

LEASEHOLD REFORM (GROUND RENT) ACT 2022

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Leasehold Reform (Ground Rent) Act 2022 which received Royal Assent on 8 February 2022 (c. 1).

- These Explanatory Notes have been prepared by the Department for Levelling up, Housing and Communities in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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Overview of the Act

- 1 Through this Act the Government has made leasehold ownership fairer and more affordable for leaseholders by ensuring that freeholders/landlords are no longer able to make financial demands for ground rent. The Act also prohibits the charging of administration charges in relation to peppercorn rents.
- 2 This Act achieves this by restricting ground rents on regulated newly established leases of houses and flats where a premium is paid to a token one peppercorn per year, effectively restricting ground rents to zero financial value. There is no obligation on a landlord to levy a peppercorn rent and it is not envisaged that landlords will request their tenants pay a peppercorn as a rent in practice.
- 3 A ground rent is a payment specified in the lease that the leaseholder is required to make to the landlord (directly or indirectly through an agent or representative) without obligation on the landlord (or person acting on behalf of the landlord) to provide a clear service in return to the leaseholder.
- 4 The Act defines a peppercorn rent as an annual rent of one peppercorn.
- 5 Note: In the following sections of these Explanatory Notes, unless otherwise stated, the terms “leaseholder” and “tenant” refer to the person who currently owns the leasehold interest in the property. The term “landlord” refers to the person who is the immediate landlord of that person (either the freeholder or another leaseholder with a superior interest in the property).
- 6 The Act places a duty on trading standards authorities in England and Wales to enforce the Act. District Councils that are not trading standards authorities have power under the Act to enforce in England if they choose to do so. This Act also makes provision for leaseholders to recover unlawfully charged ground rents through the appropriate tribunal.
- 7 A breach of the ground rent restrictions is a civil offence with a financial penalty of between £500 and £30,000. Local authorities are able to retain the money raised through financial penalties with this money reserved for covering the cost of enforcement in relation to residential leasehold property.
- 8 The Act makes exceptions for a small number of types of leases: business leases, statutory lease extensions of houses and flats, community led housing and home finance plan leases (either a type of equity release financial product known as a Home Reversion Plan or a rent to buy arrangement). Rent may continue to be charged on the landlord’s share of shared ownership leases, and where it is agreed on leases replacing pre-commencement leases on the remaining term of the pre-commencement lease (known as voluntary lease extensions).

Policy background

- 9 The leasehold housing sector is an important part of the national housing market. It houses an estimated 4.86 million households in England and Wales. Approximately two thirds of these properties are flats and one third houses.
- 10 Long leases (generally leases granted for more than 21 years) normally provide for the leaseholder to pay ground rent to their freeholder for renting the land that the leasehold property is on.
- 11 Historically, many ground rents were set at a nominal level. However, in recent years many ground rents have risen from nominal levels to more than 0.1% of the property's value, and the practice of granting leases including terms requiring frequent rent reviews where the ground rent amount doubles has emerged. In some cases, the rights to receive ground rents from leaseholders have been bought and sold in the financial market as a long-term income stream for third party investors. Leaseholders receive no clear service in return for these ground rent payments and it is not always clear what costs leaseholders will have to pay when they purchase their home. As a result, some leaseholders may face difficulties in selling or re-mortgaging or find it costly to buy the freehold through enfranchisement.
- 12 In July 2017 the Government consultation "Tackling unfair practices in the leasehold market" sought views on introducing measures to limit ground rents in new leases to start and remain at a "peppercorn" (zero financial) level. In December 2017 the Government committed to reducing ground rents on newly established leases of houses and flats to a peppercorn rent. In October 2018 a technical consultation Implementing reforms to the leasehold system in England asked for views on the detail of the implementation of these proposals, including circumstances where exemptions may be necessary.
- 13 This Act takes forward these proposals making leasehold ownership fairer and more affordable by limiting ground rents for long residential leases to a token one peppercorn per year.
- 14 The Government is committed to promoting fairness and transparency for homeowners and ensuring that consumers are protected from abuse and poor service. This Act is the first of two-part seminal legislation to reform the leasehold system.

Legal background

15 The main legislation relevant to the rights of residential leaseholders is:

- the Leasehold Reform Act 1967;
- the Landlord and Tenant Act 1987;
- Schedule 2 of the Housing Act 1988;
- the Local Government and Housing Act 1989;
- the Leasehold Reform, Housing and Urban Development Act 1993;
- the Commonhold and Leasehold Reform Act 2002.

