

LONG LEASES (SCOTLAND) ACT 2012

EXPLANATORY NOTES

PART 5: EXEMPTION FROM CONVERSION AND CONTINUING LEASES

Types of exempt leases

Section 67: Recall of exemption

260. This section allows the tenant under an exempt lease to register a recall notice, so long as the lease is not exempted under section 64 by the landlord. The tenant may register a recall notice before or after the appointed day.
261. Under subsection (2), on registration of a recall notice the exempt lease ceases to be an exempt lease. It then becomes eligible for conversion so long as it meets the general criteria for conversion. In particular, the unexpired duration of the lease must at the appointed day (see subsection (3)) be more than 100 years (for a residential lease) or more than 175 years (for a non-residential lease).
262. Subsection (3) prescribes the appointed day where the notice of recall is registered in the six months before or on or at any time after the standard appointed day laid down in section 70 – appointing it as the first Whitsunday (28 May) or Martinmas occurring 6 months or more after the notice of recall is registered. The effect of deferring the appointed day is to give a landlord of the qualifying lease or any superior lease a period of six months in which to consider whether to register notices converting leasehold conditions into real burdens.
263. Subsection (4) removes the requirement for the landlord to serve a preliminary notice in order to claim compensation or additional payments of more than £500. The purpose of such a notice is to invite consideration of opting out but that is not relevant where the decision to recall has been made by the tenant.