

LEASEHOLD REFORM (AMENDMENT) BILL

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Leasehold Reform (Amendment) Bill. They have been provided by the Department for Communities and Local Government, with the consent of Baroness Williams of Trafford, the Peer in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.

2. The Notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

SUMMARY AND BACKGROUND

3. The Leasehold Reform (Amendment) Bill amends the Leasehold Reform, Housing and Urban Development Act 1993 ('the Act') to provide that where notices are served under section 13 and section 42 of the Act, these notices are no longer required to be signed personally by a leasehold tenant ('leaseholder') but may be signed on a leaseholder's behalf.

4. Section 13 of the Act provides the right for leaseholders to participate in collective enfranchisement and section 42 sets out the right for leaseholders to extend their lease. At present, notices under both of these sections must be signed by the leaseholder personally and cannot be signed by a person acting under the Power of Attorney or under the direction of the Court of Protection. The amendment would allow a person such as a solicitor or relative to sign notices on a leaseholder's behalf.

5. The policy rationale for the amendment is to assist - among others - those physically disabled, seriously ill or mentally incapacitated leaseholders currently unable to benefit from the exercise of their rights. This would include those elderly or disabled leaseholders who are capable of deciding that they would like to take part in collective enfranchisement or extend their lease but are unable to exercise these rights as they are physically unable to sign the notice. Such leaseholders may currently be substantially financially disadvantaged relative to able-bodied leaseholders, as a result of not being able to exercise their rights under section 13

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as brought from the House of Commons on 24th January 2014 [HL Bill 80]*

and section 42 of the Act. The Bill could also assist leaseholders living abroad who need to sign these notices.

TERRITORIAL EXTENT AND APPLICATION

6. The Bill extends to England and Wales but it does not alter the legal position in relation to Wales. The new provisions contained in the Bill apply in relation to England only.

COMMENTARY

Clause 1: Amendment of the Leasehold Reform, Housing and Urban Development Act 1993

7. The effect of this clause is to restrict the provision in section 99(5)(a) of the Act so that it applies only in respect of premises in Wales. Notices served under section 13 or section 42 of the Act in respect of premises in England are therefore no longer subject to the requirement for the notice to be signed personally by the leaseholder. The effect of the amendment is that notices under section 13 and section 42 of the Act served in respect of premises in England now fall within section 99(5)(b) of the Act and may therefore be treated in the same way as all other notices given under Chapter I or II of the Act, where a notice may be signed by or on behalf of the leaseholder.

COMMENCEMENT

8. The Act shall come into force two months after it receives Royal Assent.

IMPACT ASSESSMENT

9. An impact assessment is not required, as the Bill is not expected to have any impact on business

PUBLIC SECTOR MANPOWER IMPLICATIONS

10. The Bill will not represent a change to public service manpower.

FINANCIAL EFFECTS

11. The Bill will not have any significant financial effects. However, where a leaseholder has been unable to exercise their right to collective enfranchisement or their right to extend their lease due to an inability to sign notices personally, it is possible that the Bill may have a

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positive financial effect, by enabling such leaseholders to exercise these rights. Being able to exercise these rights may result in an increase the leaseholder's financial and legal interest in their home, while the freeholder also benefits from receiving the premium payable for selling the freehold (collective enfranchisement) or extending the lease.

**COMPATIBILITY WITH THE EUROPEAN CONVENTION ON HUMAN RIGHTS
(‘ECHR’)**

12. This is a Private Member's Bill and the Minister is not required to give a statement of compatibility with the Human Rights Act 1998, in accordance with section 19(1)(a) of that Act.

13. The Department for Communities and Local Government has nevertheless considered the question of compatibility and has concluded that the Bill is compatible with the ECHR. The Department's assessment is that it is possible that the Bill may engage Article 1 of the First Protocol (right to peaceful enjoyment of possessions), but that the Bill is not incompatible with this Article. The Article may be engaged through the risk of elderly or vulnerable leaseholders being taken advantage of by persons purporting to sign documents on their behalf. However, such activity would be unlawful and the overall benefit to leaseholders of the change in the law would outweigh any risk of exploitation. The Department therefore considers that the provision made by the Bill is proportionate.

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*Order to be Printed,
24th January 2014*

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LONDON – THE STATIONERY OFFICE LIMITED

Printed in the United Kingdom by
The Stationery Office Limited

£x.00