

Localism Bill

AMENDMENTS
TO BE MOVED
IN COMMITTEE

Clause 135

BARONESS HANHAM

- 1** Page 127, line 30, leave out “secure” and insert “flexible”

Clause 135

BARONESS HANHAM

- 2** Page 127, line 39, leave out “(“the original flexible tenancy”)”

Clause 135

BARONESS HANHAM

- 3** Page 127, leave out line 41 and insert “that is a flexible tenancy for a term certain of the length specified in the notice, and sets out the other express terms of the tenancy, and
- (e) the length of the term specified in the notice is at least two years.
 - (3A) The length of the term of a flexible tenancy that becomes such a tenancy by virtue of subsection (3) is that specified in the notice under paragraph 4ZA(2) of Schedule 1.
 - (3B) The other express terms of the flexible tenancy are those set out in the notice, so far as those terms are compatible with the statutory provisions relating to flexible tenancies; and in this subsection “statutory provision” means any provision made by or under an Act.”

Clause 136

BARONESS HANHAM

- 4** Page 131, line 23, leave out subsection (6)

Clause 136

BARONESS HANHAM

- 5 Page 131, line 31, leave out “for the purposes of the Housing Act 1985” and insert “for a term certain”

Clause 136

BARONESS HANHAM

- 6 Page 131, line 38, leave out from second “tenancy” to end of line 39 and insert “that would be a flexible tenancy for a term certain of the length specified in the notice,”

Clause 136

BARONESS HANHAM

- 7 Page 132, line 1, after “specifying” insert “a period of at least two years as”

Clause 136

BARONESS HANHAM

- 8 Page 132, line 1, at end insert “, and
 (c) setting out the other express terms of the tenancy.
 (3) The length of the term of a flexible tenancy that becomes such a tenancy by virtue of this section is that specified in the notice under subsection (2).
 (4) The other express terms of the flexible tenancy are those set out in the notice, so far as those terms are compatible with the statutory provisions relating to flexible tenancies; and in this subsection “statutory provision” means any provision made by or under an Act.””

Clause 136

BARONESS HANHAM

- 9 Page 132, line 2, leave out subsection (8)

Clause 136

BARONESS HANHAM

- 10 Page 132, line 8, leave out “This section” and insert “Subsection (2)”

Clause 136

BARONESS HANHAM

- 11 Page 132, line 10, after “tenancy” insert “within the meaning of section 107A of the Housing Act 1985”

Clause 136

BARONESS HANHAM

- 12 Page 132, line 13, after “(2)” insert “If the landlord has served a notice within subsection (3) on the tenant before the end of the demoted tenancy then,”

Clause 136

BARONESS HANHAM

- 13 Page 132, line 14, at end insert –
- “(3) The notice must –
- (a) state that, on ceasing to be a demoted tenancy, the tenancy will become a secure tenancy that is a flexible tenancy for a term certain of the length specified in the notice,
 - (b) specify a period of at least two years as the length of the term of the tenancy, and
 - (c) set out the other express terms of the tenancy.
- (4) The length of the term of a flexible tenancy that becomes such a tenancy by virtue of this section is that specified in the notice under subsection (3).
- (5) The other express terms of the flexible tenancy are those set out in the notice, so far as those terms are compatible with the statutory provisions relating to flexible tenancies; and in this subsection “statutory provision” means any provision made by or under an Act.”

Clause 136

BARONESS HANHAM

- 14 Page 132, line 15, leave out subsection (10)

Before Clause 137

BARONESS HANHAM

- 15 Insert the following new Clause –

“Creation of tenancies of social housing

- (1) In section 52 of the Law of Property Act 1925 (requirement that conveyances of land and interests in land be made by deed) in subsection (2) (exceptions) after paragraph (d) insert –
- “(da) flexible tenancies;
 - (db) assured tenancies of dwelling-houses in England that are granted by private registered providers of social housing and are not long tenancies or shared ownership leases;”
- (2) After that subsection insert –
- “(3) In this section –

- “assured tenancy” has the same meaning as in Part 1 of the Housing Act 1988;
- “dwelling-house” has the same meaning as in Part 1 of the Housing Act 1988;
- “flexible tenancy” has the meaning given by section 107A of the Housing Act 1985;
- “long tenancy” means a tenancy granted for a term certain of more than 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture;
- “shared ownership lease” means a lease of a dwelling-house—
- (a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, or
 - (b) under which the lessee (or the lessee’s personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling-house.”

