

HOUSING (SCOTLAND) ACT 2006

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 1 – Housing Standards

Chapter 6 – Maintenance

Recovery of maintenance costs

75. **Section 50** outlines the power of the majority of owners in a building with commonly-owned parts to recover maintenance costs. This can apply where the majority of owners are required or have agreed to carry out maintenance work, and a notice has been served on each owner who is liable to pay a share of the costs, asking them to pay that share into a maintenance account. The notice must set out what is to be done and by when, how this has been agreed or required, what it will cost, how the costs are apportioned between the owners, and details of the account into which the money is to be paid. If, after receiving such a notice, any owner fails to pay their share into the maintenance account, other owners can apply to the local authority to make a deposit into the maintenance account for the non-paying owner's share. The local authority can only make a deposit if the apportionment of the non-paying owner's share does not conflict with any real burden, a development management scheme or the tenement management scheme, if it applies. The proposed maintenance work must be reasonable and the local authority must be satisfied that the non-paying owner is either unable to pay or cannot be found. The authority may invite the owner concerned to make representations about their financial circumstances. The other owners retain the right to recover costs from the owner concerned. Local authorities must have regard to any guidance issued by the Scottish Ministers in relation to this section.