

TENEMENTS (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Liability for Certain Costs

Section 24 – Liability to non-owner for certain damage costs

113. In some cases a person may have to maintain parts of a tenement which they do not own. This is because, in the case of certain key parts of a tenement, owners are made liable for maintenance, not because they own the part (though they may do) but simply because they own a flat in the same tenement and hence take benefit from the part which is to be maintained. If that part is damaged, however, the owners in the tenement who are liable to pay for its maintenance, but who do not have ownership rights, may suffer loss as the cost of repairs are not recoverable by them under the general law.
114. *Subsection (1)* sets out that where scheme property is damaged as a result of the fault of any person (including another owner), then the owner of any flat who is bound to pay for the resulting maintenance, but who does not own the damaged part in question, will be treated as an owner of that part for the purposes of founding a claim against the person who caused the damage.