Houses in multiple occupation, the private rented sector and leasehold reform in the Housing Bill [Bill 44 of 1995/96]

Research Paper 96/11

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Parts II and III of the Housing Bill, which was presented on 18 January 1996, seek to amend local authorities' duties in relation to houses in multiple occupation and will make it easier for landlords to create assured shorthold tenancies and to evict tenants who accrue rent arrears. Part III also makes some minor amendments to the leasehold reform provisions of the *1993 Leasehold Reform, Housing and Urban Development Act*. This paper explains these provisions and summarises the background and responses to Parts II and III of the Bill. The Bill is due to be debated on Second Reading on 29 January 1996. Those parts of the Bill which deal with homelessness and allocation policies, the social rented sector (including Housing Benefit administration) and the conduct of tenants are discussed in Library Research Papers 96/10 and 96/12 respectively.

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CONTENTS

Part I

Houses in multiple occupation

A. What is a house in multiple occupation (HMO)?

Section 345 of the *1985 Housing Act* defines an HMO as a house occupied by persons who do not form a single household. This definition was extended by the *Local Government and Housing Act 1989* to include parts of buildings, ie flats in multiple occupation. The problematic aspect of deciding whether a property constitutes an HMO usually concerns the issue of whether the occupants form a single household; there are no certain criteria for this. Some guidance is given in Department of Environment (DoE) Circular 12/86:[1]

'Interpretation of household

In Simmons v Pizzey (1979 AC 37) the House of Lords held that section 15 and section 19 of the Housing Act 1961 [now sections 352 and 354 respectively] applied to a hostel for battered wives. Lord Hailsham said that both the expression "household" and membership of it is a question of fact and degree. He took 3 factors into account in deciding that the establishment in question was beyond the limits of what could conceivably be called a single household:

(a) the size was beyond what in that area "can ordinarily and reasonably be regarded as a single household";
(b) the fluctuating character of the resident population "both as regards the fact of fluctuation and of the extent of it";
(c) a temporary place of refuge for fortuitous arrivals could not be regarded as ordinarily forming a household at all.

Other guidance

Subject to these court judgements, local authorities may find it helpful to be reminded of the advice previously given in MHLG circular 67/69 (Welsh Office Circular 66/69). This took the view that it was reasonable to regard the definition of an HMO as covering in particular:

(a) house occupied by 2 or more households;
(b) a house occupied by a number of persons where the relationships between the various individuals resident at any one time are so tenuous as to support the view that they can neither singly nor collectively be regarded as forming a single household;
(c) a house which is occupied by one main household together with varying numbers of individuals who do not form part of that household. The principal example of this third situation is where a house is used for accommodating lodgers, although in certain circumstances an individual lodger might form part of the household;
(d) where a house is occupied by a family or a single person and there are also one or two lodgers fully "living in" as part of the family, they could be held to be part of one "household"; but catering for lodgers on any substantial scale as a business enterprise is likely to constitute multiple occupation.'

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[1] para 3.1.5-6

DoE Circular 12/93 suggests that the following questions may be relevant when considering whether a property may be an HMO:[2]

- whether cooking facilities are separated or shared;
- whether washing facilities are separate or shared;
- whether the occupants eat together;
- whether cleaning is shared or carried out individually;
- whether the occupants have separate contracts;
- whether vacancies are filled by the occupants or the landlord;
- whether the occupants come and go frequently.

There is considerable case law relating to what constitutes an HMO; in practice it depends on the circumstances in each case.

A DoE survey, carried out with the assistance of local authorities, produced the following estimate of the number of HMOs in England in 1995:[3]

Type of HMO	**Number**	**% of total stock**
Traditional HMOs (houses converted into bedsits)	111,000	0.5
Shared houses/flats	100,000	0.5
Households with lodgers	41,000	0.2
Purpose built HMOs	17,000	0.1
Hostels, guest houses, boarding houses, B&Bs	17,000	0.1
Buildings converted into self contained flats	352,000	1.8
All types of HMO	**638,000**	**3.2**

[2]para 2.2.2

[3]DoE Press Notice 22.11.95 *Safety package for hostels and bedsits announced by David Curry*

B. Existing local authority powers to enforce standards

A number of organisations have long argued that existing local authority powers to control general conditions and standards of fire safety in HMOs are inadequate. Local authorities' existing powers are briefly summarised below:

1. Overcrowding controls

A local authority may serve a notice in respect of an HMO which appears to them to accommodate, or be likely to accommodate, an excessive number of persons. The notice will specify the maximum number who are to sleep in each room in the house and may also state that some rooms are unsuitable for sleeping.[4]

2. Execution of works

Authorities can require works to be carried out to HMOs where premises fall below certain standards; HMOs must have an adequate means of escape from fire and other adequate fire precautions.[5] Authorities must enforce these fire regulations in HMOs which comprise at least 3 storeys (excluding a storey lying wholly or mainly below the floor level of the principal entrance to the house), and of which the combined floor area (including the area of any staircase) of all storeys exceeds 500 square metres.[6] Authorities may also make a partial closing order where the existing means of escape would be adequate if only part of the house is used for human habitation. DoE Circular 12/92 provides guidance on standards authorities may wish to apply when issuing notices for works on HMOs.

3. Management regulations

The Secretary of State has issued Management Regulations which require persons managing HMOs to observe proper standards of management and to keep existing facilities in good repair.[7] Offending landlords may be prosecuted by the local authority. DoE Circular 12/93 is aimed at helping authorities develop proactive strategies to raise standards in HMOs and to improve the efficiency and effectiveness with which they manage the stock.

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[4]S.358 *Housing Act 1985*

[5]S.352 *Housing Act 1985*

[6]SI 1981/1576

[7]SI 1990/830

4. Control orders

Local authorities have the power to take control of HMOs if relevant notices have been served and not adhered to and it appears that living conditions in the house are such that, for the protection, safety, welfare or health of people living in the house, it is necessary to make the order.

HMO landlords have a right of appeal to the County Court against notices served under the 1985 Act. They also currently have a right, in certain circumstances, to mandatory or discretionary grants to assist with the finance of works to their properties. Local authorities have powers to carry out works in default, to take management control of substandard properties or to pursue compulsory purchase.

5. Registration schemes

Aside from enforcement powers, local authorities have the power to introduce HMO registration schemes within their areas. These schemes can be straightforward notification schemes under which all HMOs falling within specified categories in the designated area must register. A one off fee for registration of £40 is payable by the landlord. Alternatively, a control scheme can be set up which allows the local authority, in certain cases, to refuse to register or deregister an HMO if housing or management standards are deemed to be unsatisfactory. The DoE's consultation paper on the case for licensing[8] noted that 52 applications for registration schemes had been approved since 1991.

