Commonhold and Leasehold Reform Act 2002

2002 CHAPTER 15

PART 1

COMMONHOLD

Modifications etc. (not altering text)

C1 Pt. 1: transfer of functions (11.4.2018) by The Secretaries of State for Health and Social Care and for Housing, Communities and Local Government and Transfer of Functions (Commonhold Land) Order 2018 (S.I. 2018/378), arts. 1(2), **11** (with arts. 12-14)

Nature of commonhold

1 Commonhold land

(1) Land is commonhold land if—

(a) the freehold estate in the land is registered as a freehold estate in commonhold land,

(b) the land is specified in the **[**[F1]articles of association**]** of a commonhold association as the land in relation to which the association is to exercise functions, and

(c) a commonhold community statement makes provision for rights and duties of the commonhold association and unit-holders (whether or not the statement has come into force).

(2) In this Part a reference to a commonhold is a reference to land in relation to which a commonhold association exercises functions.

(3) In this Part—

"commonhold association" has the meaning given by section 34,

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"commonhold community statement" has the meaning given by section 31,
"commonhold unit" has the meaning given by section 11,
"common parts" has the meaning given by section 25, and
"unit-holder" has the meaning given by sections 12 and 13.

(4) Sections 7 and 9 make provision for the vesting in the commonhold association of the fee simple in possession in the common parts of a commonhold.

Textual Amendments

F1 Words in s. 1(1)(b) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), **Sch. 1 para. 194(2)** (with art. 10)

Registration

2 Application

(1) The Registrar shall register a freehold estate in land as a freehold estate in commonhold land if—
  (a) the registered freeholder of the land makes an application under this section, and
  (b) no part of the land is already commonhold land.

(2) An application under this section must be accompanied by the documents listed in Schedule 1.

(3) A person is the registered freeholder of land for the purposes of this Part if—
  (a) he is registered as the proprietor of a freehold estate in the land with absolute title, or
  (b) he has applied, and the Registrar is satisfied that he is entitled, to be registered as mentioned in paragraph (a).

3 Consent

(1) An application under section 2 may not be made in respect of a freehold estate in land without the consent of anyone who—
  (a) is the registered proprietor of the freehold estate in the whole or part of the land,
  (b) is the registered proprietor of a leasehold estate in the whole or part of the land granted for a term of more than than 21 years,
  (c) is the registered proprietor of a charge over the whole or part of the land, or
  (d) falls within any other class of person which may be prescribed.

(2) Regulations shall make provision about consent for the purposes of this section; in particular, the regulations may make provision—
  (a) prescribing the form of consent;
  (b) about the effect and duration of consent (including provision for consent to bind successors);
  (c) about withdrawal of consent (including provision preventing withdrawal in specified circumstances);

(d) for consent given for the purpose of one application under section 2 to have effect for the purpose of another application;

(e) for consent to be deemed to have been given in specified circumstances;

(f) enabling a court to dispense with a requirement for consent in specified circumstances.

(3) An order under subsection (2)(f) dispensing with a requirement for consent—

(a) may be absolute or conditional, and

(b) may make such other provision as the court thinks appropriate.

4 Land which may not be commonhold

Schedule 2 (which provides that an application under section 2 may not relate wholly or partly to land of certain kinds) shall have effect.

5 Registered details

(1) The Registrar shall ensure that in respect of any commonhold land the following are kept in his custody and referred to in the register—

(a) the prescribed details of the commonhold association;

(b) the prescribed details of the registered freeholder of each commonhold unit;

(c) a copy of the commonhold community statement;

(d) a copy of the **[**[F2]articles of association**]** of the commonhold association.

(2) The Registrar may arrange for a document or information to be kept in his custody and referred to in the register in respect of commonhold land if the document or information—

(a) is not mentioned in subsection (1), but

(b) is submitted to the Registrar in accordance with a provision made by or by virtue of this Part.

(3) Subsection (1)(b) shall not apply during a transitional period within the meaning of section 8.

Textual Amendments

F2 Words in s. 5(1)(d) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), **Sch. 1 para. 194(3)** (with art. 10)

6 Registration in error

(1) This section applies where a freehold estate in land is registered as a freehold estate in commonhold land and—

(a) the application for registration was not made in accordance with section 2,

(b) the certificate under paragraph 7 of Schedule 1 was inaccurate, or

(c) the registration contravened a provision made by or by virtue of this Part.

(2) The register may not be altered by the Registrar under Schedule 4 to the Land Registration Act 2002 (c. 9) (alteration of register).

Status: *Point in time view as at 06/04/2023.*
Changes to legislation: *There are currently no known outstanding effects for the Commonhold and Leasehold Reform Act 2002, Part 1. (See end of Document for details)*

(3) The court may grant a declaration that the freehold estate should not have been registered as a freehold estate in commonhold land.

(4) A declaration under subsection (3) may be granted only on the application of a person who claims to be adversely affected by the registration.

(5) On granting a declaration under subsection (3) the court may make any order which appears to it to be appropriate.

(6) An order under subsection (5) may, in particular—
- (a) provide for the registration to be treated as valid for all purposes;
- (b) provide for alteration of the register;
- (c) provide for land to cease to be commonhold land;
- (d) require a director or other specified officer of a commonhold association to take steps to alter or amend a document;
- (e) require a director or other specified officer of a commonhold association to take specified steps;
- (f) make an award of compensation (whether or not contingent upon the occurrence or non-occurrence of a specified event) to be paid by one specified person to another;
- (g) apply, disapply or modify a provision of Schedule 8 to the Land Registration Act 2002 (c. 9) (indemnity).

Effect of registration

7 Registration without unit-holders

(1) This section applies where—
- (a) a freehold estate in land is registered as a freehold estate in commonhold land in pursuance of an application under section 2, and
- (b) the application is not accompanied by a statement under section 9(1)(b).

(2) On registration—
- (a) the applicant shall continue to be registered as the proprietor of the freehold estate in the commonhold land, and
- (b) the rights and duties conferred and imposed by the commonhold community statement shall not come into force (subject to section 8(2)(b)).

(3) Where after registration a person other than the applicant becomes entitled to be registered as the proprietor of the freehold estate in one or more, but not all, of the commonhold units—
- (a) the commonhold association shall be entitled to be registered as the proprietor of the freehold estate in the common parts,
- (b) the Registrar shall register the commonhold association in accordance with paragraph (a) (without an application being made),
- (c) the rights and duties conferred and imposed by the commonhold community statement shall come into force, and
- (d) any lease of the whole or part of the commonhold land shall be extinguished by virtue of this section.

(4) For the purpose of subsection (3)(d) “lease” means a lease which—

(a) is granted for any term, and
(b) is granted before the commonhold association becomes entitled to be registered as the proprietor of the freehold estate in the common parts.

8 Transitional period

(1) In this Part "transitional period" means the period between registration of the freehold estate in land as a freehold estate in commonhold land and the event mentioned in section 7(3).

(2) Regulations may provide that during a transitional period a relevant provision—
(a) shall not have effect, or
(b) shall have effect with specified modifications.

(3) In subsection (2) "relevant provision" means a provision made—
(a) by or by virtue of this Part,
(b) by a commonhold community statement, or
(c) by the **[**[F3]articles**]** of the commonhold association.

(4) The Registrar shall arrange for the freehold estate in land to cease to be registered as a freehold estate in commonhold land if the registered proprietor makes an application to the Registrar under this subsection during the transitional period.

(5) The provisions about consent made by or under sections 2 and 3 and Schedule 1 shall apply in relation to an application under subsection (4) as they apply in relation to an application under section 2.

(6) A reference in this Part to a commonhold association exercising functions in relation to commonhold land includes a reference to a case where a commonhold association would exercise functions in relation to commonhold land but for the fact that the time in question falls in a transitional period.

Textual Amendments

F3 Words in s. 8(3)(c) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), **Sch. 1 para. 194(4)** (with art. 10)

9 Registration with unit-holders

(1) This section applies in relation to a freehold estate in commonhold land if—
(a) it is registered as a freehold estate in commonhold land in pursuance of an application under section 2, and
(b) the application is accompanied by a statement by the applicant requesting that this section should apply.

(2) A statement under subsection (1)(b) must include a list of the commonhold units giving in relation to each one the prescribed details of the proposed initial unit-holder or joint unit-holders.

(3) On registration—
(a) the commonhold association shall be entitled to be registered as the proprietor of the freehold estate in the common parts,

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(b) a person specified by virtue of subsection (2) as the initial unit-holder of a commonhold unit shall be entitled to be registered as the proprietor of the freehold estate in the unit,

(c) a person specified by virtue of subsection (2) as an initial joint unit-holder of a commonhold unit shall be entitled to be registered as one of the proprietors of the freehold estate in the unit,

(d) the Registrar shall make entries in the register to reflect paragraphs (a) to (c) (without applications being made),

(e) the rights and duties conferred and imposed by the commonhold community statement shall come into force, and

(f) any lease of the whole or part of the commonhold land shall be extinguished by virtue of this section.

