House of Commons

Committee Stage: Tuesday 30 January 2024

Leasehold and Freehold Reform Bill
(Amendment Paper)

This document lists all amendments tabled to the Leasehold and Freehold Reform Bill. Any withdrawn amendments are listed at the end of the document. The amendments are arranged in the order in which it is expected they will be decided.

This document should be read alongside the Chair's provisional Selection and Grouping, which sets out the order in which the amendments will be debated.

Richard Fuller **145**

Clause 41, page 66, line 28, at end insert—

"(c) only where they are incurred in the provision of services or the carrying out of works that would not ordinarily be provided by local authorities."

Member's explanatory statement

This amendment would mean that services or works that would ordinarily be provided by local authorities are not relevant costs for the purposes of estate management charges.

Matthew Pennycook **150**

Mike Amesbury

Clause 41, page 66, line 28, at end insert—

"(c) where they are incurred in the provision of services or the carrying out of works, only where the requirement for those services or works is not the result of defects in the original construction."

Member's explanatory statement

This amendment would ensure that services or works on private or mixed-use estate that are required as a result of defects in its construction are not relevant costs for the purposes of estate management charges.

Lee Rowley **Gov 53**

Clause 43, page 68, line 7, leave out from "not" to end of line 12 and insert "given a future demand notice in respect of the costs before the end of the period of 18 months beginning with the date on which the costs were incurred.

(2) A "future demand notice" is a notice in writing that—

(a) relevant costs have been incurred, and

(b) the owner will subsequently be required to contribute to the costs by the payment of an estate management charge.

(3) A future demand notice must—

(a) be in the specified form,

(b) contain the specified information, and

(c) be given in a specified manner.

"Specified" means specified in regulations made by the Secretary of State.

(4) The regulations may, among other things, specify as information to be contained in a future demand notice—

(a) an amount estimated as the amount of the costs incurred (an "estimated costs amount");

(b) an amount which the owner is expected to be required to contribute to the costs (an "expected contribution");

(c) a date on or before which it is expected that payment of the estate management charge will be demanded (an "expected demand date").

(5) Regulations that include provision by virtue of subsection (4) may also provide for a relevant rule to apply in a case where—

(a) the owner has been given a future demand notice in respect of relevant costs, and

(b) a demand for payment of an estate management charge as a contribution to those costs is served on the owner more than 18 months after the costs were incurred.

(6) The relevant rules are—

(a) in a case where a future demand notice is required to contain an estimated costs amount, that the owner is liable to pay the charge only to the extent it reflects relevant costs that do not exceed the estimated costs amount;

(b) in a case where a future demand notice is required to contain an expected contribution, that the owner is liable to pay the charge only to the extent it does not exceed the expected contribution;

(c) in a case where a future demand notice is required to contain an expected demand date, that, if the demand is served after the expected demand date, the owner is not liable to pay the charge to the extent it reflects any of the costs.

(7) Regulations that provide for the relevant rule in subsection (6)(c) to apply may also provide that, in a case set out in the regulations, the rule is to apply as if,

for the expected demand date, there were substituted a later date determined in accordance with the regulations.

(8) A statutory instrument containing regulations under this section is subject to the negative procedure."

Member's explanatory statement

This amendment would require notice of future service charge demands (as envisaged in clause 43(b)) to be given in accordance with regulations.

Richard Fuller **139**

Clause 44, page 68, line 31, at end insert—

"(3A) Where the appropriate tribunal has made a determination on an application under subsection (1) or (3) that an estate management charge is not payable because the costs incurred by an estate manager are not relevant costs under section 41(1)(b) (services or works to be of a reasonable standard), the tribunal may impose a penalty on the estate manager which is payable to the residents of affected managed dwellings; and the tribunal may determine how much of the penalty is to be paid to the residents of each affected managed dwelling."

Member's explanatory statement

This amendment would enable the tribunal to impose a financial penalty, payable to residents of affected managed dwellings, where estate management work has not been completed to a reasonable standard.

Richard Fuller **140**

Clause 44, page 69, line 6, at end insert—

"(7) The Secretary of State must by regulations provide—

(a) that an estate manager's litigation costs incurred as a consequence of an application under this section may not be recouped through the estate management charge, except where the tribunal considers it just and equitable for such costs to be so recouped;

(b) for the right of an applicant under this section to claim litigation costs incurred as a consequence of an application under this section from the estate manager, where the tribunal considers it just and equitable in the circumstances.

(8) Regulations under subsection (7) may amend primary legislation."

Member's explanatory statement

This amendment would require the Secretary of State to make regulations preventing estate managers from passing their litigation costs on to residents through the estate management charge, and providing for residents to be able to reclaim their litigation costs from an estate manager.

Richard Fuller **141**

Clause 49, page 72, line 26, leave out "£5,000" and insert "£50,000"

Member's explanatory statement

This amendment would increase from £5,000 to £50,000 the maximum amount of damages which may be awarded for a failure on the part of an estate manager to comply with the obligations imposed by clauses 45 to 48 (rights relating to estate management charges).

Richard Fuller **143**

Clause 52, page 74, line 10, leave out "£1,000" and insert "£10,000"

Member's explanatory statement

This amendment would increase from £1,000 to £10,000 the maximum amount of damages which may be awarded for a failure on the part of an estate manager to comply with the provisions of clause 51 (duty of estate managers to publish administration charge schedules).

Richard Fuller **144**

Clause 52, page 74, line 13, at end insert—

"(5) An estate manager may not for any purpose set off damages payable by the estate manager to the owner under subsection (2)(b) against any present or future liability of the owner to the estate manager."

Member's explanatory statement

This amendment would prevent estate managers from recouping damages from residents through subsequent charges.

Matthew Pennycook **9**

Mike Amesbury

Page 77, line 1, leave out Clause 59

Member's explanatory statement

See explanatory statement to NC4.

Lee Rowley **Gov 54**

Clause 60, page 80, line 13, at end insert—

""the LTA 1987" means the Landlord and Tenant Act 1987;"

Member's explanatory statement

This amendment and Amendment 47 align references to the Landlord and Tenant Act 1987 with other references to Acts.

Lee Rowley **Gov 55**

Clause 62, page 80, line 33, at end insert—

"(1A) A power to make regulations under Part 4A also includes power to make different provision for different areas."

Member's explanatory statement

This amendment would expressly provide that a power to make regulations under the new Part to be inserted after Part 4 includes the power to make different provision for different areas.

Lee Rowley **Gov 56**

Clause 62, page 81, line 13, at end insert—

"(4A) If a draft of a statutory instrument containing regulations under Part 4A would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument."

Member's explanatory statement

This amendment would provide that a draft of a statutory instrument containing regulations under the new Part to be inserted after Part 4 is not to be treated as a hybrid instrument (where it would otherwise be treated as such).

Lee Rowley **Gov NC6**

To move the following Clause—

"Notice of future service charge demands

In section 20B of the LTA 1985 (time limit on making service charge demands), in subsection (2), for the words from "notified in writing" to the end substitute "given a future demand notice in respect of those costs.

(3) A "future demand notice" is a notice in writing that—

(a) relevant costs have been incurred, and

(b) the tenant will subsequently be required under the terms of the lease to contribute to the costs by the payment of a variable service charge.

(4) A future demand notice must—

(a) be in the specified form,

(b) contain the specified information, and

(c) be given to the tenant in a specified manner.

"Specified" means specified in regulations made by the appropriate authority.

(5) The regulations may, among other things, specify as information to be contained in a future demand notice—

(a) an amount estimated as the amount of the costs incurred (an "estimated costs amount");

(b) an amount which the tenant is expected to be required to contribute to the costs (an "expected contribution");

(c) a date on or before which it is expected that payment of the variable service charge will be demanded (an "expected demand date").

(6) Regulations that include provision by virtue of subsection (5) may also provide for a relevant rule to apply in a case where—

(a) the tenant has been given a future demand notice in respect of relevant costs, and

(b) a demand for payment of a variable service charge as a contribution to those costs is served on the tenant more than 18 months after the costs were incurred.

(7) The relevant rules are—

(a) in a case where a future demand notice is required to contain an estimated costs amount, that the tenant is liable to pay the service charge only to the extent it reflects relevant costs that do not exceed the estimated costs amount;

(b) in a case where a future demand notice is required to contain an expected contribution, that the tenant is liable to pay the service charge only to the extent it does not exceed the expected contribution;

(c) in a case where a future demand notice is required to contain an expected demand date, that, if the demand is served after the expected demand date, the tenant is not liable to pay the service charge to the extent it reflects any of the costs.

(8) Regulations that provide for the relevant rule in subsection (7)(c) to apply may also provide that, in a case set out in the regulations, the rule is to apply as if, for the expected demand date, there were substituted a later date determined in accordance with the regulations.

(9) Regulations under this section—

(a) are to be made by statutory instrument;

(b) may make provision generally or only in relation to specific cases;

(c) may make different provision for different purposes;

(d) may include supplementary, incidental, transitional or saving provision.

(10) A statutory instrument containing regulations under this section is subject to the negative procedure."

Member's explanatory statement

This new clause, to be inserted after clause 26, would require notice of future service charge demands under section 20B of the Landlord and Tenant Act 1985 to be given in accordance with regulations.

Lee Rowley **Gov NC7**

To move the following Clause—

"Restriction on recovery of non-litigation costs of enfranchisement, extension and right to manage

After section 20I of the LTA 1985 (as inserted by section 31) insert—

"20J Limitation of variable service charges: non-litigation costs of enfranchisement etc

(1) Non-litigation costs incurred, or to be incurred, by a landlord in connection with a relevant claim are not to be regarded as relevant costs to be taken into account in determining the amount of a variable service charge payable by a tenant who is a non-participating tenant in relation to that claim.

(2) A lease, contract or other arrangement is of no effect to the extent it makes provision to the contrary.

(3) In this section and section 20K—

"the 1967 Act" means the Leasehold Reform Act 1967;

"the 1993 Act" means the Leasehold Reform, Housing and Urban Development Act 1993;

"the 2002 Act" means the Commonhold and Leasehold Reform Act 2002;

"non-litigation costs" means costs incurred, or to be incurred, other than in connection with proceedings before a court or tribunal;

"non-participating tenant", in relation to a relevant claim, means a tenant who is not a participating tenant;

"participating tenant", in relation to a relevant claim, means a tenant who—

(a) in the case of a claim under Part 1 of the 1967 Act or Chapter 1 or 2 of Part 1 of the 1993 Act, is making the claim;

(b) in the case of a claim under Chapter 1 of Part 2 of the 2002 Act, is or has been a member of the RTM company making the claim;

"relevant claim" means—

(a) a claim under Part 1 of the 1967 Act (enfranchisement and extension of leases of houses);

(b) a claim under Chapter 1 or 2 of Part 1 of the 1993 Act (enfranchisement and extension of leases of flats);

(c) a claim under Chapter 1 of Part 2 of the 2002 Act (right to manage);

"RTM company" has the same meaning as in Chapter 1 of Part 2 of the 2002 Act (see section 71 of that Act).

