes, 8 Noes, 5].[77]

76 PBC 25 January 2024 c348

77 PBC 25 January 2024 c350 [Division 13]

7 Part 4: Regulation of estate management

7.1 Limitation of estate management charges: Reasonableness

Clause 41 provides that an estate management charge on a private or mixed-use residential estate would only be payable if the costs were reasonably incurred, and if the services or works were of a reasonable standard.

Richard Fuller (Con) moved amendment 145. This would mean that services or works that would ordinarily be provided by local authorities were not relevant costs for the purposes of estate management charges. He considered that removing freeholders' liability to pay for maintaining the common areas of estates would force developers to bring the estates up to a good standard, so they could then be adopted by local authorities.

Labour welcomed the Government's decision to create a new statutory regime for residential freeholders based on leaseholders' rights and supported the intent behind the provisions in part 4 of the Bill. However, they did not support amendment 145. There was a concern that, in effect, it would force local authorities to adopt all common amenities on estates, which, according to the Competition and Markets Authority (CMA), could have a "significant impact on local authority finances and resources at a time when local authority funding is already stretched." Alternatively, the amendment could mean that neither the private management company nor the local authority would take on the responsibility for maintaining the amenities, which would deteriorate as a result.[78]

Matthew Pennycook (Lab) reminded the Committee of the CMA's conclusion that reducing the prevalence of these arrangements requires a combination of the mandatory adoption of amenities and putting in place corresponding common adoptable standards. He warned: "If we do one without the other, we risk some unintended consequences."[79]

Matthew Pennycook moved probing amendment 150 which would ensure that services or works on private or mixed-use estates that are required because of defects in its construction are not relevant costs for the purposes of estate management charges. The amendment was intended to challenge the

78 PBC 30 January 2024 c364

79 PBC 30 January 2024 c365

Government to consider how it might utilise the regulatory framework introduced by part 4 to drive up the standards of amenities on estates. Higher standards on estates would make it easier for local authorities to adopt them.[80]

In response, the Minister said the Government could not accept the amendments. He was sympathetic to their intent but "the question is about how we do it and whether we need to go further". He said there were some elements of estate management where it was reasonable to have arrangements outside the control of the state, but equally he accepted that had gone too far in certain areas.[81] It was an issue the Government was willing to continue looking at. The Minister also pointed out that clause 21 sought to drive up standards on estates through transparency.

Richard Fuller pressed amendment 145 to a vote and it was rejected (Ayes 1, Noes 9).[82]

Clause 41 was ordered to stand part of the Bill.

7.2 Duty of estate managers to publish administration charge schedules

Clause 51 would require estate managers to publish a schedule setting out information about administration charges.

Richard Fuller's (Con) amendment 143 would increase the maximum amount of damages which could be awarded for an estate manager's failure to comply with clause 51 from £1,000 to £10,000. His amendment 144 would prevent estate managers from recouping any damages from residents through subsequent charges. The amendments were discussed but not called.

The Minister noted he had already agreed to write to members of the Public Bill Committee about the maximum level of damages. He explained that an estate manager can only recover costs incurred in estate management. A tribunal order to pay damages would not be regarded as falling within the definition of costs of estate management. He agreed to write to Richard Fuller on this point.[83]

Clause 51 was ordered to stand part of the Bill.

80 PBC 30 January 2024 c365
81 PBC 30 January 2024 c368
82 PBC 30 January 2024 c372 [Division 14]
83 PBC 30 January 2024 c384

8 Part 5: Rentcharges

An income-supporting rentcharge is generally an annual sum paid by a freehold homeowner to a third party who normally has no other interest in the property.[84] The majority of freehold properties affected by these rentcharges are in the north-west and the south-west of England.

Most income-supporting rentcharges can be for relatively small amounts, typically between £1 and £25 per annum. However, failure to pay a rentcharge can have a disproportionate consequence:

> However, a loophole remains. Failure to pay a rentcharge within 40 days of its due date means that, under section 121 of the Law of Property Act 1925, the recipient of the rentcharge may take possession of the subject premises until the arrears and all costs and expenses are paid. The rentcharge owner may alternatively grant a lease of the subject premises to a trustee that the rentcharge owner may set up themselves.[85]

The Bill seeks to close this loophole and ensure that a rentcharge owner (in other words, a person who receives a rentcharge payment) is not able to take possession or grant a lease on the property where the rentcharge remains unpaid for a short period of time.

