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LEASEHOLD DWELLINGS UPDATE

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ABOUT RICHARD SNAPE

Richard has been the Head of Legal Training at Davitt Jones Bould (DJB) since 2002. He speaks at numerous courses for law societies all over the country, various public courses, in-house seminars within solicitors' firms and has also talked extensively to local authorities and central government bodies. His areas of specialism include both commercial and residential property, in particular in relation to local government law, conveyancing issues, development land, commercial property and incumbrances in relation to land.

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Learning Outcome: To give an increased knowledge of the subject matter. To update on current issues, case law and statutory provisions and to be able to apply the knowledge gained in the better provision of a service to the client.

Satisfying Competency Statement Section: B – Technical Legal Practice

For further information please see http://www.sra.org.uk/competence

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THE RENTERS' RIGHTS ACT 2025

The Renters (Reform) Bill was introduced into Parliament on May 17th 2023. When Parliament was dissolved on May 24th 2024 it had passed through the Commons but was only at first reading in the House of Lords and was dropped. The Renters' Rights Act is the replacement. It received 1st reading on September 11th 2024. It passed through committee stage on November 5th 2024 with very few changes. It was introduced into the House of Lords in February 2025 but it did not complete its passage until July 22nd 2025. It returned to the House of Commons on September 8th 2025. It finally received the Royal Assent on October 27th 2025 and is not expected to come into force until early 2026. It is 149 sections and five schedules long and much has little impact on conveyancing. Most provisions apply to England only, the Welsh Government having already abolished assured tenancies and replaced them with occupation contracts under the **Renting Homes (Wales) Act 2016** which came into force on December 1st 2022. In Wales occupation contracts have replaced assured tenancies. The occupier must be given at least 6 months fixed term and after the end of this period must be given at least 6 months notice to quit. They must also be given a written statement of the terms of the occupation contract within 14 days of the contract being entered into. Non-compliance may result in the occupier being repaid rent and also there being no ability to serve notice.

Assured Tenancies

The definition of an assured tenancy is in S.1 Housing Act 1988. The lease must constitute a tenancy of a dwelling-house let as a separate dwelling to an individual or individuals as their only or principal home. This will not include sharing accommodation with the landlord or genuine licences such as lodgers or service occupiers. Merely calling something a licence will not suffice, see ***Street v Mountford [1985] AC809.*** However, see ***A.G. Securities v Vaughan [1990] 1AC417*** where occupiers who were unknown to one another in advance and were given different agreements on different dates were held to be occupying under licences. In Wales, licences can give rise to occupation contracts.

Company lets are also excluded from the definition. In ***Hilton v Plustitle [1989] 1WLR 149***, the occupier was required to purchase an off the shelf company and became managing director who then gave
themselves occupation. This was a valid exclusion of the Act as a company cannot be an individual. Whether such methods will be used in the future with the end of short hold tenancies remains to be seen.

Various exclusions are contained in Schedule 1 of the Act:

- Where the rent is £250 or less, or £1,000 or less in London per annum;
- If the rent is more than £100,000 per annum;
- Business tenancies including mixed business – residential under the Landlord and Tenant Act 1954;
- Where agricultural land exceeding 2 acres is let with the land;
- Agricultural holdings and farm business tenancies;
- Lettings to students by specified educational institutions;
- Genuine holiday lets;

- Resident landlords; and
- Crown tenants.

The Government state in their explanatory notes that Purpose Built Student Accommodation cannot give rise to an assured tenancy. This is wrong as the exemption only applies to student accommodation let out by specified educational institutions.

Amendments have now been introduced where by purpose built student accommodation will be excluded as long as the land lord is a member of a recognized Code of Practice.

Under Section 1 of the Act all assured tenancies will be periodic based on the rent but with a maximum period of one month. Unlike the previous Bill this will apply retrospectively on implementation to all existing assured tenancies. The Tenant will be able to give two months notice at any time and there is no exemption for student accommodation. If a leaseholder is permitted to sub-let for a fixed or
minimum term but not on a periodic tenancy, this clause will be rewritten to allow sub-letting on a periodic tenancy. If the leaseholder lawfully granted a subtenancy that is periodic, then they will not be in breach of their own lease.