Before Clause 137

BARONESS HANHAM

16 Insert the following new Clause—

“Registration of tenancies of social housing

- (1) The Land Registration Act 2002 is amended as follows.
- (2) In section 3 (voluntary registration of title) after subsection (4) insert—

“(4A) A person may not make an application under subsection (2) in respect of a leasehold estate in land under a relevant social housing tenancy.”
- (3) In section 4 (compulsory registration of title) after subsection (5) insert—

“(5A) Subsection (1) does not apply to the transfer or grant of a leasehold estate in land under a relevant social housing tenancy.”
- (4) In section 27 (dispositions required to be registered) after subsection (5) insert—

“(5A) This section does not apply to—

 - (a) the grant of a term of years absolute under a relevant social housing tenancy, or
 - (b) the express grant of an interest falling within section 1(2) of the Law of Property Act 1925, where the interest is created for the benefit of a leasehold estate in land under a relevant social housing tenancy.”
- (5) In section 33 (interests in respect of which notice may not be entered on the register) after paragraph (b) insert—

“(ba) an interest under a relevant social housing tenancy,”.
- (6) In section 132(1) (interpretation) at the appropriate places insert—

““assured tenancy” has the same meaning as in Part 1 of the Housing Act 1988;”;

““dwelling-house” has the same meaning as in Part 1 of the Housing Act 1988;”;

““flexible tenancy” has the meaning given by section 107A of the Housing Act 1985;”;

““long tenancy” means a tenancy granted for a term certain of more than 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture;”;

““relevant social housing tenancy” means –

(a) a flexible tenancy, or

(b) an assured tenancy of a dwelling-house in England granted by a private registered provider of social housing, other than a long tenancy or a shared ownership lease;”;

““shared ownership lease” means a lease of a dwelling-house –

(a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, or

(b) under which the lessee (or the lessee’s personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling-house;”.

- (7) In Schedule 1 (unregistered interests which override first registration) after paragraph 1 insert –

“Relevant social housing tenancies

1A A leasehold estate in land under a relevant social housing tenancy.”

- (8) In Schedule 3 (unregistered interests which override registered dispositions) after paragraph 1 insert –

“Relevant social housing tenancies

1A A leasehold estate in land under a relevant social housing tenancy.””

Clause 139

BARONESS HANHAM

17 Page 134, line 44, leave out from beginning to end of line 5 on page 135

Clause 139

BARONESS HANHAM

18 Page 135, line 17, at end insert –

- “(6) The amendments made by this section do not apply in relation to a secure tenancy that—
- (a) was granted before the day on which this section comes into force, or
 - (b) came into being by virtue of section 86 of the Housing Act 1985 (periodic tenancy arising on termination of fixed term) on the coming to an end of a secure tenancy within paragraph (a).”

Clause 140

BARONESS HANHAM

19 Page 136, line 48, at end insert—

- “(7) This section does not apply to a fixed term assured tenancy that is a lease of a dwelling-house—
- (a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, or
 - (b) under which the lessee (or the lessee’s personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling-house.”

After Clause 140

BARONESS HANHAM

20 Insert the following new Clause—

“Secure and assured tenancies: recovery of possession after tenant’s death

- (1) In section 90 of the Housing Act 1985 (devolution of fixed term secure tenancy) after subsection (4) insert—
 - “(5) The following provisions apply where a tenancy that was a secure tenancy of a dwelling-house in England—
 - (a) has been vested or otherwise disposed of in the course of the administration of the secure tenant’s estate, and
 - (b) has ceased to be a secure tenancy by virtue of this section.
 - (6) Subject as follows, the landlord may apply to the court for an order for possession of the dwelling-house let under the tenancy.
 - (7) The court may not entertain proceedings for an order for possession under this section unless—
 - (a) the landlord has served notice in writing on the tenant—
 - (i) stating that the landlord requires possession of the dwelling-house, and
 - (ii) specifying a date after which proceedings for an order for possession may be begun, and
 - (b) that date has passed without the tenant giving up possession of the dwelling-house.