(4) For provision about when a participating tenant is and is not liable in respect of non-litigation costs in relation to a relevant claim, see—

(a) section 19A of the 1967 Act;

(b) section 89A of the 1993 Act;

(c) section 87A of the 2002 Act.

20K Right to claim where non-litigation costs charged contrary to section 20J

(1) This section applies if, despite section 20J(1), a non-participating tenant in relation to a relevant claim pays a prohibited amount to any person.

(2) For the purposes of this section, a "prohibited amount" is an amount that is—

(a) demanded as a variable service charge, and

(b) attributable to non-litigation costs incurred, or to be incurred, in connection with the claim.

(3) The appropriate tribunal may, on the application of the tenant, order the person to which the prohibited amount was paid to return all or any part of the amount to the tenant.""

Member's explanatory statement

This new clause, to be inserted after clause 35, would prevent variable service charges being paid by a tenant for non-litigation costs in connection with enfranchisement, extension and right to manage claims made by other tenants.

Lee Rowley **Gov NC8**

To move the following Clause—

"Appointment of manager: power to vary or discharge orders

In section 24 of the LTA 1987 (appointment of manager by a tribunal)—

(a) in subsection (9), after "interested" insert "or of its own motion";

(b) in subsection (9A), omit "on the application of any relevant person"."

Member's explanatory statement

This new clause, to be inserted after NC7, would enable a tribunal to vary or discharge an order to appoint a manager of premises without an application, and require the tribunal to be satisfied that the variation or discharge is just and convenient and would not lead to a recurrence of the circumstances that led to the order being made.

Lee Rowley **Gov NC9**

To move the following Clause—

"Appointment of manager: breach of redress scheme requirements

In section 24(2) of the LTA 1987 (grounds for appointment of manager)—

(a) omit the "or" at the end of paragraph (ac);

(b) after paragraph (ac) insert—

"(ad) where the tribunal is satisfied—

(i) that any relevant person has breached regulations under section (*Leasehold and estate management: redress schemes*)(1) of the Leasehold and Freehold Reform Act 2024 (requirement to join redress scheme), and

(ii) that it is just and convenient to make the order in all the circumstances of the case;"."

Member's explanatory statement

This new clause, to be inserted after NC8, would provide for a breach of regulations under the new Part after Part 4 (see NC15) to be grounds for the appointment of a manager under section 24 of the Landlord and Tenant Act 1987.

Lee Rowley **Gov NC10**

To move the following Clause—

"Notices of complaint

(1) An owner of a managed dwelling may give a notice of complaint to an estate manager.

(2) A notice of complaint is a notice that—

(a) sets out one or more complaints listed in subsection (3) in relation to the estate manager,

(b) states that, if the complaints are not remedied by the end of the qualifying period (see subsection (7)), the owner may make an application under section (*Appointment of substitute manager*) (application to appoint substitute manager), and

(c) contains any other information specified in regulations made by the Secretary of State.

(3) The complaints are—

(a) that the estate manager—

(i) is in breach of an obligation in relation to the dwelling, or

(ii) in the case of an obligation dependent on notice, would be in breach of such an obligation but for the fact that it has not been reasonably practicable to give the estate manager the appropriate notice;

(b) that sums payable by way of estate management charges by the owner, or, if the owner is a tenant or sub-tenant, by the landlord or superior landlord, are not being applied in an efficient or effective manner;

(c) that an estate management charge payable, or proposed or likely to be payable, by the owner, or, if the owner is a tenant or sub-tenant, by the landlord or superior landlord, is unreasonable;

(d) that an administration charge payable, or proposed or likely to be payable, by the owner, or, if the owner is a tenant or sub-tenant, by the landlord or superior landlord, is unreasonable;

(e) that the estate manager has failed to comply with a relevant provision of a code of practice approved by the Secretary of State under section 87 of the LRHUDA 1993 (codes of management practice).

(4) A notice of complaint may be given jointly by two or more persons if each of those persons is entitled to give a notice to the estate manager (whether or not in respect of the same dwelling).

(5) For that purpose, it is not necessary for every complaint set out in the notice, or every part of each complaint, to apply in relation to each dwelling owned by each of the persons giving the notice.

(6) The Secretary of State may by regulations make provision for determining when a notice of complaint is given.

(7) In this section and sections (*Appointment of substitute manager*) to (*Appointment orders: further provision*)—

"notice of complaint" means a notice of complaint under this section;

"qualifying period", in relation to a notice of complaint, means the period of six months beginning with the date on which the notice is given.

(8) A statutory instrument containing regulations under this section is subject to the negative procedure."

Member's explanatory statement

This new clause, to be inserted after clause 55, would allow owners of managed dwellings to give their estate manager a notice of complaint, as a precursor to making an application for appointment of a substitute manager under NC11.

Lee Rowley **Gov NC11**

To move the following Clause—

"Appointment of substitute manager

(1) The appropriate tribunal may, on the application of an owner of a managed dwelling, by order appoint a person to carry out, in place of an estate manager, such functions in connection with the estate management relating to that dwelling as the tribunal thinks fit.

(2) Section (*Conditions for applying for appointment order*) sets out conditions that must be met for a person to make an application.

(3) Section (*Criteria for determining whether to make appointment order*) sets out criteria the appropriate tribunal must consider in deciding whether to make an appointment order.

(4) Section (*Appointment orders: further provision*) makes further provision in relation to appointment orders.

(5) In this section and sections (*Conditions for applying for appointment order*) to (*Appointment orders: further provision*)—

"appointment order" means an order under subsection (1);

"substitute manager" means a person appointed under an appointment order."

Member's explanatory statement

This new clause, to be inserted after NC10, would allow owners of managed dwellings to apply for the appointment of a substitute estate manager.

Lee Rowley **Gov NC12**

To move the following Clause—

"Conditions for applying for appointment order

(1) An owner of a managed dwelling may make an application for an appointment order in relation to an estate manager only if—

(a) the owner has given a notice of complaint to the estate manager,

(b) the qualifying period in relation to that notice has ended,

(c) the owner has, after the end of the qualifying period but before the application is made, given further notice to the estate manager (a "final warning notice"), and

(d) the condition in subsection (5) is met in relation to the final warning notice.

(2) If the owner gave the notice of complaint jointly with other persons, the owner may not make an application for an appointment order unless—

(a) the owner does so jointly with each of those other persons that remain owners of managed dwellings in relation to the estate manager, and

(b) the final warning notice was given jointly by the owner and each of those other persons.

(3) The owner, or the owners acting jointly in accordance with subsection (2), may make an application jointly with an owner of a managed dwelling who did not give the notice of complaint to the estate manager (a "joined applicant"), if the final warning notice was given jointly by the owner or owners and the joined applicant.

(4) A final warning notice must—

(a) specify—

(i) the name of the person (or persons) giving the notice,

(ii) the address of their dwelling (or the addresses of each of their dwellings), and

(iii) if different, an address (or addresses) at which a person may give notice to that person (or one or more of those persons) in connection with the application,

(b) state that the person or persons giving the notice intend to make an application for an appointment order in respect of the dwelling specified in the notice,

(c) specify the grounds on which the appropriate tribunal would be asked to make such an order and the matters that would be relied on by the person or persons for the purpose of establishing those grounds,

(d) where those matters are capable of being remedied by the estate manager, require the estate manager, within a reasonable period specified in the notice, to take specified steps for the purpose of remedying them,

(e) state that, if those matters are remedied, the person or persons will not make an application, and

(f) contain any other information specified in regulations made by the Secretary of State.

(5) The condition in this subsection is met if—

(a) the matters specified in the final warning notice were not capable of being remedied, or

(b) the period specified in the final warning notice for the matters to be remedied has expired without the estate manager having taken the required steps to remedy them.

(6) The appropriate tribunal may by order dispense with a requirement in subsection (1), (2) or (3) if the tribunal is satisfied in light of the urgency of the case that it would not be reasonably practicable for the requirement to be satisfied.

(7) But the tribunal may, when so ordering, direct that such other notices are given, or such other steps are taken, as it thinks fit.

(8) If the tribunal makes an order under subsection (6), an application for an appointment order may be made only if any notices required to be given, and any other steps required to be taken, by virtue of the order have been given or taken.

(9) The Secretary of State may by regulations make provision for determining when a notice under this section is given.

(10) A statutory instrument containing regulations under this section is subject to the negative procedure."

Member's explanatory statement

This new clause, to be inserted after NC11, would set out conditions for an application to be made under NC11.

Lee Rowley **Gov NC13**

To move the following Clause—

"Criteria for determining whether to make appointment order

(1) The appropriate tribunal may not make an appointment order in relation to an estate manager if the estate manager is specified, or is of a description specified, in regulations made by the Secretary of State.

(2) The appropriate tribunal may make an appointment order only if the tribunal is satisfied that—
  (a) it is just and convenient to make the order in all the circumstances of the case, and
  (b) either—
    (i) those circumstances include those set out in subsection (3), or
    (ii) there are other circumstances that make it just and convenient for the order to be made.

(3) The circumstances are—
  (a) that the estate manager is—
    (i) in breach of an obligation in relation to a dwelling, or
    (ii) in the case of an obligation dependent on notice, would be in breach of the obligation but for the fact that it has not been reasonably practicable to give the estate manager the appropriate notice;
  (b) that an estate management charge payable, or proposed or likely to be payable, is unreasonable;
  (c) that an administration charge payable, or proposed or likely to be payable, is unreasonable;
  (d) that the estate manager has failed to comply with a relevant provision of a code of practice approved by the Secretary of State under section 87 of the LRHUDA 1993 (codes of management practice);
  (e) that the estate manager has breached regulations under section (*Leasehold and estate management: redress schemes*)(1) of this Act (requirement to be member of redress scheme).

(4) For the purposes of subsection (3)(b), an estate management charge is to be taken to be unreasonable if—
  (a) the amount is unreasonable having regard to the items for which it is payable,
  (b) the items for which it is payable are of an unnecessarily high standard, or
  (c) the items for which it is payable are of an insufficient standard with the result that additional charges are or may be incurred.

(5) An appointment order may be made despite the fact that—
  (a) a period specified in a final warning notice was not a reasonable period, or

(b) a final warning notice otherwise failed to comply with a requirement under section (*Conditions for applying for appointment order*)(4).

(6) A statutory instrument containing regulations under this section is subject to the negative procedure."

