

SCHEDULES

SCHEDULE 5

Section 68

COMMONHOLD: CONSEQUENTIAL AMENDMENTS

Law of Property Act 1922 (c. 16)

1 At the end of paragraph 5 of Schedule 15 to the Law of Property Act 1922 (perpetually renewable leases) (which becomes sub-paragraph (1)) there shall be added—

“(2) Sub-paragraph (3) applies where a grant—

- (a) relates to commonhold land, and
- (b) would take effect by virtue of sub-paragraph (1) as a demise for a term of two thousand years or a subdemise for a fixed term.

(3) The grant shall be treated as if it purported to be a grant of the term referred to in sub-paragraph (2)(b) (and sections 17 and 18 of the Commonhold and Leasehold Reform Act 2002 (residential and non-residential leases) shall apply accordingly).”

Law of Property Act 1925 (c. 20)

2 After section 101(1) of the Law of Property Act 1925 (mortgagee’s powers) there shall be added—

“(1A) Subsection (1)(i) is subject to section 21 of the Commonhold and Leasehold Reform Act 2002 (no disposition of part-units)”.

3 At the end of section 149 of that Act (90-year term in place of certain determinable terms) there shall be added—

“(7) Subsection (8) applies where a lease, underlease or contract—

- (a) relates to commonhold land, and
- (b) would take effect by virtue of subsection (6) as a lease, underlease or contract of the kind mentioned in that subsection.

(8) The lease, underlease or contract shall be treated as if it purported to be a lease, underlease or contract of the kind referred to in subsection (7)(b) (and sections 17 and 18 of the Commonhold and Leasehold Reform Act 2002 (residential and non-residential leases) shall apply accordingly).”

Limitation Act 1980 (c. 58)

4 After section 19 of the Limitation Act 1980 (actions for rent) there shall be inserted—

“Commonhold

19A Actions for breach of commonhold duty

An action in respect of a right or duty of a kind referred to in section 37(1) of the Commonhold and Leasehold Reform Act 2002 (enforcement) shall not be brought after the expiration of six years from the date on which the cause of action accrued.”

Housing Act 1985 (c. 68)

5 At the end of section 118 of the Housing Act 1985 (the right to buy) there shall be added—

“(3) For the purposes of this Part, a dwelling-house which is a commonhold unit (within the meaning of the Commonhold and Leasehold Reform Act 2002) shall be treated as a house and not as a flat.”

Insolvency Act 1986 (c. 45)

6 At the end of section 84 of the Insolvency Act 1986 (voluntary winding-up) there shall be added—

“(4) This section has effect subject to section 43 of the Commonhold and Leasehold Reform Act 2002.”

Law of Property (Miscellaneous Provisions) Act 1994 (c. 36)

7 (1) Section 5 of the Law of Property (Miscellaneous Provisions) Act 1994 (discharge of obligations) shall be amended as follows.

(2) In subsection (1) for the words “or of leasehold land” substitute “of leasehold land or of a commonhold unit”.

(3) After subsection (3) insert—

“(3A) If the property is a commonhold unit, there shall be implied a covenant that the mortgagor will fully and promptly observe and perform all the obligations under the commonhold community statement that are for the time being imposed on him in his capacity as a unit-holder or as a joint unit-holder.”

(4) For subsection (4) substitute—

“(4) In this section—

- (a) “commonhold community statement”, “commonhold unit”, “joint unit-holder” and “unit-holder” have the same meanings as in the Commonhold and Leasehold Reform Act 2002, and
- (b) “mortgage” includes charge, and “mortgagor” shall be construed accordingly.”

Trusts of Land and Appointment of Trustees Act 1996 (c. 47)

8 At the end of section 7 of the Trusts of Land and Appointment of Trustees Act 1996 (partition by trustees) there shall be added—

“ (6) Subsection (1) is subject to sections 21 (part-unit: interests) and 22 (part-unit: charging) of the Commonhold and Leasehold Reform Act 2002.”