HOWARD KENNEDY

Real Estate, Real Change, Real Expertise...

How new regulations and legislation affect the living sector



Leasehold & Freehold Reform Act 2024

Contents

Page numbers

3. INTRODUCTION

5. WHAT ARE THE REFORMS?

11. SHOULD YOU EXTEND YOUR LEASE NOW OR WAIT FOR LAFRA TO COME INTO FORCE?

12. SHOULD YOU WAIT UNTIL LAFRA COMES INTO FORCE TO MAKE A COLLECTIVE ENFRANCHISEMENT CLAIM?



Introduction



Consultations regarding proposed reforms to the leasehold enfranchisement regime have been ongoing for a lengthy period. The Law Commission initiated a consultation in 2018 recommending changes to valuation methodology, as well as the legal process, in respect of lease extensions and enfranchisement, with a view to making these processes easier and cheaper for leaseholders.

Since then, the Government has gone further with proposals for leasehold reform. A White Paper published March 2025 outlined proposals to phase out leasehold ownership in favour of a commonhold system by means of a draft Leasehold and Commonhold Reform Bill. Leasehold has been described by the Government as a "fundamentally inequitable tenure", with Housing Minister Matthew Pennycock stating "we are determined to end the injustice of 'fleecehold' entirely".

However, here we focus on the Leasehold and Freehold Reform Act 2024 (LAFRA), which was rushed through Parliament as part of the "wash up" before the general election, receiving Royal Assent on 24 May 2024. Although it does not go so far as abolishing leasehold, it introduces significant changes to this arena; and its effects will be far reaching once its provisions come into force.

LAFRA also makes amendments to the Building Safety Act 2022 (BSA). The repeal of section 125 of the BSA, which deals with meeting remediation costs of an insolvent landlord, and the new meaning of "responsible person" in the context of duties of an insolvent accountable person, came into force on 24 July 2024. The substantive changes relating to remediation of building defects came into force on 31 October 2024.

Introduction continued

Sections 113 (regulation of remedies for rentcharge arrears) and 117 (recovery of legal costs etc through service charge) also came into force on 24 July 2024.

As for the remainder of its provisions, Housing Minister Matthew Pennycock announced in November 2024 that the present Government will continue to implement LAFRA (notwithstanding that it originated with the previous Government). In practice, the Act will come into force in stages rather than all at once. Accordingly, section 27(removal of qualifying ownership period before enfranchisement and extension claims) came into force on 31 January 2025. In relation to right to manage claims, sections 49-52 and parts of section 64 came into force on 3 March 2025.

The Government has also flagged that are flaws in the original drafting of the Act that are to be fixed by way of further primary legislation. For example, drafting around valuation mechanics and shared ownership lease extensions. They also intend to consult further on certain key provisions, for example a consultation entitled "Strengthening leaseholder protections over charges and services" ran to 26 September 2025.



What are the reforms?

1. Collective enfranchisement and lease extensions

- As and when the provisions of LAFRA come into force, we will see impactful changes to the leasehold enfranchisement sphere. The key implications are highlighted in the following pages.

- As mentioned above, the qualifying ownership period for lease extension claims has been removed. Previously, there was an ownership requirement; the tenant could not exercise its right until it had owned the property for more than two years, calculated from the date their ownership was registered at the Land Registry. Now, as soon as a leaseholder's ownershipof the flat is registered at the Land Registry, they satisfy the qualifying criteria to enable them to claim a new lease of their flat.

- The intention is that it will be easier and cheaper for leaseholders to purchase the freehold interest in their buildings. In most cases, there will be no liability for leaseholders to pay their freeholder's costs in relation to making an enfranchisement claim.

- The standard term for lease extensions will be increased to 990 years (plus the unexpired term) from 50 years for houses and 90 years for flats.



1. Collective enfranchisement and lease extensions continued

- The requirement to pay marriage value where leases are under 80 years will be removed, which may result in lower premiums. However, deferment and capitalisation rates are yet to be set. The deferment rate is the basis on which the compensation that a tenant pays to a landlord for extending their lease is calculated. Currently, the deferment rate is set at 5% for flats and 4.75% for houses. LAFRA could change this; however, it is unclear what rate the Government may set. If the Government were to set a lower rate, the effect of this will be that any saving made with the removal of the requirement to pay marriage value will be wiped out by the less advantageous rate. The consequence of this is that lease extensions could end up becoming more expensive for those have 80 or more years left of the unexpired terms of their leases.

