

CLIENT NOTICE

GOVERNMENT PROPOSALS TO CHANGE RESIDENTIAL LEASEHOLD LAW

In December 2017 the Government announced a range of proposals to transform the manner in which houses and flats are sold. The proposals apply to property in England only. This guidance note has been prepared to advise you on the government's proposals so you can make an informed decision regarding your property purchase.

What are the key proposals?

Amongst the measures outlined in the announcement were the following provisions:

- developers will no longer be permitted to sell houses on a leasehold basis (save for certain exceptions such as shared ownership)
- new leases of any flats, and new leases of any houses that are still permitted to be sold on a leasehold basis will only be able to reserve a ground rent of a peppercorn (meaning no rent at all).

When will the changes be implemented?

No timetable has yet been provided. Legislation will be needed, so parliamentary time will have to be found. There has been no indication that the ban will be retrospective, so it appears that for the time being houses can continue to be sold on a leasehold basis.

How will this affect my purchase?

The difficulty presently in advising buyers is that until legislation is introduced to effect these changes, we cannot be certain as to when, if ever, these changes may come into being.

It is possible that ownership of a leasehold house or a lease of a flat containing a ground rent may either become less attractive or their market value could be impacted by being created prior to more stringent rules being introduced. It might be that purchasers who buy a lease today which contains a ground rent will experience an impact on the value or saleability of their properties when they come to sell them in future years. Purchasers (or lenders) might be put off by the ground rent in the lease, particularly after a change in the law, if buyers can easily buy a different leasehold without a ground rent.

However this is speculating on future valuation advice and beyond the scope of our retainer, which can only be based on current awareness.

We have sought to negotiate with developers selling flats with financial ground rents, to have their rent proposals amended in light of the proposed changes. However we have encountered overwhelming resistance from sellers to change practices which presently are both legal and longstanding in their use. Retaining an interest in ground rents from properties on an estate remains an attractive asset for a landlord capable of being sold to investors.

Until such time as established practices are banned commercially minded landlords are unlikely to waive their entitlement to this asset.

We estimate that the number of privately owned leasehold properties in England and Wales is about 3 million. Leasehold titles make up over 20% of the national housing stock by number of properties. In light of these statistics it follows that the new lease arrangements that come into effect in the first year after any legislative change are likely to affect less than 50,000 new properties and it would therefore take many years before the number of properties created prior to any tightening of the rules become the minority of the national property stock.

How does this affect existing leasehold property?

The proposals to outlaw leases of houses and to require zero ground rents will not apply to leases of houses or flats granted before the law changes.

Will Help to Buy Equity Loan still be available?

The Government states that it is not appropriate for Help to Buy to support the sale of leasehold houses. The Government has discouraged the use of Help to buy equity loans for the purchase of leasehold houses in advance of new legislation. However, they remain available for now.