Clause 59 would amend the Law of Property Act 1925. It would introduce new measures where a freehold homeowner failed to pay a rentcharge within 40 days of its due date. The measures would prevent rentcharge owners from using certain statutory remedies and would require them to follow notification procedures before seeking to recover or compel payment.

Labour tabled a new clause 4[86] which would abolish section 121 of the Law of Property Act 1925. The new clause was intended to replace clause 59. The Committee therefore divided on the question of whether clause 59 should stand part of the Bill.

Following a division (Ayes 9, Noes 6), clause 59 was agreed and ordered to stand part of the Bill.[87]

---

84 A rentcharge is not the same as ground rent on leasehold properties. In some cases a rentcharge relates to the provision of a service, in others it is, in effect, an income stream for the third party. For further information see: Gov.uk, Rentcharges.

85 PBC 30 January 2024 c388

86 New clause 4 was debated as part of a group of amendments, but was not called.

87 PBC 30 January 2024 c391 [Division 15]

9 Commencement

Clause 64 provides that most of the provisions in the Bill would come into force on a date appointed by the Secretary of State to be set out in regulations.

Part 6 would come into force once the Bill received Royal Assent.

Section 59 (regulation of remedies for rentcharge arrears) would come into force two months after Royal Assent.

Matthew Pennycook (Lab) pressed the Minister to give an indication of the timing of secondary legislation. He also queried why section 59 was not coming into force at Royal Assent.

The Minister assured Members that the Government did not intend to delay implementation unnecessarily and the department was "working hard to plan and carry out the associated programme of secondary legislation".[88] He said he would review why section 59 was coming into force two months after Royal Assent.[89]

88 PBC 30 January 2024 c396
89 PBC 30 January 2024 c398

10 New clauses

The Government tabled 24 new clauses and one new schedule to the Bill. All were agreed without division and added to the Bill. Many of the new clauses were minor or technical. Richard Fuller (Con) tabled three new clauses which he withdrew after debate.

Labour tabled 24 new clauses; 10 were disagreed on division, eight were withdrawn after debate, one was not moved and five were not called.

This section of the briefing outlines the substantive Government new clauses and Labour's new clauses on which the Public Bill Committee divided.

10.1 Abolition of forfeiture of a long lease

Forfeiture of a lease is the ultimate sanction a landlord can take against a leaseholder who is in breach of the lease agreement. To gain possession of the property the landlord must obtain a court order. This is initiated by the service of a notice under section 146 of the Law of Property Act 1925.

Labour's new clause 1 would abolish the right of forfeiture in relation to residential long leases in instances where the leaseholder is in breach of the lease.

The Shadow Housing Minister, Matthew Pennycook, explained the Opposition considered this to be a disproportionate and draconian mechanism for ensuring compliance with a lease agreement:

> To remind the Committee, the law of forfeiture gives the landlord the right, following a breach of a clause in the lease or an unpaid debt of £350, or a lesser sum if it has been outstanding for more than three years, to terminate the lease, regain possession of the property and pocket the unmerited windfall gain that would accrue from its sale.
>
> Not all forfeiture actions relate to trivial breaches—some are made in response to serious transgressions of a covenant in a lease, such as instances of persistent and egregious antisocial behaviour—but many are initiated for entirely trivial breaches, such as nominal ground rent or service charge arrears. The current laws of forfeiture render it entirely possible, for example, for a tenant to lose possession of a £500,000 flat or house for a debt of as little as £351, or even £15 if unpaid for more than three years, with the landlord

> keeping the entire difference between the value of the property and the debt owed.[90]

He explained that although termination of a lease under forfeiture may be relatively rare, the threat of forfeiture is damaging because "it puts landlords in a nearly unassailable position of strength in disputes vis-à-vis leaseholders, which is why forfeiture is routinely threatened in money disputes".[91]

He also pointed out that both the Law Commission and the Levelling Up, Housing and Communities Select Committee had recommended the abolition of the current law of forfeiture. He recognised that alternative arrangements might need to be implemented to ensure compliance with a lease agreement, and these could be discussed further, but the starting point was abolition of the forfeiture mechanism.

