

# COMMONHOLD AND LEASEHOLD REFORM ACT 2002

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## EXPLANATORY NOTES

### COMMENTARY ON THE SECTIONS: PART 1

#### *General*

#### *Section 64: Orders and regulations*

118. *Section 64(1)* provides that wherever the term ‘prescribed’ is used in Part 1 of the Act it refers to regulations to be made by the Lord Chancellor. *Subsection (3)* provides that such regulations shall be subject to the negative resolution procedure in both Houses.

#### *Section 65: Registration procedure [Amended at Report stage]*

119. *Section 65(1)* gives the Lord Chancellor power to make rules governing registration of commonhold land and the procedures to be followed in relation to commonhold registration documents. *Subsection (2)* provides that such rules should be made in the same way as the Land Registration Rules under the Land Registration Act 2002, that is to say, by statutory instrument with the advice and assistance of the Rule Committee. It also provides that the Rules so made may make provision for any matter that is or may be provided for under the Land Registration Rules, and particularly, to avoid the need to re-make all the Land Registration Rules to make them apply to commonhold, it allows for the application of the rules made under the 2002 Act to commonhold land registration in the same way as they apply to general registration. *Subsection (3)* sets out a number of areas in which the rules may make provision, and *subsection (4)* deals with matters concerning commonhold registration documents, and particularly whether originals or copies are to be used for registration, if copies, whether and if so how they are to be certified and whether electronic documents might be permitted or required. *Subsection (5)* gives HM Land Registry the power to charge fees for commonhold land registration, and *subsection (6)* defines ‘commonhold registration document’ and ‘general registration document’ for the purposes of Part 1 of the Act.

#### *Section 66: Jurisdiction*

120. *Section 66(1)* provides that mention of ‘court’ in Part 1 of the Act refers to the High Court or a county court and *subsection (2)* provides that the allocation of business between tiers of court shall be subject to section 1 of the Courts and Legal Services Act 1991. *Subsection (3)* provides that mention of conferring jurisdiction on a court includes conferring jurisdiction on a tribunal as appropriate. *Subsection (4)* provides that rules of court or rules of procedure for a tribunal may make provision for dealing with proceedings brought under any provision of Part 1 of the Act or generally in relation to commonhold land.

#### *Section 67: The register*

121. *Section 67* provides definitions in relation to registration and the powers

*These notes refer to the Commonhold and Leasehold Reform Act 2002 (c.15) which received Royal Assent on 1st May 2002*

conferred on the Registrar in this Part of the Act and also provides that regulations made under any part of Part 1 may confer discretion on the Registrar.

### ***Section 68: Amendments***

122. *Section 68* gives effect to Schedule 5 (consequential amendments).

### ***Section 69: Interpretation***

123. *Section 69(1)* defines a number of terms from Part 1 of the Act. *Subsection (2)* provides that a reference to an obligation to insure includes an obligation to use any payment under a claim against the insurance to re-instate or rebuild the structure or otherwise which was the subject of the claim. *Subsection (3)* provides that expressions used in Part 1 shall bear the meanings which they bear in any of the Law of Property Act 1925, the Companies Act 1985, or the Land Registration Act 2002 unless the Act provides an alternative definition.

## **Part 2: Leasehold Reform**

### ***Chapter 1: Right to manage***

#### ***Section 71: Introductory***

124. *Section 71* provides that this Chapter confers the right to acquire and exercise the management of the relevant property on a RTM company. This right is to be known as the 'right to manage'.