C. The case for licensing HMOs

A number of local authorities, housing pressure groups and tenants' representatives regard existing powers to control standards in HMOs as inadequate. There are wide variations between authorities in their enforcement of HMO standards; landlords have complained that standards are enforced arbitrarily or disproportionately and that neighbouring authorities adopt different standards for similar properties.[9] Authorities have also complained that lack of resources place a serious constraint on the pace at which they can tackle poor standards and that the income they derive from registration schemes falls short of the total cost of enforcement programmes.

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[8]November 1994

[9]DoE *Houses in Multiple Occupation: Consultation Paper on the Case for Licensing,* November 1994, para 12

Research by Geoffrey Randall on behalf of the Campaign for Bedsit Rights (CBR) lists the following local authority complaints with the current enforcement regime:[10]

- it is complex and confusing with 17 different Acts of Parliament and Regulations;

- it is inherently inefficient because it depends on tenants making a complaint or on local authorities tracking down individual substandard properties;

- local authorities lack the resources to regulate the sector effectively.

The English House Condition Survey 1991 found 20 per cent of private rented properties to be statutorily unfit compared with 5.5 per cent of owner occupied and 7 per cent of local authority homes. Four out of ten traditional HMOs (houses divided into bedsits with shared facilities) were statutorily unfit in 1991. The risk of death from fire is up to 28 times higher in HMOs than in self-contained housing.[11]

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[10]Joseph Rowntree Foundation (JRF) Housing Research Findings 158, November 1995, *Licensing Private Rented Housing*

[11]Ibid

Table 1

Casualties from fire in Houses in Multiple Occupation
England and Wales

	Fatal				Non-fatal			
	Multiple occupancy houses	All hotels/ boarding houses	All hostels	Total	Multiple occupancy houses	All hotels/ boarding houses	All hostels	Total
1987	80	9	0	89	1,199	77	40	1,316
1988	72	6	0	78	1,052	125	53	1,230
1989	77	5	2	84	1,100	106	93	1,299
1990	61	1	0	62	1,182	137	59	1,378
1991	44	3	1	48	1,214	118	67	1,399
1992	76	6	1	83	1,320	101	47	1,468
1993	(a) 44	5	1	50	..	79	36	..

Notes: (a) provisional
(b) Home Office statistics on casualties in multiple occupancy houses use a different definition of HMOs to that found in section 345 of the Housing Act 1985. The above figures are best estimates taken from Home Office figures.

Sources: *HC Deb 15 March 1995 c596w*
HC Deb 3 November 1994 c1263-4w
Fire Statistics: United Kingdom: 1993, Home Office

Following several fatalities in HMO fires, particularly that of a woman and her child who died in a hostel in a Scarborough bedsit in May 1995 and on whom the inquest jury returned Britain's first verdict of unlawful killing in relation to a fire which started accidentally, calls to introduce mandatory HMO licensing increased. In November 1994 the Department of the Environment issued a consultation paper on the case for HMO licensing.[12] This paper identified a further reason for considering the introduction of a licensing system; namely, the fact that a number of hotels in resort areas were operating as hostels for benefit recipients, a trend which was felt to be accelerating the decline in the holiday trade.

When announcing the publication of the consultation paper the then Minister for Housing, Sir George Young, said:[13]

> 'I share the widespread concern about the poor conditions and fire risks in some houses in multiple occupation. However, I have an open mind about whether licensing of all HMOs is the most effective way forward, and before contemplating legislation we need to consider the cost implications for both landlords and tenants and be convinced that licensing is both essential and practical. Alternatives to full-scale licensing, including the tightening of existing fire safety regulations for HMOs, are also considered in the consultation paper.

[12]DoE *Houses in Multiple Occupation: Consultation Paper on the Case for Licensing*

[13]HC Deb 22.11.94 c.68W

> The issue of hostels in resort areas catering mainly for benefit recipients is covered largely as a separate issue in the paper. They are already subject to additional planning controls but it is for consideration whether these powers should be replaced by an HMO licensing system which would also cover these hostels.'

On the latter issue, increased planning powers which make it necessary for a specific application for planning permission to be made to the local planning authority for a change of use from hotel, bed and breakfast establishments and guest houses to hostel were introduced in April 1994.

In addition, in June 1994 the *Interdepartmental Fire Safety Scrutiny* was published. This paper recommended the redefinition of an HMO to exclude dwellings more akin to family houses which would then be subject to revised fire certification arrangements, enforced by fire authorities.

Some 76 per cent of respondents to the consultation paper on licensing were in favour of the introduction of a national mandatory HMO licensing scheme. Local housing authorities, tenants' and tourism interest groups were in favour, while fire authorities and landlords' interests were generally opposed. Respondents to the Fire Safety Scrutiny disagreed with a number of its principal recommendations; there was strong support for the retention of the existing HMO definition and differing opinions on who should enforce fire precautions in HMOs.[14]

Advocates of licensing made a number of detailed suggestions in response to the 1994 consultation paper:[15]

- there was general agreement that a national mandatory licensing scheme should be operated by local authorities;

- there were differences of opinion over which properties should be covered, ranging from the whole of the private rented sector, to those who only wanted to cover a limited number of HMOs;

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[14]DoE *Improving Standards in Houses in Multiple Occupation*, July 1995, para 1.4

[15]JRF Housing Research Findings 158, November 1995

- there was agreement that current legal minimum standards should remain but be consolidated into a national Housing Standards Code by the DoE;

- a number argued for a degree of self-certification by landlords to reduce inspection costs for authorities;

- there was agreement that local authorities should retain enforcement powers with stronger penalties for failure to comply with the code;

- there was some support for incentives for licensed landlords;

- suggested licence fee charges were in the region of £20-50;

- a number were in favour of a phased introduction of the scheme.

The arguments advanced in favour of the introduction of a national mandatory licensing scheme along these lines include:

- the achievement of consistent enforcement of fire safety standards and minimum health and hygiene standards which would secure higher standards throughout the licensed HMO sector;

- the concentration of resources on those areas and types of housing with the worst problems;

- the clarification of the regulatory regime so that landlords and tenants know, as far as possible, which properties need to be licensed and what standards are acceptable;

- more effective control over the establishment of new HMOs. Licensing would draw attention to standards in these properties before they are let to tenants whereas existing powers apply only when the HMO is in use;

- the development of a largely self-financing enforcement system by setting the annual licensing fee at a realistic level;

- it could control the establishment of new HMOs, particularly hostels in resort areas, more effectively than existing HMO registration schemes.

