LONG LEASES (SCOTLAND) ACT 2012

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EXPLANATORY NOTES

PART 6: GENERAL AND MISCELLANEOUS

Duration of lease etc

Section 71: Determining duration of lease

274.   The provision sets out a number of rules for calculating the period of a lease. The period of a lease is relevant for the purposes of working out whether a lease qualifies for conversion (section 1(3)); whether an additional payment can be claimed for the residual value of the reversionary interest (section 51(1)(e)) and how that value is to be assessed (section 52(3) and (4)); and whether an additional payment can be claimed for the loss of a right to bring a lease to an end early (section 51(1)(f)). In each case the duration of the lease is calculated in the same way.

275.   Subsection (1) sets out the rules for break options (which are disregarded), for renewals (which are included), for calculating the lifetime of a tenant (for the exceptional cases where this might be relevant), and for consecutive leases (which are included). A consecutive lease is a lease which is granted during the term of the first lease on essentially the same terms and conditions as the first lease and which is to run from the moment the first lease ends.

276.   Subsection (2) makes clear that a calculation of the period of a lease in accordance with the rules in subsection (1) is subject to section 67 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000. That provision (with certain exceptions) prohibits the grant of a lease for more than 175 years. The provision has no relevance for break options and so subsection (2) does not apply to such options.