



# Long Leases (Scotland) Act 2012

## 2012 asp 9

### PART 2

#### CONVERSION OF CERTAIN LEASEHOLD CONDITIONS TO REAL BURDENS

##### *Conversion of conditions to burdens*

#### **14 Conversion by nomination of benefited property**

- (1) This section applies to a qualifying condition where—
  - (a) at least one conversion condition is met, or
  - (b) the Lands Tribunal makes an order under section 21.
- (2) An entitled person may, before the appointed day, prospectively convert a qualifying condition into a real burden by executing and registering a notice.
- (3) The notice must—
  - (a) be in the prescribed form,
  - (b) set out the title of the entitled person to enforce the qualifying condition,
  - (c) identify the qualifying land, or any part of it, which the entitled person nominates as the burdened property in relation to the real burden,
  - (d) identify the land mentioned in subsection (5), or any part of it, which the entitled person nominates as a benefited property in relation to the burden,
  - (e) in a case where this section applies by virtue of an order under section 21, state that such an order has been made,
  - (f) in any other case, specify which of the conversion conditions is (or are) met,
  - (g) set out the terms of the qualifying condition, and
  - (h) set out the terms of any counter-obligation to the qualifying condition if it is a counter-obligation enforceable against the entitled person.
- (4) The conversion conditions are—
  - (a) that the land which would by virtue of this section and sections 15 and 16 become a benefited property has on it a permanent building which is in use wholly or mainly as a place of human—
    - (i) habitation, or

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*Status: This is the original version (as it was originally enacted).*

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- (ii) resort,  
and that building is, at some point, within 100 metres (measuring along a horizontal plane) of the land which would by virtue of this section and sections 15 and 16 become the burdened property,
  - (b) that the qualifying condition comprises a right of pre-emption or of redemption,
  - (c) that the land which would by virtue of this section and sections 15 and 16 become a benefited property comprises—
    - (i) minerals, or
    - (ii) salmon fishings or some other incorporeal property,and it is apparent from the terms of the qualifying condition that the condition was included in the lease for the benefit of such land.
- (5) The land referred to in subsection (3)(d) is land, other than the qualifying land, which—
- (a) if the land is not subject to a qualifying or exempt lease, the entitled person is owner of, or
  - (b) if the land is subject to such a lease, the entitled person is tenant of under that lease.
- (6) Where the entitled person holds the entitlement to enforce the qualifying condition otherwise than as landlord—
- (a) the land referred to in subsection (5)(a) is the land to which the entitlement to enforce the condition attaches, and
  - (b) the lease referred to in subsection (5)(b) is the lease to which the entitlement to enforce the condition attaches.