

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

HOUSING AND PLANNING BILL

Sixteenth Sitting

Thursday 10 December 2015

(Morning)

CONTENTS

New clauses 2 to 8, 17 and 18, 23, 32 and 33 agreed to.

New clause 9 under consideration when the Committee adjourned till this day at Two o'clock.

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED

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not later than

Monday 14 December 2015

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY
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THE BOUND VOLUMES OF PROCEEDINGS
IN GENERAL COMMITTEES

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The Committee consisted of the following Members:

Chairs: MR JAMES GRAY †, SIR ALAN MEALE

- | | |
|---|---|
| † Bacon, Mr Richard (<i>South Norfolk</i>) (Con) | † Lewis, Brandon (<i>Minister for Housing and Planning</i>) |
| † Blackman-Woods, Dr Roberta (<i>City of Durham</i>) (Lab) | † Morris, Grahame M. (<i>Easington</i>) (Lab) |
| † Caulfield, Maria (<i>Lewes</i>) (Con) | † Pearce, Teresa (<i>Erith and Thamesmead</i>) (Lab) |
| † Dowd, Peter (<i>Bootle</i>) (Lab) | † Pennycook, Matthew (<i>Greenwich and Woolwich</i>) (Lab) |
| † Griffiths, Andrew (<i>Burton</i>) (Con) | † Philp, Chris (<i>Croydon South</i>) (Con) |
| † Hammond, Stephen (<i>Wimbledon</i>) (Con) | † Smith, Julian (<i>Skipton and Ripon</i>) (Con) |
| † Hayes, Helen (<i>Dulwich and West Norwood</i>) (Lab) | † Thomas, Mr Gareth (<i>Harrow West</i>) (Lab/Co-op) |
| † Hollinrake, Kevin (<i>Thirsk and Malton</i>) (Con) | Glen McKee, Helen Wood, <i>Committee Clerks</i> |
| † Jackson, Mr Stewart (<i>Peterborough</i>) (Con) | † attended the Committee |
| † Jones, Mr Marcus (<i>Parliamentary Under-Secretary of State for Communities and Local Government</i>) | |
| † Kennedy, Seema (<i>South Ribble</i>) (Con) | |

Public Bill Committee

Thursday 10 December 2015

(Morning)

[MR JAMES GRAY *in the Chair*]

Housing and Planning Bill

11.30 am

The Chair: I welcome the Committee to the final day of its consideration of the Housing and Planning Bill. [HON. MEMBERS: "Hear, hear."] I remind Members that, under the programme motion, the Bill has to be out by 5 pm.

New Clause 2

REVOCATION OR VARIATION OF BANNING ORDERS

"(1) A person against whom a banning order is made may apply to the First-tier Tribunal for an order under this section revoking or varying the order.

(2) If the banning order was made on the basis of one or more convictions all of which are overturned on appeal, the First-tier Tribunal must revoke the banning order.

(3) If the banning order was made on the basis of more than one conviction and some of them (but not all) have been overturned on appeal, the First-tier Tribunal may—

- (a) vary the banning order, or
- (b) revoke the banning order.

(4) If the banning order was made on the basis of one or more convictions that have become spent, the First-tier Tribunal may—

- (a) vary the banning order, or
- (b) revoke the banning order.

(5) The power to vary a banning order under (3)(a) or (4)(a) may be used to add new exceptions to a ban or to vary—

- (a) the banned activities,
- (b) the length of a ban, or
- (c) existing exceptions to a ban.

(6) In this section 'spent', in relation to a conviction, means spent for the purposes of the Rehabilitation of Offenders Act 1974.—(*Mr Marcus Jones.*)

This amendment allows a banning order to be revoked or varied in certain circumstances.

Brought up, read the First and Second time, and added to the Bill.

New Clause 3

OFFENCE OF BREACH OF BANNING ORDER

"(1) A person who breaches a banning order commits an offence.

(2) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a period not exceeding 51 weeks or to a fine or to both.

(3) If a financial penalty under section 17 has been imposed in respect of the breach, the person may not be convicted of an offence under this section.

(4) In relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 comes into force, the reference in subsection (2) to 51 weeks is to be read as a reference to 6 months.—(*Mr Marcus Jones.*)

This amendment makes it an offence to breach a banning order.

Brought up, read the First and Second time, and added to the Bill.

New Clause 4

OFFENCES BY BODIES CORPORATE

"(1) Where an offence under section (Offence of breach of banning order) committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of a body corporate, the officer as well as the body corporate commits the offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were an officer of the body corporate.—(*Mr Marcus Jones.*)

This amendment ensures that officers of a body corporate can be prosecuted for offences committed by it under NC3. "Officer" is given a broad definition by clause 48 of the Bill.

Brought up, read the First and Second time, and added to the Bill.

New Clause 5

POWER TO REQUIRE INFORMATION

"(1) A local housing authority may require a person to provide specified information for the purpose of enabling the authority to decide whether to apply for a banning order against the person. It is an offence for the person to fail to comply with a requirement, unless the person has a reasonable excuse for the failure. It is an offence for the person to provide information that is false or misleading if the person knows that the information is false or misleading or is reckless as to whether it is false or misleading.

(2) A person who commits an offence under this section is liable on summary conviction to a fine.—(*Mr Marcus Jones.*)

This amendment allows a local housing authority to require a person to provide information for the purpose of deciding whether to apply for a banning order. For example, the number of properties that a landlord has may be relevant to whether an authority applies for a banning order. The power would allow the authority to require the landlord to provide that information.

Brought up, read the First and Second time, and added to the Bill.

New Clause 6

REMOVAL OR VARIATION OF ENTRIES MADE UNDER SECTION 24

"(1) An entry made in the database under section 24 may be removed or varied in accordance with this section.

(2) If the entry was made on the basis of one or more convictions all of which are overturned on appeal, the responsible local housing authority must remove the entry.

(3) If the entry was made on the basis of more than one conviction and some of them (but not all) have been overturned on appeal, the responsible local housing authority may—

- (a) remove the entry, or
- (b) reduce the period for which the entry must be maintained.

(4) If the entry was made on the basis of one or more convictions that have become spent, the responsible local housing authority may—

- (a) remove the entry, or
- (b) reduce the period for which the entry must be maintained.

(5) If a local housing authority removes an entry in the database, or reduces the period for which it must be maintained, it must notify the person to whom the entry relates.

(6) In this section—

‘responsible local housing authority’ means the local housing authority by which the entry was made; ‘spent’, in relation to a conviction, means spent for the purposes of the Rehabilitation of Offenders Act 1974.”—(*Mr Marcus Jones.*)

This amendment allows a local housing authority to remove an entry in the database of rogue landlords and property agents or reduce the time for which the entry must be maintained in certain circumstances. See also NC7. There is no mention of clause 23 as an entry under that clause is maintained for as long as the banning order has effect.

Brought up, read the First and Second time, and added to the Bill.

New Clause 7

REQUESTS FOR EXERCISE OF POWERS UNDER SECTION (REMOVAL OR VARIATION OF ENTRIES MADE UNDER SECTION 24) AND APPEALS

“(1) A person in respect of whom an entry is made in the database under section 24 may request the responsible local housing authority to use its powers under section (Removal or variation of entries made under section 24) to—

- (a) remove the entry, or
- (b) reduce the period for which the entry must be maintained.

(2) The request must be in writing.

(3) Where a request is made, the local housing authority must—

- (a) decide whether to comply with the request, and
- (b) give the person notice of its decision.

(4) If the local housing authority decides not to comply with the request the notice must include—

- (a) reasons for that decision, and
- (b) a summary of the appeal rights conferred by this section.

(5) Where a person is given notice that the responsible local housing authority has decided not to comply with the request the person may appeal to the First-tier Tribunal against that decision.

(6) An appeal to the First-tier Tribunal under subsection (5) must be made before the end of the period of 21 days beginning with the day on which the notice was given.

(7) The First-tier Tribunal may allow an appeal to be made to it after the end of that period if satisfied that there is a good reason for the person’s failure to appeal within the period (and for any subsequent delay).

(8) On an appeal under this section the tribunal may order the local housing authority to—

- (a) remove the entry, or
 - (b) reduce the period for which the entry must be maintained.”
- (*Mr Marcus Jones.*)

This amendment allows a person to request a local housing authority to use its powers to remove or vary an entry in the database of rogue landlords and property agents (see NC6). If the local housing authority refuses, the person may appeal to the First-tier Tribunal.

Brought up, read the First and Second time, and added to the Bill.

New Clause 8

MEANING OF “PROPERTY MANAGER” AND RELATED EXPRESSIONS

“(1) In this Part ‘property manager’ means a person who engages in English property management work.

(2) In this Part ‘English property management work’ means things done by a person in the course of a business in response to instructions received from another person (‘the client’) where—

(a) the client wishes the person to arrange services, repairs, maintenance, improvements or insurance in respect of, or to deal with any other aspect of the management of, premises on the client’s behalf, and

(b) the premises consist of housing in England let under a tenancy.”—(*Mr Marcus Jones.*)

This and related amendments are intended to ensure that a banning order can be made against any person who engages in property management work, not just letting agents who engage in such work.