The above may cause problems as currently in England any joint tenant can give notice which binds all: see ***Hammersmith and Fulham Borough Council v Monk [1992] 1AC478***.

Under Section 2 S.21 notices and assured shorthold tenancies will be abolished. If a S.21 notice has been served prior to commencement this will still be valid. However, for new tenancies a S. 21 notice cannot be served until the lease is 4 months old and as at least 2 months' notice is required it may be too late to serve notices on new tenants in the near future.

Section 31 will solve the problem of creating an assured tenancy where the ground rent is more than £250 p.a. or more than £1000 p.a. in Greater London for a lease from January 15th 1989 onwards. In the future assured tenancies will not be able to be created for more than twenty-one years or if the tenancy was granted prior to the Act coming into force for more than seven to twenty-one years or during the following two months or at the end of that period under a contact entered into before the end of that period. The problem has already been solved in Wales where occupation contracts cannot be for more than 21 years.

A summary of other changes

Ground 1 for possession will be expanded. Currently the Landlord or one of joint Landlords or their spouse or civil partner can require possession as a residence. In future this will also include cohabiting couples, siblings, parents, grandparents, children and grandchildren. There will be no need for a notice to be served no later than entering into the tenancy agreement. Currently, Ground 1 can only be used if a landlord wants to occupy as their only or principal home or has occupier as their only or principal home in the past and wants possession. They also must give written notice of this Ground no later than the entering into of the tenancy agreement.

Under Ground 1A the Landlord will be able to obtain possession if they want to sell. Unlike the previous Bill this will not be able to be used for the first year of the tenancy agreement and will

require four months notice. If Ground 1A is used then the landlord will not be able to let out the premises for the next year after expiry of the notice. There is a suggested amendment that this goes down to six months.

Under Ground 2 the mortgagee will be able to obtain possession if they wish to sell and will not need a notice served no later than entering into the agreement.
Ground 8, defined rent arrears will go up from two months to three months and the time between serving a notice seeking possession and court application will go up from two weeks to four weeks.

There are various other provisions such as introduction of a Decent Homes Standard and introduction of Awaab's Law whereby safety problems must be dealt with quickly to the private sector. An enhanced Awaab's Law came into force for housing associations on October 27th 2025. It will be some time before it applies in the private sector. There will also be provisions preventing a blanket ban on pets, benefits tenants or children (with modifications this will apply to Wales). The Landlord will be prevented from allowing bidding wars. They will have to state the maximum rent they will accept and will not be able to accept a greater amount.

Duty to Provide a Written Statement

S.16D will be added to the Housing Act 1988. It will apply to all assured tenancies other than those arising by implied surrender of a previous tenancy agreement between the same parties. The Landlord or their agent must give a written statement to the tenant before entering into a tenancy agreement. There are exceptions such as on succession to an assured tenancy where the statement must be given within 28 days. The detail of this will be down to Regulations but it will include:

I. The tenancy;
II. The property;
III. The tenant;
IV. The Landlord; and
V. The rights of the landlord and tenant.

On failure to comply with the above the local housing authority may impose a financial penalty of no more than £7,000. The Landlord will also be limited in the grounds for possession which they can use.

Purporting to Terminate the Tenancy

There will be a new S.16E of the Housing Act 1988 whereby a landlord or their agent must not:

I. Purport to let on a fixed-term penalty;
II. Purport to bring a tenancy to an end by notice to quit;
III. Purport to bring a tenancy to an end orally;
IV. Serve a purported notice to possession; and
V. Purport to rely on a ground to possession if they do not believe that they will succeed.

Failure to comply may result in a penalty of no more than £7,000.

Rent Control

S.13 of the Housing Act 1988 will be amended. The rent for an assured tenant will only be able to be increased by the statutory procedure and at no less than yearly intervals unless the tenancy is a relevant low-cost tenancy of social housing granted by a housing association.

There will be a minimum period of two months notice prior to the rent increase and not one month as is the case currently. Any attempts to include a contractual rent review will be void and may give rise to a penalty.