(4) For the purpose of subsection (3)(f) "lease" means a lease which—

(a) is granted for any term, and

(b) is granted before the commonhold association becomes entitled to be registered as the proprietor of the freehold estate in the common parts.

10 Extinguished lease: liability

(1) This section applies where—

(a) a lease is extinguished by virtue of section 7(3)(d) or 9(3)(f), and

(b) the consent of the holder of that lease was not among the consents required by section 3 in respect of the application under section 2 for the land to become commonhold land.

(2) If the holder of a lease superior to the extinguished lease gave consent under section 3, he shall be liable for loss suffered by the holder of the extinguished lease.

(3) If the holders of a number of leases would be liable under subsection (2), liability shall attach only to the person whose lease was most proximate to the extinguished lease.

(4) If no person is liable under subsection (2), the person who gave consent under section 3 as the holder of the freehold estate out of which the extinguished lease was granted shall be liable for loss suffered by the holder of the extinguished lease.

Commonhold unit

11 Definition

(1) In this Part "commonhold unit" means a commonhold unit specified in a commonhold community statement in accordance with this section.

(2) A commonhold community statement must—

(a) specify at least two parcels of land as commonhold units, and

(b) define the extent of each commonhold unit.

(3) In defining the extent of a commonhold unit a commonhold community statement—

(a) must refer to a plan which is included in the statement and which complies with prescribed requirements,

(b) may refer to an area subject to the exclusion of specified structures, fittings, apparatus or appurtenances within the area,

(c) may exclude the structures which delineate an area referred to, and
(d) may refer to two or more areas (whether or not contiguous).

(4) A commonhold unit need not contain all or any part of a building.

Modifications etc. (not altering text)
C2 S. 11 modified (27.9.2004) by The Commonhold Regulations 2004 (S.I. 2004/1829), **regs. 1(1)**, 7

12 Unit-holder

A person is the unit-holder of a commonhold unit if he is entitled to be registered as the proprietor of the freehold estate in the unit (whether or not he is registered).

13 Joint unit-holders

(1) Two or more persons are joint unit-holders of a commonhold unit if they are entitled to be registered as proprietors of the freehold estate in the unit (whether or not they are registered).

(2) In the application of the following provisions to a unit with joint unit-holders a reference to a unit-holder is a reference to the joint unit-holders together—
(a) [F4] . . . . . .
(b) section 15(1)[F5] . . . ,
(c) [F4] . . . . . .
(d) section 20(1),
(e) section 23(1),
(f) section 35(1)(b), **[**[F6]and**]**
(g) [F4] . . . . . .
(h) [F4] . . . . . .
(i) section 47(2).

(3) In the application of the following provisions to a unit with joint unit-holders a reference to a unit-holder includes a reference to each joint unit-holder and to the joint unit-holders together—
(a) section 1(1)(c),
[[F7](aa) section 14(3),
(ab) section 15(3),**]**
(b) section 16,
[[F8](ba) section 19(2) and (3),**]**
(c) section 31(1)(b), (3)(b), (5)(j) and (7),
(d) section 32(4)(a) and (c),
(e) section 35(1)(a), (2) and (3),
(f) section 37(2),
[[F9](fa) section 38(1),
[F10](faa) **[** section 38A(1),**]**
(fb) section 39(2),**]**
(g) section 40(1), and

(h) section 58(3)(a).

(4) Regulations under this Part which refer to a unit-holder shall make provision for the construction of the reference in the case of joint unit-holders.

(5) Regulations may amend subsection (2) or (3).

(6) Regulations may make provision for the construction in the case of joint unit-holders of a reference to a unit-holder in—

(a) an enactment,

(b) a commonhold community statement,

(c) the **[**[F11]articles of association**]** of a commonhold association, or

(d) another document.

Textual Amendments

F4 S. 13(2)(a)(c)(g)(h) omitted (27.9.2004) by virtue of The Commonhold Regulations 2004 (S.I. 2004/1829), **regs. 1(1)**, 2(3)(a)

F5 Words in s. 13(2)(b) omitted (27.9.2004) by virtue of The Commonhold Regulations 2004 (S.I. 2004/1829), **regs. 1(1)**, 2(3)(b)

F6 Word in s. 13(2)(c) inserted (27.9.2004) by The Commonhold Regulations 2004 (S.I. 2004/1829), **regs. 1(1)**, 2(3)(c)

F7 S. 13(3)(aa)(ab) inserted (27.9.2004) by The Commonhold Regulations 2004 (S.I. 2004/1829), **regs. 1(1)**, 2(4)(a)

F8 S. 13(3)(ba) inserted (27.9.2004) by The Commonhold Regulations 2004 (S.I. 2004/1829), **regs. 1(1)**, 2(4)(b)

F9 S. 13(3)(fa)(fb) inserted (27.9.2004) by The Commonhold Regulations 2004 (S.I. 2004/1829), **regs. 1(1)**, 2(4)(c)

F10 S. 13(3)(faa) inserted (28.4.2022 for specified purposes, 6.4.2023 in so far as not already in force) by Building Safety Act 2022 (c. 30), **ss. 114(2)**, 170(2) (with s. 164); S.I. 2023/362, reg. 3(1)(z11)

F11 Words in s. 13(6)(c) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), **Sch. 1 para. 194(5)** (with art. 10)

14 Use [[F12], maintenance and building safety]

(1) A commonhold community statement must make provision regulating the use of commonhold units.

(2) A commonhold community statement must make provision imposing duties in respect of the insurance, repair and maintenance of each commonhold unit.

(3) A duty under subsection (2) may be imposed on the commonhold association or the unit-holder.

[[F13](4) A commonhold community statement for a higher-risk commonhold must make provision requiring the commonhold association to comply with its duties under Part 4 of the Building Safety Act 2022, or regulations made under that Part of the Act, in relation to each commonhold unit.**]**

Textual Amendments

F12 Words in s. 14 heading substituted (28.4.2022 for specified purposes, 6.4.2023 in so far as not already in force) by Building Safety Act 2022 (c. 30), **ss. 114(3)(a)**, 170(2) (with s. 164); S.I. 2023/362, **reg. 3(1)(z11)**

F13 S. 14(4) inserted (28.4.2022 for specified purposes, 6.4.2023 in so far as not already in force) by Building Safety Act 2022 (c. 30), **ss. 114(3)(b)**, 170(2) (with s. 164); S.I. 2023/362, reg. 3(1)(z11)

15 Transfer

(1) In this Part a reference to the transfer of a commonhold unit is a reference to the transfer of a unit-holder's freehold estate in a unit to another person—

(a) whether or not for consideration,

(b) whether or not subject to any reservation or other terms, and

(c) whether or not by operation of law.

(2) A commonhold community statement may not prevent or restrict the transfer of a commonhold unit.

(3) On the transfer of a commonhold unit the new unit-holder shall notify the commonhold association of the transfer.

(4) Regulations may—

(a) prescribe the form and manner of notice under subsection (3);

(b) prescribe the time within which notice is to be given;

(c) make provision (including provision requiring the payment of money) about the effect of failure to give notice.

16 Transfer: effect

(1) A right or duty conferred or imposed—

(a) by a commonhold community statement, or

(b) in accordance with section 20,

shall affect a new unit-holder in the same way as it affected the former unit-holder.

(2) A former unit-holder shall not incur a liability or acquire a right—

(a) under or by virtue of the commonhold community statement, or

(b) by virtue of anything done in accordance with section 20.

(3) Subsection (2)—

(a) shall not be capable of being disapplied or varied by agreement, and

(b) is without prejudice to any liability or right incurred or acquired before a transfer takes effect.

(4) In this section—

"former unit-holder" means a person from whom a commonhold unit has been transferred (whether or not he has ceased to be the registered proprietor), and

"new unit-holder" means a person to whom a commonhold unit is transferred (whether or not he has yet become the registered proprietor).

17 Leasing: residential

(1) It shall not be possible to create a term of years absolute in a residential commonhold unit unless the term satisfies prescribed conditions.

(2) The conditions may relate to—
- (a) length;
- (b) the circumstances in which the term is granted;
- (c) any other matter.

(3) Subject to subsection (4), an instrument or agreement shall be of no effect to the extent that it purports to create a term of years in contravention of subsection (1).

(4) Where an instrument or agreement purports to create a term of years in contravention of subsection (1) a party to the instrument or agreement may apply to the court for an order—
- (a) providing for the instrument or agreement to have effect as if it provided for the creation of a term of years of a specified kind;
- (b) providing for the return or payment of money;
- (c) making such other provision as the court thinks appropriate.

(5) A commonhold unit is residential if provision made in the commonhold community statement by virtue of section 14(1) requires it to be used only—
- (a) for residential purposes, or
- (b) for residential and other incidental purposes.