- (8) The date mentioned in subsection (7)(a)(ii) must fall after the end of the period of four weeks beginning with the date on which the notice is served on the tenant.
 - (9) On an application to the court for an order for possession under this section, the court must make such an order if it is satisfied that subsection (5) applies to the tenancy.
 - (10) The tenancy ends when the order is executed.”
- (2) In Part 3 of Schedule 2 to that Act (grounds on which court may order possession of dwelling-house let on secure tenancy if reasonable and if alternative accommodation is available) after Ground 15 insert –

“Ground 15A

The dwelling-house is in England, the accommodation afforded by it is more extensive than is reasonably required by the tenant and –

- (a) the tenancy vested in the tenant by virtue of section 89 (succession to periodic tenancy) or 90 (devolution of term certain) in a case where the tenant was not the previous tenant’s spouse or civil partner, and
- (b) notice of the proceedings for possession was served under section 83 (or, where no such notice was served, the proceedings for possession were begun) more than six months but less than twelve months after the relevant date.

For this purpose “the relevant date” is –

- (a) the date of the previous tenant’s death, or
- (b) if the court so directs, the date on which, in the opinion of the court, the landlord (or, in the case of joint landlords, any one of them) became aware of the previous tenant’s death.

The matters to be taken into account by the court in determining whether it is reasonable to make an order on this ground include –

- (a) the age of the tenant,
- (b) the period (if any) during which the tenant has occupied the dwelling-house as the tenant’s only or principal home, and
- (c) any financial or other support given by the tenant to the previous tenant.”

- (3) In section 7 of the Housing Act 1988 (orders for possession of assured tenancies) after subsection (6) insert –
- “(6A) In the case of a dwelling-house in England, subsection (6)(a) has effect as if it also referred to Ground 7 in Part 1 of Schedule 2 to this Act.”
- (4) In Part 1 of Schedule 2 to that Act (grounds for possession of dwelling-houses let on assured tenancies: grounds on which court must order possession) in Ground 7 (devolution of tenancy under will or intestacy) –

- (a) in the first unnumbered paragraph, after “tenancy)” insert “, or a fixed term tenancy of a dwelling-house in England,”,
- (b) in the second unnumbered paragraph—
 - (i) omit “periodic”, and
 - (ii) after “period” insert “or length of term”, and
- (c) after that paragraph insert—

“ This ground does not apply to a fixed term tenancy that is a lease of a dwelling-house—

- (a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, or
- (b) under which the lessee (or the lessee’s personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling-house.”

After Clause 161

BARONESS HANHAM

21 Insert the following new Clause—

“Tenants’ deposits

Tenancy deposit schemes

- (1) The Housing Act 2004 is amended as follows.
- (2) In section 213 (requirements relating to tenancy deposits)—
 - (a) in subsection (3) (landlord’s requirement to comply with initial requirements within 14 days of receipt of deposit) for “14” substitute “30”, and
 - (b) in subsection (6)(b) (landlord’s requirement to give tenant information within 14 days of receipt of deposit) for “14” substitute “30”.
- (3) Section 214 (proceedings relating to tenancy deposits) is amended as follows.
- (4) In subsection (1) (grounds for an application to a county court) for paragraph (a) substitute—
 - “(a) that section 213(3) or (6) has not been complied with in relation to the deposit, or”.
- (5) After subsection (1) insert—
 - “(1A) Subsection (1) also applies in a case where the tenancy has ended, and in such a case the reference in subsection (1) to the tenant is to a person who was a tenant under the tenancy.”
- (6) In subsection (2) (conditions for a remedy)—
 - (a) in the opening words—
 - (i) for “Subsections (3) and (4)” substitute “Subsection (3) (subject to subsection (3A)) and subsection (4)”,
 - (ii) omit “such”, and

