

The Leasehold and Freehold Reform Act 2024: FAQs

The Leasehold and Freehold Reform Bill was announced in the King's Speech on 7 November 2023 and became law on 24th May 2024 at the dissolution of parliament prior to the election.

On 24th May 2024, just two days after the election announcement and as the final session of this parliament was brought to a close, the **Leasehold and Freehold Reform Act 2024** made it onto the statute books.

So, it is an Act of Parliament and no longer a Bill. So, is it really is time to say 'welcome' to a whole new world of leasehold reform?

Many commentators have said that the 2024 Act was rushed and critics have said that it 'does not go far enough.' However, the Act does propose some fairly sweeping changes. Most of these are not yet in force.

Unfortunately, there are some known problems with the Act and the implementation may well be slowed by the suggestion that the Government would like to bring forward a new Leasehold and Commonhold Reform Bill. This will be a much larger project and would seek to give effect to a greater number of the Law Commission's recommendations following on from their work in this area published in 2020.

On 21st November 2024, Matthew Pennycook, Minister of State for Housing and Planning made a statement about the proposed reforms updating on the Government's intentions. You can read more [here](#).

This statement recognises some of the difficulties with the Act and also promises a number of the required consultations that will be needed to bring the Act's provisions into force.

In terms of actual changes in the field of leasehold reform since the Act was passed we have had the abolition of the 'two year rule' with effect from 31st January 2025 and also the promised changes to some of the RTM provisions which will take effect from 3rd March 2025.

Here we set out some answers to a few frequently asked questions as outlined on our website.

What is in the Leasehold and Freehold Reform Act 2024?

Essentially, all of the much talked about changes are there including the 990-year lease extension, abolition of the two-year rule and the change in qualification criteria for mixed use buildings.

In addition, we will see the end of marriage value for leases under 80 years and the end of the ability for the landlord to recover their costs from the tenant under a standard statutory claim. There are also changes that relate to property management.

The valuation changes will mean that most valuations will be on the 'standard' basis – effectively a term and reversion calculation with a presumed 0.1% cap on the ground rent when valuing the freeholder's interest.

In addition, there is a ban on the creation of new leasehold houses.

What is not in the Act?

What is not in force? And when will these provisions become law?

The remaining sweeping changes that the Act promises are not yet in force. A short summary of these appears below:

The 2024 Act makes big changes to the law on valuation as it relates to leasehold reform calculations (removing marriage value for leases under 80 years) and 'capping' for calculation purposes the value of any ground rent paid at 0.1% of the capital value of the property.

There are also the more functional changes in the enfranchisement space, such as changing the basis of statutory lease extensions to 990 years and allowing successive claims without any wait where a claim is withdrawn. The 2024 Act will remove the two-year wait to qualify for a lease extension, this change is now in force with effect from 31st January 2025.

In addition, the Act will remove the ability of landlords to recover their costs in statutory claims. It also bans the creation of new leasehold houses and places restrictions on transfers out of leasehold land that might otherwise create these. There is also a new right for long leaseholders to buy out their ground rent. None of these provisions are yet in force.

Proposed changes for property management

In the field of property management, the 2024 Act also makes some big shifts by dealing with the following areas:

- Service charge and ground rent demands will need to be in a 'universal' prescribed format.
- Insurance commission will not be recoverable through the service charge, although the cost of the actions taken to place or arrange cover will be permitted.
- Regulations will cover the prompt provision of information in relation to sales information requests.
- Estate management charges payable in respect of freehold estates will be brought within the scope of the service charge legislation.

- There will be restrictions on the enforcement of rentcharges (a type of payment similar to ground rent that some freehold land is subject to).
- Amendments to the BSA 2022 to expand the definition of a 'relevant defect' to change this so that the cost of taking 'relevant steps' is included in the costs that may be restricted in recovery from a 'qualifying lease'

Management changes so far

What has happened so far on this is that there has been a consultation on banning insurance commission and replacing this with an administration fee that represents the work done in arranging the insurance.