Brought up, read the First and Second time, and added to the Bill.

New Clause 17

DEFAULT POWERS EXERCISABLE BY MAYOR OF LONDON OR COMBINED AUTHORITY

“(1) After section 27 of the Planning and Compulsory Purchase Act 2004 insert—

‘27A Default powers exercisable by Mayor of London or combined authority

Schedule A1 (default powers exercisable by Mayor of London or combined authority) has effect.’

(2) Before Schedule 1 to that Act insert, as Schedule A1, the Schedule set out in Schedule (Default powers exercisable by Mayor of London or combined authority: Schedule to be inserted in the Planning and Compulsory Purchase Act 2004) to this Act.

(3) In section 17 of that Act (local development documents), at the end of subsection (8) insert—

‘(c) is approved by the Mayor of London under paragraph 2 of Schedule A1;

(d) is approved by a combined authority under paragraph 6 of that Schedule.”—(*Mr Marcus Jones.*)

This new Clause and NS2 make provision for the Secretary of State to invite the Mayor of London or a combined authority to prepare or revise a development plan document for a local planning authority in their area that is failing to progress the document.

Brought up, read the First and Second time, and added to the Bill.

New Clause 18

AMENDMENTS TO DO WITH SECTION 111 TO 117

“Schedule (Right to enter and survey land: consequential amendments) amends legislation conferring rights of entry relating to the acquisition of an interest in or a right over land in England and Wales.”—(*Mr Marcus Jones.*)

This amendment, together with amendment 257 and new Schedule (Right to enter and survey land: consequential amendments), clarifies how the new right of entry in clause 111 will interact with a number of existing rights of entry.

Brought up, read the First and Second time, and added to the Bill.

New Clause 23

PROCEDURE FOR REDEEMING ENGLISH RENTCHARGES

“(1) The Rentcharges Act 1977 is amended in accordance with subsections (2) to (5).

(2) Before section 8 (but after the italic heading before section 8) insert—

‘7A Power to make procedure for redeeming English rentcharges

(1) The Secretary of State may by regulations make provision allowing the owner of land in England affected by a rentcharge to redeem it.

(2) Regulations under subsection (1) may not make provision in relation to—For the purposes of subsection (2)(d) a rentcharge is variable if the amount of the rentcharge will, or may, vary in the future in accordance with the provisions of the instrument under which it is payable.

- (a) a rentcharge that could be redeemed by making an application under section 8(1A),
 - (b) a rentcharge of a kind mentioned in section 2(3) or section 3(3)(a),
 - (c) a rentcharge in respect of which the period for which it is payable cannot be ascertained, or
 - (d) a variable rentcharge.
- (3) Regulations under subsection (1) may, in particular—
- (a) provide for the owner of land affected by a rentcharge to be able to redeem a rentcharge by taking specified steps, including making payments determined in accordance with the regulations;
 - (b) require a rent owner or other person to take specified steps to facilitate the redemption of a rentcharge, such as providing information or executing a deed of release;
 - (c) where the documents of title of the owner of land affected by a rentcharge are in the custody of a mortgagee, require the mortgagee to make those documents or copies of those documents available in accordance with the regulations;
 - (d) permit or require a person specified in the regulations to design the form of any document to be used in connection with the redemption of rentcharges under the regulations;
 - (e) provide for a court or tribunal to—
 - (i) determine disputes about or in relation to the redemption of a rentcharge;
 - (ii) make orders about the redemption of a rentcharge;
 - (iii) issue a redemption certificate;
 - (f) make provision corresponding to any of the provisions of section 10(2) to (4).
- (4) Nothing in this section prevents the redemption of a rentcharge otherwise than in accordance with regulations under subsection (1).’
- (3) In section 8—
- (a) in subsection (1)—
 - (i) after ‘land’ insert ‘in Wales’;
 - (ii) for the words from ‘a certificate’ to the end substitute ‘a redemption certificate’;
 - (b) after subsection (1) insert—

‘(1A) The owner of any land in England affected by a rentcharge which has been apportioned to that land by an apportionment order with a condition under—

 - (a) section 7(2) above, or
 - (b) section 20(1) of the Landlord and Tenant Act 1927,

may apply to the Secretary of State, in accordance with this section, for a redemption certificate.’
- (4) In section 12—
- (a) in subsection (1), after ‘this Act’ insert ‘, apart from regulations under section 7A.’;
 - (b) after subsection (1) insert—

‘(1A) Regulations under section 7A are to be made by statutory instrument.

(1B) A statutory instrument containing regulations under section 7A may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.’
- (5) In section 13(1), in the definition of ‘redemption certificate’, for the words from ‘has’ to the end substitute ‘means a certificate certifying that a rentcharge has been redeemed’.
- (6) The Leasehold Reform Act 1967 is amended in accordance with subsections (7) and (8).
- (7) In section 8(4)(b), for ‘8’ substitute ‘7A’.
- (8) In section 11—

- (a) in subsection (6), after ‘1977’ insert ‘or the amount that would have to be paid to secure the redemption of that rentcharge in accordance with regulations made under section 7A of that Act’;
- (b) in subsection (7)(a), after ‘specified’ insert ‘or required’;
- (c) in subsection (8), for ‘8’ substitute ‘7A.’—(*Mr Marcus Jones.*)

This amendment will permit the Secretary of State to make regulations allowing the owner of land in England that is affected by a rentcharge to redeem that rentcharge without making an application to the Secretary of State as the procedure in section 8 of the Rentcharges Act 1977 would involve.

Brought up, and read the First time.

The Parliamentary Under-Secretary of State for Communities and Local Government (Mr Marcus Jones): I beg to move, That the clause be read a Second time.

Mr Gray, it has been a pleasure to serve under your chairmanship these past few weeks, and it remains so today. With your permission, before I speak to new clause 23, I would like to inform the Committee that last night I sent the Clerks an updated assessment of the Bill’s legislative competence, following the amendments agreed so far and those being discussed today. I trust that it will help to inform Mr Speaker when he comes to re-certify the Bill at the appropriate time.

New clause 23 give the Secretary of State a power to make regulations setting out a new statutory redemption procedure for rentcharges, excluding those specified in new section 7A(2) of the Rentcharges Act 1977, as inserted by subsection (2) of the new clause. Currently, a rent payer can apply to the Secretary of State under section 8 of the 1977 Act for a redemption certificate. The rentcharge team will carry out the necessary checks and advise the rent payer on the amount needed for redemption. Once that amount has been paid, the team will issue a certificate of redemption.

We do not believe it appropriate in this day and age, and especially in the current financial climate, for the Government to continue to have a role in the redemption of rentcharges. The clause will allow the current procedure to be replaced with a mechanism that will be set out in regulations. The new procedure will no longer involve the Secretary of State in the redemption of rentcharges. Instead, the rent owner and the rent payer will be required to take certain steps for the redemption of a rentcharge. *[Interruption.]*

Mr Gareth Thomas (Harrow West) (Lab/Co-op): On a point of order, Mr Gray. I am trying to listen to the Minister with great interest, but there is clearly a conversation going on elsewhere within the room that is preventing me from listening to what feels like an excellent contribution.

The Chair: I am grateful for that point of order from the Opposition Back Benches. The Government Whip might like to take note—*[Interruption.]* I repeat: the Government Whip might like to take note of the point of order, which is that there are too many conversations—mainly involving the Government Whip—happening on the Back Benches.

Mr Jones: Thank you, Mr Gray.

It will still be possible for the parties to reach a private agreement on redemption voluntarily outside

the statutory regime. The existing redemption procedure is set out in primary legislation. The power to set out the new procedure in regulation provides the flexibility to make changes with greater ease than would otherwise be the case. The new regime is likely to contain a level of detail not suited to primary legislation, as the regulations will be concerned with substantive matters, such as the property rights of both the rent payer and the rent owner, and will include provision on dispute resolution. It seems appropriate for the regulations to be subject to the affirmative resolution procedure.

Dr Roberta Blackman-Woods (City of Durham) (Lab): I do not wish to say too much about the new clause at this stage, because I am conscious that much of the detail will come in regulations, and I am partly assured by the fact that the regulations will be affirmative. Presumably, we will get an opportunity at a later stage to consider the implications of the new clause in more detail.

Mr Jones: I thank the hon. Lady for her contribution. On the basis of the assurance that we have provided to her, I commend the new clause to the Committee.

Question put and agreed to.

New clause 23 accordingly read a Second time, and added to the Bill.

New Clause 32

SECURE TENANCIES ETC: PHASING OUT OF TENANCIES FOR LIFE

“Schedule (Secure tenancies etc: phasing out of tenancies for life) changes the law about secure tenancies, introductory tenancies and demoted tenancies to phase out tenancies for life.”—(*Mr Marcus Jones.*)

A secure tenant can currently live in a property for life. This amendment and NS4 phase out lifetime tenancies. In future secure tenancies will generally have to be for a fixed term of 2 to 5 years and will not automatically be renewed. Towards the end of the term, the landlord will have to do a review to decide whether to grant a new tenancy or recover possession.