In response, the Minister, Lee Rowley, confirmed the Government was aware of the strength of feeling on this issue and was sympathetic to the objective of the new clause. However, he didn't support the full abolition of forfeiture without some form of replacement for some elements of it. He reassured Committee members that this was an area the Government was still looking at.[92]

New clause 1 was put to a vote and rejected (Ayes 5, Noes 9).[93]

10.2 Requirement to establish a management company under leaseholder control

Labour's **new clause 2** would provide that all leases on new flats should include a requirement to establish and operate a residents' management company (RMC) responsible for all service charge matters, with each leaseholder given a share. The intention was to give leaseholders the right to greater control over the maintenance and management of their buildings. This would also facilitate the reinvigoration of commonhold, by creating a cohort of leaseholders who would have experience in running their building as they would under a commonhold arrangement.

Matthew Pennycook (Lab) explained the new clause sought to remedy two flaws in the current leasehold system:

> The first is that unless leaseholders in blocks of flats either take it upon themselves to acquire the right to manage, collectively enfranchise and then establish an RMC or buy a property on a development where an RMC has been set up, they find that despite being the people who pay all the costs associated

90 PBC 30 January 2024 cc427-428
91 PBC 30 January 2024 c429
92 PBC 30 January 2024 c431
93 PBC 30 January 2024 c432 [Division 16]

> with maintaining and managing their building, they have no control whatever over how their money is spent. The second is that the rights that this House has chosen to give leaseholders to empower them to exercise a degree of control over the management of their buildings—for example, the right to make an application to the first-tier tribunal, to appoint a manager under section 24 of the Landlord and Tenant Act 1987 or to acquire the right to manage under the Commonhold and Leasehold Reform Act 2002—can be exercised only following what is often an arduous and costly legal process.[94]

In response, the Minister said he supported the desire to give more leaseholders control over the management of their buildings. However, there were issues around compulsion and operation if some leaseholders did not wish to be involved. For those reasons he thought a blanket requirement to establish an RMC was not appropriate.[95]

New clause 2 was put to a vote and rejected (Ayes 5, Noes 10).[96]

10.3 The Right to Manage regime for freeholders

Unlike leaseholders, freeholders on private or mixed-tenure estates do not have a statutory right to take over management of the estate via a Right to Manage (RTM) company.

In 2018, the Government consulted on proposals to address the disparity between leaseholder and freeholder rights. The consultation elicited mixed responses with regards to giving freeholders an equivalent RTM. Some respondents supported an RTM, while others suggested it would be too complex and onerous in a freeholder setting. The Government therefore concluded it would consider the implications for introducing an RTM for freeholders after the Law Commission had reported and made recommendations on reform to the RTM for leaseholders.[97] The Law Commission's final report Leasehold home ownership: exercising the Right to Manage was published on 21 July 2020.[98]

At second reading of the Bill on 11 December 2023, the Secretary of State at the Department for Levelling Up, Housing and Communities (DLUHC), Michael Gove, said the RTM for freeholders was an area that should be looked at in at committee stage.[99]

Labour's **new clause 5** would permit the Secretary of State to establish a RTM regime for freeholders on private or mixed-use estates. Introducing the new clause, Matthew Pennycook (Lab) said he appreciated there was some

94 PBC 30 January 2024 c433
95 PBC 30 January 2024 c435
96 PBC 30 January 2024 c435 [Division 17]
97 MHCLG, Implementing reforms to the leasehold system in England: summary of consultation responses and government response, 27 June 2019, pp38-39
98 Law Commission, Leasehold home ownership: exercising the Right to Manage, 21 July 2020
99 HC Deb 11 December 2023 c662

concern that RTM would be too complex and onerous in a freehold estate setting. However, the clause would establish a right to RTM, it would not compel it. He believed there was evidence of an appetite among residential freeholders for more direct control of the management of their estates, and it was right in principle that there was parity between residential leaseholders and freeholders when it came to the RTM.[100]

The Minister confirmed the Government was looking at this issue and he hoped to be able to say more in the Bill's following stages, if that was possible.[101]

New clause 5 was put to a vote and rejected (Ayes 5, Noes 10).[102]

10.4 Appointment of a substitute estate manager

Unlike leaseholders, freehold homeowners on private or mixed-tenure estates do not have a statutory right to apply to the tribunal to appoint a new estate manager if the current manager is failing.

Government new clauses 10 to 14 would give freeholders the right to apply to the tribunal to appoint a substitute manager where their estate management company was failing them. The intention is that the substitute manager would then carry out the services set out in an order that would be issued by the tribunal.

