



Title Conditions (Scotland) Act 2003

2003 asp 9

PART 4

TRANSITIONAL: IMPLIED RIGHTS OF ENFORCEMENT

New implied rights of enforcement

54 Sheltered housing

- (1) Where by a deed (or deeds) registered before the appointed day real burdens are imposed under a common scheme on all the units in a sheltered or retirement housing development or on all such units except a unit which is used in some special way, each unit shall be a benefited property in relation to the real burdens.
- (2) Subsection (1) above is subject to section 122(2)(ii) of this Act.
- (3) In this section, “sheltered or retirement housing development” means a group of dwelling-houses which, having regard to their design, size and other features, are particularly suitable for occupation by elderly people (or by people who are disabled or infirm or in some other way vulnerable) and which, for the purposes of such occupation, are provided with facilities substantially different from those of ordinary dwelling-houses.
- (4) Any real burden which regulates the use, maintenance, reinstatement or management—
 - (a) of—
 - (i) a facility; or
 - (ii) a service,which is one of those which make a sheltered or retirement housing development particularly suitable for such occupation as is mentioned in subsection (3) above; or
 - (b) of any other facility if it is a facility such as is mentioned in that subsection, is in this section referred to as a “core burden”.
- (5) In relation to a sheltered or retirement housing development—
 - (a) section 28 of this Act applies with the following modifications—

Status: This is the original version (as it was originally enacted).

- (i) in subsection (1), the reference to the owners of a majority of the units in a community shall, for the purposes of paragraphs (b) and (c) of that subsection, be construed as a reference to the owners of at least two thirds of the units in the development; and
 - (ii) in paragraph (c) of subsection (2), the reference to varying or discharging shall be construed as a reference only to varying and that to community burdens as a reference only to real burdens which are not core burdens (the words “Without prejudice to the generality of subsection (1)(b) above,” which begin the subsection being, for the purposes of that modification, disregarded except in so far as they give meaning to the words “the powers mentioned there” which immediately follow them);
 - (b) section 33 of this Act, in relation to core burdens, applies with the following modifications—
 - (i) in subsection (1), the reference to varying or discharging shall, in relation to a deed granted in accordance with subsection (2) of the section, be construed as a reference only to varying; and
 - (ii) in subsection (2)(a) the reference to the owners of a majority of the units shall be construed as a reference to the owners of at least two thirds of the units of the development; and
 - (c) no real burden relating to a restriction as to any person’s age may be varied or discharged by virtue of section 33(2) of this Act.
- (6) This section confers no right of pre-emption, redemption or reversion and is subject to section 57 of this Act.