Modifications etc. (not altering text)

C3 S. 17 applied (27.9.2004) by Law of Property Act 1922 (c. 16), Sch. 15 para. 5(3) (as added by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 68, **Sch. 5 para. 1**); S.I. 2004/1832, art. 2
S. 17 applied (27.9.2004) by Law of Property Act 1925 (c. 20), s. 149(8) (as added by Commonhold and Leasehold Act 2002 (c. 15), s. 68, **Sch. 5 para 3**); S.I. 2004/1832, art. 2

18 Leasing: non-residential

An instrument or agreement which creates a term of years absolute in a commonhold unit which is not residential (within the meaning of section 17) shall have effect subject to any provision of the commonhold community statement.

Modifications etc. (not altering text)

C4 S. 18 applied (27.9.2004) by Law of Property Act 1922 (c. 16), Sch. 15 para. 5(3) (as added by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 68, **Sch. 5 para. 1**); S.I. 2004/1832, art. 2
S. 18 applied (27.9.2004) by Law of Property Act 1925 (c. 20), s. 149(8) (as added by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 68, **Sch. 5 para. 3**); S.I. 2004/1832, art. 2

19 Leasing: supplementary

(1) Regulations may—
- (a) impose obligations on a tenant of a commonhold unit;

(b) enable a commonhold community statement to impose obligations on a tenant of a commonhold unit.

(2) Regulations under subsection (1) may, in particular, require a tenant of a commonhold unit to make payments to the commonhold association or a unit-holder in discharge of payments which—

(a) are due in accordance with the commonhold community statement to be made by the unit-holder, or

(b) are due in accordance with the commonhold community statement to be made by another tenant of the unit.

(3) Regulations under subsection (1) may, in particular, provide—

(a) for the amount of payments under subsection (2) to be set against sums owed by the tenant (whether to the person by whom the payments were due to be made or to some other person);

(b) for the amount of payments under subsection (2) to be recovered from the unit-holder or another tenant of the unit.

(4) Regulations may modify a rule of law about leasehold estates (whether deriving from the common law or from an enactment) in its application to a term of years in a commonhold unit.

(5) Regulations under this section—

(a) may make provision generally or in relation to specified circumstances, and

(b) may make different provision for different descriptions of commonhold land or commonhold unit.

20 Other transactions

(1) A commonhold community statement may not prevent or restrict the creation, grant or transfer by a unit-holder of—

(a) an interest in the whole or part of his unit, or

(b) a charge over his unit.

(2) Subsection (1) is subject to sections 17 to 19 (which impose restrictions about leases).

(3) It shall not be possible to create an interest of a prescribed kind in a commonhold unit unless the commonhold association—

(a) is a party to the creation of the interest, or

(b) consents in writing to the creation of the interest.

(4) A commonhold association may act as described in subsection (3)(a) or (b) only if—

(a) the association passes a resolution to take the action, and

(b) at least 75 per cent. of those who vote on the resolution vote in favour.

(5) An instrument or agreement shall be of no effect to the extent that it purports to create an interest in contravention of subsection (3).

(6) In this section “interest” does not include—

(a) a charge, or

(b) an interest which arises by virtue of a charge.

21 Part-unit: interests

(1) It shall not be possible to create an interest in part only of a commonhold unit.

(2) But subsection (1) shall not prevent—

(a) the creation of a term of years absolute in part only of a residential commonhold unit where the term satisfies prescribed conditions,

(b) the creation of a term of years absolute in part only of a non-residential commonhold unit, or

(c) the transfer of the freehold estate in part only of a commonhold unit where the commonhold association consents in writing to the transfer.

(3) An instrument or agreement shall be of no effect to the extent that it purports to create an interest in contravention of subsection (1).

(4) Subsection (5) applies where—

(a) land becomes commonhold land or is added to a commonhold unit, and

(b) immediately before that event there is an interest in the land which could not be created after that event by reason of subsection (1).

(5) The interest shall be extinguished by virtue of this subsection to the extent that it could not be created by reason of subsection (1).

(6) Section 17(2) and (4) shall apply (with any necessary modifications) in relation to subsection (2)(a) and (b) above.

(7) Where part only of a unit is held under a lease, regulations may modify the application of a provision which—

(a) is made by or by virtue of this Part, and

(b) applies to a unit-holder or a tenant or both.

(8) Section 20(4) shall apply in relation to subsection (2)(c) above.

(9) Where the freehold interest in part only of a commonhold unit is transferred, the part transferred—

(a) becomes a new commonhold unit by virtue of this subsection, or

(b) in a case where the request for consent under subsection (2)(c) states that this paragraph is to apply, becomes part of a commonhold unit specified in the request.

(10) Regulations may make provision, or may require a commonhold community statement to make provision, about—

(a) registration of units created by virtue of subsection (9);

(b) the adaptation of provision made by or by virtue of this Part or by or by virtue of a commonhold community statement to a case where units are created or modified by virtue of subsection (9).

Commencement Information

I1 S. 21 partly in force; s. 21 not in force at Royal Assent see s. 181(1); s. 21(1)-(3)(6)-(10) in force at 27.9.2004 by S.I. 2004/1832, **art. 2**

22 Part–unit: charging

(1) It shall not be possible to create a charge over part only of an interest in a commonhold unit.

(2) An instrument or agreement shall be of no effect to the extent that it purports to create a charge in contravention of subsection (1).

(3) Subsection (4) applies where—

(a) land becomes commonhold land or is added to a commonhold unit, and

(b) immediately before that event there is a charge over the land which could not be created after that event by reason of subsection (1).

(4) The charge shall be extinguished by virtue of this subsection to the extent that it could not be created by reason of subsection (1).

23 Changing size

(1) An amendment of a commonhold community statement which redefines the extent of a commonhold unit may not be made unless the unit-holder consents—

(a) in writing, and

(b) before the amendment is made.

(2) But regulations may enable a court to dispense with the requirement for consent on the application of a commonhold association in prescribed circumstances.

24 Changing size: charged unit

(1) This section applies to an amendment of a commonhold community statement which redefines the extent of a commonhold unit over which there is a registered charge.

(2) The amendment may not be made unless the registered proprietor of the charge consents—

(a) in writing, and

(b) before the amendment is made.

(3) But regulations may enable a court to dispense with the requirement for consent on the application of a commonhold association in prescribed circumstances.

(4) If the amendment removes land from the commonhold unit, the charge shall by virtue of this subsection be extinguished to the extent that it relates to the land which is removed.

(5) If the amendment adds land to the unit, the charge shall by virtue of this subsection be extended so as to relate to the land which is added.

(6) Regulations may make provision—

(a) requiring notice to be given to the Registrar in circumstances to which this section applies;

(b) requiring the Registrar to alter the register to reflect the application of subsection (4) or (5).

Common parts

25 Definition

(1) In this Part "common parts" in relation to a commonhold means every part of the commonhold which is not for the time being a commonhold unit in accordance with the commonhold community statement.

(2) A commonhold community statement may make provision in respect of a specified part of the common parts (a "limited use area") restricting—

(a) the classes of person who may use it;

(b) the kind of use to which it may be put.

(3) A commonhold community statement—

(a) may make provision which has effect only in relation to a limited use area, and

(b) may make different provision for different limited use areas.

26 Use [F14, maintenance and building safety]

[F15(1)**]** A commonhold community statement must make provision—

(a) regulating the use of the common parts;

(b) requiring the commonhold association to insure the common parts;

(c) requiring the commonhold association to repair and maintain the common parts.

[F16(2) A commonhold community statement for a higher-risk commonhold must make provision requiring the commonhold association to comply with its duties under Part 4 of the Building Safety Act 2022, or regulations made under that Part of that Act, in relation to the common parts.**]**

Textual Amendments

F14 Words in s. 26 heading substituted (28.4.2022 for specified purposes, 6.4.2023 in so far as not already in force) by Building Safety Act 2022 (c. 30), **ss. 114(4)(a)**, 170(2) (with s. 164); S.I. 2023/362, **reg. 3(1)(z11)**

F15 S. 26 renumbered as s. 26(1) (28.4.2022 for specified purposes, 6.4.2023 in so far as not already in force) by Building Safety Act 2022 (c. 30), **ss. 114(4)(b)**, 170(2) (with s. 164); S.I. 2023/362, reg. 3(1)(z11)

F16 S. 26(2) inserted (28.4.2022 for specified purposes, 6.4.2023 in so far as not already in force) by Building Safety Act 2022 (c. 30), **ss. 114(4)(c)**, 170(2) (with s. 164); S.I. 2023/362, reg. 3(1)(z11)

27 Transactions

(1) Nothing in a commonhold community statement shall prevent or restrict—

(a) the transfer by the commonhold association of its freehold estate in any part of the common parts, or

(b) the creation by the commonhold association of an interest in any part of the common parts.