In brief, the new clauses provide for the following:

- new clause 10 would allow freeholders on a managed estate to give their estate manager a notice of complaint, as a precursor to making an application for appointment of a substitute manager under new clause 11. The estate manager would have six months from the time at which a complaint was received to remedy the complaint before the freeholders could move towards the next step.
- new clause 11 would introduce arrangements to allow freeholders on a managed estate to apply to the tribunal for the appointment of a substitute estate manager.
- new clause 12 would set out conditions that would need to be met for an application to be made under new clause 11, including that the freeholders must have issued a final warning notice to the estate manager.
- new clause 13 would set out the criteria that the tribunal must consider in deciding whether to make an order under new clause 11. The grounds

100 PBC 30 January 2024 c436
101 PBC 30 January 2024 c437
102 PBC 30 January 2024 c438 [Division 18]

for making an order would include: where the estate manager had breached an obligation; where a management charge or an administration charge was unreasonable; where the estate manager had failed to comply with a relevant code of practice; and where the estate manager had failed to belong to a redress scheme. The tribunal would also be able to issue an order if it considered there were other circumstances that made it just.

- new clause 14 would set out further provision in relation to appointment orders, including what might be contained in such an order and under what terms an order might be varied or discharged.

The Minister outlined further details of the new right to apply to appoint a substitute manager which can be read in the Public Bill Committee transcript.[103]

The new clauses were agreed and added to the Bill.

10.5 Redress schemes

Though property managing agents are required by law to join a Government-approved redress scheme,[104] there is no such requirement for leasehold landlords and freehold estate managers who manage their property or estate themselves.

The Government tabled a package of new clauses which would address this gap. The new clauses would form a new part of the Bill after part 4.

In brief, the new clauses were as follows:

- new clause 15 would provide that leasehold landlords and freehold estate managers who manage their property or estate could be required to join a redress scheme.
- new clause 16 would provide for redress schemes to have the possibility of voluntary jurisdiction.
- new clause 17 would give the Secretary of State the power to give financial assistance for the establishment or maintenance of redress schemes. Although, it was expected that the schemes would be self-funding, for example through charging membership fees.
- new clause 18 would make provision for the approval and designation of redress schemes.

[103] PBC 30 January 2024 cc404-407

[104] DLUHC, Lettings agents and property managers: redress schemes, last updated 2 August 2018

- new clause 19 would provide for an enforcement authority to impose a financial penalty for breach of regulations under new clause 15.
- new clause 20 would provide for the maximum penalties that may be imposed under new clause 19.
- new schedule 1 would make further provision about the imposition of financial penalties under new clause 19.
- new clause 9 would provide a route for leaseholders to apply to the tribunal for an order to appoint a manager in place of their landlord if their landlord had failed to join the redress scheme.
- new clause 21 would enable the Secretary of State to make regulations to make a decision under a redress scheme enforceable as if it were a court order.
- new clause 22 would make further provision about lead enforcement authorities.
- new clause 23 would enable the Secretary of State to issue guidance to enforcement authorities and scheme administrators.
- new clause 24 would make interpretation provision for the purposes of the new Part.

The Minister outlined further details of the new redress scheme provisions which can be read in the Public Bill Committee transcript.[105]

The new clauses and new schedule were agreed and added to the Bill.[106]

10.6 Regulation of property agents

In 2017 the Government committed to regulating property managing agents "to protect leaseholders and freeholders alike".[107] A working group for the regulation of property agents was set up to help develop a new regulatory model. The working group reported in July 2019,[108] and the Government is considering the group's recommendations.[109]

Labour's new clause 25 would require the Secretary of State to make regulations to implement the proposals of the working group's final report

105 PBC 30 January 2024 cc393-395
106 PBC 30 January 2024 c403, cc410-418
107 Ministry of Housing, Communities and Local Government (MHCLG), Protecting consumers in the letting and managing agent market: Government response, April 2018, para 12
108 MHCLG, Regulation of Property Agents: working group report, 18 July 2019
109 PQ 203866 [on Letting Agents: Regulation], 23 October 2023

within 24 months of the Act coming into force and to report on progress after 12 months.