The tenant may apply free of charge to a first tier tribunal to question the increase rent which can be no more than a market rent. Unlike currently the tribunal cannot increase the rent to that beyond which the landlord has stated in the notice. No application may be made if the rent payable under the tenancy is pursuant to a previous determination under S.16 or more than 6 months have elapsed since the beginning of the tenancy.

Rental Bidding Wars

Any advertising of a tenancy must state what the maximum rent will be. A tenant can bid up to that value, but a landlord cannot accept a bid above the value. Failure to comply may give rise a penalty.

Guarantors

If the guarantor became a party to an assured tenancy guarantee after commencement of the legislation, then if a sole tenant dies, they will no longer be liable for rent. If two or more tenants die, they will not be liable after the last of the tenants die. If there are two or more tenants and the guarantor only guarantees a family member then they cease to be liable when the family member dies. If there are two or more family members, they cease to be liable when the last of the family members dies.

Prohibition of Rent in Advance

Schedule 1 of the Tenant Fees Act 2019 will be amended in relation to assured tenancies. Initially a rent of no more than a month in advance may be paid but anything more will be prohibited. This may cause problems in relation to people who cannot find guarantors in the UK such as overseas students who will not be able to pay yearly in advance.

A landlord must not encourage an assured tenancy to make a prohibited pre-tenancy payment of rent, accept an offer to make a prohibited pre-tenancy payment or accept a prohibited pre-tenancy payment of rent. A letting agent will be under the same obligations.

Rent will not be able to be claimed for any time beyond the tenant's notice.

Other Duties

S.16E Housing Act 1988 will prohibit certain actions by a relevant person in an assured tenancy. A relevant person will usually be the landlord or someone acting for them or purporting to do so. This will include letting agents. The relevant person will be prohibited from purporting to let for a fixed term, purporting to bring the tenancy to an end or requiring that it is brought to an end orally or via notice to quit. They are also prohibited from serving a purported notice of possession or specifying a

ground that the person does not reasonably believe that the landlord may be able to get possession on, for example purporting to sell in the first year of the tenancy. Breach may give rise to either prosecution by the local authority or a fine of up to £40,000.

THE BUILDING SAFETY ACT 2022

Higher-Risk Residential Buildings (England only)

The Act has also introduced the Building Safety Regulator who will be a part of the Health and Safety Executive. They will have a general role in relation to building safety, but will also be responsible for building control in high risk residential buildings. In England a high risk residential building is one with at least two dwellings which is at 18 metres or more in height or, if less than 18 metres, which has 7 or more storeys. Such a building will have an accountable person who has a legal estate in possession in the common parts or is responsible for repair of the common parts. This will include any Right to Manage Company and any Residents Management Company if there is more than one accountable person then there will be a principal accountable person. A residents' panel must be constituted and the accountable person must listen to health and safety complaints. They will have to produce reports to the Regulator and keep records in relation to health and safety and report any fire safety or structural safety problems that have occurred.

The accountable person will have access rights to individual flats on giving at least 48 hours' notice. If there is more than one accountable person, there will be a principal accountable person. They will have an interest in possession of the structure and exterior or be responsible for repair and maintenance of the structure or exterior of the building. There are also offences if anyone removes or disturbs a relevant safety item. Any high-risk buildings must be registered with the Building Safety Regulator. This came into force in England on April 6th 2023 and the principal accountable person will have to register the building with the Regulator by October 1st 2023. Guidance suggests that the registration must be approved by the Regulator and key building information provided by this date. The Regulator will then have to approve the registration.

Safety case report summarising major fire and structural hazards and risk management is mandatory for higher-risk buildings. Organisations must also establish a mandatory occurrence reporting system detailing communications with other accountable persons, arrangements for reporting to the Regulator and summaries of incidents.

