

The Commonhold and Leasehold Reform Act 2002 ("the Act") received Royal Assent on 1 May 2002.

A summary of the changes is as follows:-

1. The introduction of a statutory Right to Manage for long leaseholders;
2. Changes to collective enfranchisement and lease renewal;
3. Additional rights and protections to leaseholders regarding service charges and management;
4. The introduction of commonhold.

#### Right to Manage

One of the main features of the Act provides a greater balance between landlord and leaseholder by allowing leaseholders a greater degree of control over the management of their homes, allowing them to exercise a right to manage their block. The right however has only been to 'qualifying' tenants and through a Right to Manage Company, being a company limited by guarantee. The company's memorandum must state that one of its objects is the right to manage the block. Regulations will set out provisions if these are not provided for and regulations will be able to override the memorandum if the latter is inconsistent. The benefit for leaseholders is that they won't have to buy the freehold, prove any fault on the landlord's behalf or pay him any compensation.

The right will not apply to specified circumstances, to include a block with a resident landlord, or where the block has more than 25% non residential use.

Whether qualifying tenants will wish to exercise their right to manage will remain to be seen, bearing in mind the onerous obligations that such rights will bring with it.

#### Enfranchisement

Changes have been made to the qualification and valuation criteria relating to enfranchisement and lease extension of flats under the Leasehold Reform Housing and Urban Development Act 1993 and to houses under the Leasehold Reform Act 1967.

#### General

The Act prevents landlords from taking any action against tenants for unpaid ground rent unless it has first been demanded in writing with at least 30 days notice. The Act also prevent landlords from starting forfeiture proceedings for alleged breaches under a lease until the facts have been determined by either a Leasehold Valuation Tribunal or a Court. Even then, a notice pursuant to section 146 of the Law of Property Act 1925 are not allowed to be served within 14 days of the final determination.

Some of the other changes are summarised as follows:-

- Improvement costs: Section 18 Landlord and Tenant Act 1985 ("LTA 1985") is clarified. Service charges are redefined, to include improvements, which will impact on section 20 of LTA 1985, which will require a landlord to consult with leaseholders where works are contemplated for a term exceeding 12 months in addition to where major works are required;
- Administration costs: Challenges to admin costs charged by a landlord can be referred to a Leasehold Valuation Tribunal, allowing a quicker and cheaper route for challenge;
- Service Charges: Section 21 LTA 1985 is amended so that a landlord will be obliged to provide a yearly summary of service charge costs relating to the last accounting year to each leaseholder, failing which payment of service charges can be withheld;
- Landlords are now obliged to hold service charge monies in a designated account. No other funds can be held in the same account;

- Grounds for allowing variations of leases are widened, to provide more effective relief for landlord, tenants and Right to Manage companies who experience difficulties with defective or unsatisfactory leases. Applications are made to the Leasehold Valuation Tribunal or the Court.

#### Commonhold

Part I of the Act introduces a new concept to English law in relation to long leaseholds, called commonhold, an entirely new way of owning property, known as a Unit. The traditional landlord will be replaced by a Commonhold Association, a private company limited by guarantee, and its members consisting of the unit holders. Each will control the management, maintenance, repair and servicing of the building. Membership to the Commonhold Association will be given to the unit holders where they will own the land, the structure of the building and the common parts.

The Act applies to (a minimum of 2) flats, houses, offices, shops or indeed mixed use of residential and commercial.

Developers will be able to choose whether to create a commonhold unit when building property but there are also means for conversion from existing leasehold to a commonhold.