



Leasehold Reform (Amendment) Bill 2013-14

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This Private Member's Bill was introduced on 24 June 2013 by Philip Hollobone MP. This short Bill would make a technical amendment to the *1993 Leasehold Reform, Housing and Urban Development Act* in order to assist long leaseholders of flats who are unable to sign, for whatever reason, the legal notices necessary to trigger an individual lease renewal or the collective enfranchisement process.

The Bill has Government and cross-party support. It was read for a second time on 22 November 2013 and referred to Public Bill Committee. The Committee considered the Bill on 18 December 2013.

The Bill extends to England and Wales.

This note provides background to the Bill and its purpose.

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1 Background

The majority of long leaseholders of houses gained the right to buy the freehold of their homes, or a lease extension, with the enactment of the *1967 Leasehold Reform Act*. Some years later long leaseholders living in blocks of flats gained the *collective* right to buy the freehold of their blocks (referred to as collective enfranchisement) and an individual right to a lease extension under the *1993 Leasehold Reform, Housing and Urban Development Act*.

Information on eligibility to exercise these rights and the processes to follow can be found in advice guides published by the Leasehold Advisory Service: [Collective Enfranchisement – getting started](#) and [Leasehold Extension – getting started](#).

In respect of collective enfranchisement, the service of an initial notice under section 13 of the 1993 Act by the participating tenants triggers the statutory procedures for acquiring the freehold interest. Similarly, a notice served under section 42 of the 1993 Act triggers the statutory procedures under which an individual leaseholder can acquire a new lease. Section 99(5)(a) of the 1993 Act provides that notices served under sections 13 and 42 must be “signed by each of the tenants, or (as the case may be) by the tenant by whom it is given.” There is currently no provision allowing an attorney/solicitor to sign on a tenant’s behalf.

The aim of this Private Member’s Bill, introduced by Philip Hollobone, is to “remove any restrictions caused by, for example, a person’s illness or absence from the country.”¹ The Bill has Government and cross-party support.

2 The Bill

Clause 1 of the Bill would repeal section 99(5)(a) of the *1993 Leasehold Reform, Housing and Urban Development Act*. Once in force it will be possible for notices served under sections 13 and 42 of the 1993 Act to be authorised on a tenant’s behalf by, for example, a solicitor.

There are various reasons why tenants may not be able to sign a notice themselves, the reasons cited at Committee Stage included absence abroad, serious illness, mental incapacity and disability.

Roberta Blackman-Woods, for Labour, spoke in support of the Bill’s provisions:

It is more than 20 years since the Leasehold Reform, Housing and Urban Development Act 1993 was introduced. Since then, there has been significant amending legislation, including the Commonhold and Leasehold Reform Act 2002, introduced by the Labour Government, which gave important new rights to tenants. However, over the years, it has become apparent that there are anomalies in the law that should be addressed, and the Bill seeks to address one of them. As has been made clear, the changes relate to the signing of notices under the provisions of sections 13 and 42 of the 1993 Act.

¹ [Bill 45 – EN](#) para 6

Those notices must be signed personally by the individual tenant, which has caused difficulties in certain situations—for example, where a tenant has a disability and has given a power of attorney to a third party, or where notices need to be signed by tenants who are based overseas.

In many other areas, it is possible for a solicitor or other authorised representative to sign on an individual's behalf. As the law currently stands, that is not possible for the signing of sections 13 and 42 notices. If the tenant cannot sign personally, no claim for a lease extension can be made, and in the case of a collective action for the acquisition of freehold, it may be prejudicial to getting a sufficient number of people involved. We therefore welcome the Bill introduced by the hon. Member for Kettering, as it will make those changes to the legislation, and we will support its passage through the House.²

A Government amendment to clause 1 was agreed at Committee Stage to ensure that it does not apply in Wales.³

The Housing Minister, Kris Hopkins, set out why the Government is supporting the Bill:

There are perhaps good reasons why a personal signature is normally required. Serving those notices, for instance, commits the leaseholder to a financial expense which, in some cases, might be considerable. A degree of caution is therefore needed in seeking to alter the legislation, but we are satisfied that the proposed change is appropriate and proportionate. Case law highlights the difficulties that the existing law can create. Even relatives acting on behalf of an elderly or vulnerable family member under the power of attorney are not allowed to sign those particular notices on the leaseholder's behalf, even though they can handle other aspects of a relative's financial affairs. As a result, for example, a leaseholder who is physically unable, for various reasons, to sign the notices may miss out on the benefits, financial or otherwise, of the renewal or extension of those leases or the purchase of a share of a freehold. Those are their rights as leaseholders, but as the law stands, they are rights that, unlike their able-bodied neighbours, they struggle to exercise.

The Bill seeks to resolve what may be regarded as an anomaly in the 1993 Act. If enacted, the Bill would provide access to some important existing rights to those qualifying leaseholders who are currently unable to sign in person. The Bill introduced by my hon. Friend the Member for Kettering provides Parliament with a timely opportunity to tackle the issue. As housing Minister, I am pleased to support the Bill on behalf of the Government.⁴

Clause 2 of the Bill provides for the Bill's short title and for the provisions to come into force two months after Royal Assent in line with usual conventions. The clause originally provided for the provisions to come into force one month after Royal Assent but this was amended in Committee.⁵

² PBC 18 December 2013 cc4-5

³³ Housing policy is a devolved matter – the requirement for tenants to sign notices under sections 13 and 42 of the 1993 Act will remain in force in Wales unless the National Assembly chooses to implement a similar amendment.

⁴ PBC 18 December 2013 cc5-6

⁵ PBC 18 December 2013 c6