(2) In this section "interest" does not include—

(a) a charge, or

(b) an interest which arises by virtue of a charge.

28 Charges: general prohibition

(1) It shall not be possible to create a charge over common parts.

(2) An instrument or agreement shall be of no effect to the extent that it purports to create a charge over common parts.

(3) Where by virtue of section 7 or 9 a commonhold association is registered as the proprietor of common parts, a charge which relates wholly or partly to the common parts shall be extinguished by virtue of this subsection to the extent that it relates to the common parts.

(4) Where by virtue of section 30 land vests in a commonhold association following an amendment to a commonhold community statement which has the effect of adding land to the common parts, a charge which relates wholly or partly to the land added shall be extinguished by virtue of this subsection to the extent that it relates to that land.

(5) This section is subject to section 29 (which permits certain mortgages).

29 New legal mortgages

(1) Section 28 shall not apply in relation to a legal mortgage if the creation of the mortgage is approved by a resolution of the commonhold association.

(2) A resolution for the purposes of subsection (1) must be passed—
(a) before the mortgage is created, and
(b) unanimously.

(3) In this section "legal mortgage" has the meaning given by section 205(1)(xvi) of the Law of Property Act 1925 (c. 20) (interpretation).

30 Additions to common parts

(1) This section applies where an amendment of a commonhold community statement—
(a) specifies land which forms part of a commonhold unit, and
(b) provides for that land (the "added land") to be added to the common parts.

(2) The amendment may not be made unless the registered proprietor of any charge over the added land consents—
(a) in writing, and
(b) before the amendment is made.

(3) But regulations may enable a court to dispense with the requirement for consent on the application of a commonhold association in specified circumstances.

(4) On the filing of the amended statement under section 33—
(a) the commonhold association shall be entitled to be registered as the proprietor of the freehold estate in the added land, and
(b) the Registrar shall register the commonhold association in accordance with paragraph (a) (without an application being made).

Status: *Point in time view as at 06/04/2023.*
Changes to legislation: *There are currently no known outstanding effects for the Commonhold and Leasehold Reform Act 2002, Part 1. (See end of Document for details)*

Commonhold community statement

31 Form and content: general

(1) A commonhold community statement is a document which makes provision in relation to specified land for—
  (a) the rights and duties of the commonhold association, and
  (b) the rights and duties of the unit-holders.

(2) A commonhold community statement must be in the prescribed form.

(3) A commonhold community statement may—
  (a) impose a duty on the commonhold association;
  (b) impose a duty on a unit-holder;
  (c) make provision about the taking of decisions in connection with the management of the commonhold or any other matter concerning it.

(4) Subsection (3) is subject to—
  (a) any provision made by or by virtue of this Part, and
  (b) any provision of the **[**[F17]articles**]** of the commonhold association.

(5) In subsection (3)(a) and (b) "duty" includes, in particular, a duty—
  (a) to pay money;
  (b) to undertake works;
  (c) to grant access;
  (d) to give notice;
  [[F18](da) to give information;
  (db) to apply for grants or other funding;**]**
  (e) to refrain from entering into transactions of a specified kind in relation to a commonhold unit;
  (f) to refrain from using the whole or part of a commonhold unit for a specified purpose or for anything other than a specified purpose;
  (g) to refrain from undertaking works (including alterations) of a specified kind;
  (h) to refrain from causing nuisance or annoyance;
  (i) to refrain from specified behaviour;
  (j) to indemnify the commonhold association or a unit-holder in respect of costs arising from the breach of a statutory requirement.

(6) Provision in a commonhold community statement imposing a duty to pay money (whether in pursuance of subsection (5)(a) or any other provision made by or by virtue of this Part) may include provision for the payment of interest in the case of late payment.

(7) A duty conferred by a commonhold community statement on a commonhold association or a unit-holder shall not require any other formality.

(8) A commonhold community statement may not provide for the transfer or loss of an interest in land on the occurrence or non-occurrence of a specified event.

(9) Provision made by a commonhold community statement shall be of no effect to the extent that—
  (a) it is prohibited by virtue of section 32,

(b) it is inconsistent with any provision made by or by virtue of this Part,

(c) it is inconsistent with anything which is treated as included in the statement by virtue of section 32, or

(d) it is inconsistent with the **[**[F19]articles of association**]** of the commonhold association.

Textual Amendments

F17 Words in s. 31(4)(b) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), **Sch. 1 para. 194(6)(a)** (with art. 10)

F18 S. 31(5)(da)(db) inserted (28.4.2022 for specified purposes, 6.4.2023 in so far as not already in force) by Building Safety Act 2022 (c. 30), **ss. 114(5)**, 170(2) (with s. 164); S.I. 2023/362, reg. 3(1)(z11)

F19 Words in s. 31(9)(d) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), **Sch. 1 para. 194(6)(b)** (with art. 10)

32 Regulations

(1) Regulations shall make provision about the content of a commonhold community statement.

(2) The regulations may permit, require or prohibit the inclusion in a statement of—

(a) specified provision, or

(b) provision of a specified kind, for a specified purpose or about a specified matter.

(3) The regulations may—

(a) provide for a statement to be treated as including provision prescribed by or determined in accordance with the regulations;

(b) permit a statement to make provision in place of provision which would otherwise be treated as included by virtue of paragraph (a).

(4) The regulations may—

(a) make different provision for different descriptions of commonhold association or unit-holder;

(b) make different provision for different circumstances;

(c) make provision about the extent to which a commonhold community statement may make different provision for different descriptions of unit-holder or common parts.

(5) The matters to which regulations under this section may relate include, but are not limited to—

(a) the matters mentioned in sections 11, 14, 15, 20, 21, 25, 26, 27, 38, **[**[F20]38A,**]** 39 and 58, and

(b) any matter for which regulations under section 37 may make provision.

Textual Amendments

F20 Word in s. 32(5)(a) inserted (28.4.2022 for specified purposes, 6.4.2023 in so far as not already in force) by Building Safety Act 2022 (c. 30), **ss. 114(6)**, 170(2) (with s. 164); S.I. 2023/362, reg. 3(1)(z11)

33 Amendment

(1) Regulations under section 32 shall require a commonhold community statement to make provision about how it can be amended.

(2) The regulations shall, in particular, make provision under section 32(3)(a) (whether or not subject to provision under section 32(3)(b)).

(3) An amendment of a commonhold community statement shall have no effect unless and until the amended statement is registered in accordance with this section.

(4) If the commonhold association makes an application under this subsection the Registrar shall arrange for an amended commonhold community statement to be kept in his custody, and referred to in the register, in place of the unamended statement.

(5) An application under subsection (4) must be accompanied by a certificate given by the directors of the commonhold association that the amended commonhold community statement satisfies the requirements of this Part.

(6) Where an amendment of a commonhold community statement redefines the extent of a commonhold unit, an application under subsection (4) must be accompanied by any consent required by section 23(1) or 24(2) (or an order of a court dispensing with consent).

(7) Where an amendment of a commonhold community statement has the effect of changing the extent of the common parts, an application under subsection (4) must be accompanied by any consent required by section 30(2) (or an order of a court dispensing with consent).

(8) Where the Registrar amends the register on an application under subsection (4) he shall make any consequential amendments to the register which he thinks appropriate.

Commonhold association

34 Constitution

[[F21](1) A commonhold association is a private company limited by guarantee—

(a) the articles of which state that an object of the company is to exercise the functions of a commonhold association in relation to specified commonhold land, and

(b) the statement of guarantee of which specifies £1 as the amount of the contribution required from each member in the event of the company being wound up.**]**

(2) Schedule 3 (which makes provision about the constitution of a commonhold association) shall have effect.

Textual Amendments

F21 S. 34(1) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), **Sch. 1 para. 194(7)** (with art. 10)

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 curtailing 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 **[**[F22]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 **[**[F22]articles of association**]** or the commonhold community statement.

(4) A resolution is passed unanimously if every member who casts a vote votes in favour.

Textual Amendments

F22 Words in s. 36(2)(3)(b) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), **Sch. 1 para. 194(8)** (with art. 10)

Operation of commonhold

37 Enforcement and compensation

(1) Regulations may make provision (including provision conferring jurisdiction on a court) about the exercise or enforcement of a right or duty imposed or conferred by or by virtue of—

(a) a commonhold community statement;

(b) the **[**[F23]articles**]** of a commonhold association;

(c) a provision made by or by virtue of this Part.