Matthew Pennycook (Lab) explained that regulation of property management agents was required as the market was not well-functioning:

> If property agency were a well-functioning market, there would be no need for regulation—managing agents providing a bad service would eventually be dismissed, struggle to secure new contracts and go bust, and in instances where such companies broke the law, they would be investigated and prosecuted—but property agency is not a well-functioning market. In the main, residential leaseholders and freeholders do not choose and cannot easily remove poorly performing managing agents, and they do not have access to the information required effectively to hold such agents to account.[110]

He pointed out that the case for regulating property agents had been accepted in principle by the Government. There was extensive support for it, not just among leaseholders and residential freeholders, but in the sector itself, as attested to by Andrew Bulmer, CEO of the Property Institute, and others in the Public Bill Committee's evidence sessions.[111] He said it was "incomprehensible" that the Government had not included relevant provisions in the Bill:

> ...55 months on, the Government have done nothing whatever to progress the implementation of those [Working Group] recommendations. Not only is the Government's general procrastination on the issue a matter of regret, but their decision not to take the opportunity to use this Bill to introduce relevant property agent regulation is incomprehensible, given the extent to which it would help to ensure that many of the provisions in it operate effectively. We believe that Ministers should think again.[112]

The Minister said he could not accept the new clause for two reasons:

- Broad Henry VIII powers were not appropriate in this case. A regulatory framework would require a significant level of scrutiny to make it work.
- Regulation of property agents was without the scope of the Bill. It was a significant area on which further consideration was needed, and there wasn't space for it amongst all the other issues the Bill had to address.[113]

Matthew Pennycook contended that the Government had had four and a half years and "should have made better progress in implementing at least some of its recommendations, if not the vast majority of them". He therefore pressed new clause 25 to a vote.

New clause 25 was put to a vote and rejected (Ayes 5, Noes 10).[114]

---

110 PBC 30 January 2024 c439
111 PBC 30 January 2024 c440
112 PBC 30 January 2024 c440
113 PBC 30 January 2024 c441
114 PBC 30 January 2024 c441 [Division 19]

10.7 Building safety

Labour's **new clause 27** and **new clause 28** concerned building safety. Introducing the amendments, Matthew Pennycook (Lab) explained it was Labour's position that "all blameless leaseholders should be protected from the costs of fixing historic cladding and non-cladding defects and associated secondary costs, irrespective of circumstances".

The amendments were intended to press the Government to reconsider its decision to exclude certain categories of leaseholders and buildings from the protections that had been afforded under the Building Safety Act 2022.[115]

New clause 27 would give the Secretary of State the power to bring "non qualifying" leaseholders within the scope of the protections of the Building Safety Act 2022. New clause 28 would do the same for buildings which were under 11m in height.

Matthew Pennycook pointed out that the background briefing notes to the King's Speech on 7 November 2023 indicated the Bill would protect leaseholders by extending the measures in the Building Safety Act 2022 to ensure it operates as intended.[116] However, the Bill as introduced did not contain any building safety provisions, and the Government had not tabled any amendments related to building safety in Committee. He asked the Minister to explain the Government's current thinking on how the Bill might be used to better protect leaseholders.[117]

He also asked the Minister to confirm if the Government would amend the Bill to:

- make it clear that leaseholder protections under schedule 8 to the Building Safety Act 2022 applied irrespective of when service charge demands were issued.
- protect qualifying leaseholders in buildings classed as leaseholder-owned and excluded from the schedule 8 protections simply because a company owned the freehold and a director of the company personally had a lease(s) or flat(s) in the building.
- address the detrimental impact on property valuation and mortgage lending resulting from the fact that non-qualifying leases were designated as such in perpetuity, irrespective of whether a building had been fully remediated.

---

115 For further information see: DLUHC, Building safety leaseholder protections: guidance for leaseholders, last updated 18 October 2022

116 Prime Minister's Office, 10 Downing Street, The King's Speech: background briefing notes, 7 November 2023, pp45-47

117 PBC 30 January 2024 c446

- protect leaseholders in enfranchised buildings from the impact of building safety defects.
- protect non-qualifying leaseholders from litigation costs relating to building safety.
- ensure that freeholders and managing agents acting on their behalf must agree reasonable prepayment plans and a permitted maximum annual sum, to provide a measure of protection for non-qualifying leaseholders (in the event that the Government would not review the definitions of a qualifying lease and qualifying building).[118]

The Minister undertook to write to the members of the Public Bill Committee on these points.[119]

He disagreed with the new clauses on the basis that the issues would be better dealt with in primary legislation, rather than giving the Secretary of State the power to make changes through secondary legislation.[120]

New clause 27 was put to a vote and rejected (Ayes 5, Noes 10).[121]

New clause 28 was put to a vote and rejected (Ayes 5, Noes 10).[122]

10.8 Providing leaseholders in flats with a share of the freehold

Labour's **new clause 29** would require the Secretary of State to publish a report outlining legislative options to provide leaseholders in flats with a share of the freehold.