Important changes so far

Whilst a few parts of the 2024 Act came into force on 24th July 2024, these are fairly 'minor' changes in the greater scheme of things and relate to:

- restrictions on pursuing rent charge arrears (such that now a demand statement must first be served in a prescribed format at least 30 days before taking any action)
- an amendment to the BSA to allow flat owner controlled freehold companies and RTM companies the right to recover costs under Schedule 8 of that Act (where otherwise ordinarily the landlord cannot recover costs under the service charge) in relation to the pursuit of a 'relevant defect'
- the repeal of Section 125 of the BSA 2022 and its replacement with a new Section 125A dealing with the duties of an insolvency practitioner appointed in respect of a 'responsible person' (either an 'accountable person' for higher risk buildings or the owner or party responsible for the common parts of a 'relevant building')

As to the other 'meatier' parts of the Act, as far as leasehold reform is concerned, these are subject to commencement under Statutory Instruments ('SI's) – see section 123(3).

These SIs need to be made by the Secretary of State and we also know that in order to be effective the valuation changes will need various matters such as the relevant rates to be prescribed. These will need to be in place before these changes can be enacted.

It is hard to predict but the anticipated timescale is likely to be 2025-2026 for some of these because of the need to draft the secondary legislation needed to bring the changes into effect. The ministerial statement gives us some indication of the required consultations that will be needed to bring many of the Act's changes into effect.

Is LAFRA law?

Yes, it most certainly is. The 2024 Act received the Royal Assent right at the end of the final session of the last parliament and appeared right at the very end of the list of Acts approved in the 'wash up' of 2024.

Is it in Force?

In force at the moment are the provisions relating to the two-year rule. The other enfranchisement provisions are not yet in force.

The remaining provisions (valuation, longer leases on extension etc) are not yet in force.

When does it come into force?

Whilst a few parts of the 2024 Act came into force on 24th July 2024, these are fairly 'minor' changes in the greater scheme of things and relate to:

- restrictions on pursuing rent charge arrears (such that now a demand statement must first be served in a prescribed format at least 30 days before taking any action)
- an amendment to the BSA to allow flat owner controlled freehold companies and RTM companies the right to recover costs under Schedule 8 of that Act (where otherwise ordinarily the landlord cannot recover costs under the service charge) in relation to the pursuit of a 'relevant defect'
- the repeal of Section 125 of the BSA 2022 and its replacement with a new Section 125A dealing with the duties of an insolvency practitioner appointed in respect of a 'responsible person' (either an 'accountable person' for higher risk buildings or the owner or party responsible for the common parts of a 'relevant building')

As to the other 'meatier' parts of the Act, as far as leasehold reform is concerned, these are subject to commencement under Statutory Instruments ('SI's) – see section 123(3).

These SIs need to be made by the Secretary of State and we also know that in order to be effective the valuation changes will need various matters such as the relevant rates to be prescribed. These will need to be in place before these changes can be enacted.

It is hard to predict but the anticipated timescale is likely to be 2025-2026 for some of these because of the need to draft the secondary legislation needed to bring the changes into effect. The ministerial statement gives us some indication of the required consultations that will be needed to bring many of the Act's changes into effect.

What are the costs/ benefits to acting now or waiting? I currently have an ongoing - should I just withdraw it as it might be about to get a lot cheaper?

I have claim ongoing at the moment – should I just withdraw it as it might be about to get a lot cheaper?

Whenever there have been dramatic price adjustments in the past – such as in 2007/ 2008 – many leaseholders have considered withdrawing existing claims to extend their lease or purchase the freehold.

In many of those cases the cost/benefit analysis did not support withdrawing. In ongoing cases, if the premium being paid is not that significant relative to the value of the flat and given that a significant proportion of the likely costs will be incurred in any event, withdrawing and starting again does not often equate to better value. However, with one of these proposed reforms there is possible change to a significant part of the calculation – marriage value – often this can be around 20-30% of the premium.

But it is just that: a fraction of the overall cost, and if this is your situation you should seek to understand the actual likely amount and consider this with all other relevant costs – including for instance finance or other ongoing costs – if the current lease length prevents sale or re-mortgage.

