

TENEMENTS (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Resolution of Disputes

Section 6 – Application to sheriff for order resolving certain disputes

46. This section gives the sheriff powers to make orders relating to the proper operation of the particular management scheme affecting a tenement or the provisions of the Act. *Section 27* defines “management scheme”. This could be the burdens in the title deeds, the Tenement Management Scheme or a combination of the burdens and the individual rules of the Tenement Management Scheme. The provisions of *section 6* will not apply, however, where the development management scheme has been applied to a tenement under the Title Conditions Act. *Subsection (1)* provides that an owner may (by summary application) apply to the sheriff court for an order concerning any matter relating to the operation of the management scheme applying to a particular tenement, or any provision in the Act as it applies in relation to the tenement.
47. Under *subsection (2)* the sheriff may grant the order sought or any other order as the sheriff may think necessary or expedient.
48. *Subsection (3)* explains that any party to a dispute may appeal to the Court of Session on a point of law. They must do so within 14 days of the date of an order made under *subsection (3)* or within 14 days of the date of an interlocutor dismissing an application. The decision of the Court of Session will be final under *subsection (4)*.