

Welfare Reform and Work Bill

FIFTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE

The amendments have been marshalled in accordance with the Instruction of 26th November 2015, as follows –

Clauses 21 to 25
Schedule 2

Clauses 26 to 32
Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 21

LORD FREUD

104BC Page 20, line 23, after “began” insert “at or”

LORD KERSLAKE

104C Page 20, line 36, leave out “, second or third” and insert “or second”

104D Page 20, line 38, leave out “, 1 April 2018 or 1 April 2019” and insert “or 1 April 2018”

LORD FREUD

104DA Page 20, line 39, at end insert –

“() For the purposes of subsection (6), a private registered provider’s practice as regards its tenancies is to be determined by reference to its practice as regards the tenancies of its social housing in the year ending with 31 March 2016 (and a private registered provider which has no tenancies of its social housing in that year is to be regarded as having no practice as regards its tenancies).”

Amendment
No.

Clause 21 – continued

LORD KERSLAKE

104E Page 20, line 43, at end insert –

- “() From 1 April 2020 registered providers will increase rents by CPI plus 1 per cent each year, and the Secretary of State will review the impact of this section to determine flexibility for registered providers to increase social rents by an additional amount above the increase in formula rent.”

BARONESS SHERLOCK
LORD MCKENZIE OF LUTON
THE EARL OF LISTOWEL
BARONESS MANZOOR

105 Page 20, line 46, at end insert –

- “() The Secretary of State must, within 12 months of this section coming into force, produce a plan to offset the impact of lower social rents on housing associations and local government.”

106 [Re-tabled as Amendment 104BA]

Clause 22

BARONESS SHERLOCK
LORD MCKENZIE OF LUTON

107 Page 21, line 6, at end insert –

- “(c) the accommodation is specified accommodation, as defined in The Housing Benefit and Universal Credit (Supported Accommodation) (Amendment) Regulations 2014 (S.I. 2014/771).”

LORD BEST

108 Page 21, line 6, at end insert –

- “(c) the accommodation is owned by a fully mutual housing co-operative within the meaning of paragraph 12(1)(h) of Schedule 1 to the Housing Act 1988 (local authority tenancies etc);
(d) the accommodation is owned by a community land trust within the meaning of section 79 of the Housing and Regeneration Act 2008 (English bodies).”

LORD KERSLAKE

108A Page 21, line 6, at end insert –

- “(c) the accommodation is excepted from Right to Buy as a dwelling specific to the needs of the disabled or elderly (with reference to paragraphs 7 to 11 of Schedule 5 to the Housing Act 1985).”

Amendment
No.

Clause 22 – *continued*

LORD FREUD

108B Page 21, line 7, leave out subsection (2) and insert –

- “(2) Section 21 does not apply in relation to social housing of a registered provider if, where the registered provider’s interest in the property that consists of or includes the social housing is subject to a mortgage –
- (a) the mortgagee is in possession of the interest in the property or the part of the property that includes the social housing, in the exercise of the mortgagee’s powers to enforce the mortgage,
 - (b) a receiver has been appointed in relation to the interest in the property or the part of the property that includes the social housing by –
 - (i) the mortgagee, in the exercise of the mortgagee’s powers to enforce the mortgage, or
 - (ii) the court, in connection with enforcing the mortgage, and that appointment is in force, or
 - (c) a person has been appointed by the mortgagee, in the exercise of the mortgagee’s powers to enforce the mortgage (including, in the case of a floating charge which relates to the interest in the property, the power under paragraph 14 of Schedule B1 to the Insolvency Act 1986), to exercise powers that include a power to sell or otherwise dispose of the interest in the property or the part of the property that includes the social housing and that appointment is in force.”

108C Page 21, line 18, leave out subsection (3) and insert –

- “(3) If –
- (a) a registered provider’s interest in property that consists of or includes social housing was made subject to a mortgage, and
 - (b) the interest in the property, or the interest in the part that includes the social housing, is sold or otherwise disposed of after the coming into force of section 21 by –
 - (i) the mortgagee, in the exercise of the mortgagee’s powers to enforce the mortgage,
 - (ii) a receiver appointed by the mortgagee or by the court as described in subsection (2)(b), or
 - (iii) a person appointed by the mortgagee as described in subsection (2)(c),
- section 21 ceases to apply in relation to that social housing at the time of that sale or other disposal.”

108D Page 21, line 33, at end insert –

- “() In subsections (2) and (3) –
- “mortgage” includes a charge or other security;
 - “mortgagee” includes a person who is entitled to take steps to enforce a charge or other security.”

Amendment
No.

