

LONG LEASES (SCOTLAND) ACT 2012

EXPLANATORY NOTES

PART 1: CONVERSION OF LONG LEASE TO OWNERSHIP

Determination of “qualifying lease”

Section 1: Meaning of “qualifying lease”

12. This section provides a definition of “qualifying lease” for the purposes of converting to ownership. Under subsections (3) and (4), a lease is “qualifying” if:
 - it is registered in the Sasines Register or the Land Register maintained by Registers of Scotland; and
 - it was granted for more than 175 years; and
 - if a residential lease, has more than 100 years left to run from the appointed day laid down in the Act; and
 - if a non-residential lease, has more than 175 years left to run from the appointed day; and
 - the annual rent does not exceed £100; and
 - it does not include a harbour where there is a harbour authority; and
 - it was not granted for the sole purpose of allowing the tenant to install and maintain pipes or cables; and
 - it is not a lease of minerals or a lease containing minerals in which some payment is determined in relation to the exploitation of the minerals.
13. Provision is made in section 65 for the registration of unregistered ultra-long leases. These are then treated under the Act as “exempt leases” and provision is made in section 68 for the tenant to recall the exemption. Such leases then become eligible for conversion to ownership.
14. Subsection (5) provides that leases which have been divided are to be treated as separate leases.
15. Subsection (6) provides that “dwelling house” for the purposes of subsection 3(c)(i) includes any yard, garden, outbuilding or other pertinent. This ensures, for example, that a lease which consists of a small house with a large attached garden is still treated as wholly or mainly consisting of a private dwelling house for the purposes of subsection (3)(c)(i).