The Leasehold and Freehold Reform Act 2024

Commencement

The majority of provisions of this Act will come into force through secondary legislation and regulations, so are probably a few years away.

There are 4 points in the Act which come into force on 24th July 2024.

Three relate to the Building Safety Act 2022 but the first one relates to rentcharges and will save deeds of variations in this respect having to be created to mitigate the risk of s.121 of the Law of Property Act 1925.

1. Regulation of Remedies for Rentcharge Arrears

From 24 July 2024 The Leasehold and Freehold Reform Act 2024 regulates how rentcharge arrears (annual payments made by leaseholders) can be collected. This amends s.121 of the Law of Property Act 1925.

Key Changes:

- **Notice Requirement:** Before seeking payment for arrears, the rent owner (recipient) must first serve a formal notice to the landowner (payer) detailing the amount owed, calculation method, and payment options.
- **Proof of Ownership:** The notice will need to include proof of the rent owner's title to the rentcharge and a copy of the document establishing the rentcharge itself (unless previously provided).
- **Service:** The notice must be properly served, either by hand-delivery to the landowner or by registered post to the charged land (the land subject to the rentcharge).
- **Fees:** The Secretary of State can limit the amount payable in respect of an action to recover arrears.
- No sum is payable by the landowner for service of a demand for payment (including obtaining or preparing documents or copies in order to comply with proof of ownership and proof of the rentcharge).
- **Recovery Methods:** The Act potentially restricts the methods the rent owner can use to recover arrears, particularly for regulated rentcharges (those created before 1977). Specific regulations limiting these methods are yet to be published.

  Section 121 of the Law of Property Act 1925 (remedies for the recovery of annual sums) is altered to say that where charged by a regulated rentcharge the rent owner does not have any of the remedies for recovery and compelling payment of the sum on or after 27 November 2023.

Building Safety Act 2022 Amendments

2. Recovery of legal costs etc through service charge

From 24 July 2024 the Leasehold and Freehold Reform Act 2024 provides greater clarity regarding the ability of management companies, including RTMs and RMCs to recover legal costs through service charges associated with Building Safety Act 2022 (BSA 2022) and remediation work enforcement and allocation of liabilities

Changes Introduced by the Act:

- "Remediation contribution order" (RCO) is an order requiring a specified body corporate or partnership to make payments to a specified person, for the purpose of meeting costs incurred or to be incurred in remedying relevant defects (or specified relevant defects) relating to the relevant building. Another application of the RCO is that leaseholders have the ability to claim back costs they have already incurred remedying relevant defects had Part 5 and Sch 8 of the Act been in force earlier. Leaseholders can claim back to costs incurred from 28 June 2017.The 2024 Act adds what can be included specifically in an RCO the following:- (a) costs in taking relevant steps in relation to a relevant defect in the relevant building; (b) costs in obtaining an expert report; (c) temporary accommodation costs due to occupants having to vacate a relevant building for safety reasons or other reasons relating to the relevant defect.
- The restriction in the BSA on service charges payable for legal or professional services relating to liability for relevant defects does not apply to service charges payable to a management company in respect of legal or other professional services provided to the company in connection with an application by the company for a remediation contribution order. Meaning funds can potentially be collected quicker to make any applications required but could be claimed back through the FtT.

Who is Impacted?

- This change applies to management companies (where the directors are leaseholders) and Right To Manage (RTM) companies, who do not own the freehold As RCOs and remediation orders (RO) are only for relevant buildings, any position where the freehold is leaseholder owned in any way by corporate structure or otherwise will not be affected.

Commencement Date:

- This provision applies only to legal and professional services provided **after** the relevant section of the Act comes into force on 24 07 24.

3. Repeal of Section 125 of the Building Safety Act 2022

From 24 July 2024 the Leasehold and Freehold Reform Act 2024 repeals Section 125 of the Building Safety Act 2022 (BSA 2022). This section allowed a court to impose a Remediation Contribution Order (RCO) on a company associated with an insolvent landlord responsible for remediating building safety defects. This essentially meant that another company could be held financially liable for the costs of fixing the defects.

Impact of the Repeal:

- Landlords who become insolvent and cannot afford to rectify building safety issues will no longer have alternative companies potentially forced to bear the financial burden.

Potential Consequences:

- Leaseholders in buildings with insolvent landlords may face greater difficulty in securing necessary repairs for safety defects.
- The government's alternative solutions to address building safety issues when landlords are insolvent will be the developer who constructed the property, anyone installing incorrect remediation previously or the building safety fund.

4. Higher-risk and Relevant Buildings - Insolvency Notifications (Leasehold and Freehold Reform Act 2024)

From 24 July 2024 this section introduces a new requirement for insolvency practitioners when dealing with companies or individuals with an interest in certain high-risk buildings to provide required information to the Local Authority, Fire and Rescue Authority.

Key Points:

- **Trigger Event:** The duty to notify within 14 days arises when an insolvency practitioner is appointed for someone considered a "responsible person" for a "higher-risk building" or a "relevant building."
- **Purpose:** This notification requirement aims to ensure relevant authorities are aware of situations where a responsible person for a high-risk or relevant building becomes insolvent. This allows them to take appropriate action to manage potential building safety risks.

Impact:

- Ensures local authorities, fire and rescue services, and regulators are informed promptly about insolvency situations involving responsible persons for higher-risk and relevant buildings.
- Aims to enhance safety oversight and ensure necessary actions are taken when insolvency affects building management.