

RENTERS RIGHT ACT

WHAT IT MEANS FOR GROUND RENTS AND EQUITY RELEASE

By Jessica Birnie

The Renters' Rights Act 2025 has brought an important and welcome change for long leasehold properties with higher ground rents.

From 27 December 2025, a fixed term lease of more than 21 years can no longer be an assured tenancy under the Housing Act 1988, regardless of the level of ground rent.

Before this change, some long residential leases could fall within the assured shorthold tenancy regime where the ground rent exceeded the relevant statutory threshold. This was generally £250 a year, or £1,000 a year in Greater London.

The consequences could be significant. In certain circumstances, failure to pay the ground rent could potentially lead to possession proceedings under the Housing Act 1988. For equity release lenders, this created an obvious concern because the lender's security could potentially be exposed to a possession claim.

As a result, conveyancers and lenders would often ask for a deed of variation to remove or reduce the ground rent. In some cases, indemnity insurance was used instead.

A significant change in the law

Section 31 of the Renters' Rights Act 2025 changes this position by excluding fixed term leases of more than 21 years from the assured tenancy regime.

The Government has confirmed that, from 27 December 2025, long leases no longer count as assured tenancies simply because of the level of ground rent. This is an important change for the equity release market. Where a deed of variation was previously being requested solely because a ground rent exceeded the relevant threshold and therefore created a risk under the Housing Act 1988, there should generally no longer be a need for that deed of variation.

The same applies to indemnity insurance. If a policy was being obtained solely to protect against the risk of the lease being treated as an assured tenancy, that particular risk has effectively been removed by the new legislation. There should therefore no longer be the same justification for requiring indemnity insurance for this purpose.

What does this mean for equity release?

The change should be welcomed by the equity release industry. For some time, higher ground rents have created an additional layer of legal work in cases where the underlying property was otherwise perfectly acceptable as security. A relatively technical issue could result in a deed of variation being negotiated, additional legal fees being incurred and the transaction taking longer to complete. The new legislation has the potential to remove much of that unnecessary work.

This should be particularly helpful where older leasehold properties have historic ground rents that happen to exceed the previous statutory thresholds.

However, it is important not to assume that the change means every deed of variation can now be disregarded.

There may still be circumstances where a lender considers the level or structure of the ground rent to be a problem. The issue in those cases is not necessarily the Housing Act 1988. Instead, it may be the effect the ground rent has on the property's value and marketability.

Marketability remains important

For an equity release lender, the marketability of the property is particularly important. Unlike a conventional mortgage, an equity release lender will typically expect to recover its advance and interest when the property is eventually sold. This may happen following the death of the borrower or when the borrower moves into long term care.

The lender therefore needs confidence that the property will remain attractive to potential buyers. If a ground rent is considered excessive, unusual or otherwise unattractive, it could affect the property's appeal to future purchasers. In turn, this could affect the lender's assessment of the security.

This means that while the Renters' Rights Act removes one particular problem associated with higher ground rents, it does not remove every potential concern surrounding them.

The distinction is important. A lender should no longer need to be concerned about a long lease becoming an assured tenancy simply because the ground rent exceeds the old statutory threshold. However, the lender may still need to consider whether the ground rent has an impact on the underlying value or marketability of the property.

A welcome simplification

Overall, the Renters' Rights Act 2025 represents a positive development for equity release lending on leasehold properties.

For cases where a deed of variation was being requested solely because of the old Housing Act 1988 provisions concerning ground rent and assured tenancies, that particular issue should now have disappeared.

The focus can instead return to the more fundamental question for an equity release lender: is the property good and marketable security on which the lender can ultimately recover its money? That should mean fewer unnecessary deeds of variation, fewer indemnity policies and, importantly for customers, a potentially faster and less costly equity release process.