Clause 22 – continued

LORD BEST
LORD KERSLAKE
THE LORD BISHOP OF ROCHESTER
LORD SHIPLEY

109 Page 21, line 33, at end insert –

“() Section 21 does not apply to social housing which meets the definition of supported housing as defined in The Housing Benefit and Universal Credit (Supported Accommodation) (Amendment) Regulations 2014 (S.I. 2014/771).”

LORD RAMSBOTHAM

109A Page 21, line 33, at end insert –

“() Section 21 does not apply in relation to a registered provider of social housing which is an almshouse charity.”

After Clause 23

BARONESS SHERLOCK
LORD MCKENZIE OF LUTON
THE EARL OF LISTOWEL

110 Insert the following new Clause –

“Housing costs in the private rented sector

- (1) The Secretary of State must, at a time no later than the end of the financial year ending March 2017 and at least once during the course of each of the subsequent four financial years, review the relationship between housing costs in the private rented sector and levels of local housing allowance.
- (2) Where a review under subsection (1) shows that less than 30 per cent of private rented properties in each locality are affordable to persons in receipt of local housing allowance, the Secretary of State must by regulations under section 130A of the Social Security Contributions and Benefits Act 1992 (appropriate maximum housing benefit) amend the rates of local housing allowance.”

Schedule 2

LORD KERSLAKE

110A Page 32, line 16, at end insert –

“() The registered provider must have regard to rent standard guidance in calculating social rents for new properties and shall retain discretion to adjust those rents to reflect appropriately local factors.”

110B Page 33, line 10, at end insert –

“() The registered provider must have regard to rent standard guidance in calculating affordable rents for new properties and shall retain discretion to adjust those rents to reflect appropriately local factors.”

Amendment
No.

Schedule 2 – *continued*

LORD FREUD

110C Page 34, line 9, leave out sub-paragraph (2) and insert –

“(2) Part 1 does not apply in relation to social housing of a registered provider if, where the registered provider’s interest in the property that consists of or includes the social housing is subject to a mortgage –

- (a) the mortgagee is in possession of the interest in the property or the part of the property that includes the social housing, in the exercise of the mortgagee’s powers to enforce the mortgage,
- (b) a receiver has been appointed in relation to the interest in the property or the part of the property that includes the social housing by –
 - (i) the mortgagee, in the exercise of the mortgagee’s powers to enforce the mortgage, or
 - (ii) the court, in connection with enforcing the mortgage, and that appointment is in force, or
- (c) a person has been appointed by the mortgagee, in the exercise of the mortgagee’s powers to enforce the mortgage (including, in the case of a floating charge which relates to the interest in the property, the power under paragraph 14 of Schedule B1 to the Insolvency Act 1986), to exercise powers that include a power to sell or otherwise dispose of the interest in the property or the part of the property that includes the social housing and that appointment is in force.”

110D Page 34, line 21, leave out sub-paragraph (3) and insert –

“(3) If –

- (a) a registered provider’s interest in property that consists of or includes social housing was made subject to a mortgage, and
- (b) the interest in the property, or the interest in the part that includes the social housing, is sold or otherwise disposed of after the coming into force of Part 1 by –
 - (i) the mortgagee, in the exercise of the mortgagee’s powers to enforce the mortgage,
 - (ii) a receiver appointed by the mortgagee or by the court as described in sub-paragraph (2)(b), or
 - (iii) a person appointed by the mortgagee as described in sub-paragraph (2)(c),

Part 1 ceases to apply in relation to that social housing at the time of that sale or other disposal.”

110E Page 34, line 36, at end insert –

“() In sub-paragraphs (2) and (3) –

“mortgage” includes a charge or other security;

“mortgagee” includes a person who is entitled to take steps to enforce a charge or other security.”

Amendment
No.

After Clause 26

LORD FREUD

110F Insert the following new Clause –

“Implied terms

- (1) A lease or other agreement by virtue of which a person is a tenant of a registered provider contains, by virtue of this subsection, an implied term enabling the registered provider to reduce the amount of rent payable by the tenant, without giving prior notice, where the reduction is made for the purpose of complying with a requirement imposed by or under section 21 or 26 or Part 1 of Schedule 2.
- (2) Subsection (1) has effect notwithstanding any express provision in a lease or other agreement.
- (3) Section 102 of the Housing Act 1985 (variation of terms of a secure tenancy) has effect subject to subsection (1).”