Brought up, and read the First time.

Mr Jones: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss the following: Government new clause 33—*Succession to secure tenancies and related tenancies.*

Government new schedule 4—*Secure tenancies etc: phasing out of tenancies for life.*

Government new schedule 5—*Succession to secure tenancies and related tenancies.*

Mr Jones: New clause 32 and new schedule 4 together prevent local authorities in England from offering secure tenancies for life in most circumstances. They deliver on a commitment in the July Budget to review the use of lifetime tenancies, with a view to limiting their use. Currently, the vast majority of new social housing tenancies are offered on a lifetime basis, meaning tenants have the right to live in their social home for the rest of their lives, provided they keep to the conditions of their tenancy.

Since April 2012, following changes introduced by the coalition Government’s Localism Act 2011, local authorities have been able to offer so-called flexible tenancies—tenancies of a fixed term of no less than two years. However, they are not taking advantage of that flexibility. In 2014-15, only 8% of social tenancies granted by local authorities were flexible tenancies. That is only just over than 9,000 in all. At present, 236,000 social tenants are forced to live in overcrowded conditions due to the lack of suitably sized properties, while 380,000 households occupy social housing with two or more spare bedrooms. Under those circumstances, we believe that continuing to offer social tenancies on a lifetime basis is not an efficient use of scarce social housing.

The new clauses will significantly improve landlords’ ability to get the best use out of social housing by focusing it on those who need it most for as long as they need it. That will ensure that people who need long-term support are provided with more appropriate tenancies as their needs change over time and will support households to make the transition into home ownership where they can. In future, with limited exceptions, local authority landlords will only be able to grant tenancies with a fixed term of between two and five years, and will be required to use tenancy review points to support tenants’ move towards home ownership where appropriate.

Let me be clear: we are not taking away security of tenure from existing lifetime tenants who remain in their home. Moreover, these amendments will ensure that where existing lifetime tenants are moved by their landlord—for example, as part of an estate regeneration—they will retain their lifetime tenancy. We want to ensure that fixed-term tenancies do not act as a barrier to mobility.

Where lifetime tenants choose to move, local authority landlords will have limited discretion to offer further lifetime tenancies. We will prescribe the circumstances in which local authorities may exercise that discretion in regulations. We expect that such circumstances will include tenants downsizing to a smaller property and moving for work. We will obviously ensure that we develop the regulations in discussion with local authorities. Outside those limited exceptions, if local authorities try to offer a lifetime tenancy or one that is shorter than two years or longer than five, whether deliberately or by mistake, the tenancy will default to a five-year fixed term.

In the main, the statutory protections that the amendments provide for those granted a fixed-term tenancy are similar to those currently enjoyed by flexible tenants. A person who is offered a fixed-term tenancy by a prospective landlord may request a review of the landlord’s decision on the length of term offered. The landlord will be required to look at their decision again and explain how it was reached in the light of their published tenancy policy.

Mr Thomas: For an amendment or something as substantial as what the Minister is proposing, an impact assessment would normally be published. Do the Government intend to do anything like that?

Mr Jones: The hon. Gentleman raises a good question, which I will come to later in my remarks.

Tenants will usually be able to terminate their tenancy at any stage, while enjoying protection from eviction during the fixed term. The local authority landlord will

[Mr Marcus Jones]

need to demonstrate to the court that one or more of the grounds for possession is proven and that they are acting reasonably in seeking possession.

The amendments will introduce an important new statutory protection. Local authority landlords will be required to carry out a review of the tenant's circumstances between six and nine months before the end of the fixed term, so that they can take an appropriate decision about the household's housing need and advise the tenant on their housing options. That will include moving into home ownership where that is a realistic option. The new review process will also apply to existing flexible tenants unless they have less than nine months to go on their tenancy agreement.

11.45 am

In the review, the landlord will need to consider whether to renew the tenancy, offer the tenant another, more suitable social home or terminate the tenancy. We expect that in many cases the tenancy will be renewed, but where the landlord decides that it should not be, it is essential that the tenant be given the opportunity to challenge that decision, as well as sufficient time to find alternative accommodation, following advice and support from their landlord.

Where the landlord is minded not to grant a further tenancy at the end of the fixed term, they will need to serve a notice on the tenant six months before the end of the flexible tenancy, setting out the reasons for the decision, which should reflect the landlord's published policy and give the tenant the opportunity to seek an internal review. Where that review upholds the landlord's original decision, the tenant will have the right to challenge the landlord's right of possession as part of the possession proceedings in the county court, on the grounds that the landlord has failed to conduct the review properly or made an error of law.

Currently, where landlords grant flexible tenancies, the tenancy will automatically become a lifetime tenancy at the end of the fixed term unless the landlord grants a new tenancy or obtains possession. These amendments ensure that that cannot happen in the future. Instead, unless the landlord grants a new tenancy, a further five-year fixed-term tenancy will arise automatically at the end of the fixed term. That does not prevent the landlord from bringing the original tenancy to an end, but it gives the tenant some protection, while ensuring that the tenancy does not roll over into a lifetime tenancy.

During a fixed-term tenancy, tenants will have the same rights as most secure and flexible tenants do now. As with existing flexible tenants, however, the right to improve and to be compensated for improvements will not apply to fixed-term tenancies. Landlords will still be able to grant such rights within the tenancy agreement if they so choose.

Teresa Pearce (Erith and Thamesmead) (Lab): I am intrigued by what the Minister means when he talks about having the same rights. We have heard a lot in the past few weeks about how the Government want all social tenants to have the right to buy, but is it not the case that social tenants who have less than a three-year tenancy will not have the right to buy? Is that not a clear difference between those two different types of social tenant?

Mr Jones: I thank the hon. Lady for her question. She makes a very good point, to which I will return.

We are including protections for existing introductory and demoted tenants at the time that the Bill comes into force. Where tenants have a legitimate expectation that they would be granted a lifetime tenancy at the end of the tenancy—because, in the case of demoted tenants, they were previously lifetime tenants, or because, in the case of introductory tenants, the tenancy would otherwise automatically convert to a lifetime tenancy—they will still be given a lifetime tenancy.

I believe that, taken together, the amendments strike the right balance between stability and quality for tenants—new and existing—flexibility for the landlord and a move towards home ownership.

Dr Blackman-Woods: Will the Minister clarify the previous point? If a tenant is currently a local authority tenant with a lifetime tenancy and they move within the stock, does the lifetime tenancy move with them or will they then have to be offered a two to five-year tenancy?

Mr Jones: In my comments earlier, I set out clearly that that can be the case, but that will depend on the circumstances of the tenant at the time and the policy of the local authority.

We want housing association landlords and tenants to reap the benefits from shorter-term tenancies as well. However, we clearly need to consider any changes to housing associations in the light of the recent decision of the Office for National Statistics on classification. We are working through the ONS reclassification decision and considering the options but, given the complexity of the matter, careful consideration is needed. We will continue to work closely with the housing association sector, the social housing regulator and other stakeholders to finalise the deregulatory package, and we will consider any changes to lifetime tenancies in the context of that work.

New clause 33 and new schedule 5 change the rules on succession to secure tenancies and make equivalent changes for introductory and demoted tenancies. Currently there are significant differences between the succession rights for secure tenancies granted before April 2012 and those for tenancies granted after the date when changes under the Localism Act 2011 came into force.

For secure tenancies granted before April 2012 there is a limit of one succession. Spouses and civil partners qualify to succeed automatically, while other family members, including cohabitants, also qualify but only if they have lived with the tenant for at least 12 months immediately before his or her death.

Since April 2012, only spouses, civil partners and those living together as spouse or civil partner have a statutory right to succeed. However, local authorities can provide any additional succession rights that they think appropriate, including to people who have already succeeded, and to non-family members such as live-in carers.

We do not think that there is a justification for retaining the inconsistency of approach between pre-2012 and post-2012 local authority tenancies. We therefore propose that the succession rights for secure tenancies granted before April 2012 be aligned with those granted after that date. The amendments will deliver a consistent

approach across all secure tenancies and ensure that common-law partners are put on an equal footing with married couples and civil partners.

Other family members who may have had an expectation of succeeding to a secure tenancy granted before April 2012, having lived with the tenant for at least 12 months, will lose their statutory right to succeed. We do not think that it is right that those who may not need social housing, because, for example, they can rent or buy privately, should have the automatic right to succeed to a social home when nearly 1.4 million households are on council waiting lists.

Mr Thomas: Perhaps I can take the Minister briefly back to his reference to the deregulation agenda in relation to housing associations. Is he minded to apply his proposed measures affecting council housing tenants to housing association tenants as well?

