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Insights

DRAFT COMMONHOLD AND LEASEHOLD REFORM BILL:

the demise of the long leasehold flat, abolition of residential ground rent and new ways for landlords to redress tenant breaches on long leases

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Summary

The Commonhold and Leasehold Reform Bill was published on 27 January 2026. Its stated purpose: to bring the feudal leasehold system to an end by reforming and reinvigorating commonhold tenure and banning the use of leasehold tenure for most new flats.

When will the Bill become law?

Timings are uncertain. What is clear, is that different measures proposed in the Bill will come into effect at different times. The policy statement on ground rents also published on 27 January 2026, states that government is aiming to implement the ground rent cap in 2028, and some commentators have taken this as the likely date for implementation of the Act.

It is rare for a Bill to be produced in draft form as has happened here, recognising that such major and complex reform requires additional scrutiny before a Bill can be formally introduced to Parliament. The Housing, Communities and Local Government Select Committee will be responsible for the process of pre-legislative scrutiny and the Committee's web page will be a useful indicator of progress.

Undoubtedly therefore, the process to implementation will take time. In recent years we have seen government focusing on enactment of an Act, particularly when an election is looming, whilst the detail and practical implications are not implemented for months or even years. The existing Commonhold and Leasehold Reform Act 2002 was a long time in the making; the Law Commission first produced a report and draft Bill in 1990. A Bill was formally introduced in the House of Lords in December 2000 and the Act received Royal Assent 18 months later on 1 May 2002. Even then, commencement via secondary legislation took place gradually between 2002 and 2007.

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Timings could also be affected if challenges are made to the ground rent cap, under the Human Rights Act 1998 – we have seen attempts (so far unsuccessful but subject to appeal) in respect of another major piece of residential reform, the Leasehold and Freehold Reform Act 2024, the majority of which is yet to come into force.

What is commonhold?

- The Commonhold and Leasehold Reform Act 2002 first introduced commonhold, but uptake has been negligible. Fewer than 20 commonhold schemes have been established in England and Wales since 2002, with leasehold tenure remaining dominant. What has changed? According to government officials, a growing political consensus and sustained pressure from leaseholders have combined to create momentum for making commonhold the default tenure.

Commonhold: key proposals in the draft Bill

- Commonhold is a democratic model, where a community of homeowners (and, in mixed-use developments, commercial owners), collectively manage their building.
- Individual homeowners will become "unit-holders" who share the governance and spend on their building through a commonhold association ("**CA**"), which is a company limited by guarantee of which all unit-holders are members. Unit-holders will elect directors to manage the CA, which will own the common parts of the building.
- Each CA will be required to implement a Commonhold Community Statement ("**CCS**") which will largely be a standardised rule book for the building's management prescribed by statute, although some parts will be specific to the particular commonhold and local rules can also be created. Amendments to the CCS will require approval from 75% of unit-holders.
- Buildings or estates may be divided into "sections" within a commonhold, separating management responsibility, which will be particularly important for mixed-used developments. Unit-holders in a given section will only vote on matters affecting that section, and only those who benefit from a service or upgrade will be responsible for paying for it.
- It will be mandatory for CAs to establish at least one reserve fund, funded by regular unit-holder contributions and held on statutory trust.
- The draft Bill incorporates 'Development Rights', which will allow developers more flexibility to determine the rights they will need to continue developing the land or site after some (but not all) units in the development have been sold. However, developers will no longer have the right per se to appoint their own directors, this means that when they no longer own 50% of the units on the site the majority unit holders could vote to appoint new directors or managing agents.

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Prohibition on the Sale of New Leasehold Flats

The government's intention is that commonhold will be the default tenure for new flat ownership. Accordingly, Part 2 of the draft Bill introduces measures to restrict the grant or assignment of a long lease of a new flat. Limited categories of long residential leases will be exempt from the ban, termed "permitted leases" (examples mentioned in the guidance include shared ownership leases, lease-based home finance plans and home reversion products).