110G Insert the following new Clause –

“Change of registered provider

- (1) This section applies if –
 - (a) particular social housing of a registered provider becomes social housing of another registered provider (“the transferee”), and
 - (b) the social housing is subject to a tenancy that began before the social housing became the transferee’s social housing.
- (2) Sections 21 to 26 and Schedule 2 have effect in relation to the amount of rent payable by the tenant under the tenancy as if –
 - (a) the transferee’s relevant years were the same as the initial registered provider’s relevant years, and
 - (b) rent payable by the tenant before the social housing became the transferee’s social housing were rent payable to the transferee in respect of such earlier periods.
- (3) Subsection (4) applies if, immediately before the social housing became the transferee’s social housing, a requirement imposed by or under section 21 or 26 or Part 1 of Schedule 2 was disapplied or modified as regards the social housing –
 - (a) by a direction under section 23 or paragraph 6 of Schedule 2, or
 - (b) under section 26(4).
- (4) If the social housing becomes the transferee’s social housing otherwise than at the beginning of a relevant year of the initial registered provider, the requirement continues not to apply or continues to apply as modified (as the case may be) until –
 - (a) the relevant year of the initial registered provider current when the social housing becomes the transferee’s social housing comes to an end, or
 - (b) if earlier, the tenancy comes to an end.
- (5) In this section a reference to a relevant year of an initial registered provider includes, in the case of an initial registered provider that has ceased to exist, a reference to what would have been a relevant year of an initial registered provider if it had not ceased to exist.

Amendment
No.

After Clause 26 – *continued*

- (6) In this section “initial registered provider”, in relation to a tenancy of social housing, means the first registered provider which –
- (a) was subject to a requirement imposed by or under section 21 or 26 or Part 1 of Schedule 2 as regards the tenancy, or
 - (b) would have been so subject but for its being disapplied –
 - (i) by a direction under section 23 or paragraph 6 of Schedule 2 or under section 26(4), or
 - (ii) by or under section 22 or paragraph 5 of Schedule 2.”

110H

Insert the following new Clause –

“Transitional provision

- (1) This section applies if, immediately before the rent restriction period ends –
- (a) a lease or other agreement by virtue of which a person is a tenant of a registered provider contains provision under which rent will or may be increased with effect from a date or dates specified in the lease or other agreement (“rent review dates”), and
 - (b) the registered provider is subject to a requirement imposed by or under section 21 or 26 or Part 1 of Schedule 2 as regards the tenant.
- (2) The lease or other agreement contains, by virtue of this subsection, an implied term enabling the registered provider to treat a date that falls –
- (a) after the rent restriction period ends, and
 - (b) before the first rent review date to occur after the rent restriction period ends,
- as if that date were the first rent review date to occur after the rent restriction period ends (instead of the date provided for in the lease or other agreement).
- (3) Subsection (4) applies if, under the provision mentioned in subsection (1)(a), the intervals between rent review dates may only be intervals of 51 weeks or more.
- (4) The lease or other agreement contains, by virtue of this subsection, an implied term enabling the registered provider, if it acts as mentioned in subsection (2), to treat the relevant date as if it were the second rent review date to occur after the rent restriction period ends (instead of the date provided for in the lease or other agreement).
- (5) In subsection (4) “the relevant date” means the date that precedes the second rent review date by the same period as the date treated under subsection (2) as the first rent review date precedes the first rent review date provided for in the lease or other agreement.
- (6) The lease or other agreement contains, by virtue of this subsection, an implied term requiring the registered provider, if it acts as mentioned in subsection (4), to treat the date that precedes each subsequent rent review date by the same period as if it were that subsequent rent review date (instead of the date provided for in the lease or other agreement).

**Amendment
No.**

After Clause 26 – continued

- (7) The lease or other agreement contains, by virtue of this subsection, an implied term providing that, if the registered provider treats an earlier date as if it were a rent review date because of a term implied by subsection (2), (4) or (6), other provision in the lease or other agreement is to have effect accordingly.
- (8) Nothing in this section prevents the registered provider and the tenant varying or excluding by agreement a term implied by virtue of this section.
- (9) Section 102 of the Housing Act 1985 (variation of terms of a secure tenancy) has effect subject to subsections (2), (4), (6) and (7).
- (10) In this section “rent restriction period”, in relation to a tenant of a registered provider, means the period during which the registered provider might be subject to a requirement imposed by or under section 21 or 26 or Part 1 of Schedule 2 as regards the tenant.”

Clause 27

LORD FREUD

110J Page 25, line 10, after “26” insert “and (*Change of registered provider*)”

Clause 31

LORD FREUD

110K Page 27, line 21, at end insert –

“() section 21(3) and (4);”

110L Page 27, line 23, leave out first “paragraph 6” and insert “paragraphs 6 and 10”

110M Page 27, line 23, leave out second “paragraph 6” and insert “paragraphs 6 and 10”

LORD PATEL

111 Page 28, line 2, at end insert “, subject to sections 13(7A) and (7B), and 14(1A) and (1B)”

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