Ground rents

16 The Commonhold and Leasehold Reform Act 2002 requires landlords to serve written notice before ground rent becomes payable and prevents landlords from starting forfeiture action unless they have issued a written notice and the ground rent arrears exceed a specified sum or have been in arrears for more than a specified period.

Lease extensions

17 For qualifying tenants of a long lease of a house, the Leasehold Reform Act 1967 sets out the right to the grant of a new lease for the remainder of the existing term plus a further 50 years, commonly referred to as a lease extension. No premium is payable, but the new lease can contain a modern ground rent, reviewable after 25 years.

18 For qualifying tenants of flats, the Leasehold Reform, Housing and Urban Development Act 1993 sets out the right to a new lease for the remainder of the existing term plus a further 90 years, commonly referred to as a lease extension. A premium is payable, but the new lease must contain a peppercorn ground rent.

Security of tenure

19 Section 186 and Schedule 10 of the Local Government and Housing Act 1989 provides security of tenure for long residential leases with low rent. Under that Act, when a long lease comes to an end, the tenant is likely to qualify for an assured tenancy which is afforded further protection under the Housing Act 1988.

Territorial extent and application

- 20 Section 24 sets out the territorial extent of the Act, that is the jurisdictions in which the Act forms part of the law. The territorial extent of this Act is England and Wales. The Act applies to long residential leaseholds in England and Wales.
- 21 The provisions in the Act are related to the law of property which is restricted under the Government of Wales Act 2006.

Commentary on provisions of the Act

Section 1: Regulated leases

- 22 Generally, this Act applies in relation to leases of single dwellings granted on or after commencement of the relevant provision of the Act. This includes leases created by virtue of a variation of a lease which results in a deemed surrender and regrant.
- 23 This Act does not apply to long residential leases of single dwellings where the leaseholder does not pay a premium for the granting of the lease. However, subsection (5) states that where there is a deemed surrender and regrant of either a regulated lease or a pre-commencement lease, the general provision that a regulated lease is one for which a premium has been paid does not apply. This is intended to cover circumstances such as a variation to a lease to address a drafting error, where payment of a premium may not be required. This ensures leases remain regulated by the Act after such a variation.
- 24 Additionally, where, prior to commencement, buyers and sellers have entered into a legally binding contract in relation to the grant of the lease (other than an option or right of first refusal), the provisions do not apply. The provisions will additionally not be applicable to some exceptions listed in section 2.

Section 2: Excepted leases

- 25 Section 2 sets out the types of leases that are exempt from the Act. The exceptions are:
 - Business leases where:
 - the lease expressly permits business purposes without further consent needed of the landlord;
 - the nature of the permitted business purposes is such that the use of the premises as a dwelling significantly contributes to the business purposes; and
 - the landlord and tenant exchange written notices at or before the lease is granted confirming the intention to use and continue to use the premises for the business purposes set out in the lease.
 - The Secretary of State may make further provision about the form and content of the notices required to be exchanged in regulations, and has done so in the Leasehold Reform (Ground Rent) (Business Lease Notices) Regulations 2022 (SI 2022/578).
 - Business includes a trade, profession or employment but not a home business under the Landlord and Tenant Act 1954.
 - Statutory lease extensions of houses, under Part 1 of the Leasehold Reform Act 1967, or of flats, under Chapter 2 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993.
 - Community housing where it is a community housing lease and where it meets any further conditions specified in regulations made by the relevant authority. A community housing lease is where the landlord is a community land trust (as

defined in section 79 of the Housing and Regeneration Act 2008), or it is a dwelling in a building controlled or managed by a co-operative society (as set out in paragraph 2B of Schedule 14 to the Housing Act 2004).

- Home finance plan leases which also meet any conditions specified in regulations made by the Secretary of State. A home finance plan lease is:
 - A lease granted in connection with a home reversion plan under Chapter 15A of Part 2 of the Financial Services and Markets Act (Regulated Activities) Order 2001, or
 - A lease granted by a finance provider to a home buyer in connection with a “rent to buy” arrangement. A “rent to buy” arrangement is where a person buys a freehold or leasehold interest in land (or an undivided share of such an interest) from a finance provider over a defined period by means of payment of a rent.

