

## **EXPLANATORY NOTES**

### **COMMONHOLD AND LEASEHOLD REFORM ACT 2002**

#### **INTRODUCTION**

#### **SUMMARY**

##### **PART 1 - COMMONHOLD BACKGROUND**

###### **Problem**

###### **Brief outline of the proposed solution**

###### **The nature and creation of a commonhold development**

###### **Conversion**

###### **Management of a commonhold development**

###### **Winding up of a commonhold association**

##### **PART 2 - LEASEHOLD REFORM SUMMARY**

###### **Background**

###### **Chapter 1: Right to manage**

###### **Chapter 2: Collective enfranchisement by tenants of flats**

###### **Chapter 3: New leases for tenants of flats**

###### **Chapter 4: Leasehold houses**

###### **Chapter 5: Other provisions about leases**

###### **Chapter 6: Leasehold valuation tribunals**

###### **Chapter 7: General**

#### **COMMENTARY ON THE SECTIONS: PART 1**

##### **Nature of commonhold**

###### **Section 1: Commonhold land**

##### **Registration**

###### **Section 2: Application**

Section 3: Consent

Section 4: Land which may not be commonhold

Section 5: Registered details

Section 6: Registration in error

### **Effect of registration**

Section 7: Registration without unit-holders

Section 8: Transitional period

Section 9: Registration with unit-holders

Section 10: Extinguished lease: liability

### **Commonhold unit**

Section 11: Definition

Section 12: Unit-holder

Section 13: Joint unit holders

Section 14: Use and maintenance

Section 15: Transfer

Section 16: Transfer: effect

Section 17: Leasing: residential

Section 18: Leasing: non-residential

Section 19: Leasing: supplementary

Section 20: Other transactions

Section 21: Part-unit: interests.

Section 22: Part-units: charging

Section 23: Changing size

Section 24: Changing size: charged unit

### **Common parts**

Section 25: Definition

Section 26: Use and maintenance

Section 27: Transactions

Section 28: Charges: general prohibition

*These notes refer to the Commonhold and Leasehold Reform Act 2002 (c.15)*

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Section 30: Additions to common parts

**Commonhold community statement (CCS)**

Section 31: Form and content: general

Section 32: Regulations

Section 33: Amendment

**Commonhold association**

Section 34: Constitution

Section 35: Duty to manage

Section 36: Voting

**Operation of commonhold**

Section 37: Enforcement and compensation

Section 38: Commonhold assessment

Section 39: Reserve fund

Section 40: Rectification of documents

Section 41: Enlargement

Section 42: Ombudsman

**Termination: voluntary winding-up**

Section 43: Winding-up resolution

Section 44: 100 per cent agreement

Section 45: 80 per cent agreement

Section 46: Termination application

Section 47: Termination statement

Section 48: The liquidator

Section 49: Termination

**Termination: winding-up by the court**

Section 50: Introduction

Section 51: Succession order

Section 52: Assets and liabilities

*These notes refer to the Commonhold and Leasehold Reform Act 2002 (c.15)*

Section 53: Transfer of responsibility

Section 54: Termination of commonhold

**Termination: miscellaneous**

Section 55: Termination by court

Section 56: Release of reserve fund

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Section 57: Multiple site commonholds

Section 58: Development rights

Section 59: Development rights: succession

Section 60: Compulsory Purchase

Section 61: Matrimonial rights

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Section 64: Orders and regulations

Section 65: Registration procedure [Amended at Report stage]

Section 66: Jurisdiction

Section 67: The register

Section 68: Amendments

Section 69: Interpretation

**PART 2: LEASEHOLD REFORM**

**Chapter 1: Right to manage**

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**Qualifying rules**

Section 72: premises to which Chapter applies

Section 73: RTM companies

Section 74: RTM companies: membership and regulations

Section 75: Qualifying tenants

Sections 76 and 77: Long leases

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Section 78: Notice inviting participation

Section 79: Notice of claim to acquire right

Section 80: Contents of claim notice

Section 81: Claim notice: supplementary

Section 82: Right to obtain information

Section 83: Right of access

Section 84: Counter-notices

Section 85: Landlords etc. not traceable

Section 86: Withdrawal of claim notice

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Section 88: Costs: general

Section 89: Costs where claim ceases

### **Acquisition of right**

Section 90: The acquisition date

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Section 93: Duty to provide information

Section 94: Duty to pay accrued uncommitted service charges

### **Exercising the right**

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Section 96: Management functions under leases

Section 97: Management functions: supplementary

Section 98: Functions relating to approvals

Section 99: Approvals: supplementary

Section 100: Enforcement of tenant covenants

Section 101: Tenant covenants: monitoring and reporting

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Section 103: Landlord contributions to service charges

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Section 104: Registration

*These notes refer to the Commonhold and Leasehold Reform Act 2002 (c.15)*

Section 105: Cessation of management

Section 106: Agreements excluding or modifying right

Section 107: Enforcement of obligations

Section 108: Application to Crown

Section 109: Powers of trustees in relation to right

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Section 114: Amendments of right to collective enfranchisement

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Section 115: Non-residential premises