There are also **Higher-Risk Buildings (Descriptions and Supplementary Provisions) (England) Regulations 2023** which were laid in front of Parliament on March 6th 2023. A Higher-Risk Building is one which is 18 metres or more in height or has seven or more storeys. Any floor where the ceiling is below ground level will not be included, nor will any top floor which only includes rooftop plant and machinery. The measurement will be from the lowest part of the ground floor to the finished floor of the top floor. A mezzanine floor will be ignored if it is less than 50% in size of the largest storey vertically above or below it. A separate structure will be treated as being the same building if it can be accessed to another part which has a residential unit. This will not apply if the access is only intended for exceptional use for emergencies or maintenance. In the case of ***Waite v Kedai (2023)***, the first measurement of the building was stated to be 17.57 metres, the second measurement was 17.97 metres with a margin of error of 30 centimetres. It was later decided that a roof terrace was the top of the building. This caused it to be well beyond 18 metres in height. As a consequence of this case the RICS told members not to state the height of the building. In the first-tier tribunal decision of ***Smoke House and Curing House, 18 Remus Road, London E3 2NF***, it was decided that a roof terrace constituted a storey thus making the property a higher-risk building which would need to be registered and also have the regulator oversee any building work. This conflicts with the Government guidance which states that a storey must be fully enclosed although this seems to be

wrong. On October 4th 2024 the Ministry of Housing and the Building Safety Regulator stated that the guidance should still be followed unless they say otherwise. On May 28th 2025 they confirmed this statement but also announced that they were in consultation to introducing amending Regulations to clarify the issue. On June 5th 2025 the Upper Tribunal gave their judgment on Smoke House in the case of ***Monier Road Limited v Blomfield***. They stated that the tribunal had no jurisdiction to decide on the height but did not say whether the tribunal was right or wrong.

LEASEHOLDER PROTECTIONS

Qualifying Leaseholders

To qualify the following requirements must be met on February the 14th 2022:

1. The lease must be of a flat in a block which is at least 11 metres or five storeys in height.
2. The lease must be in existence prior to February the 14th 2022. This causes problems in relation to lease extensions which constitute a surrender and regrant on a new post February 14th 2022 Lease.
3. The leaseholder at the beginning of February 14th 2022 can always claim for their principal home. They can claim for other properties but only if they own three or less dwellings anywhere in the UK. The Act refers to the relevant tenant at the qualifying time or any other tenants.
4. The value of the property is determined on February 14th 2022. If the flat has been sold since December 31st 2020 then if the sale was on the open market the sale price will be deemed to be the price of the flat. If prior to this date then there is a statutory formula for determining the price.
5. A service charge must be payable.

If a Lease is not in existence on February 13th 2022 then the leaseholder protections will not apply. This has the unforeseen consequence of taking away leaseholder protections on a lease extension as this amount to a surrender and regrant. On April 21st 2023, the Government changed their guidance on both Remediation Costs and Qualifying Date, Qualifying Lease and Extent. They aim to legislate when Parliamentary time permits. In the meantime conveyancers should attempt to include contractual terms on a extension giving the same rights as if the leaseholder protections still applied. If the Landlord does not agree then leaseholders are encouraged to report them to the Department of Levelling-Up. On October 26th 2023 S.243 of the **Levelling-Up and Regeneration Act 2023** received the Royal Assent. There is provision that on a Lease extension this will give rise to a connected replacement lease. This will apply to an extension of the lease, a variation of the lease, a surrender and regrant, and a surrender and grant of a totally new lease. It will apply if the premises are the same both before and after the extension but also if part is added or removed. Implementation is backdated to June 28th 2022 and the Provisions will be retrospective to February 14th 2022.

Note also the status of an executor holding the lease may cause problems. A company can not hold the lease as their principal home and the status of flats which are held on trust is unclear. The new TA5 (5th edition) has dropped the question as to whether there is a qualifying leasehold as this should be able to be found out from the Leaseholder Deed of Certificate

Relevant Buildings (England only)

To qualify the building must be at least 11 metres or five storeys in height and have at least two dwellings. This will apply to a self-contained building or part of a building which would be able to be developed separately. Mezzanine floor will only count as a storey if it is at least half the size of the largest storey. The legislation does not apply to enfranchised buildings or Resident Management Companies who own the freehold. The proposal from the Welsh Government is that this provision will not be introduced and leaseholders will rely on remediation orders and remediation contribution orders in relation to defects. This is problematic as the rest of the provisions came into

force in Wales on June 28th 2022. The new TA7, 5th Edition which was published on October 13th 2025 has a question as to whether the flat is in a relevant building.