- A cap on ground rent for valuation purposes will be introduced when extending leases. This will be assumed to be capped at 0.1% of the market value of the premies when valuing the freeholder's interest. The intention behind this is that this will decrease the premium for a leaseholder with an onerous ground rent.

- In relation to collective enfranchisement claims, for a building to qualify, any commercial parts such as shops or offices, must not exceed 25% of the internal floor area of the building (excluding common parts). The commercial element will be increased to 50%, resulting in more buildings falling within the scope for collective enfranchisement.



2. Service Charges

- Providing leaseholders with greater transparency in respect of service charges by requiring invoices to be issued in a standard format to enable leaseholders to review and challenge these more easily.

- The process of challenging service charges will be made easier for leaseholders and cheaper as the presumption that leaseholder will bear the costs of challenging service charges has been removed.

- Requirement for landlords to produce a year-end report with details of planned major works.

3. Insurance

- Promoting transparency in respect of fees for placing insurance.

- A ban on commissions made on insurance by freeholders and managing agents has been introduced.

4. Management

- Requiring landlords who manage their buildings to join a redress scheme to enable leaseholders to challenge poor practice more easily.

- Setting caps on fees and time limits in relation to providing information regarding buying and selling homes.

- Making it cheaper and easier for leaseholders to take over the management of their building by allowing them to appoint a managing agent of their choice.

- Granting homeowners on private and mixed tenure estates rights of redress in order that they receive more information about the charges they pay and the ability to challenge the reasonableness of such charges.



5. Building Safety Act

LAFRA also "amend[s] the Building Safety Act 2022 in connection with the remediation of building defects and the insolvency of persons who have repairing obligations relating to certain kinds of buildings." In other words: amendments have been made to Part 5 of the BSA, which deals with remediation orders (ROs) and remediation contribution orders (RCOs).

The key changes are:

- The insertion of "relevant steps" at section 120 of the BSA in relation to relevant defects. "Relevant steps" means steps which have as their purpose:
    - preventing or reducing the likelihood of a fire or collapse of the building (or any part of it) occurring as a result of the relevant defect;
    - reducing the severity of any such incident; or
    - preventing or reducing harm to people in or about the building that could result from such an incident.

- Section 123 of the BSA, which deals with ROs, is amended to the effect that the grounds on which an RO can be made are widened so as to cover (a) remedying relevant defects and now also (b) taking "relevant steps" in respect of relevant defects. Applicants can therefore apply not only for an order that the landlord remedies relevant defects but also takes a "relevant step", for example, implementing a waking watch, as an initial step to reduce the risk of harm cause by a relevant defect.



5. Building Safety Act continued

- Section 124 of the BSA deals with RCOs and is amended by section 116 of LAFRA to clarify "costs incurred or to be incurred in remedying relevant defects" which can be caught by an RCO. The insertion of section 124(2A) clarifies this and includes:

    - Costs incurred or to be incurred in taking relevant steps in relation to a relevant defect in the relevant building;
    - Costs incurred or to be incurred in obtaining an expert report relating to the relevant building;
    - Temporary accommodation costs incurred or to be incurred in connection with a decant from the relevant building (or from part of it) that took place or is to take place.

- Importantly, section 116(7) of LAFRA makes clear that these amendments will apply to (a) proceedings for an RCO which are pending on the day which these amendments come into force as well as (b) costs incurred before and after these amendments come into force.

- LAFRA also sets out a new definition of "responsible person" in relation to of duties of an insolvent accountable person.



6. Right to Manage

- Previously, a building was excluded from the right to manage, if the internal floor area of any non-residential part exceeded 25% of the internal floor area of the building (excluding common parts). Since 3 March 2025, that limit has been increased to 50%, making more buildings eligible for right to manage.