Mr Jones: As I said a few minutes ago, we clearly need to consider any changes that we might want to make. As I intimated, we would consider that, but we need to make any changes in the light of the reclassification. That is why we are saying that we want to consider the position extremely carefully. We expect to work closely with the housing association sector and the social housing regulator, and other stakeholders, to finalise any deregulatory package. We will consider—and we are considering—changes. That will happen in the context of the work I have mentioned.

I was explaining that family members other than common-law partners, married couples and civil partners will lose any statutory right they may have had to succeed to a secure tenancy granted before April 2012. Instead, local authorities will have the discretion to grant them succession rights, which must be written into the tenancy agreement. Where local authorities grant additional succession rights, we expect they will apply the same rules to tenancies granted before and after April 2012. However, we will provide guidelines to assist local authorities to exercise their discretion.

Peter Dowd (Bootle) (Lab): As you know, Mr Gray, I listen avidly to what the Prime Minister says on these matters. In August 2010, in a speech in Birmingham, he said of this proposal that

“not everyone will support this and there will be quite a big argument”.

Well, he is right on that one: there will be a big argument. More importantly, however, he also said that the proposal would help with social mobility. It would be helpful if the Minister, in the absence of the Prime Minister, could explain why it will help with social mobility in any way whatever.

Mr Jones: The measure will help with social mobility—all the policies in the Bill are aimed at helping with social mobility. We want people who are able to purchase their own property—to exercise the right to buy—to do so and to exercise what we see as a right to social mobility. Within this policy, in many cases, the circumstances of tenants will be reviewed; in certain cases, it may prompt people who may otherwise not have thought about purchasing their own home to do so where they feel they are able to. That is an important thing for everybody to have the opportunity to do if they are able to.

Mr Thomas: Does the Minister envisage any exemptions for households where there are young children? One thinks, for example, of the need to offer young children stability of schooling, allowing them to go through primary school or to complete their passage through GCSEs. Might there be flexibility on secure tenancies in that situation?

Mr Jones: When a housing authority is doing a review of the circumstances of tenants who are in that position—where their bedrooms are fully occupied, and where they have children at schools—we would not expect it to assess their circumstances in the context that they have changed significantly enough to mean that those people would not be able to take a further tenancy from that authority. It is important to stress to the hon. Gentleman that this is all about trying to free up social housing for the people who really need it; this is not about taking away social housing from people whose circumstances have not changed significantly.

To come back to the point I was making about succession, even where family members do not benefit from additional succession rights, the landlord will still be able to issue them with a new tenancy in the same or a different property if they have had sufficient priority under the council's allocation scheme. That will ensure that landlords take account of particularly hard cases. That feeds into the point made by the hon. Member for Harrow West.

The proposals ensure that spouses, civil partners and those who live together as such continue to have an automatic right to succeed to a lifetime tenancy. That seems only fair, particularly as, in many cases, they will be joint tenants. However, it is difficult to justify why other people should succeed to a lifetime tenancy, particularly when most new tenants will receive a five-year fixed-term tenancy. The proposals ensure, therefore, that anyone other than a spouse or partner will no longer be able to inherit a lifetime tenancy. Instead, if they qualify to succeed, they will be given a five-year fixed-term tenancy. At the end of the fixed-term period, the landlord will be required to carry out a review of their circumstances, as they would need to do for any new fixed-term tenant. If the tenant is still in need of social housing, the landlord will be able to grant a further fixed-term tenancy of between two and five years. We think that, taken together, the amendments strike the right balance between protection for the tenants and their families, and flexibility for landlords.

12 noon

Mr Thomas: May I offer the Minister the example of a person who has a long-term disability and is in a specially adapted council property? Will there be an exemption for that person under the exemptions that the Minister says may be on offer through the regulations?

Mr Jones: I thank the hon. Gentleman for his question. There are people who have certain needs, and he mentioned somebody who is disabled and in a property that has been specially adapted to deal with that disability. He needs to realise that the amendments are not couched in terms of automatically asking somebody in those circumstances who comes to the end of a fixed-term tenancy to move on. They are about reviewing circumstances.

[Mr Marcus Jones]

If, after that review, it is found that the disability of the person in question has not changed and that they still need that type of property with the housing adaptations that have been made, the local authority should not do anything other than renew the tenancy, as long as the person who is occupying the property has fulfilled the obligations under their tenancy agreement.

Let me come on to one or two of the questions that were asked during the debate. A question was asked about the impact assessment. We will publish a revised Bill impact assessment, and this will certainly be included in that.

Mr Thomas: When?

Mr Jones: I assure the hon. Gentleman that it will be published before the Bill goes to the Lords.

On the right to buy, the answer is yes, the tenant will still be able to exercise their right to buy. They must have had three years in social housing to be eligible. That is the same for flexible tenancies. Part of the purpose of the review at the end of the tenancy is to consider whether a person can exercise the right to buy if they are eligible to do so.

Teresa Pearce: Will the Minister explain something? If somebody has less than a three-year tenancy, they will not have the right to buy. If they have a two-year tenancy, then a break and then another two-year tenancy, they will not have the right to buy. Is it possible that some local authorities will not grant longer tenancies as a way of not extending the right to buy to some tenants? Has the Minister looked at that to see whether it is a possible loophole?

Mr Jones: I am trying to think carefully about the hon. Lady's logic. I think that the circumstances she mentioned would apply to people who have a lifetime tenancy. If a person does two years and, by their own volition, whether they are on a lifetime tenancy or a fixed tenancy, moves into private rented accommodation and then comes back to the local authority for rehousing, they would not have built up the three years that makes them eligible to take on the right to buy.

This issue has come up several times. The hon. Lady is saying that the local authority moves them out of the property after two years, but at the end of the two-year fixed tenancy, the situation is reviewed and the people's circumstances are taken into account. I cannot see that this policy will stop people being able to take up right to buy.

The provisions also align the succession rights of introductory and demoted tenants with those of secure tenants. Spouses, civil partners and those living together as a married couple will have a statutory right to succeed and the landlord will be able to grant additional succession rights in the tenancy agreement. None of the changes will apply where the tenant died before the Bill comes into force. I therefore hope that hon. Members will take the measures in the spirit in which they are intended and accept them.

Dr Blackman-Woods: I will be very measured in my comments on the two new clauses, but I want to say to the Minister and put on the record that I am extremely angry about what is contained in the new clauses. I am

angry in terms of process and in terms of content. I do not think it is helpful to the deliberations of this Committee to have had these extremely controversial and wide-ranging new clauses added on the last day of the Committee. I am also angry because, as far as I can see, there has been—

Mr Jones: Will the hon. Lady give way?

Dr Blackman-Woods: I will give way to the Minister.

Mr Jones: I am looking at the new clauses before us today and the ones that the Committee has not dealt with previously. I can see only a small number of new clauses tabled by the Government, but a significantly greater number of new clauses submitted at this stage to the Committee. I ask the hon. Lady: is not what is good for the goose good for the gander?

Dr Blackman-Woods: I thought the Minister was going to make a serious intervention about the content of the new clauses. The point I was making is that the Government new clauses, which are wide ranging and controversial and have an impact on lots of people's lives, should not have been brought to this Committee on the last day of its deliberations without any consultation, without an impact assessment and without any background information. It really is extraordinary. It is extremely bad practice and not good policy making.

It is the content of the clauses that concerns and outrages me. As my right hon. Friend the Member for Wentworth and Dearne (John Healey) said this morning:

“People will be astonished that Ministers are legislating to deny families a stable home. This will cause worry and upheaval for tenants, and break up communities.”

Because the new clauses have not been in the public domain for long, people are only now trying to catch up with what the impact might mean for people. However, some housing lawyers have contacted us to say:

“Presently, local authorities generally grant periodic secure tenancies. Such tenancies have no automatic end date, rather, they end only when the court makes an order for possession or when a tenant gives up the tenancy. Moreover, if you are the spouse or civil partner of a local authority tenant then, on the death of that tenant, you can succeed to the tenancy on the same terms.”

Kevin Hollinrake (Thirsk and Malton) (Con): Will the hon. Lady give way?

Dr Blackman-Woods: I will give way to the hon. Gentleman in a moment. I want to finish what I am saying about this particular issue. The housing lawyers who have contacted us said:

“The new clauses end both of these rights. If the new clauses are accepted, local authorities will only (save for limited exceptions which will mostly be dealt with in secondary legislation)—

as we heard from the Minister earlier—

“be able to grant tenancies for a fixed term of between 2 and 5 years. Towards the end of the fixed term (defined as between 9 and 6 months before it ends) the landlord will decide whether to offer another fixed term. Whilst there is a right to ask a landlord to review a decision not to offer another fixed term, there is no right to challenge the decision, e.g. by appeal to a court.”

Therefore, the spouse or civil partner of a local authority tenant, on death of that tenant, might get a five-year tenancy, or they might not.

The lawyers continue:

“This is a major reform of housing law, probably the most important since local authority tenants were given security of tenure in the Housing Act 1980. It requires much more detailed (and technical) consideration than just being dropped in for debate on the last day of the Committee Stage. There are, for example, two unintended consequences”—

my hon. Friend the Member for Harrow West has just raised one. There is great concern about the potential impact on the right to buy, but there is also major concern about provisions for recovery of possession at the end of the fixed term and for recovery of possession against a successor.