Relevant Defects

The legislation applies if a persons safety is at risk from fire or structural collapse and arises from work done to a building including inappropriate or defective products during construction or later work. The defect in construction work must have occurred in the thirty years prior to June 28th 2022 or the remedial work before or after June 28th 2022. It does not apply to wear or tear or routine maintenance. Defects in relation to professional services are covered, for example where the designer specified flammable materials. In ***Almacantar Centre Point Nominees v Penelope de Valk [2025] UKUT 298*** the first instance decision has been confirmed by the Upper Tribunal. Qualifying Leaseholders do not have to pay for unsafe external cladding remediation regardless of the fact that there were no relevant defects as the defect occurred in 1963. This is not limited to fire risks. What is unsafe and what is external cladding is a question of factThis is on the basis that Schedule 8 paragraph 8 states that no service charge is payable under a qualifying lease in respect of cladding remediation for removal or replacement of any part that forms the outer wall of the external wall system and is unsafe. In ***Lehner v Lant Street Management Company [2024] UKUT 0135*** insulation behind the cladding and cavity barriers were held to be part of the exterior. The Landlord cannot charge for work to external cladding. This case also stated that if a landlord in a relevant building does not comply with the requirements for a Landlord's Certificate then they cannot charge non-qualifying leaseholders as well as qualifying leaseholders for relevant defects.

BUILDING SAFETY (WALES) BILL

The Bill was introduced on July 7th, 2025. It adopted a definition of regulated building, which are buildings of any height but contain two or more residential units. There will be three categories:

- Category 1 – At least 18 metres in height or at least 7 storeys
- Category 2 – Less than 18 metres in height and fewer than 7 storeys, and at least 11 metres in height or 5 storeys
- Category 3 – Less than 11 metres in height or fewer than 5 storeys

Such buildings will have an accountable person and principal accountable person. The definitions seem to be similar to those in England. The principal accountable person will be required to assess and manage fire and safety risk, including ensuring another fire and risk assessment is carried out by a competent person. A fire and safety risk is a risk to the safety of people in or about the building arising from the outbreak of a fire in the building or the spread of fire in, to or from, any part of the building.

The accountable person must take all reasonable steps to prevent a fire risk materialising in relation to the person's part of the building and to reduce the severity of any incident that results from such a risk.

It will be a criminal offence to commission a fire risk assessment from a person that is not competent to undertake it.

Register of Buildings

The principal accountable person will have to register Category 1 and 2 buildings with the local authority. The register will contain details of a principal accountable person with key information about the building. Occupying a building before it is registered and failing to notify the local authority of any changes to information, will be a criminal offence. In addition, accountable persons for occupied Category 1 and 2 buildings will be required to assess and manage structural safety risks for the part of the building in which they are responsible. They must also take all reasonable steps, including carrying out works, to prevent structural safety risks from materialising and reduce the severity of any incidents that result from such risks materialising.

In occupying Category One buildings, the principal accountable person must prepare, review, and revise a safety case report, establish and operate an occurrence reporting system, prepare and review a resident engagement strategy, and give a copy to all residents and owners. They must also apply to the local authority for a building certificate within 28 days of being directed to do so.

The Bill will place duties on landlords of Houses in Multiple Occupation, including the performance of HMO fire risk assessments, although they will not be subject to registration.

THE LEASEHOLD AND FREEHOLD REFORM ACT 2024

The Bill was introduced to the House of Commons on November 27th 2023. Although the original press release stated that the Bill would ban new leasehold houses and also make amendments as to ground rents that did not feature in the original Bill. The Act received the Royal Assent on the evening of May 24th 2024 having spent 11 minutes in the House of Lords. The original bill was 64 clauses and 8 schedules long. The final version is 125 sections and 13 schedules. In the King's Speech on July 17th 2024, the Government announced that the provisions would be brought into force in the near future. However, some may be subject to judicial review.

On November 21st 2024, there was a press release from the Ministry of Housing, Planning and Local Government. Early in 2025, there will be consultation on changes to insurance whereby a landlord will not be able to charge for arrangement or management fees via a fixed service charge. Consultation on this ended on February 24th 2025. Also later in 2025, there will be consultation on banning ground rents and forfeiture in existing leases and also consultation on the service charge consultation requirements. Consultation on service charge and administration charges began on July 4th 2025 and ended on September 26th 2025.

