



# Commonhold and Leasehold Reform Act 2002

## 2002 CHAPTER 15

### PART 1

#### COMMONHOLD

##### *Commonhold association*

#### **34 Constitution**

- (1) A commonhold association is a private company limited by guarantee the memorandum of which—
  - (a) states that an object of the company is to exercise the functions of a commonhold association in relation to specified commonhold land, and
  - (b) specifies £1 as the amount required to be specified in pursuance of section 2(4) of the Companies Act 1985 (c. 6) (members' guarantee).
- (2) Schedule 3 (which makes provision about the constitution of a commonhold association) shall have effect.

#### **35 Duty to manage**

- (1) The directors of a commonhold association shall exercise their powers so as to permit or facilitate so far as possible—
  - (a) the exercise by each unit-holder of his rights, and
  - (b) the enjoyment by each unit-holder of the freehold estate in his unit.
- (2) The directors of a commonhold association shall, in particular, use any right, power or procedure conferred or created by virtue of section 37 for the purpose of preventing, remedying or curtailng a failure on the part of a unit-holder to comply with a requirement or duty imposed on him by virtue of the commonhold community statement or a provision of this Part.

- (3) But in respect of a particular failure on the part of a unit-holder (the “defaulter”) the directors of a commonhold association—
- (a) need not take action if they reasonably think that inaction is in the best interests of establishing or maintaining harmonious relationships between all the unit-holders, and that it will not cause any unit-holder (other than the defaulter) significant loss or significant disadvantage, and
  - (b) shall have regard to the desirability of using arbitration, mediation or conciliation procedures (including referral under a scheme approved under section 42) instead of legal proceedings wherever possible.
- (4) A reference in this section to a unit-holder includes a reference to a tenant of a unit.

### **36 Voting**

- (1) This section applies in relation to any provision of this Part (a “voting provision”) which refers to the passing of a resolution by a commonhold association.
- (2) A voting provision is satisfied only if every member is given an opportunity to vote in accordance with any relevant provision of the memorandum or articles of association or the commonhold community statement.
- (3) A vote is cast for the purposes of a voting provision whether it is cast in person or in accordance with a provision which—
- (a) provides for voting by post, by proxy or in some other manner, and
  - (b) is contained in the memorandum or articles of association or the commonhold community statement.
- (4) A resolution is passed unanimously if every member who casts a vote votes in favour.