

COMMONHOLD AND LEASEHOLD REFORM ACT 2002

EXPLANATORY NOTES

SUMMARY

Part 2 - Leasehold Reform

Summary

Background

Chapter 2: Collective enfranchisement by tenants of flats

27. This Chapter amends the provisions of the 1993 Act dealing with the right of leaseholders to buy collectively the freehold of their building. It simplifies the eligibility criteria. In particular, it removes the requirements that at least two thirds of the leaseholders in the block must participate and that at least half of the participating group must have lived in their flats for the previous 12 months (or periods totalling three years in the last ten). It abolishes the low rent test in the few circumstances where this still applies (leases of less than 35 years). It also increases the proportion of the building that can be occupied for non-residential purposes from 10% to 25% and reduces the scope of the exemption for certain resident landlords.
28. At present, the 1993 Act provides for the freehold to be purchased on behalf of the leaseholders by a 'nominee purchaser' approved by them. It does not make any provision as to the nature or constitution of the nominee purchaser. This Chapter amends the 1993 Act so that the purchase of the freehold and subsequent management of the building is carried out by a 'RTE company' of which the participating leaseholders are members. The Act contains provisions relating to the constitution of the RTE company and a power to prescribe others by regulation. The constitution is similar to that of the RTM company for the purposes of the right to manage introduced by Chapter 1. All qualifying leaseholders will have the right to participate in the purchase by joining the company.
29. This Chapter also amends the valuation principles in the 1993 Act. It provides that where marriage value exists, it should be divided equally between the landlord and the leaseholders in all cases. It also provides that no marriage value is payable in respect of any lease held by a qualifying leaseholder if the unexpired term of the lease exceeds 80 years.