

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

COMMONHOLD AND LEASEHOLD REFORM ACT 2002

EXPLANATORY NOTES

COMMENTARY ON THE SECTIONS: PART 1

Termination: miscellaneous

Section 55: Termination by court

109. [Section 55](#) provides that, where the court orders under section 6(6)(c) that land should cease to be commonhold as it should never have been registered as such, or under section 40(3)(d) that it should cease to be commonhold because it has declared a fatal flaw in the memorandum and articles of association of the commonhold association or the commonhold community statement, it should have the same powers that it would have if it were making a winding-up order against the commonhold association. The liquidator appointed to carry out the termination will have like powers, but in these peculiar circumstances the court will have power to require the liquidator to carry out his functions in a particular way, may impose additional rights or duties on the liquidator and modify or remove the rights or duties of the liquidator. These powers are given to the court to mark the unusual nature of the commonhold association, and particularly the fact that winding up the company also fundamentally changes the nature of the tenure of the members of their homes.

Section 56: Release of reserve fund

110. [Section 39\(4\)](#) protects reserve funds from creditors whilst the commonhold association is a going concern, but once the association has decided to wind itself up voluntarily or is wound up by the court on the petition of a creditor or the court orders that the land should no longer be commonhold land (see section 55) that protection is lifted.