



# Tenements (Scotland) Act 2004

## 2004 asp 11

### *Tenement Management Scheme*

#### **4 Application of the Tenement Management Scheme**

- (1) The Tenement Management Scheme (referred to in this section as “the Scheme”), which is set out in schedule 1 to this Act, shall apply in relation to a tenement to the extent provided by the following provisions of this section.
- (2) The Scheme shall not apply in any period during which the development management scheme applies to the tenement by virtue of section 71 of the Title Conditions (Scotland) Act 2003 (asp 9).
- (3) The provisions of rule 1 of the Scheme shall apply, so far as relevant, for the purpose of interpreting any other provision of the Scheme which applies to the tenement.
- (4) Rule 2 of the Scheme shall apply unless—
  - (a) a tenement burden provides procedures for the making of decisions by the owners; and
  - (b) the same such procedures apply as respects each flat.
- (5) The provisions of rule 3 of the Scheme shall apply to the extent that there is no tenement burden enabling the owners to make scheme decisions on any matter on which a scheme decision may be made by them under that rule.
- (6) Rule 4 of the Scheme shall apply in relation to any scheme costs incurred in relation to any part of the tenement unless a tenement burden provides that the entire liability for those scheme costs (in so far as liability for those costs is not to be met by someone other than an owner) is to be met by one or more of the owners.
- (7) The provisions of rule 5 of the Scheme shall apply to the extent that there is no tenement burden making provision as to the liability of the owners in the circumstances covered by the provisions of that rule.
- (8) The provisions of rule 6 of the Scheme shall apply to the extent that there is no tenement burden making provision as to the effect of any procedural irregularity in the making of a scheme decision on—
  - (a) the validity of the decision; or
  - (b) the liability of any owner affected by the decision.

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*Changes to legislation: There are currently no known outstanding effects for the Tenements (Scotland) Act 2004, Cross Heading: Tenement Management Scheme. (See end of Document for details)*

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- (9) Rule 7 of the Scheme shall apply to the extent that there is no tenement burden making provision—
- (a) for an owner to instruct or carry out any emergency work as defined in that rule; or
  - (b) as to the liability of the owners for the cost of any emergency work as so defined.
- (10) The provisions of—
- (a) rule 8; and
  - (b) subject to subsection (11) below, rule 9,
- of the Scheme shall apply, so far as relevant, for the purpose of supplementing any other provision of the Scheme which applies to the tenement.
- (11) The provisions of rule 9 are subject to any different provision in any tenement burden.
- (12) The Scottish Ministers may by order substitute for the sums for the time being specified in rule 3.3 of the Scheme such other sums as appear to them to be justified by a change in the value of money appearing to them to have occurred since the last occasion on which the sums were fixed.
- (13) Where some but not all of the provisions of the Scheme apply, references in the Scheme to “the scheme” shall be read as references only to those provisions of the Scheme which apply.
- (14) In this section [<sup>F1</sup>and section 4A], “scheme costs” and “scheme decision” have the same meanings as they have in the Scheme.

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**Textual Amendments**

**F1** Words in s. 4(14) inserted (1.4.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 85\(1\)\(a\), 104\(3\); S.S.I. 2015/122, art. 2](#)

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**Commencement Information**

**II** S. 4 in force at 28.11.2004 by [S.S.I. 2004/487, art. 2\(1\)\(a\)](#)

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**[<sup>F2</sup>4A Power of local authority to pay share of scheme costs**

- (1) The local authority for the area in which a tenement is situated may pay a sum representing an owner's share of scheme costs if that owner—
  - (a) is unable or unwilling to do so, or
  - (b) cannot, by reasonable inquiry, be identified or found.
- (2) But a local authority may not pay a sum representing an owner's share of scheme costs which are attributable to a scheme decision mentioned in rule 3.1(e) of the Tenement Management Scheme.
- (3) For the purposes of this section an owner's share of any scheme costs is to be determined in accordance with—
  - (a) the Tenement Management Scheme as it applies to the owner's tenement, or
  - (b) where a tenement burden provides that the entire liability for those scheme costs (in so far as liability for those costs is not to be met by someone other than an owner) is to be met by one or more of the owners, that burden.

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**Changes to legislation:** There are currently no known outstanding effects for the Tenements (Scotland) Act 2004, Cross Heading: Tenement Management Scheme. (See end of Document for details)

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- (4) Before making a payment under this section, the local authority must give notice to the owner who has failed to pay a share of any scheme costs.
- (5) The local authority may recover from the owner who failed to pay a share of any scheme costs any—
  - (a) payments made under this section, and
  - (b) administrative expenses incurred by it in connection with the making of the payment.
- (6) This section is without prejudice to any entitlement to recover sums in accordance with section 11 or 12.]

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**Textual Amendments**

- F2** S. 4A inserted (1.4.2015) by Housing (Scotland) Act 2014 (asp 14), ss. 85(1)(b), 104(3); S.S.I. 2015/122, art. 2

**Changes to legislation:**

There are currently no known outstanding effects for the Tenements (Scotland) Act 2004, Cross Heading: Tenement Management Scheme.