The lawyers say that the current proposals are simply unworkable because

“where a local authority grants a fixed term tenancy, possession proceedings operate by way of forfeiture. Yet the Bill excludes forfeiture from the remedies available against these fixed term tenancies.”

The lawyers direct the Minister to read “Flexible Tenancies and Forfeiture” by Andrew Dymond in volume 17 of the *Journal of Housing Law* so that he can see how the drafting is flawed.

The lawyers continue:

“a 2 year fixed term means, in reality, only 15 months of security (since the decision whether to extend your tenancy can start with 9 months remaining on the term)”.

A two-to-five-year churn, as my hon. Friend the Member for Harrow West pointed out, has huge implications for the stability of families and communities. It is important that the Minister addresses some of the points about what churn could mean in practice for the stability of families.

Kevin Hollinrake: As my hon. Friend the Minister pointed out, there are 1.4 million people on the housing waiting list. Does the hon. Lady recognise that there is a real need to make the best use of our housing stock? People’s lifestyles change, as they go from living in a larger family to perhaps living on their own in a house that is larger than they need. Are these not sensible proposals to make sure we make best use of our housing stock?

Dr Blackman-Woods: Local authorities already have the power to grant fixed-term tenancies if they wish to do so. The issue we have been struggling somewhat to get across in the Committee to date is that, if there is a huge need for social rented housing, the way to deal with that need is to build more social rented housing units, not to make life more difficult for those who already occupy social rented housing by kicking them out using a whole variety of mechanisms.

Kevin Hollinrake: Will the hon. Lady give way?

Dr Blackman-Woods: Let me finish the point.

Increasing rents to a level that people will not be able to afford and having the bedroom tax in place means that a lot of people have to move out of their homes. Now, on the last day of our deliberations, we have this extraordinary set of measures, which seek to take secure tenancies away from people in the social rented sector. This is an extraordinary change. What I would say to the hon. Gentleman is that the way of dealing with acute housing need is to build more housing across all tenures, including for social rent, and I hope he will accept that.

Kevin Hollinrake: I absolutely accept that. Does the hon. Lady therefore welcome the 55% rise in the number of affordable houses—25,000 more properties—built in 2014-15 versus 2013-14?

Dr Blackman-Woods: A further thing I have been trying to do in the Committee is to make it clear that there are social rents and there are affordable rents. Affordable rents are not necessarily what we would all understand as affordable, because, in a lot of areas, 80% of the market rent is not affordable. Of course, that also applies to other measures for low-cost home ownership. Throughout the Committee’s deliberations, we have been questioning whether the Government’s definition of low-cost home ownership actually is low-cost home ownership.

12.15 pm

Mr Thomas: Taking at face value the question from the hon. Member for Thirsk and Malton—and given the conversations on the Government Benches, one should perhaps be cautious about doing that—might he not be tempted to support new clause 37, which would make it easier for councils to build more homes and thus deal with the backlog of people on waiting lists?

Dr Blackman-Woods: My hon. Friend makes an excellent point. I hope that we are able to look at that this afternoon, because it would be interesting to hear what the Minister has to say about it.

Traditional secured tenancies are not tenancies for life. They are invariably subject to a probation period of at least a year. If there is antisocial behaviour during the tenancy, the court has the power to take away security of tenure and reduce the tenant’s rights in a demoted tenancy, so there are already measures that enable local authorities to end tenancies if there is a problem with the tenant. Indeed, the Local Government Association wrote to us to say:

“The Localism Act 2011 introduced flexible tenancies in acknowledgement that ‘a one size fits all model on rents and tenancies is not the best answer to the wide range of needs and circumstances of those accessing the social rented sector’. Councils should retain this freedom to manage locally their Tenancy Policy and decisions over tenancies. Every housing market is different and blanket national enforcements may risk impacting on coordinated local efforts to balance efficient use of stock while building stable neighbourhoods and communities. The requirement to review each tenancy every five years would be a significant administrative burden on councils. We would like to support the Government to work with councils in order for it to understand the impact of fixed-term tenancies and to then be able to use the information to inform future tenancy strategy.”

The new clause is not only profoundly unfair and unjust for people who need and are fortunate enough to get social rented tenancies, but profoundly anti-localist. That is what the local councils themselves say.

The 2011 Act gave local authorities flexibility. If, because of local circumstances, they have not used that flexibility to the degree that the Minister would like, under localism that should not give the Minister the right to legislate for them to do things differently. I want the Minister to explain why he thinks it is appropriate to introduce these new clauses on the last day of Committee stage. What work has been carried out with local authorities and tenants’ organisations to understand the impact of the proposals? What is he going to do from now on in

[*Dr Blackman-Woods*]

terms of both the impact assessment and having the important discussions that must take place before the proposals go any further?

Peter Dowd: If a 46-year-old woman becomes a war widow, and her family fly the nest with the exception of one child, would she be asked to move out with the remaining child in due course? Would she pay the price of the Government's social mobility policy by losing her marital and family home? What would she say to the child? Does my hon. Friend have any advice on that?

Dr Blackman-Woods: At this point, I do not—in fact, I was going to ask the Minister about that. Another question is: what about adult children who have been living in the house as their home for a very long time?

I shall finish with the following point. The reason why Margaret Thatcher offered secure tenancies in the 1980s is that she understood the need for tenancies that would offer families stability. There was a lot of discussion in the run-up to the 1979 election about what would happen to people in the social rented sector, and it was a good thing. It was the result of many years of lobbying and of knowing how important secure tenancies are to the stability not only of households but of communities that the legislation was introduced. It was introduced after a long period and a lot of deliberation, and it is critical that we do not legislate this morning to just get rid of it on what appears to be the whim of a Minister, a particular set of Ministers, or even the Prime Minister. It requires careful consideration, and we have not had the opportunity to consider the full implications of the measures.

My family had years of private rented accommodation and of being moved on, with young children. Getting a secure council tenancy was critical in giving all of us stability and good opportunities for social mobility. I cannot see where social mobility comes into these clauses. We know that making life more insecure does not lead to greater social mobility.

Teresa Pearce: I am very interested in what my hon. Friend is saying about social mobility. When I was granted a social tenancy at 21, I was on my own with my daughter. I stayed there for two years. In those two years, due to the lower rent and my increased job prospects, I was able to save enough to move out and buy my own property. Had I had a tenancy that I knew would end, I probably would not have been in a position to do that, because I would have been so fearful of where I would go next that it would have held back my social mobility.

Dr Blackman-Woods: I thank my hon. Friend for that helpful intervention, which demonstrates the clear difference between Opposition and Government Members: we appreciate the value of social rented housing to many individuals and families in this country, and how important it often is in enabling people to turn their lives around and in giving stability, particularly to families on low incomes seeking to do their best in difficult circumstances. It is not simply a product that can be used one way and then another; it is important for whole families and for their life choices.

Security of tenure often gives people time, as my hon. Friend said, to think about what options and opportunities might be available to them, such as education or retraining. It is critical that we do not remove that important support mechanism and pull the rug from under people, particularly when they might be facing difficulties. We should ensure that they get the support they need.

Peter Dowd: The more I think about it, the closer I come to the word to describe it. Does my hon. Friend agree that asking local authorities and registered social landlords to go to people and effectively move them out of their houses is pusillanimous, to say the least?

Dr Blackman-Woods: Yes. If this is the result, the circumstances will be absolutely dreadful. Whether or not families are ultimately moved on, they will now have to live with the insecurity of knowing that they could be moved on at any time. That is what is particularly pernicious about the measures. They are part of a continuing vendetta against social tenants in this country. That is what we must assume from how the measures have been introduced and their content.

Kevin Hollinrake: The hon. Member for Erith and Thamesmead made the point beautifully. We all understand the need for social housing. She needed social housing at one time in her life, and the property was available. The measure is about making the best use of our housing stock.

Dr Blackman-Woods: We dealt with that earlier. I ask the hon. Gentleman and his colleagues to turn their attention to how we can deliver more social rented housing.

Mr Jones: Will the hon. Lady give way?

Dr Blackman-Woods: I will give way to the Minister once I have dealt with the intervention by the hon. Member for Thirsk and Malton. The way to deal with the huge demand for social rented housing is to build more of it. The figures I gave much earlier showed that last year the lowest number of homes for social rent in decades was built—I think it was 10,000 units.

Mr Jones: We have heard the heartening story of the hon. Member for Erith and Thamesmead. If she had chosen to, with a lifetime tenancy, she could by definition still be living in that house today while earning £74,000 a year as a Member of Parliament. Does the hon. Member for City of Durham think that it is right for someone to hold on to a lifetime tenancy in those circumstances, when people in housing need have nowhere near that income?

Dr Blackman-Woods: The Minister is sidestepping the point—for a change. We need to build more homes that are genuinely affordable—social homes, to rent. The Government are just making life more difficult for council tenants, trying to get them to move on somehow or other, rather than addressing the fundamental underlying problem, which is the lack of genuinely affordable housing.

