



Leasehold and Freehold Reform Act 2024

2024 CHAPTER 22

PART 2

LEASEHOLD ENFRANCHISEMENT AND EXTENSION

Costs of enfranchisement or extension

PROSPECTIVE

39 Costs of enfranchisement and extension under the LRHUDA 1993

- (1) The LRHUDA 1993 is amended as follows.
- (2) In section 28 (withdrawal of acquisition), omit subsections (4) to (7).
- (3) In section 29 (deemed withdrawal), omit subsections (6) to (8).
- (4) In section 32(2) (vendor's lien), omit paragraph (c).
- (5) Omit section 33 (costs of enfranchisement).
- (6) In section 56(3) (conditions of grant of new lease), omit paragraph (b).
- (7) In section 57(8) (landlord's covenants on extension), omit the words from "and in the absence" to "assurance".
- (8) Omit section 60 (costs of extension) and the italic heading preceding it.
- (9) Before section 90 insert—

“89A Liability for costs arising under Chapters 1 and 2

- (1) A tenant is not liable for any costs incurred by any other person as a result of the tenant's claim under Chapter 1 or 2, except as referred to in—
 - (a) subsections (5) and (8),

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Leasehold and Freehold Reform Act 2024, Section 39. (See end of Document for details)

- (b) section 89B (liability where a claim under Chapter 1 ceases to have effect),
 - (c) section 89E (liability where a claim under Chapter 2 ceases to have effect), and
 - (d) section 89F (liability where a new lease of a flat is acquired under Chapter 2).
- (2) A former tenant is not liable for any costs incurred by any other person as a result of the tenant’s claim under Chapter 1 or 2, except as referred to in subsections (5), (7) and (8).
- (3) A nominee purchaser in relation to a claim under Chapter 1 is not liable for any costs incurred by any other person as a result of the claim, except as referred to in—
- (a) subsections (5), (8) and (9),
 - (b) section 89B (liability where a claim ceases to have effect),
 - (c) section 89C (liability where a freehold of premises is acquired), and
 - (d) section 89D (liability where a leaseback is required).
- (4) A lease, transfer, contract or other arrangement is accordingly of no effect to the extent it would provide to the contrary.
- (5) A participant is liable to another participant in respect of costs incurred as a result of a claim under Chapter 1 to the extent agreed between the two participants.
- (6) “Participant”, in relation to a claim under Chapter 1, means—
- (a) a tenant or former tenant that is or has been a participating tenant;
 - (b) a nominee purchaser in relation to the claim.
- (7) A former tenant is liable for costs incurred by a successor in title to the extent agreed between the former tenant and that successor in title.
- (8) A tenant, former tenant or nominee purchaser is liable for costs incurred by another person in connection with proceedings before a court or tribunal if—
- (a) the court or tribunal has power under Chapter 1 or 2 or another enactment to order that those costs are paid, and
 - (b) the court or tribunal makes such an order.
- (9) A nominee purchaser is liable for costs in relation to a claim under Chapter 1 as set out in section 15(7) (liability after termination of appointment).
- (10) In this section and sections 89B to 89H—
- (a) “claim” includes an invalid claim;
 - (b) “costs” does not include—
 - (i) anything for which the tenant or nominee purchaser is required to pay compensation under Chapter 1 or 2, or
 - (ii) anything for which the tenant or nominee purchaser is required to pay under section 32 (price payable for collective enfranchisement) or section 56 (price payable for new lease).
- (11) In this section—

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Leasehold and Freehold Reform Act 2024, Section 39. (See end of Document for details)

- (a) “former tenant” means a person who was a tenant making a claim under Chapter 1 or 2, but is no longer a tenant;
 - (b) a reference to the “nominee purchaser” includes a reference to—
 - (i) where more than one person constitutes the nominee purchaser, each person constituting the nominee purchaser;
 - (ii) a person whose appointment as nominee purchaser has terminated in accordance with section 15(3) or 16(1).
- (12) See also sections 20CA and 20J of the Landlord and Tenant Act 1985, which prevent costs in connection with a claim under Chapter 1 or 2 being recovered by way of a variable service charge (within the meaning of section 18 of that Act).

