

## **LONG LEASES (SCOTLAND) ACT 2012**

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### **EXPLANATORY NOTES**

#### **PART 5: EXEMPTION FROM CONVERSION AND CONTINUING LEASES**

##### ***Supplementary***

##### ***Section 68: Exemption and recall notices: supplementary***

264. This section sets out rules for the service and registration of a notice of exemption or a notice of recall.
265. Subsections (2) and (3) provide for the sending of a copy of the exemption notice or recall notice to the landlord of the qualifying or exempt lease and any landlord of a superior lease. Service can be on the person who is registered as landlord. Normally service is by post, and must precede registration. The notice must contain a statement about service, or an explanation as to why service was not reasonably practicable.
266. Subsection (4) requires the notice to be registered against the title of the tenant. This allows anyone dealing with the lease to see the position.

##### ***Section 69: Application to Lands Tribunal for order confirming rent***

267. This section makes provision for the landlord to obtain an order from the Lands Tribunal that the annual rent in relation to a lease exceeds £100. If such an order is granted, the landlord may register the order under section 64 to claim an exemption.
268. Subsection (3) provides that an application can only be made to the Tribunal if an attempt has been made to reach agreement with the tenant. Subsection (4) provides that any application to the Tribunal must outline what had been done to obtain an agreement and must be made within a year of the section coming into force.
269. Subsection (1)(a) provides that the application may be for an order that the annual rent immediately before the appointed day will be over £100. Such an order might be sought, for example, where the landlord allocates *cumulo* rent under section 39 and the allocated rent for an individual lease is over £100.
270. Subsection (1)(b), as read with subsection (2), provides that the application may be for an order that the annual rent was over £100 at any point in the 5 years before Royal Assent. This reflects that some leases may have variable rent. Landlords may wish to claim an exemption as variable rent may mean that the rent paid in any one year in the 5 years before Royal Assent exceeds £100 even though the base rent laid down in the lease is under £100.