Opponents of licensing believe that it would add little to local authorities' existing powers and would result in the loss of local flexibility and discretion. It has been argued that a national scheme would be bureaucratic to administer and that, as only the better landlords would come forward, it would have no real impact on HMO standards. There are also concerns over the cost to landlords and tenants of implementing a licensing scheme.[16]

D. The Housing White Paper and the Government's proposals

The White Paper, *Our Future Homes: Opportunity, Choice, Responsibility*,[17] announced that, following the review of the legislation governing HMOs, the Government had decided that the most effective way to improve standards in the sector was to build on powers already available to local authorities. A further consultation paper, *Improving Standards in Houses in Multiple Occupation*, was issued in July 1995.

This consultation paper explained the Government's reasons for rejecting the introduction of a national mandatory HMO licensing scheme:[18]

> 'The Government has concluded that while it fully supports local authorities' efforts to improve conditions in HMOs, the introduction of a full scale national and mandatory licensing system cannot be justified. This is because of the inherent danger that it would lead to excessive cost and bureaucracy by forcing every local authority to follow a standard licensing approach. At present, local authorities already have considerable powers to control conditions in HMOs and these powers are used in a variety of ways according to local housing priorities.'

The Government also rejected the recommendations affecting HMOs in the Fire Safety Scrutiny; the definition of an HMO is to remain and responsibility for enforcement action is to be retained by local authorities.

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[16]DoE Consultation Paper, November 1994, para 22

[17]27 June 1995

[18]para 2.1

The new package of measures set out in the consultation paper, parts of which will be implemented by Part II of the Housing Bill, included:

- the introduction of a new duty of care on HMO landlords in respect of amenity standards and fire safety where these are within the control of the landlord;

- the extension of the existing duty placed on local authorities to ensure adequate fire safety standards in certain HMOs;

- amendments to local authorities' powers to establish registration schemes.

The Government also intends to extend local authorities' existing mandatory duty to ensure there are adequate fire safety precautions in larger HMOs. Further consultation is to take place on this proposal which will involve amendments to the *Housing (Means of Escape from Fire in Houses in Multiple Occupation) Order 1981*.[19] In addition, deregulatory measures to modify some of the local authority HMO enforcement procedures are to be introduced by an Order under the *Deregulation and Contracting Out Act 1994.* It is proposed that authorities will have to serve a notice informing landlords that they are minded to take action.

Authorities will still be required to consult fire authorities about the exercise of their statutory duty to check fire safety in HMOs but will no longer have to consult them about HMO enforcement notices served in other circumstances.

A DoE Press Notice issued on 22 November 1995[20] noted that a majority of respondents to the 1995 consultation paper welcomed the proposals in principle "with a variety of opinion on detail." Sixty per cent of the respondents called for the Government to consider mandatory licensing for all HMOs.

The decision not to introduce a mandatory licensing scheme has proved controversial. Shelter's response to *Improving Standards in Houses in Multiple Occupation* stated:

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[19]SI 1981/1576

[20]*Safety package for hostels and bedsits announced by David Curry*

> 'Shelter believes that the primary consideration of any regulatory scheme must put the welfare and safety of tenants at the top of the agenda. Shelter believes that licensing would enforce improvements in standards and, far from increasing bureaucracy, would reduce it since the current system has a bewildering array of complex laws.
>
> The current system allows ineffectual landlords to continue renting death traps to people. A properly licensing scheme could encourage responsible landlords to invest in the housing stock. If licensing prompted some landlords to leave the system it would signal the current unsuitability of some parts of the HMO sector to provide decent safe accommodation. The Government should not be protecting bad landlords by limiting the demands it makes of them.
>
> In addition, a national scheme would allow standards to be monitored. The Government's admission in paragraph 3.6 that it does not have reliable data on the number of properties which would be covered by a new duty demonstrates the lack of information held by policy makers.'

Geoffrey Randall's research on behalf of the CBR[21] involved the evaluation of two model licensing schemes using national survey data and estimates from case study authorities. He concluded:

> 'A scheme covering all private rented housing could cover all of its costs from licence fees of £25 per room per year by the time it was fully operational. This would save the £42 million which is currently spent on housing enforcement work and financed from general local authority funds. During the five year phasing in period, this funding could be gradually reduced, taking account of increasing fee income and the need to give priority to worse condition properties which would demand more resources in earlier years. A scheme covering only the limited group of HMO should be self funding with fees of £30 per room. It would however be necessary to continue funding local authority work in the remainder of the private rented sector which was not covered by licensing.'

The Campaign for Bedsit Rights is of the view that this research refutes the Government's claims that licensing landlords would be costly and bureaucratic.[22]

The Association of Metropolitan Authorities (AMA) and the Association of District Authorities (ADC) also regretted the decision not to implement a licensing scheme:[23]

> 'The ADC and AMA regret the Government's decision to reject a national mandatory licensing scheme for HMOs. We believe that such a framework would be an effective way of improving the health, safety and living conditions of tenants in HMOs; it would underpin the development of a responsible private rented sector; and it would greatly enhance the efficiency of local authority action in these properties. We also note that this decision is contrary to the recommendation of a substantial majority of the responses to the 1994 consultation exercise.'

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[21]Housing Research Findings 158, November 1995

[22]Bedsit Briefing 50 Nov/Dec 1995

[23]ADC/AMA response to the 1995 consultation paper

Alternatively, bodies such as the Small Landlords' Association and the National Society of Estate Agents welcomed the decision not to proceed with mandatory licensing.[24]

E. The Bill (clauses 62-74)

Part II of the Bill will amend Part XI of the *Housing Act 1985* which governs local authorities powers to control standards in HMOs within their districts.

1. Registration schemes (clauses 62-66)

Clause 62 of the Bill will replace s.346 of the *1985 Housing Act* with new provisions governing the establishment of registration schemes by local authorities. The establishment of these schemes is to remain a discretionary power. Where schemes are established they need not cover the whole of an authority's district and need not apply to every description of HMO.

The following HMOs are to be exempt from registration schemes:

- houses occupied by persons who form only two households;
- houses occupied by no more than four persons who form more than two households;
- houses occupied by no more than four persons in addition to the person managing or having control of the house and any other member of his household; and
- houses where the living accommodation consists entirely of self-contained flats.

