

SECURE TENANCIES (VICTIMS OF DOMESTIC ABUSE) BILL [HL]

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Secure Tenancies (Victims of Domestic Abuse) Bill [HL] as brought from the House of Lords on 13 March 2018 (Bill 183).

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

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Overview of the Bill

The Secure Tenancies (Victims of Domestic Abuse) Bill [HL] contains measures to ensure that lifetime tenants of social homes who are victims of domestic abuse are granted a further lifetime tenancy where a) they either need to leave or have left their home to escape domestic abuse and are being re-housed by a local authority, or (b) where they are a joint tenant and wish to remain a tenant of their social home after the perpetrator has left or been removed and the local authority decides to grant them a further sole tenancy in their current home.

Policy background

- 1 This is a Bill to require local authorities, when re-housing a person, or offering a person a new sole tenancy in the same home, where that person has or had a “lifetime tenancy” of social housing, to grant such a person a new lifetime tenancy in circumstances where the local authority is satisfied that the person or a member of their household is or has been a victim of domestic abuse carried out by another person, and the new tenancy is being granted for reasons connected with that abuse.
- 2 The Bill extends to those who have lost their lifetime tenancy after they have fled their home as well as to those with an existing tenancy applying to move, and applies to all lifetime tenants of social housing, whether the person being re-housed and offered a new tenancy has a tenancy agreement with a local authority or a Private Registered Provider of social housing (housing association).
- 3 The Bill also extends the same level of protection to joint lifetime tenants of local authorities who have suffered domestic abuse but wish to remain in their home after the perpetrator has left or been removed, by ensuring that, if the local authority decides to grant the victim a further tenancy in these circumstances, it must be a lifetime tenancy .
- 4 The Bill delivers on a commitment given by the Government at Lords Report Stage of the Housing and Planning Act 2016 which was reiterated in the Conservative Party’s 2017 Manifesto.

Legal background

- 5 Currently, under the Housing Act 1985 (‘the 1985 Act’), local authority landlords may grant their tenants either secure periodic tenancies or secure flexible tenancies. Secure periodic tenancies (commonly referred to as ‘lifetime tenancies’) have no fixed end date and can only be brought to an end by the landlord obtaining a possession order on one of the grounds for possession set out in Schedule 2 to the 1985 Act, which are mainly fault grounds. Flexible tenancies, which were introduced by the Localism Act 2011, are tenancies granted for a fixed term of no less than two years. It is for the landlord to decide which type of tenancy to grant.
- 6 Schedule 7 to the Housing and Planning Act 2016 (‘the HPA 2016’) amends the 1985 Act to prevent the creation in future of secure periodic tenancies (referred to in the HPA 2016 as ‘old-style secure tenancies’), except in limited circumstances. It also removes the power to grant new flexible tenancies and instead requires that new shorter term tenancies should generally be granted. The HPA 2016 includes a power for the Secretary of State to prescribe in regulations the circumstances in which a local authority may still grant an old-style secure tenancy.

Territorial extent and application

- 7 The Bill extends to England and Wales but applies to England only. There are no minor or consequential effects outside England and a legislative consent motion is not required.
- 8 The matters to which the provisions of the Bill relate would be within the legislative competence of the Northern Ireland Assembly if corresponding provisions in relation to Northern Ireland were included in an Act of the Northern Ireland Assembly as a transferred matter. They would be within the legislative competence of the Scottish Parliament if corresponding provisions in relation to Scotland were included in an Act of the Scottish Parliament, and within the legislative competence of the National Assembly for Wales if corresponding provisions in relation to Wales were included in an Act of the National Assembly of Wales.
- 9 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom. The table also summarises the position regarding legislative consent motions and matters relevant to Standing Orders Nos. 83J to 83X of the Standing Orders of the House of Commons relating to Public Business.

Commentary on provisions of Bill

Clause 1: Duty to grant old-style secure tenancies: victims of domestic abuse

- 10 This clause would amend the 1985 Act to provide that the limited exceptions where an old-style secure tenancy must still be offered by a local authority include a new exception for victims of domestic abuse who have left their existing social home, or are applying to move, or who wish to be granted a further tenancy in their existing social home after the perpetrator has left or been removed. It also inserts a definition of "abuse" and "domestic abuse".

Clause 2: Extent, commencement and short title

- 11 This clause provides that the provisions of the Bill extend to England and Wales only. It also provides for commencement of the provisions of the Bill.
- 12 This clause also sets out the short title for the Bill on receiving Royal Assent as the Secure Tenancies (Victims of Domestic Abuse) Act 2018.

Commencement

- 13 Clause 2 comes into force on the day on which the Act is passed. Clause 1 comes into force on such day as the Secretary of State may by regulations appoint.

Financial implications of the Bill

- 14 The Bill imposes no significant costs on any public sector organisation and is not expected to represent any significant change to public service manpower and there are no tax implications.

Parliamentary approval of financial costs or charges imposed

15 Neither a money resolution nor a ways and means resolution are required for the bill.

Compatibility with the European Convention on Human Rights

16 Section 19 of the Human Rights Act 1998 requires the Minister in charge of a Bill in either House of Parliament to make a statement about the compatibility of the provisions of the Bill with the Convention rights (as defined in section 1 of the Act).

17 In the opinion of the Secretary of State for Housing, Communities and Local Government, The Rt Hon Sajid Javid MP, the provisions of the Bill are compatible with the Convention rights and he has made a statement to that effect.

Related documents

18 The following documents are relevant to the Bill and can be read at the stated locations:

- The Housing and Planning Act 2016 is available at:

<http://www.legislation.gov.uk/ukpga/2016/22/enacted>

- The Housing Act 1985 is available at:

<http://www.legislation.gov.uk/ukpga/1985/68/contents>

Annex A - Territorial extent and application in the United Kingdom

The Bill would form part of the law of, and therefore extend to, England and Wales only, and the Bill provides that the provisions of the Bill would apply to England only. The provisions of the Bill have no effects outside England, minor or consequential.

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of the National Assembly for Wales?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion needed?
1 [Part Title]								
Clause 1	Yes	No	No	No	Yes	Yes	Yes	No
Clause 2	Yes	No	No	No	Yes	Yes	Yes	No

Subject matter and legislative competence of devolved legislatures

The devolved administrations could make corresponding provision (legislate to do in their territory what is being put forward in this Bill as regards England). The Welsh Assembly has corresponding competence in relation to Wales (per section 94 of the Government of Wales Act 2006), Scotland has corresponding competence in relation to Scotland (per section 29 of the Scotland Act 1998), and Northern Ireland has corresponding competence in relation to Northern Ireland (per section 6 of the Northern Ireland Act 1998). Examples of Acts passed by the Devolved Administrations in relation to the subject matter of this Bill, Housing, include the Housing (Wales) Act 2014, the Housing (Scotland) Act 2014, and the Secure Tenancies (Notice) Regulations (Northern Ireland) 2014.

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