Matthew Pennycook (Lab) explained that this new clause was intended to facilitate the move to commonhold and to work in conjunction with new clause 2 (see section 10.2 of this briefing). It would, in effect, ensure that all new blocks of flats were collectively enfranchised by default, without the need for leaseholders to go through the process of acquiring their freehold. The advantages of this approach included:

- it would give leaseholders a direct say in what happened in their building, as was the case with those that had been collectively enfranchised.

118 PBC 30 January 2024 cc446-447
119 PBC 30 January 2024 c447
120 PBC 30 January 2024 c447
121 PBC 30 January 2024 c449 [Division 20]
122 PBC 30 January 2024 c449 [Division 21]

- it would provide for additional rights, such as the right to a long lease extension on the basis of a peppercorn rent, but without the cost of paying a premium to the freeholder.[123]

Rachel Maclean (Con) supported the objectives underlying the new clause and urged the Government to take the opportunity to include some commonhold measures in the Bill.[124]

Responding to the new clause, the Minister said although the clause was well intentioned it would be a significant building out of the Bill which would require a large and complicate legal framework.[125]

New clause 29 was put to a vote and rejected (Ayes 5, Noes 10).[126]

10.9 Commencement of section 156 of the CLRA 2002

Barry Gardiner's (Lab) **new clause 34** would require service charge contributions to be held in designated accounts, thereby increasing the security of leaseholder funds. The clause would bring into force section 156 of the Commonhold and Leasehold Reform Act (CLRA) 2002. Barry Gardiner said the British Property Federation had actively lobbied for this section of the CLRA 2002 to be enacted since at least October 2012.[127]

In response, the Minister said it was right that landlords and managing agents should be held to account for ensuring that leaseholders' funds must be managed effectively:

> Those who hold service charge moneys must hold them in trust, and the moneys must be deposited at a bank, building society or financial institution that is regulated by the Financial Conduct Authority. This ensures that those moneys can be used only for their intended purpose and that they are treated separately from the landlord's other assets. This approach seeks to provide protection.[128]

He added that the Government was not convinced primary legislation was required.

New clause 34 was put to a vote and rejected (Ayes 1, Noes 9).[129]

123 PBC 30 January 2024 c450
124 PBC 30 January 2024 c452
125 PBC 30 January 2024 c451
126 PBC 30 January 2024 c453 [Division 22]
127 PBC 30 January 2024 c458
128 PBC 30 January 2024 c458
129 PBC 30 January 2024 c459 [Division 23]

10.10 The Right to Manage procedure

Barry Gardiner (Lab) moved **new clause 38** which would provide the tribunal with the discretion to dispense with certain procedural requirements where it was satisfied that it was reasonable to do so.

He explained that the Law Commission had highlighted "the tactical, game-playing approach" of some freeholders and how the current law was acting to incentivise unnecessary litigation between the parties. The new clause was designed to deal with cases where a landlord attempted to frustrate a Right to Manage (RTM) claim by procedural means.

The Minister responded that there were good reasons for the procedural requirements in an RTM claim and the Government was concerned about giving the tribunal a broad, sweeping power to disapply those requirements. It was accepted that some landlords had sought to defend RTM claims on the basis of minor, technical flaws in compliance with the procedural requirements. However, the tribunal generally took a common-sense, pragmatic approach to errors that were not critical or of primary importance. Furthermore, following enactment of the Bill, landlords would have an added disincentive to raise vexatious disputes, as they would have to pay their own litigation costs.[130]

New clause 38 was put to a vote and rejected (Ayes 4, Noes 7).[131]

10.11 Meaning of "accountable person" for the purposes of the BSA 2022

Barry Gardiner (Lab) moved **new clause 40** which would provide for a manager appointed by a tribunal under section 24 of the Landlord and Tenant Act (LTA) 1987 to be the "accountable person" for a higher-risk building.[132]