Teresa Pearce: Just to clarify, I did have a lifetime tenancy, and my options were either to stay, to buy the property—which I did not do—or to save up, buy something, and leave the tenancy for someone else. Since then four other families have had the flat, because I did not remove it from the social stock by buying it. I do not understand the point about what I could have done if I had had a lifetime tenancy, because I did have one.

Dr Blackman-Woods: I am sure that that clarification is helpful.

Chris Philp (Croydon South) (Con): Will the hon. Lady give way?

Dr Blackman-Woods: I will give way to the hon. Gentleman and then I am anxious to conclude because other Members want to speak.

Chris Philp: The hon. Lady is very kind to give way. Of course Conservative Members agree that we should build more social or affordable housing, and the Bill will achieve that. Does she agree, however, that cases such as that of the former Member for Holborn and St Pancras, Frank Dobson, who occupied a council house for 30-odd years despite being a Cabinet Minister, are poor use of housing stock, and that a family in Camden on a low income would have been much better off occupying that council property?

Dr Blackman-Woods: The hon. Gentleman needs to turn his attention to what the Local Government Association has said on the matter:

“The Localism Act 2011 introduced flexible tenancies in acknowledgement that ‘a one size fits all model on rents and tenancies is not the best answer to the wide range of needs and circumstances’”.

Local authorities already can offer flexible tenancies if they want to. The provisions before the Committee would force all councils to do it, and do it in a particular way, whether or not that accorded with local circumstances and met tenants’ needs.

My right hon. Friend the Member for Wentworth and Dearne said that the provisions are a continuation of a “vendetta against council tenants”. The manner in which they have been tabled, and the lack of consultation with the housing sector, tenants or anyone who might be affected, show that he is probably right. I look forward to the Minister’s having the good sense to withdraw them and to allow proper discussion of such a key issue before a decision is made.

12.30 pm

Helen Hayes (Dulwich and West Norwood) (Lab): It is absolutely shameful that the Government have tabled this new clause so late in the Committee’s deliberations, without time for tenants to be consulted, without time for the Committee to take evidence orally or in writing from tenants and from those who represent tenants, and without the opportunity to hear the views of the social housing sector and of councils. The proposal is yet another radical reform and a forceful attack on social housing as we know it.

Southwark Council, one of the councils that I represent, consulted during the previous Parliament on the Government’s proposed flexibility to change the form of council tenancies. It consulted extensively with its tenants and in the end it decided to take advantage of the proposal to introduce introductory tenancies, but not to remove lifetime tenancies. That was because of the views that residents expressed during the consultation.

I recall a conversation with a woman who lives on one of my council estates. She was an original right-to-buy tenant. She bought her flat and brought up her family there. She has lived on the estate for more than 40 years and has been the life and soul of the community; she has been chair and vice-chair of her tenants and residents association. She said to me, “If you as the council introduce this proposal, we are finished as a community, because you will be undermining the stability of our community. You will be destabilising. We will have a much more rapid turnover. Our ability to be a cohesive, strong, stable and long-term community on this estate will be gone.” That is the significance of this proposed reform of social housing. It denies stability and security to households on low and moderate incomes, who cannot afford to buy.

I do not understand why the Government are so set on making a distinction between the aspirations of people who can afford to buy and those of everybody else. I do not understand why the Government are bent on denying people on lower incomes the stability of knowing that they can live in their community for the long term; that they can send their children to the local school for as long as they need to be there; that they can invest in that community and play an active role in supporting their neighbours and in giving back. I do not understand why the Government are making that distinction on income grounds alone.

I am concerned that a consequence of the proposal will be to force tenants, for whom home ownership is not sustainable in the long term, to consider the right to buy. In my nearly six years as a councillor, many residents have come to me in deep distress because of the cost of major works bills and the cost of service charges, which they did not necessarily anticipate were coming and which they had not set aside the money for. They had 95% mortgages and they did not have the equity in their home to be able to borrow to cover those costs. Their home is threatened as a consequence of the financial strain. I am concerned that if people think they have only two, three or five years to live in their social home, and that the way to achieve longevity is to buy their home, they will be forced to take up the right-to-buy option when it is not in their long-term financial interests to do so.

It is worth rehearsing exactly how many and varied the ways are in which the Government seem bent on an attack on social tenants. We have the high income tenant provision for tenants who are not actually recognised as high earners by Her Majesty’s Revenue and Customs under the pay to stay clauses. We are still living with the pernicious bedroom tax. We have absolutely no funding line at all in the comprehensive spending review to deliver a Government subsidy for new social housing, the delivery of which—not the punishment of existing tenants—is the key to solving the social housing crisis. The forced sale of council homes will reduce the number of those homes available to meet the need that is there.

[Helen Hayes]

This is a race to the bottom on housing for those on low to moderate incomes. It seems to me that the poor standards and insecurity of tenure of the private rented sector are the standards the Government are aiming for, rather than an aspiration to raise standards and security of tenure, and the availability of secure tenure, for those on low to moderate incomes.

New clause 32 is a further pernicious measure that simply punishes those who, through no fault of their own, are on low to moderate incomes. It shows absolute contempt for social tenants that the new clause has been introduced with no opportunity for tenants or their representatives to be consulted and make their views known, and with no opportunity for the Government to hear from them at first hand. Many times during Committee I have referred to my constituents—the people who, every week, come to my surgeries and write to me. Week in, week out, many people raise issues relating to security of tenure. They worry and are caused great anxiety—in fact, it affects their mental health to know that they might have to take their children out of school to move to a more affordable area. Insecurity of tenure undermines people's ability to save for the future, the strength of community connections, and the ability of people to support each other in a mixed, balanced and diverse community. These things matter to all residents, not only those who can afford to buy their own home.

I would like the Committee and the Government to hear at first hand from tenants and leaseholders—those who live alongside tenants on our mixed and diverse estates—about the effect the new clause will have on them. I hope that the Government will withdraw the new clause so that tenants' views on it can be heard and can inform the debate.

Matthew Pennycook (Greenwich and Woolwich) (Lab): It is a pleasure to serve under your chairmanship once again, Mr Gray.

I rise to oppose the new clauses and new schedules. In doing so, I will try to be as measured as my hon. Friends the Members for City of Durham and for Dulwich and West Norwood, but I too am angry. Let us be clear: this is not just one group of a bunch of new provisions that have been tabled; taken together, the new clauses and new schedules represent a significant reform of housing law—probably, as my hon. Friend the Member for City of Durham said, the most important since local authority tenants were given security of tenure by the Thatcher Government in the Housing Act 1980. We can have a robust debate about the rationale for the Government's policy, but whatever the views of individual Members on the Government and Opposition Benches, there is absolutely no justification for the shabby way that these provisions have been brought before the Committee. There has been no consultation or impact assessment. The Minister says we will get one sometime before the Bill goes to the House of Lords, but that will not give the Committee an opportunity to scrutinise this important legislation properly.

Mr Thomas: Is it not all the more disappointing that the Minister has confirmed that housing association tenants also face the potential loss of their secure tenancies? We do not know when there will be a consultation on that either, in the same way as there has not yet been a consultation on the provisions before us now.

Matthew Pennycook: My hon. Friend makes a good point. If I was a housing association tenant, or if I ran a housing association, I would be worried by the implications of the new clause and new schedules for tenants and for the sector as a whole.

Turning to some of the specifics, I have a number of concerns about the consequences, intended or otherwise, of the proposals. The most important is that the new clauses are yet another example of the centralising nature of the Bill. Perhaps that is the weakest part of the Government's argument. The Minister argued that the measures are intended to promote the more efficient use of council housing, and the hon. Member for Thirsk and Malton said that they are designed to make better use of stock, but the Localism Act 2011 already allows local authorities to grant fixed-term tenancies.

Currently, it is left to local councils to decide whether to grant traditional secure tenancies or fixed-term tenancies. The Minister touched on the fact that there will be freedom and opportunity for local authorities. If that is the aim, why the need for legislation? They have that as things stand. More telling was his staggering comment that the measures are needed because local authorities are not taking advantage of the freedoms available to them. What kind of localism is it that says to a local authority, "Here is a power that you can use if you decide, as a democratically elected local authority, that the housing needs in your area demand it, but if you don't use it, we are going to take it away, make you look at it again and force you to use it"? That is not localism. As the Conservative party has championed localism, I thought that the Government might have thought about this measure a little more carefully.

My hon. Friend the Member for City of Durham has already said that the provisions for recovery of possession at the end of the fixed term and against a successor are not workable. Where a local authority grants a fixed-term tenancy, possession proceedings operate by way of forfeiture, yet the Bill excludes forfeiture from the remedies available against fixed-term tenancies. That is unsurprising, because the provisions have been introduced so hastily that the drafting is flawed and will need to be reviewed at a later date.