Member's explanatory statement

This new clause, to be inserted after NC12, would set out criteria for the making of an order under NC11.

Lee Rowley **Gov NC14**

To move the following Clause—

"Appointment orders: further provision

(1) An appointment order may—

(a) make provision with respect to such matters relating to the exercise by the substitute manager of their functions under the order, and such incidental or ancillary matters, as the tribunal thinks fit, including—

(i) for rights and liabilities arising under contracts or other arrangements to which the substitute manager is not party to become rights and liabilities of the substitute manager;

(ii) for the substitute manager to be entitled to prosecute claims in respect of causes of action (whether contractual or tortious) accruing before or after the date of their appointment;

(iii) for remuneration to be paid to the substitute manager by the estate manager;

(iv) for the substitute manager's functions to be exercisable during a specified period;

(b) be subject to such conditions as the tribunal thinks fit;

(c) be subject to suspension on terms set by the tribunal.

(2) The appropriate tribunal may, on the application of any interested person or of its own motion, vary or discharge (whether conditionally or unconditionally) an appointment order.

(3) The tribunal may not vary or discharge an appointment order unless the tribunal is satisfied that—

(a) the variation or discharge will not result in a recurrence of the circumstances which led to the appointment order being made, and

(b) it is just and convenient in all the circumstances of the case to vary or discharge the order.

(4) In deciding—

(a) the terms of an appointment order, or

(b) whether or how to vary or discharge an appointment order,

the appropriate tribunal must have regard to whether the estate manager in relation to which the order is made has breached regulations under section

(*Leasehold and estate management: redress schemes*)(1) (requirement to be member of redress scheme)."

Member's explanatory statement

This new clause, to be inserted after NC13, would set out further provision about orders to appoint substitute estate managers under NC11.

Lee Rowley **Gov NC15**

To move the following Clause—

"Leasehold and estate management: redress schemes

(1) The Secretary of State may by regulations require a person that carries out estate management in respect of a dwelling in England in a relevant capacity to be a member of a redress scheme.

(2) A person carries out estate management in a "relevant capacity" if they do so—
  (a) as a relevant landlord of the dwelling, or
  (b) as an estate manager.

(3) But a person may not be required to be a member of a redress scheme under this section if they carry out estate management only—
  (a) as a tenant, or
  (b) as an agent.

(4) A "redress scheme" is a scheme—
  (a) which provides for a complaint against a member of the scheme made by or on behalf of a current or former owner of a dwelling in relation to which estate management is carried out to be independently investigated and determined by an independent individual, and
  (b) which is—
    (i) approved by the lead enforcement authority for the purposes of regulations under subsection (1), or
    (ii) administered by or on behalf of the lead enforcement authority and designated by the lead enforcement authority for those purposes.

(5) Regulations under subsection (1) may require a person to remain a member of a redress scheme after ceasing to be a person mentioned in that subsection, for a period specified in the regulations.

(6) Before making regulations under subsection (1), the Secretary of State must be satisfied that all persons who are to be required to be a member of a redress scheme will be eligible to join such a scheme before being so required (subject to any provision in the scheme about expulsion, as to which see section (*Approval and designation of redress schemes*)(3)(k)).

(7) For potential consequences of breaching regulations under subsection (1), see—

(a) section 24(2)(ad) of the LTA 1987 and section (*Criteria for determining whether to make appointment order*)(3)(e) of this Act (appointment of manager by tribunal);

(b) section (*Financial penalties*) of this Act (financial penalties by enforcement authorities).

(8) In this Part—

"estate management" means—

(a) the provision of services,

(b) the carrying out of maintenance, repairs or improvements,

(c) the effecting of insurance, or

(d) the making of payments,

for the benefit of one or more dwellings;

"estate manager" means a body of persons (whether incorporated or not)—

(a) which carries out, or is required to carry out, estate management, and

(b) which recovers the costs of carrying out estate management by means of relevant obligations;

"the lead enforcement authority" means either—

(a) the Secretary of State, or

(b) another person designated by the Secretary of State as the lead enforcement authority,

and see section (*Lead enforcement authority: further provision*) for further provision about the lead enforcement authority;

"relevant landlord", in relation to a dwelling, means a landlord under a long lease of the dwelling;

"relevant obligation", in relation to a dwelling, means each of the following—

(a) a rentcharge which—

(i) is charged on or issues out of the land which comprises the dwelling or a building of which the dwelling forms part, and

(ii) is an estate rentcharge by virtue of section 2(4)(b) and (5) of the RA 1977;

(b) an obligation under a long lease of the dwelling;

(c) any other obligation that—

(i) runs with the land which comprises the dwelling or a building of which the dwelling forms part, or

(ii) otherwise (whether in law or in equity) binds the owner for the time being of the land which comprises the dwelling;

(d) any other obligation—

(i) to which the owner of the dwelling is subject, and

(ii) to which any immediate successor in title of that owner will become subject, if an arrangement to which a

relevant landlord or an estate manager and that owner are parties is performed.

(9) The arrangements that are within paragraph (d) of the definition of "relevant obligation" include an arrangement under which the owner is required (in particular by a limitation on transfer of title to the dwelling or on registration of a transfer of title) to ensure that any immediate successor in title to the owner enters into an obligation.

(10) The Secretary of State may by regulations make provision (including provision amending this Act) for the purpose of changing the meaning of "relevant capacity", "relevant landlord" or "relevant obligation".

(11) A statutory instrument containing regulations under this section (whether alone or with other provision) is subject to the affirmative procedure."

Member's explanatory statement

This new clause, to be inserted as the first clause of a new Part after Part 4, would enable the Secretary of State to make provision for redress schemes for property management work carried out other than by agents.

Lee Rowley **Gov NC16**

To move the following Clause—

"Redress schemes: voluntary jurisdiction

(1) Nothing in this Part prevents a redress scheme from providing (subject to regulations under section (*Approval and designation of redress schemes*))—

(a) for membership to be open to persons who wish to join as voluntary members;

(b) for the investigation or determination of any complaints under a voluntary jurisdiction (including complaints by persons who are not current or former owners of dwellings in relation to which estate management is carried out);

(c) for voluntary mediation services;

(d) for the exclusion from investigation and determination under the scheme of any complaint in such cases or circumstances as may be specified in or determined under the scheme.

(2) In this Part—

"complaints under a voluntary jurisdiction" means complaints in relation to which there is no duty to be a member of a redress scheme, where the members against which the complaints are made have voluntarily accepted the jurisdiction of the scheme over those complaints;

"voluntary mediation services" means mediation, conciliation or similar processes provided at the request of a member in relation to complaints made—

(a) against the member, or

(b) by the member against another person;

"voluntary members", in relation to a scheme, means members who are not subject to a duty to be a member of a redress scheme."

Member's explanatory statement

This new clause, to be inserted after NC15, would provide for redress schemes to have the possibility of voluntary jurisdiction.

Lee Rowley **Gov NC17**

To move the following Clause—

"Financial assistance for establishment or maintenance of redress schemes

The Secretary of State may give financial assistance (by way of grant, loan, or guarantee, or in any other form) or make other payments to a person for the establishment or maintenance of—

(a) a redress scheme, or

(b) a scheme that would be a redress scheme if it were approved or designated under section (*Leasehold and estate management: redress schemes*)(4)(b)."

Member's explanatory statement

This new clause, to be inserted after NC16, would allow the Secretary of State to give financial assistance for the establishment or maintenance of redress schemes.

Lee Rowley **Gov NC18**

To move the following Clause—

"Approval and designation of redress schemes

(1) This section applies where the Secretary of State makes regulations under section (*Leasehold and estate management: redress schemes*)(1).

(2) The Secretary of State must by regulations set out conditions which are to be satisfied before a scheme is approved or designated under section (*Leasehold and estate management: redress schemes*)(4)(b).

(3) The conditions must include conditions requiring the scheme to include provision in accordance with the regulations—

(a) for an administrator of the scheme to appoint an individual, having obtained the lead enforcement authority's approval of the individual and the terms of the appointment, who is to be responsible for overseeing and monitoring the investigation and determination of complaints under the scheme;

(b) about the complaints that may be made under the scheme, which must include provision enabling the making of complaints about non-compliance with any codes of practice that are issued or approved by the Secretary of State;

(c) about the time to be allowed for scheme members to resolve matters before a complaint is accepted under the scheme in relation to those matters;

(d) about the circumstances in which a complaint may be rejected;

(e) about co-operation (which may include the joint exercise of functions) of an individual who is investigating or determining a complaint with persons who have functions under other schemes for providing redress and with enforcement authorities;

(f) about the provision of information to the persons mentioned in paragraph (e);

(g) if members are required to pay fees in respect of compulsory aspects of the scheme, about the level of those fees;

(h) if there are voluntary aspects of the scheme—

(i) for fees to be payable in respect of those aspects of the scheme, and

(ii) for the fees to be set at a level that, taking one year with another, is sufficient to meet the costs incurred in the administration of those aspects of the scheme;

(i) for the individual determining a complaint to be able to require members to provide redress of the following types to the complainant—

(i) providing an apology or explanation,

(ii) paying compensation, and

(iii) taking such other actions in the interests of the complainant as the individual determining the complaint may specify;

(j) about the enforcement of the scheme and decisions made under the scheme;

(k) for a person to be expelled from the scheme only—

(i) in circumstances specified in the regulations,

(ii) once steps to secure compliance that are specified in the regulations have been taken, and

(iii) once the decision to expel the person has been reviewed by an independent person in accordance with the regulations;

(l) for an expulsion to be revoked in circumstances specified in the regulations;

(m) prohibiting a person from joining the scheme when the person has been expelled from another redress scheme and the expulsion has not been revoked;

(n) for circumstances in which the administration of the scheme is to be transferred to a different administrator;

(o) about the closure of the scheme by an administrator of the scheme.

(4) Conditions set out in regulations under subsection (3)—

(a) may include conditions requiring an administrator or proposed administrator of a scheme to undertake to do things—

(i) on an ongoing basis following approval or designation;

(ii) after ceasing to be an administrator of the scheme;

(b) in the case of conditions set out in regulations by virtue of subsection (3)(d), may require a scheme to reject complaints by a current or former owner of a dwelling where that owner is of a description specified in the regulations;

(c) in the case of conditions set out in regulations by virtue of subsection (3)(n), may—

(i) require an approved scheme to provide for the administration of that scheme to be transferred to the lead enforcement authority or a person acting on behalf of the lead enforcement authority in circumstances specified in the regulations, and

(ii) where they so require, provide for a scheme whose administration is transferred to be treated as a designated scheme instead of an approved one.

(5) Subsections (3) and (4) do not limit the conditions that may be set out in regulations under subsection (2).