Section 3: Prohibited rent

- 26 Section 3(1) prohibits any landlord (or person acting on the landlord’s behalf) of a regulated lease to require a tenant (or tenant’s guarantor) to make a payment of a prohibited rent. A prohibited rent is defined in subsection (4) as any rent that exceeds the permitted rent as defined in sections 4 to 6.
- 27 The meaning of “require a tenant to make a payment of prohibited rent” is explained in subsection (2). A landlord requires a tenant to make a payment of a prohibited rent if they (or a person acting on their behalf) ask the tenant for payment or having received payment, fail to refund it within 28 days.
- 28 Those subsections taken together mean that a landlord or person acting on the landlord’s behalf is prohibited from asking the tenant for a prohibited rent and must, if they receive a prohibited rent, refund it within 28 days after its receipt.
- 29 Section 3(3) explains that in this section references to landlord includes a person who has ceased to be a landlord, and references to tenant include a person who has ceased to be a tenant, a person acting on behalf of a tenant or a tenant’s guarantor.

Section 4: Prohibited rent: general rule

- 30 Generally, the permitted rent is an annual rent of one peppercorn. The effect of a peppercorn rent is to restrict the rent so that no money can be charged or paid as rent under this Act.

Section 5: Prohibited rent: shared ownership leases

- 31 Section 5 makes special provision for shared ownership leases in which the landlord retains a share.
- 32 Section 5(2) provides that for the tenant’s share in the premises, the only permitted rent is a peppercorn rent but that landlords can continue to charge any rent on their share.
- 33 Since April 2006 it has been a condition of all shared ownership schemes funded by Government that the amount of rent and any annual increases is capped. This is also usually the case for shared ownership properties delivered through agreements entered under section 106 of the 1990 Town and Country Planning Act. Providers are generally required to cap rent at 3% of the capital value of their retained equity, with an overall target of 2.75%. Rents

can vary across different schemes. The rent on the unsold share increases over time. Annual rent increases are also limited as a condition of grant funding to the Retail Price Index (RPI) plus 0.5%. By way of example: if a tenant has a total share of 60% of the value of the premises and the landlord has a share of 40% of the value of the premises, the landlord would be permitted to charge the tenant rent on their 40% share, in line with the above rent caps.

- 34 Section 5(7) provides that where the lease does not distinguish between rent on the tenant's share and rent on the landlord's share, any rent payable under the lease is to be treated as payable in respect of the landlord's share.

Section 6: Permitted rent: leases replacing pre-commencement leases

- 35 Section 6 allows for rent other than a peppercorn rent in the case of non-statutory ("voluntary") lease extensions, where a tenant is granted a lease that replaces a lease that was granted prior to commencement of the applicable provision of the Act (referred to as a "pre-commencement lease" – a term defined in subsection (8)(a)).
- 36 The permitted rent during the period up to the expiry date specified in the pre-commencement lease is a rent not exceeding the rent that would have been payable under the pre-commencement lease in respect of that period. The permitted rent for the period of the new lease following the expiry date specified in the pre-commencement lease is to be a peppercorn rent.
- 37 Subsection (5) makes provision for a case where a lease that is itself a replacement lease is replaced by a new lease. The permitted rent for non-statutory extensions of pre-commencement leases can apply to a replacement lease which includes some premises not demised by the pre-commencement lease (i.e. where there has been a deemed surrender and regrant to increase the property demised on a lease).
- 38 The permitted rent for non-statutory extensions of pre-commencement leases can also apply to a replacement lease that does not extend beyond the end of the term of the pre-commencement lease. This includes a surrender and regrant of a lease where there is not a lease extension, such as to extend the extent of the demised property. Rent can continue to be charged at the existing rate on the balance of the term of the existing lease, while any extension to the lease may only charge a peppercorn rent.
- 39 Subsections (6) and (7) makes provision for a case where the pre-commencement lease is a relevant shared ownership lease (as defined in subsection (9)).

Section 7: Term reserving prohibited rent treated as reserving permitted rent

- 40 The effect of section 7 is that any term in a regulated lease reserving a prohibited rent is replaced by a term reserving a permitted rent, which is generally a peppercorn rent unless section 5 or 6 applies.
- 41 The table in section 7 sets out what rent is to be substituted for the prohibited rent in each case.

Section 8: Enforcement authorities

- 42 Section 8(1) requires local weights and measures authorities (trading standards authorities) in England and Wales to enforce section 3 where a breach of that section occurs in their area and allows them to enforce section 3 elsewhere.