(2) The regulations may, in particular, make provision—

(a) requiring compensation to be paid where a right is exercised in specified cases or circumstances;

(b) requiring compensation to be paid where a duty is not complied with;

(c) enabling recovery of costs where work is carried out for the purpose of enforcing a right or duty;

(d) enabling recovery of costs where work is carried out in consequence of the failure to perform a duty;

(e) permitting a unit-holder to enforce a duty imposed on another unit-holder, on a commonhold association or on a tenant;

(f) permitting a commonhold association to enforce a duty imposed on a unit-holder or a tenant;

(g) permitting a tenant to enforce a duty imposed on another tenant, a unit-holder or a commonhold association;

(h) permitting the enforcement of terms or conditions to which a right is subject;

(i) requiring the use of a specified form of arbitration, mediation or conciliation procedure before legal proceedings may be brought.

(3) Provision about compensation made by virtue of this section shall include—

(a) provision (which may include provision conferring jurisdiction on a court) for determining the amount of compensation;

(b) provision for the payment of interest in the case of late payment.

(4) Regulations under this section shall be subject to any provision included in a commonhold community statement in accordance with regulations made by virtue of section 32(5)(b).

Textual Amendments

F23 Words in s. 37(1)(b) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), **Sch. 1 para. 194(9)** (with art. 10)

38 Commonhold assessment

(1) A commonhold community statement must make provision—

(a) requiring the directors of the commonhold association to make an annual estimate of the income required to be raised from unit-holders to meet the expenses of the association,

(b) enabling the directors of the commonhold association to make estimates from time to time of income required to be raised from unit-holders in addition to the annual estimate,

(c) specifying the percentage of any estimate made under paragraph (a) or (b) which is to be allocated to each unit,

(d) requiring each unit-holder to make payments in respect of the percentage of any estimate which is allocated to his unit, and

(e) requiring the directors of the commonhold association to serve notices on unit-holders specifying payments required to be made by them and the date on which each payment is due.

(2) For the purpose of subsection (1)(c)—

(a) the percentages allocated by a commonhold community statement to the commonhold units must amount in aggregate to 100;

(b) a commonhold community statement may specify 0 per cent. in relation to a unit.

[[F24](3) In subsection (1)(a) "expenses of the association" does not include building safety expenses of the association (within the meaning of section 38A).**]**

Textual Amendments

F24 S. 38(3) inserted (28.4.2022 for specified purposes, 6.4.2023 in so far as not already in force) by Building Safety Act 2022 (c. 30), **ss. 114(7)**, 170(2) (with s. 164); S.I. 2023/362, reg. 3(1)(z11)

[[F25]38A Building safety assessment

(1) A commonhold community statement for a higher-risk commonhold must make provision—

(a) requiring the directors of the commonhold association to make an annual estimate of the income required to be raised from unit-holders to meet the building safety expenses of the association,

(b) enabling the directors of the commonhold association to make estimates from time to time of income required to be raised from unit-holders in addition to the annual estimate,

(c) specifying the percentage of any estimate made under paragraph (a) or (b) which is to be allocated to each unit,

(d) requiring each unit-holder to make payments in respect of the percentage of any estimate which is allocated to their unit, and

(e) requiring the directors of the commonhold association to serve notices on unit-holders specifying payments required to be made by them and the date on which each payment is due.

(2) For the purpose of subsection (1)(c)—

(a) the percentages allocated by a commonhold community statement to the commonhold units must amount in aggregate to 100;

(b) a commonhold community statement may specify 0 per cent in relation to a unit.

(3) In this section—

"building safety expenses of the association" means the expenses incurred by the commonhold association or special measures manager for the higher-risk building in connection with taking measures that the association or manager is required or permitted to take under Part 4 of the Building Safety Act 2022, or regulations made under that Part of that Act;

"special measures manager" means a person appointed under paragraph 4 of Schedule 7 to the Building Safety Act 2022.**]**

Textual Amendments

F25 S. 38A inserted (28.4.2022 for specified purposes, 6.4.2023 in so far as not already in force) by Building Safety Act 2022 (c. 30), **ss. 114(8)**, 170(2) (with s. 164); S.I. 2023/362, reg. 3(1)(z11)

39 Reserve fund

(1) Regulations under section 32 may, in particular, require a commonhold community statement to make provision—

(a) requiring the directors of the commonhold association to establish and maintain one or more funds to finance the repair and maintenance of common parts;

(b) requiring the directors of the commonhold association to establish and maintain one or more funds to finance the repair and maintenance of commonhold units.

(2) Where a commonhold community statement provides for the establishment and maintenance of a fund in accordance with subsection (1) it must also make provision—

(a) requiring or enabling the directors of the commonhold association to set a levy from time to time,

(b) specifying the percentage of any levy set under paragraph (a) which is to be allocated to each unit,

(c) requiring each unit-holder to make payments in respect of the percentage of any levy set under paragraph (a) which is allocated to his unit, and

(d) requiring the directors of the commonhold association to serve notices on unit-holders specifying payments required to be made by them and the date on which each payment is due.

(3) For the purpose of subsection (2)(b)—

(a) the percentages allocated by a commonhold community statement to the commonhold units must amount in aggregate to 100;

(b) a commonhold community statement may specify 0 per cent. in relation to a unit.

(4) The assets of a fund established and maintained by virtue of this section shall not be used for the purpose of enforcement of any debt except a judgment debt referable to a reserve fund activity.

(5) For the purpose of subsection (4)—

(a) "reserve fund activity" means an activity which in accordance with the commonhold community statement can or may be financed from a fund established and maintained by virtue of this section,

(b) assets are used for the purpose of enforcement of a debt if, in particular, they are taken in execution or are made the subject of a charging order under section 1 of the Charging Orders Act 1979 (c. 53), and

(c) the reference to a judgment debt includes a reference to any interest payable on a judgment debt.

40 Rectification of documents

(1) A unit-holder may apply to the court for a declaration that—

(a) the **[**[F26]articles of association**]** of the relevant commonhold association do not comply with regulations under paragraph 2(1) of Schedule 3;

(b) the relevant commonhold community statement does not comply with a requirement imposed by or by virtue of this Part.

(2) On granting a declaration under this section the court may make any order which appears to it to be appropriate.

(3) An order under subsection (2) may, in particular—

(a) require a director or other specified officer of a commonhold association to take steps to alter or amend a document;

(b) require a director or other specified officer of a commonhold association to take specified steps;

(c) make an award of compensation (whether or not contingent upon the occurrence or non-occurrence of a specified event) to be paid by the commonhold association to a specified person;

(d) make provision for land to cease to be commonhold land.

(4) An application under subsection (1) must be made—

(a) within the period of three months beginning with the day on which the applicant became a unit-holder,

(b) within three months of the commencement of the alleged failure to comply, or

(c) with the permission of the court.

Textual Amendments

F26 Words in s. 40(1)(a) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), **Sch. 1 para. 194(10)** (with art. 10)

41 Enlargement

(1) This section applies to an application under section 2 if the commonhold association for the purposes of the application already exercises functions in relation to commonhold land.

(2) In this section—

Status: *Point in time view as at 06/04/2023.*
Changes to legislation: *There are currently no known outstanding effects for the Commonhold and Leasehold Reform Act 2002, Part 1. (See end of Document for details)*

(a) the application is referred to as an "application to add land", and
(b) the land to which the application relates is referred to as the "added land".

(3) An application to add land may not be made unless it is approved by a resolution of the commonhold association.

(4) A resolution for the purposes of subsection (3) must be passed—
(a) before the application to add land is made, and
(b) unanimously.

(5) Section 2(2) shall not apply to an application to add land; but the application must be accompanied by—
(a) the documents specified in paragraph 6 of Schedule 1,
(b) an application under section 33 for the registration of an amended commonhold community statement which makes provision for the existing commonhold and the added land, and
(c) a certificate given by the directors of the commonhold association that the application to add land satisfies Schedule 2 and subsection (3).

(6) Where sections 7 and 9 have effect following an application to add land—
(a) the references to "the commonhold land" in sections 7(2)(a) and (3)(d) and 9(3)(f) shall be treated as references to the added land, and
(b) the references in sections 7(2)(b) and (3)(c) and 9(3)(e) to the rights and duties conferred and imposed by the commonhold community statement shall be treated as a reference to rights and duties only in so far as they affect the added land.

(7) In the case of an application to add land where the whole of the added land is to form part of the common parts of a commonhold—
(a) section 7 shall not apply,
(b) on registration the commonhold association shall be entitled to be registered (if it is not already) as the proprietor of the freehold estate in the added land,
(c) the Registrar shall make any registration required by paragraph (b) (without an application being made), and
(d) the rights and duties conferred and imposed by the commonhold community statement shall, in so far as they affect the added land, come into force on registration.

42 Ombudsman

(1) Regulations may provide that a commonhold association shall be a member of an approved ombudsman scheme.

