

TITLE CONDITIONS (SCOTLAND) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 11: Savings, Transitional and General

Section 125: References to distance

509. This section explains how the four metre distance (see for example sections 21(3) and 32) is to be calculated. The distance is calculated on the horizontal plane. This means that all properties are treated as being on the same level. For instance in a tenement, the flats above or below would be treated as being zero metres away, regardless of the vertical distance between each property.
510. Paragraph (a) follows the rule for neighbour notification set out in article 2(1) of the [Town and Country Planning \(General Development Procedure\) \(Scotland\) Order 1992, SI 1992/224](#) (paragraph (d) of definition of 'neighbouring land'). 'Road' has the meaning given by section 151(1) of the Roads (Scotland) Act 1984 (section 122 (1)).
511. Paragraph (b) ensures that measurements are taken from the property itself and not from, for example, an access roadway in respect of which the property has, as a pertinent, a *pro indiviso* share. It is the ownership of pertinents not their dimensions which is to be disregarded so measurement is taken from the property *not* its pertinent.