Where registration schemes are established the owners of those HMOs covered by the scheme will be under a new duty register their properties. Registration will last for five years and will be renewable, on application, subject to such conditions as are specified in the scheme. The existing powers of local authorities to place a duty on the owners of HMOs covered by a scheme to notify the authority that their properties appear to be registerable and to provide

[24] in their responses to the 1995 consultation paper

the details necessary for registration, and to notify the authority of any change which makes it necessary to alter the details inserted in the register, will remain.

Local authorities will be able to charge a 'reasonable fee' on first registration of a property and half this amount on each renewal. The Secretary of State will be empowered to specify the maximum permissable registration charge by order and also specify cases in which no fee will be payable.

The Secretary of State will have the power to prepare model registration schemes which, if implemented by an authority, will not require his approval. All other schemes may not come into force until confirmed by the Secretary of State.

Clause 63 substitutes sections 347 and 348 of the 1985 Act and provides for the control provisions which a registration scheme may contain to prevent multiple occupation in certain circumstances. As now, authorities will be able to refuse registration or renewal/variation of registration on the ground that:

- the house is unsuitable and incapable of being made suitable for its proposed occupation; or

- the person having control or intended to be the person managing the house is not a fit and proper person; or

- works are required in order to make the house suitable for its proposed occupation.

Applicants for registration will retain their rights of appeal against an adverse decision.

Local authorities will have a new power to alter the number of households or persons for which a house is registered on the ground that the house is unsuitable and incapable of being made suitable or, to alter the number of households/persons or revoke the registration unless works are executed to make the house in question suitable. This power will be exercisable at any time during a period of registration. In deciding whether to exercise this power authorities will be required to apply the same standards as they would when first considering a registration application.

Clause 64 will insert a new section 348B into the 1985 Act which will make it an offence to contravene those control provisions which limit the occupation of registered and unregistered HMOs. Breach of these provisions will render a person liable on summary conviction to a fine not exceeding level 5 on the standard scale. Persons committing other offences by failing to comply with a registration scheme will be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Clause 65 will replace s.349 of the 1985 Act which sets out the steps which authorities must take to inform the public about registration schemes. Authorities will be required to publish notices in one or more newspapers circulating in their districts setting out the details of the scheme and naming a place where a copy of the scheme can be seen at all reasonable hours.

Clause 66 provides that the amendments made by clauses 62 and 65 will not apply to registration schemes which are in force immediately before these sections come into force. The unamended provisions of Part XI of the 1985 Act will continue to apply to existing schemes; although, existing schemes may be revoked by a new scheme which complies with the new provisions or by order of the local housing authority. If existing schemes are not revoked they will, in any case, cease to have effect two years after the amendments to the 1985 Act come into force.

2. Local authority enforcement action (clauses 67 & 68)

Clause 67 will add to s.352 of the 1985 Act (the power to require execution of works to render a property fit for the number of occupants) the provision that an authority will not serve a second notice under this section in regard to the same requirement within five years, providing the works specified in the first notice were carried out and unless there has been a change of circumstances in relation to the premises. This will not apply to notices served under s.352 before the amendment comes into force.

Clause 68 will insert a new s.352A which will enable authorities to recover administrative and other expenses incurred by them in serving notices under s.352 by levying a 'reasonable charge.' An upper limit on the amount which authorities will be able to charge will be specified by the Secretary of State. Charges will not be valid for notices served before these parts of the Bill come into force.

3. A statutory duty of care on landlords (clause 69)

Clause 69 will introduce a new s.353A which will place a duty on HMO landlords and their managers to take such steps as are reasonably practicable to prevent the occurrence of a state of affairs which calls for the service of a s.352 notice. Breach of this duty will be actionable in damages by a tenant or other occupant or any person who suffers loss, damage or personal injury as a result. A person who knowingly fails to comply with this duty will commit a summary offence for which he will be liable on conviction to a fine not exceeding level 5 on the standard scale.

4. Extended fire safety standards and consultation with fire authorities (clause 70)

Clause 70 will implement the Government's intention to extend the existing duty on local authorities to ensure adequate fire safety standards in certain (larger) HMOs. The clause amends s.365 of the 1985 Act (means of escape from fire: general provisions as to exercise of powers) to add a ground for the exercise of these additional powers, ie where an HMO covered by this section does not have adequate fire precautions (other than an adequate means of escape from fire).

Clause 70 will also amend s.365 of the 1985 Act to provide that local housing authorities should consult with the relevant fire authority before exercising any powers under sections 352 and 368 of the Act, either where they are under a duty to act or where they choose to act.

5. Codes of practice (clause 71)

Clause 71 provides for the Secretary of State to approve codes of practice giving guidance in relation matters arising under Part XI of the 1985 Act. Failure to comply with an approved code of practice will not be a criminal offence.

6. Increases in fines, minor amendments and common lodging houses (clauses 72 -74)

Clause 72 amends various sections of the 1985 Act to increase the level of fines which those found guilty of a breach will be liable to pay.

Clause 73 clarifies the meaning of the 'person managing' in s.398 and 'the number' in s.355(1) (effect of direction limiting the number of occupants).

Clause 74 will repeal Part XII of the 1985 Act which provides for the registration of common lodging houses by local housing authorities. A common lodging house is 'a house provided for the purpose of accommodating by night poor people, who are not members of the same family, and who are allowed to occupy one common room for the purpose of sleeping or eating'.[25]

F. Responses

1. Registration schemes

There is widespread disappointment amongst local authorities and representatives of private tenants that the establishment of registration schemes is to remain at local authorities' discretion. The joint AMA/ADC response to *Improving Standards in Houses in Multiple Occupation* included the following comment on this issue:

> 'Without a mandatory duty, consistency across the country is unlikely to be attained. A mandatory system would give all concerned - landlords and tenants and prospective tenants a clear idea of the standards expected in this area of private sector provision. As it is, under the current proposals, there would be the anomalous situation of one landlord having properties in more than one local authority area having to comply with different standards, whilst tenants would be in a similar position of confusion and uncertainty.'

Aside from these reservations, the provision to allow the establishment of model schemes without the approval of the Secretary of State has been generally welcomed. The AMA and ADC would like the model scheme to specify management standards and include the requirement that the landlord is a 'fit and proper person' for the business of letting property.

A number of respondents to the consultation paper were keen that HMO landlords should be under a duty to notify local authorities of their properties; this has been included in clause 62 (see above). However, the request that HMO landlords be placed under a duty to notify authorities of major changes in occupation has not been included.