- (iii) after “application” insert “under subsection (1)”, and
 - (b) for paragraph (a) substitute –
 - “(a) is satisfied that section 213(3) or (6) has not been complied with in relation to the deposit, or”.
- (7) After subsection (3) insert –
 - “(3A) Subsection (3) does not apply in a case where the tenancy has ended at the time of the application under subsection (1), and in such a case the court may order the person who appears to the court to be holding the deposit to repay all or part of it to the applicant within the period of 14 days beginning with the date of the making of the order.”
- (8) In subsection (4) (amount of penalty payment) –
 - (a) omit “also”, and
 - (b) for “equal to” substitute “not less than the amount of the deposit and not more than”.
- (9) Section 215 (sanctions for non-compliance) is amended as follows.
- (10) In subsection (1) (prevention of service of notice under section 21 of the Housing Act 1988) –
 - (a) at the beginning insert “Subject to subsection (2A),”, and
 - (b) for paragraph (b) substitute –
 - “(b) section 213(3) has not been complied with in relation to the deposit.”
- (11) In subsection (2) (prevention of service of notice under section 21 of the Housing Act 1988) at the beginning insert “Subject to subsection (2A),”.
- (12) After subsection (2) insert –
 - “(2A) Subsections (1) and (2) do not apply in a case where –
 - (a) the deposit has been returned to the tenant in full or with such deductions as are agreed between the landlord and tenant, or
 - (b) an application to a county court has been made under section 214(1) and has been determined by the court, withdrawn or settled by agreement between the parties.”
- (13) In Schedule 10 (provisions relating to tenancy deposit schemes) in paragraph 5A(9)(b) (modification of section 213(3)) for “14” substitute “30”.

After Clause 161

BARONESS HANHAM

22 Insert the following new Clause –

“Houses in multiple occupation

Exemption from HMO licensing for buildings run by co-operatives

- (1) In Schedule 14 to the Housing Act 2004 (buildings which are not HMOs for the purposes of that Act (excluding Part 1)) after paragraph 2A insert –

“Buildings controlled or managed by a co-operative society

- 2B (1) A building where –
- (a) the person managing or having control of it is a co-operative society whose rules are such as to secure that each of the conditions set out in sub-paragraph (2) is met, and
 - (b) no person who occupies premises in the building does so by virtue of an assured tenancy, a secure tenancy or a protected tenancy.
- (2) The conditions are –
- (a) that membership of the society is restricted to persons who are occupiers or prospective occupiers of buildings managed or controlled by the society,
 - (b) that all management decisions of the society are made by the members (or a specified quorum of members) at a general meeting which all members are entitled to, and invited to, attend,
 - (c) that each member has equal voting rights at such a meeting, and
 - (d) that, if a person occupies premises in the building and is not a member, that person is an occupier of the premises only as a result of sharing occupation of them with a member at the member’s invitation.
- (3) For the purposes of sub-paragraph (1) “co-operative society” means a body that –
- (a) is registered –
 - (i) as a co-operative society under section 1 of the 1965 Act, or
 - (ii) is a pre-2010 Act society (as defined by section 4A(1) of the 1965 Act) which meets the condition in section 1(2) of the 1965 Act, and
 - (b) is neither –
 - (i) a non-profit registered provider of social housing, nor
 - (ii) registered as a social landlord under Part 1 of the Housing Act 1996.
- (4) In this paragraph –
- “the 1965 Act” means the Co-operative and Community Benefit Societies and Credit Unions Act 1965;
- “assured tenancy” has the same meaning as in Part 1 of the Housing Act 1988;
- “protected tenancy” has the same meaning as in the Rent Act 1977;
- “secure tenancy” has the same meaning as in Part 4 of the Housing Act 1985.”
- (2) Until the coming into force of section 1 of the 2010 Act, the paragraph 2B inserted by subsection (1) of this section has effect as if for sub-paragraph (3)(a) of that paragraph there were substituted –
- “(a) is a society registered, or treated as registered, under section 1 of the 1965 Act in the case of which the condition

in section 1(2)(a) of that Act is fulfilled (bona fide co-operative society),”.

- (3) Until the coming into force of section 2 of the 2010 Act, the paragraph 2B inserted by subsection (1) of this section has effect as if in sub-paragraph (4) of that paragraph “Industrial and Provident Societies Act 1965” were substituted for “Co-operative and Community Benefit Societies and Credit Unions Act 1965”.
- (4) In subsections (2) and (3) “the 2010 Act” means the Co-operative and Community Benefit Societies and Credit Unions Act 2010.”