- 43 Subsection (2) allows a district council, which is not a trading standards authority, to enforce section 3 (both inside the council’s district and elsewhere in England). They are not however required to do so.
- 44 Subsection (3) explains that where a breach of section 3 occurs, the area in which it occurs is the area in which the premises under the lease are located. Where the premises are located on a local authority boundary, the breach is taken to have occurred in each of the areas in which the relevant premises are located.
- 45 Subsection (4) provides that the duty and powers to enforce section 3 conferred by subsections (1) and (2) are subject to section 9(8) which provides that an enforcement authority may not impose a penalty on a person if another enforcement authority has already imposed a penalty in respect of the same breach.
- 46 Subsection (5) defines enforcement authority, a term used throughout the Act (and the following sections of these explanatory notes) to refer to both local weights and measures authorities in England and Wales who have a duty to enforce and district councils that have a power to enforce.

Section 9: Financial penalties

- 47 This section allows the enforcement authority to impose a financial penalty on a person if the authority is satisfied beyond reasonable doubt that the person has breached section 3(1) by requiring a tenant to make a payment of a prohibited rent.
- 48 The amount of the financial penalty is at the discretion of the enforcement authority, subject to a minimum of £500 and a maximum of £30,000 (subsection 2).
- 49 A landlord who commits multiple breaches in relation to the same lease is generally only liable to one financial penalty. However, they will be liable for a further penalty if, having previously had a financial penalty imposed for an earlier breach, they then commit a further breach (subsection (3)).
- 50 Subsection (4) clarifies that for the purpose of subsection (3) “‘landlord’” includes a person who has ceased to be the landlord.
- 51 Subsections (5), (6) and (7) deal with multiple breaches in relation to multiple leases. Where a person has committed one or more breaches in relation to two or more leases, an enforcement authority may choose to impose a single financial penalty in respect of all those breaches. If a single penalty is imposed in respect of multiple breaches, the amount of a penalty must not be less than the total minimum amount that would have been imposed or exceed the total maximum amount that could have been imposed if each breach had been penalised separately (taking into account the effect of subsection (3)).
- 52 Subsection (8) provides that an enforcement authority may not impose a penalty on a person if another enforcement authority has already imposed a penalty on the person for the same breach.
- 53 Subsection (9) enables the relevant authority to make regulations amending the minimum and maximum penalty amounts set out in subsection (2) by way of regulations. This power may only be exercised where the relevant authority considers it expedient to do so to reflect changes in the value of money (subsection 10).

Section 10: Recovery of prohibited rent by enforcement authority

- 54 If the enforcement authority is satisfied on the balance of probabilities that a tenant under a regulated lease has made a payment of a prohibited rent and all or part of that rent has not been refunded, the enforcement authority can order the repayment of the prohibited rent by any of the following:
- the landlord at the time the prohibited rent was paid;
 - the landlord at the time the enforcement authority makes the order; or
 - a person acting on behalf of one of the above where the payment was paid to that person.
- 55 However, the above does not apply if the tenant (or person acting on behalf of the tenant) has made an application to the appropriate tribunal to recover the prohibited rent under section 13 or an enforcement authority has previously made an order under section 10 in relation to the payment (subsection (3)).
- 56 Where a tenant has made multiple payments of a prohibited rent under the same lease and these have not been refunded, the enforcement authority may make a single order for repayment for all the prohibited rent that has not been refunded (subsection (4)).

Section 11: Interest on amounts ordered to be paid under section 10

- 57 Section 11(1) provides that where an enforcement authority is imposing a penalty under section 10, they can also require interest on the outstanding amount to be paid.
- 58 Subsections (2) and (3) set out how this interest is to be calculated and subsection (4) specifies that the rate of interest is the judgment rate.
- 59 Subsection (5) caps the total amount of interest that can be charged. The total amount of interest paid must not exceed the amount of the rent order to be repaid under section 10 (subsection (5)).