The exclusion of certain HMOs from the registration provisions is regretted by Shelter on the grounds that the risks inherent in these properties exist irrespective of the number of

[25] s.401 of the 1985 Act

occupants or the nature of their tenure.[26] The Chartered Institute of Environmental Health (CIEH) is opposed to the blanket exclusion of all self-contained flats:[27]

> 'We think a blanket exclusion of all self-contained flats is excessive. We have in mind in this respect that many flat conversions carried out pre-Building Regulations may be in a far from satisfactory condition and wonder whether that criterion - Building regulation approval - might consequently be a better basis of any excluded category.'

The CBR is critical of the evidence on which the decision to exclude certain types of property is based:[28]

> 'The exclusion from the proposed duty of all houses containing self-contained flats and of some properties covered by other regulatory regimes cause us considerable concern. The consultation paper provides no evidence to show that houses with self-contained flats contain less risks to tenants than other HMOs, and many of the most serious fires, causing death to many people, have occurred in these premises. According to the 1994 DoE figures, 250,000 properties containing 1,028,000 homes and 1,635,000 residents would, at a stroke, be excluded from the protection of the legislation.'

The National Housing and Town Planning Council (NHTPC) is of the view that the re-registration period should be three rather than five years where properties pose a particular risk; the CBR is in favour of annual re-registration:[29]

> 'We do not support the proposal for registration to last for five years. This is far too long a period given the deterioration which can occur in HMOs and given frequent changes of ownership and management. The Government should, in any case, make a change of ownership or management a requirement for re-registration, if the property is already registered. We would prefer to see annual renewal of registration.'

The review of the fees chargeable for registration schemes is widely supported; local authorities are keen that fees should be realistic and reflect the actual costs of running a registration scheme.

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[26]Shelter's response to the 1995 consultation paper

[27]CIEH's response to the 1995 consultation paper

[28]CBR *Bedsit Briefing* Sept/Oct 1995

[29]Ibid

2. Local authority enforcement action

When the consultation paper was published there was some concern that restricting the service of second enforcement notices under s.352 within a five year period would enable landlords to avoid carrying out necessary repairs. The CIEH, whilst appreciating the reasons behind this move, noted that there may be a need to revise standards for reasons other than the deterioration of a property, eg changes in occupancy, and requested that provision be made for this. As clause 67 will allow the service of notices where an authority considers that 'there has been a change of circumstances in relation to the premises,' this concern, depending on interpretation, appears to have been catered for.

The local authority associations are doubtful that the recovery of charges from landlords for the service of notices will be workable in practice. Commentators do not believe that fees from this source will contribute significantly to local authorities' HMO programmes.

3. A statutory duty of care on landlords

This has been generally welcomed by housing commentators. The CBR has stressed the need for authorities to have enough resources to enforce the duty while the CIEH has emphasised the need for authorities to educate landlords so that they fully understand their responsibilities.

4. Extended fire safety standards and consultation with fire authorities

The extension of authorities' duty to cover adequate fire precautions as well as means of escape from fire in larger HMOs has been welcomed. However, there is still concern that certain categories of HMO will remain excluded. The Government intends to consult on the revision of the *Housing (Means of Escape from Fire in Houses in Multiple Occupation) Order 1981*[30] which specifies those HMOs in which authorities *must* enforce fire safety standards. Currently this includes HMOs which comprise at least 3 storeys and of which the combined floor area of all storeys exceeds 500 square metres. The CBR is critical of the fact that no explanation was provided for setting the current threshold:[31]

> 'So far as we are aware, no analysis was made at the time of the fire risk factors in HMOs, and it would appear that the formula was invented by someone in the Department with the purpose of ensuring that as few HMOs as possible were covered by the duty. Indeed, the Department has

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[30]SI 1981/1576

[31]CBR's response para 2.6

> known since its own research published in 1987 that only 8% of HMOs fell within the scope of the duty.'

Shelter has come down in favour of a risk assessment approach to enforcing fire standards in HMOs which takes account of the risk associated with a particular property irrespective of the number of storeys or tenants.

There is little agreement amongst commentators on the merits of the change to consultation arrangements. The CBR sees no reason for changing current arrangements and is concerned that it will result in increased bureaucracy and cause unnecessary delays in enforcement work. The Association of London Government (ALG) has questioned the need to consult in all cases prior to taking action on the grounds of practicality and additional costs. Alternatively, Shelter and the AMA/ADC are in favour of this change.[32]

5. Codes of practice

This has been welcomed by housing commentators.

6. Increases in fines, minor amendments and common lodging houses

The increases in fines for offences committed under these provisions are widely supported.

7. Resource implications and general responses

There is a general feeling amongst local authorities and tenants' groups that, despite the review of fees chargeable, the new provisions will not generate adequate funding to enforce the improvements required in HMOs. On the Government's recognition that rents may rise as a result of landlords complying with improved standards and the impact this may have on Housing Benefit expenditure, Shelter comments:

> 'The Government confirms that PES transfers from the Housing budget to the Social Security budget will be required. Shelter believes that this Government policy contains a significant contradiction. On the one hand the Government wishes to promote improved standards and recognises that this may lead to greater costs in Housing Benefit as landlords raise rents to cover their costs, but on the other hand the Government has introduced the concept of the local reference

[32]taken from these organisations' responses to the 1995 consultation paper

> rent and cash-limited discretionary payments for vulnerable groups, in a bid to limit public expenditure by restricting the amount of rent which is covered by Housing Benefit. Limiting the rent that will be met by Housing Benefit will not encourage landlords to improve standards and suggests that the Government is more concerned with costs than people's safety.'

On resources the AMA/ADC has said:

> '...the fee income from charges made to HMO owners cannot realistically be expected to meet adequately the increased costs to housing authorities...It should be borne in mind that the improvement of HMO standards can often be, particularly for the larger urban authorities, a very time-consuming task, since it involves getting to grips with some of the poorest condition housing, and tenants suffering deprivation, as well as many instances of some fairly unscrupulous landlords who may not be minded to co-operate in the quite lengthy procedures involved in effecting improvement to their property. The associations also wish to reiterate their concern at Government proposals to prevent local authorities offering discretionary grants[*renovation grants*] to landlords outside renewal areas. The flexibility to offer discretionary grants in registration areas should exist to assist local authorities to enforce the new requirements.'