Section 116: Premises including railway track

Section 117: Qualifying leases

Section 118: Premises with resident landlord

Section 119: Proportion of tenants required to participate

Section 120: Abolition of residence condition

### **Exercise of right**

Section 121: Right exercisable only by RTE company

Section 122: RTE companies

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Section 125: Right of access

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Section 127: Freeholder's share of marriage value

Section 128: Disregard of marriage value in case of very long leases

## **Chapter 3: New leases for tenants of flats**

Section 129: Introductory

### **Qualifying rules**

*These notes refer to the Commonhold and Leasehold Reform Act 2002 (c.15)*

Section 130: Replacement of residence test

Section 131: Qualifying leases

Section 132: Personal representatives

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### **Purchase price**

Section 134: Valuation date

Section 135: Landlord's share of marriage value

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### **Chapter 4: Leasehold houses**

Section 137: Introductory

### **Qualifying rules**

Section 138: Abolition of residence test

Section 139: Reduction of qualifying period as tenant etc

Section 140: Exclusion of certain business tenancies

Section 141: Tenancies not at a low rent

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Section 143: Abolition of limits on rights after lease extension

Section 144: Exclusion of shared ownership leases

### **Purchase price**

Section 145: Tenant's share of marriage value

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Section 147: Purchase price for enfranchisement during lease extension

### **Absent Landlords**

Section 148: Applications to be to county court

Section 149: Valuation by leasehold valuation tribunal

### **Chapter 5: Other provisions about leases Service charges, administration charges etc.**

Section 150: Extending meaning of service charge and management etc

Section 151: Consultation about service charges

Section 152: Statements of account

*These notes refer to the Commonhold and Leasehold Reform Act 2002 (c.15)*

Section 153: Notice to accompany demands for service charges

Section 154: Inspection etc. of documents

Section 155: Liability to pay service charges: jurisdiction

Section 156: Service charge contributions to be held in separate account

Section 157: Service charges: minor and consequential amendments

Section 158: Administration charges

Section 159: Charges under estate management schemes

**Manager appointed by leasehold valuation tribunal**

Section 160: Third parties with management responsibilities

Section 161: Restriction of resident landlord exception

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Section 162: Grounds for application by party to lease

Section 163: Transfer of jurisdiction of court to tribunal

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Section 164: Insurance otherwise than with landlord's insurer

Section 165: Extension of right to challenge landlord's choice of insurer

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Section 166: Requirement to notify long leaseholders that rent is due

**Forfeiture of leases of dwellings**

Section 167: Failure to pay small amount for short period

Section 168: No forfeiture notice before determination of breach

Section 169: Section 168: supplementary

Section 170: Forfeiture for failure to pay service charge etc

Section 171: Power to prescribe additional or different requirements

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**Chapter 6: Leasehold Valuation Tribunals**

Section 173: Leasehold Valuation Tribunals

Section 174: Procedure

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Section 176: Consequential amendments

**Chapter 7: General**

Section 177: Wales

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Schedule 1: Application for registration: Documents (section 2)

Schedule 2: Land which may not be commonhold land (section 4)

Schedule 3: Commonhold association (section 34)

**Memorandum and articles of association**

Schedule 4: Development rights (section 58)

Schedule 6: Premises excluded from right to manage (Section 72)

Schedule 7: Right to Manage: Statutory Provisions (Section 102)

Schedule 8: Enfranchisement by company: Amendments (Section 124)

Schedule 9: Meaning of service charge and management (Section 150)

**Loans in respect of service charges**

**Service charges**

**Appointment of manager**

**Right to acquire landlord's interest**

**Tenants' right to management audit**

**Codes of management practice**

**Right to appoint surveyor**

**Power to amend certain provisions**

Schedule 10: Service charges: Minor and Consequential Amendments (Section 157)

*These notes refer to the Commonhold and Leasehold Reform Act 2002 (c.15)*

**Information held by superior landlord**

**Assignment**

**Offences**

**Accountants**

**Insurance**

**Service Charge Contributions: appointment of a manager**

**Trust of service charges paid only by one tenant**

**Management Audit**

Schedule 11: Administration charges (Section 158)

**PART 1: REASONABLENESS OF ADMINISTRATION CHARGES**

**Meaning of ‘administration charge’**

**Reasonableness of administration charges**

**Notice in connection with demands for administration charges**

**Liability to pay administration charges**

**PART 2: AMENDMENTS OF 1987 ACT**

Schedule 12: Leasehold Valuation Tribunals: Procedure (Section 174)

**Procedure regulations**

**Applications**

**Transfers**

**Information**

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**Parties**

**Dismissal**

**Determination without hearing**

**Fees**

**Costs**

**Enforcement**

Schedule 13: Leasehold valuation tribunals: amendments (Section 176)

*These notes refer to the Commonhold and Leasehold Reform Act 2002 (c.15)*

**The 1967 Act**

**Housing Act 1980 (c.51)**

**The 1987 Act**

**The 1993 Act**

**Housing Act 1996 (c.52)**

**COMMENCEMENT**

**PART 1: COMMONHOLD**

**PART 2: LEASEHOLD REFORM**

**HANSARD REFERENCES**