(2) An "approved ombudsman scheme" is a scheme which is approved by the **[**[F27]Secretary of State**]** and which—
(a) provides for the appointment of one or more persons as ombudsman,
(b) provides for a person to be appointed as ombudsman only if the **[**[F27]Secretary of State**]** approves the appointment in advance,
(c) enables a unit-holder to refer to the ombudsman a dispute between the unit-holder and a commonhold association which is a member of the scheme,
(d) enables a commonhold association which is a member of the scheme to refer to the ombudsman a dispute between the association and a unit-holder,

(e) requires the ombudsman to investigate and determine a dispute referred to him,

(f) requires a commonhold association which is a member of the scheme to cooperate with the ombudsman in investigating or determining a dispute, and

(g) requires a commonhold association which is a member of the scheme to comply with any decision of the ombudsman (including any decision requiring the payment of money).

(3) In addition to the matters specified in subsection (2) an approved ombudsman scheme—

(a) may contain other provision, and

(b) shall contain such provision, or provision of such a kind, as may be prescribed.

(4) If a commonhold association fails to comply with regulations under subsection (1) a unit-holder may apply to the High Court for an order requiring the directors of the commonhold association to ensure that the association complies with the regulations.

(5) A reference in this section to a unit-holder includes a reference to a tenant of a unit.

Textual Amendments

F27 Words in s. 42(2) substituted (11.4.2018) by The Secretaries of State for Health and Social Care and for Housing, Communities and Local Government and Transfer of Functions (Commonhold Land) Order 2018 (S.I. 2018/378), art. 1(2), **Sch. para. 10(a)** (with art. 14)

Termination: voluntary winding-up

43 Winding-up resolution

(1) A winding-up resolution in respect of a commonhold association shall be of no effect unless—

(a) the resolution is preceded by a declaration of solvency,

(b) the commonhold association passes a termination-statement resolution before it passes the winding-up resolution, and

(c) each resolution is passed with at least 80 per cent. of the members of the association voting in favour.

(2) In this Part—

"declaration of solvency" means a directors' statutory declaration made in accordance with section 89 of the Insolvency Act 1986 (c. 45),

"termination-statement resolution" means a resolution approving the terms of a termination statement (within the meaning of section 47), and

"winding-up resolution" means a resolution for voluntary winding-up within the meaning of section 84 of that Act.

44 100 per cent. agreement

(1) This section applies where a commonhold association—

(a) has passed a winding-up resolution and a termination-statement resolution with 100 per cent. of the members of the association voting in favour, and

Status: *Point in time view as at 06/04/2023.*
Changes to legislation: *There are currently no known outstanding effects for the Commonhold and Leasehold Reform Act 2002, Part 1. (See end of Document for details)*

(b) has appointed a liquidator under section 91 of the Insolvency Act 1986 (c. 45).

(2) The liquidator shall make a termination application within the period of six months beginning with the day on which the winding-up resolution is passed.

(3) If the liquidator fails to make a termination application within the period specified in subsection (2) a termination application may be made by—
(a) a unit-holder, or
(b) a person falling within a class prescribed for the purposes of this subsection.

45 80 per cent. agreement

(1) This section applies where a commonhold association—
(a) has passed a winding-up resolution and a termination-statement resolution with at least 80 per cent. of the members of the association voting in favour, and
(b) has appointed a liquidator under section 91 of the Insolvency Act 1986.

(2) The liquidator shall within the prescribed period apply to the court for an order determining—
(a) the terms and conditions on which a termination application may be made, and
(b) the terms of the termination statement to accompany a termination application.

(3) The liquidator shall make a termination application within the period of three months starting with the date on which an order under subsection (2) is made.

(4) If the liquidator fails to make an application under subsection (2) or (3) within the period specified in that subsection an application of the same kind may be made by—
(a) a unit-holder, or
(b) a person falling within a class prescribed for the purposes of this subsection.

46 Termination application

(1) A "termination application" is an application to the Registrar that all the land in relation to which a particular commonhold association exercises functions should cease to be commonhold land.

(2) A termination application must be accompanied by a termination statement.

(3) On receipt of a termination application the Registrar shall note it in the register.

47 Termination statement

(1) A termination statement must specify—
(a) the commonhold association's proposals for the transfer of the commonhold land following acquisition of the freehold estate in accordance with section 49(3), and
(b) how the assets of the commonhold association will be distributed.

(2) A commonhold community statement may make provision requiring any termination statement to make arrangements—
(a) of a specified kind, or
(b) determined in a specified manner,

about the rights of unit-holders in the event of all the land to which the statement relates ceasing to be commonhold land.

(3) A termination statement must comply with a provision made by the commonhold community statement in reliance on subsection (2).

(4) Subsection (3) may be disapplied by an order of the court—
- (a) generally,
- (b) in respect of specified matters, or
- (c) for a specified purpose.

(5) An application for an order under subsection (4) may be made by any member of the commonhold association.

48 The liquidator

(1) This section applies where a termination application has been made in respect of particular commonhold land.

(2) The liquidator shall notify the Registrar of his appointment.

(3) In the case of a termination application made under section 44 the liquidator shall either—
- (a) notify the Registrar that the liquidator is content with the termination statement submitted with the termination application, or
- (b) apply to the court under section 112 of the Insolvency Act 1986 (c. 45) to determine the terms of the termination statement.

(4) The liquidator shall send to the Registrar a copy of a determination made by virtue of subsection (3)(b).

(5) Subsection (4) is in addition to any requirement under section 112(3) of the Insolvency Act 1986.

(6) A duty imposed on the liquidator by this section is to be performed as soon as possible.

(7) In this section a reference to the liquidator is a reference—
- (a) to the person who is appointed as liquidator under section 91 of the Insolvency Act 1986, or
- (b) in the case of a members' voluntary winding up which becomes a creditors' voluntary winding up by virtue of sections 95 and 96 of that Act, to the person acting as liquidator in accordance with section 100 of that Act.

49 Termination

(1) This section applies where a termination application is made under section 44 and—
- (a) a liquidator notifies the Registrar under section 48(3)(a) that he is content with a termination statement, or
- (b) a determination is made under section 112 of the Insolvency Act 1986 (c. 45) by virtue of section 48(3)(b).

(2) This section also applies where a termination application is made under section 45.

(3) The commonhold association shall by virtue of this subsection be entitled to be registered as the proprietor of the freehold estate in each commonhold unit.

(4) The Registrar shall take such action as appears to him to be appropriate for the purpose of giving effect to the termination statement.

Termination: winding-up by court

50 Introduction

(1) Section 51 applies where a petition is presented under section 124 of the Insolvency Act 1986 for the winding up of a commonhold association by the court.

(2) For the purposes of this Part—

(a) an "insolvent commonhold association" is one in relation to which a winding-up petition has been presented under section 124 of the Insolvency Act 1986,

(b) a commonhold association is the "successor commonhold association" to an insolvent commonhold association if the land specified for the purpose of section 34(1)(a) is the same for both associations, and

(c) a "winding-up order" is an order under section 125 of the Insolvency Act 1986 for the winding up of a commonhold association.

51 Succession order

(1) At the hearing of the winding-up petition an application may be made to the court for an order under this section (a "succession order") in relation to the insolvent commonhold association.

(2) An application under subsection (1) may be made only by—

(a) the insolvent commonhold association,

(b) one or more members of the insolvent commonhold association, or

(c) a provisional liquidator for the insolvent commonhold association appointed under section 135 of the Insolvency Act 1986.

(3) An application under subsection (1) must be accompanied by—

(a) prescribed evidence of the formation of a successor commonhold association, and

(b) a certificate given by the directors of the successor commonhold association that its **[**[F28]articles of association**]** comply with regulations under paragraph 2(1) of Schedule 3.

(4) The court shall grant an application under subsection (1) unless it thinks that the circumstances of the insolvent commonhold association make a succession order inappropriate.

Textual Amendments

F28 Words in s. 51(3)(b) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), **Sch. 1 para. 194(11)** (with art. 10)

52 Assets and liabilities

(1) Where a succession order is made in relation to an insolvent commonhold association this section applies on the making of a winding-up order in respect of the association.

(2) The successor commonhold association shall be entitled to be registered as the proprietor of the freehold estate in the common parts.

(3) The insolvent commonhold association shall for all purposes cease to be treated as the proprietor of the freehold estate in the common parts.

(4) The succession order—
- (a) shall make provision as to the treatment of any charge over all or any part of the common parts;
- (b) may require the Registrar to take action of a specified kind;
- (c) may enable the liquidator to require the Registrar to take action of a specified kind;
- (d) may make supplemental or incidental provision.

53 Transfer of responsibility

(1) Where a succession order is made in relation to an insolvent commonhold association this section applies on the making of a winding-up order in respect of the association.

(2) The successor commonhold association shall be treated as the commonhold association for the commonhold in respect of any matter which relates to a time after the making of the winding-up order.

(3) On the making of the winding-up order the court may make an order requiring the liquidator to make available to the successor commonhold association specified—
- (a) records;
- (b) copies of records;
- (c) information.

(4) An order under subsection (3) may include terms as to—
- (a) timing;
- (b) payment.