Perhaps the most important point is the one made powerfully by my hon. Friend the Member for Dulwich and West Norwood. The new clauses and new schedules will have implications for the building and maintaining of stable and secure communities. I return to a point that we have touched on several times previously, including in our discussion of the pay to stay clauses. When we look at social and public housing as a zero sum game, through the lens of dependency and economic subsidy, as Government Members clearly do, we are into a world where we are undermining mixed communities. I thought that the Government—the coalition Government certainly stated this—believed in sustainable, inclusive, mixed communities. How can we have mixed communities if anyone who does well, who saves and gets a better job, is encouraged to move on?

As my hon. Friend the Member for Erith and Thamesmead, who has actually experienced living in social housing, has said, if they have the opportunity and the security and stability on which to do it, most people will take the opportunity to buy their own home and move out at some point in the future. Coercing

people or applying pressure on them to do so is not the way to encourage them to move on. That is what the provisions will do.

The new clauses do not, as the Minister said, strike the right balance; they will be deeply damaging to communities throughout England, including those I represent in Plumstead, Charlton, Woolwich and Greenwich. I encourage the Minister to visit some of the estates and talk to the people there, who will say exactly as my hon. Friend the Member for Dulwich and West Norwood did: the people who hold these communities together—the glue, if you like—are those tenants who have perhaps done a little better than others but have stayed and are trusted and looked to as community figures.

The measures will increase transience and churn and undermine mixed communities. They are conclusive proof that the central thrust of the Bill is an attack on public housing and the families who rely on it. It is bad policy and, more important, it is bad policy making. The Government should go away and look again and at least, at a minimum, if they really believe in this, come back to us after a consultation when we can look at a proper impact assessment. They should not be introducing these new clauses in such a shabby way.

Mr Jones *rose*—

The Chair: I call the Minister.

Peter Dowd *rose*—

The Chair: Order. The hon. Gentleman should realise that if he wants to catch my eye, he must stand up in his place.

Peter Dowd: Okay. Thank you very much, Mr Gray. I tried to catch your eye earlier, but, regrettably, I obviously did not.

The Chair: When an hon. Member wishes to speak, he stands in his place and I then call him. If he does not stand in his place, I presume he no longer wishes to speak. He cannot do it by waving.

Peter Dowd: I was trying, Mr Gray.

The Chair: I am sorry, I do not intend to argue about it, but I will say it again: if an hon. Member wishes to speak, they stand in their place. If they do not, they do not get called, for the very simple reason that for all I know he or she may well have changed their mind. If the hon. Gentleman wishes to be called, he must stand in his place.

Peter Dowd: Thank you for your advice, Mr Gray, which I genuinely appreciate.

My hon. Friend the Member for City of Durham made a powerful case about the contradictions between the provisions in the new clauses and localism. As a council leader, I experienced such contradictions many times. We were constantly being told about all these local powers and having the discretion to do this or that, but of course it was only if it was what the Government wanted us to do. If we did not do what the Government wanted, they forced us to, and if we did, they said, “There you are, you’ve volunteered to do it.” I therefore completely understand and accept my hon. Friend’s contention that this localism policy is not really a localism policy.

12.45 pm

The Government have the powers, attitude and guile of Cardinal Richelieu, but want to act like a country vicar when it suits them. They cannot have it both ways. The bottom line is that this is a modern version of a tied cottage, but without noblesse oblige from the landowner. That is what is before us. In effect, we are discussing the threat of eviction after five years. Let us not dress it up in any other way—it is a threat of eviction. People might be able to go through some processes, but in reality that is what the new clause is. It is an extension of the concept of the bedroom tax. Not content with saying, “If you have three bedrooms, you’ll have to pay for two of them, or move out,” the Government are extending that by not even giving people the opportunity to pay, but instead saying that after a certain number of years, “You’re out of this property.”

I asked my hon. Friend the Member for City of Durham about the case of a 46-year-old widow because it is a real case about which we have to get answers or assurances from the Government. That could be what will happen to that widow, and the sort of answer we need is that she will be able to stay in her home with her family. We need those answers not next week or in six weeks’ time, but today. The Government constantly tell us about the military covenant in this day and age, and that is the sort of issue that goes to the heart of it. There are lots of warm words, but the Government must guarantee that such things as I have described will not happen, because any breach is a breach of the covenant. In Committee we must think of precisely such things when we make our decisions.

I do not mind a law of intended consequences, as long as people are clear about them, but the new clause might be a law of unintended consequences. It is coming to something when the Government are rolling back some of the social provisions added by Mrs Thatcher. That is a remarkable movement backwards—quite incredible.

I ask the Government to consider the new clause carefully. It is not about emotion and bluff; it will be affecting people’s lives day in, day out. I ask them to consider carefully the impact on communities and their cohesion in coming years—not in two or three years, but in five or 10 years’ time, when most of us—or at least most of the Opposition Members—will be retired, including me.

Mr Jones: I have heard the comments of Opposition Members, including the hon. Member for City of Durham. The hon. Lady seems to be most surprised that the Government are introducing these measures, but I am surprised that she is surprised. In August 2010 the Prime Minister first mentioned that the Government of the day were thinking of such provisions—the hon. Member for Bootle even highlighted that in his earlier intervention—and that was followed by the Localism Act 2011, which took the proposals further, and by the Chancellor’s announcement in this year’s summer Budget. The Labour party should not be surprised.

Teresa Pearce: I hear what the Minister is saying, but given that the measure has been in the pipeline since 2010, why was it not in the Bill?

Mr Jones: Obviously it will be in the Bill now.

Teresa Pearce: Why was it not in the Bill?

Mr Jones: Because we want to get such things right. We believe that we have now put a good package together—

Peter Dowd *rose*—

Mr Jones: I am not going to give way at the moment. I want to read from a newspaper article quoting a Minister:

“the minister did say the current system had to be re-thought as it concentrated dependency and disadvantage in particular estates, frustrating people’s attempts to either get out of social housing or to get into it.”

I completely agree with that statement, but it was said in 2008 by the right hon. Member for Derby South (Margaret Beckett), when she was a Minister in the Department in which I am privileged to serve. She said:

“What we have at the moment is not effective or sustainable and it seems to me that people deserve better.”

The article states that she

“indicated that she wanted to encourage social tenants or would-be social tenants to look beyond social housing to the private sector”.

It quotes her saying:

“If people could find greater stability and security in the private rented sector, or could take advantage of low cost home ownership, then maybe fewer would think that social housing was their only option.”

It is telling that that was the thinking in 2008 of the Labour Government and the Department for Communities and Local Government, in which the shadow Housing and Planning Minister, the right hon. Member for Wentworth and Dearne (John Healey), served as a Minister.

The thinking of the Labour Government at the time was similar to our thinking now and seemed to be in the centre ground. If the Labour party had won in 2010—if the electorate had not seen fit to throw out that discredited shambles of a Labour Government—and the country had had the misfortune of having another Labour Government, there is every possibility that they would have taken a similar approach to the one we are taking now.

Dr Blackman-Woods *rose*—

Mr Jones: I am interested in hearing the hon. Lady’s view on that.

Dr Blackman-Woods: The Minister must really be struggling to defend this policy if the best he can come up with is a Minister many, many years ago making what we all thought were personal comments. They were never accepted as Labour party policy or proposed in legislation. That was a speech in which she made personal comments. [*Laughter.*] I find it pretty shocking that Government Members are laughing, given that these clauses seek to take important rights from people. Labour did not take that approach either in government or in opposition, and the Minister should not suggest that we did.

Andrew Griffiths (Burton) (Con): *rose*—

Mr Jones: My hon. Friend the Member for Burton wants to intervene on the hon. Member for City of Durham, and I understand why he wishes to do so. The

then Housing Minister made those comments at a housing conference at the Adam Smith Institute in her capacity as a Minister of the Government of the time. I find it difficult to square that with the fact that the hon. Lady just said that they were personal comments. They were not personal comments; they were the comments of the Labour Government at the time. That is the direction that the Labour Government would have taken if they had been re-elected in 2010. The hon. Lady said that I am struggling to defend the policy—in a moment, I will give her some more detail about why I am confident in defending it—but I think she is struggling to put up an argument against it.

Stephen Hammond (Wimbledon) (Con): *rose*—

Peter Dowd *rose*—

Mr Jones: I will take an intervention from the Government side first.

Stephen Hammond: I just want to put on the record that the only reason why I and several colleagues laughed was the shadow Minister’s shocking response and the fact that she dared to disown comments that were clearly made at an official conference by an official representative of the Government of the time. It is an extraordinarily inadequate response.

Mr Jones: I thank my hon. Friend for that intervention. It is an indication either of how far to the left the Labour party has gone or that, as usual, Labour Members have selective amnesia about the views their party held when they were in government. Time is pressing, so I shall move on.

The hon. Lady mentioned the protection for tenants who do not have their tenancy renewed. The Protection from Eviction Act 1977 means that if a person is being evicted, a court hearing will always be required. Human rights issues can be considered at that hearing. In my initial remarks, I also said that before any court hearing there would be an internal review so that the local authority in question could ensure that it had complied with its own housing policy on evicting a tenant.