Shelter's response to the consultation paper concluded:

> Shelter does not consider many HMOs offer an acceptable standard of accommodation and believes that the measures proposed by the Government will not address the fact that there is insufficient accommodation of suitable quality at affordable rents which people on low incomes can obtain. The Government's proposals to use the private rented sector as an alternative to social housing for homeless people wil serve to force ever increasing numbers of vulnerable people into this unsatisfactory form of tenure.'

Alternatively, the Small Landlords' Association would have liked to have seen the introduction of a narrower definition of an HMO and a reappraisal of basic acceptable HMO standards. Its response to the consultation paper noted that rental income places a direct limit on the level of improvements which landlords can carry out and also requested a rethink on the proposal to abolish mandatory grants for landlords.[33]

[33]measures to implement changes to the existing grant system will be included in a future Bill

Part II

Landlord and Tenant

A. Government policy and the private rented sector

Reviving the private rented sector (PRS) is an important objective of the Government's housing policy. Robert Jones MP set out the Government's view of the role of the PRS at Birmingham City Council's Conference, "Responsible Renting," on 19 July 1995:

> 'The PRS has an essential role to play in the overall housing market. It can be a ladder to home ownership. Many young people leaving home for the first time and those saving for a deposit to buy their own homes, welcome the flexibility of renting. Over half of private tenants expect to buy their own home eventually. Providing privately rented accommodation means they do not have to rush to buy a home before they can really afford it. The PRS is therefore an essential support to sustainable home ownership.
>
> Private renting is also important as a complement to the social rented sector. For people on low incomes for a short period, providing housing benefit support for accommodation in the PRS can be a more cost-effective solution than providing a permanent subsidised tenancy in the social housing sector.
>
> For people in need of longer term help, renting privately can offer a good quality home until a social tenancy becomes available. In some cases, it can provide a satisfactory long term solution to their housing needs.'

Measures introduced by the Government in order to encourage growth in the PRS have included:

- the deregulation of rents on new lettings created after 15 January 1989;[34]

- the introduction of assured shorthold tenancies which give landlords an automatic right of repossession;[35]

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[34] *Housing Act 1988*

[35] Ibid

- the extension of the Business Expansion Scheme (BES) in 1988, under which investors could obtain tax relief on investments of up to £40,000 per annum in BES firms, to include companies specialising in the letting of residential property on assured tenancies. This extension, which was designed to act as an extra stimulation to the private rented sector during the early years of deregulation, ended in December 1993. The Government concluded that it was a successful pump-priming measure which added some 80,000 rental units to the PRS, but that the boost was likely to be shortlived and that the scheme was relatively expensive.[36]

- the rent-a-room scheme under which householders no longer have to pay tax on rent from a lodger in their home if the gross amount of the rent is no more than £3,250;

- the flats-over-shops scheme under which finance has been made available through local authorities to bring flats over shops back into residential use;

- the housing associations as managing agents scheme (HAMA) which allows housing associations to act as an intermediary between potential private landlords and tenants in order to encourage more empty property to be let.

Recent studies on the size and characteristics of the PRS indicate that its long term decline in relative importance has been somewhat reversed since 1989. The Office of Population Censuses and Surveys (OPCS) published *Private Renting in England in 1993-94* on 20 June 1995, this report of information collected in the first year of the Survey of English Housing found that 1.93 million households (10 per cent of all households) in England were renting privately in 1993 compared with 1.70 million households (9 per cent) in 1988 and 1.91 million households (11 per cent) in 1981.

The structural changes put in place by the 1988 Act coupled with falling house prices, which have encouraged home owners to let properties rather than sell them, have been identified as central factors behind increased activity in the PRS; however, there is, as yet, little evidence of a sustained revival. Commentators believe that landlords may leave the sector if and when the housing market picks up. A survey of managing agents carried out by the Joseph Rowntree Foundation (JRF) and the Association of Residential Letting Agents in March/April 1993 found that lettings per agent increased in 1992 by an average of 13 per cent; however, the survey noted that about one fifth of landlords were ex-owner occupiers who were unable or unwilling to sell their homes and that the number of lettings could fall when house prices

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[36]HC Deb 12.7.95 c.580W

pick up.[37] It has also been argued that as long as the PRS remains at a disadvantage in tax and subsidy terms compared with the owner occupied and social rented sectors, its prospects for long term revival will remain in question.

The White Paper, *Our Future Homes*,[38] set out the Government's intention to sustain the revival in the PRS by:

- legislating to introduce Housing Investment Trusts to encourage financial institutions to invest in the PRS;[39]

- legislating to deregulate the PRS further to make it easier to let property on assured shorthold terms and to speed up the time in which a landlord may recover possession;

- introducing pre-tenancy determinations of rent eligible for housing benefit;[40]

- legislating to extend local authority powers to enforce health and safety standards in houses in multiple occupation (see Part I of this paper);

- introducing new housing benefit rules to give private sector tenants and landlords better incentives to keep rents at reasonable levels.[41]

A consultation paper linked to the White Paper, *The Legislative Framework for Private Renting*, was published in June 1995. This provided more detail on the Government's intention to simplify certain requirements of the *1988 Housing Act*; Part III of the Housing Bill will enact these proposals.

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[37]JRF Housing Research Findings No 90, May 1993

[38]Cm 2901

[39]measures have been included in the Finance Bill

[40]see Library Research Paper 95/7

[41]Ibid

B. The Bill and responses

1. Shorthold tenancies (clause 75)

With certain limited exceptions all residential tenancies created since Part I of the 1988 Act came into force (15.1.89) are automatically assured tenancies. An assured tenant's security of tenure can only be ended if the landlord obtains a court order for possession on one of the 16 grounds specified in Schedule 2 to the Act. In order to create an assured shorthold tenancy which gives the landlord the right to repossession at the end of the fixed term, subject to two months notice, the following requirements must be observed:

- the landlord must give notice in the prescribed form (Section 20 Notice) before the beginning of the tenancy saying that it is an assured shorthold tenancy;

- the tenancy must be for an initial fixed term of at least six months.

The consultation paper, *The Legislative Framework for Private Renting*, noted:[42]

> 'The precise procedures required to create a valid shorthold tenancy are still not widely understood. It is not uncommon for a landlord to agree, for example, that a tenant may occupy a house for a couple of months, with both parties intending to create nothing more than a contract confirming a short term right of occupation. Yet the law intervenes to create a full assured tenancy and so the landlord may not regain possession although it had been expected and will have to wait, possibly for many years. Even where landlords are aware of the procedures, they may still accidentally create full assured tenancies through inexperience, and inadvertently find themselves with a long-term tenant.'