Leasehold Houses

Various amendments were introduced by the Government at Report Stage on February 27th 2024. This includes a section banning the grant of a new lease or agreement to grant a new lease of a long residential leasehold house other than a permitted lease. There will also be a ban on the assignment or agreement to assign the whole or a part of the lease if at the time of grant of the lease it was not residential but is at the time of assignment. The section goes on to say that this will not affect validity of any lease that is granted or assigned or any contractual rights. However, although their lease may be registered at HMLR there will be a restriction that there will be no registrable dispositions apart from a legal charge. There will be a penalty for granting or assigning such a lease. Enforcement will be by local authority trading standards. The fine will be between £500 and £30,000 per breach. The Leaseholder will be able to purchase the freehold and intermediary leases free of charge.

Certain leases will be permitted leases some of which will require a certificate from the tribunal and any marketing will need to make clear that it is a permitted lease with a copy of the certificate. At least seven days prior to exchange (or completion if there is no exchange) the purchaser must be given a copy and details and provide a notice of receipt. Any application for registration must also provide details and a statement that it is a permitted lease. Permitted leases requiring a certificate are:

- Leases granted out of a superior Leasehold estate as long as the superior lease was granted before December 22nd 2017 or afterwards in pursuance of a contract
- Community housing leases
- Retirement home leases where the Leaseholder must be 55 plus
- Certain National Trust leases.

Certain leases will be able to be self-certified these are:

- Leases entered into pursuant to agreement of the lease pre commencement of the

legislation.
- Home Finance Plans, e.g. equity release and Islamic mortgages
- Lease extensions either under the Leasehold Reform Act 1967 or voluntarily. Lease renewals will not have to provide a warning notice seven days before exchange or completion.
- Certain agricultural leases
- Shared ownership leases
- Crown Leases

A house is defined as a separate set of premises on one or more floors which forms the whole or part of a building and is constructed or adapted for use as a dwelling. It will not be a house if the whole or a part lies above or below some other part of the building. There must also be a residential lease. The lease must be for more than 21 years including a series of connected leases or an option to renew and disregarding any notice or forfeiture.

Ground Rents

There was consultation on the future of ground rents in existing leases which ended on January 17th 2024. The Government stated that they would introduce changes to the Bill at Committee Stage but this has not happened. The possibilities are:

- No rent to be charged other than a peppercorn.
- The rent will be the same as the initial rent under the lease. Many landlords and developers have gone through deeds of variation to introduce this anyway.
- The ground rent will be capped at a maximum. The proposal was £250 per annum.
- The ground rent will be set as the rent in existence when the legislation comes into force.
- The ground rent will be capped at a maximum. The suggestion was 0.1% of the value.

Since June 30th 2022, under the Leasehold Reform (Ground Rent) Act 2022, the only permitted ground rent in a new lease of a dwelling of more than 21 years duration is a peppercorn rent. There are exceptions such as shared ownership leases, community housing and Islamic mortgages. The provisions came into force for retirement homes on April 1st 2023.

In the King's Speech the Government announced that they would publish a draft Leasehold and Commonhold Reform Bill which would deal with existing ground rents. This is only a draft and it is unlikely that the actual Bill will be introduced before the end of 2025.

Building Safety Act 2022

The Leasehold and Freehold Reform Act 2024 gives qualifying leaseholders the leasehold protections in relation to relevant steps. These would constitute preventive and precautionary safety measures preventing or reducing the likelihood of fire or collapse, reducing its severity, and preventing or reducing harm to people in or around the building. These provisions came into force in England on October 31st 2024.

Remediation orders under S.123 and Remediation Contribution Orders S.124 may be made by the tribunal and in the future these will include the cost of relevant steps. Remediation Contribution Orders will also be able to be made the cost of expert reports, temporary accommodation,

imminent threat to life and other circumstances the tribunal considers reasonable. These provisions came into force in England on October 31st 2024.