A comment was made about the policy being burdensome. The legislation is all about making better use of social housing, and it will certainly save on temporary accommodation costs and the need to manage waiting lists. Our assessment of the policy’s impact will be revised, but we need to consider the family who have been in high-rent temporary accommodation for years. The Government have already shown a commitment to such people by allowing those in temporary accommodation to move into the private rented sector, which means that people who have to use such accommodation now do so for, on average, seven months less than was the case in 2010. That shows that the Conservative party is interested in getting the most vulnerable people housed, not in a policy built on ideology, as the Labour party seems to be.

Mr Thomas: The Minister was asked specifically why there has been no consultation on the proposal in the new clause. Will he answer that question now?

Mr Jones: I think I have said at some length, not just in this debate, that we have been consulting on our intentions since 2010. We believe the policy is the right thing to do, so I commend the new clause to the Committee.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 11, Noes 7.

Division No. 14]

AYES

Bacon, Mr Richard	Jones, Mr Marcus
Caulfield, Maria	Kennedy, Seema
Griffiths, Andrew	Lewis, Brandon
Hammond, Stephen	Philp, Chris
Hollinrake, Kevin	Smith, Julian
Jackson, Mr Stewart	

NOES

Blackman-Woods, Dr Roberta	Pearce, Teresa
Dowd, Peter	Pennycook, Matthew
Hayes, Helen	Thomas, Mr Gareth
Morris, Grahame M.	

Question accordingly agreed to.

New clause 32 read a Second time, and added to the Bill.

New Clause 33

SUCCESSION TO SECURE TENANCIES AND RELATED TENANCIES

“Schedule (*Succession to secure tenancies and related tenancies*) changes the law about succession to secure tenancies, introductory tenancies and demoted tenancies.”—(*Mr Marcus Jones.*)

Certain people have the right to inherit a secure tenancy when the tenant dies. At the moment the successor could live in the property for life. This amendment and NS5 change the succession rules. Where a person other than a spouse or partner inherits a periodic tenancy, it will be converted into a 5 year fixed term. Where a person other than a spouse or partner inherits a fixed term tenancy, it will not automatically be renewed when it comes to an end.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 11, Noes 7

Division No. 15]

AYES

Bacon, Mr Richard	Jones, Mr Marcus
Caulfield, Maria	Kennedy, Seema
Griffiths, Andrew	Lewis, Brandon
Hammond, Stephen	Philp, Chris
Hollinrake, Kevin	Smith, Julian
Jackson, Mr Stewart	

NOES

Blackman-Woods, Dr Roberta	Pearce, Teresa
Dowd, Peter	Pennycook, Matthew
Hayes, Helen	Thomas, Mr Gareth
Morris, Grahame M.	

Question accordingly agreed to.

New clause 33 read a Second time, and added to the Bill.

New Clause 9

DUTY TO PROMOTE LENDING TO SMALL AND MEDIUM SIZED HOUSE BUILDERS

“(1) The Secretary of State shall have a duty to promote lending by banks to small and medium sized house builders.

(2) A small or medium sized builder in subsection (1) is a builder that has fewer than 250 employees.”—(*Mr Gareth Thomas.*)

Brought up, and read the First time.

1 pm

Mr Thomas: I beg to move, That the clause be read a Second time.

New clause 9 would add to the Bill a duty to promote lending to small and medium-sized house builders. There has already been some conversation in Committee about the need to do a little more to help a sector of the house building industry that has been struggling in recent years. Small firms lack many of the advantages of scale of larger house builders, particularly in terms of access to finance and access to land and other assets against which to borrow that finance on good terms.

Small builders are often very dependent on a smaller number of land sites and face, in the words of an economics report,

“lumpy, volatile cash flows as land is purchased, sites developed and sales made”.

Equally, small and medium-sized house builders are surely a crucial part of the sector, given their appetite for developing smaller sites that larger firms often do not want to develop themselves. SME house builders can often be more agile players in the housing market and can use local knowledge and expertise to make the most of small sites. In that way, the contribution of SME house builders also provides an opportunity to increase the number of jobs, to help economic growth and, obviously, to ensure that additional homes get built.

The National House-Building Council has charted the decline in the number of SME house builders from the mid-1980s. It notes that, in the mid-1980s, there were some 12,000 SME house builders, which by 2013 had declined to just under 4,000. Evidence presented to Labour’s Lyons review by the Home Builders Federation suggested that there were some 7,600 dormant SME house builders that were doing other kinds of construction work. The crucial point is that there is capacity that could be drawn back into the housing market to build additional homes in the right circumstance. The Lyons review heard that access to development finance, and its cost, was the key problem preventing many SME house builders from coming back into the market.

The current Federation of Master Builders survey, which came out in September, continues to highlight the scale of the problems that many house builders have in accessing finance. The responses to that survey from different house building firms might give hon. Members an additional indication of the scale of the difficulty. One talked about the disproportionate and high interest charges in relation to security held by lenders. One simply said that there is no finance available for small companies. Another said, “Unless you are an established developer with at least five years of profitable developments under your belt and are cash rich, there really isn’t any finance available to grow. The banks just aren’t interested.”

Chris Philp: I draw hon. Members’ attention to my entry in the Register of Members’ Financial Interests. What the hon. Gentleman says is laudable, but I am unsure how the Secretary of State for Communities and Local Government can promote bank lending when he has no power to direct banks. Moreover, banks are

[Chris Philp]

constrained by Basel III, a set of international banking regulations, so I would be interested to hear the hon. Gentleman's commentary on how the Secretary of State can influence bank activity.

Mr Thomas: There are a number of ways in which the Secretary of State for Communities and Local Government can intervene and promote lending to small and medium-sized businesses. Simply convening meetings with banks to encourage them and talking through the issues that they have in lending to small and medium-sized construction companies would be a start. The hon. Gentleman raises a separate point about Basel III, which I accept was a sensible reform, but the Secretary of State's friend in the Treasury has introduced other measures that have also had an impact on the availability of cash for lending to small and medium-sized house builders, which the Secretary of State might be able to challenge more easily if the duty were in the legislation.

One way to help small firms to access the credit that they need might be to provide more guarantees for bank lending. A guarantor bank is one suggestion and would guarantee certain tranches of loans to small and medium-sized builders with the condition that funding be used to develop homes, helping to lower the cost of finance as well as increasing the availability of finance to small and medium-sized builders. That was proposed by Capital Economics to the Lyons review and mirrors the Government's existing Help to Buy scheme. It would essentially be a help-to-build scheme—[*Interruption.*] I hear the hon. Gentleman heckling me from a sedentary position. If he wants to intervene to make a point, I am happy to take his intervention.

Chris Philp: The funding for lending scheme is already doing very effectively exactly what the hon. Gentleman describes.

Mr Thomas: I say gently to the hon. Gentleman that I have not made up the Home Builders Federation's concerns. The quotes that I have just given are real. There is a real problem preventing many small and medium-sized house builders from accessing finance. I suggest to him that more needs to be done and the new clause is a way of doing that.

Finally, there is one other option available if a guarantor bank or a help-to-build scheme were not acceptable. Government and Opposition Members will be familiar with the regional growth fund. A series of community development finance institutions occasionally work with construction firms but have difficulty in building their

capital base. Regional growth fund moneys might be better used in increasing their ability to lend money to small businesses in their communities. In the context of the new clause, some of that financing could be directed at helping small and medium-sized house builders.

Mr Richard Bacon (South Norfolk) (Con): Will the hon. Gentleman give way?

Mr Thomas: How could I not give way to the hon. Gentleman?

Mr Bacon: I am delighted that the hon. Gentleman is prepared to give way. I am worried for the hon. Member for Greenwich and Woolwich, who looks very hungry, but the hon. Member for Harrow West is so interesting that we have to keep going. He will be interested to know that the Minister for Housing and Planning, the leader of South Norfolk Council and I were at a self-build summit yesterday at which we heard financiers from Lloyds bank and Nationwide Building Society talking about such issues. It is really not about legislation. The hon. Gentleman needs to know that it is about de-risking. Does he not understand that, were we to have large projects with local development orders, as has been done by Cherwell District Council with the largest self-build project in the country, for example, that automatically de-risks things and makes automatically coming forward much more attractive to lenders?

The Chair: Order. You must be brief.

Mr Thomas: I am sorry that you cut the hon. Gentleman short, Mr Gray. Perhaps a speech might allow him to give the Committee a bit more information. I simply bring him back to the evidence from the Federation of Master Builders, which said that, if the small and medium-sized house building sector's access to finance was improved, it could deliver an additional 20,000 homes per year. I gently suggest to the hon. Gentleman, with whom I have happily worked on self-build, custom build and housing co-operatives, that here might be an issue for us to co-operate on. We could champion the needs of small and medium-sized builders and address the problems of access to finance. That is the spirit of the new clause.

Ordered, That further consideration be now adjourned.
—(*Julian Smith.*)

1.10 pm

Adjourned till this day at Two o'clock.