attwaters jameson hill
solicitors

The Leasehold and Freehold Reform Act 2024:

Your ultimate guide to leasehold reform

Introduction

Leasehold law as we know it today was introduced in the 1920s, but the concept dates back to medieval times. Tenants of feudal estates could live and work on the land, which would usually revert back to the landlord after their death. Given the archaic roots of the leasehold system, it is unsurprising that campaigners have been calling for its reform for many years.

The Leasehold and Freehold Reform Act 2024, which became law on 24 May 2024, is a long-awaited piece of legislation designed to make it easier and cheaper for leaseholders to extend their lease or purchase the freehold of their building. Despite the Act already being law, many of its key measures will require secondary legislation to be enacted before they come into force. It is believed that this will happen by 2025/2026, although no commencement date has yet been given.

In this guide, we will take you through the key reforms brought in by the Act, what they could mean for you, and the Labour government's plans for further change.

What's already been done

The reforms

The current system

Should I wait to extend my lease?

The Leasehold and Commonhold Reform Bill

About Attwaters Jameson Hill

Please note that the contents of this guide do not constitute legal advice and should not be taken as such. For advice tailored to your individual circumstances, please get in touch for a consultation.

What's already been done

In 2022, the Conservative government passed the Leasehold Reform (Ground Rent) Act, which put an end to ground rent for most new long residential leasehold properties in England and Wales. The Act came into force from 30 June 2022 and from 1 April 2023 for leases of retirement homes.

It also means that when extending a lease, the *additional* years added onto the lease (usually 90 years for leasehold flats) must be at zero ground rent. However, any ground rent in the current lease can continue for the remainder of the term. So, if you have a remaining lease term of 82 years and you extend your lease, the ground rent will continue for those 82 years before dropping to zero for the extended term.

Some of the provisions in the Leasehold and Freehold Reform Act 2024 have also come into effect, but these are minor, including only some small amendments to the Building Safety Act and measures relating to the remedy for rent charge arrears.

The reforms

When the secondary legislation is introduced in 2025/26, the Leasehold and Freehold Reform Act will:

1 Give leaseholders the right to extend their lease by up to 990 years

Under the current system, leaseholders only have a statutory right to extend their lease by 90 years for flats and 50 years for leasehold houses. When the changes come into effect, they will have the right to extend their lease by 990 years as standard, with the ground rent reduced to a 'peppercorn' (i.e., nothing).

2 Make it cheaper for some leaseholders to extend their lease

There are several reasons why it might be cheaper for leaseholders to extend their lease or buy the freehold once the secondary legislation is enacted.

Firstly, leaseholders with a short lease (fewer than 80 years remaining) will no longer have to pay the marriage value when extending a lease. The marriage value is an additional charge due to the landlord of half of the property's increase in value following the completion of the lease extension.

Secondly, the removal of the requirement for leaseholders to pay their freeholder's legal costs when extending a lease or buying the freehold will also help make the process cheaper for leaseholders.

However, given that the Act does not specify the rates that will be used to calculate the price of lease extensions or freehold purchases, we cannot be certain at this point that the lease extension process will definitely be cheaper for leaseholders.

3 Give leaseholders greater transparency over service charges

The Act will require freeholders and management companies to issue bills in a standardised format that is easier to scrutinise and challenge. They will also be required to provide a detailed annual report listing plans for any major works.

4 Make it cheaper for leaseholders to exercise their enfranchisement rights

The Act will remove the presumption that leaseholders must pay their freeholders' legal costs when challenging poor practice.

5 Make it easier and cheaper for leaseholders to take over the management of their building

Leaseholders in mixed use buildings will be able to access the Right to Manage where up to 50% of the building's floor space is commercial (rather than the current 25%) and appoint the managing agent of their choice.

6 Make it quicker and easier to buy and sell leasehold property

Under the current system, freeholders or management companies who are asked to answer conveyancing solicitors' enquiries about the property:

a. are not obliged to respond

b. if they do respond, are not held to any time limit

c. can charge whatever they like for the provision of this information by way of a Leasehold Properties Enquiries form (LPE1).

The Act will set a maximum time and fee for home buying and selling information.

7 Remove the requirement for leaseholders to have owned their property for two years before exercising their enfranchisement rights

Leaseholders will be able to extend the lease or purchase the collective freehold from day one.

8 Ban the sale of new leasehold houses aside from in exceptional circumstances

9 Extend access to redress schemes for leaseholders challenging poor practice

Whilst management agents are already required by law to belong to a redress scheme, the Act will also require freeholders who manage their building directly to belong to one too.

10 Grant comprehensive rights of redress to homeowners on private or mixed tenure estates

These homeowners will have the right to access information on the charges they pay, as well as the ability to challenge these if they believe they are unreasonable.

The current system

Until the above changes come into effect, homeowners wishing to extend their lease will have to do so under the current system. Here's a quick rundown of how the process currently works.

The informal route

There are two main routes to a lease extension under the current system.

Firstly, you can approach your freeholder informally to negotiate a premium and terms for a lease extension. This is dependent on your freeholder being willing to make an informal offer. The benefit of this route is that you may be able to negotiate terms that are more advantageous than you would by taking the statutory route. You can also approach your freeholder informally even if you have been in your home for fewer than two years. The downside, of course, is that your freeholder may not accept your suggested terms or may even offer less desirable ones.