The paper also suggested that most tenants are now aware that a tenancy in the PRS does not usually provide long term security of tenure and that, therefore, the need for prior notice of the limited nature of the tenancy is not so strong.

Clause 75 of the Bill will reverse the current position so that, with limited exceptions such as tenancies arising by succession, lettings falling within the scope of the 1988 Act which are entered into on or after this section of the Bill comes into force, will automatically be assured shorthold tenancies unless the landlord specifically creates a full assured tenancy. The need

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[42]para 2.7

for a shorthold tenancy to have an initial fixed term of at least six months is removed; however, shorthold tenants will retain security of tenure for at least six months as landlords will be prevented from obtaining possession within this period even where tenancies are periodic from the outset or where the initial fixed term is for less than six months **(clause 76)**.

Schedule 4 to the Bill, which is to be inserted as Schedule 2A to the 1988 Act, sets out the requirements which will have to be followed in order to create a full assured tenancy.

The Association of District Councils (ADC) and the Association of Metropolitan Authorities (AMA) are opposed to the introduction of shorthold tenancies on an automatic basis. It has been suggested that landlords' ignorance of procedures should be tackled through increased publicity and awareness rather than by eroding tenants' security of tenure. The fact that the majority of new private lettings are already shorthold tenancies has led respondents to question whether the procedure leading to their creation is really too onerous and difficult for landlords to understand.[43] The Housing Centre Trust has commented:[44]

> 'If the private rented sector wants to play a part alongside other housing options then it bears a responsibility to carry out its business professionally and efficiently. There cannot be an argument for changing the law because landlords accidentally create full assured tenancies.'

Shelter has argued that, in its experience, tenants are frequently not aware of their rights and is concerned that the removal of the notice requirement will result in landlords who were previously happy to let properties on a long term basis automatically granting assured shortholds. As landlords are able to regain possession of properties let under these tenancies quite easily, Shelter is also concerned that the right of a tenant to enforce the landlord's duty to carry out repairs and defend his/herself in court will effectively be removed. If, as is likely, landlords always use the shorthold ground to secure the eviction of tenants in future this may cause problems for local authorities when determining whether a person evicted from a PRS tenancy is intentionally homeless or not.[45]

The National Federation of Housing Associations (NFHA) wants the default tenancy for housing associations to remain as an assured tenancy.[46]

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[43]OPCS *Private Renting in England 1993/94* found that in 1993 assured shortholds accounted for 69 per cent of total private lettings

[44]HCT response to *The Legislative Framework for Private Renting,* para 1.2

[45]this decision determines whether a homeless person is entitled to housing assistance

[46]NFHA *Housing Policies for the Future,* para H3

The Small Landlords Association is in favour of further deregulation of the PRS:[47]

> 'It is gratifying that the Government has acknowledged representations from the SLA and other landlord organisations about a serious deficiency in the deregulated regime and is willing to correct it despite the fact that to do so requires changes to primary legislation. The proposal should command support because not only will it correct an indefensible situation but it will also remove an unnecessary deterrent to letting. The aim of policy should be to encourage the provision of an ample supply of private rented accommodation on terms which are both fair to the landlord and to the tenant and this proposed change will support such a policy.'

The National Housing and Town Planning Council's (NHTPC) response to the consultation paper notes that, during its work on Flats Over Shops schemes, it has come across owners who are reluctant to let out properties because they are unsure that they can get them back. Hence the NHTPC has come down in favour of this amendment with the caveat that it should apply only to small private landlords with up to 5 properties or 20 units. The NHTPC believes that this would prevent tenants with children from being denied access to long term tenancies in the private sector.[48]

2. Rent Assessment Committees (RACs) (clause 77)

Section 22 of the *1988 Housing Act* currently gives shorthold tenants the right during the initial fixed term of the tenancy to refer to a RAC for a rent to be set. RACs may reduce an excessive rent under this section. In the consultation paper, *The Legislative Framework for Private Letting*, the Government set out its intention to abolish this right on the ground that 'it is little used.' This was hotly disputed by a number of respondents to the paper and, as a result, the Government agreed not to abolish s.22.[49]

Instead, **clause 77** will extend the circumstances in which no application can be made to include shorthold tenancies created after the Bill comes into force where more than six months have elapsed since the beginning of the tenancy or, in the case of a replacement tenancy, where six months have elapsed since the beginning of the original tenancy.

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[47]SLA Newsletter 65, August 1995

[48]NHTPC's response para 2

[49]HC Deb 28.11.95 c.563W

3. Grounds for possession (clauses 78 & 79)

The 1988 Act provides that a mandatory order for possession may be sought against an assured tenant where at least 13 weeks rent (weekly tenancy) or three months rent (monthly tenancy) is unpaid both at the time a notice of intention to seek possession is served and at the time of the court hearing (ground 8).

Clause 78 will amend Part I of Schedule 2 to the 1988 Act to reduce this period from 13 weeks to 8 in the case of weekly and fortnightly tenancies and from three to two months for monthly tenancies. This provision is particularly aimed at assisting small private landlords who have tenants who do not pay their rent.

Clause 79 will introduce a new discretionary ground for possession where a landlord can establish that he or she was induced to grant the tenancy by a false statement made knowingly or recklessly by a tenant.

Although respondents have noted that they do not condone tenants running up rent arrears a number have expressed opposition to clause 78. The position of tenants who are reliant on housing benefit payments has been frequently raised; for example, the Chartered Institute of Housing's response states:

> 'One third of tenants with tenancies under the 1988 Act are in receipt of housing benefit. These tenants will inevitably be affected as they are vulnerable to long housing benefit delays outside their control. The changes in the housing benefit regulations for private tenants where tenants may be required to make a contribution to their rent, may further increase arrears.
>
> Apart from benefit delays, there are a number of other circumstances where a tenant may incur rent arrears in a very short space of time, such as ill health, fluctuations in employment, the loss of a partner or relationship breakdown. If this amendment is passed, any increase in arrears and evictions will put pressure on homelessness, tenancy relations and advice sections when local authority resources are already stretched.'

Tenants have no defence to ground 8 even where the arrears are caused by housing benefit delays; the landlord merely has to prove that the arrears exist. Shelter is of the view that, as other discretionary grounds (10 and 11) enable a landlord to gain possession before three months arrears have accrued, where circumstances merit it, there is no need to amend ground 8.

