Commonhold and Leasehold Reform Act 2002

2002 CHAPTER 15

PART 1

COMMONHOLD

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)

C1 S. 11 modified (27.9.2004) by The Commonhold Regulations 2004 (S.I. 2004/1829), **regs. 1(1)**, 7

Status: *Point in time view as at 06/04/2023.*
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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) [F1]. . . . . .
(b) section 15(1)[F2]. . . ,
(c) [F1]. . . . . .
(d) section 20(1),
(e) section 23(1),
(f) section 35(1)(b), **[**[F3]and**]**
(g) [F1]. . . . . .
(h) [F1]. . . . . .
(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),
[[F4](aa) section 14(3),
(ab) section 15(3),**]**
(b) section 16,
[[F5](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),
[[F6](fa) section 38(1),
[[F7](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,

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(b) a commonhold community statement,
(c) the **[**[F8]articles of association**]** of a commonhold association, or
(d) another document.

Textual Amendments

F1 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)

F2 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)

F3 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)

F4 S. 13(3)(aa)(ab) inserted (27.9.2004) by The Commonhold Regulations 2004 (S.I. 2004/1829), **regs. 1(1)**, 2(4)(a)

F5 S. 13(3)(ba) inserted (27.9.2004) by The Commonhold Regulations 2004 (S.I. 2004/1829), **regs. 1(1)**, 2(4)(b)

F6 S. 13(3)(fa)(fb) inserted (27.9.2004) by The Commonhold Regulations 2004 (S.I. 2004/1829), **regs. 1(1)**, 2(4)(c)

F7 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)

F8 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 [[F9], 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.

[[F10](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

F9 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)**

F10 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)

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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.

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(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)

C2 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)

C3 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.

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(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.

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(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).

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(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).

Status:
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Changes to legislation:
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