

At least as far as ground rents are concerned, the “fleecehold scandal” of the last few years has pretty much been put to bed with the Leasehold Reform (Ground Rent) Act 2022 (Act).

Key points are:

- The ground rent chargeable on most new long residential leases is limited to one peppercorn per year
- No administration charge is permitted in relation to the collection of any ground rent that is restricted in value by virtue of the Act
- The restrictions apply to long leases of single dwellings granted for a premium on or after commencement of the relevant provisions

What Is a “Long Residential Lease” for the Purposes of the Act?

Leases “regulated” by the Act are:

- “Long” leases
- Of a single dwelling (being a building or part of a building occupied as a single dwelling)
- Granted for a premium (excluding rent)

A “long” lease is one:

- Granted for a term exceeding 21 years, whether or not terminable before the end of that period
- Granted for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, other than a lease by sub-demise from one that is not a long lease
- Taking effect under the Law of Property Act 1925 (leases terminable after a death, marriage or civil partnership)



Is It in Force?

The government has indicated 30 June 2022 as the likely point at which the legislation will be in force in relation to most new long residential leases, with retirement homes leases being the exception. Expect something in the next few weeks, if all goes according to plan.

What About Retirement Homes?

Originally hoped by vested interests to avoid the legislation altogether, retirement homes have ultimately been caught. However, provisions relating to retirement homes will not come into force before 1 April 2023 to allow the sector time to transition to the new requirements.

What Constitutes a Retirement Home Lease?

Any lease that requires the occupant to have reached age 55 and above.

Is the Act Retrospective?

Although the Act is not retrospective, the Competition and Markets Authority (CMA) is running an ongoing investigation into unfair practices in relation to ground rents and many developers have come under scrutiny, forcing them to vary existing leases to remove escalating ground rent clauses.

Are There Any Exceptions?

The following are excepted from the restrictions:

- Business leases
- Statutory lease extensions of houses and flats
- Community housing leases
- Home finance plan leases

Just the Beginning?

This should be only the first step in a much longer journey towards further changes in leasehold arrangements that disadvantage tenants. The government is anticipated to implement more wide-ranging leasehold reforms, to make it easier for tenants to enfranchise, extend their leases or buy themselves out of the ground rent obligations. Watch this space.

Key Takeaways

Avoid:

- Charging ground rents above a peppercorn in new long residential leases
- Making administration charges for the collection of any ground rent that is restricted to a peppercorn by virtue of the Act

Even though the legislation is not yet in force, the ongoing scrutiny by the CMA is likely to mean that any provisions that run contrary to the proposals may well be picked over.

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