(6) The Secretary of State may by regulations make further provision about the approval or designation of redress schemes under section (*Leasehold and estate management: redress schemes*)(4)(b), including provision—

(a) about the number of redress schemes that may be approved or designated (which may be one or more);

(b) about the making of applications for approval;

(c) about the period for which an approval or designation is valid;

(d) about the withdrawal of approval or revocation of designation;

(e) authorising the approval or designation of a scheme which provides for fees payable by a compulsory member to be calculated by reference to the total of the costs incurred, or to be incurred, in the administration of the compulsory aspects of the scheme (including costs unconnected with the member in question).

(7) Regulations under this section may confer a discretion on the lead enforcement authority or require a scheme to do so.

(8) In this section—

"compulsory aspects", in relation to a scheme, means aspects of the scheme relating to complaints in relation to which there is a duty to be a member of a redress scheme;

"compulsory member", in relation to a scheme, means a member of the scheme who is subject to a duty to be a member of a redress scheme;

"voluntary aspects", in relation to a scheme, means aspects of the scheme that relate to—

(a) complaints under a voluntary jurisdiction,

(b) voluntary mediation services, or

(c) voluntary members.

(9) A statutory instrument containing regulations under this section (whether alone or with other provision) is subject to the affirmative procedure."

Member's explanatory statement

This new clause, to be inserted after NC17, would make provision for the approval and designation of redress schemes.

Lee Rowley **Gov NC19**

To move the following Clause—

"Financial penalties

(1) An enforcement authority may impose a financial penalty on a person if satisfied beyond reasonable doubt that the person has breached regulations under section (*Leasehold and estate management: redress schemes*)(1).

(2) The Secretary of State may by regulations make provision about the investigation by an enforcement authority of suspected breaches of regulations under section (*Leasehold and estate management: redress schemes*)(1) for the purpose of determining whether to impose a financial penalty.

(3) Regulations under subsection (2) may, among other things, make provision about—

(a) co-operation between enforcement authorities, and

(b) the sharing of information between enforcement authorities,

for the purposes of an investigation.

(4) The amount of a financial penalty imposed under this section is to be determined in accordance with section (*Financial penalties: maximum amounts*).

(5) More than one penalty may be imposed for the same conduct only if—

(a) the conduct continues after the end of 28 days beginning with the day after the day on which the final notice in respect of the previous penalty for the conduct was given to the person, unless the person appeals against that notice within that period, or

(b) if the person appeals against that notice within that period, the conduct continues after the end of 28 days beginning with the day after the day on which the appeal is finally determined, withdrawn or abandoned.

(6) Subsection (5) does not enable a penalty to be imposed after the final notice in respect of the previous penalty has been withdrawn or quashed on appeal.

(7) Schedule (*Redress schemes: financial penalties*) makes provision about—

(a) the procedure for imposing a financial penalty under this section,

(b) appeals against financial penalties,

(c) enforcement of financial penalties, and

(d) how enforcement authorities are to deal with the proceeds of financial penalties.

(8) For the purposes of this section and section (*Financial penalties: maximum amounts*)—

(a) a financial penalty is imposed on the date specified in the final notice as the date on which the notice is given;

(b) "final notice" has the meaning given by paragraph 3 of Schedule (*Redress schemes: financial penalties*).

(9) A statutory instrument containing regulations under this section (whether alone or with other provision) is subject to the affirmative procedure."

Member's explanatory statement

This new clause, to be inserted after NC18, would provide for an enforcement authority to impose a financial penalty for breach of regulations under NC15.

Lee Rowley **Gov NC20**

To move the following Clause—

"Financial penalties: maximum amounts

(1) The amount of a financial penalty imposed on a person under section (*Financial penalties*) is to be determined by the enforcement authority imposing it, but—
  (a) if Case A, B or C applies, the penalty must not be more than £30,000;
  (b) otherwise, the penalty must not be more than £5,000.

(2) Case A applies if—
  (a) a relevant penalty has been imposed on the person and the final notice imposing the penalty has not been withdrawn, and
  (b) the conduct for which the penalty was imposed continues after the end of the period of 28 days beginning with—
    (i) the day after the day on which the penalty was imposed on the person, or
    (ii) if the person appeals against the final notice in respect of the penalty within that period, the day after the day on which the appeal is finally determined, withdrawn or abandoned.

(3) Case B applies if—
  (a) a relevant penalty has been imposed on the person for a breach of regulations under section (*Leasehold and estate management: redress schemes*)(1) and the final notice imposing the penalty has not been withdrawn, and
  (b) the person engages in conduct which constitutes a different breach of such regulations within the period of five years beginning with the day on which the penalty was imposed.

(4) Case C applies if—
  (a) a relevant penalty has been imposed on the person for conduct in respect of which Case A, B or C applies and the final notice imposing the penalty has not been withdrawn, and
  (b) the person breaches regulations under section (*Leasehold and estate management: redress schemes*)(1) within the period of five years beginning with the day on which the penalty was imposed.

(5) For the purposes of this section, "relevant penalty" means a financial penalty imposed under section (*Financial penalties*) where—

(a) the period for bringing an appeal against the penalty under paragraph 5 of Schedule (*Redress schemes: financial penalties*) has expired without an appeal being brought,

(b) an appeal against the financial penalty under that paragraph has been withdrawn or abandoned, or

(c) the final notice imposing the penalty has been confirmed or varied on appeal.

(6) The Secretary of State may by regulations amend the amounts specified in subsection (1) to reflect changes in the value of money.

(7) A statutory instrument containing regulations under this section is subject to the negative procedure."

Member's explanatory statement

This new clause, to be inserted after NC19, would provide for the maximum penalties that may be imposed under NC19.

Lee Rowley **Gov NC21**

To move the following Clause—

"Decision under a redress scheme may be made enforceable as if it were a court order

(1) The Secretary of State may by regulations make provision for, or in connection with, authorising an administrator of a redress scheme to apply to a court or tribunal for an order that a determination made under the scheme and accepted by the complainant in question be enforced as if it were an order of a court.

(2) A statutory instrument containing regulations under this section is subject to the negative procedure."

Member's explanatory statement

This new clause, to be inserted after NC20, would enable the Secretary of State to make regulations making a decision under a redress scheme enforceable as if it were a court order.

Lee Rowley **Gov NC22**

To move the following Clause—

"Lead enforcement authority: further provision

(1) The lead enforcement authority must oversee the operation of a redress scheme under this Part.

(2) The lead enforcement authority must provide—

(a) other enforcement authorities, and

(b) the public in England,

with information and advice about the operation of redress schemes, in such form and manner as the lead enforcement authority considers appropriate.

(3) The lead enforcement authority may disclose information to another enforcement authority for the purposes of enabling that authority to determine whether there has been a breach of regulations under section (*Leasehold and estate management: redress schemes*)(1).

(4) The lead enforcement authority may issue guidance to other enforcement authorities about the exercise of their functions under this Part.

(5) Enforcement authorities other than the lead enforcement authority must have regard to any guidance issued under subsection (4).

(6) If the Secretary of State designates a person as the lead enforcement authority for the purposes of this Part—

(a) the Secretary of State may make arrangements in connection with the person's role as the lead enforcement authority, which may include arrangements—

(i) for payments by the Secretary of State;

(ii) about bringing the arrangements to an end;

(b) the Secretary of State may give the lead enforcement authority directions as to the exercise of any of its functions, which—

(i) may relate to all or particular kinds of enforcement authorities, and

(ii) may make different provision for different purposes;

(c) the lead enforcement authority must keep under review and from time to time advise the Secretary of State about—

(i) the operation of redress schemes;

(ii) social and commercial developments relating to estate management (including by relevant landlords) in England, so far as it considers those developments relevant to redress schemes.

(7) The Secretary of State may by regulations make transitional or saving provision which applies when there is a change in the lead enforcement authority (which may relate to a specific change in the lead enforcement authority or to changes that might arise from time to time).

(8) A statutory instrument containing regulations under this section is subject to the negative procedure."

Member's explanatory statement

This new clause, to be inserted after NC21, would make further provision about lead enforcement authorities.

Lee Rowley **Gov NC23**

To move the following Clause—

"Guidance for enforcement authorities and scheme administrators

(1) The Secretary of State may from time to time issue or approve guidance for enforcement authorities in England and administrators of redress schemes about co-operation between such enforcement authorities and persons exercising functions under the schemes.

(2) An enforcement authority in England other than the Secretary of State must have regard to any guidance issued or approved under this section.

(3) The Secretary of State must exercise the powers in section (*Approval and designation of redress schemes*) for the purpose of ensuring that every administrator of a redress scheme has regard to any guidance issued or approved under this section."

Member's explanatory statement

This new clause, to be inserted after NC22, would enable the Secretary of State to issue guidance to enforcement authorities and scheme administrators.

Lee Rowley **Gov NC24**

To move the following Clause—

"Interpretation of Part 4A

In this Part—

"complaints under a voluntary jurisdiction" has the meaning given in section (*Redress schemes: voluntary jurisdiction*)(2);

"dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;

"enforcement authority" means—

(a) the lead enforcement authority,

(b) the Secretary of State,

(c) a local housing authority, or

(d) another person designated by the Secretary of State as an enforcement authority;

"estate management" has the meaning given in section (*Leasehold and estate management: redress schemes*)(8);

"estate manager" has the meaning given in section (*Leasehold and estate management: redress schemes*)(8);

"the lead enforcement authority" has the meaning given in section (*Leasehold and estate management: redress schemes*)(8);

"local housing authority" means—

(a) a district council,
(b) a London borough council,
(c) the Common Council of the City of London (in its capacity as a local authority), or
(d) the Council of the Isles of Scilly;

"long lease" has the meaning given in section 77(2) of the LRHUDA 1993;

"owner", in relation to a dwelling, means—
(a) the owner of freehold land which comprises the dwelling;
(b) a tenant under a long lease of the dwelling;

"redress scheme" has the meaning given in section (*Leasehold and estate management: redress schemes*)(4);

"relevant capacity" has the meaning given in section (*Leasehold and estate management: redress schemes*)(2);

"relevant landlord" has the meaning given in section (*Leasehold and estate management: redress schemes*)(8);

"relevant obligation" has the meaning given in section (*Leasehold and estate management: redress schemes*)(8);

"rentcharge" has the same meaning as in the RA 1977 (see section 1 of that Act);

"voluntary mediation services" has the meaning given in section (*Redress schemes: voluntary jurisdiction*)(2);

"voluntary members" has the meaning given in section (*Redress schemes: voluntary jurisdiction*)(2)."

Member's explanatory statement

This new clause, to be inserted after NC22, would make interpretation provision for the purposes of the new Part to be inserted after Part 4.