Section 12: Enforcement authorities: supplementary

- 60 Subsection (1) requires enforcement authorities to have regard to any guidance issued by the Secretary of State about its functions under this Act in relation to a lease of premises in England and have regard to any guidance issued by Welsh Ministers about its functions under this Act in relation to a lease of premises in Wales. A link to this guidance is provided in the ““Related Documents”” section of these notes.
- 61 Subsection (3) makes provision for the investigatory powers available to domestic enforcers under Schedule 5 of the Consumer Rights Act 2015 to be available to enforcement authorities enforcing section 3 of this Act.
- 62 Subsection (4) introduces the Schedule to the Act which sets out the procedure for imposing a financial penalty under section 9 or making an order under section 10 including the time limits, rights of appeal, recovering the financial penalty or an amount ordered to be paid and retention of sums received.

Section 13: Recovery of prohibited rent by tenant

- 63 This section allows tenants (or person acting on behalf of a tenant) under a regulated lease who have paid prohibited rent that has not been refunded to apply to the appropriate tribunal for a recovery order.
- 64 A recovery order is an order requiring the repayment of any of the prohibited rent that has not already been refunded by any of the following:
- the landlord of the lease at the time the prohibited rent was paid,
 - the landlord of the lease at the time the application is made,
 - a person acting on behalf of one of the above where the payment was paid to that person.
- 65 The prohibited rent must be repaid within 28 days after the order has been made (subsection (3)).
- 66 Subsection (5) provides that where multiple payments of prohibited rent have been made and not refunded, the enforcement authority can make a single recovery order in respect of all of those payments.
- 67 Subsection (6) means that the appropriate tribunal must not make a recovery order if an enforcement authority has already ordered the recovery of the prohibited rent under section 10.
- 68 Nothing in this section prevents a person recovering monies owed under contractual remedies in the general law (subsection (7)).

Section 14: Interest on amount ordered to be paid under section 13

- 69 Section 14 allows the appropriate tribunal to include in the recovery order (see section 14) a requirement for interest to be paid. Interest is payable from the day on which the payment of prohibited rent was made until the day on which the amount ordered is paid.
- 70 Where the penalty relates to more than one payment of prohibited rent, interest is payable from the day on which each payment of prohibited rent was made until that part of the amount is paid.
- 71 The rate of interest is specified in section 17 of the Judgements Act 1838.
- 72 The total amount of interest payable must not be more than the amount ordered to be paid.

Section 15: Application to appropriate tribunal as to effect of section 7

- 73 This section allows either a tenant or landlord of a regulated lease to apply to the appropriate tribunal for a declaration as to the effect of section 7 on a term in the lease (or a contract relating to the lease).
- 74 Following such an application, if the appropriate tribunal is satisfied that the lease includes a prohibited rent, it must make a declaration as to the effect of section 7 on the terms of the lease (or related contract).
- 75 Where there are two or more regulated leases with the same landlord, a single application may be made in respect of those leases, by either the landlord or by a tenant of one of the leases with the consent of the tenant(s) of the other leases (subsection (3)).

- 76 Where the tenant is the registered proprietor of the leasehold the appropriate tribunal can also direct the landlord to apply to the Chief Land Registrar, and pay the appropriate fee, to enter the declaration in the registered title. The tenant may apply to the Chief Land Registrar, and pay the appropriate fee, for the declaration to be entered in the registered title (subsection (5)).

Section 16: Assistance

- 77 This section allows an enforcement authority to help a tenant or former tenant, a person acting on behalf of a tenant or former tenant or the guarantor of a tenant or former tenant to apply for a recovery order (section 13) and to recover an amount that the appropriate tribunal orders to be paid under a recovery order.
- 78 This section also allows an enforcement authority to help a tenant or a person acting on behalf of a tenant to apply for an order declaring the effect of section 7 on a regulated lease (section 15).
- 79 The help that an enforcement authority can provide under this section can include conducting proceedings or giving advice.

Section 17: Interpretation of enforcement provisions

- 80 Section 17 defines “tenant”, for the purposes of sections 10, 13 and 16, to include a person acting on behalf of a tenant and (except in relation to section 16(1)(b) which relates to applications for a declaration of the effect of section 7 on the terms of a regulated lease) a former tenant or a guarantor.
- 81 This section also specifies that the “appropriate tribunal” is the First-tier Tribunal where the lease of the premises is in England and a leasehold valuation tribunal where the lease of the premises is in Wales.

