

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

Operation of commonhold

Section 40: Rectification of documents

92. *Section 40(1)* makes provision for a unit-holder to apply to the court for a declaration that either (a) the memorandum and articles of association of the commonhold association relating to the commonhold association or (b) the commonhold community statement relating to the commonhold association do not comply with the provisions of the Act or regulations made under it. *Subsection (2)* provides that, where the court makes such a declaration, it may make any other order it thinks appropriate, and *subsection (3)* lists a number of matters that might be covered by such an order. These include requiring that the officers of the commonhold association take steps to alter or amend the offending document or take other specified steps, requiring the association to pay compensation and ultimately, ordering that the land cease to be commonhold. *Subsection (4)* sets a time limit for such an application of three months from the date the applicant became a unit-holder, three months from the alleged start of the failure to comply, or, failing these, subject to a time limit or any other permission laid down by the court.