Lee Rowley **Gov NC42**

To move the following Clause—

"Leasehold sales information requests

(1) In the LTA 1985, after section 30J (as inserted by section 35) insert—

"Sales information requests

30K Sales information requests

(1) A tenant of a dwelling under a long lease may give a sales information request to the landlord.

(2) A "sales information request" is a document in a specified form, and given in a specified manner, setting out—
(a) that the tenant is contemplating selling a long lease of the dwelling,

(b) information that the tenant requests from the landlord for the purpose of the contemplated sale, and

(c) any other specified information.

(3) A tenant may request information in a sales information request only if the information is specified in regulations made by the appropriate authority.

(4) The appropriate authority may specify information for the purposes of subsection (3) only if the information could reasonably be expected to assist a prospective purchaser in deciding whether to purchase a long lease of a dwelling.

(5) The appropriate authority may by regulations provide that a sales information request may not be given until the end of a particular period, or until another condition is met.

(6) Regulations under this section—

(a) are to be made by statutory instrument;

(b) may make provision generally or only in relation to specific cases;

(c) may make different provision for different purposes;

(d) may include supplementary, incidental, transitional or saving provision.

(7) A statutory instrument containing regulations under this section is subject to the negative procedure.

30L Effect of sales information request

(1) A landlord who has been given a sales information request must provide the tenant with any of the information requested that is within the landlord's possession.

(2) The landlord must request information from another person if—

(a) the information has been requested from the landlord in a sales information request,

(b) the landlord does not possess the information when the request is made, and

(c) the landlord believes that the other person possesses the information.

(3) That person must provide the landlord with any of the information requested that is within that person's possession.

(4) A person ("A") must request information from another person ("B") if—

(a) the information has been requested from A in a request under subsection (2) or this subsection (an "onward request"),

(b) A does not possess the information when the request is made, and

(c) A believes that B possesses the information.

(5) B must provide A with any of the information requested that is within B's possession.

(6) A person who is required to provide information under this section must do so before the end of a specified period beginning with the day on which the request for the information is made.

(7) A person who—

(a) has been given a sales information request or an onward request, and

(b) as a result of not possessing the information requested, does not provide the information before the end of a specified period beginning with the day on which the request is made,

must give the person making the request a negative response confirmation.

(8) A "negative response confirmation" is a document in a specified form, and given in a specified manner, setting out—

(a) that the person is unable to provide the information requested because it is not in the person's possession;

(b) a description of what action the person has taken to determine whether the information is in the person's possession;

(c) any onward requests the person has made and the persons to whom they were made;

(d) an explanation of why the person was unable to obtain the information, including details of any negative response confirmation received by the person;

(e) any other specified information.

(9) A person who is required to give a negative response confirmation must do so before the end of a specified period beginning with the day after the day on which the period referred to in subsection (7)(b) ends.

(10) The appropriate authority may by regulations—

(a) provide that an onward request may not be made until the end of a particular period, or until another condition is met;

(b) provide for how an onward request is to be made;

(c) make provision as to the period within which an onward request must be made;

(d) provide for circumstances in which a duty to comply with a sales information request or an onward request does not apply;

(e) make provision as to how information requested in a sales information request or an onward request is to be provided;

(f) make provision for circumstances in which a period specified for the purposes of subsection (6), (7) or (9) is to be extended.

(11) Regulations under this section—

(a) are to be made by statutory instrument;

(b) may make provision generally or only in relation to specific cases;

(c) may make different provision for different purposes;

(d) may include supplementary, incidental, transitional or saving provision.

(12) A statutory instrument containing regulations under this section is subject to the negative procedure.

30M Charges for provision of information

(1) Subject to any regulations under subsection (2), a person ("P") may charge another person for—

(a) determining whether information requested in a sales information request or an onward request is in P's possession;

(b) providing or obtaining information under section 30L.

(2) The appropriate authority may by regulations—

(a) limit the amount that may be charged under subsection (1);

(b) prohibit a charge under subsection (1) in specified circumstances or unless specified requirements are met.

(3) If a landlord charges a tenant under subsection (1), the charge—

(a) is an administration charge for the purposes of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (see paragraph 1(1)(b) of that Schedule), and

(b) is not to be treated as a service charge for the purposes of this Act.

(4) For the purposes of the provisions of this Act relating to service charges, the costs of—

(a) determining whether information requested in a sales information request or an onward request is in a person's possession, or

(b) providing or obtaining information under section 30L,

are not to be regarded as relevant costs to be taken into account in determining the amount of any variable service charge payable by any tenant.

(5) Regulations under this section—

(a) are to be made by statutory instrument;

(b) may make provision generally or only in relation to specific cases;

(c) may make different provision for different purposes;

(d) may include supplementary, incidental, transitional or saving provision.

(6) A statutory instrument containing regulations under this section is subject to the negative procedure.

30N Enforcement of sections 30L and 30M

(1) A person who makes a sales information request or an onward request ("C") may make an application to the appropriate tribunal on the

ground that another person ("D") failed to comply with a requirement under section 30L or 30M in relation to the request.

(2) The tribunal may make one or more of the following orders—

(a) an order that D comply with the requirement before the end of a period specified by the tribunal;

(b) an order that D pay damages to C for the failure;

(c) if D charged C in excess of a limit specified in regulations under section 30M(2)(a), an order that D repay the amount charged in excess of the limit to C;

(d) if D charged C in breach of regulations under section 30M(2)(b), an order that D repay the amount charged to C.

(3) Damages under subsection (2)(b) may not exceed £5,000.

(4) The appropriate authority may by regulations amend the amount in subsection (3) if the appropriate authority considers it expedient to do so to reflect changes in the value of money.

(5) Regulations under this section—

(a) are to be made by statutory instrument;

(b) may make provision generally or only in relation to specific cases;

(c) may make different provision for different purposes;

(d) may include supplementary, incidental, transitional or saving provision.

(6) A statutory instrument containing regulations under this section is subject to the negative procedure.

30P Interpretation of sections 30K to 30N

(1) In sections 30K to 30N—

"information" includes a document containing information, and a copy of such a document;

"landlord" includes—

(a) any person who has a right to enforce payment of a service charge;

(b) a RTM company within the meaning of Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002 (see section 73 of that Act);

"long lease" has the same meaning as in Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002 (see sections 76 and 77 of that Act);

"onward request" has the meaning given in section 30L(4)(a);

"sales information request" has the meaning given in section 30K(2);

"specified" means specified in, or determined in accordance with, regulations made by the appropriate authority.

(2) A reference in sections 30K to 30N to purchasing a long lease is a reference to becoming a tenant under the lease for consideration, whether by grant, assignment or otherwise, and references to selling a long lease are to be read accordingly."

(2) In section 172(1) of the CLRA 2002 (application to Crown of provisions of the LTA 1985), after paragraph (ac) (as inserted by section 35) insert—

"(ad) sections 30K to 30P of the 1985 Act (sales information requests),"."

Member's explanatory statement

This new clause, to be inserted after NC9, would require a landlord to provide specified information to a tenant, in anticipation of the tenant selling their property, within a specified time and at a specified cost, and request that information from other parties.

Lee Rowley **Gov NC43**

To move the following Clause—

"Estate management: sales information requests

(1) An owner of a managed dwelling may give a sales information request to the estate manager.

(2) A "sales information request" is a document in a specified form, and given in a specified manner, setting out—

(a) that the owner is contemplating selling the dwelling,

(b) information that the owner requests from the estate manager for the purpose of the contemplated sale, and

(c) any other specified information.

(3) An owner of a managed dwelling may request information in a sales information request only if the information is specified in regulations made by the appropriate authority.

(4) The appropriate authority may specify information for the purposes of subsection (3) only if the information—

(a) relates to estate management, estate managers, estate management charges or relevant obligations, and

(b) could reasonably be expected to assist a prospective purchaser in deciding whether to purchase a dwelling.

(5) The appropriate authority may by regulations provide that a sales information request may not be given until the end of a particular period, or until another condition is met.

(6) In this section and sections (*Effect of sales information request*) to (*Enforcement of sections (Effect of sales information request) and (Charges for provision of information)*)—

(a) a reference to purchasing a dwelling is a reference to becoming an owner of the dwelling, and references to selling a dwelling are to be read accordingly;
(b) "sales information request" has the meaning given in subsection (2);
(c) "specified" means specified in, or determined in accordance with, regulations made by the appropriate authority.

(7) A statutory instrument containing regulations under this section is subject to the negative procedure."

Member's explanatory statement

This new clause, to be inserted after NC14, would provide for the owner of a managed dwelling to give a sales information request to the estate manager in anticipation of selling the dwelling.

Lee Rowley **Gov NC44**

To move the following Clause—

"Effect of sales information request

(1) An estate manager who has been given a sales information request by the owner of a managed dwelling must provide the owner with any of the information requested that is within the estate manager's possession.

(2) The estate manager must request information from another person if—
(a) the information has been requested from the estate manager in a sales information request,
(b) the estate manager does not possess the information when the request is made, and
(c) the estate manager believes that the other person possesses the information.

(3) That person must provide the estate manager with any of the information requested that is within that person's possession.

(4) A person ("A") must request information from another person ("B") if—
(a) the information has been requested from A in a request under subsection (2) or this subsection (an "onward request"),
(b) A does not possess the information when the request is made, and
(c) A believes that B possesses the information.

(5) B must provide A with any of the information requested that is within B's possession.

(6) A person who is required to provide information under this section must do so before the end of a specified period beginning with the day on which the request for the information is made.

(7) A person who—
(a) has been given a sales information request or an onward request, and

(b) as a result of not possessing the information requested, does not provide the information before the end of a specified period beginning with the day on which the request is made,

must give the person making the request a negative response confirmation.

(8) A "negative response confirmation" is a document in a specified form, and given in a specified manner, setting out—

(a) that the person is unable to provide the information requested because it is not in the person's possession;

(b) a description of what action the person has taken to determine whether the information is in the person's possession;

(c) any onward requests the person has made and the persons to whom they were made;

(d) an explanation of why the person was unable to obtain the information, including details of any negative response confirmation received by the person;

(e) any other specified information.

(9) A person who is required to give a negative response confirmation must do so before the end of a specified period beginning with the day after the day on which the period referred to in subsection (7)(b) ends.

(10) The appropriate authority may by regulations—

(a) provide that an onward request may not be made until the end of a particular period, or until another condition is met;

(b) provide for how an onward request is to be made;

(c) make provision as to the period within which an onward request must be made;

(d) provide for circumstances in which a duty to comply with a sales information request or an onward request does not apply;

(e) make provision as to how information requested in a sales information request or an onward request is to be provided;

(f) make provision for circumstances in which a period specified for the purposes of subsection (6), (7) or (9) is to be extended.

