

Leasehold Reform (Energy Efficiency) Bill

1 Definitions

- (1) The following definitions apply to the sections of this Act set out below.
- (2) "Long Lease" means any long tenancy, whether made before or after the commencement of this Act, of a dwelling within the meaning of section 59(3) of the Landlord and Tenant Act 1987
- (3) "Building" means a building comprising one or more dwellings.
- (4) "Dwelling" has the meaning given by section 60 of the Landlord and Tenant Act 1987
- (5) "Flat" means a flat within the meaning of Section 60 of the Landlord and Tenant Act 1987
- (6) "Common parts" has the meaning given by section 60 of the Landlord and Tenant Act 1987 and, for the avoidance of doubt, does not include any part demised by a long lease.
- (7) "Qualifying improvement" means any one or more of the following:
 - (a) Basic energy efficiency measures.
 - (b) Any improvements that will improve the Energy Performance Certificate rating of a flat or flats in the Building from band F or G or any improvement to windows, heating systems or insulation that will alleviate a Category 1 hazard (within the meaning given in section 2 of the Housing Act 2004).
 - (c) Any measures to improve the energy efficiency of the flat or flats that either meet the cost-effectiveness threshold or can be funded through grants.
- (8) "Ancillary works" means works that are necessary to facilitate the implementation of a qualifying improvement
- (9) "Basic energy efficiency measures" means cavity wall insulation and/or loft insulation.
- (10) "Energy Performance Certificate" means an energy performance certificate within the meaning of the Energy Performance of Buildings (England and Wales) Regulations 2012.
- (11) "Cost-effectiveness threshold" shall have the meaning ascribed to it by the Secretary of State for Communities and Local Government in regulations.
- (12) 'Management company' shall mean:
 - (a) an RTM company as given meaning in s 73 of the Commonhold and Leasehold Reform Act 2002; or
 - (b) a person such as is described and defined in section 12(1) of the Landlord and Tenant (Covenants Act) 1995

- (13) "Landlord" includes any superior landlord or management company.
- (14) "Energy efficiency improvement(s)" has the meaning given within Section 2 of the Energy Act 2011 and may include but is not limited to:
 - (a) Installation or replacement of insulation of any type;
 - (b) Replacement of windows or any element of a window unit or installation of secondary glazing;
 - (c) Installation of replacement heating or cooling units, components or systems;
 - (d) Installation of systems to enable control or management of energy use in the home.

2 Right to recover the cost of qualifying improvements to residential leasehold premises

- (1) This section applies in any case where a long lease contains a covenant on the part of the landlord to maintain and/or repair the common parts of the building.
- (2) In any such long lease, any provision which entitles the landlord to recover the cost of maintaining and/or repairing the common parts of the building shall, notwithstanding any express provision to the contrary, be deemed to include the cost of undertaking qualifying improvements to the common parts of the building provided that nothing in this subsection will create any separate obligation on the part of the Landlord to undertake qualifying improvements.
- (3) There shall also be implied into any long lease of a flat to which Section 2(a) applies a right for the landlord:
 - (a) to enter the flat on reasonable notice for the purposes of undertaking ancillary works
 - (b) to alter such parts of the flat as are requisite to facilitate the undertaking of those ancillary works

provided that anyone exercising the right of entry or to alter shall do so only at reasonable times and on reasonable notice, cause as little damage and inconvenience as reasonably practicable and make good any resulting damages to the flat.

3 Qualified duty to consent to energy efficiency improvements to residential leasehold premises

- (1) This section applies in any case where the long lease is subject to a covenant on the part of the tenant with a prohibition not to make any alterations, additions or improvements to the premises comprised in the lease and either:
 - (a) the prohibition is unqualified; or
 - (b) the covenant is subject to a qualification that the alteration and/or addition is subject to the consent of the landlord.
- (2) References to the person who may consent to such a transaction are to the person who under the covenant may consent to the tenant undertaking the alteration, addition or improvement.

- (3) In all leases containing such a covenant, such covenant shall, notwithstanding any express provision to the contrary, be deemed to be subject to a qualification that, where the proposed alteration, addition or improvement is an energy efficiency improvement, it is permitted subject to the prior written consent of the landlord and such consent is not to be unreasonably withheld or delayed but this proviso does not preclude the landlord from requiring payment of a reasonable sum in respect of any legal or other expenses incurred in connection with such consent.
- (4) Where there is served on the landlord a written application by the tenant for consent to carrying out the energy efficiency improvements, he owes a duty to the tenant within a reasonable time-
 - (a) to give consent, except in a case where it is reasonable not to give consent,
 - (b) to serve on the tenant written notice of his decision whether or not to give consent specifying in addition—
 - (i) if the consent is given subject to conditions, the conditions,
 - (ii) if the consent is withheld, the reasons for withholding it.
- (5) Giving consent subject to any condition that is not a reasonable condition does not satisfy the duty under this section.
- (6) It will not be reasonable to refuse consent if the energy efficiency improvement does not cause any structural or other harm to the building or substantially interfere with the rights of others in the building or parts thereof
- (7) It is for the person who owed any duty under this section—
 - (a) if he gave consent and the question arises whether he gave it within a reasonable time, show that he did,
 - (b) if he gave consent subject to any condition and the question arises whether the condition was a reasonable condition, to show that it was,
 - (c) if he did not give consent and the question arises whether it was reasonable for him not to do so, to show that it was reasonable,

and, if the question arises whether he served notice under that section within a reasonable time, to show that he did.

- (8) Where the qualifying improvements require ancillary works to be undertaken to the building or on land retained by the landlord, and where consent is given,
 - (a) the landlord shall be under a duty to grant such rights as are necessary and appropriate to facilitate the works.
 - (b) any such ancillary works shall be carried out by the tenant at only at reasonable times and on reasonable notice, and the tenant shall cause as little damage and inconvenience as reasonably practicable and make good any resulting damages to the said building or land
- (9) There shall be implied into any leases of any building or land to which Section 3(8) above applies a right for the landlord to grant any such rights if so required.