S.125 of the Act whereby if there is an insolvent landlord, an associated company or partnership might be liable will be repealed. An Insolvency Practitioner will be an accountable person in a higher-risk building or a relevant building they must also give information to the local authority and fire authority within 14 days. These provisions came into force on July 24th 2024.

Enfranchisement And Lease Extensions: Leasehold And Freehold Reform Act 2024 Changes

(a) The two year time period before a leasehold extension or purchase or right to enfranchise was abolished. This came into force on January 31st 2025. In spite of this, the mortgage companies still seem to require a longer lease at the time of creation of the charge.

(b) There would be repeated rights to enfranchise or extend the lease, but the tribunal would have rights to curtail this if exercised trivially. This would mean that leaseholders might make a further claim immediately and not have to wait one year if the application has been withdrawn or has been deemed to be withdrawn.

(c) The ability of the Landlord to oppose enfranchisement or a lease extension if there is less that 5 years left on the lease and the Landlord intends to demolish or reconstruct or carry out substantial works on the premises which cannot be done without obtaining possession would be abolished unless a tribunal provides a community housing certificate.

(d) The non-residential element before enfranchisement or the Right to Manage can occur would be increased from more than 25% of the floor area, excluding common parts to more than 50%. This came into force on March 3rd 2025 but only for RTM companies. The changes to enfranchisement have been delayed due to a judicial review claim. The voting rights of the superior and intermediate Landlord's will be limited to a maximum of one third.

(e) There would be a right for the leaseholders to require the Freeholder to take a lease back of any lease not let to a participating tenant thus reducing the cost of enfranchisement or lease extension.

(f) The duration of a lease extension would be increased from 50 years for a house, or 90 years for a flat to 990 years for both.

(g) The cost of enfranchisement of lease extension would be varied. The premium would be market value with a deferment rate which would be set by regulations and varied at least at 10 year intervals. Market value would be set as the amount the relevant freeholder could be expected to realise on the open market if sold by a willing seller at the valuation date. There is also an assumption that any other leases will be merged with the freehold for valuation purposes. The effect of this would be that the presence of intermediate leases would have no effect on the premium. There is also an assumption that the claimant is not seeking and will never seek to acquire a freehold or a notional lease. The effect of this would be that Landlord's share of marriage value (currently payable when there is 80 years or less left on the lease) would not be payable nor would hope value based on possible marriage value in the future. This provision will almost certainly be subject to judicial review. Compensation will also be payable for buying out a ground rent. Schedule 3 contains complex valuation principles on how to determine this which are probably best left for a valuer. The valuation caps ground rent treatment at 0.1% of freehold value. There will be consultation on the new deferment rate and he ground rent cap in the Summer of 2025.

(h) The Landlord will not be able to charge their reasonable non-litigation costs to the leaseholder unless there is a very short term left on the lease. This provision will almost certainly be subject to judicial review. A provision was introduced in the late stages of the Bill whereby Landlords can charge costs if the reasonable costs are greater than the cost of enfranchisement or extension or if they exceed a statutory amount which is yet to be fixed. The Landlord will not be able to charge costs, save in exceptional circumstances, such as a withdraw or deemed withdraw of the application, for RTM companies as of March 3rd 2025. The same provisions in relation to lease extensions and enfranchisement are subject to judicial review (see below).

(i) Any disputes will be decided by the first-tier tribunal and not by the county court.

On January 28th 2025, John Lyon and six other Landlords successfully applied for judicial review of the changes to costs, limits to ground rents and abolition of marriage value. The case was heard between July 15th and 18th 2025. ***R v Secretary of State ex parte ARC and others [2025] UKHC 2751*** judgement was on October 27th 2025. The landlords argued that the 0.1% cap on ground rent when calculating the cost of enfranchisement and lease extensions was in breach of human rights, as was the inability for the landlords to charge reasonable non-litigation costs and the abolition of marriage value. This would breach **Article 1 of the First Protocol of the European Convention on Human Rights** as being a breach of peaceful enjoyment of possessions, not justified as proportionate and in the public interest, as they would not be compensated. The High Court rejected this argument, finding that the Government proposals are proportionate and in the public interest.