(11) In this section and sections (*Charges for provision of information*) and (*Enforcement of sections (Effect of sales information request) and (Charges for provision of information)*), "onward request" has the meaning given in subsection (4)(a).

(12) A statutory instrument containing regulations under this section is subject to the negative procedure."

Member's explanatory statement

This new clause, to be inserted after NC43, would require an estate manager who has been given a sales information request to provide the information requested, and request that information from other parties.

Lee Rowley **Gov NC45**

To move the following Clause—

"Charges for provision of information

(1) Subject to any regulations under subsection (2), a person ("P") may charge another person for—
  (a) determining whether information requested in a sales information request or an onward request is in P's possession;
  (b) providing or obtaining information under section (*Effect of sales information request*).

(2) The appropriate authority may by regulations—
  (a) limit the amount that may be charged under subsection (1);
  (b) prohibit a charge under subsection (1) in specified circumstances or unless specified requirements are met.

(3) If an estate manager charges the owner of a managed dwelling under subsection (1), the charge—
  (a) is an administration charge for the purposes of this Part, and
  (b) is not to be treated as an estate management charge for the purposes of this Part.

(4) For the purposes of this Part, the costs of—
  (a) determining whether information requested in a sales information request or an onward request is in a person's possession, or
  (b) providing or obtaining information under section (*Estate management: sales information requests*),

are not to be regarded as relevant costs to be taken into account in determining the amount of any estate management charge.

(5) A statutory instrument containing regulations under this section is subject to the negative procedure."

Member's explanatory statement

This new clause, to be inserted after NC44, would regulate charges for the provision of information under NC44.

Lee Rowley **Gov NC46**

To move the following Clause—

"Enforcement of sections (*Effect of sales information request*) and (*Charges for provision of information*)

(1) A person who makes a sales information request or an onward request ("C") may make an application to the appropriate tribunal on the ground that another person ("D") failed to comply with a requirement under section (*Effect of sales information request*) or (*Charges for provision of information*) in relation to the request.

(2) The tribunal may make one or more of the following orders—
  (a) an order that D comply with the requirement before the end of a period specified by the tribunal;
  (b) an order that D pay damages to C for the failure;
  (c) if D charged C in excess of a limit specified in regulations under section (*Charges for provision of information*)(2)(a), an order that D repay the amount charged in excess of the limit to C;
  (d) if D charged C in breach of regulations under section (*Charges for provision of information*)(2)(b), an order that D repay the amount charged to C.

(3) Damages under subsection (2)(b) may not exceed £5,000.

(4) The appropriate authority may by regulations amend the amount in subsection (3) if the appropriate authority considers it expedient to do so to reflect changes in the value of money.

(5) A statutory instrument containing regulations under this section is subject to the negative procedure."

Member's explanatory statement

This new clause, to be inserted after NC45, would provide for the enforcement of obligations under NC44 and NC45.

Matthew Pennycook **NC1**

Mike Amesbury

To move the following Clause—

"Abolition of forfeiture of a long lease

(1) This section applies to any right of forfeiture or re-entry in relation to a dwelling held on a long lease which arises either—
  (a) under the terms of that lease; or
  (b) under or in consequence of section 146(1) of the Law of Property Act 1925.

(2) The rights referred to in subsection (1) are abolished.

(3) In this section—
  "dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, or outhouses and appurtenances belonging to it or usually enjoyed with it;
  "lease" means a lease at law or in equity and includes a sub-lease, but does not include a mortgage term;
  "long lease" has the meaning given by sections 76 and 77 of the Commonhold and Leasehold Reform Act 2002."

Member's explanatory statement

This new clause would abolish the right of forfeiture in relation to residential long leases in instances where the leaseholder is in breach of covenant.

Matthew Pennycook **NC2**

Mike Amesbury

To move the following Clause—

"Requirement to establish and operate a management company under leaseholder control

(1) The Secretary of State may by regulations make provision—
  (a) requiring any long lease of a dwelling to include a residents management company ("RMC") as a party to that lease, and
  (b) for that company to discharge under the long lease such management functions as may be prescribed by the regulations.

(2) Regulations under subsection (1) must provide—
  (a) for the RMC to be a company limited by share (with each share to have a value not to exceed £1), and
  (b) for such shares to be allocated (for no consideration) to the leaseholder of the dwelling for the time being.

(3) Regulations under subsection (1) must prescribe the content and form of the articles of association of an RMC.

(4) The content and form of articles prescribed in accordance with subsection (3) have effect in relation to an RMC whether or not such articles are adopted by the company.

(5) A provision of the articles of an RMC has no effect to the extent that it is inconsistent with the content or form of articles prescribed in accordance with subsection (3).

(6) Section 20 of the Companies Act 2006 (default application of model articles) does not apply to an RMC.

(7) The Secretary of State may by regulations make such provision as the Secretary of State sees fit for the enforcement of regulations made under subsection (1), and such provision may (among other things) include provision—
  (a) conferring power on the First-Tier Tribunal to order that leases be varied to give effect to this section;
  (b) providing for terms to be implied into leases without the need for any order of any court or tribunal.

(8) The Secretary of State may by regulations prescribe descriptions of buildings in respect of which regulations may be made under subsection (1).

(9) In this section—

"dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, or outhouses and appurtenances belonging to it or usually enjoyed with it;

"long lease" has the meaning given by sections 76 and 77 of the Commonhold and Leasehold Reform Act 2002;

"management function" has the meaning given by section 96(5) of the Commonhold and Leasehold Reform Act 2002.

(10) The Secretary of State may by regulations amend the definition of "management function" for the purposes of this section."

Member's explanatory statement

This new clause would ensure that leases on new flats include a requirement to establish and operate a residents' management company responsible for all service charge matters, with each leaseholder given a share.

Matthew Pennycook **NC3**

Mike Amesbury

To move the following Clause—

"Prohibition on landlords claiming litigation costs from tenants

(1) Any term of a long lease of a dwelling which provides a right for a landlord to demand litigation costs from a leaseholder (whether as a service charge, administration charge or otherwise) is of no effect.

(2) The Secretary of State may, by regulations, specify classes of landlord to which or prescribed circumstances in which subsection (1) does not apply.

(3) In this section—

"administration charge" has the meaning given by Schedule 11 of the Commonhold and Leasehold Reform Act 2022;

"dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, or outhouses and appurtenances belonging to it or usually enjoyed with it;

"long lease" has the meaning given by sections 76 and 77 of the Commonhold and Leasehold Reform Act 2002;

"service charge" has the meaning given by section 18 of the Landlord and Tenant Act 1985;

"landlord" has the meaning given by section 30 of the Landlord and Tenant Act 1985."

Member's explanatory statement

This new clause would prohibit landlords from claiming litigation costs from tenants other than under limited circumstances determined by the Secretary of State.

Matthew Pennycook **NC4**

Mike Amesbury

To move the following Clause—

"Remedies for the recovery of annual sums charged on land

(1) Section 121 of the Law of Property Act 1925 is omitted.

(2) The amendment made by subsection (1) has effect in relation to arrears arising before or after the coming into force of this section."

Member's explanatory statement

This new clause, which is intended to replace clause 59, would remove the provision of existing law which, among other things, allows a rentcharge owner to take possession of a freehold property in instances where a freehold homeowner failed to pay a rentcharge.

Matthew Pennycook **NC5**

Mike Amesbury

To move the following Clause—

"Power to establish a Right to Manage regime for freeholders on private or mixed-use estates

In Section 71 of the Commonhold and Leasehold Reform Act 2002, after subsection (2) insert—

"(3) The Secretary of State may by regulations make provision to enable freeholder owners of dwellings to exercise a right to manage in a way which corresponds with or is similar to this Part.

(4) A statutory instrument containing regulations under subsection (3) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.""

Member's explanatory statement

This new clause would permit the Secretary of State to establish a Right to Manage regime for freeholders of residential property on private or mixed-use estates.

Matthew Pennycook **NC25**

Mike Amesbury

To move the following Clause—

"Regulation of property agents

(1) The Secretary of State must by regulations make provision for implementing the proposals of the Regulation of Property Agents Working Group final report of July 2019 as far as they relate to—
  (a) estate management;
  (b) sale of leasehold properties; and
  (c) sale of freehold properties subject to estate management or service charges.

(2) Regulations under this section—
  (a) must be laid within 24 months of the date of Royal Assent to this Act,
  (b) shall be made by statutory instrument, and
  (c) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

(3) If, at the end of the period of 12 months beginning with the day on which this Act is passed, the power in subsection (1) is yet to be exercised, the Secretary of State must publish a report setting out the progress that has been made towards doing so."

Member's explanatory statement

This new clause would require the Secretary of State to make regulations to implement the proposals of the Regulation of Property Agents Working Group final report within 24 months of the Act coming into force and to report on progress to that end at the end of the period of 12 months.

Matthew Pennycook **NC26**

Mike Amesbury

To move the following Clause—

"Pre-consolidation amendments of legislation relating to residential leasehold and freehold and estate management

(1) The Secretary of State may by regulations make such amendments and modifications of the Acts specified by subsection (2) as in the Secretary of State's opinion facilitate, or are otherwise desirable in connection with, the consolidation of the whole or a substantial part of the Acts relating to—
  (a) the relationship between landlords and tenants of residential properties;
  (b) the relationship between estate managers and the freeholders and leaseholders of properties in relation to which they carry out estate management.

(2) The Acts specified by this subsection are—
  (a) the Leasehold Reform Act 1967;
  (b) the Rentcharges Act 1977;
  (c) the Landlord and Tenant Act 1985;

(d) the Leasehold Reform, Housing and Urban Development Act 1993;
(e) the Commonhold and Leasehold Reform Act 2002;
(f) the Building Safety Act 2022;
(g) the Leasehold Reform (Ground Rent) Act 2022;
(h) this Act;
(i) any other provision of an Act relating to—
(i) the relationship between landlords and tenants of residential properties;
(ii) the relationship between estate managers and the freeholders and leaseholders of properties in relation to which they carry out estate management.

(3) For the purposes of this section, "amend" includes repeal (and similar terms are to be read accordingly).

(4) Regulations made under this section do not come into force unless an Act is passed consolidating the whole or a substantial part of the Acts relating to—
(a) the relationship between landlords and tenants of residential properties;
(b) the relationship between estate managers and the freeholders and leaseholders of properties in relation to which they carry out estate management.

(5) If such an Act is passed, any regulations made under this section come into force immediately before the Act comes into force.

(6) Regulations under this section are subject to the affirmative procedure."

