



# Long Leases (Scotland) Act 2012

## 2012 asp 9

### PART 2

#### CONVERSION OF CERTAIN LEASEHOLD CONDITIONS TO REAL BURDENS

##### *Conversion of conditions to burdens*

#### **17 Conversion by agreement**

- (1) An entitled person may, before the appointed day—
  - (a) serve notice on the tenant under the qualifying lease, that the entitled person seeks to enter into an agreement with the tenant under this section—
    - (i) prospectively converting a qualifying condition into a real burden,
    - (ii) prospectively nominating the qualifying land, or any part of it, as the burdened property in relation to such burden, and
    - (iii) prospectively nominating land mentioned in subsection (2), or any part of that land, as a benefited property in relation to such burden,
  - (b) subject to subsection (5), enter into such an agreement with the tenant, and
  - (c) register that agreement.
- (2) The land referred to in subsection (1)(a)(iii) is land, other than the qualifying land, which—
  - (a) if the land is not subject to a qualifying or exempt lease, the entitled person is owner of, or
  - (b) if the land is subject to such a lease, the entitled person is tenant of under that lease.
- (3) Where the entitled person holds the entitlement to enforce the qualifying condition otherwise than as landlord—
  - (a) the land referred to in subsection (2)(a) is the land to which the entitlement to enforce the condition attaches, and
  - (b) the lease referred to in subsection (2)(b) is the lease to which the entitlement to enforce the condition attaches.
- (4) The notice referred to in subsection (1) must—

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*Status: This is the original version (as it was originally enacted).*

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- (a) be in the prescribed form,
  - (b) set out the title of the entitled person to enforce the qualifying condition,
  - (c) identify the land nominated as the burdened property,
  - (d) identify the land nominated as a benefited property,
  - (e) set out the terms of the qualifying condition, and
  - (f) set out the terms of any counter-obligation to the qualifying condition if it is a counter-obligation enforceable against the entitled person.
- (5) If the entitled person and the tenant think fit they may, by the agreement, modify the qualifying condition or any counter-obligation to the qualifying condition if it is a counter-obligation enforceable against the entitled person (or both the qualifying condition and any such counter-obligation).
- (6) An agreement mentioned in subsection (1)(b) must be a written agreement which—
- (a) expressly states that it is made under this section, and
  - (b) includes all the information, other than that relating to service, required to be set out in completing the notice the form of which is prescribed under subsection (4)(a).
- (7) This section is subject to section 36.