

COMMONHOLD AND LEASEHOLD REFORM ACT 2002

EXPLANATORY NOTES

SUMMARY

Part 1 - Commonhold

Background

Brief outline of the proposed solution

The nature and creation of a commonhold development

8. Each separate property in the commonhold development will be called a unit. It might be a flat, or a house, a shop or a light industrial unit. The owner will be called a unit-holder. The body which will own and manage the common parts and facilities of the development will be called the commonhold association. The commonhold association will be a private company limited by guarantee, whose membership will be restricted to all the unit-holders within the development. The commonhold association will be registered at Companies House in the usual way and will have a standard set of memorandum and articles of association of the commonhold association which will be prescribed by the Lord Chancellor from time to time. This means that all the unit-holders in a development will have two interests in the property of the commonhold; a direct interest in the unit or units that they own and membership of the commonhold association which owns the common parts.
9. The commonhold association with its common parts and the associated units will be registered at HM Land Registry. In order to register, the developer of the commonhold development or the sponsor of a converting development will be required to present to HM Land Registry the memorandums and articles of association, and the commonhold community statement, which will contain the rules of the particular commonhold. There will need to be a degree of flexibility to allow for unique features of a particular development, for example to provide for the upkeep of a site of special scientific interest, or to make special arrangements for a sheltered housing component in the development. Allowance for this is to be made in the commonhold community statement where in addition to the prescribed matters, those relating to the individual attributes of the commonhold development can be set out. These discretionary elements will be registered and form part of the documentation maintained by HM Land Registry.
10. If it is necessary to obtain the consent of anyone with an interest in the land, those consents must be supplied at this stage and finally, a certificate will be required to confirm that the memorandum and articles of association and the commonhold community statement comply with the relevant Regulations. Once the required documents have been processed by HM Land Registry, the commonhold will be registered.
11. It will be possible for a unit to consist of two or more separate areas of land, for instance a flat with a garage in a detached block, or perhaps a shop with a separate

*These notes refer to the Commonhold and Leasehold Reform
Act 2002 (c.15) which received Royal Assent on 1st May 2002*

storage unit. Units may be divided from each other vertically, as are terraced houses, horizontally, as are flats in a block, or may be free standing, as are detached houses or, often, light industrial units. However, where the divisions are horizontal, no part of the commonhold may be over any part of a building which is not part of the same or an associated commonhold development.