Member's explanatory statement

This new clause would make provision for the Secretary of State to amend certain Acts (insofar as they relate to the relationship between landlords and tenants of residential properties and the relationship between estate managers and the freeholders and leaseholders of properties in relation to which they carry out estate management) if the amendments would facilitate consolidation of those Acts.

Matthew Pennycook **NC27**

Mike Amesbury

To move the following Clause—

"Qualifying leases for the purposes of the remediation of building defects

Section 119 of the Building Safety Act 2022 is amended by the insertion after subsection (4) of the following —

"(5) The Secretary of State may, by regulations, amend subsection (2) so as to bring additional descriptions of lease within the definition of "qualifying lease"."

Member's explanatory statement

This new clause would give the Secretary of State the power to bring "non qualifying" leaseholders within the scope of the protections of the Building Safety Act 2022.

Matthew Pennycook **NC28**

Mike Amesbury

To move the following Clause—

"Meaning of "relevant building" for the purposes of the remediation of building defects

Section 117 of the Building Safety Act 2022 is amended by the insertion after subsection (6) of the following—

"(7) The Secretary of State may, by regulations, amend subsection (2) so as to bring additional descriptions of building within the definition of "relevant building"."

Member's explanatory statement

This new clause would give the Secretary of State the power to bring buildings which are under 11m in height or have fewer than four storeys within the scope of the protections of the Building Safety Act 2022.

Matthew Pennycook **NC29**

Mike Amesbury

To move the following Clause—

"Report on providing leaseholders in flats with a share of the freehold

(1) The Secretary of State must publish a report outlining legislative options to ensure that all qualifying tenants in newly-constructed residential properties containing two or more flats have a proportionate share of the freehold of their property.

(2) The report must be laid before Parliament within three months of the commencement of this Act."

Member's explanatory statement

This new clause would require the Secretary of State to publish a report outlining legislative options to provide leaseholders in flats with a share of the freehold.

Matthew Pennycook **NC30**

Mike Amesbury

To move the following Clause—

"Review of the percentage of qualifying tenants required to participate in an enfranchisement claim

The Secretary of State must before the end of the period of two years beginning with the day on which this Act is passed—

(a) review the effect of the participation limit contained in section 13(2)(b)(ii) of the Leasehold Reform, Housing and Urban Development Act 1993, with particular consideration given to whether it represents an unjustified barrier to leaseholders exercising their rights under this Chapter, and

(b) report to Parliament, in whatever manner the Secretary of State thinks fit, with proposals for reform."

Member's explanatory statement

This new clause would require the Secretary of State to consider, within two years of the Act coming into force, whether the current requirement that 50% of leaseholders must support an enfranchisement application should be lowered.

Matthew Pennycook **NC31**

Mike Amesbury

To move the following Clause—

"Review of the percentage of qualifying tenants required to participate in a claim to acquire the Right to Manage

The Secretary of State must before the end of the period of two years beginning with the day on which this Act is passed—

(a) review the effect of the participation limit contained in section 79(5) of the Commonhold and Leasehold Reform Act 2002, with particular consideration given to whether it represents an unjustified barrier to leaseholders exercising their rights under Chapter 1 of Part 2 of that Act, and

(b) report to Parliament, in whatever manner the Secretary of State thinks fit, with proposals for reform."

Member's explanatory statement

This new clause would require the Secretary of State to consider, within two years of the Act coming into force, whether the current requirement that 50% of leaseholders must support an application for the Right to Manage should be lowered.

Barry Gardiner **NC32**

To move the following Clause—

"Premises to which leasehold right to manage applies

Section 72 of the CLRA 2002 is amended in subsection (1)(a), by the addition at the end of the words "or of any other building or part of a building which is reasonably capable of being managed independently.""

Member's explanatory statement

This new clause which is an amendment to the Commonhold and Leasehold Reform Act 2002 adopts the Law Commission's Recommendation 5 in its Right to Manage report which would allow leaseholders in mixed-use buildings with shared services or underground car park to exercise the Right to Manage.

Barry Gardiner **NC33**

To move the following Clause—

"Proportion of qualifying tenants required for a notice of claim to acquire right to manage

Section 79 of the CLRA 2002 is amended, in subsection (5), by leaving out "one-half" and inserting "one-third"."

Member's explanatory statement

This new clause would reduce the proportion of qualifying tenants who must be members of a proposed right to manage company for an RTM claim to be made.

Barry Gardiner **NC34**

To move the following Clause—

"Commencement of section 156 of the CLRA 2002

(1) Section 181 of the CLRA 2002 is amended as follows.

(2) In subsection (1), after "104" insert ", section 156".

(3) After subsection (1) insert—

"(1A) Section 156 comes into force at the end of the period of two months beginning with the day on which the Leasehold and Freehold Reform Act 2024 is passed.""

Member's explanatory statement

This new clause would bring into force a requirement of the Leasehold and Freehold Reform Act 2024 that service charge contributions be held in designated accounts.

Richard Fuller **NC35**

To move the following Clause—

"Duty to notify purchasers of liability for estate management charges

(1) The Secretary of State must by regulations make provision to ensure that any purchaser of a property which is subject to estate management charges—
  (a) is notified about their liability for estate management charges at the point at which an offer is accepted by the seller on the property; and
  (b) is provided with the most recent set of accounts of the property management company.

(2) Regulations under this section—
  (a) must be laid within 24 months of the date of Royal Assent to this Act,
  (b) shall be made by statutory instrument, and
  (c) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament."

Member's explanatory statement

This new clause would require the Secretary of State to make regulations to ensure that purchasers of properties subject to estate management charges are notified of those charges.

Sir Stephen Timms **NC36**

Barry Gardiner
Matt Hancock

To move the following Clause—

"Asbestos remediation

(1) The Leasehold Reform, Housing and Urban Development Act 1993 is amended as follows.

(2) After section 37B, insert—

"37C Asbestos remediation

(1) This section applies where a claim to exercise the right to collective enfranchisement in respect of any premises is made by tenants of flats contained in the premises and the claim is effective.

(2) The landlord must cause a survey of the premises to be undertaken by an accredited professional to ascertain whether asbestos is, or is liable to be, present in those parts of the premises which the landlord is responsible for maintaining.

(3) Where the survey required by subsection (2) reveals the presence of asbestos, the landlord must, at the landlord's cost, arrange for its safe removal.

(4) If the removal of asbestos required by subsection (3) is not carried out before the responsibility for maintaining the affected parts transfers to another person under the claim to exercise the right of collective enfranchisement, the landlord is liable for the costs of its removal.""

Barry Gardiner **NC37**

To move the following Clause—

"Eligibility for enfranchisement

(1) The LHRUDA 1993 is amended as follows.

(2) In section 3—

(a) in subsection (2)(a), after third "building", insert ", or could be separated out by way of the granting of a mandatory leaseback on the non-residential premises to the outgoing freeholder";

(b) after sub-paragraph (2)(b)(ii), insert "or

(iii) are reasonably capable of being managed independently or are already subject to separate management arrangements;"

(3) In section 4(1)(a)(ii), after "premises;", insert "nor

(iii) reasonably capable of being separated out by way of the granting of a mandatory leaseback and reasonably capable of being managed independently from the residential premises;""

Member's explanatory statement

This new clause would ensure that leaseholders in mixed-use blocks with shared services with commercial occupiers would qualify to buy their freehold.

Barry Gardiner **NC38**

To move the following Clause—

"Right to manage: procedure following an application to the appropriate tribunal

(1) The CLRA 2002 is amended as follows.

(2) After section 84, insert—

"84A Procedure following an application to the appropriate tribunal

(1) Where an application is made to the appropriate tribunal under section 84(3) for a determination that an RTM company was on the relevant date entitled to acquire the right to manage the premises, the Tribunal may, if satisfied that it is reasonable to do so, dispense with—

(a) service of any notice inviting participation;

(b) service of any notice of claim;
(c) any of the requirements in the provisions set out in subsection (2); or
(d) any requirement of any regulations made under this part of this Act.

(2) Subsection (1)(c) applies to the following provisions of this Act—
(a) section 73;
(b) section 74;
(c) section 78;
(d) section 79;
(e) section 80;
(f) section 81.""

Member's explanatory statement

This new clause would provide the appropriate tribunal with the discretion to dispense with certain procedural requirements where it is satisfied that it is reasonable to do so. It is designed to deal with cases where a landlord attempts to frustrate an RTM claim by procedural means.

Barry Gardiner **NC39**

To move the following Clause—

"Service charges: consultation requirements

(1) The Landlord and Tenant Act 1985 is amended as follows.

(2) In section 20ZA, after subsection (1), insert—

"(1A) "Reasonable" for the purpose of subsection (1) is a matter of fact for the tribunal, which—
(a) may or may not consider the matter of relevant prejudice to the tenant. If prejudice is to be considered the burden is on the landlord to demonstrate a lack of prejudice or to prove the degree of prejudice;
(b) must include consideration of the objectives of increasing transparency and accountability, and the promotion of professional estate management, as well as of ensuring that leaseholders are protected from paying for inappropriate works or paying more than would be appropriate;
(c) must consider the dignity and investment of the tenant, who should be treated as a core participant in the process of service charge decisions;
(d) must have regard to the tenant's legitimate interest in a meaningful consultation process, bearing in mind that minor or technical breaches may not impinge on the tenant's interest, nor prejudice the tenant;
(e) at its discretion may or may not consider a reconstruction of the 'what if' situation, analysing what would have happened had

the consultation been followed properly. The landlord is liable for the costs of such a reconstruction.""

Member's explanatory statement

This new clause would set matters for the tribunal to consider when deciding whether to dispense with all or any of the requirements for landlords to consult tenants in relation to any major works.

Barry Gardiner **NC40**

To move the following Clause—

"Meaning of "accountable person" for the purposes of the Building Safety Act 2022

(1) Section 72 of the Building Safety Act 2022 is amended in accordance with subsections (2) and (3).

(2) After subsection (2)(b), insert—

"(c) all repairing obligations relating to the relevant common parts which would otherwise be obligations of the estate owner are functions of a manager appointed under section 24 of the Landlord and Tenant Act 1987 in relation to the building or any part of the building."

(3) In subsection (6), in the definition of "relevant repairing obligation", after "enactment", insert "or by virtue of an order appointing a manager made under section 24 of the Landlord and Tenant Act 1987".

(4) Section 24 of the Landlord and Tenant Act 1987 is amended in accordance with subsection (5).

(5) Omit subsection (2E)."

Member's explanatory statement

This new clause would provide for a manager appointed under section 24 of the Landlord and Tenant Act 1987 to be the "accountable person" for a higher-risk building.

