



Commonhold and Leasehold Reform Act 2002

2002 CHAPTER 15

PART 1 **E+W**

COMMONHOLD

Common parts

25 **Definition** **E+W**

- (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** [^{F1}, **maintenance and building safety**] **E+W**

- [^{F2}(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.

Changes to legislation: There are currently no known outstanding effects for the Commonhold and Leasehold Reform Act 2002, Cross Heading: Common parts. (See end of Document for details)

[^{F3}(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

- F1** 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)
- F2** 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)
- F3** 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 **E+W**

- (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 **E+W**

- (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 **E+W**

- (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.

Changes to legislation: There are currently no known outstanding effects for the Commonhold and Leasehold Reform Act 2002, Cross Heading: Common parts. (See end of Document for details)

- (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 E+W

- (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).

Changes to legislation:

There are currently no known outstanding effects for the Commonhold and Leasehold Reform Act 2002, Cross Heading: Common parts.