



# Commonhold and Leasehold Reform Act 2002

## 2002 CHAPTER 15

### PART 1

#### COMMONHOLD

##### *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 and maintenance**

- 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.

**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).