89B Liability for costs: failed claims under Chapter 1

- (1) A tenant is liable to the reversioner for a prescribed amount in respect of non-litigation costs if—
 - (a) the tenant’s claim to acquire a freehold of premises under Chapter 1 ceases to have effect, and
 - (b) the reason why the claim ceases to have effect is not a permitted reason.
- (2) The permitted reasons are—
 - (a) the claim ceasing to have effect under regulations under section 8B (landlord certified as community housing provider);
 - (b) an order being made under section 23(1) (landlord’s redevelopment rights);
 - (c) the claim ceasing to have effect under section 30 (compulsory acquisition procedures);
 - (d) the claim ceasing to have effect under section 31 (designation for public benefit);
 - (e) the claim ceasing to have effect under section 74(3) (estate management schemes).
- (3) If a tenant is liable under this section, the nominee purchaser in relation to the claim (if any) is also liable.
- (4) If more than one person is liable under this section, each of those persons is jointly and severally liable.
- (5) In this section—
 - “nominee purchaser”—
 - (a) includes each person constituting the nominee purchaser at the relevant time;
 - (b) does not include any person whose appointment as nominee purchaser has, before the relevant time, terminated in accordance with section 15(3) or 16(1);
 - “non-litigation costs” means costs that are or could be incurred by a landlord as a result of a claim under Chapter 1 other than in connection with proceedings before a court or tribunal;
 - “prescribed” means prescribed by, or determined in accordance with, regulations made—

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Leasehold and Freehold Reform Act 2024, Section 39. (See end of Document for details)

- (a) in relation to England, by the Secretary of State;
 - (b) in relation to Wales, by the Welsh Ministers;
- “relevant time” means the time the claim ceases to have effect;
- “tenant”—
- (a) includes a person that is not a participating tenant in relation to the claim at the relevant time but that has at any time been such a tenant, but
 - (b) does not include such a person if, before the relevant time, the person assigned the lease in respect of which they were a participating tenant to another person that became a participating tenant in accordance with section 14(4).

- (6) For the purposes of this section—
- (a) a reference to a claim “ceasing to have effect” includes—
 - (i) the claim having been withdrawn or deemed withdrawn;
 - (ii) the claim having been set aside by the court or the appropriate tribunal;
 - (iii) the claim ceasing to have effect by virtue of the tenant failing to comply with an obligation arising from the claim;
 - (b) a claim does not cease to have effect if it results in the acquisition of the freehold.

89C Liability for costs: successful claims under Chapter 1

- (1) A nominee purchaser in relation to a claim to acquire a freehold of premises under Chapter 1 is liable to the reversioner for the amount referred to in subsection (2) if—
- (a) the nominee purchaser acquires the freehold,
 - (b) the price payable by the nominee purchaser for the freehold under section 32 is less than a prescribed amount,
 - (c) the reversioner incurs costs as a result of the claim,
 - (d) the costs are incurred other than in connection with proceedings before a court or tribunal,
 - (e) the costs incurred by the reversioner are reasonable, and
 - (f) the costs are more than the price payable.
- (2) The amount is the difference between—
- (a) the price payable by the nominee purchaser, and
 - (b) the costs incurred by the reversioner, or, if those costs exceed a prescribed amount, that prescribed amount.
- (3) In this section—
- “nominee purchaser”—
- (a) includes each person constituting the nominee purchaser at the relevant time;
 - (b) does not include any person whose appointment as nominee purchaser has, before the relevant time, terminated in accordance with section 15(3) or 16(1);
- “prescribed” means prescribed by, or determined in accordance with, regulations made—

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Leasehold and Freehold Reform Act 2024, Section 39. (See end of Document for details)

- (a) in relation to England, by the Secretary of State;
 - (b) in relation to Wales, by the Welsh Ministers;
- “relevant time” means the time the nominee purchaser acquires the freehold.

89D Liability for costs: leasebacks under Chapter 1

- (1) A nominee purchaser in relation to a claim to acquire a freehold of premises under Chapter 1 is liable to a freeholder for a prescribed amount in respect of non-litigation costs if—
- (a) the nominee purchaser acquires a freehold of premises under Chapter 1, and
 - (b) in connection with the acquisition, the nominee purchaser grants the freeholder a lease of a flat or other unit in accordance with section 36 and Part 3A of Schedule 9.
- (2) In this section—
- “nominee purchaser”—
- (a) includes each person constituting the nominee purchaser at the relevant time;
 - (b) does not include any person whose appointment as nominee purchaser has, before the relevant time, terminated in accordance with section 15(3) or 16(1);
- “non-litigation costs” means costs that are or could be incurred by a freeholder as a result of the grant of a lease of a flat or other unit in accordance with section 36 and Part 3A of Schedule 9, other than in connection with proceedings before a court or tribunal;
- “prescribed” means prescribed by, or determined in accordance with, regulations made—
- (a) in relation to England, by the Secretary of State;
 - (b) in relation to Wales, by the Welsh Ministers;
- “relevant time” means the time the nominee purchaser acquires the freehold.