The reforms also promise to remove the landlord's costs from the equation. In general, these are not likely to be that significant in the overall context of the claim itself but may be another reason to wait before initiating a claim.

Whilst we do know what the Act will contain, what we do not currently have is final clarity as to when these enfranchisement provisions will come into force.

Given the Human Rights Act challenges and the elongated timescale that appears to be developing around the valuation reforms, the timeline looks likely to be 2 years plus before any significant valuation changes are on the horizon.

In many cases, particularly where marriage value may not be a significant part of the likely premium (e.g. where the lease is over 80 years or where the lease is very short) flat owners may well decide to 'get on with it.'

However, each case will be fact specific, and you will need to consider your own position.

Should I extend my lease or wait?

For leaseholders who are looking to sell their property imminently, the one point of certainty is that if a property is currently un-mortgageable or unsaleable because of lease length or other issues (such as an onerous ground rent), then the only course of action that will remedy this is to take action and extend your lease under the existing legislation.

For leases that are nearing the 80-year mark, or have already fallen below, the question of timing depends on the owner's precise circumstances and immediate

priorities. Whilst many will still need to act now, others may wish to hold off pending the future legislative changes being brought into effect.

Those who wait will need to balance the risk caused by any delay in doing so. With the 2024 Act now on the statute books the question of commencement looms larger.

You can keep up to date with our commentary on leasehold reform via our website.

What about the Right To Manage?

Leaseholders also have the option of pursuing a Right to Manage claim under existing legislation. The Right to Manage (RTM) is a statutory no-fault right introduced by the Commonhold and Leasehold Reform Act 2002 and provides a useful alternative to buying the freehold as there is no capital outlay (other than costs).

If you are considering buying your freehold but want to wait until the valuation changes come in, then the Right to Manage may be something to consider now. This would allow the leaseholders to take back control over costs and service charges in the interim.

I have a short lease what should I do?

For leaseholders who are looking to sell their property imminently, the one point of certainty is that if a property is currently un-mortgageable or unsaleable because of lease length or other issues (such as an onerous ground rent), then the only course of action that will remedy this is to take action and extend your lease under the existing legislation.

For leases that are nearing the 80-year mark, or have already fallen below, the question of timing depends on the owner's precise circumstances and immediate priorities. Whilst many will still need to act now, others may wish to hold off pending the future legislative changes being brought into effect.

Those who wait will need to balance the risk caused by any delay in doing so. With the 2024 Act now on the statute books the question of commencement looms larger.

When do you think the valuation changes will come in?

We know what the new Act provides. What we don't know is the detail of how for instance some of the critical rates such as the deferment rate or capitalisation rate will be arrived at. These are to be prescribed by the Secretary of State and reviewed every 10 years (according to Paras 26 of Schedule 4 and 38 of Schedule 5). This will be critical to determining value in the 'new world.'

In addition to this we need to factor in the Human Rights Act challenges and how these may impact the direction of travel. We also have the promise of a consultation

on the relevant rates (from the middle of 2025), and this without any other factors would probably mean a delay of a further 6-12 months (assuming no other factors) before the legislation could be made effective.

However, we also know that there are fundamental flaws in the 2024 Act's valuation mechanism that need primary legislation to fix, and the Government is also keen to initiate a larger project relating to not only Commonhold but also to look at the Law Commission's other recommended changes in this area. They have promised a new Commonhold and Leasehold Reform Bill as a public bill on which there is likely to be (and rightly so) extensive consultation and discussion.

All of this means that the main changes in the Act could well take some time to come in and as regards the valuation changes that we are probably looking at a further 18 months to two years at least.

We will need to see what the Government brings forward in its proposed legislative programme, and in the meantime, it is very much a question of 'watch this space.'

Keep up to date

You can keep up to date with our commentary on leasehold reform via our [news pages here](#).

Next Steps

For further advice, email: leasehold@bishopandsewell.co.uk or contact 020 7631 4141 and ask to speak to the Landlord & Tenant team.

www.bishopandsewell.co.uk