Section 18: Administration charges for peppercorn rents

- 82 Section 18 requires that no administration charge is payable in relation to the collection of any ground rent that is restricted to a peppercorn by this Act. It does this by amending relevant provisions in the Commonhold and Leasehold Reform Act 2002. The tenant can apply to the First-tier Tribunal in England or in Wales to a leasehold valuation tribunal for a determination whether an administration charge is payable or for an order varying the lease on the ground that such an administration charge is not payable.
- 83 The tenant can also apply (under section 24 of the Landlord and Tenant Act 1987) to the First-tier Tribunal in England or in Wales to a leasehold valuation tribunal to request that it makes an order appointing a manager where prohibited administration charges have been made. This will enable the appropriate tribunal to take action where, for example, a landlord includes administration charges in leases on numerous occasions.

Section 19: Amendments to Housing Act 1985

- 84 Section 19 made a consequential amendment to Part 5 of the Housing Act 1985 (right to buy).

Section 20: Consequential amendments

- 85 Section 20 enabled the Secretary of State to make provision that is consequential on this Act by regulations. Such regulations may amend an Act of Parliament including an Act passed in the same session as this Act.

Section 21: Regulations

- 86 Section 21(1) states that any power to make regulations under this Act includes power to make consequential, supplementary, incidental, transitional or saving provision and different provision for different purposes.
- 87 Regulations under this Act are to be made by statutory instrument and are subject to annulment by a resolution of either House of Parliament if the regulations are made by the Secretary of State, or Senedd Cymru if the regulations are made by the Welsh Ministers with the exception of:
- a. regulations under section 20 which amend an Act of Parliament which must be made in draft and laid before and approved by a resolution of each House of Parliament;
 - b. commencement regulations under section 25.

Section 22: Interpretation

- 88 Section 22 defines various terms used throughout the Act. Subsection (1) defines a long lease as one granted for a period exceeding 21 years (whether or not it may be terminated sooner). It also includes a lease granted for a fixed term but with an obligation or covenant that means the lease will be continually renewed, other than a sub-lease of a lease which is not a long lease, or a lease that is terminated after a death, marriage or civil partnership.
- 89 Subsection (2) defines dwelling as a building or part of building that is occupied or intended to be occupied, and any land usually enjoyed around it such as a garden or outhouses. Subsection (2) also makes clear that in the Act the term lease means either an equitable or legal lease (and that references to grant of a lease are to be construed accordingly) and includes a sub-lease, but does not include a mortgage term. It defines rent as anything in the nature of rent, regardless of what it is called.
- 90 Subsection (2) also defines a premium as any “pecuniary consideration” for the grant of the lease, other than rent.
- 91 In addition, subsection (2) sets out the meaning of the “relevant authority” to mean the Secretary of State in relation to a lease of premises in England and to mean the Welsh Ministers in relation to a lease of a premises in Wales.
- 92 Subsection 3 clarifies that a sum expressed to be payable in respect of rates, council tax, services, repairs, maintenance, insurance or other ancillary matters is not rent for the purposes of this Act merely because it is reserved as rent in the lease.

Section 23: Crown application

- 93 Section 23(1) provides that the Act applies to Crown land as defined in subsection (2).

Section 24: Extent

- 94 This section is explained under paragraphs 20 and 21 of these Explanatory Notes above.

Section 25: Commencement

- 95 This section is explained under Commencement below.

Section 26: Short title

- 96 This section is self-explanatory.

Schedule: Enforcement: procedure, appeals and recovery etc.

- 97 The Schedule sets out the procedure to be followed by an enforcement authority when it imposes a financial penalty and/or makes an order to recover prohibited rent.
- 98 Paragraph 2 requires that before imposing a penalty and/or making an order for repayment, the enforcement authority must serve notice of their intent. The notice of intention must set out:
- the date of the notice being served
 - the amount of the proposed penalty and/or terms of the order
 - the reasons for imposing the penalty and/or making the order
 - information about the right to make written representations.
- 99 Paragraph 3(1) deals with timescales for issuing the notice of intent. This notice must be served within 6 years of the day of the breach and within 6 months of the enforcement authority knowing of evidence that the authority considers justifies serving the notice.
- 100 Sub-paragraph (2) sets out the days on which it is to be considered that a breach of section 3(1) has taken place, for the purposes of calculating the timescales in subparagraph (1). A breach involving a request for a prohibited rent takes place on the date of that request. Where no request for payment has been made and the landlord fails to refund prohibited rent received, a breach takes place at the end of the period of 28 days after the rent is received.
- 101 Paragraph 4 relates to written representations regarding the notice. Anyone who receives a notice of intent may make written representations about the proposal. They must make these written representations within 28 days of the notice being served.
- 102 Paragraph 5 relates to the issuing of the final notice. After the end of the 28-day period for written representations, the enforcement authority must decide whether to impose a financial penalty and/or make the order. If it decides to impose a penalty and/or make an order the authority must decide the amount of the penalty and/or the terms of the order. The enforcement authority must then issue a final notice requiring a penalty to be paid and/or the order to be complied with within 28 days of the date of the final notice. The final notice must set out:
- a. the date the final notice is served
 - b. the amount of the penalty and/or terms of the order
 - c. the reasons for imposing the penalty and/or making the order
 - d. information about how to pay the penalty and/or comply with the order
 - e. information about rights of appeal
 - f. the consequences of failure to comply with the notice.
- 103 Paragraph 6 deals with an enforcement authority withdrawing or amending the notice of intent or final notice. The enforcement authority is allowed, at any time, to withdraw a notice of intent or final notice, to reduce the amount specified in a notice of intent or final notice, or to remove the proposal to impose or the imposition or a penalty or the proposal to make or the making of an order to recover prohibited rent. The authority can do this by writing to the person on whom the relevant notice was served.

