



# Tenements (Scotland) Act 2004

## 2004 asp 11

### *Demolition and abandonment of tenement building*

#### **20 Demolition of tenement building not to affect ownership**

- (1) The demolition of a tenement building shall not alone effect any change as respects any right of ownership.
- (2) In particular, the fact that, as a consequence of demolition of a tenement building, any land pertaining to the building no longer serves, or affords access to, any flat or other sector shall not alone effect any change of ownership of the land as a pertinent.

#### **21 Cost of demolishing tenement building**

- (1) Except where a tenement burden otherwise provides, the cost of demolishing a tenement building shall, subject to subsection (2) below, be shared equally among all (or both) the flats in the tenement, and each owner is liable accordingly.
- (2) Where the floor area of the largest (or larger) flat in the tenement is more than one and a half times that of the smallest (or smaller) flat the owner of each flat shall be liable to contribute towards the cost of demolition of the tenement building in the proportion which the floor area of that owner's flat bears to the total floor area of all (or both) the flats.
- (3) An owner is liable under this section for the cost of demolishing a tenement building—
  - (a) in the case where the owner agrees to the proposal that the tenement building be demolished, from the date of the agreement; or
  - (b) in any other case, from the date on which the carrying out of the demolition is instructed.
- (4) This section applies as respects the demolition of part of a tenement building as it applies as respects the demolition of an entire tenement building but with any reference to a flat in the tenement being construed as a reference to a flat in the part.
- (5) In this section references to flats in a tenement include references to flats which were comprehended by the tenement before its demolition.

- (6) This section is subject to section 123 of the Housing (Scotland) Act 1987 (c. 26) (which makes provision as respects demolition of buildings in pursuance of local authority demolition orders and recovery of expenses by local authorities etc.).

## **22 Use and disposal of site where tenement building demolished**

- (1) This section applies where a tenement building is demolished and after the demolition two or more flats which were comprehended by the tenement building before its demolition (any such flat being referred to in this section as a “former flat”) are owned by different persons.
- (2) Except in so far as—
- (a) the owners of all (or both) the former flats otherwise agree; or
  - (b) those owners are subject to a requirement (whether imposed by a tenement burden or otherwise) to erect a building on the site or to rebuild the tenement,
- no owner may build on, or otherwise develop, the site.
- (3) Except where the owners have agreed, or are required, to build on or develop the site as mentioned in paragraphs (a) and (b) of subsection (2) above, any owner of a former flat shall be entitled to apply for power to sell the entire site in accordance with schedule 3.
- (4) Except where a tenement burden otherwise provides, the net proceeds of any sale in pursuance of subsection (3) above shall, subject to subsection (5) below, be shared equally among all (or both) the former flats and the owner of each former flat shall be entitled to the share allocated to that flat.
- (5) Where—
- (a) evidence of the floor area of each of the former flats is readily available; and
  - (b) the floor area of the largest (or larger) former flat was more than one and a half times that of the smallest (or smaller) former flat,
- the net proceeds of any sale shall be shared among (or between) the flats in the proportion which the floor area of each flat bore to the total floor area of all (or both) the flats and the owner of each former flat shall be entitled to the share allocated to that flat.
- (6) The prohibition imposed by subsection (2) above on an owner of a former flat may be enforced by any other such owner.
- (7) In subsections (4) and (5) above, “net proceeds of any sale” means the proceeds of the sale less any expenses properly incurred in connection with the sale.
- (8) In this section references to the site are references to the solum of the tenement building that occupied the site together with the airspace that is directly above the solum and any land pertaining, as a means of access, to the tenement building immediately before its demolition.

## **23 Sale of abandoned tenement building**

- (1) Where—
- (a) because of its poor condition a tenement building has been entirely unoccupied by any owner or person authorised by an owner for a period of more than six months; and

- (b) it is unlikely that any such owner or other person will occupy any part of the tenement building,  
any owner shall be entitled to apply for power to sell the tenement building in accordance with schedule 3.
- (2) Subsections (4) and (5) of section 22 of this Act shall apply as respects a sale in pursuance of subsection (1) above as those subsections apply as respects a sale in pursuance of subsection (3) of that section.
- (3) In this section any reference to a tenement building includes a reference to its solum and any land pertaining, as a means of access, to the tenement building.