

COMMONHOLD AND LEASEHOLD REFORM ACT 2002

EXPLANATORY NOTES

COMMENTARY ON THE SECTIONS: PART 1

Variation of leases

Section 162: Grounds for application by party to lease

275. *Section 162* extends and clarifies the grounds for applying for a variation of a lease under section 35 of the 1987 Act. New subsection (2)(b) of section 35 of the 1987 Act is intended to make it clear that a lease of a flat which does not require the building as a whole to be insured under a single policy does not make satisfactory provision for insurance. New subsection (2)(g) of that section provides a power to specify further grounds by regulations. New subsection (3A) of that section makes it clear that in considering whether a lease makes satisfactory provision for the recovery of expenditure incurred, the factors include whether the lease makes provision for interest or other charges in the event of late payment.

Section 163: Transfer of jurisdiction of court to tribunal

276. *Section 163* transfers jurisdiction for applications to vary leases under any of the grounds in Part 4 of the 1987 Act from county courts to LVTs.

Insurance

Section 164: Insurance otherwise than with landlord's insurer

277. *Section 164* provides new rights for leaseholders who are required by the terms of their lease to insure with an insurer nominated or approved by their landlord.
278. Subsection (2) and (3) provide that the leaseholders may arrange their own insurance provided certain conditions are met. The conditions are that the leaseholder must insure the property with an insurer authorised to carry on business in the UK; the policy must note the interests of both the landlord and the leaseholder; it must cover the risks that are required to be covered in the lease; the amount of cover must not be less than that required by the lease; the leaseholder must provide the landlord with evidence of cover or renewal within 14 days of the insurance being taken out or renewed. Provision is also made for notification of insurance details to a new landlord if the freehold is sold.
279. Subsection (5) sets out the contents of the notice of cover which is to be supplied to the landlord under subsection (3). The notice, which must be in the form prescribed by regulations, must include the name of the insurer, the risks covered by the policy, and the amount and period of the cover and any other prescribed information.

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

Section 165: Extension of right to challenge landlord's choice of insurer

280. *Section 165* amends paragraph 8 of the Schedule to the 1985 Act, which deals with the leaseholders' right to challenge the landlord's choice of insurer, and extends the provisions of that paragraph so that it applies where the landlord has the right to approve the insurer.