- 104 Paragraph 7 relates to appeals. A final notice may be appealed to the appropriate tribunal. Appeals can be against the decision to impose the penalty or make the order; the amount of the penalty; or the terms of the order. The person on whom the final notice was served must appeal within 28 days of the service of that notice. The notice will then be suspended until the appeal is finally determined, withdrawn or abandoned.
- 105 An appeal will be a re-hearing of the enforcement authority's decision and may be determined having regard to matters that the enforcement authority was unaware of. The appropriate tribunal may quash, confirm or vary the notice. However, if varying the notice, the appropriate tribunal cannot vary a notice so as to make it impose a financial penalty of less than the minimum or more than the maximum penalty that the enforcement authority could have imposed.
- 106 Paragraphs 8 and 9 deal with recovery of the financial penalty, prohibited rent and interest. If the person fails to pay all or part of the penalty or fails to repay the prohibited rent in accordance with an order, the enforcement authority may recover the penalty or the prohibited rent on the order of the county court as if it were payable under order of that court.
- 107 Paragraph 10 gives an enforcement authority power to help a person to apply for a court order if an enforcement authority's order to repay a prohibited rent or interest on that amount has not been complied with. For example, by helping the person conduct proceedings or by giving advice.
- 108 Paragraphs 11 and 12 set out how the enforcement authority should deal with the financial proceeds from enforcement action. The enforcement authority may retain the financial proceeds of any penalties it imposes and put it towards the costs (administrative or legal) incurred in carrying out its enforcement functions in relation to residential leasehold property. Any proceeds of a financial penalty which are not used for this purpose must be paid to the Secretary of State if the premises are in England, or to the Welsh Ministers if the premises are in Wales.

Commencement

109 The Act came into force on 30 June 2022, the day appointed by the Secretary of State in regulations, except for the following sections which came into force on the day the Act was passed:

- Sections 2 and 8 (but only for the purpose of making regulations)
- Sections 20– 26

110 The Act empowers the Secretary of State to appoint different days for different purposes including for different kinds of leases.

111 In relation to a lease of a retirement home, the regulations cannot appoint a day for commencement earlier than 1 April 2023. A lease of a retirement home is a lease relating to a dwelling that can only be occupied by people aged 55 or over.

112 The Act enables the Secretary of State by regulations to make transitional or saving provisions in connection with the coming into force of any provision of the Act. This includes the power to make different provisions for different purposes including for different kinds of leases.

113 The Secretary of State commenced section 1 to 19 of the Act in the Leasehold Reform (Ground Rent) Act 2022 (Commencement) Regulations 2022, from 30 June 2022 for non-retirement leases, and from 1 April 2023 for retirement leases.