The timings for commencement of the ban, any transitional arrangements and the final list of exemptions are not included in the draft Bill. The government has confirmed that the ban will only come into force once the reformed commonhold framework is fully operational, and the market has had some time to adapt to it. The "Moving to Commonhold Consultation" (open for 12 weeks from 27 January 2026) seeks views on how best to ensure a smooth transition to commonhold, including whether a phased implementation would be the best approach. You may wish to respond to the consultation, and note that there is a short window of opportunity to do so.

Crucially, existing leasehold flats (and any sale, extension or variation of existing leases) will not be caught by the ban. However, the Bill will introduce measures to make it easier to convert existing leasehold buildings to commonhold, if desired. The ban will only apply to flats intended for homeownership, so BTR, social rented housing and student accommodation, fall outside of scope while they are solely for rent.

Ground Rent - £250 cap (reducing to a peppercorn after 40 years)

The Ground Rent Act 2022 ("**GRA22**"), already prohibits ground rents being included in new leases granted after the GRA22 was implemented (June 2022 for leases other than retirement leases and April 2023 for leases of retirement homes).

The draft Bill seeks to extend this further to cap ground rents at £250 per annum for 'regulated leases', being:

(a) **existing** long residential leases;

(b) of single dwellings;

(c) that were granted for a premium.

The cap will be reduced to a peppercorn after a transition period of 40 years.

The stated intention of the Bill is to create equality between new leases (entered into after GRA22 was implemented) and older leases, by eliminating ground rent entirely, but allowing for a transition period of 40 years to help the market adjust.

As with the prohibition on ground rents in new leases, there will be some limited exemptions (such as community housing leases and home finance plan leases).

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The cap will apply to all ground rents that fall due for payment after the date the new measures are in force, but landlords will not need to reimburse tenants for payments of ground rent made before the cap comes into force.

Estate Rentcharges – limitations on enforcement in respect of arrears

Rentcharges (being annual or periodic sums charged on land by a third party) are most commonly used on privately managed estates to recover the costs from plot freeholders for maintenance of the common parts. The Bill seeks to make changes to the Law of Property Act 1925 to remove the ability for a rentcharge owner (the party entitled to receive such sums) to remedy non-payment by means of:

(a) taking possession of a rentcharged property until arrears are cleared;

(b) granting an overriding lease of such property to trustees; or

(c) appointing a receiver with mortgage-like powers.

Rentcharge owners will still be able to charge such sums and recover arrears, but will need to do so through 'proportionate' means such as cost recovery clauses, claims for debt, claims for breach of covenants and statutory demands in bankruptcy.

The Bill also introduces a requirement for rentcharge owners to serve a notice demanding payment of arrears on the landowner, including specified information, and allowing 30 days for payment before any enforcement action can commence.

Abolition of Forfeiture

Forfeiture of long residential leases will be abolished and will be replaced with a statutory lease enforcement regime.

Under the new scheme landlords will no longer be able to bring a lease to an end unilaterally. Instead, if a tenant is in breach of covenant, then a landlord must satisfy statutory conditions to be entitled to apply for a court-ordered, proportionate remedy. The court will decide on the most appropriate remedy, considering factors such as the seriousness of the breach, whether the breach can be rectified and the conduct of the parties.

The court cannot make an order to terminate the lease or any sub-lease but may make a remedial order (specifying the time frame in which a person has to compete a specified action) or, in more exceptional circumstances, an order for sale of the property.

Certain breaches, including ground rent arrears and non-payment breaches below a certain threshold (to be set between £500 and £5,000) are excluded from the new regime and landlords will have to use existing civil debt recovery processes to recover such sums.

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The new regime will apply to existing long residential leases and to new long residential leases granted after commencement.

As forfeiture of a long residential lease is rare, this is unlikely to have significant ramifications for the market.

Will the Bill affect commercial property?

Mixed use schemes could be affected by the commonhold changes, albeit the use of “sections” should help distinguish between the different needs of those tenants (see more on this in our insight from last year on the Government’s Commonhold White Paper). The ground rent cap will exclude business leases. Forfeiture will continue to operate for commercial leases but the government and Law Commission are continuing to consider reform. The estate rentcharge reforms would equally affect commercial property.

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