

TENEMENTS (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Support and Shelter

Section 10 – Recovery of costs incurred by virtue of section 8

58. The duty to maintain support and shelter falls to the person who owns that part of the tenement. Where property is owned solely by one owner, there is a danger that a scheme decision to carry out repairs could be blocked by the other owners in the knowledge that the same repair could be insisted upon under *section 8*. This section seeks to prevent this. *Section 10* also operates to enable a minority (even one co-owner) to carry out works for support or shelter where a majority cannot be assembled and to treat it as a scheme cost in the same way as if authorised by a scheme decision.
59. This section provides that the cost of a repair which is carried out under *section 8* of this Act could be recovered from the other owners as if the repair had been carried out as part of a management scheme decision. The costs recovered would be equal to the amount that the owners would be liable for under the management scheme.