He explained that a number of stakeholders had raised a concern in the Public Bill Committee evidence sessions about the way in which the Building Safety Act (BSA) 2022 was interacting with the LTA 1987. In short, the BSA 2022 prevented a manager appointed under section 24 from being the "accountable person" for building safety in higher-risk buildings. He was concerned that consequently "cautious tribunals will refuse to grant section 24 managers going forward because the split management will be so messy and so fraught with risk".[133]

130 PBC 30 January 2024 c465

131 PBC 30 January 2024 c465 [Division 24]

132 For further information see: Leasehold Advisory Service, What does appointing a manager mean?

133 PBC 30 January 2024 c470

The Minister said this was an important point which the Government was reviewing. In the meantime, it had asked the Building Safety Regulator to review all higher-risk buildings that currently had a section 24 manager in place, with a view to considering whether an application for a special measures order should be made for any of the buildings impacted. On that basis, he hoped Mr Gardiner would withdraw the new clause.

Barry Gardiner pressed the new clause to a vote and it was rejected (Ayes 4, Noes 7).[134]

10.12 Requests for sales information

The Government tabled a group of amendments to improve the provision of information during the sales process.

Under the current system, there is no consistency for leaseholders, some of whom have to pay excessive fees and wait for months for information about their property which is required to progress a sale.[135]

New clause 42 would require a landlord to provide specified information to a leaseholder, in anticipation of the leaseholder selling their property. Regulations would set out how a request must be made and what information must be provided, as well as a maximum timeframe and a maximum cost for providing that information. The clause also sets out enforcement mechanisms, including the various orders that a tribunal might make such as requiring compliance, awarding damages and requiring the repayment of excessive fees.

Similarly, there is currently no obligation for an estate manager to respond to a sales information request from a homeowner on a freehold estate who wishes to sell their property. Failures by some estate managers mean that it can take weeks or months for homeowners to receive the information they need to progress a sale.[136] The Minister tabled a group of Government amendments intended to address this issue:

- new clause 43 would provide for a homeowner to request sales information from the estate manager in anticipation of selling the property.
- new clause 44 would introduce a requirement for an estate manager to provide the sales information within a specified timeframe, and, if necessary, request information from other parties.

134 PBC 30 January 2024 c471 [Division 25]
135 PBC 30 January 2024 c422
136 PBC 30 January 2024 c422

- new clause 45 would set maximum fees for the provision of information under new clause 44.
- new clause 46 would provide for the enforcement of obligations under new clause 44 and new clause 45, including the various orders that a tribunal might make such as requiring compliance, awarding damages and requiring the repayment of excessive fees.

Further details would be contained in regulations. The Minister commended the new clauses to the Committee. The Opposition welcomed them.[137]

New clauses 42 to 46 were agreed and added to the Bill.[138]

137 PBC 30 January 2024 c424

138 PBC 30 January 2024 c424-427

11 Appendix: Members of the Public Bill Committee

The Public Bill Committee was chaired by Dame Caroline Dinenage (Con), Clive Efford (Lab), Sir Mark Hendrick (Lab Co-op) and Sir Edward Leigh (Con), and consisted of the following members:

Amesbury, Mike (Weaver Vale) (Lab)
Carter, Andy (Warrington South) (Con)
Davison, Dehenna (Bishop Auckland) (Con)
Edwards, Sarah (Tamworth) (Lab)
Everitt, Ben (Milton Keynes North) (Con)
Fuller, Richard (North East Bedfordshire) (Con)
Gardiner, Barry (Brent North) (Lab)
Glindon, Mary (North Tyneside) (Lab)
Hughes, Eddie (Walsall North) (Con)
Levy, Ian (Blyth Valley) (Con)
Maclean, Rachel (Redditch) (Con)
Mohindra, Mr Gagan (South West Hertfordshire) (Con)
Pennycook, Matthew (Greenwich and Woolwich) (Lab)
Rimmer, Ms Marie (St Helens South and Whiston) (Lab)
Rowley, Lee (Minister for Housing, Planning and Building Safety)
Smith, Chloe (Norwich North) (Con)
Strathern, Alistair (Mid Bedfordshire) (Lab)

The House of Commons Library is a research and information service based in the UK Parliament. Our impartial analysis, statistical research and resources help MPs and their staff scrutinise legislation, develop policy, and support constituents.

Our published material is available to everyone on commonslibrary.parliament.uk.

Get our latest research delivered straight to your inbox. Subscribe at commonslibrary.parliament.uk/subscribe or scan the code below:

commonslibrary.parliament.uk

@commonslibrary