The NFHA has recommended that the proposed amendment to ground 8 should not be implemented until local authority delays in processing housing benefit have been reduced well below the 8 week level.[50]

Alternatively, the Small Landlords Association believes that speedier repossession for rent arrears will remove another serious deterrent to letting:

> 'It is high time landlords ceased to become a source of instant credit, interest free, repayable at the discretion of the tenant.'[51]

Research has shown that there is some reluctance amongst landlords who let properties as a sideline activity to let to non-professional people and those who are reliant on housing benefit.[52] In order to gain accommodation some tenants do not tell prospective landlords that they are in receipt of housing benefit; the introduction of the new ground for possession under clause 79 may enable landlords to evict tenants in these circumstances.

There is some doubt amongst respondents to the Government's PRS proposals that they will meet the aim of significantly increasing the number of lettings:[53]

> 'The proposals come at a time when the Government is proposing to accommodate more homeless families in the private rented sector, and abolish mandatory repair grants to landlords and is implementing restrictions on housing benefit levels. Shelter believes that the effect of these proposals will be a private rented sector where tenants have less security of tenure, suffer increased levels of disrepair and harassment, have their housing benefit restricted and from where they will be more likely to become homeless. Housing benefit claimants will be forced into the lower end of the private rented sector. It will be a deteriorated private rented sector rather than a revitalised one, where homeless and vulnerable people will move from one short term let to another.'

On the link between the Housing Bill's provisions on homelessness and those on the PRS the Chartered Institute of Housing concludes:[54]

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[50]NFHA *Housing Policies for the Future*, para H4

[51]Ibid

[52]DoE *In From the Cold - Working with the Private Landlord*, June 1995, para 4.20

[53]Shelter's response para 3

[54]CIH's response to the consultation paper

'We do not think any of the measures set out in the paper will increase the number of lettings in the private rented sector but *will* increase insecurity for tenants and place a further burden on local authorities.

We are also concerned that proposals to introduce automatic assured shorthold tenancies will compound the difficulties which homeless families will face under the new homelessness legislation. While a homeless family will be entitled to council accommodation for upwards of a year, the same family housed in the private rented sector would only have a six month tenancy. Tenancies which are short in duration are not conducive to settled family life and will inevitably impact on employment opportunities and educational achievement.'

C. Leasehold reform (clauses 82 - 86)

Clauses 82-86 make minor amendments to the leasehold reform provisions in Part I of the *1993 Leasehold Reform, Housing and Urban Development Act.* This Act gave most long leaseholders in blocks of flats the collective right to buy the freehold of their block(s) or individually extend their lease agreements.

The Secretary of State has given the following explanation of the effect of clauses 82-86:[55]

Mr. Peter Atkinson: To ask the Secretary of State for the Environment what proposals he has to amend part I of the Leasehold Reform, Housing and Urban Development Act 1993. [113131]

Mr. Curry: My right hon. Friend the Secretary of State announced on 18 January, in answer to my hon. Friend the Member for Gravesham (Mr. Arnold) a number of proposals to strengthen leaseholders' rights against unreasonable behaviour by their landlords. One of these proposals was to bring forward amendments to the Housing Bill, which is published today, to permit collective enfranchisement in properties where flying freeholds have been created.

In addition, the Housing Bill contains four provisions, all of a relatively technical nature, to amend the provisions of the 1993 Act relating to leasehold enfranchisement of flats and to the right to buy an extended lease. The provisions are:

(i)to clarify the valuation provisions in schedule 6-leasehold enfranchisement, and schedule 13-premium to be paid for lease extension, in cases where there are intermediate leasehold interests;

(ii)to provide explicit assumptions to be used in valuing the tenant's existing lease and new lease for the purpose of calculating marriage values under schedule 13 to the Act;

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[55]HC Deb 19.1.96 c.784W

(iii)to disregard the effect for valuation purposes of certain transactions which might have the effect of reducing the price to be paid for an extended lease under Schedule 13. If the Bill is enacted in its current form, specified transactions after today-unless in pursuance of certain contracts entered into on or before today-will be disregarded; and

(iv)in cases where flats are owned by trustees, to allow residence by a beneficiary of the trust to satisfy the residence qualifications for enfranchisement and for lease extension.

The provisions amending schedule 13 on valuation will apply to all notices of claim given after today, except in cases where the premium has been agreed or determined before the day the Act is passed. I do not expect these provisions to alter the amount to be paid for acquiring a freehold or a lease extension in the great majority of cases.

On 18 January 1996 the Secretary of State announced that amendments to the Housing Bill would be brought forward to strengthen the rights of leasehold flat owners:[56]

Mr. Jacques Arnold: To ask the Secretary of State for the Environment what action he plans to take to strengthen the rights of owners of leasehold flats. [108591]

Mr. Gummer: I have received a large number of representations from right hon. and hon. Members and leaseholders, particularly in London, about allegations that some landlords have been behaving unreasonably. The allegations are that a number of landlords have been buying up freeholds of blocks of flats and then presenting the leaseholders with very large maintenance and service charge bills. The amounts demanded appear to be excessive in relation to the work required, and the landlords can make a substantial profit by employing associated surveyors, contractors and managing agents, and earning commission. Any leaseholders who challenge the service charges are met with aggression and intimidation from the landlord and threatened with forfeiture of the lease.

There is already a considerable body of legislation offering safeguards to leaseholders. After careful consideration of these recent developments, I have decided, however, that further action should now be taken to strengthen leaseholders' rights.

I therefore propose the following legislative amendments. First, I propose a number of changes to the "Right of First Refusal" contained in part I of the Landlord and Tenant

[56]HC Deb 18.1.96 c.668W

Act 1987 to help ensure that tenants are given the opportunity to exercise this right if their landlord wishes to dispose of his interest. Secondly, I shall amend the Leasehold Reform, Housing and Urban Development Act 1993, so that qualifying leaseholders will have a right to enfranchise where their block of flats has more than one freehold interest. Thirdly, I intend to give a recognised residents' association a right to challenge major works proposed by its landlord before the work has commenced. Fourthly, I shall amend the law of forfeiture so that forfeiture proceedings are separated from disputes over service charges. Fifthly, I shall strengthen the grounds available to leaseholders seeking to require the court to appoint a manager of their block of flats where the landlord is failing to carry out his obligations in a reasonable manner.

Finally, I am concerned about the cost which leaseholders can face in pursuing their rights through the courts and I am considering the possibility of transferring these disputes over service charges to leasehold valuation tribunals.

I will bring forward amendments to the Housing Bill, which is being introduced today, to give effect to these proposals.

At the time of writing there is no detailed comment on the leasehold provisions in the Bill.