Barry Gardiner **NC41**

To move the following Clause—

"Building insurance and section 39 of the Financial Services and Markets Act 2000

A landlord may not manage or arrange insurance for their building under the protections of section 39 of the Financial Services and Markets Act 2000."

Member's explanatory statement

This new clause precludes a landlord from operating as an appointed representative under the licence of Broker, where the landlord has no such licence themselves.

Barry Gardiner **NC47**

To move the following Clause—

"Collective enfranchisement: removal of prohibition on participation

(1) Section 5 of the LRHUDA 1993 is amended in accordance with subsection (2).

(2) Omit subsections (5) and (6)."

Member's explanatory statement

This new clause would implement recommendation 41 of the Law Commission's report on enfranchisement, that the prohibition on leaseholders of three or more flats in a building being qualifying tenants for the purposes of a collective enfranchisement claim should be abolished.

Barry Gardiner **NC48**

To move the following Clause—

"Right to participate in enfranchisement

(1) The Secretary of State may by regulations make provision to enable qualifying leaseholders to buy a share of the freehold at a development where a collective enfranchisement has already taken place.

(2) Provision made under subsection (1) is to be known as a "right to participate"."

Member's explanatory statement

This new clause would enable the Secretary of State to make regulations allowing those residential leaseholders whose unit qualified for a collective enfranchisement, but whose leaseholders were unable or unwilling to do so at the time, to exercise the right to participate in the enfranchisement upon payment of a proportionate sum.

Stella Creasy **NC49**

To move the following Clause—

"Estate management: compensation

(1) This section applies where the first and second conditions are met.

(2) The first condition is that it would not be reasonable for the residents of a property to continue to occupy that property as their primary residence due to a defect which the estate manager—
  (a) is responsible for remedying, or
  (b) could reasonably have foreseen would arise.

(3) The second condition is that—
  (a) the defect is the direct result of actions taken or not taken by the estate manager, or

(b) the estate manager has failed to remedy the defect within a reasonable period of time.

(4) The estate manager must—

(a) provide compensation to the residents of the property equal to any reasonable financial loss they incurred as a result of the defect, or

(b) provide suitable alternative accommodation for the duration of the period for which this section applies.

(5) No cost incurred by an estate manager as a consequence of this section may be recouped from the estate in question through an estate management charge."

Member's explanatory statement

This new clause would allow estate residents to claim compensation or alternative accommodation where it is not reasonable for them to remain in their homes due to defects caused, or left unremedied for an unreasonable length of time, by an estate manager.

Richard Fuller **NC50**

To move the following Clause—

"Control of boards of estate managers

(1) Within six months of the passage of this Act, the Secretary of State must by regulations provide for—

(a) every estate manager (see section 39(3)) to be constituted such that a controlling majority on its board is held by an owner or lessor of a managed dwelling (see section 39(5));

(b) the requirement stipulated in paragraph (a) to be in place within two years of the sale or lease of the first managed dwelling.

(2) Regulations under subsection (1) may amend primary legislation."

Member's explanatory statement

This new clause would provide for the Secretary of State by regulations to oblige every estate management company to have a majority of residents on its board within two years of the sale or let of the first house or flat on the managed estate.

Richard Fuller **NC51**

To move the following Clause—

"Ability to change estate management company

(1) Within three months of the passing of this Act, the Secretary of State must consider and report to Parliament on the situation of homeowners who have been told that they cannot change their estate management company because they are named on a TP1.

(2) The report required by subsection (1) must include proposals for legislative change to enable such homeowners to change their estate management company where appropriate."

Lee Rowley **Gov NS1**

To move the following Schedule—

"SCHEDULE Section (*Financial penalties*)

REDRESS SCHEMES: FINANCIAL PENALTIES

Notice of intent

1 (1) Before imposing a financial penalty on a person under section (*Financial penalties*), an enforcement authority must give the person notice of its proposal to do so (a "notice of intent").

(2) The notice of intent must be given before the end of the period of 6 months beginning with the first day on which the enforcement authority has sufficient evidence of the conduct to which the financial penalty relates.

(3) But if the person is continuing to engage in the conduct on that day, and the conduct continues beyond the end of that day, the notice of intent may be given—

(a) at any time when the conduct is continuing, or

(b) within the period of 6 months beginning with the last day on which the conduct occurs.

(4) The notice of intent must set out—

(a) the date on which the notice of intent is given,

(b) the amount of the proposed financial penalty,

(c) the reasons for proposing to impose the penalty, and

(d) information about the right to make representations under paragraph 2.

Right to make representations

2 (1) A person who is given a notice of intent may make written representations to the enforcement authority about the proposal to impose a financial penalty.

(2) Any representations must be made within the period of 28 days beginning with the day after the day on which the notice of intent was given to the person ("the period for representations").

Final notice

3 (1) After the end of the period for representations the enforcement authority must—

(a) decide whether to impose a financial penalty on the person, and

(b) if it decides to do so, decide the amount of the penalty.

(2) If the enforcement authority decides to impose a financial penalty on the person, it must give a notice to the person (a "final notice") imposing that penalty.

(3) The final notice must require the penalty to be paid within the period of 28 days beginning with the day after the day on which the notice was given.

(4) The final notice must set out—

(a) the date on which the final notice is given,

(b) the amount of the financial penalty,

(c) the reasons for imposing the penalty,

(d) information about how to pay the penalty,

(e) the period for payment of the penalty,

(f) information about rights of appeal, and

(g) the consequences of failure to comply with the notice.

Withdrawal or amendment of notice

4 (1) An enforcement authority that gives a notice of intent or final notice may at any time—

(a) withdraw the notice of intent or final notice, or

(b) reduce an amount specified in the notice of intent or final notice.

(2) The power in sub-paragraph (1) is to be exercised by giving notice in writing to the person to whom the notice was given.

Appeals

5 (1) A person to whom a final notice is given may appeal to the First-tier Tribunal against—

(a) the decision to impose the penalty, or

(b) the amount of the penalty.

(2) An appeal under this paragraph must be brought within the period of 28 days beginning with the day after the day on which the final notice is given to the person.

(3) If a person appeals under this paragraph, the final notice is suspended until the appeal is finally determined, withdrawn or abandoned.

(4) An appeal under this paragraph—

(a) is to be a re-hearing of the enforcement authority's decision, but

(b) may be determined having regard to matters of which the enforcement authority was unaware.

(5) On an appeal under this paragraph the First-tier Tribunal may quash, confirm or vary the final notice.

(6) The final notice may not be varied under sub-paragraph (5) so as to impose a financial penalty of more than the enforcement authority could have imposed.

Recovery of financial penalty

6 (1) This paragraph applies if a person fails to pay the whole or any part of a financial penalty which, in accordance with this Schedule, the person is liable to pay.

(2) The enforcement authority which imposed the financial penalty may recover the penalty or part on the order of the county court as if it were payable under an order of that court.

Proceeds of financial penalties

7 (1) Where an enforcement authority imposes a financial penalty under section (*Financial penalties*), it may apply the proceeds towards meeting the costs and expenses (whether administrative or legal) incurred in, or associated with, carrying out any of its functions under this Part of this Act.

(2) Any proceeds of a financial penalty imposed under section (*Financial penalties*) by an enforcement authority other than the Secretary of State which are not applied in accordance with sub-paragraph (1) must be paid to the Secretary of State."

Member's explanatory statement

This new Schedule, to be inserted after Schedule 8, would make further provision about the imposition of financial penalties under NC19.

Lee Rowley **Gov 28**

Title, line 5, leave out "charges and costs payable by residential" and insert "the relationship between residential landlords and"

Member's explanatory statement

This amendment is consequential on amendments to Part 3.

Order of the House

[11 December 2023]

That the following provisions shall apply to the Leasehold and Freehold Reform Bill:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Thursday 1 February 2024.

3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Consideration and Third Reading

4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and Third Reading.

Other proceedings

7. Any other proceedings on the Bill may be programmed.

Order of the Committee

[16 January 2024]

That–

1. the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 16 January) meet—
   (a) at 2.00 pm on Tuesday 16 January;
   (b) at 11.30 am and 2.00 pm on Thursday 18 January;
   (c) at 9.25 am and 2.00 pm on Tuesday 23 January;
   (d) at 11.30 am and 2.00 pm on Thursday 25 January;
   (e) at 9.25 am and 2.00 pm on Tuesday 30 January;
   (f) at 11.30 am and 2.00 pm on Thursday 1 February.
2. the Committee shall hear oral evidence in accordance with the following Table:

Date	Time	Witness
Tuesday 16 January	Until no later than 9.50 am	The Leasehold Advisory Service (LEASE)
Tuesday 16 January	Until no later than 10.25 am	Leasehold Knowledge Partnership; Velitor Law
Tuesday 16 January	Until no later than 11.00 am	The National Leasehold Campaign

Date	Time	Witness
Tuesday 16 January	Until no later than 11.25 am	Law & Lease
Tuesday 16 January	Until no later than 2.30 pm	The Law Commission
Tuesday 16 January	Until no later than 3.00 pm	The Financial Conduct Authority
Tuesday 16 January	Until no later than 3.40 pm	Free Leaseholders; Commonhold Now; HoRnet (The Home Owners Rights Network)
Tuesday 16 January	Until no later than 4.15 pm	The Property Institute; Fanshawe White
Tuesday 16 January	Until no later than 4.50 pm	The Home Buying and Selling Group; The Conveyancing Association
Tuesday 16 January	Until no later than 5.15 pm	Public First
Tuesday 16 January	Until no later than 5.40 pm	Dr Douglas Maxwell
Thursday 18 January	Until no later than 12.10 pm	HomeOwners Alliance; The Federation of Private Residents' Associations; Shared Ownership Resources
Thursday 18 January	Until no later than 12.40 pm	Professor Andrew J. M. Steven (Professor of Property Law, University of Edinburgh); Professor Christopher Hodges OBE (Emeritus Professor of Justice Systems, University of Oxford)
Thursday 18 January	Until no later than 1.00 pm	The Building Societies Association
Thursday 18 January	Until no later than 2.20 pm	The Competition and Markets Authority
Thursday 18 January	Until no later than 2.40 pm	Policy Exchange
Thursday 18 January	Until no later than 3.10 pm	The Law Society; Philip Rainey KC

Date	Time	Witness
Thursday 18 January	Until no later than 3.30 pm	The Residential Freehold Association
Thursday 18 January	Until no later than 3.50 pm	End Our Cladding Scandal

3. proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 4; Schedule 1; Clauses 5 to 11; Schedules 2 to 5; Clauses 12 to 19; Schedule 6; Clauses 20 and 21; Schedule 7; Clauses 22 to 37; Schedule 8; Clauses 38 to 65; new Clauses; new Schedules; remaining proceedings on the Bill;

4. the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 1 February.