54 Termination of commonhold

(1) This section applies where the court—
- (a) makes a winding-up order in respect of a commonhold association, and
- (b) has not made a succession order in respect of the commonhold association.

(2) The liquidator of a commonhold association shall as soon as possible notify the Registrar of—
- (a) the fact that this section applies,
- (b) any directions given under section 168 of the Insolvency Act 1986 (c. 45) (liquidator: supplementary powers),
- (c) any notice given to the court and the registrar of companies in accordance with section 172(8) of that Act (liquidator vacating office after final meeting),
- (d) any notice given to the Secretary of State under section 174(3) of that Act (completion of winding-up),

Status: *Point in time view as at 06/04/2023.*
Changes to legislation: *There are currently no known outstanding effects for the Commonhold and Leasehold Reform Act 2002, Part 1. (See end of Document for details)*

(e) any application made to the registrar of companies under section 202(2) of that Act (insufficient assets: early dissolution),

(f) any notice given to the registrar of companies under section 205(1)(b) of that Act (completion of winding-up), and

(g) any other matter which in the liquidator's opinion is relevant to the Registrar.

(3) Notification under subsection (2)(b) to (f) must be accompanied by a copy of the directions, notice or application concerned.

(4) The Registrar shall—

(a) make such arrangements as appear to him to be appropriate for ensuring that the freehold estate in land in respect of which a commonhold association exercises functions ceases to be registered as a freehold estate in commonhold land as soon as is reasonably practicable after he receives notification under subsection (2)(c) to (f), and

(b) take such action as appears to him to be appropriate for the purpose of giving effect to a determination made by the liquidator in the exercise of his functions.

Termination: miscellaneous

55 Termination by court

(1) This section applies where the court makes an order by virtue of section 6(6)(c) or 40(3)(d) for all the land in relation to which a commonhold association exercises functions to cease to be commonhold land.

(2) The court shall have the powers which it would have if it were making a winding-up order in respect of the commonhold association.

(3) A person appointed as liquidator by virtue of subsection (2) shall have the powers and duties of a liquidator following the making of a winding-up order by the court in respect of a commonhold association.

(4) But the order of the court by virtue of section 6(6)(c) or 40(3)(d) may—

(a) require the liquidator to exercise his functions in a particular way;

(b) impose additional rights or duties on the liquidator;

(c) modify or remove a right or duty of the liquidator.

56 Release of reserve fund

Section 39(4) shall cease to have effect in relation to a commonhold association (in respect of debts and liabilities accruing at any time) if—

(a) the court makes a winding-up order in respect of the association,

(b) the association passes a voluntary winding-up resolution, or

(c) the court makes an order by virtue of section 6(6)(c) or 40(3)(d) for all the land in relation to which the association exercises functions to cease to be commonhold land.

Miscellaneous

57 Multiple site commonholds

(1) A commonhold may include two or more parcels of land, whether or not contiguous.

(2) But section 1(1) of this Act is not satisfied in relation to land specified in the **[**[F29]articles of association**]** of a commonhold association unless a single commonhold community statement makes provision for all the land.

(3) Regulations may make provision about an application under section 2 made jointly by two or more persons, each of whom is the registered freeholder of part of the land to which the application relates.

(4) The regulations may, in particular—

(a) modify the application of a provision made by or by virtue of this Part;

(b) disapply the application of a provision made by or by virtue of this Part;

(c) impose additional requirements.

Textual Amendments

F29 Words in s. 57(2) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), **Sch. 1 para. 194(12)** (with art. 10)

58 Development rights

(1) In this Part—

"the developer" means a person who makes an application under section 2, and

"development business" has the meaning given by Schedule 4.

(2) A commonhold community statement may confer rights on the developer which are designed—

(a) to permit him to undertake development business, or

(b) to facilitate his undertaking of development business.

(3) Provision made by a commonhold community statement in reliance on subsection (2) may include provision—

(a) requiring the commonhold association or a unit-holder to co-operate with the developer for a specified purpose connected with development business;

(b) making the exercise of a right conferred by virtue of subsection (2) subject to terms and conditions specified in or to be determined in accordance with the commonhold community statement;

(c) making provision about the effect of breach of a requirement by virtue of paragraph (a) or a term or condition imposed by virtue of paragraph (b);

(d) disapplying section 41(2) and (3).

(4) Subsection (2) is subject—

(a) to regulations under section 32, and

(b) in the case of development business of the kind referred to in paragraph 7 of Schedule 4, to the **[**[F30]articles of association**]** of the commonhold association.

(5) Regulations may make provision regulating or restricting the exercise of rights conferred by virtue of subsection (2).

(6) Where a right is conferred on a developer by virtue of subsection (2), if he sends to the Registrar a notice surrendering the right—

(a) the Registrar shall arrange for the notice to be kept in his custody and referred to in the register,

(b) the right shall cease to be exercisable from the time when the notice is registered under paragraph (a), and

(c) the Registrar shall inform the commonhold association as soon as is reasonably practicable.

Textual Amendments

F30 Words in s. 58(4)(b) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), **Sch. 1 para. 194(13)** (with art. 10)

59 Development rights: succession

(1) If during a transitional period the developer transfers to another person the freehold estate in the whole of the commonhold, the successor in title shall be treated as the developer in relation to any matter arising after the transfer.

(2) If during a transitional period the developer transfers to another person the freehold estate in part of the commonhold, the successor in title shall be treated as the developer for the purpose of any matter which—

(a) arises after the transfer, and

(b) affects the estate transferred.

(3) If after a transitional period or in a case where there is no transitional period—

(a) the developer transfers to another person the freehold estate in the whole or part of the commonhold (other than by the transfer of the freehold estate in a single commonhold unit), and

(b) the transfer is expressed to be inclusive of development rights,

the successor in title shall be treated as the developer for the purpose of any matter which arises after the transfer and affects the estate transferred.

(4) Other than during a transitional period, a person shall not be treated as the developer in relation to commonhold land for any purpose unless he—

(a) is, or has been at a particular time, the registered proprietor of the freehold estate in more than one of the commonhold units, and

(b) is the registered proprietor of the freehold estate in at least one of the commonhold units.

60 Compulsory purchase

(1) Where a freehold estate in commonhold land is transferred to a compulsory purchaser the land shall cease to be commonhold land.

(2) But subsection (1) does not apply to a transfer if the Registrar is satisfied that the compulsory purchaser has indicated a desire for the land transferred to continue to be commonhold land.

(3) The requirement of consent under section 21(2)(c) shall not apply to transfer to a compulsory purchaser.

(4) Regulations may make provision about the transfer of a freehold estate in commonhold land to a compulsory purchaser.

(5) The regulations may, in particular—

(a) make provision about the effect of subsections (1) and (2) (including provision about that part of the commonhold which is not transferred);

(b) require the service of notice;

(c) confer power on a court;

(d) make provision about compensation;

(e) make provision enabling a commonhold association to require a compulsory purchaser to acquire the freehold estate in the whole, or a particular part, of the commonhold;

(f) provide for an enactment relating to compulsory purchase not to apply or to apply with modifications.

(6) Provision made by virtue of subsection (5)(a) in respect of land which is not transferred may include provision—

(a) for some or all of the land to cease to be commonhold land;

(b) for a provision of this Part to apply with specified modifications.

(7) In this section "compulsory purchaser" means—

(a) a person acquiring land in respect of which he is authorised to exercise a power of compulsory purchase by virtue of an enactment, and

(b) a person acquiring land which he is obliged to acquire by virtue of a prescribed enactment or in prescribed circumstances.

61 [[F31]Home] rights

In the following provisions of this Part a reference to a tenant includes a reference to a person who has **[**[F32]home rights (within the meaning of section 30(2) of the Family Law Act 1996 (c. 27) (rights in respect of matrimonial or civil partnership home))**]** in respect of a commonhold unit—

(a) section 19,

(b) section 35, and

(c) section 37.

Textual Amendments

F31 Word in s. 61 heading substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263(2), **Sch. 9 para. 24(1)(3)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

F32 Words in s. 61 substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263(2), **Sch. 9 para. 24(1)(2)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

62 Advice [F33etc.]

(1) The [F34Secretary of State] may give financial assistance to a person in relation to the provision by that person of [F35information, training or] general advice [F36 about, or a dispute resolution service in connection with—

(a) any] aspect of the law of commonhold land, so far as relating to residential matters [F37, or

(b) any other matter relating to commonhold land and residential matters].

(2) Financial assistance under this section may be given in such form and on such terms as the [F38Secretary of State] thinks appropriate.

(3) The terms may, in particular, require repayment in specified circumstances.