The statutory route

The statutory route allows leaseholders to exercise their legal right to extend their lease after two years of ownership. The benefit of this route is that you are guaranteed an extension of 90 years (for flats) at zero ground rent.

At the time of writing, leaseholders can apply to extend their lease if they have owned their property for two years or more.

To do so, you must:

- Instruct a solicitor and a lease extension valuer
- Serve a section 42 notice on your landlord, informing them of your intention to extend your lease and opening negotiations with a suggested premium
- Receive your landlord's section 45 counter-notice, which will either:
  - Admit your right to the new lease and accept your terms and premium (or propose different ones)
  - Deny your right to the new lease, providing reasons
  - State the landlord's intention to demolish and redevelop the building
- Negotiate the lease extension terms and premium with your landlord
- If you cannot agree terms within six months, apply to the First Tier Tribunal to decide your case
- Pay the lease extension premium, your freeholder's legal fees and the marriage value (for leases of under 80 years)
- Complete the lease extension and register the new lease with the Land Registry.

Should I wait to extend my lease?

One of the main questions our Lease Enfranchisement team is currently being asked by clients is whether or not it makes sense to wait until the secondary legislation is enacted before extending their lease.

This is actually a very difficult question to answer as each leaseholder's financial situation and legal standing will be different. Furthermore, because we have no commencement date for the secondary legislation, we believe that the changes outlined above will come into effect in 2025/2026 – but there is no way to be sure.

Below, we have provided some broad guidelines on whether or not it **might** make sense to wait or go ahead – however, it is highly recommended that you take personalised legal advice before moving forwards.

Whether or not you should wait to take action depends largely on the time you have remaining on your lease.

More than 85 years – it may make sense to wait. Given that the marriage value will kick in from 80 years, you can probably afford to wait a few years – although this is not guaranteed. If you are looking to sell or remortgage, different lenders will have varying requirements on how long they require the lease to be in order for them to lend.

81 to 85 years – whilst the reforms may come into effect before your lease hits 80 years, there is no guarantee. Particularly if you are planning on selling or remortgaging your property in the next few years, it may be advisable to go ahead now. You should consider the implications of slipping below 80 years whilst you wait for the law to change, particularly if you plan to sell. While marriage value still applies, you will pay more for your lease extension if you allow the remaining term to fall below 80 years.

Fewer than 80 years – if you wait until the secondary legislation is enacted, you will be able to avoid marriage value. However, you will find it almost impossible to sell or remortgage your property in the meantime, so it will very much depend on your unique situation.

As we have said, the lack of clarity around the commencement date for the reforms means that it is impossible to advise with any certainty on your options without a better understanding of your personal circumstances.

To discuss your situation with an expert Leasehold Enfranchisement lawyer, please contact us on 0203 871 0039 or email leasehold@attwaters.co.uk.

The Leasehold and Commonhold Reform Bill

In the King's speech on 17 July 2024, King Charles announced that the Labour government was committed to further reforming the leasehold system by way of a Leasehold and Commonhold Reform Bill.

This Bill proposes to:

- Implement the provisions of the Leasehold and Freehold Reform Act
- Introduce the remainder of the Law Commission's recommendations for leasehold reform
- Remove the threat of forfeiture to protect leaseholders from being evicted from their homes
- Eventually, phase out the leasehold system in favour of commonhold.

Commonhold is an alternative, although far less popular, tenure type that enables property owners to own their property as freehold indefinitely. Although it was first introduced in England in 2002, it is more commonly used in countries such as Australia and North America.

Instead of owning a property for a fixed period of time, after which it reverts to the freeholder, the commonhold tenure allows people to own the freehold of their flat indefinitely, as well as a share in the common areas of the property.

Under the commonhold system, owners are entitled to join the commonhold association and have a say in how the common parts of the building and estate are managed.

We do not yet know when the Bill will be introduced to parliament, but it is unlikely to be before late 2025 at the very earliest.

About Attwaters Jameson Hill

At Attwaters Jameson Hill, we have been helping leaseholders with lease matters for many years. We understand that the complicated process of extending your lease can feel very daunting. Our team are on hand with the expert advice and specialist knowledge you need to complete the process successfully.

We are also aware that the lease extension process can be very expensive for leaseholders, so we are completely transparent with our fees and work, with the aim of keeping costs down at all times. You'll know what you're paying for from the outset, with no nasty surprises or hidden costs down the line.

We can help with:

- Advice on how to proceed with a lease extension
- Negotiating with your freeholder to get the process underway
- Getting your lease valued by a professional surveyor
- Agreeing the lease and completing all matters so that we can then register the new lease at the Land Registry.

We also advise and assist clients who wish to purchase the freehold of their building together with their fellow tenants. This means that you will have control over the freehold and will no longer have to pay ground rent or service charges to your freeholder.

To speak to a specialist solicitor about extending your lease or purchasing the freehold of your block, please call us on 0203 871 0039 or email leasehold@attwaters.co.uk.

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Where We Are

We have offices in Hertford, Ware and Loughton, as well as Harlow and London (by appointment only).

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