7. Ban on grant of long residential leases of houses

- S.1 LAFRA details a ban on grant of long residential leases of houses. There are some exceptions to the rule, in the categories of community housing leases, retirement housing leases, shared ownership leases and others.
- Of interest to developers may be the exception for 'leases granted out of historic leasehold estates'. If a developer/landowner itself has a long leasehold interest granted before 22 December 2017 (or granted under an agreement entered into before that date) then on the present wording of the Act it should be able to grant long leases of houses out of its own leasehold interest as "permitted leases".
- The ban would not otherwise have retrospective effect, nor would it affect the validity of a lease entered into in breach, but it would take effect from the day that the section comes into force.
- If a long residential lease of a house is granted or assigned in breach of the ban (once in force), then fines may be imposed on the party in breach plus the tenant will be entitled to acquire the freehold and any superior leasehold at nil consideration. We await secondary legislation.



Should you extend your lease now or wait for LAFRA to come into force?

The question is whether any saving would be made and therefore whether it is worth either (a) waiting to serve a notice of claim or (b) if one has already been served, withdrawing and re-serving it when the provisions of LAFRA come into force.

There is no clear indication as to when these provisions will come into force. This needs to be balanced against the fact that, in general terms, the shorter the term of the lease becomes, the more its value declines and the more expensive the premium is likely to become under the current lease extension process.

As a leaseholder, if you wait to serve a notice of claim, or you withdraw your notice of claim, you must be wary of the fact that you take the risk of not knowing when the provisions of LAFRA will come into force, meaning the lease extension process could end up being more expensive if LAFRA does not come into force by the time you are ready to serve, or re-reserve, your notice of claim.

For those considering withdrawing their notice of claim, you should be mindful of that the fact that you will be liable for your own legal costs as well as the landlord's reasonable legal costs under section 60 of the Leasehold Reform, Housing and Urban Development Act 1993 (1993 Act).

There is also an important distinction to be drawn between leases with an unexpired term of 80 years or less and leases with an expired term of over 80 years.

If your lease has 80 years or less left to run, it is risky not serving, or withdrawing, a notice of claim at this stage, given that no real indication of when LAFRA will come into force has been given. Leaseholders should be mindful that marriage value is still applicable under the current regime which will apply until LAFRA comes into force. Not serving, or withdrawing, a notice of claim now may result in a more expensive lease extension if LAFRA has not come into force by the time a leaseholder intends to serve, or re-serve, a notice of claim.



Should you wait until LAFRA comes into force to make a collective enfranchisement claim?

If a collective enfranchisement claim has already been initiated, leaseholders should consider whether there is any saving to be made by withdrawing the claim at this stage. When considering the options, leaseholders should be mindful of how far into the process they have already come and also bear in mind that they will be liable for their own costs, as well as their landlord's reasonable costs, under section 33 of the 1993 Act.

If a notice under section 13 of the 1993 Act has not yet been served, leaseholder may wish to wait and see when LAFRA comes into force to take advantage of the reforms.

The bottom line

There is no immediate urgency to take any steps or decide what to do now. Further clarification is required as to when the provisions of LAFRA will come into force and how the transition to the new regime will be managed.



HOWARD KENNEDY

Key Contact



Amanda McNeil
Partner, Head of Real Estate
Real Estate Dispute Resolution

+44 (0)20 3755 5598
AmandaMcNeil@howardkennedy.com

> Amanda McNeil and team are exemplary practitioners and advisors in their space. Diligent, detail-minded and problem-solving. We work together as one virtual team.
>
> CHAMBERS UK 2026



Robert Boucher
Legal Director
Real Estate Dispute Resolution

+44 (0)7584 684 414
Robert.Boucher@howardkennedy.com

> Robert Boucher is a truly exceptional lawyer on an upward trajectory. With Robert at your back, you know the case will have been prepared to the nth degree.
>
> LEGAL 500 2024

Chambers AND PARTNERS

LEGAL 500

THE TIMES Best Law Firms 2019-2024

No.1 London Bridge
London SE1 9BG

T: +44 (0)20 3755 6000
F: +44 (0)20 3650 7000

DX 144370 Southwark 4
www.howardkennedy.com

The content of this document does not constitute legal advice and is provided for general purposes only. If you require more information on our legal services, please visit howardkennedy.com. Howard Kennedy LLP (registered in England and Wales OC361417) is authorised and regulated by the Solicitors Regulation Authority (number 557188). Our registered office is at No.1 London Bridge London SE1 9BG.