

COMMONHOLD AND LEASEHOLD REFORM ACT 2002

EXPLANATORY NOTES

COMMENTARY ON THE SECTIONS: PART 1

Commonhold unit

Section 21: Part-unit: interests.

69. *Section 21, subsection (1)* provides that the creation of interests in part only of a commonhold unit is not possible, and *subsection (3)* provides that an attempt to create such an interest in contravention of subsection (1) will have no effect. *Subsections (2) (a) and (b)* make the exception to subsection 1 for the creation of leases in part-units which, by virtue of *subsection (6)*, is made subject to the regulations on residential leases to be created under section 17. *Subsection (7)* provides that regulations may modify the application of provisions of the Act relating to the unit-holder or tenant where part of the unit is held under a lease, so that wrinkles in day-to-day operation can be ironed out. As to transfers of part units, *subsection (2) (c)* and *subsection (8)* provide that the transfer of the freehold estate in part of a commonhold unit is possible where the commonhold association consents in writing. However, the commonhold association will only be able to consent to the transfer following a resolution with at least 75 percent of those members who vote, voting in favour (*section 20, subsection (4)*). *Subsections (4) and (5)* provide that where land becomes commonhold land or is added to a commonhold unit in such a way that an interest over a part unit would exist, such an interest shall be extinguished. *Subsection (9)* provides that if the freehold interest in part of a unit is transferred the part transferred will become a new commonhold unit, unless the commonhold association allow it to become part of a unit specified in the request for consent under *subsection (2)(c)*. The commonhold community statement may require new units created in this way to be registered (*subsection 10*).