89E Liability for costs: failed claims under Chapter 2

- (1) A tenant is liable to the competent landlord for a prescribed amount in respect of non-litigation costs if—
- (a) the tenant’s claim to acquire a new lease of a flat under Chapter 2 ceases to have effect, and
 - (b) the reason why the claim ceases to have effect is not a permitted reason.
- (2) The permitted reasons are—
- (a) an order being made under section 47(1) (landlord’s redevelopment rights);
 - (b) the claim ceasing to have effect under section 55 (compulsory acquisition procedures).
- (3) For the purposes of this section—

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Leasehold and Freehold Reform Act 2024, Section 39. (See end of Document for details)

- (a) “prescribed” means prescribed by, or determined in accordance with, regulations made—
 - (i) in relation to England, by the Secretary of State;
 - (ii) in relation to Wales, by the Welsh Ministers;
- (b) “non-litigation costs” are costs that are or could be incurred by a landlord as a result of a claim under Chapter 2 other than in connection with proceedings before a court or tribunal;
- (c) a reference to a claim “ceasing to have effect” includes—
 - (i) the claim having been withdrawn or deemed withdrawn;
 - (ii) the claim having been set aside by the court or the appropriate tribunal;
 - (iii) the claim ceasing to have effect by virtue of the tenant failing to comply with an obligation arising from the claim;
- (d) a claim does not cease to have effect if it results in the acquisition of the new lease;
- (e) where a claim ceases to have effect by virtue of a person who was a tenant assigning their lease without assigning the claim (see section 43), “tenant” includes that person.

89F Liability for costs: successful claims under Chapter 2

- (1) A tenant is liable to the competent landlord for the amount referred to in subsection (2) if—
 - (a) the tenant makes a claim to acquire a new lease under Chapter 2,
 - (b) the tenant acquires the new lease,
 - (c) the price payable by the tenant for the new lease under section 56 is less than a prescribed amount,
 - (d) the competent landlord incurs costs as a result of the claim,
 - (e) the costs are incurred other than in connection with proceedings before a court or tribunal,
 - (f) the costs incurred by the competent landlord are reasonable, and
 - (g) the costs are more than the price payable.
- (2) The amount is the difference between—
 - (a) the price payable by the tenant, and
 - (b) the costs incurred by the competent landlord, or, if those costs exceed a prescribed amount, that prescribed amount.
- (3) In this section, “prescribed” means prescribed by, or determined in accordance with, regulations made—
 - (a) in relation to England, by the Secretary of State;
 - (b) in relation to Wales, by the Welsh Ministers.

89G Powers to require allocation of amounts paid under sections 89B to 89F

- (1) The appropriate authority may by regulations provide for circumstances in which, if the reversioner receives an amount under section 89B or 89C (liability for costs arising under Chapter 1), the reversioner is required to pay a proportion of that amount to one or more of the other relevant landlords.

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Leasehold and Freehold Reform Act 2024, Section 39. (See end of Document for details)

See section 9 for the meanings of “reversioner” and “other relevant landlord”.

- (2) The appropriate authority may by regulations provide for circumstances in which, if the competent landlord receives an amount under section 89E or 89F (liability for costs arising under Chapter 2), the competent landlord is required to pay a proportion of that amount to one or more of the other landlords.

See section 40 for the meanings of “competent landlord” and “other landlord”.

- (3) Regulations under this section may make provision for the appropriate tribunal to order payment.
- (4) In this section, “appropriate authority” means—
- (a) in relation to England, the Secretary of State;
 - (b) in relation to Wales, the Welsh Ministers.

89H Security for costs under Chapters 1 and 2

- (1) A lease, transfer, contract or other arrangement is of no effect to the extent it requires a tenant or nominee purchaser to pay another person an amount in anticipation of the tenant or nominee purchaser being liable to a person in respect of their costs as a result of a claim under Chapter 1 or 2.
- (2) The appropriate tribunal may, on the application of a person (the “applicant”) to which a nominee purchaser in relation to a claim under Chapter 1 may be liable by virtue of section 89D (leasebacks), order the nominee purchaser to pay an amount—
- (a) to the applicant, or
 - (b) into the tribunal,
- in anticipation of the nominee purchaser being so liable.”
- (10) In Schedule 7, in paragraph 2(2) (terms of enfranchisement), omit the words from “and in the absence” to “assurance”.
- (11) In consequence of the amendments made by subsections (2) to (10)—
- (a) in section 15(7) (appointment and replacement of nominee purchaser)—
 - (i) for the words from “he shall not be liable” to “but if” substitute “and”;
 - (ii) for “under section 33” substitute “as otherwise referred to in section 89A”;
 - (b) in section 31(5) (designation for inheritance tax purposes), omit paragraph (a);
 - (c) in the italic heading before section 32, omit “and costs of enfranchisement”;
 - (d) in section 52 (withdrawal from acquisition of new lease), omit subsection (3);
 - (e) in section 74 (effect of estate management schemes on freehold claims), omit subsection (4).

Commencement Information

- II** S. 39 not in force at Royal Assent, see s. 124(3)

Status:

This version of this provision is prospective.

Changes to legislation:

There are currently no known outstanding effects for the Leasehold and Freehold Reform Act 2024, Section 39.