Other Rights of Long-Leaseholders

Leaseholders with 150 years or more remaining may buy out the ground rent without having to extend the term. This will be subject to a cap of 0.1% of freehold value, thus ignoring excessive escalating ground rents.

Accounts and Annual reports must be given by written statement within 6 months of the end of the accounting period. Also annual statements of service charge must be given and the landlord required to provide further information on request. The tenants may be charged for this via service charge.

Insurance costs will exclude insurance payments made to arrange or manage insurance.

Sales Information Request

Both leaseholders of dwellings and freeholders in managed estates may request from the Landlord or estate manager information in a specific form if they contemplate selling and the information is for the purpose of the contemplated sale. The detail will be left to regulation. If the information is not in the landlord or manager's possession they must ask the person who has the information. The information must be provided by the end of a specified period or there must be a negative response confirmation there may be a charge but regulation will limit the amount of charge or prohibit charging in specified circumstances unless specific requirements are met. An application may be made to the tribunal to make information available and damages of up to £5000 may be awarded Landlord may include a Right to Management company.

Administration charges

Currently, leaseholders of flats can question the reasonableness of administration charges in tribunal. Leaseholders of houses and freeholders who are subject to these cannot do so. This will change in the future. An administration charge is stated to be an amount payable directly or indirectly by the owner of a dwelling for or in connection with:

- The grant of approval in connection with a relevant obligation
- Application for such approvals
- For or in connection with the sale or transfer to which a relevant obligation relates
- For or in connection with the sale or transfer of land or the creation of an interest in or right over land
- Failure by the owner to make a payment by a due date.

The manager must also produce an administration charge schedule the details of which will be subject to regulations. Failure to comply would result in a fine of up to £1000.

Estate Management Charges

Currently, under Ss.18-30 Landlord and Tenant Act 1985 Leaseholders in flats and houses can question the reasonableness of service charges in tribunal. S.18 (1) defines service charge as including charges for services, repairs, maintenance, improvements, insurance, or the Landlords cost of management and the whole or part of which varies or may vary according to the relevant costs.

In the future owners of freehold houses within estate management schemes will have the same rights and also fixed service charges will come within the provision.

Estate Management Charges involve -

- the provision of services
- Carrying out of maintenance repairs or improvements
- Effecting insurance
- Making payments for the benefit of one or more dwellings

The charge must be payable under a relevant obligation. This includes –

- A rentcharge and estate rentcharge
- An obligation under a lease
- Any other obligation which runs with the land comprised in the dwelling or a building of which a dwelling forms a part
- An obligation which otherwise binds the owner for the time being of the land which comprises the dwelling
- Any other obligation to which an owner of the dwelling is subject and to which any immediate successor will become subject if an arrangement is made with an estate manager. This would include deeds of covenant and restrictions.

Estate Management Charges must be reasonable incurred and of a reasonable standard as currently with service charges. There will also be consultation requirements as currently with leaseholds, but the regulations will deal with the detail. Any charge must be demanded within 18 months of the amount becoming due as is currently the case unless a notification of the demand is given before the 18 month period. Unlike currently, in S.20C of the LTA 1985 where the tribunal can order that the cost of proceedings cannot be added to service charge, the presumption will be reversed and the cost of proceedings will not be able to be added unless the tribunal decides otherwise.

SERVICE CHARGE

Tower Hamlets London Borough Council v Long Leaseholders of Brewster House and Maltings House [2024] UKUT 193 The case concerned two blocks of flats originally constructed as council housing in the early 1960's. Some of the council tenants had purchased long leases under the right to buy provisions. The blocks had been constructed with a Large Panel System which subsequently was found to be defective and remedial works was done over the years. After Grenfell inspection of the blocks showed ore defects and remedial work would cost over £9 million. The service charge allowed the Landlord to charge for repair and maintenance and there was also a sweeper provision. The other tribunal held that repair and maintenance did not cover structural defects and the Leaseholders did not have to pay.

It should be noted that short-term leases of dwellings of less than 7 years, the Landlord cannot charge for repair to the structure and exterior under **S.11 Landlord and Tenant Act 1985** but by buying under right to buy the Leaseholders may be charged depending on the wording of the service charge.

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