Textual Amendments

F33 Word in s. 62 heading inserted (22.9.2008) by Housing and Regeneration Act 2008 (c. 17), **ss. 319(2)**, 325(2)(a)

F34 Words in s. 62(1) substituted (11.4.2018) by The Secretaries of State for Health and Social Care and for Housing, Communities and Local Government and Transfer of Functions (Commonhold Land) Order 2018 (S.I. 2018/378), art. 1(2), **Sch. para. 10(b)** (with art. 14)

F35 Words in s. 62(1) inserted (22.9.2008) by Housing and Regeneration Act 2008 (c. 17), **ss. 319(1)(a)**, 325(2)(a)

F36 Words in s. 62(1) substituted (22.9.2008) by Housing and Regeneration Act 2008 (c. 17), **ss. 319(1)(b)**, 325(2)(a)

F37 S. 62(1)(b) and preceding word inserted (22.9.2008) by Housing and Regeneration Act 2008 (c. 17), **ss. 319(1)(c)**, 325(2)(a)

F38 Words in s. 62(2) substituted (11.4.2018) by The Secretaries of State for Health and Social Care and for Housing, Communities and Local Government and Transfer of Functions (Commonhold Land) Order 2018 (S.I. 2018/378), art. 1(2), **Sch. para. 10(b)** (with art. 14)

63 The Crown

This Part binds the Crown.

General

64 Orders and regulations

(1) In this Part "prescribed" means prescribed by regulations.

(2) Regulations under this Part shall be made by the [F39Secretary of State].

(3) Regulations under this Part—

(a) shall be made by statutory instrument,

(b) may include incidental, supplemental, consequential and transitional provision,

(c) may make provision generally or only in relation to specified cases,

(d) may make different provision for different purposes, and

(e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F39 Words in s. 64(2) substituted (11.4.2018) by The Secretaries of State for Health and Social Care and for Housing, Communities and Local Government and Transfer of Functions (Commonhold Land) Order 2018 (S.I. 2018/378), art. 1(2), **Sch. para. 10(c)** (with art. 14)

65 Registration procedure

(1) The **[**[F40]Secretary of State**]** may make rules about—

(a) the procedure to be followed on or in respect of commonhold registration documents, and

(b) the registration of freehold estates in commonhold land.

(2) Rules under this section—

(a) shall be made by statutory instrument in the same manner as land registration rules within the meaning of the Land Registration Act 2002 (c. 9),

(b) may make provision for any matter for which provision is or may be made by land registration rules, and

(c) may provide for land registration rules to have effect in relation to anything done by virtue of or for the purposes of this Part as they have effect in relation to anything done by virtue of or for the purposes of that Act.

(3) Rules under this section may, in particular, make provision—

(a) about the form and content of a commonhold registration document;

(b) enabling the Registrar to cancel an application by virtue of this Part in specified circumstances;

(c) enabling the Registrar, in particular, to cancel an application by virtue of this Part if he thinks that plans submitted with it (whether as part of a commonhold community statement or otherwise) are insufficiently clear or accurate;

(d) about the order in which commonhold registration documents and general registration documents are to be dealt with by the Registrar;

(e) for registration to take effect (whether or not retrospectively) as from a date or time determined in accordance with the rules.

(4) The rules may also make provision about satisfaction of a requirement for an application by virtue of this Part to be accompanied by a document; in particular the rules may—

(a) permit or require a copy of a document to be submitted in place of or in addition to the original;

(b) require a copy to be certified in a specified manner;

(c) permit or require the submission of a document in electronic form.

(5) A commonhold registration document must be accompanied by such fee (if any) as is specified for that purpose by order under section 102 of the Land Registration Act 2002 (c. 9)(fee orders).

(6) In this section—

"commonhold registration document" means an application or other document sent to the Registrar by virtue of this Part, and

"general registration document" means a document sent to the Registrar under a provision of the Land Registration Act 2002.

Textual Amendments

F40 Words in s. 65(1) substituted (9.11.2011) by The Transfer of Functions (Her Majesty's Land Registry, the Meteorological Office and Ordnance Survey) Order 2011 (S.I. 2011/2436), art. 6, **Sch. 2 para. 5**

Modifications etc. (not altering text)

C5 S. 65: functions transferred (9.11.2011) by The Transfer of Functions (Her Majesty's Land Registry, the Meteorological Office and Ordnance Survey) Order 2011 (S.I. 2011/2436), art. 3(1), **Sch. 1 para. 4**

66 Jurisdiction

(1) In this Part "the court" means the High Court or **[**[F41]the county court**]** .

(2) Provision made by or under this Part conferring jurisdiction on a court shall be subject to provision made under section 1 of the Courts and Legal Services Act 1990 (c. 41) (allocation of business between High Court and county courts).

(3) A power under this Part to confer jurisdiction on a court includes power to confer jurisdiction on a tribunal established under an enactment.

(4) Rules of court or rules of procedure for a tribunal may make provision about proceedings brought—

(a) under or by virtue of any provision of this Part, or

(b) in relation to commonhold land.

Textual Amendments

F41 Words in s. 66(1) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 52**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

67 The register

(1) In this Part—

"the register" means the register of title to freehold and leasehold land kept under section 1 of the Land Registration Act 2002,

"registered" means registered in the register, and

"the Registrar" means the Chief Land Registrar.

(2) Regulations under any provision of this Part may confer functions on the Registrar (including discretionary functions).

(3) The Registrar shall comply with any direction or requirement given to him or imposed on him under or by virtue of this Part.

(4) Where the Registrar thinks it appropriate in consequence of or for the purpose of anything done or proposed to be done in connection with this Part, he may—

(a) make or cancel an entry on the register;

(b) take any other action.

(5) Subsection (4) is subject to section 6(2).

68 Amendments

Schedule 5 (consequential amendments) shall have effect.

69 Interpretation

(1) In this Part—

[[F42]"higher-risk building" has the meaning given by section 115 of the Building Safety Act 2022,

"higher-risk commonhold" means a commonhold in England that includes all or any part of a higher-risk building,**]**

"instrument" includes any document, and

[[F43]"object", in relation to a commonhold association, means an object stated in the association's articles of association (see section 31 of the Companies Act 2006);**]**

(2) In this Part—

(a) a reference to a duty to insure includes a reference to a duty to use the proceeds of insurance for the purpose of rebuilding or reinstating, and

(b) a reference to maintaining property includes a reference to decorating it and to putting it into sound condition.

(3) A provision of the Law of Property Act 1925 (c. 20), **[**[F44]the Companies Act 2006**]** or the Land Registration Act 2002 (c.9) defining an expression shall apply to the use of the expression in this Part unless the contrary intention appears.

Textual Amendments

F42 Words in s. 69(1) inserted (28.4.2022 for specified purposes, 6.4.2023 in so far as not already in force) by Building Safety Act 2022 (c. 30), **ss. 114(9)**, 170(2) (with s. 164); S.I. 2023/362, reg. 3(1)(z11)

F43 S. 69(1): definition of "object" substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), **Sch. 1 para. 194(14)(a)** (with art. 10)

F44 Words in s. 69(3) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), **Sch. 1 para. 194(14)(b)** (with art. 10)

Commencement Information

I2 S. 69 wholly in force at 27.9.2004; s. 69 not in force at Royal Assent see s. 181(1); s. 69 in force for specified purposes at 29.9.2003 by S.I. 2003/2377, **art. 2(g)**; s. 69 in force so far as not already in force at 27.9.2004 by S.I. 2004/1832, **art. 2**

70 Index of defined expressions

In this Part the expressions listed below are defined by the provisions specified.

Expression	*Interpretation provision*
Common parts	Section 25
A commonhold	Section 1
Commonhold association	Section 34

Commonhold community statement	Section 31
Commonhold land	Section 1
Commonhold unit	Section 11
Court	Section 66
Declaration of solvency	Section 43
Developer	Section 58
Development business	Section 58
Exercising functions	Section 8
Insolvent commonhold association	Section 50
Instrument	Section 69
Insure	Section 69
Joint unit-holder	Section 13
Liquidator (sections 44 to 49)	Section 44
Maintenance	Section 69
Object	Section 69
Prescribed	Section 64
The register	Section 67
Registered	Section 67
Registered freeholder	Section 2
The Registrar	Section 67
Regulations	Section 64
Residential commonhold unit	Section 17
Succession order	Section 51
Successor commonhold association	Section 50
Termination application	Section 46
Termination-statement resolution	Section 43
Transfer (of unit)	Section 15
Transitional period	Section 8
Unit-holder	Section 12
Winding-up resolution	Section 43

Commencement Information

I3 S. 70 wholly in force at 27.9.2004; s. 70 not in force at Royal Assent see s. 181(1); s. 70 in force for specified purposes at 29.9.2003 by S.I. 2003/2377, **art. 2(g)**; s. 70 in force so far as not already in force at 27.9.2004 by S.I. 2004/1832, **art. 2**

Status:
Point in time view as at 06/04/2023.

Changes to legislation:
There are currently no known outstanding effects for the Commonhold and Leasehold Reform Act 2002, Part 1.