Related documents

114 The following documents are relevant to the Act and can be read at the stated locations:

- Government commitment to reducing ground rents on future residential leases to a peppercorn, December 2017: <https://www.gov.uk/government/news/crackdown-on-unfair-leasehold-practices--2>
- Government technical consultation on the implementation of this policy, October 2018: <https://www.gov.uk/government/consultations/implementing-reforms-to-the-leasehold-system>
- Government response to the Housing, Communities and Local Government Committee's report on Leasehold Reform, July 2019: <https://www.gov.uk/government/publications/leasehold-reform-government-response-to-the-select-committee-report>
- Announcement that this Act will also apply to retirement leasehold properties, January 2021: <https://www.gov.uk/government/news/government-reforms-make-it-easier-and-cheaper-for-leaseholders-to-buy-their-homes>
- The Leasehold Reform (Ground Rent) Act 2022 (Commencement) Regulations 2022: <https://www.legislation.gov.uk/uksi/2022/694/contents/made>
- Guidance on the application of the Act for enforcement authorities, tenants and landlords: <https://www.gov.uk/guidance/leasehold-reform-ground-rent-act-2022>.

Annex A – Hansard References

115 The following table sets out the dates and Hansard references for each stage of the 'Act's passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Lords</i>		
Introduction	12 May 2021	Bill as introduced Vol. 812
Second Reading	24 May 2021	Vol. 812 Col. 827
Grant Committee	9 June 2021	Vol. 812 Col. 272GC
	14 June 2021	Vol. 812 Col. 344GC
Report	20 July 2021	Vol. 814 Col. 155
Third Reading	14 September 2021	Vol. 814 Col. 1278
<i>House of Commons</i>		
Introduction	15 September 2021	Bill as introduced
Second Reading	29 November 2021	Vol. 704 Col. 703
Public Bill Committee	7 December 2021	Morning: Col. 1 Afternoon: Col. 33
	9 December 2021	Col. 57
Report and Third Reading	24 January 2022	Vol. 707 Col. 794
Lords Consideration of Commons Amendments	7 February 2022	Vol. 818 Col. 1298
Royal Assent	8 February 2022	House of Lords Volume 818

These Explanatory Notes relate to the Leasehold Reform (Ground Rent) Act 2022 which received Royal Assent on 8 February 2022 (c. 1)

Annex B – Progress of Bill Table

116 This Annex shows how each section and Schedule of the Act was numbered during the passage of the Bill through Parliament.

Section of the Act	Bill as Introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords	Bill as introduced in the Commons	Bill as amended in Committee in the Commons
Section 1	Clause 1	Clause 1	Clause 1	Clause 1	Clause 1
Section 2	Clause 2	Clause 2	Clause 2	Clause 2	Clause 2
Section 3	Clause 3	Clause 3	Clause 3	Clause 3	Clause 3
Section 4	Clause 4	Clause 4	Clause 4	Clause 4	Clause 4
Section 5	Clause 5	Clause 5	Clause 5	Clause 5	Clause 5
Section 6	Clause 6	Clause 6	Clause 6	Clause 6	Clause 6
Section 7	Clause 7	Clause 7	Clause 7	Clause 7	Clause 7
Section 8	Clause 8	Clause 8	Clause 9	Clause 9	Clause 8
Section 9	Clause 9	Clause 9	Clause 10	Clause 10	Clause 9
Section 10	Clause 10	Clause 10	Clause 11	Clause 11	Clause 10
Section 11	Clause 11	Clause 11	Clause 12	Clause 12	Clause 11
Section 12	Clause 12	Clause 12	Clause 13	Clause 13	Clause 12
Section 13	Clause 13	Clause 13	Clause 14	Clause 14	Clause 13
Section 14	Clause 14	Clause 14	Clause 15	Clause 15	Clause 14
Section 15	Clause 15	Clause 15	Clause 16	Clause 16	Clause 15
Section 16	Clause 16	Clause 16	Clause 17	Clause 17	Clause 16
Section 17	Clause 17	Clause 17	Clause 18	Clause 18	Clause 17
Section 18	Clause 18	Clause 18	Clause 19	Clause 19	Clause 18
Section 19	Clause 19	Clause 19	Clause 20	Clause 20	Clause 19
Section 20	Clause 20	Clause 20	Clause 21	Clause 21	Clause 20
Section 21	Clause 21	Clause 21	Clause 22	Clause 22	Clause 21
Section 22	Clause 22	Clause 22	Clause 23	Clause 23	Clause 22
Section 23	Clause 23	Clause 23	Clause 24	Clause 24	Clause 23
Section 24	Clause 24	Clause 24	Clause 25	Clause 25	Clause 24
Section 25	Clause 25	Clause 25	Clause 26	Clause 26	Clause 25
Section 26	Clause 26	Clause 26	Clause 27	Clause 27	Clause 26
Schedule	Schedule	Schedule	Schedule	Schedule	Schedule

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