

LONG LEASES (SCOTLAND) ACT 2012

EXPLANATORY NOTES

PART 3: ALLOCATION OF RENTS AND RENEWAL PREMIUMS ETC.

Allocation of renewal premium

Section 42: Allocation of cumulo renewal premium

171. Where a *cumulo* renewal premium (as defined in section 38) is payable under more than one lease, a landlord, for the purposes of claiming a compensatory payment or an additional payment for the loss of the renewal premium, has first to allocate the premium.
172. If the premium allocated is more than £100, compensation can only be claimed under section 51(1)(d) as an additional payment.
173. The allocation must be in such proportions as are reasonable in the circumstances (subsection (3)). Subsection (4) creates a presumption that an allocation of a premium is reasonable if it accords with an apportionment effective immediately before the appointed day or, if there is no such apportionment, it follows any allocation of *cumulo* rent made under section 40.
174. Under subsection (5), the renewal premium allocated to a lease that continues after the appointed day is the renewal premium payable under that lease from the appointed day, subject to any allocation under section 43 in relation to partially continuing leases.

Section 43: Partially continuing leases: allocation of renewal premium

175. Where a renewal premium (as defined in section 37) is payable under a partially continuing lease, a landlord, for the purposes of claiming a compensatory payment or an additional payment for the loss of the renewal premium, must first allocate the premium between the converted subjects and the continuing subjects.
176. Subsection (3) provides that if the renewal premium payable under the lease is a *cumulo* renewal premium, as defined in section 38, the landlord must allocate the *cumulo* renewal premium between the relevant leases, as outlined in section 42, before carrying out the allocation under this section.
177. If the premium allocated is more than £100, compensation can only be claimed under section 51(1)(d) as an additional payment.
178. The allocation must be in such proportions as are reasonable in the circumstances (subsection (4)). Subsection (5) creates a presumption that an allocation of a premium is reasonable if it follows an allocation of rent under section 41.
179. Under subsection (6), the sum allocated to the continuing part of the lease is the renewal premium payable under the lease from the appointed day.